CONGRESSIONAL RECORD:

CONTAINING

THE PROCEEDINGS AND DEBATES

OF THE

FIFTY-NINTH CONGRESS, FIRST SESSION,

ALSO

SPECIAL SESSION OF THE SENATE.

VOLUME XL.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1906.

VOLUME XL, PART V.

CONGRESSIONAL RECORD,

FIFTY-NINTH CONGRESS, FIRST SESSION.

152268

The letter referred to is as follows:

Senator GALLINGER.

HONORABLE SIR: You will please pardon me for intruding on your time. Seeing that you are about to introduce a bill for the relief of the Mexican veterans raises the question in whether justice does not demand that some legislation is not needed to modify the present ruling of the Pension Department regarding the veterans of our civil war.

You are aware that in order for a veteran to get a pension on a disease he must not only prove that he contracted that disease in the service, but he must give medical proof that it has continued from year to year up to the date of his application for pension for that disease. This is a very hard thing for one to do at the present time, for the reason that since the close of the war many family physicians have died, and some of these veterans had domestic remedies that gave relief for a time and so did not employ a doctor. At this day it ought to be sufficient to show that the disease was contracted in the service and exists at the present time, or its legitimate results. As an illustration I will give a brief history of my own case.

At the commencement of the war I served in Company K, First Maine Cavalry, and was discharged in October, 1862. I enlisted again, October, 1864, in Company G, Sixteenth Maine Infantry, and served to the close of the war. In both of these services I was badly afflicted with chronic diarrhea. When I left the service I had no thought of ever asking for or receiving a pension. I did not ask for a pension until 1884, when I applied for and received a pension for rheumatism and resulting disease of heart and lung, but did not include diarrhea. In 1888 my hands became badly inflamed and swollen, and ulcerations and hemorrhage set it. Hoping that it was a temporary attack and would pass off, I waited until 1889. Getting no relief, I asked for a pension on the chronic diarrhea. I gave in evidence two comrades' affidavits from First Maine Cavalry, two from Sixteenth Maine Infantry, and the regimental surgeon's affidavit, two neighbors' affidavits, and my family physician's affidavit. I was examined by the Damariscotta board of examining physicians in the fall of 1889. In due time I was informed from the Pension Office that in case I could not furnish medical proof of the continuance of the disease from the time of my discharge, June 6, 1865, up to 1889, I should send my family's affidavit. My wife gave her's—the only one who could do so—and I again made affidavit, stating just why I could not furnish medical affidavit of the continuance of the disease from 1865 up to 1889, the reason being that I had a domestic remedy that gave relief up to 1888, when inflammation and ulcerations set in; therefore did not employ a physician. In July, 1897, I was sent to Bath, Me., for an examination, and in the following August notified that my claim was rejected on the account of my being unable to furnish medical evidence of the continuation of chronic diarrhea from the time of my discharge, June 6, 1865, up to 1889. I called for a review of my claim, but was denied. In October, 1902, I sent to the Pension Office the affidavit of Dr. Solon Bartlett, of Lowell, Mass., and asked to have my claim opened again, but was denied. In August, 1904, I sent to Pension Office affidavit of Dr. John L. Plunket, of Boston, Mass., with whom I had been doctoring, and was again refused a review of my claim, the reason being that this affidavit did not show continuance of chronic diarrhea from the date of my discharge from service to 1889.

All these papers are on file in the Pension Office, which I think you can examine if you wish.

Now, is there not an injustice here? I have given you my own case, which I presume illustrates not a few who are, like myself, suffering from diseases contracted in the service, but under present ruling of the Pension Office can get no compensation. Ought there not to be some legislation to meet such cases?

I have written to you and called your attention to this matter, because you are on the Committee on Pensions. You are at liberty to use my claim if it will help other comrades, who, like myself, are unable to get what is their just due.

At the present time my bowels are so inflamed and swollen that I can not sit in a common chair, but have to have an elevated seat. I also have a tumor in the left abdomen which is the direct result of this chronic diarrhea. It is with difficulty that I stoop or reach my feet, and yet the rulings of the Pension Office say I shall have no compensation for this. Trusting you will pardon this intrusion on your time, I am,

Truly, yours,

T. G. LYONS,
157 Shaw street, Lowell, Mass.

MARCH 15, 1906.

My claim is: Thomas G. Lyons, No. 343002, Company K, First Maine Cavalry; Company G, Sixteenth Maine Troops.

The VICE-PRESIDENT. Without objection, the amendment proposed by the Senator from New Hampshire is agreed to.

Mr. McCUMBER. Mr. President, before voting upon the bill I think it is proper to give a very short statement of some of the conditions at the present time.

The increase in the pension bill over last year is, in round numbers, about $2,000,000. Last year it was $138,000,000, and this year $140,000,000, in round numbers. This increase is due to three causes. The first is the large number now receiving pensions who were soldiers in the war with Spain. Another is that the number of pension claims not considered is far less this year than it has been for a number of years. The third is the extra number who are coming in very rapidly under the old rule or order which we understand and know here as Order No. 78, which provides that when a soldier has reached the age of 62 years it shall be an evidential fact of his inability to perform manual labor.

There has been a great number of private pension bills passed within the last few Congresses, and for the purpose of assuring Senators that we are not bankrupting the Government by these private pension bills, I desire to call attention to the number of private pension bills that have been passed each year and also the annual increase due to those special acts.

In 1901 there were only 707 passed, and the annual increase due to special acts was $120,192. In 1902 there was 1,114, and the annual increase due to special acts was $182,825. In 1903 there were 1,057, and the annual increase due to special acts was $155,922. In 1904 there were 1,854 special acts, and the annual increase due to them was $274,576. In 1905, 1,500 special acts were passed, and the annual increase due to them was $222,084.

You will see, therefore, taking as the basis of the entire pension appropriation the even sum of $140,000,000, that the increase which was granted to 1,500 persons during the last year amounted to but $222,084. It amounted to less than one-sixth of 1 per cent of the amount appropriated during the year.

The plan, I think, has been very beneficial, especially since we have not given general pensions to any extent considerably higher than we have done up to the present time, because we are able to reach those cases of destitution where the exigency of the case demands special treatment, and it has been done with comparatively very little additional expense to the Government.

Mr. BACON. Before the Senator takes his seat I should like to ask him a question. I listened with some care to his statement, but I failed to catch it if the Senator explained it. What is the difference between this legislation and the Executive order which heretofore fixed an age limit?

Mr. McCUMBER. The Senator refers to the amendment which has been adopted?

Mr. BACON. Yes.

Mr. McCUMBER. It makes it the law, rather than a mere order. The provision was inserted by the House, and we simply modified it, as we thought, so as to more clearly express what was desired.

Mr. BACON. It has practically the same provisions that were in the Executive order?

Mr. McCUMBER. Practically the same provisions.

Mr. BACON. I suppose it can be taken to indicate a belief on the part of those who favor the amendment that the Executive order was of doubtful legality?

Mr. McCUMBER. I do not consider it at all of doubtful legality, but of doubtful effect, because under the Executive order it was simply an evidential fact. Under this provision it will become a positive fact, which will be taken into consideration by the Department.

Mr. BACON. Am I to understand the Senator as saying that he recognizes that an Executive order can be effective so far as it constitutes simply an evidential fact, but if it is to make it a fact a statute is required? Does the Senator draw that distinction?

Mr. McCUMBER. It was simply prima facie evidence. Certainly an Executive order may determine the character of evidence which shall be received and what shall be deemed to be prima facie evidence in a case. I do not think it can go further than that, of course.

Mr. BACON. You do not think it can make the evidence conclusive, but it can make it prima facie?

Mr. McCUMBER. That is all it attempted to do.

Mr. BACON. I understood it was so intended, but I wanted to get the view of the Senator as to the law of the case.

Mr. McCUMBER. My own view is that the law will make it absolute, of course.

The VICE-PRESIDENT. If there be no further amendments in Committee of the Whole, the bill will be reported to the Senate as amended.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. GALLINGER. I ask that the paragraphs on page 6 of the report of the Committee on Pensions, under the heading "Pensions of the several wars and of the peace establishment," be inserted in the RECORD.

The VICE-PRESIDENT. Without objection, the portion of the report indicated by the Senator from New Hampshire will be inserted in the RECORD.

The matter referred to is as follows:

PENSIONS OF THE SEVERAL WARS AND OF THE PEACE ESTABLISHMENT.

The following statement shows the amounts that have been paid to soldiers, sailors, and marines, their widows, minor children, and dependent relatives on account of military and naval service in the wars in which the United States has been engaged and during the time of peace:

War of the Revolution (estimated)	$70,000,000.00
War of 1812 (on account of service, without regard to disability)	45,440,790.97
Indian wars (on account of service, without regard to disability)	7,637,268.53
War with Mexico (on account of service, without regard to disability)	36,682,848.87
War of the rebellion	3,144,395,405.26
War with Spain	11,996,198.63
Regular establishment	4,707,510.72
Actual total disbursements in pensions	3,320,860,022.98

It is proper to state that in the above table the amounts paid as pensions for disabilities and deaths due to military and naval service in the wars of 1812 and with Mexico, and during the time of peace prior to the civil war, and of the regular military and naval establishments since the close of the civil war have heretofore been charged to the war of the rebellion.

To determine the actual amount chargeable to the war of the rebellion the sum of $16,000,000 should therefore be deducted from that item in the table, that being the estimated amount charged to said war which does not properly belong to that item.

MOVEMENTS OF VESSELS IN VIRGINIA WATERS.

Mr. FRYE. I ask unanimous consent for the present consideration of the bill (S. 4774) relating to the movements and anchorage of vessels in Hampton Roads, the harbors of Norfolk and Newport News, and adjacent waters, in the State of Virginia.

The VICE-PRESIDENT. Is there objection to the present consideration of the bill?

Mr. DANIEL. I object, Mr. President.

Mr. FRYE. It is absolutely necessary, especially as the Jamestown Exposition is coming off shortly, for the display of ships.

Mr. DANIEL. I do not object to having the bill read for information. I should like to hear it read.

The VICE-PRESIDENT. The bill will be read for the information of the Senate.

The Secretary read the bill.

Mr. DANIEL. I should like to have some explanation of the bill.

Mr. FRYE. The explanation is very simple. These waters are now so populous in ships that it has become absolutely necessary that some one shall make rules and regulations for their anchorage, etc. In all populous harbors in that regard there are the same rules and regulations provided. In view of the fact that the Jamestown Exposition is to take place before a great while, and there is to be a naval display in those waters, it is very important that the bill shall become a law. It is nothing unusual, I will say to the Senator. It applies to all harbors where ships are frequent.

The VICE-PRESIDENT. Is there objection to the consideration of the bill?

Mr. DANIEL. I should like to ask a question of the Senator from Maine. I see that the remission of fines is placed in the hands of the Secretary of Commerce and Labor. Is that usual in cases of that kind?

Mr. FRYE. That is usual, because it very frequently happens that there is a breaking of the law without any intent or purpose to do so. That power has been given to the Secretary of the Treasury in nearly all cases where fines are imposed, and it is now in this bill given to the Secretary of Commerce and Labor, under whom the regulations come.

Mr. DANIEL. I will ask the Senator, with his kind permission, another question. This is in execution of the powers of Congress, is it not?

Mr. FRYE. It is.

Mr. DANIEL. Is it a delegation of the legislative power to confer the power on subordinate officers of the Government to make these laws?

Mr. FRYE. Yes; to make rules and regulations.

Mr. DANIEL. It is a delegation?

Mr. FRYE. A delegation of power to make rules and regulations. Of course the Congress of the United States has absolute power over its navigable waters.

Mr. DANIEL. Of course it has, and over every foot of ground to which its jurisdiction extends, within the limitations of fundamental principles. I hope the Senator does not think that we are unduly delegating legislative power in this matter. It is contended, in regard to the rate measure, that in delegating or conferring the power to make rates we are giving away our own powers.

Mr. FRYE. The Senator from Maine declines to express any opinion concerning the rate question on this harbor question.

Mr. DANIEL. I hope the Senator will let the bill lie over until to-morrow. I do not desire to oppose it, but I should like to look at it.

The VICE-PRESIDENT. There being objection to the consideration of the bill, it will lie over.

RELIEF OF CUSTER COUNTY, MONT.

Mr. CARTER. I ask for the present consideration of the bill (H. R. 4736) for the relief of the county of Custer, State of Montana.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It proposes to pay to the board of county commissioners of Custer County, Mont., $4,350, in full settlement of all demands against the United States for the construction of a steel bridge across the Tongue River for the accommodation of the Fort Keogh Military Reservation in Montana.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

P. F. U. RUBBER COMPANY.

The VICE-PRESIDENT. The Chair lays before the Senate a bill from the House of Representatives, and invites the attention of the Senator from Colorado [Mr. PATTERSON].

The bill (H. R. 16381) leasing and demising certain lands in La Plata County, Colo., to the P. F. U. Rubber Company was read twice by its title.

Mr. PATTERSON. Mr. President, I introduced a bill for the same purpose, that was referred to the Committee on Public Lands. A week or so ago I was authorized to report the bill favorably. Knowing that this bill was before the House and would likely pass, I hesitated reporting it. I now ask unanimous consent that the House bill, the title of which has just been read, be substituted for the bill (S. 3248) to set aside portions of the public domain for experiments in rubber culture, and that the House bill be taken up and considered; and then I shall ask that Senate bill 3248 be indefinitely postponed.

The VICE-PRESIDENT. The Senator from Colorado reports a bill the title of which will be stated.

The SECRETARY. A bill (S. 3248) to set aside portions of the public domain for experiments in rubber culture.

The VICE-PRESIDENT. The Senator from Colorado asks that the House bill just laid before the Senate be substituted in place of the Senate bill reported by him. Is there objection? The Chair hears no objection, and the substitution is made. The Senator from Colorado asks unanimous consent for the present consideration of the House bill.

Mr. KEAN. What is the number of the Senate bill on the Calendar?

The VICE-PRESIDENT. The bill has just been reported. The House bill will be read for the information of the Senate.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

The VICE-PRESIDENT. Senate bill No. 3248 will be indefinitely postponed.

CITY OF M'ALESTER, IND. T.

Mr. LONG. I ask unanimous consent for the present consideration of the bill (H. R. 12845) to consolidate the city of South McAlester and the town of McAlester, in the Indian Territory.

The VICE-PRESIDENT. The bill will be read for the information of the Senate.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported from the Committee on Indian Affairs with an amendment, on page 2, to insert the following as an additional section:

SEC. 3. That the present city government of the city of South McAlester shall exercise all municipal powers over the city of McAlester created by this act until their successors are elected and qualified in accordance with existing law, and that at the municipal election held on the first Tuesday in April, 1906, there shall be elected from the territory heretofore known as McAlester four additional members of the city council of the city of McAlester created by this act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

BUREAU OF INSULAR AFFAIRS, WAR DEPARTMENT.

Mr. LODGE. I ask for the present consideration of the bill (S. 4109) to increase the efficiency of the Bureau of Insular Affairs of the War Department.

The Secretary read the bill, and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It provides that the Chief of the Bureau of Insular Affairs of the War Department shall hereafter be appointed by the President, with the advice and consent of the Senate, and while holding that office he shall have the rank, pay, and allowances of a brigadier-general.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ENROLLMENTS AND LICENSES OF VESSELS.

Mr. GALLINGER. I ask unanimous consent for the present consideration of the bill (S. 4886) to simplify the issue of enrollments and licenses of vessels of the United States.

The Secretary read the bill, and there being no objection, the

Senate, as in Committee of the Whole, proceeded to its consideration. It directs the Commissioner of Navigation, under the direction of the Secretary of Commerce and Labor, from time to time to consolidate into one document in the case of any vessel of the United States of 20 net register tons or over the form of enrollment prescribed by section 4319 of the Revised Statutes and the form of license prescribed by section 4321 of of the Revised Statutes, and such consolidated form shall hereafter be issued to a vessel of the United States in lieu of the separate enrollment and license now prescribed by law, and shall be deemed sufficient compliance with the requirements of laws relating to the subject.

Section 2 proposes to amend section 4325 of the Revised Statutes so as to read:

SEC. 4325. The license granted to any vessel shall be presented for renewal by indorsement to the collector of customs of the district in which the vessel then may be within three days after the expiration of the time for which it was granted, or if she be absent at that time within three days from her first arrival within a district. In case of change of build, ownership, district, trade, or arrival under temporary papers in the district where she belongs the license shall be surrendered. If the master shall fail to deliver the license he shall be liable to a penalty of $10, which shall not be mitigated.

Section 3 provides that this act shall not be construed to amend any law now in force concerning the compensation of officers of the customs for service connected with the enrollment and license of vessels.

Section 4 provides that the act shall take effect on and after January 1, 1907.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ST. FRANCIS RIVER, ARKANSAS, BRIDGE.

Mr. OVERMAN. In the absence of the Senator from Arkansas I ask unanimous consent to call up the bill (H. R. 15583) to authorize the Madison Bridge Company to construct a bridge across the St. Francis River in St. Francis County, Ark., at or near the town of Madison, in said county and State.

The Secretary read the bill; and there being no objection it was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

EXECUTIVE SESSION.

Mr. ALLISON. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After fifteen minutes spent in executive session the doors were reopened, and (at 5 o'clock and 20 minutes p. m.) the Senate adjourned until to-morrow, Wednesday, March 21, 1906, at 12 o'clock meridian.

CONFIRMATIONS.

Executive nominations confirmed by the Senate March 20, 1906.

UNITED STATES ATTORNEY.

Alfred E. Holton, of North Carolina, to be United States attorney for the western district of North Carolina.

MARSHAL.

Charles J. Haubert, of New York, to be United States marshal for the eastern district of New York.

POSTMASTERS.

KANSAS.

Harry E. Glenn to be postmaster at Kiowa, in the county of Barber and State of Kansas.

PENNSYLVANIA.

Harry A. Buttorff to be postmaster at Mount Holly Springs, in the county of Cumberland and State of Pennsylvania.

Gilson A. Jackson to be postmaster at Youngsville, in the county of Warren and State of Pennsylvania.

Hamilton Kennedy to be postmaster at Crafton, in the county of Allegheny and State of Pennsylvania.

VIRGINIA.

John N. Davis to be postmaster at Woodstock, in the county of Shenandoah and State of Virginia.

W. T. Hopkins to be postmaster at Newport News, in the county of Warwick and State of Virginia.

E. V. Jameson to be postmaster at Pulaski, in the county of Pulaski and State of Virginia.

EXTRADITION WITH SAN MARINO.

The injunction of secrecy was removed March 20, 1906, from a treaty for the mutual extradition of criminals between the United States and the Republic of San Marino, signed at Rome on January 10, 1906.

HOUSE OF REPRESENTATIVES.

TUESDAY, *March 20, 1906.*

The House met at 12 o'clock noon.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of the proceedings of yesterday was read and approved.

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

Mr. LITTAUER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the legislative, executive, and judicial appropriation bill.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 16472—the legislative, executive, and judicial appropriation bill—with Mr. OLMSTED in the chair.

The CHAIRMAN. The time for general debate on this bill, under the order of the House, having expired, the Clerk will read the bill by paragraphs for amendment.

The Clerk (proceeding with the reading of the bill) read as follows:

Office of Sergeant-at-Arms and Doorkeeper: For Sergeant-at-Arms and Doorkeeper, $4,500; horse and wagon for his use, $420, or so much thereof as may be necessary; for clerk to Sergeant-at-Arms, $2,000; assistant doorkeeper, $2,592; acting assistant doorkeeper, $2,592; three messengers, acting as assistant doorkeepers, at $1,800 each; forty-seven messengers, at $1,440 each; two assistant messengers on the floor of the Senate, at $1,440 each; messenger to Official Reporters' room, to be selected by the Official Reporters, $1,440; messenger in charge of storeroom, $1,600; upholsterer and locksmith, $1,440; three carpenters to assist him, at $960 each; janitor, $1,200; skilled laborer, $1,000; four skilled laborers, at $900 each; laborer in charge of private passage, $840; two female attendants in charge of ladies' retiring room, at $720 each; two telephone operators, at $900 each; telephone page, $720; press gallery page, $720; two laborers, at $840 each; twenty-four laborers, at $900 each; twenty-eight laborers, at $720 each; sixteen pages for the Senate Chamber, at the rate of $2.50 per day each during the session, $4,760; in all, $154,944.

Mr. ADAMS of Pennsylvania. Mr. Chairman, I move to strike out the last word. I should like to ask the gentleman in charge of the bill about the three carpenters to assist the Sergeant-at-Arms, referred to in line 24 of page 6.

Mr. LITTAUER. Those are services in connection with the Senate. We simply know that they are annually provided for. As to their special duties, we are not particularly informed.

Mr. PRINCE. You know that they want them?

Mr. LITTAUER. Yes.

The CHAIRMAN. The pro forma amendment will be considered as withdrawn. The Clerk will read.

The Clerk read as follows:

For miscellaneous items, exclusive of labor, $50,000.

Mr. STEPHENS of Texas. Mr. Chairman, in lines 19, 20, and 21, page 9, is the item—

For miscellaneous items, exclusive of labor, $50,000.

Can the gentleman inform us what that $50,000 is to be expended for?

Mr. LITTAUER. The $50,000 is but a small portion of what probably will be expended under the caption of "Miscellaneous items, exclusive of labor." We always place in this bill an appropriation of $50,000 for this purpose. When it goes over to the Senate it usually comes back to us with the item increased to $100,000, and then comes a deficiency of $50,000 more. Many statements have come to us that this item is used in large part to pay annual salaries. We call the attention of those with whom we are brought in contact in the other body to this item and to the abuses that may be connected therewith, about which we know nothing except by rumor, and they advise us that the item is in their care; that they are responsible for it; that they would like very much to eliminate some of it, but that they can not do it; and so we, recognizing their right to control their own expenditure, bow and pass along.

The Clerk read as follows:

Chaplain: For Chaplain of the House, $1,000.

Mr. ADAMS of Pennsylvania. Mr. Chairman, I move to strike out the last word. I should like to ask the gentleman from New York a question about the paragraph which is to follow. I notice that the appropriation that was made in the bill last year for three cabinetmakers has been omitted from this year's appropriation, and so far as I can learn there has been no other method introduced for taking care of the furniture.

Mr. LITTAUER. I should like to call the attention of the gentleman from Pennsylvania to the fact that he is wrong in his statement as to the item. This paragraph is not the one, I believe, to which the gentleman means to refer, and that is the three cabinetmakers who have been dropped, under the

Superintendent of the Capitol Building and Grounds. We have now only reached the office of the Clerk.

Mr. ADAMS of Pennsylvania. I am asking for information. How is this work proposed to be done in the future?

Mr. LITTAUER. The amount of work has been very small. I am now referring to the three cabinetmakers hitherto appropriated for under the Superintendent of the Capitol Building and Grounds. Those three men receive an annual compensation, and they are supposed to be expert in their calling. We were advised by the Superintendent that the work could be done much more economically if these men were not carried as annual officers; that the work could probably be done for one-half or two-thirds of the present cost if, when there was necessity for such work, he would have the opportunity of hiring a skilled mechanic to perform that service.

Mr. ADAMS of Pennsylvania. Do I understand the gentleman to state that the Superintendent recommended the abolishment of these three cabinetmakers?

Mr. LITTAUER. I have stated so very clearly.

Mr. ADAMS of Pennsylvania. That is entirely different from the information I have from the Superintendent. I do not wish to come in conflict with the gentlemen, but the Superintendent informed me that the only recommendation he made was that these men were not directly under his supervision as Superintendent of the Capitol Buildings and Grounds, as he had nothing to do with the furniture, and he recommended that they be taken from under his charge and placed elsewhere; but I assure the gentleman that I have no information to the effect that their work is not necessary or that he recommended their abolishment. On the contrary, the information which I received was of an opposite character. In regard to the gentleman's statement that these men are not necessary, I should like to call the attention of the House to the fact that, in my judgment, this is not in the direction of true economy.

Years ago this matter was under the charge of an officer of the House, known as the "carpenter." The plea was made that he, being a carpenter, was not a skilled cabinetmaker and that it would be wise to abolish the office, and it was so done, and in lieu thereof three skilled cabinetmakers were appointed to take charge of and keep in repair the furniture of the House.

Mr. LITTAUER. In what year was that?

Mr. ADAMS of Pennsylvania. That was about four years ago.

Mr. LITTAUER. Three skilled carpenters were appointed?

Mr. ADAMS of Pennsylvania. Three skilled cabinetmakers were appointed.

Mr. LITTAUER. Has the gentleman any information as to their skill?

Mr. ADAMS of Pennsylvania. I have, particularly in regard to one of them. The allegation that was brought against the carpenter was that his assistant was a cabinetmaker and did all the work, and that is the man who was appointed to carry out this alleged reform. I wish to say, furthermore, that they found the change from the carpenter to the cabinetmaker, and putting in the purchase of supplies and other things under the Clerk of the House, proved a very expensive experiment. In fact, it was so expensive that the chairman of the Committee on Accounts refused to pass his bills until he took them up to the Speaker; they were so extravagant. Now, here comes a proposition to do away with those cabinetmakers who were appointed and do away with the carpenters. In answer to the statement of the gentleman of the alleged economy, it is not founded on facts. The repairing that is done here of small matters has to be attended to at once in order to be of much convenience to Members.

There is no provision made in this bill as to how this work is to be done, and if the proposition is that instead of having these men on the spot with a workshop in the basement of the Capitol, a contract has to be made for the repair of every chair, for every broken desk, for every little matter that has to be attended to, any man who stops to think a moment will see that the bills for such work would run up into the thousands of dollars. As to the allegation that these men are not employed, they are so worked that they have been obliged to work on Sunday. I have here a statement in my hand that shows that I am justified in the position I take on this matter. I have here a list of small repairs that have been ordered since the 1st of March up to the 15th of March.

Mr. BURLESON. Does the gentleman know that one of these men is not a cabinetmaker at all, and that the money that is being paid to him is practically being thrown away at this time, and that this change is being made in the interest of economy?

Mr. ADAMS of Pennsylvania. I do not know that he is not a practical cabinetmaker; I do not know that this will be in the interest of real economy. Why, any man can see that if each little repair of a broken chair or a broken desk or rubbing down of varnish has to be arranged for outside, that it will not be in the interest of economy. There is no provision in this bill putting it anywhere else, and this work has been well and satisfactorily done. I will not take the time of the House to read it, but here is a matter of twenty-two items that were ordered to be attended to between the 1st and the 15th of March. That is the rate at which these repairs are being done, and they have been obliged to work on Sundays.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. ADAMS of Pennsylvania. Mr. Chairman, I ask for five minutes more.

The CHAIRMAN. The gentleman from Pennsylvania asks that his time be extended five minutes. Is there objection?

There was no objection.

Mr. ADAMS of Pennsylvania. Mr. Chairman, there is no provision in any way as to how these matters are to be attended to. These three men are simply eliminated; they abolished the carpenter because they wanted a practical cabinetmaker, and now they come in and abolish them and make no provision for this work to go on. These men have done their work well; they have been so busy they have been obliged to work on Sundays; and, more than that, there is no provision made in this bill as to how the work is to be carried on. The convenience of the Members of the House will be materially interfered with by this abolition of these carpenters. It is not a move in an economical direction. Contracts for the repairs of every broken chair and every injured desk that will take place will not be in the interest of economy, but will run up into the thousands of dollars. I protest against this change in the law. It is not subject to a point of order, for they have simply omitted them from the bill instead of bringing the matter up for the consideration of Members on the floor of the House. When the time comes I shall move that they be reinstated and that this real economy be continued.

Mr. LITTAUER. Mr. Chairman, the service referred to was at one time conducted under the Chief Clerk, but transferred so that now it is under the Superintendent of the Capitol Building and Grounds. Surely the man in charge of this force ought to know whether it is a proper one; whether or not the work is economically performed. He states to us that these appointments come under patronage as the general appointments in connection with the House. They receive, one of them, $1,200, and two of them $900 annually. The total cost is $3,000, and he says one of them is perhaps competent to do a little of this work and the other two are not at all competent. He says that he can do all of this work for $1,000, having ordinary carpenters connected with his force about the House, and if any little job comes in they can attend to that, and that he would save $2,000 out of the $3,000. It is perfectly natural, then, that we should eliminate the force from the bill, and we believe that we have looked after the proper interests of the House in doing so and that the economy will be positive. Of course I realize that it is difficult, or a least it touches some Members when the members of any of the forces in connection with the House are eliminated, because they are usually appointed on the recommendation of some Members.

Mr. ADAMS of Pennsylvania. Will the gentleman permit me an interruption?

The CHAIRMAN. Does the gentleman yield?

Mr. LITTAUER. Yes.

Mr. ADAMS of Pennsylvania. I wish to state that this man is not even a constituent of mine.

Mr. LITTAUER. I do not claim that he is.

Mr. ADAMS of Pennsylvania. But the gentleman has insinuated that this was a personal matter.

Mr. LITTAUER. Oh, no; I have not intended to insinuate that it was a personal matter. I intended to make only a general remark showing the difficulty that was encountered.

Mr. ADAMS of Pennsylvania. But the gentleman said it was generally founded on patronage.

Mr. LITTAUER. And so it is, and the man is not engaged because of his peculiar adaptability to this work and his eminent qualifications.

Mr. ADAMS of Pennsylvania. The man I was referring to was employed for that reason, and he says the superintendent says that he has some carpenters now that can do this work.

Mr. BURLESON. What State is he from?

Mr. ADAMS of Pennsylvania. He has carpenters, and he said he could not do this cabinetwork.

Mr. LITTAUER. He has ordinary carpenters that he engages to do ordinary little jobs around the House, and he tells

us that it will save $2,000 out of the $3,000 that this appropriation calls for.

Mr. ADAMS of Pennsylvania. But a carpenter can not do cabinet work.

Mr. LITTAUER. I do not know that we have very elaborate cabinetmaking to do here. Once in a while a tack comes out of a chair, or something of that nature, here and there, and then we have these gentlemen around about us with annual compensation, doing little a good part of the year, to make the repairs, and we feel we are simply acting properly toward the House in eliminating the service when the man in charge of it states that it ought to be eliminated and that the work can be done for one-third of its present cost. My remarks were not directed at all toward the gentleman from Pennsylvania.

Mr. LIVINGSTON. Mr. Chairman, I desire to suggest that there is nothing before the House. If the gentleman from Pennsylvania [Mr. ADAMS] wants to reinsert that clause, he can do it, but let us get down to business.

Mr. ADAMS of Pennsylvania. I shall when the proper time comes.

Mr. LIVINGSTON. This is not the proper time.

The CHAIRMAN. Without objection, the pro forma amendment will be withdrawn. The Clerk will read.

The Clerk read as follows:

Office of the Clerk: For Clerk of the House of Representatives, including compensation as disbursing officer of the contingent fund, $5,000; hire of horses and wagons and cartage for use of the Clerk's office, $900, or so much thereof as may be necessary; chief clerk, journal clerk, and two reading clerks, at $3,600 each; tally clerk, $3,000; file clerk, $2,750; printing and bill clerk, disbursing clerk, and enrolling clerk, at $2,500 each; distributing clerk, $2,250; docket clerk, assistant disbursing clerk, assistant enrolling clerk, resolution and petition clerk, printing and document clerk, index clerk, assistant journal clerk, stationery clerk, and assistant to chief clerk, at $2,000 each; librarian and superintendent clerks document room, at $1,800 each; one bookkeeper, two assistant librarians, and seven clerks, at $1,600 each; document and bill clerk, $1,600; document clerk, $1,440; locksmith, who shall be skilled in his trade, $1,200; one assistant in Clerk's office, and one assistant in disbursing office, at $1,400 each; assistant index clerk, $1,500; telegraph operator, assistant file clerk, and stenographer to the Clerk, at $1,200 each; assistant telegraph operator authorized and named in resolution adopted January 15, 1902, $1,200; one assistant in library, one assistant in document room, one assistant in stationery room, and one messenger in file room, at $900 each; one page, $720; attendant in charge of bathroom, $1,000; three laborers in the bathroom, at $720 each; three laborers, page in enrolling room, and janitor in the library, at $720 each; messenger in chief clerk's office, $900; in all, $98,720.

Mr. LITTAUER. Mr. Chairman, I offer the following amendments, which I send to the desk and ask to have read.

The Clerk read as follows:

On page 13, in line 9, after the word "dollars," insert the following: "Allowance to chief clerk for stenographic and typewriting services, $250."

In line 10 strike out the words "seven hundred and fifty" and insert the words "nine hundred and seventy."

The CHAIRMAN. The question is on agreeing to the amendments offered by the gentleman from New York.

The question was taken; and the amendments were agreed to.

Mr. ADAMS of Pennsylvania. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Insert, on page 13, line 3, after the word "messenger," the following: "Three cabinetmakers who shall be skilled in their trade, one at $1,200 and two at $900 each."

Mr. LITTAUER. Mr. Chairman, I believe that is subject to the point of order, and I make the point of order on it.

The CHAIRMAN. Will the gentleman state his point of order?

Mr. LITTAUER. It is not authorized by law. It is a new service not existing under the Clerk of the House. There is no such service now in existence.

Mr. ADAMS of Pennsylvania. Mr. Chairman, I wish to state first why I offered it at this time. It is because of the information that I had from the Superintendent of the Capitol that his only objection to these cabinetmakers is that they were under his supervision and not under an officer of the House who has to do with that matter.

Mr. LITTAUER. Mr. Chairman, has the point of order been disposed of?

The CHAIRMAN. The Chair will state that the gentleman from New York has made the point of order, and will be glad to hear from the gentleman from Pennsylvania whether there is any resolution of the House or other authority for the appointment of the employees named in the resolution.

Mr. ADAMS of Pennsylvania. I will state it is in the existing law, under the bill which passed last year, and has been the existing law for several years, and having passed in that shape, this is an effort to eliminate it and change existing law under this appropriation bill.

The CHAIRMAN. There is no resolution or other authority except as found in the last appropriation bill?

Mr. LITTAUER. There is no resolution or any authority except that found in the last appropriation bill, where no such service is connected with the office of the Clerk of the House as the gentleman from Pennsylvania seeks to include here now.

The CHAIRMAN. It has been repeatedly held that the mere fact that a similar office was appropriated for in a previous appropriation bill is not to be considered as existing law so as to authorize another appropriation for another year. It is not a law authorizing an appropriation for a subsequent year. Unless there is some resolution or some authority outside of the mere appropriation for the pay in a former bill the Chair will be compelled to sustain the point of order.

Mr. ADAMS of Pennsylvania. A parliamentary inquiry. Then I understand the Chair will rule the same way if I shall offer this amendment under the head of the appropriation for the Superintendent of the Capitol and grounds?

The CHAIRMAN. The Chair will be compelled to so rule unless some authority of law shall be shown for the creation of the office and the appropriation of the money.

The Clerk read as follows:

To continue during the fiscal year 1907 the employment of three clerks, at $1,600 each, in the office of the Clerk of the House, to complete a digested summary and alphabetical list of private claims presented to the House of Representatives from the Fifty-second to the Fifty-seventh Congress, inclusive, $4,800.

Mr. JOHNSON. Mr. Chairman, I move to strike out lines 11 to 17, inclusive.

The CHAIRMAN. The gentleman from South Carolina moves to strike out the paragraph just read, which is embraced in the lines 11 to 17, inclusive.

Mr. JOHNSON. This provides for indexing private claims that have been introduced from the Fifty-first to the Fifty-seventh Congress. When the resolution passed this House providing that these claims should be indexed, I thought, and I have no doubt other Members thought, the purpose of the resolution was to get the claims which were pending before Congress in concise and compact form as a book of reference. The testimony taken before the Appropriations Committee shows that this force of clerks has been working for three years, but they already have compiled sufficient data for eight or ten large volumes, and they say that it will take them another year to complete it, and when it is completed it will be a work as large as an encyclopedia, that nobody on earth will have. They have not only taken private claims which were in contemplation of Congress when the index was provided for, but they have gone and taken all the private pension bills and included them as private claims. The Clerk of the House testified before the committee that it will make a volume so large that he would never want one, and he did not think anybody else would. It not only involves an unnecessary expense to compile these so-called "indexes," but it will involve a very large expense to have those worthless things printed after they are compiled. So, Mr. Chairman, it seems to me from the evidence I have read, as it was disclosed before the Appropriations Committee, that it is merely a waste of money, and I make the motion, and the House can do as it pleases with that motion.

Mr. LITTAUER. Mr. Chairman, I simply want to state that the Committee on Appropriations did not have to consider whether such legislation and such work was proper or not. Probably if it had had the determination of it with the information now before us we would not have approved the beginning of such work; but the work has been going on for three years and an expense of probably $20,000 has been incurred. The compilation is practically on cards and now is to be recast in order to be put in such shape as will make it ready for the printer. The work is so far along that we feel it incumbent upon us to provide for the continuance and completion of the work. A year ago we added these words: "To complete this service."

Mr. JOHNSON. But they did not complete it?

Mr. LITTAUER. They did not complete it. The men in charge of the work came before us and showed us that they had 248,000 or 250,000 entries, and that it could not be completed last year by the number of clerks devoted to it. They believe that they could complete it in the coming year. It would then practically be in a shape that Congress could determine whether it was to be printed or not, and how great the expense connected therewith would be. I agree with the gentleman about this service. I do not believe it will bring a return equivalent to its cost; but it has already gone on so far, and it is nearly done, that it should be completed. This year ought to complete it, and if it does not, I do not believe we will be here asking an appropriation to finish it up next year.

Mr. JOHNSON. Will the gentleman allow me to ask him a question?

Mr. BURLESON. Right in that connection——

Mr. JOHNSON. Let me ask the gentleman this question: Does not the gentleman believe, on the evidence before his committee, that the work is absolutely worthless?

Mr. LITTAUER. I have no opinion to give. The House itself ordered that this work be done, and the House ought to be the best judge of whether it should be completed or not.

Mr. JOHNSON. I remember when the resolution passed the House, and I do not believe that there is a Member of the House who contemplated that it would be anything but an index in concise form, giving the history of the claims pending for legislation.

Mr. LITTAUER. I have no doubt that was the idea when Congress authorized the work, but Congress evidently did not comprehend the scope of the work they ordered, and the legislation was not specific enough in detailing how it should be performed; and the work has been nearly completed on the exact lines of former digests.

Mr. BURLESON. It is completed up to the Fifty-sixth Congress.

Mr. LITTAUER. There is but little yet to compile, and it seems to me that it ought to be completed.

Mr. JOHNSON. I am satisfied that it will never be printed; and what is the use of us paying this $4,800 a year?

Mr. LITTAUER. If it is not printed, we will have the card index of it anyhow.

Mr. SMITH of Iowa. If the gentleman will permit me, since this discussion has begun respecting this index, it has occurred to me that this index of claims could be made to be of great value to the Committee on Claims and the Committee on War Claims in ascertaining the history of those claims. Would it not be possible, by an amendment to the item, to provide for throwing away the cards on the pension matter before they are printed?

Mr. LITTAUER. There is no authorization for printing. It will take another year to complete. The work has been completed to the Fifty-sixth Congress, and it seems to me that the extra expense would be so trifling that we might as well complete the work on the lines on which it was begun, now practically 75 or 80 per cent completed.

Mr. SMITH of Iowa. This question was inspired by a question of a colleague on this floor, and it struck me with some force, with 6,900 pension bills, and possibly having a greater number hereafter, that it might be of interest to the members of the Committee on Claims or the Committee on War Claims. I do not think it should include those pension claims.

Mr. LITTAUER. I think it would have been well to limit exactly what this digest should contain, but it is practically finished now.

Mr. SMITH of Iowa. I think it would be of some value to the Claims Committees, but not to the individual member.

Mr. LITTAUER. I think it will be of value to attorneys of claimants and those seeking information.

Mr. CLARK of Missouri. I would like to ask the gentleman a question.

The CHAIRMAN. Does the gentleman yield to the gentleman from Missouri for a question?

Mr. LITTAUER. Yes.

Mr. CLARK of Missouri. Do you not think it would be a good thing to put in some kind of a proviso at the end of this proposition that these men shall complete this business under this appropriation?

Mr. LITTAUER. The appropriation reads "to complete the digest."

Mr. CLARK of Missouri. I know, but these men will not complete it this side of the day of judgment.

Mr. LITTAUER. It seems that we have provided for it as well as we could by words.

Mr. CLARK of Missouri. You can surely put words in the bill for them to complete this work under this appropriation. If you do not do it it is going to take precisely the form of this remarkable aggregation of talent down here, appointed to codify the laws of the United States, and they entered on a general scheme of legislation for the United States.

Mr. LITTAUER. Will the gentleman suggest to me the language?

Mr. CLARK of Missouri. I would put in these words: "*Provided*, This work shall be completed by the end of the fiscal year 1907."

Mr. LITTAUER. I will agree to such an amendment, if the gentleman from Missouri will only show me how it can have any practical result. We appropriate for these salaries and they are paid monthly.

Mr. CLARK of Missouri. Make their drawing the salary depend upon the finishing this work. If you do not you will be exactly in the same box at this time next year.

Mr. LITTAUER. Pay them no salary until the end of the year?

Mr. CLARK of Missouri. Why, certainly; let them know what the result will be and they will go to work.

Mr. LITTAUER. We want to have this finished during the coming fiscal year.

Mr. BURLESON. I suggest that it can be done by adding after the word "complete" the words "at the end of the fiscal year 1907."

Mr. JOHNSON. I think a better amendment would be:

Provided, That no part of this money shall be paid until the work is completed.

We do not get our pay before we do our work.

Mr. LIVINGSTON. Mr. Chairman, this work was authorized in the first place by the House. We have appropriated this amount of money to complete it. Now, the amendment proposed by the gentleman from Missouri would be simply this: That these men must do twelve months' work on wind and water. They can not do it. Therefore the practical result of his amendment, if adopted, means the cutting off of this work now.

Mr. CLARK of Missouri. I should like to ask the gentleman from Georgia a question.

Mr. LIVINGSTON. Yes.

Mr. CLARK of Missouri. Does the gentleman think there is any imminent danger of these three distinguished men resigning if you put in that provision?

Mr. LIVINGSTON. They certainly will not work.

Mr. CLARK of Missouri. Then they certainly would not get any pay, and that is exactly what I should like to see done.

Mr. LIVINGSTON. We had better just strike it out then and be done with it. That is a fair, open way of doing business; but if we adopt this proposition, which would compel them to do twelve months' work without any pay, every Member on this floor knows that the men who are doing this work would stop now. Let the House deal fairly and honestly with itself. If you do not want this work to proceed and to be finished, then strike it out of the bill; but if you want it finished as we have provided for, then give these men something to eat and a place to sleep while they are doing the work. That is all there is in it.

Mr. BURLESON. Will the gentleman from Georgia permit a suggestion?

Mr. LIVINGSTON. Yes.

Mr. PAYNE. Mr. Chairman, I want to get the floor in my own right.

Mr. LIVINGSTON. I yield first to the gentleman from Texas [Mr. BURLESON].

Mr. BURLESON. The obstacle the gentleman suggests can be overcome by inserting in the bill "provided that 30 per cent" or "25 per cent" or some per cent "of each month's salary shall be retained until the completion of this work."

Mr. LIVINGSTON. Mr. Chairman, I now yield to the gentleman from New York [Mr. PAYNE].

Mr. PAYNE. I want to get the floor in my own right.

Mr. LIVINGSTON. In a moment. That proposition would not help you at all. It is a question whether they receive more than they absolutely need to live on or not in their salaries. We do not know that. If the gentleman from Texas will assert that 30 per cent could be taken from their salaries and still enable them to go on and do this work, I have no objection to it, but that is not an open way of doing business. Let us get at it and be fair about it and either appropriate for the doing of the work or strike it out, one or the other.

Mr. PAYNE. I have no knowledge of who these three men are. I do not know whether they are competent to do this work or not. I assume they are, and they have been appointed by the proper officer of the House.

Mr. LIVINGSTON. I suggest to the gentleman that their work up to this time has been good.

Mr. PAYNE. I want to suggest that this work may be very valuable for the information of the House. At present there is no way by which a Member of the House not a member of one of the Committees on Claims can get at the knowledge of the merits of any claim. It has been the custom of these committees to report only the bills upon which they decide favorably. When they vote down a bill they never bring in an adverse report in the House. I think that has been so from the Fifty-second Congress down to the Fifty-seventh, inclusive. Time was, formerly, when sometimes committees reported these bills adversely and put on the record the facts which authorized the adverse report, but now these claims are put into a pigeonhole. They are introduced Congress after Congress and pigeonholed again and again. By and by they get into a report, and

the report is presented to the House; but the House has no knowledge whatever concerning the claim, except what is contained in the favorable report made to the House.

Now, I notice the provision is here to make an index, to complete a digest and summary and alphabetical list of private claims for the use of the House. That word "summary" may involve a good deal and it may not involve much. If it is thoroughly and honestly and fairly done, it ought to present to the Members of the House briefly the facts in each case, so that when these claims come in reported by the committee, the House can get the information in regard to each one of them; and if any facts exist which show a reason why the claim should not be passed, they can be presented from this summary to the House and a defense be made.

Mr. CLARK of Missouri. Does not the gentleman think there ought to be an end to the time when this is going to be done?

Mr. PAYNE. Of course there ought to be. But if we do not furnish them a salary—something to live on—they can not progress and work toward that end. I think, Mr. Chairman, if the work is well done it will save the Treasury of the United States far more than the $4,800 a year for the clerks of these gentlemen. If it is not thoroughly done, of course the work will be worthless.

Mr. CLARK of Missouri. We are not objecting to this $4,800, but we are objecting to the prospect of $4,800, year after year, without any limit.

Mr. PAYNE. I do not know who these gentlemen are. I have no interest in any one of them. I have an interest in seeing that the Treasury of the United States is not called upon to pay dishonest claims, as the House well knows. While the committee do not report adversely, I have understood from the two committees that they were going to do so, but I have not seen one adverse report yet; but the House ought to have some machinery by which Members of the House can find out about these claims when they come here for discussion, so that we could pass upon them intelligently.

Mr. JOHNSON. Mr. Chairman, I withdraw my amendment to strike out the paragraph, and I offer the amendment which I send to the Clerk's desk.

The Clerk read as follows:

Add the following: "*Provided*, That 30 per cent of each monthly payment shall be withheld until the work shall have been completed."

The CHAIRMAN. The question is on agreeing to the amendment.

Mr. LITTAUER. Mr. Chairman, I hardly think that is well considered and would meet the purpose that the gentleman has in view. The actual state of things in this matter is that the work of compilation has already been completed, and the men are now busy assembling these various cards under various categories. We provide that they shall have the salary they have been paid for the last few years to complete this work during the coming year. To simply hold back 30 per cent of their salary until the work shall have been completed perhaps might carry with it a continuance of the 70 per cent of salary until the work was completed.

Mr. JOHNSON. I would like to ask the gentleman a question.

Mr. LITTAUER. Certainly.

Mr. JOHNSON. Was not the promise made to the Appropriations Committee a year ago that this work would be completed when you gave them $4,800 more?

Mr. LITTAUER. Positively so. We anticipated that it would be completed by the 1st of the next July when the current year's appropriation runs out.

Mr. JOHNSON. And now they come back and want an appropriation of $4,800 for another year, and unless we do something to spur them on to get this work done one year from now they will be back asking for $4,800 more.

Mr. LITTAUER. Let me explain to the gentleman. We had before us one of these three clerks. He was a very intelligent man, answered our questions with full information, and he stated that a year ago when the statement was made that the digest could be completed within a year it was made by his superior officer. He was not before us; he knew that the work of writing up could be done by the 1st of next July, but as to the complete compilation ready for the printer he knew that could not be done. Then Mr. BRICK, of the committee, was very particular to inquire of him: "I understand you to say that it will take another year to complete the work; you mean the year from next July?" "Yes." "At that time it will be ready to print in document form?" "Yes, I think so; that is my best judgment."

Mr. JOHNSON. Yes; and a year from now some other Member will come before your committee and say he is not bound by what that clerk said and that that clerk was mistaken.

Mr. LITTAUER. The character of the work is worthy of the compensation paid. If we are going to keep these men at this work—and we believe that they are not simply marking time, but are trying to complete it—they would naturally be entitled to such compensation as they previously had. I hardly feel that the committee ought to adopt the amendment and reserve 30 per cent from their pay when there is no evidence that the men are not properly carrying out the work to the best of their ability.

Mr. KEIFER. Mr. Chairman, I am in favor of completing this colossal work as an illustration of the supreme folly, I might say, of attempting to legislate on private claims at all, in attempting to settle them here. This work finished will demonstrate that our system of paying private claims by special acts is a failure, and has been throughout the history of the Government—that honest claims fail to be paid, and fraudulent ones are liable to get through. There is hardly a State in the Union, with a very small fraction of claims compared to those that are presented against the United States, that would tolerate for a single year any such absurd system of paying claims by private acts. The system works injustice to the honest claimant and gives room for the dishonest to work in his claim. We can pass no statute of limitation here against our own work. We will not obey our own limitation. There is an old report made by the War Claims Committee to this House that sets forth a number of these dishonest claims, and, as an illustration, I think I can give the figures substantially as to one of them. There was a Florida war claim that arose in 1838. It was originally presented for $13,000, and in the Forty-fifth Congress there was a bill to finish up paying that claim for $50,000, after thirty-odd thousand dollars had been paid on the original claim. We have other illustrations like that. My idea is that we ought to have this report finished in order that we may lay it before the House to prove that we should not resort to a system of settling claims not founded on law and which can not be audited in the Departments. I am in favor of amending the Constitution so that all this class of claims can be settled in the courts, and to furnish a court always open for claimants. Then we can have a statute of limitations that will end them. Congress should be relieved of jurisdiction over such claims. Many of the claimants have been ruined because they have stayed year by year trying to get their claims through. They have wasted their means in trying to do what was impossible. This report, when it is made, will show the great folly of our trying here to adjudicate claims.

Mr. PAYNE. Of course, the gentleman knows that a great many of these people go into the courts and get judgment for all they are entitled to, and the judgment is then paid, and that then they come again to Congress for additional pay.

Mr. KEIFER. Mr. Chairman, I am delighted that the distinguished gentleman has made that suggestion, because it is one of the things that I wanted to speak about. I am very thankful for it. Some of these claims are allowed and some are disallowed, and in either case they come back here always; but under my plan, which I shall ask this House to pass upon, we are to have a court, and when a claim goes through it it will be as completely settled as in any case adjudicated in any court in this country. We shall have a statute of limitations applying to the court that will be effective. We can not have a statute of limitations that is effective as against ourselves.

Mr. CRUMPACKER. Mr. Chairman, will the gentleman permit a question?

The CHAIRMAN. Does the gentleman yield?

Mr. KEIFER. Yes.

Mr. CRUMPACKER. I have gathered from this discussion that the trouble with this work, the evil of the work, is that it is going to be greatly impaired by the inclusion in the digest of all the multiplied thousands of private pension bills, and that they will bury up the real bills that we want information about so that it is impossible almost to extricate them. Is it not possible to provide before this work is finally published for the elimination of the private pension bills and the grouping together and bringing in in a more compact form of the histories of the digest of the several claims bills, which will be regarded as of great importance to the Congress and to the country? Can that not be done?

Mr. KEIFER. Mr. Chairman, I am inclined to agree with the gentleman from Indiana [Mr. CRUMPACKER]. I did not know that pension claims were being indexed by these clerks. I do not think that is wise, but we ought to have all these claims indexed and digested and brought here for the protection of the Government.

Mr. LIVINGSTON. Mr. Chairman, the suggestion made by the gentleman from Indiana [Mr. CRUMPACKER] was the one that I was trying to give to the gentleman from Ohio [Mr.

KEIFER]. That will take care of the expenses, but the amendment now before the House is an extraordinary process. It is out of the lines of legislation as we conduct it in this House. It is the first time in the history of the House, I think, that a clerk's salary or the salary of an official has been doled out to him so much per month and so much kept back. It is not the proper way to do business. The gentleman from South Carolina [Mr. JOHNSON] has no idea, perhaps, of the condition of these men and the doing of this work. I don't know whether they can live with 30 per cent deducted from this salary and held back to the end of the work, nor does he. The extravagance, if any exists, will come in the publication, but not in this work, and this House has perfect control over that question. When we come to publish the work we can eliminate from it all the pension cases and we can eliminate anything else that we please. The effort of the gentleman now is inopportune; it is not the proper place to act, and it is not the time to act. If these men are worthy of their hire we ought to pay it to them.

Mr. JAMES. How much has been expended already to pay these men?

Mr. LIVINGSTON. We have expended $4,800 a year for three years, and we propose to spend that now. The committee, Mr. Chairman, the subcommittee at least, was entirely satisfied that this work could and would be completed within a year from next July. We hesitated about the appropriation, but when we were satisfied that this work would be completed by that time, then we put in the appropriation, and not until then.

Mr. JOHNSON. Mr. Chairman, I would like to ask the gentleman from Georgia a question. Does the gentleman from Georgia think that it is an extraordinary proceeding and a harsh proceeding to require a man to do his work before he gets his pay?

Mr. LIVINGSTON. Well, let us see how that sounds, Mr. Chairman. Suppose the gentleman's salary of $5,000 was held back—25 or 40 per cent of it—on his fulfilling all of his duties, for the term of two years, what would he think of it?

Mr. CLARK of Missouri. That ought to be the rule.

Mr. JOHNSON. Ought to be held back until you earned it?

Mr. LIVINGSTON. Perhaps you would never earn it.

Mr. JOHNSON. Then that is all right; then let them send some one here who would.

Mr. LIVINGSTON. Now, suppose you put that on the President, suppose you put that on the Congressmen—that is not the way to get a man to do his duty. If a man does not do his duty, discharge him. These clerks could be discharged to-morrow.

Mr. JOHNSON. I would like to ask the gentleman another question. If three men were to come to you to build a house and told you they could finish it in twelve months for $4,800, would you pay them one-twelfth of that a month or hold part of it back until the work was completed?

Mr. LIVINGSTON. Well, that would be according to the contract entered into.

Mr. JOHNSON. I want to make a contract with these people.

Mr. LIVINGSTON. We have already made a contract with them.

Mr. JOHNSON. No; you have not. Their contract with the Government will expire the 30th day of next June. They are before your committee saying in twelve months for $4,800 they can complete this work, and I want to make a contract with them beginning the 1st day of July that will make them do it.

Mr. LIVINGSTON. I want to ask the gentleman a question in turn. Let us see how he stands on it. Take this house business. They have gone on and completed it and there is only one-tenth of the work yet to do. They have done all except just putting on the roof and putting on the little frills and furbelows around the house, and he says because they have not done it as the contract originally provided he will stop the house and let it rot down. That is his proposition to stop this business and lose the money that has been spent.

Mr. JAMES. Will the gentleman yield for a question?

The CHAIRMAN. The time of the gentleman has expired.

Mr. JAMES. I move to strike out the last word for the purpose of asking a question. You say in this item here, "to complete a digested summary and alphabetical list of private claims;" you declare in that item it is the purpose to "complete this work," and yet after you have made that declaration you object to a limitation being placed upon it providing for the completion of the alphabetical and summary digest which you say you intended to do. That is a peculiar anomaly to present to the House here. You say you want to complete it and your purpose is to complete it, and when a man provides a limitation that they shall not collect unless they do so, you say you do not stand for that sort of legislation. Now, what is the objection to a limitation here saying these men shall not be paid unless they do what the committee says they have to do, and that is, complete this work?

Mr. LITTAUER. You suggest, however, such a limitation as is entirely of a different order of limitation from what is ever placed upon compensation for clerical services. Here are just three clerks working at this piece of compilation. Now, why should we particularly say, "Your salaries will not be paid to you until you complete this work, and it must be completed this year?" These clerks are carrying out this work under the supervision of the Clerk of the House. The real economy, as I believe, would be to declare to these men, "Complete this work; get it together;" then before we proceed to the expense of printing, which will cost an amount quite equal to all the expense of compilation, determine whether or not the digest is worthy of being printed, and also whether the work can not be procured elsewhere.

Mr. JAMES. I will answer the question by asking you one. Why not say "in furtherance of the work" instead of "completion?"

Mr. LITTAUER. Because we want to use the word "completion," believing thereby we could force the work to completion.

Mr. JAMES. That is why we want to limit them.

Mr. LITTAUER. Ours is by moral suasion, and yours is by a limitation upon salaries.

Mr. JAMES. How many times have these gentlemen promised they would complete the work?

Mr. LITTAUER. Never before.

Mr. JAMES. How long have they been at it?

Mr. LITTAUER. They have been occupied for three years.

Mr. JAMES. Do you not know, as a matter of fact, that two good men could have done this work in one year's time?

Mr. LITTAUER. I understand that; and I will ask the gentleman's opinion of it.

Mr. JAMES. And when you provide that the work shall be done by the end of the fiscal year or no pay will be allowed, don't you know that they will go to work and finish it? If no limitation is fixed upon the salary next Congress will find the work unfinished.

Mr. LITTAUER. In this instance I do not believe that the statement of the gentleman is correct.

Mr. JAMES. That is a difference of opinion.

Mr. LITTAUER. Entirely so.

Mr. JAMES. You admit it ought to have been completed?

Mr. LITTAUER. The work has been thoroughly done, and I think the men have done what looks like diligent clerical service.

Mr. JAMES. If it is completed what good would it be to the people? You said that you did it for the purpose of pushing them on.

Mr. LITTAUER. Because we want to get rid of it.

Mr. GAINES of Tennessee. Will the gentleman allow me to ask him a question?

Mr. LITTAUER. Certainly.

Mr. GAINES of Tennessee. How long do they propose to work on this index before it is complete?

Mr. LITTAUER. The statement that we have before the committee is that they will complete it within the year for which we are now appropriating.

Mr. GAINES of Tennessee. When do they say they will complete it?

Mr. LITTAUER. If you will turn to the hearings, on page 13 of the hearings, we asked this clerk to state how long it would take, in his best judgment, to complete. The question was asked by Mr. BRICK: "And at that time it will be ready to print in the document?" Mr. Hunsicker answered: "Yes, sir; I think so. That is my best judgment."

Mr. GAINES of Tennessee. What does the gentleman himself think about it?

Mr. LITTAUER. I think they ought to be able to do it, but I am not sufficiently familiar with that character of work to determine.

Mr. GAINES of Tennessee. What objection have you to putting in a limitation, so that it must be done by that time?

Mr. LITTAUER. I feel that it ought to be done, but I do not think we should be called upon to say that to three clerks.

Mr. GAINES of Tennessee. Why not?

Mr. LITTAUER. Do you think it is a proper thing to say to these three clerks of the House, "If you do not do this work by the end of the year, $3,000 of your salaries shall be deducted?" It does not seem to me a right and fair system.

Mr. GAINES of Tennessee. But you know it does mean that we are going to compel the completion of the work in that time.

The CHAIRMAN. The time of the gentleman from Kentucky has expired.

Mr. JAMES. I was just discussing with one of my colleagues which one of these gentlemen took me off the floor.

The CHAIRMAN. The gentleman from Kentucky asks unanimous consent that his time be extended five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. JAMES. I do not know that I want five minutes.

The CHAIRMAN. To which gentleman does the gentleman from Kentucky yield?

Mr. JAMES. I want the gentleman from New York to answer one question only, and that is this: You say that we ought not to provide that these gentlemen shall not receive any money unless they complete this work. What is your objection to this provision being limited in this way: Say $4,800 of the amount appropriated for the completion of the work. If these gentlemen do not want to do it, then other people can take it up. Have you any objection to that?

Mr. LITTAUER. I have not, so far as I am concerned.

Mr. JAMES. All right; then I will prepare the amendment.

Mr. KEIFER. I want to ask the gentleman from Kentucky one question.

The CHAIRMAN. Does the gentleman from Kentucky yield to the gentleman from Ohio?

Mr. JAMES. I do.

Mr. KEIFER. I think the gentleman has fallen into a general mistake, and some others have followed him. There is no provision in this bill for the employment of clerks to contract to do this work. This is a provision for the Clerk of this House to employ clerks to do this work. If you will turn back to line 23, page 11, it begins with, "For Clerk of the House of Representatives," etc. Then here, among other things, comes, under the head of "Clerk," "to continue during the fiscal year 1907 the employment of three clerks at $1,600 each," etc. The point I make is this: Whether the gentleman wants to put a limitation upon the employment or upon the period for the completion of the work?

Mr. JAMES. I want to put a limitation upon the time for the completion of this work.

Mr. TAWNEY. Mr. Chairman, I want to be recognized for a moment in my own right.

Mr. JAMES. I will prepare the amendment and send it up.

Mr. TAWNEY. I want to call the attention of the committee to the fact that authority for the doing of this work was given by the Congress of the United States.

It was Congress that authorized this work to be done. The Committee on Appropriations since that time has been making the necessary appropriations for the purpose of carrying on the work which Congress has authorized. Now, this work has been deemed by Congress to be of sufficient importance to have it done thoroughly and well; and in order to ascertain whether it was being done in accordance with the will of Congress, the committee, for the first time, called before it the men who are doing the work, interrogated them carefully as to whether they were doing it as expeditiously as it is possible to do it, and after a thorough investigation came to the conclusion that it can and will be completed during the next fiscal year. Therefore we continued the appropriation and put in this limitation. Now, the idea of attempting to withhold a part of the compensation for the purpose of compelling it to be done seems to me to be rather a harsh proposition, in view of the fact that in the judgment of the committee these men are doing this work as rapidly as it is possible for them to do it.

I find in the document room Senate Document No. 3, Fifty-ninth Congress, which is a digest of all the claims presented to the Senate. The Senate has done this work, so far as its body is concerned, covering a period from November 9, 1903, to March 4, 1905.

Mr. GAINES of Tennessee. How long were they doing that work?

Mr. TAWNEY. I can not answer the gentleman's question.

Mr. GAINES of Tennessee. How many clerks worked at it?

Mr. TAWNEY. The work commenced November, 1903, and continued to March 4, 1905. Now, the House commenced the work in 1902, and we intend to include the claims presented to the Fifty-eighth Congress. The work is much larger in the House, because the number of claims is greater.

Mr. GAINES of Tennessee. How much did they pay the clerks, and how long did they work?

Mr. TAWNEY. I am not able to answer the gentleman; but if he will send to the document room and get Senate Document No. 3, he will see the work which they did. I have just seen the document myself.

Mr. GAINES of Tennessee. Let me have it and I will look at it.

Mr. TAWNEY. The work which these men are preparing will make two volumes, each volume almost twice the size of this volume. We had the old volumes before us, we have that volume before us, and that is the estimate that each volume will be at least twice as large as this. The work is more than double the work which has been done by the Senate.

Mr. GAINES of Tennessee. These men have been working at this in the House for several years, according to my recollection.

Mr. TAWNEY. They will complete it this coming fiscal year, without any doubt, in my judgment.

Mr. GAINES of Tennessee. Without any doubt?

Mr. TAWNEY. Yes.

Mr. DRISCOLL. Mr. Chairman, it seems to me from the reading of this proposed appropriation that this is going to be a permanent job. Now, this appropriation is made for what purpose? To complete a digest and alphabetical list of private claims presented to the House of Representatives from the Fifty-second to the Fifty-seventh Congress. If they do all that is asked of them they will only complete the claims presented up to and including the Fifty-seventh Congress. The Fifty-eighth Congress claims will be left over, and a year from next July the Fifty-ninth Congress will have passed into history. Therefore, there will be the claims of two more Congresses to digest and tabulate, and by the time that is done other Congresses will have come and gone and the job will be continuous. So we should either discontinue this or let them have the pay from year to year, and treat this as an appropriation which must be made from year to year.

Mr. LITTAUER. It can only be continued by the specific authorization of Congress.

Mr. DRISCOLL. You want a digest that is up to date, and unless that is done it will be of little use. If it is worth printing as a book of reference, you will need an annual digest keeping the work up to date, and that will mean an annual appropriation.

Mr. GARRETT. Mr. Chairman, referring to the suggestion of the gentleman from New York [Mr. PAYNE], that there ought to be adverse reports on claims that are rejected by the Claims and War Claims Committees, it seems to me proper that some statement should be made in regard to the work of the Committee on Claims. The published rules of that committee will show that at each meeting the roll is called, and each member of the committee is permitted to call up for consideration one bill, provided his name is reached on the roll call.

Now, of course, bills are frequently presented that excite considerable controversy in the committee, create a good deal of discussion, and take much time for consideration, so that it is unusual to get to each man each time. There are perhaps a thousand bills referred to the Committee on Claims. It results, of course, that not all of these bills can possibly be reached in a session, since the committee meets but once a week, and accordingly each member of the committee desires in his time to call up some bill that has been favorably reported by his subcommittee in order to have a bill that will perhaps be favorably acted upon by the whole body. For lack of time, bills that are adversely acted upon by the subcommittee are not called up, simply because to call up for consideration and action a bill which he recommends adversely deprives some just claim which he might otherwise report of consideration. It is not because the committee has any objection to reporting them adversely; it is, in fact, the sense of the committee that bills which are not considered just ought to be reported adversely. This has been discussed in the Committee on Claims, of which I happen to be a member, but they are not called up for the simple reason that there is a lack of time to do it, if we would act on the just claims.

I shall myself suggest, near the close of the session and after the time has passed for getting bills on the Calendar for practical purposes, that we devote some time to making adverse reports on the bills which we reject, so as to have them out of the way next session.

Mr. GAINES of Tennessee. Mr. Chairman, for the information of the gentleman from Minnesota [Mr. TAWNEY], who just read from the Senate report, I want now to read him the Senate provision which ordered this Senate work done. Among other things this Senate law provides:

> Said work shall be completed and reported to the Senate on the first day of the first regular session of the Fifty-ninth Congress, and the usual number of copies shall be printed and ready for distribution on said date.

There is a positive limitation as to the time of the completion of this work—that it shall be completed at a certain date, and they are to pay $1,200 for the work.

Mr. TAWNEY. What is the provision of law authorizing the House to do this work?

Mr. GAINES of Tennessee. I will read it right here.

Mr. TAWNEY. I say the House, not the Senate.

Mr. GAINES of Tennessee. The objection I have is this bill puts no limitation on these clerks.

Mr. TAWNEY. The House is not authorizing this work to be done in this bill.

Mr. GAINES of Tennessee. Well, why do you not put a limitation on these clerks like the Senate did? They did so and got the work done on time.

Mr. TAWNEY. We are not authorizing the work to be done in this bill; we are not appropriating to carry out the work that Congress has already authorized.

Mr. GAINES of Tennessee. We are appropriating and of course can limit the use of the funds. Why not have the House limit this work in some such way as the Senate has limited this—"said work shall be completed and reported to the Senate on the first day of the first regular session of the Fifty-ninth Congress?" Now, here is the Senate work completed. This matter was ordered done last Congress, and here, March 13, 1905, it is printed and here it is completed and ready for use.

Mr. CRUMPACKER. The gentleman has only read a portion of it.

Mr. GAINES of Tennessee. I will read the whole of it if the gentleman wishes. The work is similar.

Mr. CRUMPACKER. I want to know whether the Senate authorized the Secretary to do the work and have it done in a certain time, or made an appropriation for so much for the purpose of initiating and carrying out the work of that kind over a period of several years. The gentleman must remember that the Senate report only covers two Congresses. Now, when this work was authorized was it with any degree of definiteness as to how long it would take to complete it? We do not know how long it will take with any certainty.

Mr. GAINES of Tennessee. We ought to put a limitation in when this work shall be completed. Here we allow so much money to complete the work, but omit to say it must, by a certain day, be "complete." The Senate did and got the work done on time.

Mr. CRUMPACKER. I understand we are employing three clerks at $1,600 each, and the committee says they are worth it. They say they can complete the work in a year, but suppose they be mistaken, are we to mulct them in the sum of $500 after they have done their very best to complete the work and have rendered a full equivalent—to impose a penalty upon them because of a mistake in the amount of work and the time to do it in?

Mr. GAINES of Tennessee. No; but I do not see why we should not put in this reasonable limitation; I do not see why we should not. We should have the work done by a certain time. If they should come here and say that they faithfully worked eight or ten hours a day during the year and that they were unable to complete the work, why, this splendid committee would excuse them. I would.

Mr. CRUMPACKER. This committee informs the House——

Mr. GAINES of Tennessee. If the gentleman will excuse me for a moment, as it is these gentlemen can go on ad infinitum to "complete" this work.

Mr. CRUMPACKER. The Committee on Appropriations informs the House that these men have worked industriously and done the best they could. They are not soldiering, and I think we have a right to assume that they will do the best they can during the next year.

Mr. GAINES of Tennessee. There is nothing rash, nothing irregular, nothing immoral in putting a limitation on this work. The chairman of the committee says it can be completed in the next year; we have his word for it, and why do we not say so literally, as the Senate has, and get the work done? I am going to support some such proposition as that the Senate made.

Mr. JAMES. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

For the completion of a digest, summary, and alphabetical list of private claims——

The CHAIRMAN. The Clerk will suspend. The Chair will state to the gentleman from Kentucky that there is an amendment already pending. The question is on agreeing to the amendment offered by the gentleman from South Carolina [Mr. JOHNSON].

The question was taken; and on a division (demanded by Mr. CLARK of Missouri) there were—ayes 17, noes 66.

So the amendment was lost.

The CHAIRMAN. The gentleman from Kentucky offers an amendment, which the Clerk will report.

The Clerk read as follows:

Strike out the paragraph and insert the following:

"For the completion of a digest, summary, and alphabetical list of private claims presented to the House of Representatives from the Fifty-second Congress to the Fifty-seventh Congress, inclusive, $4,800."

Mr. CLARK of Missouri. Mr. Chairman, is it proper to offer an amendment to the amendment just offered by the gentleman from Kentucky?

The CHAIRMAN. The Chair thinks so.

Mr. CLARK of Missouri. Then I offer the following amendment: After the words "private claims" insert the words "exclusive of private pension claims," and I will ask the gentleman from Kentucky if he has any objection to that?

Mr. JAMES. No.

Mr. CLARK of Missouri. Now, there surely can be no sense whatever in cluttering up this digest of claims with a history of sixty-odd thousand private pension claims. When a pension claim is disposed of nobody ever wants to hear of it again. So I think that amendment surely ought to be adopted to the amendment offered by the gentleman from Kentucky.

Mr. LITTAUER. Mr. Chairman, does not the gentleman realize that this compilation has already been made, and they are simply gathering it together?

Mr. CLARK of Missouri. I know, but that would shorten up the work of gathering it together.

Mr. KEIFER. I understand that it is already gathered together.

Mr. BRICK. They are all on the same card.

Mr. CLARK of Missouri. Then I withdraw the amendment.

The CHAIRMAN. Without objection, the amendment offered by the gentleman from Missouri to the amendment offered by the gentleman from Kentucky will be withdrawn. The question now recurs upon the amendment offered by the gentleman from Kentucky.

Mr. TAWNEY. Mr. Chairman, I desire to call attention to the fact that this is a lump-sum appropriation to complete this work under the amendment now offered. The appropriation is not under the control of the House at all, and I submit that it accomplishes absolutely nothing, that the appropriation which is made in the bill will complete the work, and the salaries will be paid as provided for by Congress. You give to the Clerk of the House the authority under this provision of fixing the compensation to be paid employees of the House. There is only that difference between this proposition and the language of the bill.

Mr. JAMES. But does the gentleman from Minnesota believe that the Clerk of the House would use any more of this money than would be necessary?

Mr. TAWNEY. I do not know. I do not think he would.

Mr. JAMES. Does the gentleman not think that the House could repose as much confidence in the Clerk as we could in the gentlemen employed to do the work at stipulated salaries?

Mr. TAWNEY. It is entirely inconsistent with the policy of the House to turn over lump-sum appropriations to any officer of the House and to allow him to expend it as he pleases.

Mr. JAMES. Is it not more consistent than to turn it over to individuals and allow them to prolong their jobs? I understood the gentleman in charge of the bill to be willing to accept the amendment.

Mr. LITTAUER. Mr. Chairman, I will say to the gentleman from Kentucky that when the proposition was first made to me I felt that some such limitation ought to be made. The only trouble is that the Clerk of the House could then continue to engage three or more men at similar compensation to that formerly paid, and when the sum of $4,800 was exhausted he could simply come back to the House and say to us that in order to complete that work he had paid out the $4,800, and that it was only half completed.

Mr. JAMES. I do not think the Clerk would do that.

Mr. LITTAUER. Suppose he would say he could not comprehend how much money it would take to complete the work?

Mr. JAMES. I will say to the gentleman that I think he would complete the work within the proper time.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Kentucky.

The question was taken; and on a division (demanded by Mr. TAWNEY) there were—ayes 31, noes 44.

Mr. JAMES. Mr. Chairman, I demand tellers.

The CHAIRMAN. The gentleman from Kentucky demands tellers. All those in favor of ordering tellers will rise and remain standing until counted. [After counting.] More than a sufficient number, and tellers are ordered. The gentleman from Kentucky [Mr. JAMES] and the gentleman from New York [Mr. LITTAUER] will take their places as tellers.

The House again divided; and the tellers reported—ayes 34, noes 58.

So the amendment was rejected.

Mr. PADGETT. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

At the end of line 17, page 13, add: "*Provided*, That said work shall be completed on or before June 30, 1907."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

Under Superintendent of the Capitol Building and Grounds: For chief engineer, $1,700; three assistant engineers, at $1,200 each; six conductors of elevators, at $1,200 each, who shall be under the supervision and direction of the Superintendent of the Capitol Building and Grounds; two laborers, at $820 each; six firemen, at $900 each; electrician, $1,200; laborer, $1,000; three laborers, at $720 each; and for the following for service in old library portion of the Capitol: Two attendants, at $1,500 each; watchman, $900; in all, $27,800.

Mr. HARDWICK. Mr. Chairman, I make the point of order against the increase of pay to the elevator men provided for in line 22. I desire to remark, Mr. Chairman, that this bill seems to be full of increases of salaries.

The CHAIRMAN. Will the gentleman state the point of order to the particular paragraph that has been made?

Mr. HARDWICK. There are different items in this paragraph. I raise the point of order to the provision respecting the pay of elevator men in line 22, being an increase of $100 a year over the amount carried in previous appropriation bills; and under the uniform rulings of all Speakers and presiding officers this point of order is well taken.

Mr. LITTAUER. Mr. Chairman, I would state for the information of the gentleman that the salaries of elevator conductors by resolution of this House in 1888 were placed at $1,200. The Committee on Appropriations uniformly, beginning two years thereafter, included in this bill their salaries at $1,100, but each successive Congress, from that time down, has increased that salary by $100. Our attention was called to this matter by the Committee on Accounts, who recommended that the salary be placed at $1,200 instead of $1,100, as carried in the legislative bill for years, in order that what has been indirectly done for many years may be directly done in the future. The elevator conductors have received since 1888 $1,200 a year, and it is simply to do away with the duplication, that mandate of the House repeatedly given to the Committee on Appropriations, that in this one instance we inserted the salary which by resolution these men have received for so many Congresses.

Mr. SLAYDEN. Mr. Chairman——

The CHAIRMAN. Does the gentleman from New York yield?

Mr. LITTAUER. I yield.

Mr. SLAYDEN. I would like to ask the gentleman from New York if this additional $100 a year provided for in this appropriation is now to take the place of the usual extra month?

Mr. LITTAUER. Oh, no; not at all. They have had the $1,200 and the one month extra. It is to take the place of the resolution which each Congress is reported by the Committee on Accounts increasing their salaries $100.

Mr. FOSTER of Vermont. I would like to ask the chairman of the Appropriations Committee how he explains the discrepancy between the salary of the chief engineer of the Senate end of the Capitol and that of the chief engineer at our end of the Capitol?

Mr. LITTAUER. There is a point of order now on another matter, but for the information of the gentleman I will state there is no explanation to be given except it is the wish of the Senate to have their engineer given $2,100 and it is our wish that our engineer should be recompensed $1,700.

Mr. GAINES of Tennessee. Before the gentleman takes his seat I would like to ask him why three or four weeks ago there were forty elevators stopped in the public buildings throughout the country? I was at the Department and was told they did not have money to run them. I then came to the House and I protested, and four or five days after that the gentleman from Minnesota [Mr. TAWNEY] informed me he had gone to the Treasury office and stirred up a little caloric possibly, and that the elevators would be started in a few days, and they were so started. Now, why were they stopped in my city and thirty-nine other places and why started again?

Mr. LITTAUER. It involves a mere matter of administration. The Secretary of the Treasury, or one of the subordinates, must have ordered them stopped. They came to us and asked for an extra sum in a deficiency bill, or at least they wanted a larger sum of money to carry on that service, and we said, "Oh, no; we believe you have enough; we believe we have given you enough, and if you adopted proper economy you could have gotten along with what was given." After that some elevators were stopped throughout the country.

Mr. GAINES of Tennessee. They stopped forty, amongst others one at Nashville, and started them again a few days after the gentleman from Minnesota——

Mr. LITTAUER. Perhaps they found they had some other appropriation.

Mr. PALMER. Why did not the gentleman make a fuss about it?

Mr. GAINES of Tennessee. I did make a fuss, and I made such an intelligent fuss that they started in a very few days. I have been surprised that that great Department should have summarily stopped forty elevators for want of funds and then abruptly started them again.

Mr. PALMER. So you jumped on them?

Mr. GAINES of Tennessee. Whenever they do wrong and my people call it to my attention I am going to jump on them, and I will jump on a Democrat quicker than on a Republican, because everybody expects a Democrat to do right all the time.

Mr. HARDWICK. I want to say that I am obliged to make the point of order, so as to be consistent, and I will make it on every single item of this bill where an increase is made. I hope the House will oppose this thing of giving extra pay to employees in this way.

Mr. LITTAUER. Do you believe that this is the best way?

Mr. HARDWICK. This is but one of the number of increases that have been put upon this bill.

Mr. LITTAUER. We do it here every year.

Mr. HARDWICK. Do you believe that this is a proper way to legislate year by year and adding to the various salaries by resolution? I want the people all to know what the House is doing by its action in this way.

Mr. LITTAUER. But we do let you know. If the gentleman had devoted himself to a consideration of our report he would have seen plainly how this has been done. A little diligence would have made it very manifest to him.

Mr. HARDWICK. I believe I have manifested sufficient diligence to know this.

The CHAIRMAN. The Chair will rule on the point of order. The Chair understands the gentleman from New York to say that there is some authority of law for a salary at $1,200 a year. The Chair would like to be informed distinctly what it was.

Mr. LITTAUER. As I have it in the memorandum from the Committee on Accounts to the Committee on Appropriations, the salary of the House elevator conductor was fixed at $1,200 a year by resolution of the House on December 21, 1881.

Mr. LIVINGSTON. And it has been that ever since.

The CHAIRMAN. Does the Chair understand that by the resolution of the House under which this position was originally created, the compensation or salary was fixed at $1,200 a year?

Mr. LITTAUER. That is correct.

The CHAIRMAN. The Chair will assume that to be sufficient authority for the creation and continuance of that position, and the fact that Congress may in subsequent years have appropriated a less amount than $1,200 does not seem to the Chair to be a change of that law. It has often been ruled that Congress may, without changing existing law, either withhold an appropriation entirely or appropriate a less amount than is authorized. It may be a close question, but the Chair thinks that a previous resolution adopted some years ago and not modified by any subsequent action is sufficient authority for the salary of $1,200, within the spirit and intent of Rule XXI. The fact that the last Congress did not appropriate the full amount does not change the situation nor the law.

An appropriation of a less sum than the amount fixed by law for the salary of an officer is not a change of law. (Parliamentary Precedents, House of Representatives, sec. 546.)

The Chair therefore holds that there is authority for the appropriation of $1,200, and overrules the point of order.

Mr. HARDWICK. Then I make the point of order against the provision, in line 24, on page 13, for two laborers at $820 each. Only one laborer was provided for heretofore, and therefore one of them is subject to the point of order.

Mr. GAINES of Tennessee. A parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. GAINES of Tennessee. I understood the Chair just now to rule, in that ruling about the elevator, that a resolution which allowed $1,200 for the elevator men, gave the Appropriations Committee the right to increase the salary. Now, if it is $1,300 a year, is not that a change of existing law?

The CHAIRMAN. The Chair will state to the gentleman from Tennessee that the Chair did not make that ruling. The Chair ruled, in effect, that there being authority for the salary of $1,200 the appropriation for that amount is in order, although a previous Congress, not exercising its full authority, has appropriated only $1,100. An appropriation of $1,300, however, would be out of order as exceeding the authorized salary.

Mr. GAINES of Tennessee. If the Chair will indulge me a moment further——

The CHAIRMAN. Another matter is now before us for consideration.

Mr. GAINES of Tennessee. I was trying to get the Chair to give me further parliamentary information. I have not got it; but I will sit down if the Chair does not feel disposed to answer me further.

The CHAIRMAN. The Chair thought he had answered the gentleman's inquiry; but if he has not, the Chair will hear the gentleman further.

Mr. GAINES of Tennessee. I was trying to get, for further use, a ruling of the Chair upon this point: Is it a change of existing law of this House to increase the salary under the existing laws? That is the point.

The CHAIRMAN. When there is a law fixing a salary at a certain amount an amendment increasing it above that amount would probably be out of order.

Mr. GAINES of Tennessee. I understood the Chair to rule that way, and hence my inquiry.

Mr. HARDWICK. Will the Chair permit a remark further? Of course I know the point has passed, but the resolution that the gentleman from New York referred to provided for but one elevator man. I would like to know how it could be considered as covering six.

The CHAIRMAN. That point was not submitted to the Chair, and therefore was not passed upon.

Mr. HARDWICK. I want to submit it to the Chair now.

The CHAIRMAN. It is too late.

Mr. HARDWICK. The Chair declined to let me make these points to all the items in the paragraph, and I was ready to make them all.

The CHAIRMAN. The gentleman made a point of order to a certain item in the paragraph. That paragraph was disposed of, and then the gentleman made a point of order to another item in the paragraph.

Mr. HARDWICK. I gave notice that I reserved all points of order to this paragraph; therefore it strikes me that the Chair is a little technical, to say the least of it.

Mr. LITTAUER. All points of order have been reserved.

The CHAIRMAN. The gentleman from Georgia has submitted a point of order against the two laborers at $820. Upon that the Chair will hear the gentleman from New York.

Mr. LITTAUER. The laborers covered by this provision were carried in the appropriation bill for the current year—one of them at $720 and the other at $820. If the point of order will lie against this increase of salary to this one laborer, who, by the way, is a coal weigher, performing more intelligent work than laborers usually perform, and whom we believe should be compensated at a fair salary for his work, it would do so equally against practically every provision in connection with the service of the House. No reform can ever be made; we could have neither reduction nor advance in salary; and it seems to me that the position is wrong from the very foundation. The House has a right to choose its own officers, and that must include everyone in connection with the service about the House. Having a right to choose its own officers, it has a right to place their compensation at any rate the House may choose, and I do not believe this constitutional right can be limited by a previous Congress or by any rule that may be made in connection therewith. It seems to me to be a fundamental right pertaining to the House and all its officers. I therefore have concluded that the rule made applicable to current appropriation law, and which naturally applies throughout the Departments, can not properly apply to the official force connected with the House. That is a plain statement of the case.

Mr. FITZGERALD. Mr. Chairman, if the position taken by my colleague is sound, then the rules of the House are absolutely worthless.

Mr. LITTAUER. As far as the force of the House is concerned.

Mr. FITZGERALD. The House has rules which particularly protect appropriation bills against legislation and against changes in existing law. Of course the House has the right to provide a force necessary for its work, and to provide compensation for that force; but this committee can not violate the rule of the House in providing the places, which rule says no appropriation shall be reported in any appropriation bill or be in order as an amendment thereto except already authorized or in continuation of a public work in progress, and so forth, and that no provision changing existing law shall be in order upon an appropriation bill. In order to justify the Committee on Appropriations incorporating provisions for positions and salaries into the legislative, executive, and judicial appropriation bill these positions must be in existence under the law, and the salaries attached thereto must be fixed. The gentleman from New York [Mr. LITTAUER] is in error when he says that no reforms can be made. This committee can, if it ever will, refuse to appropriate the entire amount fixed by law, but it would not be able to appropriate in excess of the amount fixed by law for the particular service which is provided. The employees of this House have no particular advantage under the rules over the employees of any other Department of the Government when it comes to fixing their compensation in an appropriation bill. The House has protected itself against the greed and desire for patronage of its own Members, and unless by law, by some authority, a place is provided and the compensation is fixed, this committee can not, against a point of order, provide additional places or increase the compensation of any existing place.

I am not particularly interested in this question of the laborers any more than I was in the question of the compensation of the elevator men; but I will say at this time that I believe that the salaries paid to the elevator men employed in the service of the House can not be justified by any man in the House; $1,200 a year, with the extra $100 provided by the usual resolution, making $1,300 in all, is, in my judgment, very excessive compensation; but the House has shown that it will not reform in that respect, and I do not propose to attempt to do ungracious things that will be barren of results. But it is important that the point raised by the gentleman from New York [Mr. LITTAUER] be definitely settled, and in my judgment neither the Committee on Appropriations nor this Committee of the Whole House on the state of the Union can insert into an appropriation bill provisions for employees of the House or increase compensation therefor not authorized by law if any Member interposes the point of order.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. PALMER having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had passed bills of the following titles; in which the concurrence of the House of Representatives was requested:

S. 4426. An act to amend section 927 of the Code of Law for the District of Columbia, relating to insane criminals;

S. 4236. An act to establish a fish-cultural station in the State of Nebraska; and

S. 4350. An act for the relief of Arthur A. Underwood.

The message also announced that the Senate had disagreed to the amendments of the House of Representatives to the bill (S. 1345) to provide for the reorganization of the consular service of the United States, had asked a conference with the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. LODGE, Mr. CULLOM, and Mr. MORGAN as the conferees on the part of the Senate.

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

The committee resumed its session.

Mr. GILLETT of Massachusetts. Mr. Chairman, just one suggestion in addition to that made by the gentleman from New York. As I understand, the way appropriations for Departments are determined in these bills is under section 169 of Title IV, which provides that each head of a Department is authorized to employ in his Department such number of clerks in the several classes recognized by law, and such messengers and laborers and other employees, and at such rates of compensation respectively, as may be appropriated for by Congress. Now, I suppose that applies literally only to the Departments, and under that we are allowed to appropriate for clerks, and to raise the salaries of clerks anywhere from twelve hundred dollars up to eighteen hundred dollars. I have not been able, in a few minutes, to find anything which specifically applies this to Congress, but I suppose by analogy the same rule should be applied to Congressional appropriations, and that we shall have the same right here to increase the number of clerks, messengers, laborers, and so forth, as we have in the different Departments and to arrange their salaries according to the appropriations, and that that, in addition to the suggestions of the gentleman from New York, allows us to appropriate for additional laborers in the appropriation bills.

Mr. CRUMPACKER. Mr. Chairman, I desire to submit a few observations on the point of order. It seems to me to be an exceptionally important question, and it involves a very important principle. It involves, in a way, the independence of the House of Representatives. Now, in my judgment, each legislative body, each member of the legislative branch of the Government, under the Constitution, has certain independent, individual powers and privileges. Each body is presumed to act independently of the other and independently of all other Departments of the Government. And in order that it may carry out its constitutional powers and privileges it must have an inherent right to do certain things that it may regard as essential to the performance of its proper functions.

Suppose it should be found that it is necessary for the House of Representatives to appoint certain officers for the administration of its work. Is it required to go to the Senate and the Executive for that permission? This appropriation involves a principle and a power that inherently belong to the House, that must of necessity belong to the House, for its very independence rests upon it.

If the House of Representatives can not employ laborers in the absence of law, however necessary it may be for the performance of its work, its independence as a legislative organism is greatly impaired. It is a strange doctrine that the House can not provide itself with necessary facilities to do its work without the consent of the Senate and the executive department of the Government.

I admit by the terms of the rule that no appropriation shall be made for anything except it is previously authorized by law, but that involves only those things that the Constitution contemplates shall be authorized by law, and not those things that inherently belong to this body as an independent branch of the legislature.

Now, is it true that the House has no independent rights that it can exercise, no inherent powers that it can use, in the absence of a law concurred in by the Senate and the Executive? My recollection is that this question was up one time before the Comptroller of the Treasury, or a similar question, a number of years ago. And while he did not directly pass upon the question of the right of the House to make appropriations and use its contingent fund without regard to limitations that had theretofore been imposed upon it by a law regularly enacted, he did take occasion to remark that as a general principle he would be of the opinion that the House did not have the power to limit and restrict itself in such a manner as in any degree to impair its usefulness or its power to perform its constitutional duty; that if it consented to a law to limit its powers, its inherent powers, the powers essential to its independence, it could ignore them in the future. Therefore, I contend that the law that our rules refer to means statutes that apply to governmental activities that are proper to be controlled by the general law, but that it does not apply to those things that belong inherently to the respective departments of the Government, and that are essential in order that they may carry out their constitutional powers and privileges, and I regard this as one of those powers.

The question involved is whether the House may, independently of the Senate, independently of the Executive, employ such assistance in the way of help and labor as it chooses. Of course, under the Constitution appropriations must be made by the Congress, but I say the very independence of the House itself carries with it certain rights and privileges and certain powers without having to go to the Senate or Executive for its consent and concurrence, and I think this is one of them.

Mr. SMITH of Kentucky. Mr. Chairman, I would like to ask the gentleman a question.

Mr. CRUMPACKER. I will yield to the gentleman.

Mr. SMITH of Kentucky. In case the law fixes the salary of the Clerk of the House, for instance, at $5,000, does the gentleman hold that this House could, in the face of that law, increase the salary of the Clerk in an appropriation bill?

Mr. CRUMPACKER. If it is necessary, if in the judgment of the House it should ever become necessary for the performance of its functions to change the salary of the Clerk of the House, it has that power. Let me ask the gentleman from Kentucky is it not a general principle, recognized everywhere, that a legislative body created by the Constitution can not, by legislation or otherwise, tie its hands so that it is unable to do the things that the Constitution requires of it? The House has not the power to shackle itself and disable itself, to disqualify itself, so that it shall not be able to perform the things the Constitution says it shall perform. Whether that inherent power that I am discussing goes so far as to include the salary of the Clerk of the House I am not prepared to say, and it is not necessary to decide that question for the determination of the point of order. This provision is for the employment of labor temporarily for the benefit of the House in its own business.

Mr. SMITH of Kentucky. The gentleman must admit that Congress, the two bodies, the House and the Senate constituting the Congress of the United States, has the sole power to fix the salaries of the employees of all offices.

Mr. CRUMPACKER. They do not, because the concurrence of the Executive is essential.

Mr. SMITH of Kentucky. I understand that part of it.

Mr. CRUMPACKER. And if the gentleman will simply follow out his own logic, if we have not the power to do what this appropriation provides, then we are not independent of the Executive, because the essential duties constitutionally imposed upon us may be subject to the approval of the executive department of the Government, a proposition that every constitutional lawyer, of course, would deny.

Mr. SMITH of Kentucky. I understand that, but I might pursue the argument to the point of saying that if the Executive did refuse to approve a bill fixing the salaries of officers at a reasonable sum the Congress could impeach the Executive, and might control the Executive in that way, and the gentleman from Indiana [Mr. CRUMPACKER] is going to extremes in his conclusion.

Mr. CRUMPACKER. The gentleman is of the opinion, then, that the House has no inherent privilege or powers at all; that its entire existence is——

Mr. SMITH of Kentucky. I am not saying that it has no inherent powers, but I am continuing the proposition that the House can override a law enacted by both branches of Congress.

Mr. BURLESON. Mr. Chairman, the point of order raised is that under this paragraph of the bill an attempt is made to increase the number of laborers by one. As a matter of fact, the bill does not increase the number of laborers by one, but the number of laborers provided for by the bill remains the same. The paragraph now provides for five laborers. The paragraph as we attempt to embody it in this bill provides for five laborers, and the point raised by the gentleman that we are attempting to increase the number of laborers by one is not well taken. He makes no point as to the increase of the amount of the compensation being paid.

Mr. FITZGERALD. Mr. Chairman, I wish to call the attention of the Chair to its own decision a moment or two ago, in which the Chair stated that the resolution called to its attention by the gentleman from New York [Mr. LITTAUER] would be construed by the Chair as sufficient authority under the law to justify the appropriation. In reply to the gentleman from Indiana [Mr. CRUMPACKER] I wish to say this: It is true that the House has certain inherent powers, and it has the express power conferred by the Constitution to make rules for its own guidance and action. It has made rules for its own guidance, and it is distinctly provided therein that no appropriation shall be in order upon appropriation bills except under certain contingencies. Now, the only contingency provided for in the rules under which on an appropriation bill new places could be provided or salaries increased would be upon the theory that it was an appropriation for the continuance of a public work in progress; but the Chair is familiar with the fact that all places in the House are either authorized specifically by law or authorized by the House by resolution, and after such resolutions have been adopted then it has been determined that the rule has been sufficiently satisfied to authorize the appropriation for the position on the appropriation bills. The House can provide whatever places it deems necessary, either by resolution payable out of the contingent fund, or by law in accordance with its rules. But I submit to the Chair that the House has no power to create places and to have the salaries or compensation paid for out of the Treasury unless an appropriation is made which is available, and that can be made in only two ways—either by a bill passed and approved by the Executive, or passed by a two-thirds vote of each House over the disapproval of the Executive. So that to a certain extent both Houses of Congress are dependent upon the Executive for the authority to obtain the money to pay the necessary help.

Mr. CRUMPACKER. Mr. Chairman, I simply desire to suggest to the gentleman that there is no statute and never has been one authorizing the appropriation of a contingent or miscellaneous fund for the individual use of the House, and if there were such a statute it would not be binding, because such a fund is absolutely necessary to the very existence of the House. I think the gentleman can see clearly the line of distinction.

Mr. FITZGERALD. Why, Mr. Chairman, there is a contingent fund provided for by law.

Mr. CRUMPACKER. What law?

Mr. FITZGERALD. In the appropriation bill.

Mr. CRUMPACKER. And in this we are going to provide by appropriation bills also, but there is no standing law authorizing the appropriation of a contingent fund of the House or the Senate, but both bodies recognize that fund as absolutely necessary to their existence.

Mr. FITZGERALD. That is true; but it has been invariably held—and I am just going to quote from the ruling of the Chair, made a few moments ago—that the adoption of a resolution was sufficient authority. I call the attention of the Chair to the inconsistent position taken by the gentleman from New York [Mr. LITTAUER]. When the gentleman from Pennsylvania [Mr. ADAMS] offered an amendment providing for the employment of three skilled cabinetmakers, the gentleman from

New York [Mr. LITTAUER] made the point of order that these cabinetmakers were not authorized by law, and therefore it was not in order to appropriate for them on this bill, and the Chair sustained that point of order. And it shows that clearly no places of any kind can be provided in this bill, unless they are authorized by law, if some Member interposes the point of order. The House, for its own protection, has adopted rules, and those rules prevent just what is contemplated here.

The CHAIRMAN. Before ruling the Chair would like to be a little more fully advised as to the facts. The Chair understood the gentleman from Georgia to concede that one laborer is authorized by law, but not more than one. The Chair understood the gentleman from New York to concede that there is no resolution authorizing a second laborer, but, on the other hand, the gentleman from Texas contends that there is authority for five.

Mr. BURLESON. Under this paragraph there is provision for five. When the gentleman raises the point that we are increasing the number of laborers by one, I say the point does not lie.

Mr. LITTAUER. If that is the point of order, it surely does not. I understood the gentleman from Georgia to state we are increasing the salary of one laborer.

Mr. BURLESON. No; that point was not made.

Mr. HARDWICK. I intended to make that point also.

Mr. LITTAUER. Do you admit you did not?

Mr. HARDWICK. I intended to make the point of order on both.

Mr. LITTAUER. Then I make the point of order that it is too late.

The CHAIRMAN. The Chair will ask the gentleman from Georgia to state what points of order he makes on this paragraph?

Mr. HARDWICK. If you will give me opportunity I will be very happy to do it. First, I will say, under the previous appropriation bill there was only one laborer allowed at $820 per year. I say that under this bill two laborers are provided at $820 a year. I therefore make the point of order that one laborer at $820 a year is not authorized under the rules and should go out as being subject to the point of order. I further insist that if the number of laborers at a smaller salary—to wit, $720—as stated by the chairman of the committee and the gentleman from Texas, has been decreased in order to add to the other, in that event, if the chairman finds that to be the fact, there would be an increase of salary and that would be subject to the point of order, and I make that point of order.

The CHAIRMAN. Then the Chair understands it to be the fact that there is authority of law for the appointment of one laborer at $820?

Mr. HARDWICK. Yes, sir.

The CHAIRMAN. And certain other laborers at a reduced figure, but not two laborers at $820?

Mr. HARDWICK. That is the way I understand it.

The CHAIRMAN. The gentleman from New York assents to the proposition. The facts being agreed upon, the Chair has a foundation upon which to rule. The question presented is one not heretofore directly passed upon and one of some importance. It is provided in the Constitution of the United States that "the House of Representatives shall choose their Speaker and other officers." The Chair thinks that under that constitutional provision it is not requisite that the consent of the Senate or of the Executive shall be obtained in order to provide, fix, or determine the officers of the House. The House itself is authorized to do that. The Constitution further provides that "each House may determine the rules of its proceedings." This House has determined its rules. In the twenty-first rule as now existing there appears this provision:

RULE XXI, SEC. 2. No appropriation shall be reported in any general appropriation bill or be in order as an amendment thereto for any expenditure not previously authorized by law, etc.

In the ruling made a few moments ago the Chair went further, perhaps, than any previous ruling has gone in sustaining the proposition urged by the gentleman from Indiana, and held that a resolution of the House, even of a prior House, creating an office in the House was sufficient authority for the purpose of this rule to authorize an appropriation in the present Congress for the salaries of employees of the House this designated and provided for. But in the absence of any resolution or other authority whatever by the House for the creation of the office or the fixing of a salary, the Chair thinks the House is bound by its own rule in that regard, and that the provision for the second laborer at $820, without previous resolution or authority of any kind, does transcend that rule. The House is empowered under the Constitution to choose its own officers. But it must have chosen them or provided for the office in some way before there can be said to exist the previous authority required by Rule XXI as the basis of an appropriation. The Chair therefore sustains the point of order.

Mr. LITTAUER. Mr. Chairman, I would appeal to the gentleman from Georgia to withdraw the point of order. Particularly in this instance we have one laborer now paid at $820 and four at $720, and we are informed that the work in connection with the House requires that two laborers be used as coal weighers. They are men who do work of a much higher grade than the ordinary common laborer, who gets $720. They must be able to keep accounts and weigh the coal; so that it is hardly fair to have two men doing the same kind of work, one of them to-day paid at $820 and the other at $720. While I realize that the rule will apply, it should not, in all fairness, and I would like the gentleman to withdraw the point of order.

Mr. HARDWICK. How can I conscientiously withdraw this point of order and insist upon it in other instances? How are you going to select favorites?

Mr. LITTAUER. It seems to me you ought not to insist upon it at any time when good reasons can be given why it should not be insisted upon. In this instance there is a clear service rendered the House worthy of compensation. Many salaries here are not in proportion to the service rendered, but this one is. It seems to me that you are invoking a rule in this instance against a laborer who is worthy of his hire.

The CHAIRMAN. The Clerk will read.

Mr. LITTAUER. I offer the following amendment.

The CHAIRMAN. Does the Chair understand the gentleman from Georgia to withdraw his point of order?

The Clerk read as follows:

Page 13, line 24, after the word "grounds," insert "one laborer, $820;" and on page 14, line 2, strike out the word "three" and insert "four."

Mr. LITTAUER. I would state that that amendment simply restores the force as it now stands in the present appropriation bill.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from New York.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

Clerks and messengers to committees: For clerk to the Committee on Ways and Means, $3,000; assistant clerk and stenographer, $2,000; messenger, $1,500; janitor, $1,000; clerk to the Committee on Appropriations, $3,000, and $1,000 additional while the office is held by the present incumbent; assistant clerk and stenographer, $2,000; assistant clerk, $1,500; janitor, $1,000; clerks to Committees on Accounts, Agriculture, Banking and Currency, Census, Claims, District of Columbia, Elections Nos. 1, 2, and 3, Foreign Affairs, Interstate and Foreign Commerce, Indian Affairs, Insular Affairs, Invalid Pensions, Judiciary, Labor, Library, Merchant Marine and Fisheries, Military Affairs, Naval Affairs, Pensions, Post-Office and Post-Roads, Printing, Public Buildings and Grounds, Public Lands, Rivers and Harbors, Revision of the Laws, Territories, War Claims, and clerk to continue Digest of Claims under resolution of March 7, 1888, at $2,000 each; assistant clerk to the Committee on the Judiciary, $1,600; assistant clerk to the Committee on Invalid Pensions, $1,600; assistant clerk to the Committee on Post-Office and Post-Roads, $1,400; assistant clerk to the Committee on Rivers and Harbors, $1,400; assistant clerk to the Committee on War Claims, $1,200; for janitors for rooms of the Committees on Accounts, Agriculture, Banking and Currency, Claims, District of Columbia, Elections Nos. 1, 2, and 3, Foreign Affairs, Interstate and Foreign Commerce, Indian Affairs, Insular Affairs, Invalid Pensions, Judiciary, Labor, Library, Merchant Marine and Fisheries, Military Affairs, Naval Affairs, Post-Office and Post-Roads, Pensions, Printing, Public Buildings and Grounds, Public Lands, Rivers and Harbors, Territories, and War Claims, at $720 each, and said janitors shall be appointed by the chairmen, respectively, of said committees, and shall perform under the direction of the Doorkeeper all of the duties heretofore required of messengers detailed to said committees by the Doorkeeper, and shall be subject to removal by the Doorkeeper at any time after the termination of the Congress during which they were appointed; in all, $102,640.

Mr. LITTAUER. I offer an amendment.

Mr. SHERMAN. I offer an amendment.

Mr. PRINCE. I make the point of order. I want to make a point of order before amendments are offered. I reserve all points of order on this provision which has just been read, dealing with clerks, messengers, and so forth.

Mr. LITTAUER. But the amendment has been offered and accepted.

Mr. PRINCE. I am just making the point of order. It has not been accepted.

The CHAIRMAN. The Chair will state that the gentleman from Illinois was on his feet. The Chair did not understand that it was for the purpose of making the point of order.

Mr. PRINCE. Well, Mr. Chairman, will you tell how it is possible for me to make the point of order?

The CHAIRMAN. The Chair states that the gentleman from Illinois was on his feet and he did not know——

Mr. PRINCE. I was on my feet, and there were half a dozen others on their feet. I was on my feet for the purpose of making the point of order, and for no other purpose.

The CHAIRMAN. The Chair did not understand, but supposed it was for the purpose of offering an amendment, and

recognized the gentleman from New York to offer an amendment; but if the gentleman from Illinois says it was for the purpose of making the point of order, the Chair will consider it as being made in time.

Mr. PRINCE. I desire to make a point of order.

The CHAIRMAN. The gentleman will please state his point of order.

Mr. PRINCE. Yes, sir. Beginning on page 15 with the word "and," in line 22, and ending with the word "appointed," in line 1, page 16, the point of order is that it is new legislation on an appropriation bill, under Rule XXI, paragraph 2, as read by the Chairman a few moments ago.

Mr. LITTAUER. Mr. Chairman, that is not a change of existing law, but is simply a limitation placed upon the appropriation now existing. It simply states that the janitors for which provision is hereby made "shall be subject to removal by the Doorkeeper at any time after the termination of the Congress during which they were appointed." I believe I can make an explanation, and that the gentleman will withdraw the point of order. At any rate, I ask unanimous consent to do so.

Mr. LIVINGSTON. I would not make any explanation.

Mr. LITTAUER. I think I owe it to the gentleman from Illinois to state to him that we found that abuses existed in connection with the janitor force. The janitors are annual appointees, carried on the annual roll, but after the second session of Congress, terminating on March 4, these janitors, appointed by the chairmen of the committees, are subject to no one. They can come whenever they please, or stay away if they please. They have the keys of the rooms. They can not be discharged by anyone. The chairman of the committee who originally appointed them and had charge of their services while a Member of the House no longer is a Member of the House—no longer at least, is chairman. Consequently many little abuses have arisen thereunder. We thought here that after the end of one Congress and before another Congress assembled, before any chairmen of committees were appointed, that these janitors appointed by the chairmen of committees should be subject to the orders of the Doorkeeper of the House, that their keys should only be in their keeping while they ought to be. So that the petty pilfering that was found out to be going on through the janitors, the taking typewriters out of the committee rooms, and other things, should cease; and it seems to me that the point of order should not be raised. This is in the line of proper reform, and I think that whenever a matter of this character is brought to your attention that the point of order should be withdrawn.

Mr. PRINCE. Mr. Chairman, that statement on the face of it looks very plausible; let us read and see what it means. There may be an isolated case of that kind. I do not question that. It would be very strange if, in the selection of some thirty or forty janitors, one might not be found who did not do as he ought to do; but look at the bill and then see if you can claim that it is a limitation:

And shall be subject to removal by the Doorkeeper.

Is that a limitation? It is an absolute decapitation of a janitor, and the power is given to the Doorkeeper? The appointment is made by the chairman of the committee; and the chairman of any one of the important committees of this House having an annual janitor ought to be held responsible to this House and to the country for his appointee; and if he sees fit to make an appointment that is not a good one, he ought to be held responsible. Now, take, for instance, the committee of which I am chairman. I have a session messenger or janitor. When the time comes for the session to close, that man goes out. The room of the committee then becomes subject to the control of the Doorkeeper; but not so with these annual messengers. Suppose that for some little notion of any kind, or some whim, if you please, some one in spite says, "I want that messenger removed."

Mr. LITTAUER. This does not relate to the messenger service. It only applies to the janitor service.

Mr. PRINCE. Very well, the janitors. The present provision is:

And said janitors shall be appointed by the chairmen, respectively, of said committees, and shall perform, under the direction of the Doorkeeper, all the duties heretofore required of messengers detailed to said committees by the Doorkeeper.

Now, the new provision is that these janitors shall be subject to removal by the Doorkeeper. I am frank to say that if the chairman of the committee having this in charge will make a provision that will not take the power from the hands of the chairman and relieve him entirely of his responsibility for his appointees I am willing to have any corrective legislation of any kind that is proper, but I am not in favor and I can not consent and will not consent to waive this point of order.

Mr. TAWNEY. Will the gentleman permit a question?

Mr. PRINCE. I will.

Mr. TAWNEY. What control has the chairman over the janitor after the expiration of a Congress?

Mr. PRINCE. I don't know as he has any control.

Mr. TAWNEY. No; you know he has none.

Mr. PRINCE. I am frank to say that he has none.

Mr. TAWNEY. Now, these janitors are annual janitors.

Mr. PRINCE. Some are and some are not.

Mr. TAWNEY. This only applies to the annual janitors. They only are affected by the provision. Now, these janitors remain here. They are paid annual salaries, and there is absolutely nobody who has any power to make them do a stroke of labor during the interim between the end of one Congress and the beginning of another.

Mr. BURLESON. As a matter of fact, our information is that they do not do a thing.

Mr. TAWNEY. No; they refuse to, and for that reason this limitation has been put on this appropriation. This appropriation is for the annual compensation of janitors, and without any power of control whatever over the men who receive that compensation except this provision, which gives to the Doorkeeper of the House not only the power to compel a janitor to work, but the pwer to discharge him and to cease that compensation if necessary.

Mr. MANN. Will the gentleman yield for a question? Does the gentleman think the same limitation ought to apply to clerks of committees?

Mr. TAWNEY. No; I do not.

Mr. MANN. But they are in precisely the same position, so far as the law is concerned.

Mr. TAWNEY. But the gentleman must bear in mind that the clerks to committees appointed by the chairmen of the committees are appointed from the chairman's own district, and they recognize their responsibility to the man who appoints them; but nine-tenths of these annual janitors are residents of the District of Columbia. They remain here all the time, with absolutely no control over them, and no means of compelling them to perform the service which they are intended to perform.

Mr. MANN. I think the gentleman will agree with me that if somebody should offer an amendment making these clerks removable by the Clerk of the House, it would be subject to a point of order.

Mr. LITTAUER. I think we have found an abuse existing here, and we are trying to place a limitation on the appropriation for this service. The limitation means that it would make them subject to removal; the Doorkeeper could not appoint anyone in their place.

Mr. BURLESON. The object is to get the services out of them for which they are paid.

Mr. LITTAUER. Yes; and if they are not rendering the service that they are engaged for, to put some one in their place who will.

Mr. LIVINGSTON. Give them the example of the man that had to be followed to Montana and then into Canada to pay him the salary that was due him.

Mr. LITTAUER. We had an instance of one of these janitors who was stealing various articles from the committee rooms. The chairman of the committee, Congress having ended, had no longer any authority over him, and this thief could not be discharged. In fact, it became the duty of the disbursing officer to follow him all over the country from Montana through Canada to pay him a salary.

Mr. MANN. That was not the duty of the disbursing officer.

Mr. PRINCE. But are there no police officers to arrest and courts to punish these thieves for crimes, petty or otherwise? Mr. Chairman, I call for a ruling on the point of order.

The CHAIRMAN. The Chair is ready to rule. This paragraph appropriates the money absolutely, and then follows the provision "and shall be subject to removal by the Doorkeeper at any time after the termination of the Congress during which they were appointed."

It seems to the Chair that it is not a condition of the appropriation, or a limitation upon it, but a provision of law which is intended to be continuing even beyond the term of the present Congress or after the expiration of the year for which the appropriation is made. It seems to the Chair that it is in violation of the rule, and the Chair, therefore, sustains the point of order.

Mr. HARDWICK. Mr. Chairman, I make a point of order. Line 15, page 14, assistant clerk, $1,500, to the Committee on Appropriations, an increase of $300. I make a point of order against that.

Mr. LITTAUER. Mr. Chairman, I must admit the point of order is well taken, but I again appeal to the gentleman from Georgia on this statement of facts: My own annual clerk re-

ceives $1,200 a year, and this provides for $1,500 for the annual clerk of the chairman of the committee. If my clerk is entitled to $1,200, his clerk is entitled to $2,500, for his own personal work at home and all over the country has increased two or three times. His mail is a perfect mass, and comes from all over the country.

Mr. HARDWICK. Does not the clerk get his regular salary besides this?

Mr. LITTAUER. It is not the same man.

Mr. JOHNSON. Mr. Chairman, when this part of the bill went out on the point of order made by the gentleman from Georgia, what provision was it?

The CHAIRMAN. Beginning after the word "Doorkeeper," in line 22, page 15, down to and including the word "appointed," in line 1, page 16. The matter before the Chair is on the point of order made by the gentleman from Georgia. Does the gentleman from Georgia insist on his point of order?

Mr. HARDWICK. Yes.

Mr. LITTAUER. I want to say to the gentleman that the clerk of the Ways and Means Committee receives this compensation, and we feel that we are doing in our room as much work as is done in the Committee on Ways and Means.

The CHAIRMAN. The Chair sustains the point of order.

Mr. LITTAUER. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

On page 14, line 10, strike out the word "messenger" and insert in lieu thereof the words "assistant clerk."

The amendment was agreed to.

Mr. SHERMAN. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

On page 15, line 4, after the word "dollars," insert "assistant clerk to the Committee on Interstate and Foreign Commerce in lieu of session clerks authorized by resolution, $1,600."

On page 16, lines 1 and 2, strike out "two thousand six hundred and forty," and insert in lieu thereof "four thousand two hundred and forty."

Mr. HARDWICK. Mr. Chairman, I make the point of order against the amendment that it changes existing law and increases salary.

Mr. MANN. I hope the gentleman from Georgia will reserve the point of order.

Mr. HARDWICK. I will reserve the point of order.

Mr. SHERMAN. Mr. Chairman, the Committee on Interstate and Foreign Commerce has an assistant clerk, a session clerk, who acts only during the session of Congress—what we term here a "session clerk." Perhaps the gentleman from Georgia does not know that the fact is that there is no committee of this House, barring only the Committee on Appropriations, that begins to have the volume of work before it that the Committee on Interstate Commerce has. There is no committee in this House, excepting only the Committee on Appropriations, that has the very large number of hearings, that takes the vast amount of testimony, that the Committee on Interstate Commerce does. The committee meets twice a week regularly, and since the 1st of January, since the holiday vacation, there has hardly been a day that the committee has not been in session, and, I think, except two Saturdays, there has been no day when the full committee or a subcommittee has not required the attendance of the clerk or the session clerk; and there have been times when the full committee has been in session in one room and the subcommittee of the committee in session in another room.

Mr. BARTLETT. And all day long.

Mr. SHERMAN. All day long, where it requires the attendance of the clerk at the committee proper and of the assistant clerk at the subcommittee.

Mr. HARDWICK. Mr. Chairman, did the gentleman go before the committee and make this showing and make any request about it?

Mr. SHERMAN. No; I did not.

Mr. HARDWICK. Neither before the Committee on Accounts nor the Committee on Appropriations?

Mr. SHERMAN. Neither.

Mr. MANN. Mr. Chairman, the gentleman from New York [Mr. SHERMAN] excepted the Committee on Appropriations from the amount of work done. I make no exceptions. The Committee on Interstate and Foreign Commerce considers more public bills than any other committee of the House. They may not do more work than the Committee on Appropriations, because I presume that is impossible, but they have more bills before them of a public character than any other committee in the House. In the last Congress about 25 per cent of the public laws enacted by Congress went through the Committee on Interstate and Foreign Commerce. When it has not the full committee in session it has the subcommittee in session taking hearings. These hearings we require the clerk of the committee to give attention to. Now, everybody in the House knows that the ordinary Member of the House uses one clerk attending to his private and official matters. We have in that Committee on Interstate and Foreign Commerce two clerks, a regular committee clerk and an assistant clerk. That is the one we want in this item. The committee has a larger number of inquiries in reference to the matters of legislation before it than any other committee of the House, and these are all required to be answered by the clerk.

Mr. HARDWICK. Mr. Chairman, I would desire to suggest to the gentleman that I am inclined to agree with him absolutely; but is there not some way by which this can be done without violating the rules of the House, and having some committee that has jurisdiction over the matter investigate it and report on it?

Mr. MANN. Mr. Chairman, I may say, as a matter of practice, there is practically no way by which you can do this except in a method violative of the rules of the House, except by unanimous consent.

Mr. HARDWICK. Could you not get a rule, if it was necessary and so important?

Mr. LITTAUER. Oh, we would have rules four times a day.

Mr. MANN. I will say it is not important enough to ask for a rule; but here is the situation: The committee clerks are needed, and they ought to have their pay. We received a number of inquiries in reference to the railway rate legislation when that matter was up, and now we are receiving them in reference to the pure-food legislation and in reference to other legislation that is before the committee—an immense number of inquiries. These have to be attended to by the committee clerks. It does not fall to me. I do not appoint the clerks; they are not my clerks. They do not attend to my correspondence, and I know that one committee clerk can not do this work. I hope the gentlemen, in the interest of good government, in the interest of properly presenting these matters to the House, in the interest of properly indexing and going through the hearings, so that we have the convenience of Members considered, will not insist upon his point of order. For instance, this morning, in our committee, we had a hearing concerning lighthouse propositions. They are interesting to a great many Members of the House. The full committee did not finish that hearing, and the subcommittee goes right ahead with its hearings. We will endeavor to consider all of the light-house propositions, and there are a great many. These things are important, and they require attention. We can not do the work of the House unless we have sufficient service for the House, and the gentleman from Georgia [Mr. HARDWICK] I know wants good work out of the committee, and we ask that that committee be given the proper tools with which to do the work, and I appeal to him to withdraw his point of order.

Mr. HARDWICK. Mr. Chairman, I reserve the point of order; but I want to say I will support with pleasure any sort of a proposition to get this done without using this indirect way, violative of the rules of the House. Otherwise I must insist upon the point of order.

Mr. SHERMAN. Mr. Chairman, I desire to be heard on the point of order. This proposition is not to create a new office. There is now an assistant clerk of the Committee on Interstate and Foreign Commerce, and what we desire to do by this amendment is to provide for the continuance of that clerk during the entire fiscal year. We are not attempting to create a new office. The amendment in terms so states. The amendment as presented there simply places a limitation upon the time that the person now in office, now appointed, a sworn officer of the Government, shall serve. That is all there is of it, and I think, Mr. Chairman, along the line of the ruling that the Chair made this morning—somewhat of a pioneer in its line, but a ruling which in my judgment was most essential to make in the line of good order in this House—that it is possible for the distinguished occupant of the chair to overrule this point of order; not only possible, but that it is proper and regular and right that he should do it.

The CHAIRMAN. The Chair appreciates the force of the argument made by the gentleman from New York, but nevertheless if the Chair understands the matter the resolution of the House, which is treated as law for this purpose, authorizes a clerk for the session, one whose term expires with each session of Congress, designated in the amendment as a session clerk. The amendment provides for an assistant clerk. Practically it extends the term of the session clerk or creates an office beyond the time authorized by the resolution of the House, and the Chair thinks the point of order should be sustained.

Mr. MACON. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. The gentleman from Arkansas offers an amendment, which the Clerk will report.

The Clerk read as follows:

After "Doorkeeper," in line 22, page 15, add the following: "*Provided*, That no part of the sum herein appropriated shall be expended for the payment of salaries to janitors who refuse to comply with the directions of the Doorkeeper after the termination of the Congress during which they were appointed."

Mr. MACON. Mr. Chairman, this amendment, it seems to me, meets the desire of the gentleman from New York, who is in charge of the bill. It provides, sir, that this appropriation shall be limited so that no part of it shall be paid to those janitors who willfully refuse to obey the directions of the Doorkeeper, under whose direction the former part of this act places them. You will observe that it provides that after the termination of the Congress for which they were appointed, whenever they refused to obey the directions of the Doorkeeper no part of this sum shall be paid to them. As I said, it is simply a limitation, and it strikes me it reaches the very point that the committee attempted to reach when they prepared this bill.

The CHAIRMAN. The question is on the adoption of the amendment offered by the gentleman from Arkansas.

Mr. PRINCE. Mr. Chairman, I would like to raise the point of order on that amendment. I could not hear it, and I have been listening to it very carefully.

The CHAIRMAN. The Chair thinks it is too late for the point of order after the amendment has been discussed.

Mr. PRINCE. Very well.

The CHAIRMAN. The question is on the adoption of the amendment offered by the gentleman from Arkansas.

The question was taken; and the amendment was agreed to.

Mr. LITTAUER. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The gentleman from New York offers an amendment, which the Clerk will report.

The Clerk read as follows:

On page 14, in line 17, after the word "census," insert "in lieu of the session clerk authorized by resolution."

The question was taken; and the amendment was agreed to.

The CHAIRMAN. The Chair will call the attention of the gentleman from New York to the fact that the appropriation for the assistant clerk, $1,500, in line 15, went out on the point of order and takes out the entire appropriation. Is it the intention of the gentleman to offer an amendment reinserting it with the authorized compensation?

Mr. LITTAUER. I think for the time being we will leave it out. I thank the Chair for calling my attention to it.

Mr. JOHNSON. Mr. Chairman, I desire to offer the following amendment:

On page 15, line 18, strike out the words "seven hundred and twenty dollars each" and insert "$60 per month each during the sessions of Congress."

The purpose of this amendment and the effect of it——

Mr. LITTAUER. Mr. Chairman, I reserve the point of order on this amendment.

Mr. JOHNSON. Then I hope the gentleman will reserve his point of order.

Mr. LITTAUER. I reserve the point. I desire to hear the gentleman's statement.

The CHAIRMAN. The gentleman from New York reserves the point of order.

Mr. JOHNSON. The purpose of the amendment and the effect of the amendment, if it were adopted, would be to pay the janitors $60 a month during the sessions of Congress.

Mr. PAYNE. Has the amendment been reported?

Mr. LITTAUER. I have not heard it reported yet, Mr. Chairman.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 17, line 18, after the word "at," strike out "$720 each" and insert in lieu thereof "$60 per month each during the sessions of Congress."

Mr. JOHNSON. If I can get the attention of the committee for a moment, let me say it seems to me there can be no good reason why these janitors should be paid when Congress is not in session. The evidence taken before the Appropriations Committee, on page 26 of the hearings, shows that these janitors do not perform the services for which they are employed even during the sessions of Congress, but that six or a dozen of them get together and hire some darky to keep these rooms in proper shape for a dollar and a half or two dollars each per week. That is the testimony of the Doorkeeper of the House, that these janitors are actually farming out these offices. Gentlemen, it does seem to me that if you are going to give these men $60 a month to attend to the rooms of this Capitol, and they are able to get somebody else to do it for $4 or $5 a month and pocket the difference, while Congress is in session, your generosity ought not to extend to giving them $60 a month from the time Congress adjourns until it meets again. [Applause.] I have nothing to do with the shaping of the legislation of this Congress. I simply call the attention of Members to the fact that these abuses exist, as shown by the testimony before the Committee on Appropriations. If you want to correct these matters, you can do it; if you do not want to correct them, then the responsibility is on you.

Mr. LITTAUER. Mr. Chairman, I will have to renew my point of order. The salary of these janitors, $720 a year, is carried in the current law as the annual compensation.

The CHAIRMAN. The Chair will ask the gentleman from New York whether the existing law fixes it as an annual salary or as a salary at a certain rate per month?

Mr. LITTAUER. The existing appropriation is in the terms, "$720 each"—an annual salary—"in full compensation for the services for the fiscal year," ending as the caption is.

The CHAIRMAN. Does the Chair understand it to be so stated in the original resolution?

Mr. LITTAUER. In the appropriation law now current.

The CHAIRMAN. What the Chair desires to know is whether it is fixed as an annual compensation or at so much a month?

Mr. LITTAUER. It is fixed as an annual compensation of $720.

The CHAIRMAN. It is a very close question. The Chair is of the opinion that if the existing resolution providing for the appointment of these janitors fixes the term for the year and provides an annual compensation, the attempt to change it to a monthly service for a monthly compensation for a part of the year is not in the nature of a limitation. It is or would be a very close question. But as the Chair now understands there is no resolution covering this matter at all, no previous authority of law for this appropriation. As the Chair now understands that there is no law fixing the annual compensation, the amendment is in order under the rules.

The question is on agreeing to the amendment offered by the gentleman from South Carolina.

Mr. SLAYDEN. A question of order. I would like to know what the effect of the amendment offered by the gentleman from South Carolina would be.

The CHAIRMAN. The Chair is unable to hear the gentleman from Texas.

Mr. SLAYDEN. I would like to know just what the effect of the amendment offered by the gentleman from South Carolina will be.

The CHAIRMAN. It is not in the province of the Chair to state what the effect of an amendment would be; but without objection, the amendment will be again reported.

The amendment was again reported.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from South Carolina.

Mr. NORRIS. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. NORRIS. I want to inquire of the member of the committee having the bill in charge, who has a right to reply to the gentleman from South Carolina, whether or not the statements made in regard to these janitors are true? We ought to know it before voting upon the proposition. I would like to hear the gentleman in charge of the bill state whether these statements are correct or not.

Mr. LITTAUER. The gentleman has been a Member of this House for some years, and no doubt has entered many of the committee rooms. These committee rooms are in charge of these janitors, specifically. There seems to have grown up thereunder certain abuses that have arisen in the service of the janitors which we thought might be corrected, but we felt that it would be too large an undertaking to do it this year. We thought that we might have to come before the House with various propositions that reached properly certain services, and we took the janitor force to see how it could be improved, and therefore the janitor's force is carried on the current appropriation law.

Mr. JOHNSON. I would like to ask the gentleman a question.

Mr. YOUNG. Then, I do understand the statement of the gentleman from South Carolina is substantially correct?

Mr. LITTAUER. No; I would not say that. I would not subscribe to that; but we had some testimony that you might consider led in that direction, that it was in a measure correct. We have not made enough investigation into it to warrant us in taking that position.

Mr. JOHNSON. I should like to ask the gentleman from New York a question. Will the gentleman allow me to read from the hearings, on page 26, where Mr. Lyon, the Doorkeeper, was testifying?

Mr. LITTAUER. Yes; I remember Mr. Lyon's testimony.

Mr. JOHNSON. This is what I wish to read:

Mr. TAWNEY. Do you advise the retention of the 32 annual janitors?
Mr. LYON. No, sir.
Mr. LITTAUER. Does the work of the 32 janitors come under your supervision to-day? Have you any control over them?
Mr. LYON. I have not, absolutely.
Mr. LITTAUER. They are appointed by the chairmen of the committees, to whom they are responsible for their work?
Mr. LYON. Yes, sir.
Mr. LITTAUER. You have no general supervisory care of their work to see that it is properly done?
Mr. LYON. No, sir; none whatever.
The CHAIRMAN. Who has taken care of the 30 committee rooms which have not annual janitors?
Mr. LYON. My messengers.
Mr. LITTAUER. These messengers have the additional duty of taking care of the 30 committee rooms—you designate them for that work?
Mr. LYON. I simply instruct them to do it; to report to the chairmen and ascertain what their pleasure is.
Mr. TAWNEY. How is that work done in practice?
Mr. LYON. It has not been very good.
Mr. TAWNEY. In what respect?
Mr. LYON. They hire other fellows to do the work. Six or eight of them will hire one colored fellow to clean six or eight rooms at $1.50 or $2 a week.

That is the fellow that is doing the actual cleaning.

Mr. LITTAUER. A few of those men do the work properly?
Mr. LYON. Yes, sir.
Mr. LITTAUER. And one of them will take care of six or eight rooms at $1.50 a week?
Mr. LYON. They get $1.50 or $2 a week from each of them.
Mr. TAWNEY. When I was chairman of the Committee on Industrial Arts and Expositions, before the Committee on Accounts provided a janitor for that room the only thing the messenger who was designated to do that service did, so far as I recall now, was to come into the committee room every morning and hang up his coat.

Mr. LITTAUER. That is messenger service that the gentleman is referring to now.

Mr. NORRIS. How much a year did he get for that?

Mr. JOHNSON. Let me read a little further:

Mr. LITTAUER. The thirty-two appointments are annual?
Mr. LYON. Yes, sir.
Mr. LITTAUER. What duties do they perform after the adjournment of Congress?
Mr. LYON. They draw their salaries, but perform absolutely no duties whatever. They do not come under my supervision.

That is enough of that.

Mr. LITTAUER. Such was the testimony of Mr. Lyon.

Mr. JOHNSON. That is the Doorkeeper of the House, and that is what he says about this force.

Mr. LITTAUER. And that led us at first to a consideration of the question whether we could not withdraw this janitor force from under the chairmen of committees and place it under the Doorkeeper, and thereby with a less force, as suggested by him, perform the work and perform it better than it is now being carried on. But when we met the chairmen of committees who appoint these janitors, they said to us, "Perhaps Mr. Lyon may know of some instances like those referred to, but our janitors suit us, and they do our work in the way we want it done, and we want this janitor force retained." I even bear in mind the chairman of a committee of great prominence here who said to us, "My janitor does work not only in the way of cleaning up his room, but he does clerical service that entitles him to higher pay." So we felt that rather than touch this service this year we would leave it as it is, with the provision in the form in which it is in the bill.

Mr. JAMES. That gentleman referred to by that chairman ought to be a secretary instead of a janitor.

Mr. LITTAUER. Perhaps so, but it happens that the man referred to is hardly accomplished enough—or perhaps he is accomplished enough to call for the salary of a secretary, but we felt we had better not make a new category.

Mr. JOHNSON. What possible service do these janitors render when Congress is not in session?

Mr. LITTAUER. They keep the committee rooms clean and in order for committees whose chairmen or members come back here to do work during the recess.

Mr. JOHNSON. Mr. Lyon says they do nothing but draw their pay.

Mr. LITTAUER. I think that is, perhaps, in large part true, and that these services could be performed with a less force. If the House of Representatives wishes to go over every one of the services connected with the House with a similar idea, we might, perhaps, eliminate a great many of the employees here and lower a great many salaries, but we felt that this janitor service had been maintained here for many years, and that it met with the approval of most of the chairmen of these committees, and we thought we would not attempt to bring about a reform in that line; and it would seem to me that in the future our attempt will be less, because wherever it has seemed to us that we had a good reason either to make a provision or to eliminate it the point of order has been brought against the provision here. It would now seem that the Committee on Appropriations has no right and no duty except to bring before each succeeding Congress a bill exactly in the same words and for the same number of employees and at the same compensation as provided in the current law.

Mr. LIVINGSTON. I want to bring to my colleague's attention the testimony on page 37 of the hearing. It is as follows:

Mr. LITTAUER. You have given considerable thought to a reorganization of the janitors' work in connection with the committee rooms and all the janitor work of the House of Representatives?
Mr. LYON. Yes, sir.
Mr. LITTAUER. And you have brought to us the plan that it would be well to diminish this force from thirty-two to twenty-one, and you believe that having twenty-one men under your own supervision you can perform this work to the satisfaction of Congress?
Mr. LYON. I do; outside of two or three important committees.
Mr. LITTAUER. What are they?
Mr. LYON. The Committees on Appropriations, Ways and Means, and Judiciary.

Now, he came to us and we cut them from thirty-two to twenty-one, so that the abuse that has been referred to would stop. You have taken them out of the bill; you have put them back.

Mr. LITTAUER. That is a mistake. We did not do it, but if we had done it I have no doubt the gentleman from Georgia would have started up with a point of order.

Mr. BURLESON. We were attempting to put them under the supervision of the Doorkeeper, but we have since been prevented from doing it.

Mr. JAMES. Does not the gentleman think that the amendment offered by the gentleman from South Carolina would have saved more money than by cutting the number from thirty-two to twenty-one?

Mr. LITTAUER. I have not figured that out; perhaps it would.

Mr. HARDWICK. Mr. Chairman, the gentleman has referred to me and the points of order that I have made that seem to have annoyed the committee so much.

Mr. LITTAUER. Not at all; they have not annoyed the committee, but it has destroyed the utility of the bill.

Mr. HARDWICK. Does not the gentleman know that the only points of order I have made were to increases of salary?

Mr. LITTAUER. They are quite as necessary sometimes as reductions.

Mr. HARDWICK. But the gentleman said "elimination, economy, and reduction."

Mr. CRUMPACKER. Mr. Chairman, it is true that during vacation these men do not have much to do, but is it not true of the clerks of committees and stenographers of committees, who receive salaries of $5,000, that they have absolutely nothing to do during the vacation?

Mr. LITTAUER. But their services during the session are such that their continuance is very necessary, and we should give them an annual salary in order to keep them.

Mr. CRUMPACKER. That is probably true in relation to the janitor.

Mr. LITTAUER. Well, to a certain extent, yes.

Mr. CRUMPACKER. The point I am making is that when reformers want to cut down expenses they usually strike at the janitors and laborers—men who get very small pay.

Mr. HARDWICK. Does the gentleman think $1,000 a year small salary?

Mr. LITTAUER. These janitors only get $720.

Mr. HARDWICK. What about the Appropriations Committee?

Mr. LITTAUER. I think he earns $1,000. Anyone who keeps three rooms in such order as everyone who knows anything about it admits that these rooms are kept, certainly earns a thousand dollars. He is here the year 'round. He does three times as much work as these $720 men.

Mr. HARDWICK. What services does he perform during the rest of the year?

Mr. LITTAUER. That room happens to be open the year 'round. There is work in the Appropriations Committee every day in the year and even days which are not secular.

Mr. BURTON of Ohio. Mr. Chairman, I move to strike out the last word. I do not think the committee ought to adopt so sweeping an amendment. In the first place, there is a good deal of sense in the suggestion of the gentleman from Indiana [Mr. CRUMPACKER] that we would be striking at the least abuse which exists. It seems to be the existing method that certain employees of the House should be paid by the year, although the bulk of their services is rendered during the session and does not extend throughout the vacation. There is an-

other objection; these rooms must be provided for in some way. You can not let them lie during the long heat of the summer and go entirely without attention. There might be depredations by rats and mice. I bear in mind that the janitor prevented the destroying of some very valuable documents in one room. They should occasionally be cleaned. Now, I have a word to say for the janitor of my own committee. He was here during nearly all of last summer. His services were essential in the way of copying letters and in filing maps, and those services could not be dispensed with. I was here the most of the time also. It seems to me that the best solution of this whole matter would be the amendment proposed by the Committee on Appropriations, but that has gone out on a point of order. I certainly should not object to any regulation under which the Doorkeeper could select the janitors, providing I was sure he would select the most competent men without favoritism, or which would do away with existing abuses; but to pass so sweeping an amendment as this would be, and leave the rooms without care, I think would not be wise. Again, their services are required in certain rooms, not only during the sessions of Congress, but in the vacation as well.

Mr. SOUTHARD. Mr. Chairman, I know very little about this janitor service. I do know, however, that the arrangement we now have is the most miserable that could be suggested. I know that at the commencement of every session of Congress, and during at least a month after the commencement of the session, that every committee which is not provided with a janitor paid annually is obliged to keep its own room clean and in fit condition for occupation, and that whoever is chairman is generally obliged to pay a janitor out of his own pocket. During this session of Congress, until by resolution of this House janitors were provided, one for several rooms, there was no provision whatever for keeping those rooms clean and fit for occupancy. I myself paid a janitor for at least a couple of months of this session. The suggestion of the committee to employ a force of janitors assigned to do janitor work was a good one. The employment of janitors, one for each room at an annual salary, I say, is the worst suggestion that can be made.

Mr. LITTAUER. The condition the gentleman describes in his own committee room does not come because he has an annual janitor, but because his room was taken care of in another way.

Mr. SOUTHARD. I presume that none of the chairmen who are not provided would make complaint if they had annual janitors paid to take care of their rooms, and I am not surprised that those chairmen who have that provision made for them do not stand on the floor of this House and make complaint. I am talking about those who are not thus favored. I am talking about those who have to keep their own rooms clean and fit for occupation during a month or two at the beginning of each session.

Mr. LITTAUER. Then the gentleman's statement does not apply to janitors now under consideration.

Mr. SOUTHARD. I simply say it would be a blessing if the whole thing could be stricken out and, at the proper time and place, some decent provision could be made for janitor service in this Capitol.

Mr. POLLARD. Mr. Chairman, I would like to ask the gentleman from New York a question. I see in counting the number of these committees this provision covers there are twenty-nine. I would like to ask the gentleman whether that includes eleven or twelve janitors that were provided for by the Committee on Accounts by resolution?

Mr. LITTAUER. It does not. The janitors provided by the Committee on Accounts were sessional janitors, and their services were to apply to two or three committee rooms, I believe—each one.

Mr. POLLARD. Just a moment further. Do I understand that these twenty-nine janitors provided for on page 15 are annual janitors?

Mr. LITTAUER. They are.

Mr. POLLARD. For these different committees?

Mr. LITTAUER. They are so stated.

Mr. POLLARD. I see in figuring up these twenty-nine janitors that they receive a little over $2,500 a year each.

Mr. LITTAUER. Seven hundred and twenty dollars a year each.

Mr. POLLARD. Oh, I see; that sum covers the whole paragraph.

Mr. LITTAUER. Yes; it covers everything.

Now, Mr. Chairman, the gentleman from Ohio argued a moment ago that all of this janitor service should be taken out, and that a proper service should be inaugurated, put under some officer of the House here. The very statement of facts that he made here was not at all in reference to these janitors specifically appointed as annual appointees to the various committees, but to the service of janitors appointed whose duty it was to take care of the rooms not specifically provided for. Now, if that service is not proper in connection with his own room, it seems to me we would have an altogether worse condition of affairs if we should follow the gentleman's statement.

Mr. SOUTHARD. I am saying simply this: That provision ought to be made for each and every room, or else janitors should be appointed and placed under the direction of some person having in charge these rooms, being responsible for them, so that we can get some kind of decent janitor service. A janitor appointed to any one of these rooms considers his duty done, and possibly it is done, when he has taken care of that room. It seems to me rather a large price to pay for taking care of a single room—$60 a month—when the evidence here is that during certain seasons of the year a few dozen of them club together and get a man to take care of all the rooms for a dollar and a half a week.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from South Carolina.

The question was taken; and on a division (demanded by Mr. NORRIS) there were—ayes 30, noes 56.

So the amendment was rejected.

The Clerk read as follows:

For ten clerks to committees, at $6 each per day during the session, $7,140.

Mr. LITTAUER. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

On page 16, in line 7, strike out "ten" and insert "eleven;" and in line 8 strike out "one hundred and forty" and insert "eight hundred and fifty-four."

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from New York.

The question was taken; and the amendment was agreed to.

The Clerk read as follows:

Office of Sergeant-at-Arms: For Sergeant-at-Arms of the House of Representatives, $5,000; Deputy Sergeant-at-Arms, $2,000; cashier, $3,000; paying teller, $2,500; bookkeeper, $2,200; Deputy Sergeant-at-Arms in charge of pairs, $1,400; assistant bookkeeper, $1,200; messenger, $1,200; one clerk in charge of pairs, $1,400; page, $720; inspector of cabs and other vehicles, $720; and skilled laborer, $840; in all, $22,180.

Mr. HARDWICK. Mr. Chairman, I make the point of order on the $5,000 given the Sergeant-at-Arms on page 16, line 11. I make the point of order that that is an increase over last year's appropriation of $500.

Mr. LITTAUER. Mr. Chairman, I will say, if the gentleman insists, that the point of order is well taken.

The CHAIRMAN (Mr. PAYNE). The Chair understands the gentleman from New York concedes the point which the gentleman has stated; therefore the Chair sustains the point of order.

Mr. LITTAUER. If the gentleman will withdraw the point of order, I think I can give him good reasons for this increase.

Mr. HARDWICK. I insist upon the point of order. I make the further point of order on page 16, line 14, provision of bookkeeper, at $2,200. Under the law now he is paid $1,800, and I make the point of order that this carries an increase.

Mr. LITTAUER. I would like to call the gentleman's attention to the fact that the balance of that amount is paid in the deficiency bill, so that the amount here is exactly what he now receives.

Mr. HARDWICK. Is that so? I do not know about that. It does not make it the law now. I still insist upon the point of order.

The CHAIRMAN. The Chair will hear the gentleman from New York.

Mr. LITTAUER. In the deficiency act passed last session there is a paragraph, "For additional salary to bookkeeper in the office of the Sergeant-at-arms, at the rate of $400 per annum, from March 4, 1905, until June 30, 1906, included, $530," making the amount carried in this bill current law.

The CHAIRMAN. That does not affect, however, the appropriation act of June 30, 1906.

Mr. LITTAUER. I thought the Chair had already ruled in line that it did.

The CHAIRMAN. The present occupant of the chair has never ruled so.

Mr. LITTAUER. I thought we were proceeding on the basis that current law had to be followed?

The CHAIRMAN. The Chair is informed the occupant of the chair appointed for this bill has ruled that where a salary was fixed by a resolution of the House that that applied to the salary after the 1st of July next.

Mr. LITTAUER. This is the law.

The CHAIRMAN. But the paragraph the gentleman from New York read only fixes the salary up to the 30th of June of

this year. This is an appropriation for the year after the 30th of June. The Chair is informed that different Chairmen of the committee have recently held that where the law fixes a salary for the current year, that was held to be a limit of the salary, and while the present occupant of the chair might, without any such precedent, rule the other way, the Chair is inclined to follow precedents that have been set and therefore will overrule the point of order. The Chair would call the attention of the gentleman from New York to the fact that the salary of the Sergeant-at-Arms having gone out under the ruling, the bill now provides no salary for that official.

Mr. TAWNEY. Let it go.

The Clerk read as follows:

Office of Doorkeeper: For Doorkeeper, $4,500; hire of horses, feed, repair of wagon and harness, $1,000, or so much thereof as may be necessary; Assistant Doorkeeper, and Department messenger, at $2,000 each; one special employee, John T. Chancey, $1,500; one special employee, $1,500; clerk to Doorkeeper, and janitor, at $1,200 each; thirteen messengers, including the messenger to the reporters' gallery, at $1,200 each; thirteen messengers, at $1,000 each; messenger to the Speakers' table, $1,000; fourteen messengers on the soldiers' roll, at $1,200 each; twelve laborers, at $720 each; two laborers in water-closet, at $720 each, ten laborers, at $720 each; one laborer, $600; ten laborers, known as "cloakroom men," two at $60 per month each, and eight at $50 per month each; female attendant in ladies' retiring room, $720; superintendent of folding room, $2,000; five clerks in folding room, one at $1,800, and four at $1,200 each; foreman, $1,500; messenger, $1,200; page, $500; laborer, $720; thirty-two folders, at $800 each; two night watchmen, at $720 each; two drivers, at $600 each; two chief pages, at $900 each; forty-three pages, during the session, including two riding pages, two telephone pages, and ten pages for duty at the entrances to the Hall of the House, at $2.50 per day each, $12,792.50; horse and buggy for Department messenger, $250; superintendent of document room, $2,000; assistant superintendent of document room, $1,800; nine assistants in document room, at $1,200 each; and one janitor, $720; in all, $157,062.50.

Mr. HARDWICK. Now, Mr. Chairman, I raise the point of order——

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. HARDWICK. To make the point of order. In lines 23 and 24, page 16, there is a provision in this bill that the Doorkeeper shall receive $4,500. Under existing law he only gets $3,500, and I make the point of order that the bill can not carry an increase in that way.

The CHAIRMAN. The Chair will hear the gentleman from New York on the point of order .

Mr. LITTAUER. Mr. Chairman, I shall not make any claim against the gentleman's provision.

The CHAIRMAN. The point of order is sustained.

Mr. LITTAUER. Mr. Chairman, I offer the following amendment.

Mr. BARTLETT. Mr. Chairman, does that leave the Doorkeeper without any salary at all?

The CHAIRMAN. Yes. The Clerk will report the amendment offered by the gentleman from New York.

The Clerk read as follows:

On page 18, in line 4, strike out "forty-three" and insert "forty-four;" and in line 5, before the word "and," insert "press gallery page;" and in line 15 strike out "$62.50" and insert "$360."

The question was taken, and the amendment was agreed to.

Mr. HENRY of Connecticut. Mr. Chairman, I wish to offer an amendment which I send to the Clerk's desk.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Strike out all commencing with the word "thirteen," on page 17, line 6, down to and including the word "each," in line 9, and insert in lieu thereof the following: "twenty-six messengers, including messengers to the reporters' gallery, at $1,100 each."

Mr. HARDWICK. Mr. Chairman, I make the point of order against it that it increases the number of employees.

Mr. HENRY of Connecticut. Will the gentleman reserve his point of order?

Mr. HARDWICK. I reserve the point of order.

Mr. HENRY of Connecticut. The effect of this amendment is to place all the messengers of the House doing precisely the same work, one class receiving $1,000 each and another class $1,200 each, upon the same level. The Senate pay their messengers a salary of $1,440. The House have been accustomed to classify theirs in one class at $1,000 and another class at $1,200, thirteen of each. This involves no increase of expenditure. It simply equalizes the expense. It is a fair, square deal all around. The other day the matter was brought up, and gentlemen having this bill in charge admitted it was an equitable proposition, but that at the present time it was not practicable. I hope the point of order will be withdrawn.

Mr. HARDWICK. I withdraw the point of order, Mr. Chairman. I think the gentleman is right about it.

The CHAIRMAN (Mr. OLMSTED). The question is on the amendment offered by the gentleman from Connecticut.

The question was taken, and the amendment was agreed to.

Mr. HARDWICK. Mr. Chairman, I move to amend by inserting $3,500 for the Doorkeeper's salary, in lines 23 and 24.

The CHAIRMAN. What page is that?

Mr. HARDWICK. Page 16. I move to make it the same as is now fixed by law.

Mr. TAWNEY. I make the point of order that the paragraph has been passed.

Mr. HARDWICK. We are working on that paragraph now, I insist—the whole of that paragraph. Are you opposed to the Doorkeeper having the salary that he ought to have?

Mr. LITTAUER. We have to consider.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 16, line 23, after the word "Doorkeeper" insert "$3,500."

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Georgia.

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. HARDWICK. Division!

The committee divided; and there were—ayes 41, noes 60.

So the amendment was rejected.

Mr. FITZGERALD. I offer an amendment making that $3,499, and I wish to be heard on the amendment.

The Clerk read as follows:

In line 23, page 16, after the word "Doorkeeper," insert "$3,499."

Mr. FITZGERALD. Mr. Chairman, I think it is important that it should be known just what is intended to be done. The Committee on Appropriations adopted a provision increasing the salary of the Doorkeeper a thousand dollars. So far as I am personally concerned, I would not raise the point of order against that amendment. Whatever opinion I might have as to the necessity or propriety of increasing the salary of this officer of the House, I was willing to defer to the judgment of those who are most responsible for his service. I am opposed to this House attempting to do by trick what it can not do under the rules of the House; and it should be stated so that the country, at least, will understand what is being attempted. The purpose of defeating the amendment just offered by the gentleman from Georgia to appropriate the amount now fixed by law for the salary of this official is to wait and beg the Senate to place in the law compensation for one of the officials of this House. The Doorkeeper has a salary fixed by law, and it appears to be the intention of this House not to provide in the proper place for his compensation, but to go elsewhere and get it.

Mr. TAWNEY. Will the gentleman permit a suggestion?

Mr. FITZGERALD. Certainly.

Mr. TAWNEY. The salary of the Doorkeeper is not fixed by law, and the gentleman knows it.

Mr. FITZGERALD. The Chairman has ruled that the salary is fixed by law, and therefore it can not be raised.

Mr. TAWNEY. The salary of the Doorkeeper is fixed by the current appropriation.

Mr. FITZGERALD. Well, that is the law.

Mr. TAWNEY. There is no present law fixing the salary of the Doorkeeper.

Mr. FITZGERALD. Mr. Chairman, the salary of the Doorkeeper is fixed by law. By a thousand rulings it has been so held, and it is fixed at $3,500.

I am not opposed to appropriating $4,500, but I am opposed to putting the House in the ridiculous and contemptible position of going and begging the Senate to give the money to pay employees of the House. The gentleman from Georgia offered an amendment appropriating $3,500. It was in order. Nobody disputed it. The gentlemen on that side gave no reason for not appropriating that sum. But the intention is to let this bill go to the Senate and have the Senate do what this House should do. Now, if the amendment I have offered is adopted, the effect will be to reduce the salary of the Doorkeeper $1 a year. That is a more decent thing to do than to go and beg another body.

Mr. TAWNEY. That is not in order.

Mr. FITZGERALD. It is. Why is it not in order? Does it change any existing law? No; it does not.

Mr. TAWNEY. Why, it does change existing law, if the present law fixes the salary at $3,500.

Mr. FITZGERALD. Now, Mr. Chairman, the gentleman from Minnesota knows that, under the law fixing salaries, the House has the power under its rules to appropriate a less sum, but it has not the power to appropriate a greater sum. The gentleman from Minnesota knows that full well; but he is a party to this scheme of making this House contemptible, of lowering its dignity, of going and beseeching another body to put in here compensation for the Doorkeeper. I submit that a decent respect for ourselves would compel us to make this appropriation.

If this amendment be not adopted, then I will move to strike from the bill the position of Doorkeeper of the House, because I for one am not willing to provide positions here and not provide the money for the positions. Gentlemen on that side, who are in control, who have the votes giving them the power to do the proper and decent thing, can take the responsibility, if they wish to refuse to appropriate the money; if they wish to provide a place and then go beseeching the Senate to make the necessary appropriation. Perhaps that will help to maintain the dignity of the House and its prerogatives and a decent respect for us on the other side of this Capitol and throughout the country.

Mr. SHERMAN. Mr. Chairman, my distinguished colleague from New York [Mr. FITZGERALD] intimates that the gentleman on this side of the aisle may, if they choose, assume a certain responsibility. I can assure you that the gentlemen on this side of the aisle have never in any way attempted to shift responsibility when they have been in the majority. They are entirely willing, on this and on all other propositions, to carry the full share of the responsibility that rests upon the majority party in this House, on this proposition or upon any other proposition.

The gentleman intimates, Mr. Chairman, that the House is attempting to do something by a trick. The gentleman is in error. He intimates that the committee is attempting to override the wishes of a majority, as here evident, by a vote. The gentleman again is in error. So far as any vote which has here been taken is concerned, there is nothing to indicate that this committee does not desire by a majority of all to one that the salary of the Doorkeeper shall be fixed at forty-five hundred dollars. What the House is attempting to do in Committee of the Whole, and attempting, I believe, in a proper procedure, is to nullify the dictate of one man and to follow the known desires of the many. I do not believe, Mr. Chairman, that the gentleman from New York, my honored colleague [Mr. FITZGERALD], has any desire to reduce the salary of this particular official below forty-five hundred dollars. There is no dissenting voice in the report of the Committee on Appropriations on this bill. It is a unanimous report, coming from the committee of which the gentleman is a distinguished member, and than whom no one on this committee is more industrious, as his efforts and his work on this floor have over and over again indicated.

We are attempting here, sir, by this procedure, to have incorporated in this bill the will of a very large majority, and, I say, as far as the record shows, the will of all the House, save one man; and as far as the merits of the proposition are concerned, Mr. Chairman, I think no man in this House who has been here any length of time, who has observed in the least the doings of its various officials, will fail to recognize the fact that the Doorkeeper of this House has hundreds of subordinates under him for whose proper attention to their duties he alone is responsible. He must be here not merely during the sessions of Congress, but he must be here a very large portion of the time during the recess, because these various employees under him, in the folding room and in other departments, must be here the entire year, attending to the wants and necessities of the Members, and he must be here more than any other officer of the House. Under his control, under his supervision, under his guidance, under his orders, are scores more of the employees of this House than under any other official, and I believe this House knows that the compensation that the Appropriations Committee inserted in this bill for that official—inserted not merely as an act of caprice, but inserted after giving full hearing to everybody, and inserted, as I understand, by a unanimous vote, with nobody dissenting—is the salary which the House desires him to receive. If the gentleman from New York or the gentleman from Georgia would permit this committee to vote directly on the question, I am sure the Committee on Appropriations—or those who were in the minority, if in the minority they prove to be—would not dissent from that result; but what the Committee on Appropriations and what we all who are interested in having those things done which tend to the comfort of Members object to is that one man shall set up his opinion, and by invoking a rule prevent us from taking such action as we believe will add to the comfort of the Members and the orderly procedure of affairs in the House; and I trust, Mr. Chairman, that this committee will see fit to vote down the amendment offered by my honored colleague, having in view the ultimate result of putting this salary at the figure which the Appropriations Committee after careful investigation have determined to be the fair compensation for the labor he renders.

Mr. PRINCE. Mr. Chairman, this House this afternoon, acting in Committee of the Whole, presents to the country a remarkable spectacle. When Members of the House, under the rules of the House, in an orderly and proper manner, seek to invoke the rules of the House, they are criticised, and because the rules adopted by the House, and under which the Members are living, seem to impinge a little harshly upon the members of great committees, they then say, "We will do nothing; we will go to another body; a body that we are standing here solidly against"——

Mr. LITTAUER. On whose assertion does the gentleman make that statement?

Mr. PRINCE. I do not know how you are going to get the salaries placed there unless you go elsewhere.

Mr. LITTAUER. Perhaps the gentleman might ask and get the information.

Mr. PRINCE. Then if the gentleman will tell me, how will he get it replaced?

Mr. LITTAUER. We might expect to get it replaced by a resolution from the Committee on Accounts, or we might ask for a rule which would permit us to have a vote on this proposition. I can not understand how either the gentleman who is now addressing the House or the gentleman from New York can state that this is a trick, as it was called, or that this is our actual intention.

Mr. PRINCE. In answer to the gentleman, permit me to say that I do not know what is in the mind of the gentleman who has just addressed the committee, but I am giving utterance to what the gentleman said who preceded me and preceded him—the gentleman from New York. Now, the gentleman says that he can, under the rules of the House, get these salaries restored. Why do you not, as a law-abiding Member of this House, under the rules proceed according to the rules and have your measures brought in here not in violation of those rules?

Mr. LITTAUER. Because under the rules of the House we are allowed to proceed otherwise.

Mr. PRINCE. Why does not the gentleman bring in these measures so that they will not be subject to a point of order? Why does he not go to the Committee on Accounts to bring it in?

Mr. LITTAUER. Because in nine hundred and ninety-nine cases out of one thousand the recommendations of the Committee on Appropriations is agreed to by the House and adopted without making a point of order.

Mr. PRINCE. Very well; I will concede that, although it is a lame answer. The gentleman says he can go to the Committee on Rules and get a rule that will bring it in here.

Mr. LITTAUER. I did not say I could get one; I said I could try.

Mr. PRINCE. Then why does not the gentleman apply to the committee?

Mr. LITTAUER. Because I have not had the opportunity.

Mr. PRINCE. Will the gentleman be kind enough to answer me and the country if you made no application under the rules of this House to get a resolution from the Committee on Accounts, if you made no application to the Rules Committee by which you can obtain a rule, are you not proceeding against the known rules of this House when you ask us to act in this way?

Mr. LITTAUER. We are on page 16 of this bill, which has 176 pages——

Mr. PRINCE. Can it be otherwise when the rules of this House say that certain propositions when offered or when attached to an appropriation bill are against the rules of the House? The rules have been invoked, an orderly proposition has been presented, and two different occupants of this chair this afternoon have decided; one, the distinguished floor leader of the House on the side of the House to which I belong, promptly held that the proposition was out of order. Where is there anything wrong? I have felt the force of this rule; I have obeyed it. Why should not the gentleman take the same medicine that you have been dealing out to us on other committees, not only in homeopathic doses, but in allopathic doses, and you are receiving it yourselves this afternoon.

Mr. LITTAUER. To what rule is the gentleman referring which would require us to submit a salary when it has once been stricken out by the House?

Mr. PRINCE. Oh, Mr. Chairman, just see the position we are in. Here is the House of Representatives standing to-day upon its dignity. To-morrow they will meet in this House. If we are permitted, we will by an overwhelming vote say that the dignity of the House of Representatives must be maintained against the vote of another concurrent body upon the statehood proposition. And yet here we are refusing to appropriate a cent for the salary of the Sergeant-at-Arms, refusing to appropriate a cent for the salary of the Doorkeeper of the House of Representatives, confessedly unable to restore these salaries except in two ways, neither of which has the gentleman seen fit to invoke. The third is to go to the body that we are standing up against, go to the body in the strength and dignity of our character and

ask them to grant this legislation. Now, what about this childish way? Why not restore this salary according to law? The committee of this great body is in the position of saying, "If you don't play as we want you to, you can't slide down our cellar door." [Laughter.]

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from New York.

Mr. FITZGERALD rose.

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. FITZGERALD. To debate the amendment.

The CHAIRMAN. The gentleman can proceed by unanimous consent.

Mr. FITZGERALD. Am I not entitled to five minutes to close the debate, more than one gentleman having discussed it?

The CHAIRMAN. The Chair will state to the gentleman that he can move to strike out the last word.

Mr. FITZGERALD. I move to strike out the last word, if necessary. In the first place, I am not responsible for the rule which makes it possible for a single Member to interpose an objection that prevents the consideration of the increase of salary suggested by the Committee on Appropriations.

The gentleman's side of the House, the Republican side, is responsible for that rule, and it is not too much to expect the gentlemen who adopted the rules to be willing to live up to them. We have to do it. We have no choice. The least the gentlemen on that side could do would be to acquiesce in the rules they adopted themselves. I stated that I would not interpose the point of order to the provision increasing the salary of the Doorkeeper. So far as I was concerned, I was willing to permit the House to pass upon this question. If the question is presented to the House, I will vote against the increase, not because I think that in that way I would prevent it, but simply to give expression to my views on this question. Let me call the attention of the House to the effect of omitting to provide an appropriation at this point. This bill will then read:

For Doorkeeper, hire of horses, feed, repair of wagons and harness, $1,000, or so much thereof as may be necessary.

The gentleman from New York [Mr. LITTAUER], in charge of the bill, says that it is an unwarranted assertion to state that the House intends to obtain this appropriation through some other source. Perhaps as the gentleman is in charge of the bill, knowing what is going to take place, he will now make a statement that he or somebody in his behalf intends to apply to the Committee on Rules for a rule to put the eliminated portion back. Regardless of what the salary of this employee should be, I am opposed, so far as I am concerned, to so far lowering the dignity of this House as to go to some other body and ask that body to appropriate for our employees. I would prefer that the employee get $3,500 than that the House should lower itself and beg the Senate to fix the compensation of this employee, because if we do not put in some compensation the Senate is at liberty to fix that compensation itself. For that reason I hope that the amendment appropriating $3,499, one dollar less than the amount now fixed by law, which is the only amendment now in order, unless we put in a much smaller amount, will be adopted by the committee.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from New York.

The question was taken; and on a division (demanded by Mr. FITZGERALD) there were—ayes 25, noes 72.

So the amendment was rejected.

Mr. LIVINGSTON. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read:

The Clerk read as follows:

On page 17, line 16, strike out the word "sixty" and insert the word "seventy."

Mr. LIVINGSTON. Mr. Chairman, that is in harmony with the action of the House from March 8, 1906, raising the salary of these two cloakroom servants from $720 to $840 and authorizing the Committee on Appropriations to insert it in this bill. I refer to the RECORD of March 9, 1906, page 1906.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Georgia.

The question was taken; and on a division (demanded by Mr. LIVINGSTON) there were—ayes 32, noes 65.

So the amendment was rejected.

The Clerk read as follows:

For clerk to the conference minority of the House of Representatives, $2,000; and for assistant clerk, $1,500; in all, $3,500.

Mr. PRINCE. Mr. Chairman, I make the point of order, or, rather, reserve it, so that I can get some information why there has been an increase in the salary of the clerk to the conference minority.

Mr. LITTAUER. Mr. Chairman, there has been an increase in the salary of the assistant clerk to the conference minority of the House of Representatives from $1,200 to $1,500, because it was requested by the Representatives of the minority, who advised us that the services performed by that individual assistant clerk were well worth $1,500, and in conformity with that request we submit it to the House.

Mr. PRINCE. Mr. Chairman, I insist upon the point of order.

The CHAIRMAN. The Chair understands that the point of order is made to the words "one thousand five hundred dollars."

Mr. PRINCE. Yes.

Mr. LIVINGSTON. Then does the whole salary go out?

The CHAIRMAN. Just the amount. The Chair understands just the words "one thousand five hundred dollars" go out. The Chair sustains the point of order.

Mr. LIVINGSTON. Then, Mr. Chairman, we want to offer an amendment to insert in lieu thereof the words "one thousand two hundred dollars," which was the salary heretofore paid.

Mr. PRINCE. To that I have no objection.

Mr. LITTAUER. I trust, Mr. Chairman, the House will not agree to that, but that this may stand on all fours with the other, so that they may stand together.

Mr. LIVINGSTON. Mr. Chairman, I withdraw the amendment.

Mr. HAY. Mr. Chairman, I renew the amendment.

The CHAIRMAN. The gentleman from Virginia offers an amendment which the Clerk will report.

The Clerk read as follows:

In line 12, page 19, strike out the words "one thousand five hundred dollars" and insert in lieu thereof the words "one thousand two hundred dollars."

Mr. HAY. Mr. Chairman, I hope there will be no objection to that amendment and that the House will not blindly follow the advice of the gentleman from New York [Mr. LITTAUER], that because a point of order is made, and properly made, there should be no provision made for this employee at all. I understand, perhaps, that it is to be put in somewhere else. I agree with my friend from New York that it is a curious spectacle to see the great Committee on Appropriations losing their temper because they can not carry every point which they put in their bill.

Mr. WILLIAMS. Mr. Chairman, I sincerely hope if there is a single Member of the House on either side who objects to this increase that the amendment will not only be adopted, but the bill will not come back from the Senate with the amendment in it. I hope the amendment offered by the gentleman from Virginia will be adopted, and I express the hope when the bill becomes a law it will become a law with the amendment offered by the gentleman from Virginia in it, which merely puts the matter back to where it was before.

Mr. LITTAUER. Mr. Chairman, I trust the committee will not adopt the amendment of the gentleman from Virginia, but it will leave the salary for this assistant clerk stand in the same way that salaries of other officials connected with the House now stand, without any particular appropriation. These matters have gone out on points of order, and gentlemen on the other side seem inclined to insinuate that it is our intention and that we have no other intention except to have them reinserted in the Senate. I do not know on what basis they make the statement, but I believe we can reinsert these salaries and reinsert them by a vote of the committee before the committee shall finally rise and report this bill or vote upon the bill.

The CHAIRMAN. The question is upon agreeing to the amendment offered by the gentleman from Virginia.

The question was taken, and the Chair announced the noes appeared to have it.

On a division (demanded by Mr. HAY) there were—ayes 40, noes 59.

So the amendment was rejected.

The Clerk read as follows:

For stenographic and typewriting services, to be expended by the chairman of the conference minority, $600.

Mr. PRINCE. Mr. Chairman, I make the point of order against that provision.

The CHAIRMAN. Will the gentleman state his point of order?

Mr. LITTAUER. Mr. Chairman, this provision was carried last year in the deficiency bill.

Mr. PRINCE. Mr. Chairman, I reserve the point of order. I want to hear from the gentleman. I do not find it in the copy of the bill as I have it.

Mr. LITTAUER. No; but you will find it in the deficiency bill, and the paragraph is, "For stenographic and typewriting services, to be expended by the chairman of the conference mi-

nority and to continue available during the fiscal year 1906, $600."

Mr. PRINCE. Now, Mr. Chairman, I still insist upon my point of order. As I understand Rule XXI, this is subject to the point of order. There is no resolution of the House authorizing this appropriation. A deficiency bill is nothing more nor less than current law, just the same as any other appropriation bill, and if the deficiency bill on the last session contained that amount and it was improperly there and was subject at that time to the point of order, as has been repeatedly held not only by this occupant, but by other occupants of the chair an innumerable number of times, that the current law having an appropriation which is not justified by law does not make it a provision of law, nor does it any the less cause it to be subject to the rules of this House.

Mr. LITTAUER. Mr. Chairman, this provision carried in the deficiency bill is the appropriation for the current year, just as much so as though carried in the legislative bill. We submit an appropriation for a continuation of a work now in progress and authorized by law.

Mr. PRINCE. Mr. Chairman, just another word. If the position of the gentleman from New York be true, then see where it leads to. We appropriate in this committee for the salaries of different officers. The gentlemen then bring in a deficiency bill and they add from one hundred to five hundred or a thousand dollars to the salary of the officers as we have fixed them here in an appropriation bill. That goes into the deficiency bill. No one happens to see or know anything about that. It passes. Then next year they come up and say the current legislative and executive appropriation bill carries so much—say, $1,200—and the deficiency bill, which we knew nothing about, carried $300, and therefore the $1,200 the House had knowledge of and the $300 the House did not have knowledge of is added to the other and you then have a salary of $1,500. In that way, perhaps, I can see how the general Appropriations Committee can raise all of these salaries—let this bill go through the House as it is and then on the deficiency give an increase.

Mr. HEPBURN. Mr. Chairman, I desire to make a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HEPBURN. As I understand, the gentleman from Illinois is now engaged in a strenuous effort to preserve and compel obedience to the rules of this House. I now desire to ask if, in making a second speech upon this question, he is violating any rule of the House?

Mr. PRINCE. I am inclined to think, in fairness to the gentleman, if anybody had raised the point of order, I should have subsided. As the gentleman is extremely familiar with the rules of the House, I am deeply surprised he did not insist upon it.

The CHAIRMAN. The Chair understands the gentleman from Illinois to be arguing his point of order; and this is in order if he desires to be heard upon it.

Mr. PRINCE. Well, then, as it appears I was in order [laughter], on page 354, under the head of "Appropriation bills," it says: "The reenactment from year to year of a law intended to apply during the year of its enactment only does not relieve the provision from the point of order." I understand that to be the rule of the House and the interpretation thereof.

The CHAIRMAN. Will the gentleman give the Chair again the reference to that authority and the page?

Mr. PRINCE. Page 354, the third or fourth provision down. "The reenactment from year to year." Does the Chair catch it?

The CHAIRMAN. The Chair will inquire of the gentleman from New York if there is any resolution or other authority of law existing except the fact that heretofore appropriation has been made for the item against which the point of order is raised?

Mr. LITTAUER. There is no resolution. There was a request by the representatives of the minority to put it into the deficiency bill last year. The deficiency bill last year was approved by this House. It is current law to-day, standing the same, as I believe, in the same line as all the other matters that have been passed on. It is a work in progress, current law, and authorized by law.

The CHAIRMAN. The rule invoked in this instance is Rule XXI, the second section of which provides that—

No appropriation shall be reported in any general appropriation bill or be in order as an amendment thereto, for any expenditure not previously authorized by law.

Now, without going into the matter more in detail, it has been held—was held in the third session of the Fifty-eighth Congress—as reported in page 354 of the Manual:

The reenactment from year to year of a law intended to apply during the year of its enactment only, does not relieve the provision from the point of order.

It had been previously ruled, in the Fifty-fifth Congress, in the Fifty-seventh, and again in second session of the Fifty-eighth, as cited on page 353 of the Manual, that—

An appropriation for an object in an annual appropriation bill, makes law only for that year, and does not become "existing law" to justify a continuance of the appropriation.

Rule XXI makes an exception in this language:

Unless in continuation of appropriations for such public works and objects as are already in progress.

And that phrase also has been defined, as will appear, upon page 345 of the Manual, wherein it is held:

By public works and objects already in progress, are meant tangible matters, like buildings, roads, etc., and not duties in an Executive Department.

It seems to the Chair that there is no provision, resolution, or authority of law for this appropriation; and that it is not in continuation of a Government work in progress, and the Chair feels constrained to sustain the point of order.

Mr. LITTAUER. As I understand, the Chair sustains the point of order?

Mr. PRINCE. He does.

Mr. DRISCOLL. Mr. Chairman, superannuated clerks and how to get rid of them, and extravagance and waste in the public service and how to stop it, have been the theme debated on the floor of the House and discussed in the press of the country during the last week. Longevity should not be looked upon as a disgrace. It indicates a good native constitution and temperate life. "Whom the gods love die young" is a poetical fallacy, invented to console the hopeless invalid, the unfortunate, and the bereaved. Whom the gods love do not die young, for they create them with discriminating palates, painless stomachs, good digestion, strong hearts, large lungs, quiet nerves, and red blood, and all the organs so healthy, sound, and well adjusted as to warrant a long and vigorous existence for the battle of life and struggle for success.

The person with a sound mind in a sound body wants to live. It is doubtful if there is any such phenomenon as rational suicide. Then, too, if we live we must grow old, look old, and we are very lucky if we don't feel old. The true philosophy of life is to grow old gracefully and to continue young old men and women, after the example of Benjamin Franklin, William E. Gladstone, George F. Hoar, and the late Susan B. Anthony, of blessed memory.

My mother will be 87 years of age the 6th day of next May, and she is still a young woman. I am proud of her, and prouder for every year that passes over her head and leaves her with fair health and sound faculties. Her life has not been a bed of roses, and her years indicate an excellent constitution to start with, and a clean, temperate, moral life. I respect age and gray hairs, and sincerely sympathize with the old employees in the Executive Departments of Washington. The agitation and discussion which this debate has created must be very embarrassing and humiliating to them. The finger of ridicule, if not of scorn, is being pointed at them, and they are told they must be Oslerized in order to save Secretary Root and the Appropriations Committee from a perplexing problem.

Deal gently with these old people, not alone for humanity's sake, but on the score of economy. Suicide is a crime, forbidden by the decrees of God and man. They can not be expected to violate the law of the land as well as the law of nature in order to relieve this embarrassing situation. They must live and must be supported somehow—in the almshouse if nowhere else. If cripples, imbeciles, inebriates, the aged, and all kinds of incompetents could be banished from our shores and the burden of their support shifted, there would be considerable force in the argument for their expulsion from the service. But since they must be supported by the country, or by some municipal division thereof, it is economy to let them do such work as they are able and earn their daily bread. Do not crucify them to avenge your spite against the civil-service system. They are not the cause, and it can hardly be said they are the consequence of it. That system was inaugurated twenty-two or twenty-three years ago. Therefore all, or practically all, who are now 70 or upward were appointed under the old plan of Congressional patronage and the spoils system. But the blanket of the civil service was gently placed over them, and they were made comfortable. They have grown old in the service, with the assurance of steady jobs and fair pay, and have been consoled with the hope of pensions on which to round out and terminate their careers.

This is a condition which confronts us, and let us not be too cruel in our spasm of virtuous economy. Do not chop their legs off short when they are 70. That would be too shocking. Do not abruptly terminate their relations with the Government and turn them out in the cold, cruel world as a burden on their

relatives. This is rapidly becoming a paternal Government, and in taking care of these old people paternalism and humanity go hand in hand. Their work has become to them a profession, and they are fit for nothing else. They are too old to seek their livelihoods in other places or in other lines. They have not the courage, for they are aware they will never be able to find a new master as kind and indulgent as their Uncle Samuel.

After listening to all the plans proposed for relief I am persuaded to concur substantially with the one suggested by the gentleman from Georgia [Mr. LIVINGSTON]. It is doubtless true that the average man at 80, 70, or, perhaps, 65 is not as well able to do continuous and laborious physical and mental work as he was at 30. This fact is recognized by the Government.

The Commissioner of Pensions or the President, or both, made an Executive order some time ago that veterans of the civil war at the age of 62 were disabled by half for manual labor. That degree of disability is presumed, and no evidence is required to prove it; and that such disability continues to increase until the age of 70, when he is totally disabled. And the voters of the country seemed to agree with the Executive and to approve his action, as demonstrated in the election of 1904. The soldiers were picked men, and even after their military service in youth were as strong and enduring as the average men in their several communities. The mind fails more or less with the impairment of the body, and the work of these employees is manual as well as mental. And while their accumulated experience offsets in some degree their accumulated ailments, the chances are that at 70 they are not all as well able to work as in early life.

As to the remedy, I am inclined to concur substantially with the gentleman from Georgia [Mr. LIVINGSTON]. Give the Civil Service Commission and the force in that office something to do besides examining papers and reporting general averages and the eligible lists. Let them examine the employees as they grow old, idle, or otherwise incompetent to do good average work. Let their salaries be reduced from time to time and made commensurate with their earning power. That will not mean starvation exactly. If they have made no provision for the future, they will have to curtail their living expenses to fit their incomes. That will be pretty hard, for it is an easy matter to increase one's expenses, but very difficult to reduce them. Habits of ease and comfort grow on one until luxuries become necessities. This gradual tapering off of old men's salaries, which may seem to them like gradual starvation, will have to be endured if by economy and thrift they have made no provision for their age. Retribution is one of nature's great laws. Then, it will serve as an object lesson to the young men in the service to save a little while the sun shines for a rainy day.

The other proposition is to remedy the present evil by rotation in office. That was suggested by the gentleman from Ohio [Mr. GROSVENOR], and apparently approved by several other Members of the House. My notion is that this would be bad for the public service and worse for the body politic. Experience in any work, however simple, increases the efficiency.

Much of the work in the Executive Departments is technical and difficult, and the mastery of it becomes a profession. Great railroad corporations and business houses recognize this fact, and retain their clerks and employees during good behavior, and permit them to gradually rise in the service. In those concerns the heads of the businesses are apt to continue permanently. Much more important is it that the people who do the actual work continue in the service of the Government, because the heads of Departments and high executive officers, who are not in the classified service, come and go with each change of Administration. With rotation in office every five or six years, and a hard and fast rule for its enforcement, every employee would know when his time would come to leave. He would be constantly on the lookout for other employment, and would leave on a moment's notice when such an opportunity occurred. Further, there would not be much incentive to improve, for as soon as he became proficient in his line of work he would have to abandon it to his successor. This would lead to confusion, to waste of time and energy in educating people only to be dismissed as soon as they became proficient and valuable. It would in my judgment, lead to more extravagance and loss than the present system, even with the superannuated help.

But the effect of this system on the young men and women who would rotate in and out of Washington would be very injurious and unfortunate. The most promising young men would not desire that kind of employment. Six years between 20 and 30 are an important part of a young man's capital and stock in trade. Those are years of activity, energy, ambition, and willingness to work and make a start in life. The foundation of a business career should be laid during that period. If a young man have a profession in view, those years should be spent in patient toil and study, and if in adversity, because of lack of clients or patients, so much the better. He is then full of hope and aspirations and can enjoy the pleasures of anticipation. Those years should not be frittered away in a line of work which he does not intend to make his life vocation.

But what would be the influence of this system on the young man who would accept this kind of temporary employment? I will admit that plenty of help could be secured, but not the best. The attractions of this beautiful city would charm some. Comparatively large salaries, short hours, and light work would secure others. They would flock in from the farms, schools, and stores, with high aspirations and good intentions to save their money, with which to start in some business or profession; but a certain place is said to be paved with good intentions. They would find living in this city expensive, distances long, walking laborious, street cars convenient, theaters open, restaurants inviting, and the fair sex abundant and willing to be entertained. They would be deprived of the wholesome influences of their homes and mothers, and poor human nature is weak and prone to pleasure. Their monthly stipends would melt away like a June frost, and their good resolutions with them. They would surrender themselves to the social conditions of their new environment. They would buy dress suits on the installment plan, read Town Topics, float on the fringe of society, and learn to converse in the elaborate nothings. They would not dare express any views on public questions, and from perpetual restraint would soon cease to think. The tendency would be to make them timeservers, and they would fast lose that freedom and independence and mental virility which is the inheritance of every American and should continue his abiding possession.

Then, too, they would find it embarrassing to obey the President's injunction against race suicide. For without means, without prospects, and without steady employment and an assured income they would hardly dare assume the responsibility of families; and mothers of marriageable daughters, especially in Washington, would not look with favor on their suits. At the end of six years they would have to leave, without capital, without business, without trade or profession, and with expensive tastes and extravagant habits, and perhaps inoculated with the "lazy bug," for which Doctor Ashford thinks he has recently discovered a specific. They would have to go out into a cold, cruel world empty-handed, heavy hearted, and a new relay would drift in to take their places and go through the same demoralizing rotation and routine.

The theory of rotation in office may be, and I think it is, popular with the masses of the people throughout the country. It is quite natural that men who work at the primaries and polls and bear the burden of practical politics should feel a little envious of their neighbors, who, by reason of more book learning, get into the classified service of the Government, where they have permanent employment, sure pay, and short hours. The idea of putting them out and taking their places seems attractive. They think that good things should be passed around so that each may get a taste. But such a process would prove an illusion and a serious damage in the long run. It would be a loss to those going out and a curse to those going in.

The Government clerks at Washington are not to be envied. An annual salary of $1,000 looks big to a young man out on a farm or in a village. He thinks that on such an income he can be a person of considerable consequence. He comes to this city, the center of political and social affairs and the home of millionaires, who spend money like water in luxury and style. His income is very small in comparison, and seems to him smaller year by year. Worse yet, he continues to shrink in his own estimation. He becomes discontented and dissatisfied with himself, because he can not help comparing his condition with that of those more fortunately situated. He thinks he is wasting his life and missing opportunities, but has not the courage to cut loose and try his luck at something else. Thus he grinds out his existence, doing one thing and doing it well. But he has no chance for initiative and little chance for development, and practically becomes an automatic cog in the great machine. Many bright and promising intellects have been thus stunted and dwarfed. They make sacrifices in the public service and are entitled to some consideration.

Some men begin to break down at 65, and at 70 they are worn out. I do not suggest that they should be retained and salaried, for that would in effect put them on a civil pension list. But why should a man who has led a temperate life and is strong and vigorous at 65, and able to do a high-class work, be reduced in rank and pay? Why should he at 70, while still able to render faithful and efficient service, be turned adrift by an unrelenting and automatic law? Each man should be treated according to his merits and each employee should be given a square deal.

The Clerk read as follows:

Official reporters: For six Official Reporters of the proceedings and debates of the House, at $5,000 each; assistant official reporter, $1,500; in all, $31,500.

Mr. HARDWICK. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. HARDWICK. I make the point of order against the provision, in line 1, page 21, $1,500 for the payment of the assistant official reporter. Under existing law he gets $1,200, and I am obliged to make the point of order.

The CHAIRMAN. The Chair is unable to hear the point of order.

Mr. HARDWICK. I make the point of order that under the existing law the assistant official reporter gets $1,200, and the proposition now is to make it $1,500 in this bill; therefore I make the point of order against it.

The CHAIRMAN. The Chair will hear the gentleman from New York.

Mr. LITTAUER. I have no answer to make against the point of order, but I want to call the attention of the House, however——

Mr. HARDWICK. I reserve it just a moment.

Mr. LITTAUER. Here is an official of the House, the assistant official reporter, who now receives a compensation of $1,200. He sits at this moment at the desk in front of you. His work is to gather together the manuscript of our speeches here, as written out by the Official Reporters, to see that the Members who wish to revise their speeches have an opportunity to do so, and to see that the entire manuscript report is properly put together at the end of the day. He has other duties in connection with the same work, and his services require not only constant vigilance, but a decidedly higher degree of intelligence than is required in many other forms of service about this House, for which salaries as large as $1,500 are paid. We believed it was simple justice to him to raise his salary to $1,500.

Mr. McCLEARY of Minnesota. He is a stenographer, is he not?

Mr. LITTAUER. His work here is not stenographic. It is what I have stated.

Mr. McCLEARY of Minnesota. But he is a stenographer?

Mr. LITTAUER. He is.

Mr. BURLESON. I desire to supplement what the gentleman from New York has said by saying that every one of the corps of Official Reporters joined in an earnest request to the subcommittee that this increase be given, thinking that this man's compensation was less than he actually earns.

Mr. HARDWICK. Mr. Chairman, in view of the statement which has been made on this particular matter, I withdraw the point of order.

The CHAIRMAN. The Chair understands that the gentleman from Georgia withdraws the point of order.

Before proceeding further, the Chair would like to ask the gentleman from New York a further question with reference to a previous item which went out on a point of order. The Chair understood that the only authority for it was found in the current appropriation bill. The Chair would now like to ask whether that authority consists of anything further than the mere appropriation? It might well be that in an appropriation bill there was legislation. Of course, if such legislation has been concurred in by the other legislative body and approved by the Executive, it is just as much law, although contained in an appropriation bill, as if contained in any other bill; but a mere appropriation for the current year would not make it have the force of continuing legislation so as to support an appropriation for a different year. A permanent provision in an appropriation bill—creating a permanent and continuing office—would, however, stand upon a different basis.

Mr. LITTAUER. That was the point which I wished to call to the attention of the Chairman.

The CHAIRMAN. Will the gentleman read the paragraph again?

Mr. LITTAUER (reading):

For stenographic and typewriting services, to be expended by the chairman of the conference minority, and to continue available during the fiscal year 1906, $600.

The CHAIRMAN. That is merely an appropriation for the current year, and under the ruling cited does not create a permanent office nor authorize an appropriation for any period beyond the current year.

Mr. LITTAUER. It is on all fours with all other appropriations for the current year, is it not?

The CHAIRMAN. There have been, in some instances, items of permanent legislation in an appropriation bill, but this is not one of them.

Mr. LIVINGSTON. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. LIVINGSTON. On page 16, where I attempted to amend by striking out the word "sixty" and inserting the word "seventy," Members who voted against the proposition stated to me that they did not understand it, did not know it was the action of the House. I ask to go back to that.

The CHAIRMAN. It could be done by unanimous consent only.

Mr. LITTAUER. I must object at this time to returning to that paragraph. We may take it up later.

Mr. LIVINGSTON. Then I shall ask to take it up later—when we get to the end of the bill.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

That wherever the words "during the session" occur in the foregoing paragraphs they shall be construed to mean the one hundred and nineteen days from December 3, 1906, to March 31, 1907, both inclusive.

Mr. SOUTHARD. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. The gentleman from Ohio offers an amendment which the Clerk will report.

The Clerk read as follows:

On page 21, line 7, after the word "at," strike out "five" and insert "twenty-five."

Mr. LITTAUER. That amendment comes too late, Mr. Chairman. The paragraph has been passed, and the next paragraph has been completed.

Mr. SOUTHARD. Mr. Chairman, I was on my feet and addressing the Chair.

The CHAIRMAN. The gentleman is correct. The Chair directed the Clerk to cease reading, but the Clerk did not hear the Chairman. The Chair will recognize the gentleman from Ohio to offer his amendment.

Mr. LITTAUER. I reserve the point of order against the amendment and request that it be read again.

The CHAIRMAN. Without objection, the Clerk will again report the amendment.

The Clerk again read the amendment.

Mr. SOUTHARD. Mr. Chairman, this amendment may be subject to a point of order.

Mr. LITTAUER. I insist on the point of order, Mr. Chairman. I do not understand the amendment. The existing law fixes the compensation at $5,000. Is the proposition of the gentleman to make it $25,000?

Mr. SOUTHARD. Mr. Chairman, I offer the amendment in another form.

The Clerk read as follows:

On page 21, line 7, strike out the words "five thousand" and insert the words "two thousand five hundred."

Mr. LITTAUER. To that I make the point of order.

The CHAIRMAN. The Chair thinks it is within the prerogative of the House to appropriate a less sum than the salary fixed by law, and overrules the point of order. The question is on the amendment offered by the gentleman from Ohio.

Mr. SOUTHARD. Mr. Chairman, I have no desire to discuss this question at length, but this committee has assiduously examined into the salaries which have been paid to the different employees of the House. We have been raising the salaries of clerks and janitors and cutting down salaries, and it seemed to me that it would be well to call attention to the salaries which we are now paying to the committee stenographers of the House. I was prompted to call attention to this matter by a little incident which happened the other day in the committee.

A gentleman who had appeared as a witness before the committee wrote me saying that he had received a bill for a small amount, and I took it to be a bill from one of the committee stenographers for certain notes which had been furnished him by the stenographer. That was perfectly legitimate, Mr. Chairman. There was nothing out of the way with it at all, but it was merely a suggestion that there was a way open by which the committee stenographers might increase their compensation beyond that which is provided in the legislative appropriation bill of the House.

It was a transcript of the gentleman's own testimony. He had a perfect right to ask the stenographer for a transcript of the notes, but he wrote in asking if there was not some way by which the committee could provide for the payment of this bill to the stenographer. Now, it seems to me that the amount paid the stenographers, who only give a part of the time during five months of the year on the average, and who receive a compensation of $5,000, ought to be sufficient without extra compensation. It seems to me that this committee might well direct its attention to determine whether or not $5,000 is not more than a fair compensation for work which these men perform. I would like

to ask the chairman of the committee or the distinguished gentleman from New York, who has charge of this bill, who appoints the stenographers to committees?

Mr. LITTAUER. The Speaker of the House of Representatives.

Mr. SOUTHARD. Who fixes the compensation?

Mr. TAWNEY. It is fixed by law.

Mr. SOUTHARD. I have no desire to further oppose this appropriation, but I would like to have a vote on the amendment.

Mr. TAWNEY rose.

The CHAIRMAN. Does the gentleman from Ohio yield to the gentleman from Minnesota?

Mr. TAWNEY. I wish to be recognized in my own right when the gentleman is through.

Mr. SOUTHARD. I have said all I wish to now.

Mr. TAWNEY. Mr. Chairman, I am convinced from the remarks of the gentleman from Ohio that the committee has made a great deal more investigation into these services than the gentleman has. Had he investigated it he would have found that these committee stenographers have to pay for the translations that are made. They employ their own typewriters, and when there is a transcript desired, as was desired by the friend of the gentleman from Ohio, that goes to the typewriter or the person that is employed by the stenographer for payment of the services which that typewriter renders in the making of the transcript.

Now, one word further. The committee stenographers work from the time the committees meet in the morning until 5 and 6 o'clock at night.

Mr. LITTAUER. Oh, yes; and frequently until midnight.

Mr. TAWNEY. I mean with the committees. They must then dictate their notes to a phonograph, or to another stenographer, or write them out themselves. They receive the same compensation that the stenographers of the House receive, while the stenographers on the floor of the House come here at 12 o'clock and remain until 5, when their work is practically completed, and the House reporters have the same vacation, from the close of one Congress until the beginning of the next Congress, or the close of one session until the beginning of the next session. I am certain that if the gentleman had given the investigation to this service that he should have done before proposing his amendment and making the criticism that he has he would have been convinced, as the committee is, that their services are worth as much if not more to this House than the services of the stenographers who report the debates on the floor of the House. They are engaged constantly. Take the Committee on Appropriations. For five weeks these stenographers, since we have commenced the consideration of the appropriation bills, have been working there every day, and take all of the hearings.

Mr. BUTLER of Pennsylvania. The gentleman is referring to the stenographers who take the notes of the committee hearings?

Mr. TAWNEY. Yes.

Mr. BUTLER of Pennsylvania. They are the hardest worked people about the Capitol. I am glad to have a chance to add my testimony.

Mr. BARTLETT. Mr. Chairman, the gentleman from Ohio stated that some gentleman who gave his testimony before the committee was required to pay for the transcript.

Mr. SOUTHARD. Yes.

Mr. BARTLETT. Well, if that gentleman had waited until the next day he could have gotten it printed by the committee free of charge. I apprehend the reason the stenographer charged for it was because the gentleman wanted it right then and there.

Mr. SOUTHARD. Obviously; I said there was nothing wrong about the transaction at all.

Mr. BARTLETT. I understand that; but if the man had waited until the next day he would have gotten it printed free of charge.

Mr. SOUTHARD. Oh, that was my answer to the gentleman, that if he had waited a day he could have had it printed for nothing.

Mr. GROSVENOR. Mr. Chairman, I want to know of the chairman of the committee if it is not a fact well known by every Member of Congress that these four men work practically day and night from the beginning of Congress to its adjournment?

Mr. TAWNEY. Certainly, it is.

Mr. GROSVENOR. And that it takes a very high degree of skill in that profession to do this work?

Mr. TAWNEY. As high as the degree of skill required by the men who report the debates on this floor.

Mr. HILL of Connecticut. And this system was adopted as a matter of economy rather than to pay the regular rates.

Mr. McCLEARY of Minnesota. These assistants that these men have, are they paid by these stenographers or by the Government?

Mr. TAWNEY. Paid by the stenographers.

Mr. SOUTHARD. I would like to ask the gentleman a question. When these stenographers are employed to do work during vacation I understand that they receive extra pay for their work.

Mr. TAWNEY. When they are working for the Government? I do not so understand it.

Mr. LITTAUER. Oh, no; I think the gentleman is mistaken.

Mr. TAWNEY. Why, it is against the law for them to receive extra compensation from the Government for extra work done, as I am informed by the Reporter who is now taking down my speech.

The CHAIRMAN. The question is on agreeing to the amendment.

Mr. SOUTHARD. Mr. Chairman, I desire to say a word in answer to what the gentleman from Minnesota [Mr. TAWNEY] has just said. Fortunately or unfortunately I have had some experience, which has led me to know something of the work of these committee stenographers. I have no doubt that at times they perform arduous service. There is no question about that. Occasionally they may perform a long day's work, but it is not a usual and customary thing, according to my experience, that they are employed in the way in which the gentleman from Minnesota [Mr. TAWNEY] says they are employed. Supposing they do employ some one to transcribe their notes after they have talked them into a phonograph, to be reproduced by the typewriter. That service is a comparatively cheap service. We who have employed young ladies to do that service know that it can be had for a comparatively nominal sum.

Mr. TAWNEY. Mr. Chairman, will the gentleman permit an interruption?

Mr. SOUTHARD. Certainly.

Mr. TAWNEY. Is the gentleman not aware of the fact that the men who take the testimony before the committee of the House are required to have the highest class of ability that is demanded of any stenographer in any service. They must have technical and scientific knowledge in order to understand all of the terms used.

Mr. SOUTHARD. Oh, so far as technical knowledge is concerned, a large amount of it is not required. It requires no more scientific knowledge or technical knowledge, in my judgment, than it requires to take the notes of a witness in a court room, where all kinds of subjects are dealt with, as they are in Congress. In the State of Ohio for many years we have had our court stenographers, who, so far as I am able to understand, do far more work than do the stenographers before the committees. They were paid $1,200 per year, or $100 per month, and I know they were good stenographers; and I know further that there was no dearth of applications for those positions.

Mr. TAWNEY. Is it not also a fact that your court stenographers charged so much per folio for every line of testimony which they transcribed?

Mr. BUTLER of Pennsylvania. Sixty cents a page.

Mr. SOUTHARD. No; 30 cents a page.

Mr. GROSVENOR. Why, Mr. Chairman, the court stenographers of Ohio charge a ratio far beyond that which these men are being paid here.

Mr. TAWNEY. So they do in every State.

Mr. GROSVENOR. And every lawyer that tries a case in court and has to go to his client in order to get the money to pay for those expenses knows that fact.

Mr. SOUTHARD. Well, I have had a good deal of stenographic work of that kind done and that is not my experience. I want to say this, that I believe that in the State of Ohio or in any other State of this Union you can obtain competent stenographers by the hundred for $2,000 a year.

Mr. LITTAUER. Does the gentleman believe there are stenographers by the hundred and five hundred capable of doing the same kind of work that these stenographers do?

Mr. SOUTHARD. I want to say during a number of years I had in my employ a stenographer who cost me less than a hundred dollars a month, and I know of a number of stenographers whose salaries do not exceed a hundred dollars per month, who, I believe, are superior in a general way to many of the men who are employed as committee stenographers of this House. I do not mean the present stenographers, but I mean many of those who have been employed here since I have been a Member of this House. It seems to me that we are paying most extravagant salaries for this work that we are getting done in the committees of this House.

Mr. BUTLER of Pennsylvania. If the gentleman will allow a question before he sits down.

Mr. SOUTHARD. Certainly.

Mr. BUTLER of Pennsylvania. The gentleman would not compare the services of a stenographer of the House to the services rendered by stenographers in taking testimony ordinarily?

Mr. SOUTHARD. I have not been speaking of the stenographers of the House; I have been speaking of the committee stenographers, those who perform services for the committees of the House. Frequently I have seen two of these men employed in taking the testimony of a single witness who was before the committee, two stenographers presumably being paid $5,000 per annum each for the work which they were performing.

Mr. BURLESON. Mr. Chairman, I do sincerely hope that the amendment offered by the gentleman from Ohio will not be adopted. No substantial reason has been given why we should make a reduction in the salaries paid these four stenographers to committees. They are engaged in performing the same character of service that is done by the official stenographers upon this floor. During the session they work constantly through the day, frequently after the House adjourns, and sometimes long hours into the night. Why should they be paid less than they have been receiving for years? I must confess that I do not understand this spirit of economy which seems to have suddenly seized certain gentlemen upon this floor. The Committee on Appropriations have brought before the House this bill, which makes a larger reduction in the number of clerks and employees than any bill of like character that has been brought before the Congress for many years. It creates fewer new places and admittedly increases fewer salaries than any like bill brought before you for years. In this bill your committee has made a more earnest effort toward an equalization of salaries than has been made in any other bill of like character during the time that I have been in Congress. As a matter of fact, this is the first legislative, executive, and judicial appropriation bill that has been brought before the House since I have been here providing for an actual reduction of appropriations of the public money. I can not understand why it is that all of a sudden gentlemen here are apparently seized with a spirit of economy and move these reductions and raise these points of order. I must confess that, from my standpoint, it seems a belated spirit of economy. There must be something behind it; something I do not understand; some pique or some disappointment—I do not know what it is. I have been continuously absent from the floor of the House for about seven weeks attending the sittings of the subcommittee preparing this bill, where I have had opportunity to observe the labors of these stenographers whose salaries the gentleman is now trying to reduce. During all this time, for hours before this House convenes, these stenographers have been engaged at labor, and, as I have said, frequently after the House has adjourned. During this time I have not known all that has taken place in the House, but surely something must have happened. Something must have occurred that does not appear upon the surface to have aroused this belated spirit of economy which apparently has taken possession of certain gentlemen upon this floor.

Mr. SOUTHARD. I would like to ask the gentleman a question.

Mr. BURLESON. Certainly.

Mr. SOUTHARD. Would he not be willing to undertake to furnish stenographers to do the committee work that is done in this House for a hundred dollars a month each?

Mr. BURLESON. I call the gentleman's attention to the fact that in the paragraph just before the one we are now considering we pay stenographers who do exactly the same character of work upon this floor exactly the same salary provided for these committee stenographers. Why should we make a reduction of the salary of stenographers who do the work for the committees, where they work just as long, where they work just as arduously, where they work just as efficiently? Why should we discriminate against them? Why did not the gentleman make this point against the official stenographers? Why did you not offer to reduce that item of the bill?

Mr. SOUTHARD. Why has the gentleman any objection to answering my question?

Mr. BURLESON. I do not understand your question. I did not hear the gentleman's question.

Mr. SOUTHARD. I said could not the gentleman undertake to provide stenographers just as good as we have to do the work before these committees for a hundred dollars a month?

Mr. BURLESON. I feel quite sure that it could not be done, and I do not believe there is a man on this floor who believes that it can be done, save the gentleman from Ohio.

Mr. GROSVENOR. Will the gentleman from Texas yield to me for a moment?

Mr. BURLESON. Certainly.

Mr. GROSVENOR. During this present session of Congress these four reporters to committees have in one or two instances found themselves compelled to employ outside assistance.

Mr. BURLESON. I do not doubt it.

Mr. GROSVENOR. And the pay of these gentlemen they brought in here amounts not to a hundred dollars a month, but more than a hundred dollars a day in many instances.

Mr. BURLESON. I am prepared to accept the gentleman's statement.

Mr. GROSVENOR. You can no more find men who can do this work for $100 a month than you could obtain a competent engineer to run a railroad train at the price of a brakeman.

Mr. BURLESON. I agree with the gentleman, and insist that no sufficient reason has been given why these salaries as fixed in this bill should be reduced.

Mr. SOUTHARD. Will the gentleman yield to another question?

Mr. BURLESON. Certainly.

Mr. SOUTHARD. Does not the gentleman believe that we could hire competent stenographers for $2,000 a year?

Mr. BURLESON. I do not know what you can hire stenographers for in the State of Ohio, but I feel quite sure that you can not employ the character of stenographers that are required in the important committee rooms for any such sum.

Mr. SOUTHARD. Is it not a fact, with our force of stenographers as it is now constituted, that there are extra services and that there must be extra stenographers employed?

Mr. BURLESON. That statement has no bearing on the issue you have raised by your amendment.

Mr. TAWNEY. There have been seventeen committees of this House holding hearings on one day.

Mr. BURLESON. Seventeen different committees being served by stenographers? If so, unless these four committee stenographers are ubiquitous, I do not see how they could serve them all, and of course extra service would then be required.

Mr. SOUTHARD. I make no contention of that kind at all.

Mr. LIVINGSTON. I want to suggest to the gentleman from Ohio that he could hire a stenographer at $40 a month, but he would not get the class of stenographers they use in the committee rooms.

Mr. SOUTHARD. I can hire a stenographer for $15 a week who is superior to some stenographers who have appeared before my committee.

Mr. LIVINGSTON. And I will guarantee you could not find one that would last fifteen minutes in this House.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Ohio.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

For contingent expenses, namely: For wrapping paper, pasteboard, paste, twine, newspaper wrappers, and other necessary materials for folding, for the use of Members of the House, and for use in the Clerk's office and the House folding room (not including envelopes, writing paper, and other paper and materials to be printed and furnished by the Public Printer, upon requisitions from the Clerk of the House, under the provisions of the act approved January 12, 1895, for the public printing and binding), $10,000.

Mr. HARDWICK. Mr. Chairman, I desire to make a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. HARDWICK. I desire to make this point of order against this item of $10,000. I will reserve it, and ask the gentleman from New York to explain it. This is different from the amount appropriated last year. Seven thousand dollars was appropriated in the legislative bill last year.

Mr. LITTAUER. Yes, sir; and $3,000 in the deficiency in this session of Congress.

Mr. TAWNEY. Let the gentleman make the point of order and we will have a deficiency.

Mr. LITTAUER. It simply leads to a deficiency. Our idea was to make a proper and ample appropriation for contingent expenses, based upon past years' experience, and submit such a fair sum to those who have to carry out the purposes of the House, with a view that they hold their expenditures within what we determine to be a proper sum.

Mr. BURLESON. I will state to the gentleman that it is a fact for five years we have had this deficiency.

Mr. HARDWICK. The gentleman does not propose to ask for $3,000 in the deficiency bill?

Mr. LITTAUER. I certainly do not. We practically have nothing to do with the asking for a deficiency of the contingent expenses of the House of Representatives or recommending certain appropriations of the House appropriations, but it depends upon those whose duty it is to administer the appropriations for the requirements of the House whether it be used or not.

Mr. HARDWICK. It is the gentleman's idea that if we make this appropriation of $10,000 we will have no deficiency?

Mr. LITTAUER. That is the idea. The record shows that this has been done; and we thought it useless to take up the time of the House.

Mr. HARDWICK. All right, I withdraw the point of order.

The Clerk read as follows:

For packing boxes, $3,500, or so much thereof as may be necessary.

Mr. HARDWICK. I reserve the point of order on that. There is an increase in the appropriation for packing boxes.

Mr. LITTAUER. Because of the increased cost of pine lumber. We were advised that in order to get as good packing boxes as we did before we should have to add $500.

Mr. HARDWICK. Did the committee look into that question?

Mr. LITTAUER. We did.

Mr. CLARK of Missouri. I want to ask the gentleman a question or two. I want to know what is the reason, if you know, that such inferior boxes are furnished the Members of the House of Representatives and such superior boxes are furnished to the Senate?

Mr. LITTAUER. I have not looked into the quality of boxes furnished the Senate, but I did go downstairs the other day and saw three of the samples on which bids were to be opened for the supply of the House of Representatives, and I think them altogether superior to the boxes that I received when I first came here. I believe they are now well and strongly made, and ought to well serve the purpose for which they are intended.

Mr. CLARK of Missouri. I would rather have one box of the kind furnished to the Senate for practical purposes than to have six of the things furnished us.

Mr. LITTAUER. I have never examined the Senate boxes.

Mr. BUTLER of Pennsylvania. Why can not we have the same sort of a box?

Mr. CLARK of Missouri. The only way we can get them is to get into the Senate, and several of us have not been able to get there as yet. [Laughter.]

Mr. BUTLER of Pennsylvania. Is it absolutely necessary to get into the Senate to get one of those boxes?

Mr. CLARK of Missouri. I will tell you what the condition is. I have investigated the matter as a practical question. You take these boxes that we get and they are so flimsy in their structure—if that is the correct word to use—that when you fill them full of documents and stuff of that sort the sides spring apart so that you can not lock or unlock them with any sort of convenience unless you get down and put your knee against the front of it and press it in.

I went down here and got into a confabulation with the man who furnishes the boxes, and his explanation about it is this: That the Senators have their boxes made over there by a carpenter of their own. They give him directions to make them a certain kind of a box, while the House boxes are let out by contract.

Mr. BUTLER of Pennsylvania. Do they each cost the Government the same amount of money?

Mr. CLARK of Missouri. I do not know whether they do or not, and to make a short answer, I do not care. [Laughter.] What you want is a box that will hold together. Now, these boxes we have, if you load one of them up to its full capacity with heavy stuff like books and documents and start it out as far as it is where I live—a thousand and odd miles—unless you reenforce the thing with ropes the chances are ten to one that it will burst open before it gets there.

Mr. LITTAUER. Are not our boxes better to-day than they were ten years ago?

Mr. CLARK of Missouri. I do not think they are as good as when I first came here. The small white boxes are much superior to the redwood box, and whoever has charge of the boxes—I do not know who it is—ought to look into the matter and see that we get boxes of some kind that will hold together.

Mr. LITTAUER. I notice that the Senate pays $975 for the material for the boxes. Then it has carpenters to form the boxes—three carpenters, at $960.

Mr. CLARK of Missouri. How much do we pay?

Mr. LITTAUER. For 321 boxes we pay $3,500, or we propose to pay that; we have been paying $3,000.

Mr. CLARK of Missouri. I would rather have one box during each Congress that is a good one; that is serviceable: that protects the stuff that is put into it, than to have two or three of the boxes that I usually get. It is a matter of plain common sense.

Mr. GAINES of Tennessee. I would like to ask the gentleman from New York how he knows the cost of these boxes, and how this rise in material has been brought about by the increase of cost of pine lumber?

Mr. LITTAUER. I have been so informed by the gentleman who makes the contract for the House.

Mr. GAINES of Tennessee. I will say to the gentleman, as a matter of fact, that we have two antitrust suits against the pine-lumber combination, one in Georgia and one in Mississippi, and I hope by next year we can get the boxes cheaper and better.

Mr. SIMS. Why are the redwood boxes made?

Mr. LITTAUER. I do not know. It has been the custom of the House that we should have three boxes—one red and two pine. We make this appropriation—there has been no criticism of the boxes made to us, or on the floor of the House, for some time. I am informed that years ago we did have a carpenter to make the boxes, and then they would hardly hold together.

Mr. SIMS. I understood the gentleman to say that he went down and viewed the samples; did it include the red boxes?

Mr. LITTAUER. It did.

Mr. SIMS. It isn't pine at all.

Mr. LITTAUER. No.

Mr. SIMS. It might as well be paper.

Mr. HAY. In view of the discussion that has gone on, I move to strike out the paragraph. I never could see any use in this appropriation.

The CHAIRMAN. The Chair will first inquire whether the gentleman from Georgia has made his point of order?

Mr. HARDWICK. I reserved it, and I now make it.

The CHAIRMAN. What is the gentleman's point of order?

Mr. HARDWICK. That the appropriation authorized by law at $3,000, and this item increases it $500.

The CHAIRMAN. Does the gentleman from New York desire to be heard?

Mr. LITTAUER. I do not think this is subject to a point of order. Here is a general appropriation for packing boxes. It is an object in progress, and is authorized by law.

The CHAIRMAN. The Chair was about to ask the gentleman from New York whether these boxes are now in the course of construction?

Mr. LITTAUER. I believe some of them must be. At least the lumber must be manufactured by this time.

The CHAIRMAN. It may be a somewhat liberal construction, but the Chair rules that this is a work in progress, and therefore overrules the point of order.

Mr. HAY. I move to strike out the paragraph.

The CHAIRMAN. The gentleman from Virginia offers an amendment, which will be reported by the Clerk.

The Clerk read as follows:

On page 22, strike out lines 21 and 22.

The CHAIRMAN. Does the gentleman from Virginia desire to be heard?

Mr. HAY. I do not care to discuss the matter.

Mr. GAINES of Tennessee. Mr. Chairman, I desire to be heard on this, because I have some of these boxes, and I think the appropriation is a proper one. I pack my official letters, my official papers, my official documents in these boxes, and I am compelled to do that going backward and forward attending sessions of Congress. These boxes are now filled with these papers, except such of them as I have deposited with the committees, and so forth. Now, I do not know whether these gentlemen have used their boxes or not. I can not do without them. Unless these boxes are furnished I will have to go and buy some boxes and pay for them out of my own pocket to carry my official papers and take care of them.

Mr. HAY. Is it not a fact that in the post-office appropriation bill which was reported to this House a day of two ago it is provided that only packages of four pounds or less in weight can be franked?

Mr. GAINES of Tennessee. I really can not answer that question. I have not seen that bill. We all use these boxes in the manner I have stated.

Mr. HAY. I understand that to be the fact, so that you can not frank your boxes hereafter.

Mr. BURLESON. That bill has not yet passed.

Mr. HAY. That is a provision of the pending post-office appropriation bill.

Mr. GAINES of Tennessee. In reply to the gentleman's inquiry, I will say that I do not know whether that is the law or not. I remember that about the end of the first session of the Fifty-fifth Congress—the first Congress of which I was a Member—I was notified by some official of the House that "your boxes are ready for you." I did not expect to be buried in them and I asked him what they were for, and he told me they were used for the purposes I have stated. I have those boxes now, unless they are worn out. I have several of them, all filled with these papers, either at my home office or at my office here in the city of Washington.

Mr. LITTAUER. Are they holding together?

Mr. GAINES of Tennessee. They are holding together.

Mr. LITTAUER. And you claim they are good boxes.

Mr. GAINES of Tennessee. Yes. One is better than the other. The last one was a cedar box. I have one good box and others that are not so good. I believe I have three in all.

Now, as to the 4-pound proposition that the gentleman speaks about, I do not know anything about that. Some officer of the House, I do not remember who, said I had a right to send those boxes home through the post-office.

Mr. LIVINGSTON. The law which the gentleman from Virginia refers to has not yet passed.

Mr. HAY. I am talking about the provision in the pending post-office appropriation bill.

Mr. GAINES of Tennessee. I gave my boxes to the Postmaster of the House. He had them put on the House mail wagon and sent to the train, and they were carried and delivered to the post-office at Nashville, and I had them hauled from the post-office up to my office. If there is no law authorizing that to be done, then to that extent I have been disobeying the law, and if the Government has lost anything by it, I will try to have it made up out of my next salary, Mr. Chairman. [Laughter.] But in all seriousness, the boxes are necessary for me, just as necessary as the envelopes in which I put the hundreds of letters which I write. If they could not be franked I would have to send them by express. Indeed, in one case I did pay expressage on one or two of those boxes.

Mr. STAFFORD. Mr. Chairman, I move to strike out the last word for the purpose of making an explanation to the committee concerning the amendment contained in the post-office appropriation bill that was just referred to by the gentleman from Virginia. We do not seek to change the law in anywise as to the weight that may be mailed under the franking privilege, but merely to limit the use of the penalty privilege, which has been abused by the Departments in sending freightable matter through the mails in large quantities which should have been sent by freight. If that amendment is adopted by the House it will not limit in anywise the franking privilege which the Members have at the present time.

Mr. GAINES of Tennessee. I would ask, Mr. Chairman, if we have the legal right to send these boxes through the post-office, as I have been sending them?

Mr. STAFFORD. The present law permits the Departments to mail any package under the penalty privilege, but Members of Congress are restricted in the use of the franking privilege to public documents, seeds, and the like, and letters relating to official business, which can be mailed in small or large quantities. They have not the authority to mail cows or pianos or such other matters as were alleged in an editorial in the Washington Post recently that Members of Congress were sending under their franks, but which upon investigation the committee found had no basis in fact whatsoever.

Mr. GAINES of Tennessee. Well, I have not mailed any cows or bedstead or pianos or anything of that sort. Absolutely nothing but official matter on official business. Of course, Mr. Chairman, these boxes should only be given the Members when they need them, and the law should so provide, and I shall vote for such a provision if we have no such law.

Mr. MORRELL. Mr. Chairman, my attention has been called to certain articles which have, from time to time, appeared in one of the leading journals of Washington, criticising a speech which I made on the comparative expenditures of Washington and certain other cities, and an effort has been made to discredit the figures which I presented.

Great stress is laid in these articles upon Bulletin No. 20 of the Census Bureau, and while the tables shown on pages 464, 470, and 476 of that document bear out the figures which I gave, yet I may state for the information of the House that the tables I presented were made up from the auditors' reports for 1904 of the cities with which I compared Washington a year later than the census document.

The method of refutation adopted is that which in legal parlance is known as "confession and avoidance." The chief matter of avoidance of these newspaper articles is to regard the remarkable differences disclosed by my figures, not as the result of municipal extravagance, but as differences growing out of the problems peculiar to Washington's condition. We are told that the conditions which surround Washington are unknown elsewhere. Other cities have easy sailing, while the condition of Washington is peculiar. There is some slight difference of names, and other slight differences of method, but the main conditions of municipal expense are about the same everywhere. A certain number of people in a given area have to be governed. It costs more in Washington than elsewhere in cities of the same grade. The reason is not attributable so much to these differences of condition as to differences in management and municipal control. But we have heard so often that Washington is the best-governed city in the world that at last we have come to believe it; and when a presentation is made disclosing enormous weaknesses of administration we find it difficult to believe; but when the presentation can not be denied, the next best thing is to avoid it.

In my speech I gave a table of figures showing gross expenditures of seven cities, and followed this by another table showing net or ordinary expenditures of the same cities. These figures are either right or they are wrong. That they were right is evidenced by the fact that they have not been denied. They stand unquestioned, except that census figures for 1903 are offered as a sort of buffer to ward off the force of my charge. Instead of acting as a buffer, however, they support every line of my indictment. My figures, however, were not taken from Census Bulletin No. 20 for 1903, a mere secondhand presentation, but were taken from the first-hand reports of the auditors or comptrollers of the cities named for the year 1904 and compared with figures taken from the report of the Commissioners of the District of Columbia. Every figure shows an actual expenditure of money as vouched by the auditing officers, whose duty it was to make the reports.

A definition was then given by me, a definition originated by these same auditing officers, by which the difference between gross and net expenditure might be ascertained. The total of ordinary expenditure was given by the Commissioners of the District of Columbia, as well as the total of gross expenditure, so that I had nothing to do but to set down this total in both places as the gross and the net expenditure of Washington. The auditors and comptrollers of nearly all of the other cities had made like distinctions, so that in those cases it was merely a work of transcription. In the few cases where these distinctions had not been made by the auditors it was easy to apply the definition and ascertain the ordinary expenditure for every city. Great stress is laid by them upon the difficulty which surrounds calculations of this sort, and a whole column has been devoted by the writer to let the people know how great a task I had attempted, how intricate it was to the uninitiated, and how absolutely I had floundered in my effort to clarify what the writer averred I did not understand.

Auditors have sworn duties to perform, and in certifying over their signatures to certain sums of money which they term gross expenditures and other sums which they term net or ordinary expenditures are but working to let the uninitiated know the truth about expenditures, however much it may be desired by some to befog and mystify the subject. These auditors also certify the constituent items which make certain figures representative of gross expenditures, and anyone by omitting these items may easily ascertain the net expenditure.

I gave the absolute totals for gross and net expenditures of the city of Washington and of six other cities. They were not percentages, but amounts. They were not deductions, they were facts. These figures showed, for gross expenditures, that Washington spent about $3,000,000 more than did Buffalo, a city that in 1900 had a population 27 per cent larger. They showed also that Washington spent almost $4,000,000 more than did Newark, N. J., a city of only 12 per cent less population. These expenditures show that Washington spent almost as much money as the city of St. Louis, a city of more than twice the population of Washington. That it spent almost as much as the city of Pittsburg, and a far greater amount in proportion than Baltimore or Boston.

In net expenditures the figures showed that Washington expended 32 per cent more than Buffalo and 36 per cent more than Newark; that St. Louis, though twice as large and with an area about equal to that of Washington, spent only 18 per cent more; Pittsburg, but 2 per cent more, and Baltimore, 34 per cent more.

They admit these totals and avoid their force by creating conditions which, as we shall see, exist only in the minds of their creators. Now, what are these special pleas of avoidance?

Special plea in avoidance, No. 1.—Here it is, as set out in the columns of the city paper:

> It (Washington) bears the cost of the judiciary from the highest to the lowest court, save the Supreme Court of the United States, whereas in the other cities only the municipal courts of high and low degree are paid for by the city.

Let us investigate these facts.

The auditor of St. Louis, in his report for 1904-5, names the courts for which that city pays expenses to cover the city and county in relation to the State. The courts named by him are:

> Circuit court, circuit court of criminal causes, court of criminal correction, and probate court.

The amount given by him as expenditure for these purposes, as paid by the city, was $160,994. The auditor for the District of Columbia for 1904 gave the expenditures for the courts of the District of Columbia, being "salaries employees, supreme

court, court of appeals, and defending suits in court of claims," at $79,149.

It will thus be seen not only that this plea was false so far as St. Louis is concerned, but that the expense of the judiciary of the District of Columbia, despite the enormity of the disparity of conditions as set out by the critic, was the most rational of all the expenses of the District.

In addition to this the purely police-court expenditures for St. Louis were $124,879, while the same expenditures in Washington were $60,643. But this is not all. As further expense of the city of St. Louis, growing out of its relation to the county and State as paid by the city, the auditor notes the following seriatim:

Costs in misdemeanor cases	$38,000
Justice of the peace courts	94,866
Jury commissioner	25,160
Jury and witness fees	60,000
Jail	42,480
State Reform School, boys	15,000
State Reform School, girls	700
Convicts at State Lunatic Asylum	200
Probationary delinquents	5,200
Court-house and Four Courts building	35,837
In all for the administration of justice, exclusive of municipal courts	478,438
In all for the administration of justice, including municipal courts, $124,879	603,317

When these figures are set in contrast with the paltry figures which are paid for the administration of justice in the District of Columbia in all the courts of high and low degree, the absolute falsity of the claim that Washington pays an expenditure for this purpose which other cities do not becomes apparent. It also shows that the conditions surrounding Washington, so far as the administration of justice is concerned, are much more favorable that in St. Louis.

Special plea in avoidance, No. 2.—It is stated that "Washington is properly credited with expenditures which in other cities are made by county and State." The auditor of the city of St. Louis in the same report further sets out as expense of the city of St. Louis, and as paid out of the revenues of St. Louis, the further items growing out of its relation to the county and State, as follows:

Assessment of revenue	$75,800
Coroner's office	33,204
Eleemosynary institutions and charities: City dispensary, city hospital, female hospital, insane asylum, poorhouse, and house of refuge	652,426
Foundlings	15,000
Indigent pupils at State deaf and dumb school	600
Contingent fund	12,500
Recorder of deeds	57,739
In all	847,367

Adding to this the expense for administration of justice, $478,400, we have a total of $1,325,805 as expenditure paid by St. Louis for general expenses growing out of its relation to the city and county.

Evidently there was no data at hand and imagination was drawn upon for assertions which are worthless in the light of the data furnished by the auditor of St. Louis. I shall set out in an appendix the court and other expenses growing out of the relation of city to county and State for other cities, which will show still further the weakness of the statements made.

Again the statement is made that "the insurance department is everywhere except in the District supported entirely by the State."

This is a sweeping assertion, but, like the other assertions, is merely sophistical and contentious.

In the first place, the city of Washington expends but the trifling sum of $7,812 for this great bureau. The department of insurance is ordinarily located at capitals of States, and, unfortunately for the cities chosen by me for comparison with Washington, only one of these happened to be a capital. Therefore five of the cities had no such department, and therefore paid nothing for it. The city of Boston, however, is a capital, and I hardly think that so far as this city is concerned that the assertion is true. The auditor for the city of Boston in his report for 1904–5 certified to the people of Boston, the people directly interested in the matter, that that city had paid a lump sum of $925,800 as its proportion growing out of its relation to county and State. This sum was charged up to the city of Boston, and appeared in its gross and net expenditures, and to that extent negatives the sweeping assertions of plea No. 3.

St. Louis, although not a capital city, paid the State $1,711,312 to cover statutory obligations of the city in its relation to the State, and we suppose that this would include the infinitesimal obligation covered by the so-called "department of insurance." However, if the alignment of $7,812 will help my Washington critics to release Washington from the charge of extravagant expenditure I cheerfully concede it.

Plea in avoidance, No. 4.—

Other functions performed by State or county officers are here performed by officers of the District of Columbia. In respect of schools contributions are usually made by the State or county, if it be only to the extent of giving the normal school training for teachers, while in a number of cities there is State or county aid for city schools.

The objection to this plea is that it is altogether wrong, so far as the element of State or county aid for city schools is concerned. By State laws a State tax is levied for educational purposes upon city and country alike. In apportioning this money the city gets back in all cases a less sum than the tax amount paid into the State treasury. In no other way could public education for weak districts in the country be maintained. Large cities not only educate their own children but through this State tax educate the children of the rural districts. The amount received by the city from the State *is not State aid in any sense* of the term, but simply its pro rata part of the apportionment. No matter what this amount may be, it is charged up by the auditor in both gross and net expenditure, and as such appears in the figures given by me. The same argument applies to county aid. The richer cities of the county contribute through county taxation a sum of money which makes possible the public education of all the children of the county. So that in its last analysis the cities contribute through State and county taxes to State and county education, and receive back for their own educational purposes a less sum than was paid out. This sum, however, small or large, is expended by the cities and is audited regularly by the city officers as net and gross expenditure. The difference is made up by municipal taxation.

The auditor of the District of Columbia, in his itemized account of expenditures for 1904, nowhere brings into the account the item of normal schools. Hence, so far as the auditor's report is concerned, Washington bore no such expense, unless that expense be included in some other item. The total expenditure for schools in Washington for 1904 was $1,690,371.

The city of Boston sustains at the public expense of the city several very important schools unknown to the Washington schedule, and in 1904 paid out something more than $111,558 for its normal school instruction. The salaries paid to the Teachers' Training School of Baltimore was something more than $23,000. Buffalo also maintains its system of normal schools, which are paid for out of the revenues of the city. The normal department of the Pittsburg High School is supported entirely from the city revenues. Cleveland contributes $17,900 annually for the support of normal training, which is charged to city expenditures. The city of Cincinnati supports its normal schools for the training of teachers in the same way. The Buffalo City Training School for Teachers and the Buffalo State Normal School, although in the same town, are distinct institutions and supported from distinct funds.

Plea in avoidance, No. 5.—In these articles it is stated:

Again the charities and correctional institutions, including prisons and reformatories are here borne entirely by the District of Columbia, whereas in the cities generally they are carried chiefly and often entirely by the State or county.

This is another sweeping assertion, and, like the others, may be demolished by simple presentation of the facts. It will be admitted that the charities of the District of Columbia, as set out in the report of its auditor for 1904, have been well taken care of. The aggregate expenditure for this purpose was $379,265, and included the Reform School for Girls, Reform School, Garfield Hospital, Columbia Hospital for Women, support of convicts and prisoners, Board of Children's Guardians, Central Dispensary, Eastern Dispensary, Women's Clinic, Washington Home, National Association for Colored Women, Newsboys and Childrens' Aid Society, Washington Hospital, German Orphanage, Women's Christian Association, Young Men's Christian Association, Hope and Help Mission, Columbia Institution, jail warden, and St. Ann's Infant Asylum. Of this item $79,919 went for the support of convicts and prisoners and $2,000 for the jail warden.

Now, what have other cities done? The auditor of the city of Pittsburg for 1904 reported an expenditure for charities of $151,117 apart from their prisons, which were supported entirely at the expense of the city, but the exact amount of the expenditure can not be separated from the total. In Buffalo the expenditure for the poor was $120,535. This includes an item for hospitals, homes, and asylums of $57,000.

The city of St. Louis expends upon public charities and corrections, according to the report of the auditor for 1904, $910,524, being city hospital, new city hospital, emergency hospital, insane at State institutions, female hospital, insane hospital, poorhouse, house of refuge, jail, workhouse, care of foundlings, deaf and dumb, insane, reform and industrial, juvenile delinquents, and probationary system. Baltimore in 1904 expended $490,907

for ordinary charity and correctional expenses and $17,676 for extraordinary. Boston spent as follows:

City hospital, relief station, Haymarket Square, and convalescent home	$486,994
Children's institutional department	186,017
Insane hospital department	329,321
Pauper institutions department	213,429
Overseeing poor department	131,284

Besides this Boston paid something more than $900,000 to the State as its expense in its relation to county and State for courts, prisons, etc.

It will thus be seen that plea in avoidance No. 5 has no foundation whatever.

Plea in avoidance, No. 6.—

The District of Columbia, paying for filtration plant, sewage-disposal system, railway terminal, District government building, and other extraordinary improvements, can not be fairly compared with cities which have less extensive projects on hand.

The gentleman should have continued and said, to have made his remarks pertinent, that the cities cited by me had less extensive systems than Washington. Inasmuch as he did not do so it may be fairly inferred that all of these cities had equally as great an expenditure for these permanent improvements as did Washington. The tables for gross and net expenditure contain these very items, and in my speech reference was made to these things. The Commissioners in their report for 1904 put the net expenditures, exclusive of those for the water department and expenditures on account of special and trust funds, at $9,079,908. I used these figures in my speech. The auditor in his report places the gross expenditure at $10,257,547. The difference between these items is what the city of Washington pays for the extraordinary expenditure upon filtration plant, sewage disposal, etc., which expenditure, of course, is spread out over a number of years. The difference is $1,177,639. The difference between the net and gross expenditure of St. Louis is $1,184,985, and St. Louis has as many great projects as Washington. The difference between net and gross for Boston is about $10,000,000, for Baltimore about $4,000,000, for Buffalo about $1,100,000, for Pittsburg about $1,600,000. So that so far as the cities used by me for comparison are concerned they are every whit as public spirited as is Washington and are carrying upon their shoulders enterprises fully as stupendous as any of those adverted to by my critic.

I now propose to show a few of the expenditures borne by the cities I have named which are not borne by the city of Washington nor the District of Columbia.

FIRST. ELECTION EXPENSES.

Washington pays nothing for this purpose. In 1904 other cities expended as follows:

Boston	$162,470
Baltimore	107,685
St. Louis	164,000
Buffalo	23,473
Pittsburg	18,599

SECOND. EXPENSES OF LEGISLATION.

Washington pays nothing for this purpose, all the general legislation of the District being enacted by the Congress of the United States. In other cities the following amounts are paid to common councils and boards connected with these councils:

Buffalo	$49,148
St. Louis	38,446
Baltimore	55,739
Boston:	
Aldermen	29,439
Council	21,546
Incidental	9,702
Committees	17,208
Common council	30,201

THIRD. PARK EXPENSES.

The grounds around the Capitol, the Congressional Library, Botanic Gardens, War and Navy Department, Weather Bureau, Experimental Gardens and Grounds, Agricultural Department, Department of Commerce and Labor are cared for at the expense of the United States alone. The Zoological Park and Rock Creek Park are cared for at the joint expense of the District of Columbia and the United States. The word "park" in Washington has a far different meaning to what it does in other cities. In Washington every little piece of ground in front of the residences along any street is called a park, and forms a part of the city's parking system. In addition to this, there are parks all over the city in kind like the parks of other cities.

The first species of parks, the grass plots in front of residences, so far as curbing and sidewalking is concerned, has its expense cast upon the District of Columbia, one-half of which is paid by the United States. As to the grass itself in front of these residences, the expense for its care is borne by the occupant of the premises. The immense stretches of ground around the public buildings, which form the chief part of Washington's real park system, has the expense of their care cast entirely upon the United States, while the Zoological Garden and the Rock Creek Park share their expense as hereinbefoce named. It will thus be seen that while Washington has many and beautiful parks their expense as to care is to a large part borne entirely by the United States, and only to a limited extent by the District of Columbia in connection with the United States. This is not true as to other cities, many of whom have parks and park areas equally as numerous and beautiful as Washington. These parks in other cities are exempt from all taxation, while in the District of Columbia a valuation is set upon them in the arrangement by which the United States pays into the coffers of the District of Columbia, as an assumed tax upon its buildings and grounds in the District, an amount equal to the amount raised by taxation upon all the other real property of the District. In other words, the United States pays one-half the taxes upon property in the District of Columbia, and in so doing pays the District of Columbia a tax upon large parking areas which in other cities are exempt and produce no revenue whatever. The following table will show what other cities are doing in this line:

Park department expenses in 1904.

Boston	$646,864
Baltimore	329,491
St. Louis	192,495
Buffalo	153,713
Pittsburg	137,510

FOURTH. POLICE EXPENDITURES.

The actual police expenditure for Washington in 1904 was $818,179, a greater amount than that paid by either Buffalo or Pittsburg. In addition to this, the Government of the United States appropriated sums approximating $300,000 for watchmen, exclusive of sergeants-at-arms and doorkeepers. Of this sum, $29,000 was divided in equal parts between the District of Columbia and the United States.

From all these considerations it appears that while Washington may have some expenses in kind unlike other cities, that other cities have also a series of expenses that are unknown to Washington. The tables outlined in my speech instead of being impaired by the comparisons forced upon me by this newspaper criticism, are reenforced thereby.

FIFTH. TAXATION.

There is a general impression throughout the country that the city of Washington, like all other cities, bears the whole burden of municipal taxation, and this impression has been created and fostered. This is not true. The Government duplicates without cost of assessment or collection whatever amount of taxes the District of Columbia raises upon its own account. In other words, the United States Government pays one-half of the taxes of the District of Columbia. Other cities are not so favored. The taxes from all sources raised in the District in 1904 were $4,707,236. The Government paid for that year $4,672,253.

This enables Washington to tax public buildings and parks; a thing other cities are not permitted to do. Buffalo has exempted property belonging to the following persons and corporations:

United States	$6,559,775
State of New York	3,849,595
Erie County	1,774,515
City of Buffalo	10,963,690
Public schools	3,963,000
Private schools	1,361,330
Religious corporations	9,631,080
Cemeteries	895,000
Charitable associations	1,860,000
Scientific associations	931,000
Pensionaries	261,000
Hospital	590,220
Miscellaneous	22,990
Total	42,527,825

The exempted property in Boston belonging to the city of Boston alone is more than $79,000,000.

The following is a list of exempted property in St. Louis:

Public buildings	$4,347,284
Parks	12,069,044
Fire department	995,000
Police department	1,048,000
Water	10,000,000
Harbor and wharf	290,000
Miscellaneous	1,067,000
Total	29,816,328

This excludes all Government buildings and all school and church buildings, which are likewise exempt.

Washington in 1904 exempted for District buildings, churches, hospitals, and colleges the insignificant sum of $1,214,700.

The conditions, so far as the actual facts disclose them, favor Washington. All other cities have no guardian to whom they may appeal and upon whom they may cast an undue part of their legitimate expenditures.

From the facts and figures which I have presented it may be said that the reasoning process of my friend Mr. Deadwood, who, I understand, is the author of all unsigned articles, is about as corrugated as the wrinkles in my brow when I try to think, and the deductions of Mr. Deadwood are about as ambiguous and difficult to find the meaning of as it is to find what the De V. in my name stands for.

What a glorious thing is a beautiful bright star night when one looks up to the firmament of heaven, an illumined mass of celestial bodies! Astronomers on such a night are in their element, not merely defining one recognized group from another, but nominating each individual illumined heavenly body from another. At such times even the layman gazes heavenward in admiration, and with his limited knowledge picks out the North Star, the Dipper, and other known celestial groups, and at such times appreciates the true force and value of that passage in the Scriptures which says: "There are also celestial bodies, and bodies terrestrial; but the glory of the celestial is one, and the glory of the terrestrial is another. There is one glory of the sun, and another glory of the moon, and another glory of the stars; for one star differeth from another star in glory."

The rays of light which in this article have been shed in the shape of criticism by the terrestrial luminary, generally so able and wise, are scarcely as long as one side of my mustache waxed out as I had it for the benefit of the ladies during the public school hearings. In fact, the difference between this terrestrial luminary in this instance and its celestial namesake is so marked that the terrestrial luminary reminds me of the perversion of an old nursery rhyme, which runs:

Twinkle, twinkle, little bat;
How I wonder what you're at,
Up above the world so high,
Like a tea tray in the sky.

I ought, I fear, even apologize to the bat.

I trust that those who are so fond of poking fun will realize that there is nothing personal in these last remarks, but that they are made purely in the spirit of jest.

I shall now, Mr. Chairman, having disposed of this matter, go and wash my hands and put on a clean suit of clothes.

APPENDIX NO. 1.

The auditor of Baltimore named the courts under State department expenses as charged to city expenditure as criminal, Baltimore City, common pleas, superior, circuit, orphans, juvenile, supreme bench, and justices of the peace, and placed the total expenditure at $186,409, for which he set out an itemized account.

APPENDIX NO. 2.

The auditor of the city of Boston certified $960,125 as expense paid by Boston, growing out of its relation to county and State, and which was included in the total net or ordinary expenditure of my speech.

Analysis of Census Bulletin No. 20:

General administration includes all expenses for departments and offices, as executive, legislative, law, assessments, collections, treasurer, statistics, city hall, elections, etc.

Notwithstanding Washington has no expense for collecting one-half its revenue and no expense for legislative office, nor elections, its per capita expense for general administration in 1903 was greater than Chicago, Baltimore, Cleveland, Pittsburg, or Milwaukee. (See Table No. 1.)

Its expenses for courts were greater than Chicago, Philadelphia, Baltimore, Cleveland, Buffalo, San Francisco, Pittsburg, Cincinnati, Milwaukee, Detroit, or New Orleans. (See Table No. 1.)

Police.—Notwithstanding the enormous amounts paid by the Government for police, which is not included in these figures, the per capita expense for police in 1903 was greater than in any city in the Union having a population of 300,000 or more, with the exception of New York. That is greater than thirteen of the largest cities of the United States, and if the amount paid by the Government be included, it will yield a per capita of $4.22, or greater than any city in the United States by 83 cents. (See Table No. 1.)

Fire.—The expenses for the fire department were greater than Chicago, Philadelphia, or Baltimore, and about equal to St. Louis, Cleveland, Pittsburg, and Cincinnati. (See Table No. 1.)

The expenses for health were greater than Chicago, Baltimore, Cleveland, Buffalo, Cincinnati, Milwaukee, Detroit, and New Orleans. (See Table No. 1.)

The expenses for public charities and corrections per capita were greater than any city in the United States. (See Table No. 1.)

The per capita expense for public highways was also greater than that for any city in the United States. (See Table No. 2.)

The per capita expense for public sanitation was greater than any city in the United States, except New York and Boston. (See Table No. 2.)

Public recreations per capita were greater than New York, Philadelphia, St. Louis, Cleveland, Buffalo, Pittsburg, Cincinnati, Milwaukee, and New Orleans. (See Table No. 2.)

The aggregate per capita for schools was greater by more than 50 per cent than any city having a population of 300,000, with the exception of New York and Boston. (See Table No. 3.)

The per capita salaries for teachers was greater than any city having a population of 300,000, except New York and Boston. (See Table No. 3.)

The miscellaneous expense for schools was greater than any other city having a population of 300,000, except New York and Boston. (See Table No. 3.)

The per capita library expense was nearly double that of any city in the United States having a population of 300,000, and was only excelled by Boston, and in that city by only 1 cent. (See Table No. 3.)

TABLE NO. 1.—*Total and per capita payments for specified expenses, with accompanying refunds, during 1903.*

[From Census Statistics, Bulletin 20.]

City number.	City or municipality.	General administration.		Courts.		Police department.		Fire department.		Health department and quarantine.		Public charities and corrections.	
		Total.	Per capita.	Total.	Per capita.	Total.	Per capita.	Total.	Per capita.	Total.	Per capita.	Total.	Per capita.
	Grand total (175 cities)	$25,863,390	$1.20	$6,932,405	$0.32	$40,733,354	$1.88	$28,791,359	$1.33	$4,851,630	$0.22	$18,437,715	$0.85
	Group I	15,898,474	1.39	6,043,759	.53	28,698,586	2.50	16,276,709	1.42	2,962,399	.26	12,453,155	1.09
	Group II	4,295,915	1.09	538,588	.14	5,608,249	1.43	5,270,382	1.34	882,466	.21	3,142,142	.80
	Group III	2,652,448	.88	211,875	.07	3,530,619	1.16	3,683,556	1.21	540,128	.18	1,513,731	.50
	Group IV (93 cities)	2,996,553	.93	138,192	.04	2,925,900	.91	3,560,632	1.10	516,637	.16	1,328,687	.41
	Total (160 cities)	25,370,968	1.19	6,913,411	.33	40,412,574	1.90	28,409,035	1.34	4,891,632	.23	18,277,895	.86
	Group IV (78 cities)	2,504,131	.88	119,198	.04	2,605,120	.92	3,258,289	1.14	466,699	16	1,168,867	.41
	GROUP I.—CITIES HAVING A POPULATION OF 300,000 OR OVER IN 1903.												
1	New York, N. Y	$6,840,552	$1.84	$3,434,213	$0.92	$12,581,332	$3.39	$5,850,807	$1.57	$1,271,652	$0.34	$6,277,065	$1.69
2	Chicago, Ill	1,483,931	.79	193,704	.10	3,657,441	1.95	1,756,861	.94	142,771	.08	300,262	.16
3	Philadelphia, Pa	2,101,161	1.54	564,596	.41	3,208,910	2.35	1,225,807	.90	346,215	.25	1,300,051	.95
4	St. Louis, Mo	780,282	1.27	407,689	.67	1,614,091	2.64	802,429	1.41	146,270	.24	661,079	1.08
5	Boston, Mass	1,320,522	2.22	717,137	1.21	1,849,213	3.11	1,314,569	2.21	188,183	.32	1,844,670	3.19
6	Baltimore, Md	477,222	.90	244,598	.46	1,010,739	1.90	553,790	1.00	95,822	.18	472,090	.89
7	Cleveland, Ohio	264,589	.64	37,600	.09	531,519	1.28	611,751	1.47	75,982	.18	230,112	.55
8	Buffalo, N. Y	375,398	.98	25,012	.07	825,838	2.17	663,624	1.74	36,682	.10	126,421	.33
9	San Francisco, Cal	772,358	2.17	164,140	.46	993,802	2.79	974,508	2.74	94,992	.27	413,690	1.16
10	Pittsburg, Pa	311,873	.90	11,890	.03	604,903	1.75	544,192	1.58	350,496	1.02	154,539	.45
11	Cincinnati, Ohio	302,717	.91	42,816	.13	619,045	1.86	512,225	1.54	53,157	.16	384,747	1.16
12	Milwaukee, Wis	253,151	.74	18,935	.06	248,501	1.11	402,061	1.48	52,895	.17	20,636	.07
13	Detroit, Mich	295,884	.96	37,441	.12	583,940	1.89	587,090	1.90	50,932	.16	148,447	.48
14	New Orleans, La	338,844	1.13	144,210	.48	237,252	.79	377,145	1.25	55,380	.19	119,346	.40

TABLE No. 1.—*Total and per capita payments for specified expenses, with accompanying refunds, during 1905*—Continued.

GROUP II.—CITIES HAVING A POPULATION OF 100,000 TO 300,000 IN 1905.

City num-ber.	City or municipality.	General administration.		Courts.		Police department.		Fire department.		Health department and quarantine.		Public charities and corrections.	
		Total.	Per capita.	Total.	Per capita.	Total.	Per capita.	Total.	Per capita.	Total.	Per capita.	Total.	Per capita.
15	Washington, D. C	$305,308	$0.91	$154,102	$0.53	$859,218	$2.53	$350,897	$1.23	$67,197	$0.24	$488,230	$1.57
16	Newark, N. J	329,819	.87	32,315	.12	503,507	1.90	370,505	1.40	70,660	.27	262,274	.76
17	Jersey City, N. J	274,555	1.02	26,682	.12	411,395	1.87	245,046	1.11	11,647	.05	49,301	.22
18	Louisville, Ky	212,040	.98	22,647	.10	290,261	1.35	289,136	1.34	28,010	.13	171,389	.80
19	Minneapolis, Minn	162,577	.48	14,957	.07	232,448	1.09	316,289	1.62	32,410	.15	111,810	.52
20	Indianapolis, Ind	102,968	.52	2,650	.01	171,969	.87	310,309	1.57	39,476	.20	44,502	.23
21	Providence, R. I	201,301	1.08	8,086	.05	396,342	2.12	345,127	1.85	26,601	.14	105,870	.57
22	Kansas City, Mo	265,417	1.54	3,987	.02	272,725	1.58	218,944	1.27	18,205	.11	62,478	.36
23	St. Paul, Minn	122,217	.71	17,443	.10	188,755	1.07	202,074	1.17	27,879	.16	50,104	.29
24	Rochester, N. Y	146,904	1.09	16,805	.10	227,145	1.33	265,408	1.54	84,406	.49	117,429	.69
25	Denver, Colo	465,862	2.76	152,531	1.04	180,521	1.23	240,635	1.63	46,226	.31	191,631	1.30
26	Toledo, Ohio	130,146	.95	13,402	.09	142,916	.98	164,926	1.13	51,859	.36	21,274	.17
27	Allegheny, Pa	436,356	3.09	2,475	.02	156,625	1.13	156,065	1.13	54,518	.39	72,951	.53
28	Columbus, Ohio	109,018	.78	16,622	.12	120,089	.89	188,970	1.39	79,116	.58	29,563	.22
29	Worcester, Mass	93,729	.73			159,357	1.24	209,432	1.63	25,607	.20	184,622	1.44
30	Los Angeles, Cal	173,808	1.49	9,172	.08	196,179	1.69	148,540	1.28	38,712	.33	8,455	.07
31	New Haven, Conn	125,693	1.10	16,852	.15	201,642	1.76	151,510	1.32	10,248	.09	87,254	.76
32	Syracuse, N. Y	189,894	1.66	14,133	.12	142,008	1.24	190,417	1.66	19,629	.17	109,165	.95
33	Fall River, Mass	84,449	.74			143,248	1.26	141,215	1.24	19,419	.17	160,818	1.41
34	Memphis, Tenn	42,196	.37			110,589	.97	141,129	1.24	24,777	.22	39,502	.35
35	Omaha, Nebr	139,880	1.23	2,555	.02	95,249	.84	134,913	1.19	14,361	.13	9,451	.08
36	Paterson, N. J	64,303	.57	7,882	.07	131,360	1.16	178,109	1.57	9,810	.09	62,841	.55
37	St. Joseph, Mo	112,559	1.02	1,240	.01	66,546	.60	72,409	.65	4,467	.04	12,439	.11
38	Scranton, Pa	87,841	.80	2,000	.02	63,566	.58	69,548	.63	11,089	.10	87,700	.80
39	Lowell, Mass	119,946	1.20			148,786	1.49	132,047	1.32	14,577	.15	157,494	1.57

TABLE No. 2.—*Total and per capita payments for specified expenses and outlays, with accompanying refunds, during 1905.*

City num-bers.	City or municipality.	Public highways and sanitation.								Expenses for public recreation.		Corporate interest payments.	
		Public highways.				Public sanitation.							
		Expenses.		Outlays.		Expenses.		Outlays.					
		Total.	Per capita.	Total.	Per capita.	Total.	Per capita.	Total.	Per capita.	Total.	Per capita.	Total.	Per capita.
	Grand total (175 cities)	$34,719,492	$1.00	$56,865,230	$2.63	$21,275,619	$0.98	$20,385,446	$0.94	$7,300,329	$0.34	$44,312,755	$2.05
	Group I	16,823,325	1.47	37,862,736	3.31	14,607,493	1.28	13,270,407	1.16	5,216,136	.45	25,241,173	2.20
	Group II	7,815,030	1.99	7,030,901	1.79	2,895,619	.73	3,109,063	.82	1,130,529	.29	7,734,053	1.98
	Group III	4,962,194	1.64	6,420,417	2.12	2,210,521	.73	2,037,485	.67	681,258	.22	5,930,719	1.95
	Group IV (93 cities)	5,118,814	1.53	5,542,116	1.72	1,471,886	.46	1,858,491	.58	312,296	.11	5,367,790	1.67
	Total (160 cities)	34,017,359	1.60	56,203,569	2.65	21,103,443	.99	20,121,592	.95	7,312,481	.34	43,669,161	2.06
	Group IV (78 cities)	4,416,771	1.56	4,940,455	1.75	1,305,710	.46	1,614,367	.57	294,458	.10	4,754,056	1.68

GROUP I.—CITIES HAVING A POPULATION OF 300,000 OR OVER IN 1905.

1	New York, N. Y	$5,144,852	$1.38	$16,567,355	$4.46	$6,348,304	$1.71	$3,031,470	$0.82	$1,514,644	$0.41	$12,289,485	$3.31
2	Chicago, Ill	1,027,701	.55	5,056,064	2.70	1,540,944	.83	2,425,303	1.29	1,046,178	.56	2,122,104	1.13
3	Philadelphia, Pa	2,450,823	1.79	3,379,500	2.47	1,361,038	1.00	1,417,740	1.04	561,308	.41	1,685,700	1.23
4	St. Louis, Mo	1,241,135	2.03	2,473,108	4.04	964,000	1.57	1,101,325	1.80	160,280	.26	945,008	1.54
5	Boston, Mass	1,856,469	3.16	3,110,500	5.23	1,379,036	2.32	2,184,053	3.67	547,427	.92	2,218,632	3.78
6	Baltimore, Md	638,294	1.20	150,713	.28	391,261	.74	20,700	.04	382,971	.59	1,151,065	2.17
7	Cleveland, Ohio	682,234	1.64	644,685	1.55	329,475	.77	1,491,987	3.38	120,280	.29	750,400	1.81
8	Buffalo, N. Y	647,753	1.70	862,367	2.26	344,161	.90	174,363	.46	155,727	.41	706,801	1.85
9	San Francisco, Cal	616,800	1.73	122,104	.34	224,300	.63	51,112	.14	354,120	.99	14,700	.04
10	Pittsburg, Pa	718,702	2.08	3,677,339	10.66	422,251	1.22	165,594	.48	114,630	.33	721,893	2.09
11	Cincinnati, Ohio	528,888	1.59	447,878	1.35	344,089	1.04	257,291	.77	46,414	.14	1,221,625	3.66
12	Milwaukee, Wis	627,061	2.00	544,707	1.74	437,502	1.40	265,867	.85	50,253	.16	274,615	.88
13	Detroit, Mich	265,597	.86	810,579	2.62	257,709	.83	216,301	.70	173,758	.56	266,290	.86
14	New Orleans, La	357,446	1.19	25,117	.08	262,703	.87	555,281	1.85	38,189	.13	848,701	2.82

GROUP II.—CITIES HAVING A POPULATION OF 100,000 TO 300,000 IN 1905.

15	Washington, D. C	$1,001,398	$3.41	$751,291	$2.56	$474,051	$1.62	$583,758	$1.99	$130,926	$0.48	$405,358	$1.73
16	Newark, N. J	394,057	1.15	658,759	2.48	247,476	.93	118,240	.45	10,925	.08	460,146	2.87
17	Jersey City, N. J	213,625	.97	75,576	.34	90,943	.41	79,962	.36	11,764	.05	845,625	3.85
18	Louisville, Ky	247,842	2.61	353,668	1.64	149,624	.69	222,501	1.10	74,155	.33	425,060	1.97
19	Minneapolis, Minn	574,553	2.68	374,000	1.75	72,253	.34	186,514	.87	80,068	.37	328,597	1.54
20	Indianapolis, Ind	313,630	1.59	142,865	.72	138,023	.70	51,525	.26	65,050	.32	179,103	.91
21	Providence, R. I	561,395	3.01	144,116	.77	205,857	1.10	266,701	1.43	48,889	.26	523,182	2.80
22	Kansas City, Mo	228,144	1.32	593,601	3.43	113,272	.65	520,052	3.00	72,486	.42	233,981	1.93
23	St. Paul, Minn	387,830	2.25	595,073	3.46	87,254	.51	130,033	.74	89,285	.52	415,645	2.42
24	Rochester, N. Y	413,211	2.42	360,225	2.11	202,095	1.18	35,164	.21	54,262	.32	440,804	2.58
25	Denver, Colo	318,701	2.17	465,856	3.10	85,884	.59	146,658	.25	79,709	.54	500,527	3.36
26	Toledo, Ohio	366,695	2.51	208,574	1.43	140,206	.96	28,569	.27	32,730	.22	252,892	2.01
27	Allegheny, Pa	223,567	1.62	423,206	3.07	108,612	.79	69,557	.50	42,227	.31	258,580	1.87
28	Columbus, Ohio	152,093	1.12	84,304	.62	76,686	.57	280,017	2.21	13,506	.10	246,808	1.82
29	Worcester, Mass	351,878	2.74	60,809	.47	124,053	.97	198,252	1.53	26,054	.20	248,098	1.93
30	Los Angeles, Cal	453,869	3.90	439,786	3.78	74,382	.64	85,085	.69	92,912	.80	139,561	1.19
31	New Haven, Conn	212,697	1.86	16,457	.14	69,560	.61	58,356	.51	31,202	.27	139,751	1.22
32	Syracuse, N. Y	234,934	2.05	381,195	3.33	129,923	1.14	116,578	1.02	30,969	.27	340,056	2.97
33	Fall River, Mass	220,306	1.93	102,256	.90	68,145	.60	64,069	.56	17,485	.15	232,427	2.04
34	Memphis, Tenn	196,016	1.72	283,653	2.50	63,885	.56	85,540	.75	28,705	.25	181,802	1.60
35	Omaha, Nebr	161,005	1.42	88,850	.78	27,771	.24	15,281	.13	18,055	.16	285,264	2.51
36	Paterson, N. J	117,354	1.04	76,251	.67	75,478	.67	4,699	.04	21,509	.23	173,578	1.53
37	St. Joseph, Mo	56,729	.51	165,487	1.50	20,830	.19	13,184	.12	12,240	.11	75,851	.69
38	Scranton, Pa	139,152	1.27	123,388	1.12	63,088	.58	83,461	.76	6,574	.05	60,534	.55
39	Lowell, Mass	263,636	2.63	71,615	.72	75,308	.75	69,791	.70	11,910	.12	190,039	1.90

TABLE No. 3.—*Total and per capita payments for expenses and outlays for schools and for miscellaneous educational expenses, and specified receipts for schools, with accompanying refunds during 1903.*

City number.	City or municipality.	Payments for schools.								Receipts from contributions, charges, etc., for schools.		Payments for expenses of libraries, art galleries, museums, etc.	
		Aggregate.		Salaries of teachers.		All other expenses.		Outlays.					
		Total.	Per capita.	Total.	Per capita.	Total.	Per capita.	Total.	Per capita.	Total.	Per capita.	Total.	Per capita.
	Grand total (175 cities)	$101,577,853	$4.83	$59,517,643	$2.75	$24,048,491	$1.11	$21,011,729	$0.97	$13,370,794	$0.62	$4,156,708	$0.19
	Group I	62,469,689	5.46	34,879,200	3.05	14,001,441	1.22	13,589,048	1.19	5,823,039	.51	2,557,526	.22
	Group II	16,901,062	4.33	10,184,134	2.60	3,772,661	.96	3,044,267	.77	2,513,653	.64	782,392	.20
	Group III	12,186,881	4.02	7,117,855	2.35	2,936,730	.99	2,072,296	.68	2,561,809	.83	418,587	.14
	Group IV (93 cities)	12,020,221	4.01	7,336,444	2.27	3,277,599	1.02	2,316,178	.72	2,532,313	.78	398,213	.12
	Total (100 cities)	102,856,507	4.84	58,505,887	2.76	23,586,076	1.12	20,704,544	.98	13,052,511	.61	4,100,956	.19
	Group IV (78 cities)	11,278,875	3.96	6,384,698	2.26	2,815,184	.99	2,098,993	.71	2,214,030	.78	382,461	.12
	GROUP I.—CITIES HAVING A POPULATION OF 300,000 OR OVER IN 1903.												
1	New York, N. Y	$68,661,477	$7.56	$45,558,408	$4.19	$6,218,302	$1.68	$6,286,867	$1.69	$1,502,753	$0.35	$1,118,705	$0.30
2	Chicago, Ill	8,471,771	4.52	5,027,143	2.68	1,484,619	.79	1,960,009	1.05	571,963	.30	191,455	.10
3	Philadelphia, Pa	5,265,019	3.85	2,862,955	2.07	1,466,755	1.03	1,022,309	.75	906,743	.68	279,344	.20
4	St. Louis, Mo	2,959,103	4.67	1,907,567	2.13	707,952	1.16	843,864	1.38	210,315	.34	67,555	.11
5	Boston, Mass	5,007,024	8.42	2,520,028	4.25	1,058,584	1.78	1,418,812	2.39	25,508	.04	280,105	.47
6	Baltimore, Md	1,808,778	3.48	1,048,840	1.98	506,585	.95	263,353	.55	340,250	.64	59,000	.11
7	Cleveland, Ohio	2,235,261	5.63	1,120,154	2.70	671,804	1.62	543,243	1.31	244,876	.59	97,033	.23
8	Buffalo, N. Y	1,051,403	4.33	625,636	2.43	460,526	1.05	324,841	.85	147,201	.39	102,060	.27
9	San Francisco, Cal	1,353,338	3.74	1,021,967	2.87	260,803	.73	50,568	.14	523,160	2.59	57,960	.16
10	Pittsburg, Pa	1,397,156	5.04	772,317	2.24	493,365	1.43	471,474	1.37	247,541	.72	151,989	.44
11	Cincinnati, Ohio	1,151,253	3.46	896,284	2.66	211,398	.64	53,021	.16	243,253	.73		
12	Milwaukee, Wis	1,059,788	3.45	644,470	2.06	192,284	.61	242,987	.78	467,145	1.49	66,000	.21
13	Detroit, Mich	1,148,632	3.75	765,141	2.47	259,822	.84	73,023	.24	223,484	.88	75,310	.24
14	New Orleans, La	570,636	1.80	446,880	1.47	95,315	.32	3,411	.01	88,558	.29	10,719	.04
	GROUP II.—CITIES HAVING A POPULATION OF 100,000 TO 300,000 IN 1903.												
15	Washington, D. C	$1,690,571	$5.76	$985,595	$3.29	$415,116	$1.42	$289,860	$1.05	$186		$135,434	$0.46
16	Newark, N. J	1,209,451	4.99	715,072	2.92	311,117	1.17	214,262	.81	193,400	$0.73	44,715	.17
17	Jersey City, N. J	771,620	3.51	463,674	2.11	121,159	.55	186,803	.85	252,102	1.15	25,588	.12
18	Louisville, Ky	621,042	2.88	390,333	1.81	131,067	.61	100,223	.46	119,554	.69	9	
19	Minneapolis, Minn	1,153,557	5.24	659,490	3.17	148,241	.69	295,817	1.38	119,552	.70	46,046	.22
20	Indianapolis, Ind	746,143	3.76	497,429	2.52	164,729	.83	80,985	.41	185,042	.94	30,285	.15
21	Providence, R. I	748,528	4.01	500,864	2.68	241,930	1.30	5,544	.03	42,893	.23	27,574	.15
22	Kansas City, Mo	1,003,983	6.03	499,451	2.89	182,367	1.05	301,545	2.09	85,632	.49	32,714	.19
23	St. Paul, Minn	720,181	4.18	449,407	2.61	157,157	.91	113,618	.66	94,490	.55	50,129	.18
24	Rochester, N. Y	757,924	4.44	412,767	2.42	138,402	.81	206,755	1.21	95,902	.56		
25	Denver, Colo	1,099,413	6.86	519,485	3.53	253,825	1.69	255,102	1.73	65,344	.44	43,756	.30
26	Toledo, Ohio	469,624	3.76	320,981	2.20	114,644	.79	53,959	.37	40,426	.28	13,696	.09
27	Allegheny, Pa	565,452	4.06	326,211	2.15	119,824	.80	97,397	.71	99,267	.72	113,597	.82
28	Columbus, Ohio	560,195	3.76	334,384	2.47	105,936	.78	69,035	.51	65,081	.47	18,065	.13
29	Worcester, Mass	629,327	4.59	433,404	3.37	163,979	1.28	31,863	.25	4,958	.03	45,363	.35
30	Los Angeles, Cal	805,446	6.92	461,883	3.99	108,883	.94	234,680	1.99	443,749	3.81	35,125	.30
31	New Haven, Conn	543,653	4.82	286,232	2.58	118,240	1.05	138,581	1.21	74,402	.65	17,408	.15
32	Syracuse, N. Y	572,435	5.09	385,363	2.93	110,673	.97	126,399	1.10	62,326	.55	26,035	.23
33	Fall River, Mass	502,732	3.48	296,407	2.07	126,325	1.11			7,039	.06	21,614	.19
34	Memphis, Tenn	221,742	1.98	122,887	1.08	40,896	.36	60,959	.54	74,896	.63	5,859	.05
35	Omaha, Nebr	423,041	3.74	259,924	2.65	105,093	.94	17,044	.15	44,674	.39	12,946	.11
36	Paterson, N. J	331,963	2.93	241,546	2.13	90,357	.80			156,630	1.23	14,541	.13
37	St. Joseph, Mo	269,805	1.90	152,226	1.38	57,446	.52	325		55,207	.51	12,945	.12
38	Scranton, Pa	455,891	4.15	260,612	2.37	129,142	1.18	66,137	.61	84,406	.77	12,509	.11
39	Lowell, Mass	386,809	3.86	234,958	2.33	141,851	1.42	11,000	.11	5,985	.06	16,499	.16

The CHAIRMAN. The gentleman from Pennsylvania asks unanimous consent to extend his remarks in the RECORD. Is there objection? [After a pause.] The Chair hears none. The question is upon agreeing to the amendment offered by the gentleman from Virginia.

Mr. GOLDFOGLE. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. GOLDFOGLE. What is the amendment offered by the gentleman from Virginia?

The CHAIRMAN. Without objection, the Clerk will again report the amendment offered by the gentleman from Virginia.

The amendment was again reported.

The question was taken; and the Chairman announced that the noes appeared to have it.

On a division (demanded by Mr. HAY) there were—ayes 18, noes 54.

So the amendment was rejected.

Mr. LITTAUER. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. OLMSTED, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 16472—the legislative, executive, and judicial appropriation bill—and had instructed him to report that it had come to no resolution thereon.

LEAVE OF ABSENCE.

By unanimous consent, Mr. BARTHOLDT was granted leave of absence for five days, on account of important business.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States for his approval the following bills and joint resolution:

H. R. 15649. An act extending the time for the construction of the dam across the Mississippi River authorized by the act of Congress approved March 12, 1904;

H. R. 4. An act to amend section 3646, Revised Statutes of the United States, as amended by act of February 16, 1885; and

H. J. Res. 97. Joint resolution authorizing assignment of pay of teachers and other employees of the Bureau of Education in Alaska.

SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 4236. An act to establish a fish-cultural station in the State of Nebraska—to the Committee on the Merchant Marine and Fisheries.

S. 4350. An act for the relief of Arthur A. Underwood—to the Committee on Claims.

WITHDRAWAL OF PAPERS.

By unanimous consent, Mr. GARNER was granted leave to withdraw from the files of the House, without leaving copies, the papers in the case of Alexander Moore, Fifty-ninth Congress, no adverse report having been made thereon.

Mr. LITTAUER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; and accordingly (at 5 o'clock and 23 minutes p. m.) the House adjourned to meet to-morrow, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred as follows:

A letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings filed by the court in the case of Emma Jones and Leon Lewis, sole heirs of estate of Emma S. Lewis *v.* The United States—to the Committee on War Claims, and ordered to be printed.

A letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings filed by the court in the case of John M. Speed, heir of estate of Warren F. Speed, *v.* The United States—to the Committee on War Claims, and ordered to be printed.

A letter from the Postmaster-General, transmitting, in response to the inquiry of the House, a statement as to the exclusion from the privileges of the mails of the People's United States Bank at St. Louis—to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named as follows:

Mr. FLACK, from the Committee on the Merchant Marine and Fisheries, to which was referred the bill of the House (H. R. 16015) to establish fish-hatching and fish-culture stations in the various States, and for other purposes, reported the same with amendment, accompanied by a report (No. 2467); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. FULLER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 10747) granting an increase of pension to Jonathan Lengle, reported the same with amendment, accompanied by a report (No. 2408); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 12407) granting an increase of pension to Robert Bivans, reported the same with amendment, accompanied by a report (No. 2409); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 11703) granting a pension to Laura McNulta, reported the same with amendment, accompanied by a report (No. 2410); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 11035) granting an increase of pension to Jeremiah Lunsford, reported the same without amendment, accompanied by a report (No. 2411); which said bill and report were referred to the Private Calendar.

Mr. FULLER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 11606) granting an increase of pension to Edward W. Bixby, reported the same with amendment, accompanied by a report (No. 2412); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 10148) granting an increase of pension to John Spahr, reported the same with amendment, accompanied by a report (No. 2413); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 9033) granting an increase of pension to Burgoyne Knight, reported the same with amendment, accompanied by a report (No. 2414); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 7759) granting an increase of pension to John Gemmill, reported the same with amendment, accompanied by a report (No. 2415); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 7718) granting an increase of pension to Jacob D. Peterson, reported the same with amendment, accompanied by a report (No. 2416); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 9039) granting an increase of pension to James R. Hales, reported the same without amendment, accompanied by a report (No. 2417); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 6563) granting an increase of pension to George Stewart, reported the same with amendment, accompanied by a report (No. 2418); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 6942) granting an increase of pension to Charles H. Weaver, reported the same with amendment, accompanied by a report (No. 2419); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 6969) granting a pension to Ellen C. Lewis, reported the same with amendment, accompanied by a report (No. 2420); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 6937) granting an increase of pension to Thomas Furey, reported the same with amendment, accompanied by a report (No. 2421); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 6949) granting a pension to Alice W. Powers, reported the same with amendment, accompanied by a report (No. 2422); which said bill and report were referred to the Private Calendar.

Mr. WEISSE, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 6500) granting an increase of pension to Jesse Bacey, reported the same with amendment, accompanied by a report (No. 2423); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 5931) granting an increase of pension to Robert L. Narrow, reported the same with amendment, accompanied by a report (No. 2424); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 6094) granting a pension to Julia G. Aldrich, reported the same with amendment, accompanied by a report (No. 2425); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 5373) granting an increase of pension to John L. Smith, reported the same with amendment, accompanied by a report (No. 2426); which said bill and report were referred to the Private Calendar.

Mr. FULLER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 5840) granting a pension to Catherine Spier, reported the same with amendment, accompanied by a report (No. 2427); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 3562) granting a pension to Ada A. Hubbard, reported the same with amendment, accompanied by a report (No. 2428); which said bill and report were referred to the Private Calendar.

Mr. WEISSE, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 4745) granting an increase of pension to Hiram N. Goodell, reported the same with amendment, accompanied by a report (No. 2429); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 3434) granting an increase of pension to George W. Darby, reported the same with amendment, accompanied by a report (No. 2430); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 2757) granting an increase of pension to Johnathan E. Floyd, reported the same with amendment, accompanied by a report (No. 2431); which said bill and report were referred to the Private Calendar.

Mr. FULLER, from the Committee on Invalid Pensions, to

which was referred the bill of the House (H. R. 2468) granting a pension to John Broad, reported the same with amendment, accompanied by a report (No. 2432); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 1357) granting an increase of pension to George W. Burton, reported the same with amendment, accompanied by a report (No. 2433); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 517) granting an increase of pension to Luke A. Waldron, reported the same with amendment, accompanied by a report (No. 2434); which said bill and report were referred to the Private Calendar.

Mr. WEISSE, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16632) granting an increase of pension to Lewis Lapine, reported the same with amendment, accompanied by a report (No. 2435); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 9397) granting an increase of pension to Mary A. King, reported the same with amendment, accompanied by a report (No. 2436); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 16582) granting a pension to Ellen T. Sivels, reported the same without amendment, accompanied by a report (No. 2437); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16179) granting an increase of pension to William N. J. Burns, reported the same without amendment, accompanied by a report (No. 2438); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 16519) granting an increase of pension to Erwin G. Dudley, reported the same with amendment, accompanied by a report (No. 2439); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16523) granting an increase of pension to Charles P. Hopkins, reported the same without amendment, accompanied by a report (No. 2440); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16240) granting an increase of pension to Abraham G. Long, reported the same with amendment, accompanied by a report (No. 2441); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16650) granting an increase of pension to Robert B. Williby, reported the same without amendment, accompanied by a report (No. 2442); which said bill and report were referred to the Private Calendar.

Mr. WEISSE, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16522) granting an increase of pension to Charles Meyer, reported the same with amendment, accompanied by a report (No. 2443); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15956) granting an increase of pension to Walter F. Bean, reported the same with amendment, accompanied by a report (No. 2444); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15863) granting an increase of pension to William Louther, reported the same with amendment, accompanied by a report (No. 2445); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15974) granting an increase of pension to Martin C. King, reported the same with amendment, accompanied by a report (No. 2446); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15670) granting an increase of pension to Daniel C. Durgin, reported the same with amendment, accompanied by a report (No. 2447); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15484) granting an increase of pension to Robert Dick, reported the same with amendment, accompanied by a report (No. 2448); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15616) granting an increase of pension to Pleasant Calor, reported the same with amendment, accompanied by a report (No. 2449); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15487) granting an increase of pension to Truman Aldrich, reported the same with amendment, accompanied by a report (No. 2450); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15794) granting an increase of pension to Samuel Pepper, reported the same without amendment, accompanied by a report (No. 2451); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15240) granting an increase of pension to James W. Fowler, reported the same without amendment, accompanied by a report (No. 2452); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15396) granting an increase of pension to John T. Jacobs, reported the same with amendment, accompanied by a report (No. 2453); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15717) granting an increase of pension to Ebenezer A. Rice, reported the same with amendment, accompanied by a report (No. 2454); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 14001) granting an increase of pension to Nathan S. Ruddock, reported the same with amendment, accompanied by a report (No. 2455); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 14534) granting an increase of pension to Jasper Harrelson, reported the same with amendment, accompanied by a report (No. 2456); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 14553) granting an increase of pension to Jesse Llewallen, reported the same with amendment, accompanied by a report (No. 2457); which said bill and report were referred to the Private Calendar.

Mr. FULLER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 13345) granting an increase of pension to Frank Clendenin, reported the same without amendment, accompanied by a report (No. 2458); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 12888) granting an increase of pension to Jacob Sannar, reported the same with amendment, accompanied by a report (No. 2459); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 13139) granting an increase of pension to William Walrod, reported the same with amendment, accompanied by a report (No. 2460); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 12906) granting an increase of pension to Eugene B. McDonald, reported the same with amendment, accompanied by a report (No. 2461); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 12415) granting an increase of pension to Elizabeth Bodkin, reported the same with amendment, accompanied by a report (No. 2462); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 11334) granting an increase of pension to John M. Steel, reported the same with amendment, accompanied by a report (No. 2463); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 12534) granting an increase of pension to Richard Reynolds, reported the same with amendment, accompanied by a report (No. 2464); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 7760) granting an increase of pension to William H. Brown, reported the same with amendment, accompanied by a report (No. 2465); which said bill and report were referred to the Private Calendar.

Mr. DAWES, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 6067) to change the records of the War Department relative to Levi A. Meacham, reported the same without amendment, accompanied by a report (No. 2466); which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred, as follows:

By Mr. BABCOCK: A bill (H. R. 17038) to acquire certain land in the District of Columbia as an addition to Rock Creek Park—to the Committee on Public Buildings and Grounds.

By Mr. ROBERTSON of Louisiana: A bill (H. R. 17039) for the erection of a public building at Donaldsonville, La.—to the Committee on Public Buildings and Grounds.

By Mr. CAMPBELL of Ohio: A bill (H. R. 17040) providing for the erection of a monument to Gen. Anthony Wayne at Defiance, Ohio—to the Committee on the Library.

By Mr. CURTIS: A bill (H. R. 17041) to fix the rank of certain officers in the Army—to the Committee on Military Affairs.

By Mr. FLOOD: A bill (H. R. 17042) to furnish those entitled to admission to the press galleries of the Senate and House of Representatives with copies of all Government publications—to the Committee on Printing.

By Mr. BATES: A bill (H. R. 17043) providing for the retirement of noncommissioned officers, petty officers, and enlisted men of the Army, Navy, and Marine Corps of the United States—to the Committee on Military Affairs.

By Mr. AIKEN: A bill (H. R. 17044) authorizing the extension of W and Adams streets NW.—to the Committee on the District of Columbia.

By Mr. DIXON of Montana: A bill (H. R. 17045) to authorize the construction of a bridge across the Yellowstone River in Custer County, Mont.—to the Committee on Interstate and Foreign Commerce.

Also, a bill (H. R. 17046) granting to the Chicago, Milwaukee and St. Paul Railway, of Montana, a right of way through the Fort Keogh Military Reservation, in Montana—to the Committee on Military Affairs.

By Mr. VOLSTEAD: A bill (H. R. 17047) to provide for the disposal of timber and certain public lands—to the Committee on the Public Lands.

By Mr. STEPHENS of Texas: A bill (H. R. 17048) regulating the passenger fare on railroads in Arizona and New Mexico, and for other purposes—to the Committee on the Territories.

By Mr. PAYNE: A bill (H. R. 17049) to provide for the purchase of a site and the erection of a public building thereon at Canandaigua, in the State of New York—to the Committee on Public Buildings and Grounds.

By Mr. CURTIS: A bill (H. R. 17111) providing for the adjustment and payment of accounts of laborers and mechanics arising under the eight-hour law—to the Committee on Claims.

By Mr. McMORRAN: A joint resolution (H. J. Res. 122) providing for a survey for a channel between Russell Island and Grand Pointe, in the St. Clair River, Michigan—to the Committee on Rivers and Harbors.

By Mr. STEPHENS of Texas: A joint resolution (H. J. Res. 123) for the purchase of the coal and asphalt lands in the Indian Territory by the United States—to the Committee on Indian Affairs.

Also, a joint resolution (H. J. Res. 124) directing the Secretary of the Interior to allot certain lands to certain Indians—to the Committee on Indian Affairs.

By Mr. HAMILTON: A resolution (H. Res. 369) providing for the consideration of the bill H. R. 12707—to the Committee on Rules.

By Mr. KELIHER: A memorial of the Commonwealth of Massachusetts, requesting Congress to consolidate the present third and fourth class rates of postage—to the Committee on the Post-Office and Post-Roads.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. ACHESON: A bill (H. R. 17050) granting an increase of pension to Theodore F. Montgomery—to the Committee on Pensions.

Also, a bill (H. R. 17051) granting a pension to Stephen C. Albright—to the Committee on Invalid Pensions.

By Mr. BEDE: A bill (H. R. 17052) granting a pension to Caroline Gear—to the Committee on Invalid Pensions.

By Mr. BENNETT of Kentucky: A bill (H. R. 17053) for the relief of David Teager—to the Committee on War Claims.

Also, a bill (H. R. 17054) for the relief of Richard H. Meek—to the Committee on War Claims.

Also, a bill (H. R. 17055) granting an increase of pension to George Fankell—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17056) granting an increase of pension to Wheetly D. Cropper—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17057) granting an increase of pension to William Price—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17058) granting an increase of pension to J. H. O'Brion—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17059) granting an increase of pension to John Dice—to the Committee on Invalid Pensions.

By Mr. BOUTELL: A bill (H. R. 17060) granting an increase of pension to William T. Kimsey—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17061) granting an increase of pension to Iva O. Shepardson—to the Committee on Invalid Pensions.

By Mr. BROUSSARD: A bill (H. R. 17062) for the relief of the estate of Celestine Vavasseur, deceased—to the Committee on War Claims.

By Mr. BURGESS: A bill (H. R. 17063) for the relief of the heirs of John McDonald—to the Committee on Invalid Pensions.

By Mr. BURNETT: A bill (H. R. 17064) granting a pension to Albert Merriam—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17065) granting a pension to Thomas B. Brown—to the Committee on Invalid Pensions.

By Mr. CAMPBELL of Ohio: A bill (H. R. 17066) to remove charge of desertion from the record of William L. Wiles—to the Committee on Military Affairs.

By Mr. CANDLER: A bill (H. R. 17067) granting an increase of pension to Simeon Pierce—to the Committee on Pensions.

Also, a bill (H. R. 17068) granting an increase of pension to Charles Sherrod—to the Committee on Pensions.

Also, a bill (H. R. 17069) granting an increase of pension to William L. Wilcher—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17070) granting an increase of pension to Thomas Blakney—to the Committee on Invalid Pensions.

By Mr. CHAPMAN: A bill (H. R. 17071) granting an increase of pension to Alfred T. Reiley—to the Committee on Invalid Pensions.

By Mr. CURRIER: A bill (H. R. 17072) granting a pension to Joseph French—to the Committee on Invalid Pensions.

By Mr. CURTIS: A bill (H. R. 17073) for the relief of the board of county commissioners of Shawnee County, Kans.—to the Committee on War Claims.

By Mr. CRUMPACKER: A bill (H. R. 17074) for the relief of Albertine E. Keil—to the Committee on Claims.

Also, a bill (H. R. 17075) granting an increase of pension to Allen S. Jackson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17076) granting an increase of pension to Harry N. Styner—to the Committee on Pensions.

By Mr. DICKSON of Illinois: A bill (H. R. 17077) granting an increase of pension to George T. Sloan—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17078) granting an increase of pension to Charles M. Chamblin—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17079) granting an increase of pension to Adam P. Gay—to the Committee on Invalid Pensions.

By Mr. FORDNEY: A bill (H. R. 17080) granting a pension to Eunice J. Spencer—to the Committee on Pensions.

Also, a bill (H. R. 17081) granting a pension to Eugene O. Quinn—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17082) granting an increase of pension to Peter Diebold—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17083) granting an increase of pension to Charles T. Andrus—to the Committee on Invalid Pensions.

By Mr. FOSTER of Indiana: A bill (H. R. 17084) granting an increase of pension to Richard D. Lorye—to the Committee on Invalid Pensions.

By Mr. GAINES of West Virginia: A bill (H. R. 17085) granting an increase of pension to George W. Olis—to the Committee on Pensions.

By Mr. GILBERT of Indiana: A bill (H. R. 17086) granting an increase of pension to Michael Harmon—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17087) granting an increase of pension to John Langenfeld—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17088) granting an increase of pension to John Rinehart—to the Committee on Invalid Pensions.

By Mr. GUDGER: A bill (H. R. 17089) granting an increase of pension to Rachel A. Webster—to the Committee on Invalid Pensions.

By Mr. HAMILTON: A bill (H. R. 17090) for the relief of Joseph I. York—to the Committee on Military Affairs.

Also, a bill (H. R. 17091) granting an increase of pension to George Myers—to the Committee on Invalid Pensions.

By Mr. HOUSTON: A bill (H. R. 17092) for the relief of the Baptist Church at Tullahoma, Tenn.—to the Committee on War Claims.

By Mr. HUGHES: A bill (H. R. 17093) granting an increase of pension to Jackson Hale—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17094) granting an increase of pension to James H. Sperry—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17095) granting an increase of pension to Laura B. Boyer—to the Committee on Invalid Pensions.

By Mr. KENNEDY of Nebraska: A bill (H. R. 17096) granting an increase of pension to John W. McKay—to the Committee on Invalid Pensions.

By Mr. WILLIAM W. KITCHIN: A bill (H. R. 17097) for the relief of the heirs of Martin Romiger—to the Committee on War Claims.

By Mr. KLINE: A bill (H. R. 17098) granting an increase of pension to Henry M. Lorash—to the Committee on Invalid Pensions.

By Mr. LE FEVRE: A bill (H. R. 17099) to authorize the refund of part of fines imposed on the vessels *Sotie R*, *Mathilda R*, and *Helen R*—to the Committee on Claims.

By Mr. LESTER: A bill (H. R. 17100) for the relief of Mrs. Mary Lloyd, of Savannah, Chatham County, Ga.—to the Committee on War Claims.

By Mr. LEWIS: A bill (H. R. 17101) granting a pension to Ardilicy Braning—to the Committee on Pensions.

By Mr. MANN: A bill (H. R. 17102) granting a pension to Katherine Studdert—to the Committee on Pensions.

By Mr. RHINOCK: A bill (H. R. 17103) to remove the charge of desertion from the military record of David Davis—to the Committee on Military Affairs.

By Mr. SHERMAN: A bill (H. R. 17104) granting a pension to Nettie A. Hill—to the Committee on Invalid Pensions.

By Mr. SMITH of Kentucky: A bill (H. R. 17105) for the relief of John McNaughton—to the Committee on War Claims.

Also, a bill (H. R. 17106) for the relief of the Christian Church at Campbellsville, Ky.—to the Committee on War Claims.

By Mr. WEEKS: A bill (H. R. 17107) granting an increase of pension to Ella Hall—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17108) granting a pension to Edith F. Morrison—to the Committee on Pensions.

By Mr. WILLIAMS: A bill (H. R. 17109) granting an increase of pension to C. W. Geddes—to the Committee on Pensions.

By Mr. BENNETT of Kentucky: A bill (H. R. 17110) for the relief of Margaret Morarity—to the Committee on War Claims.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of bills of the following titles; which were thereupon referred as follows:

A bill (H. R. 4264) granting a pension to Frances E. Maloon—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 15231) granting an increase of pension to Anna B. McCurley—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 8086) to reimburse the State of Minnesota—Committee on War Claims discharged, and referred to the Committee on Claims.

A bill (H. R. 16996) granting an increase of pension to Joseph Delisle—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ACHESON: Paper to accompany bill for relief of Stephen C. Albright—to the Committee on Invalid Pensions.

Also, petition of the State Federation of Pennsylvania Women, for forest reserves—to the Committee on Agriculture.

Also, petition of the committee on forestry of the State Federation of Pennsylvania Women, for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

Also, petition of the committee on forestry of the State Federation of Women of Pennsylvania, against repeal of the Morris law relating to forest reservations—to the Committee on Agriculture.

Also, petition of the Reading Club of Newcastle, Pa., for investigation of the industrial condition of women in the United States—to the Committee on Appropriations.

Also, petition of citizens of Buffalo, for the Littlefield bill—to the Committee on Alcoholic Liquor Traffic.

Also, petition of citizens of Washington, Pa., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of the Vessel Owners and Captains' Association of Philadelphia, Pa., for bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

By Mr. ADAMS of Pennsylvania: Petitions of West Park Council, No. 108; Harmony Council, No. 124; James G. Blaine Council, No. 2; Young America Council, No. 69; Martha W. Crow Council, No. 65, and Lieutenant Cushing Council, No. 20, Daughters of Liberty, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of A. E. Yoell, of the Japanese and Korean Exclusion League, for the Chinese law as it is—to the Committee on Foreign Affairs.

Also, petition of the International Association of Master House Painters and Decorators, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. AMES: Petition of citizens of Massachusetts, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. BABCOCK: Petition of the Twentieth Century Club of Baraboo, Wis., for an appropriation to investigate the industrial condition of women—to the Committee on Appropriations.

Also, petition of the Federated Women's Clubs of Richland Center, Wis., for investigation of the industrial condition of women in the United States—to the Committee on Appropriations.

By Mr. BARCHFELD: Petition of the Republican Central Committee of Sinclair County, Okla., for admission of Oklahoma as a State—to the Committee on the Territories.

Also, petition of the Power Land and Loan Company, for the Senate amendment to the statehood bill—to the Committee on the Territories.

Also, petition of the First National Bank of Lawton, Okla., for the Senate statehood bill amendment—to the Committee on the Territories.

Also, petition of McClellan Post, No. 100, Grand Army of the Republic, for the Senate amendment to the statehood bill—to the Committee on the Territories.

Also, petition of the Bixby Commercial Club, of Bixby, Ind T., for the Senate amendment to the statehood bill—to the Committee on the Territories.

Also, petition of Robert Neuport and L. M. Hattman, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of the Retail Grocers' Association of Pittsburg, Pa., for a national pure-food law—to the Committee on Interstate and Foreign Commerce.

Also, petition of the City Parks Association of Philadelphia, Pa., for an appropriation for public playgrounds in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of the Pittsburg Tool and Drop Forge Company, for the Williams and Mallory bill for regulating quarantine in the Gulf ports—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Julian Abstract Company, W. C. Stevens, Edwin D. Meeker, the City National Bank, F. B. Hannan & Co., and Moneriel, Cook & Co., of Lawton, Okla., for the Senate amendment to the statehood bill—to the Committee on the Territories.

Also, petition of James E. Barr et al., of McKees Rocks, Pa., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of the Conewango Refining Company and the Lake Carriers' Oil Company, for the Hepburn rate bill—to the Committee on Interstate and Foreign Commerce.

Also petition of William E. Wall, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. BARTLETT: Petition of the International Association of House Painters and Decorators, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, paper to accompany bill for relief of Benjamin F. Woodall—to the Committee on War Claims.

By Mr. BATES: Petition of McClellan Post, Grand Army of the Republic, of Lawton, Okla., and 100 citizens of Oklahoma

Territory, for admission to statehood—to the Committee on the Territories.

Also, petition of the Erie retail grocers, for the Heyburn pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of Hold & Cummins and Stetson & Winsmore, of Philadelphia, for bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

Also, petition of Charles W. Ring, the Spencer Grocery, and the Erie Business Men's Exchange, for the Heyburn pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of Charles Chipman's Sons, of Easton, Pa., against reduction of the tariff on hosiery—to the Committee on Ways and Means.

Also, petition of the Board of Trade of Philadelphia, for Government forest reserves—to the Committee on Agriculture.

Also, petition of the Vessel Owners and Captains' Association, favoring bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

By Mr. BEDE: Paper to accompany bill for relief of James W. Gear—to the Committee on Invalid Pensions.

Also, petition of the News Messenger, against the tariff on linotype machines—to the Committee on Ways and Means.

By Mr. BENNETT of Kentucky: Petition of Patterson Moore et al., for pension of $12 per month for all soldiers who served in the war of the rebellion—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of Alexander Jackson—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of William Price—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of David H. Teager—to the Committee on Invalid Pensions.

Also, papers to accompany bills for relief of James H. Warford, James H. Reeder, Henry Braden, Sarah Farrow, Hezekiah Barker, George S. Ross, Penelope Morton, Stephen D. Ross, T. F. Guthrie, Synthia J. Carpenter, George A. Gilbert, John Redman, and William Rinehart—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of George Fankell—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of Wheetly D. Cropper—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of John Fetlin—to the Committee on Pensions.

Also, paper to accompany bill for relief of Simon B. Ellis—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of G. V. Upton—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of James H. Cumnins—to the Committee on Military Affairs.

Also, petition of Garrard T. Short et al., for correction in time of military service in the civil war—to the Committee on Military Affairs.

By Mr. BURKE of Pennsylvania: Petition of the Pittsburg Tool and Drop Forge Company, for the Williams and Mallory bill relative to quarantine in the Gulf—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Retail Grocers' Association, favoring the pure-food law—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Lake Carriers' Oil Company, for the Hepburn rate bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of Robert S. Waddell, against the Du Pont powder trust—to the Committee on Military Affairs.

Also, petition of the International Association of Master House Painters and Decorators, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. BURLEIGH: Petition of the Portland National Bank, against bill H. R. 48—to the Committee on the Post-Office and Post-Roads.

Also, petition of New England Society of the Chemical Industry, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. BURNETT: Paper to accompany bill for relief of estate of Samuel Carter—to the Committee on War Claims.

Also, paper to accompany bill for relief of estate of William C. Blackwell—to the Committee on War Claims.

By Mr. BURTON of Ohio: Petition of many citizens of Indian Territory, for admission as States of Indian Territory and Oklahoma—to the Committee on the Territories.

By Mr. CANDLER: Paper to accompany bill for relief of Thomas Blakeny—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of William L. Wilcher—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of Charles Sherwood—to the Committee on Invalid Pensions.

By Mr. COCKS: Petition of the Workingmen's Federation of the State of New York and the Central Federated Union of New York, against bill H. R. 5281 (the Littlefield bill)—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the Central Federated Union of New York, against the antipilotage bill (the Littlefield bill)—to the Committee on the Merchant Marine and Fisheries.

By Mr. COOPER of Wisconsin: Petition of citizens of Wisconsin, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. CURTIS: Petition of the Grand Army of the Republic Post at Abilene, Kans., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of citizens of Kansas, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of citizens of Kansas, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. DAVEY of Louisiana: Petition of the city council of New Orleans, for extension of the limits of the port of New Orleans—to the Committee on Ways and Means.

By Mr. DRAPER: Petition of the Chamber of Commerce of Troy, N. Y., for bill H. R. 9754—to the Committee on the Post-Office and Post-Roads.

By Mr. DRISCOLL: Petition of citizens of New York, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. DUNWELL: Petition of the National Board of Trade, for forestry reservations—to the Committee on Agriculture.

Also, petition of the California Fruit Growers' Exchange, for Government control of railway rates, private cars, etc.—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Buffalo Chamber of Commerce, for the Gallinger bill—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the State Charities Aid Association, for the pure food and drug bill—to the Committee on Interstate and Foreign Commerce.

By Mr. FITZGERALD: Petition of the State Charities Aid Association, for the pure food and drug bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Society of Master House Painters and Decorators, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of the Chicago Woman's Club, for investigation of woman's industrial condition in the United States—to the Committee on Appropriations.

By Mr. FLACK: Petition to accompany bill (H. R. 321) for a public building in Malone, N. Y.—to the Committee on Public Buildings and Grounds.

By Mr. FOSTER of Indiana: Petition of the Master House Painters and Decorators of the United States, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. FOSTER of Vermont: Petition of A. T. Clark et al., for the Grange good-roads bill—to the Committee on Agriculture.

Also, petition of A. T. Clark et al., for the Hepburn bill regulating commerce and railway rates—to the Committee on Interstate and Foreign Commerce.

Also, petition of A. T. Clark et al., for the parcels post law—to the Committee on the Post-Office and Post-Roads.

Also, petition of A. T. Clark et al., for retention of the tax on oleomargarine—to the Committee on Agriculture.

By Mr. FRENCH: Petition of citizens of Idaho, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. GOEBEL: Petition of the Cincinnati Retail Grocers' Association, for the Heyburn pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of citizens of Cincinnati, Ohio, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of the Cincinnati Chamber of Commerce, for bill H. R. 15436—to the Committee on Rivers and Harbors.

Also, petition of the Cincinnati Boot and Shoe Manufacturers' Association, against the anti-injunction bill—to the Committee on the Judiciary.

By Mr. GRAHAM: Petition of the Conewango Refining Company, for the Interstate Commerce Commission to regulate the rate on petroleum and against discrimination by the New York,

New Haven and Hartford Railway Company—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Pittsburg Tool and Drop Forge Company, for the Williams and Mallory bill regarding quarantine in the Gulf ports—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Retail Grocers' Association, for a national pure-food law—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Lake Carriers' Oil Company, for the Hepburn rate bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of the International Association of Master House Painters and Decorators of the United States and Canada, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of the Julius Hansmann Company, of New York, for relief for heirs of victims of *General Slocum* disaster—to the Committee on Claims.

Also, petition of many citizens of New York and vicinity, for relief for heirs of victims of *General Slocum* disaster—to the Committee on Claims.

Also, petition of Robert S. Waddell, against the Du Pont powder monopoly—to the Committee on Military Affairs.

By Mr. HENRY of Texas: Petition of citizens of Waco, Tex., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. HILL of Connecticut: Petition of the Chamber of Commerce of New Haven, Conn., for Government forest reservations—to the Committee on Agriculture.

Also, paper to accompany bill for relief of Leslie Smith—to the Committee on Invalid Pensions.

Also, petition of the West Side Workingmen's Club, for a law to regulate child labor in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of the Chamber of Commerce of New Haven, Conn., for improvement of the consular service as per bill S. 1345—to the Committee on Foreign Affairs.

Also, petition of the Chamber of Commerce of New Haven, Conn., for a commercial staff of attachés to American embassies—to the Committee on Foreign Affairs.

Also, petition of the Society of Master House Painters and Decorators of Massachusetts, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. HINSHAW: Petition of the Nebraska Cement Users' Association, for continued investigation by the Geological Survey of building material—to the Committee on Appropriations.

Also, petition of the Young People's Alliance, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of the Society of Master House Painters and Decorators, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of citizens of Nebraska, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. HOGG: Petition of citizens of Colorado, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of the Missionary Union of the city of Denver, for the Hepburn-Dolliver bill—to the Committee on Alcoholic Liquor Traffic.

By Mr. HOWELL of Utah: Paper to accompany bill for relief of Dennis Winn (previously referred to the Committee on Invalid Pensions)—to the Committee on Pensions.

By Mr. HUNT: Petition of the International Association of Master House Builders, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. JENKINS: Petition of citizens of Wisconsin, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. KELIHER: Petition of the National Board of Trade, for the establishment of national forest reserves—to the Committee on Agriculture.

Also, petition of the Warren Avenue Baptist Church, against the conditions in the Kongo Free State—to the Committee on Foreign Affairs.

Also, petition of the Massachusetts State Building Trades League, for removal of the duty on hides—to the Committee on Ways and Means.

By Mr. KENNEDY: Paper to accompany bill for relief of William C. Berghahn—to the Committee on Pensions.

By Mr. KNOWLAND: Paper to accompany bill (H. R. 8650) for relief of Sewell F. Graves—to the Committee on Pensions.

Also, petition of Agee, Chez & McCrackin, of Ogden, Utah, favoring the Bates-Penrose bill—to the Committee on the Judiciary.

Also, petition of the California Miners' Association and other associations of California, for reclamation and irrigation in the Sacramento Valley—to the Committee on Irrigation of Arid Lands.

Also, petition of the San Francisco Labor Council, for the Chinese-exclusion act—to the Committee on Foreign Affairs.

Also, petition of the Japanese and Korean Exclusion League of San Francisco, Cal., for the Chinese law as it is—to the Committee on Foreign Affairs.

Also, petition of citizens of Oakland, Cal., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, paper to accompany bill (H. R. 16439) for relief of Patrick Bogan—to the Committee on Invalid Pensions.

By Mr. LEWIS: Paper to accompany bill for relief of C. M. Bozeman—to the Committee on War Claims.

By Mr. LINDSAY: Petition of the National Board of Trade, for Government forest reservations—to the Committee on Agriculture.

Also, petition of A. E. Yoell, of the Japanese and Korean Exclusion League, for the Chinese law as it is—to the Committee on Foreign Affairs.

By Mr. McCARTHY: Petition of the International Association of House Painters and Decorators of the United States and Canada, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of citizens of Nebraska, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. MAHON: Petition of the Merchants' Protective Association of Lewiston, Pa., for the Heyburn pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of citizens of Pennsylvania, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. MANN: Paper to accompany bill for relief of Samuel Smith—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of Catherine Studdert—to the Committee on Pensions.

By Mr. MAYNARD: Petition of citizens of West Virginia, for the Penrose bill (S. 4357) for restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. MORRELL: Petition of Colonel Fred Taylor Council, Junior Order United American Mechanics, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. NORRIS: Petition of citizens of Nebraska, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of the Nebraska Cement Users' Association, for continued experiments by the United States Geological Survey as to building materials—to the Committee on Appropriations.

Also, petition of citizens of Nebraska, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of the Nebraska Cement Users' Association, for continued investigation of structural materials by the United States Geological Survey—to the Committee on Appropriations.

Also, petition of citizens of Grand Island, Nebr., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. OVERSTREET: Petition of the National Consumers' League, for the Heyburn pure-food bill—to the Committee on Interstate and Foreign Commerce.

By Mr. PAYNE: Paper to accompany bill for relief of Matilda J. Williams—to the Committee on Invalid Pensions.

Also, petition of citizens of New York and elsewhere, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of the Woman's Christian Temperance Union of Sherwood, N. Y., against liquor selling in any Government building—to the Committee on Alcoholic Liquor Traffic.

By Mr. PEARRE: Paper to accompany bill for relief of John Nure—to the Committee on Invalid Pensions.

By Mr. POLLARD: Petition of citizens of Collegeview, Nebr., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. PRINCE: Petition of citizens of Oklahoma, for the statehood bill—to the Committee on the Territories.

By Mr. REYNOLDS: Paper to accompany bill for relief of Abram Cullin and Robert Barclay (previously referred to the

Committee on Invalid Pensions)—to the Committee on War Claims.

By Mr. RHODES: Petition of J. M. Fulkerson et al., of Missouri, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. RIVES: Petition of many citizens of New York and vicinity, for relief for heirs of victims of *General Slocum* disaster—to the Committee on Claims.

By Mr. RUPPERT: Petition of the Japanese and Korean Exclusion League, for the Chinese law as it is—to the Committee on Foreign Affairs.

Also, petition of the National Board of Trade, for Government forest reserves—to the Committee on Agriculture.

Also, petition of the International Association of House Painters and Decorators, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of the New York State Charities Association, for the pure food and drug bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of the president of the University of Illinois, for an educational commission to China—to the Committee on Foreign Affairs.

Also, petition of the Buffalo Chamber of Commerce, for passage of the Gallinger bill—to the Committee on the Merchant Marine and Fisheries.

By Mr. RYAN: Petition of the Charities Aid Association of New York, for the pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of the East Buffalo Live Stock Association, for extension of the time in which live stock may be kept in cars in transit—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Society of Master House Painters and Decorators, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. SLAYDEN: Paper to accompany bill for relief of Cornelia Mitchell (previously referred to the Committee on Invalid Pensions)—to the Committee on Pensions.

By Mr. SNAPP: Petition of citizens of Illinois against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. TAYLOR of Ohio: Petition of Helen M. Harrington and 500 others, in support of bill (H. R. 14610) for an amendment to the pension laws—to the Committee on Invalid Pensions.

By Mr. VOLSTEAD: Petition of citizens of Minnesota, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. WEEMS: Paper to accompany bill for relief of Theodore T. Bruce—to the Committee on Invalid Pensions.

SENATE.

WEDNESDAY, *March 21, 1906.*

Prayer by the Chaplain, Rev. EDWARD E. HALE.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. GALLINGER, and by unanimous consent, the further reading was dispensed with.

The VICE-PRESIDENT. The Journal stands approved.

ENGAGEMENT AT MOUNT DAJO.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting additional information of an official character with reference to the recent engagement of American forces with the Moro outlaws on Mount Dajo; which, with the accompanying paper, was referred to the Committee on Military Affairs, and ordered to be printed.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented a memorial of the Amalgamated Association of Street and Electric Railway Employees of America, of Detroit, Mich., remonstrating against the adoption of any amendment to the present Chinese-exclusion law; which was referred to the Committee on Immigration.

Mr. KITTREDGE presented a petition of the Federation of Women's Clubs of Fort Pierre, S. Dak., and a petition of the Federation of Women's Clubs of Sioux Falls, S. Dak., praying for an investigation into the industrial condition of the women of the country; which were referred to the Committee on Education and Labor.

Mr. HEYBURN presented a petition of sundry citizens of Moscow, Idaho, praying for the removal of the internal-revenue tax on denaturized alcohol; which was referred to the Committee on Finance.

Mr. KEAN presented a petition of the New Jersey Bankers' Association, of Jersey City, N. J., praying for the enactment of legislation providing for a negotiable bill of lading; which was referred to the Committee on Commerce.

He also presented a petition of the Reading Club of Woodbury, N. J., praying for an investigation of the industrial condition of the women of the country; which was referred to the Committee on Education and Labor.

Mr. GALLINGER presented a petition of the General Federation of Women's Clubs of Lebanon, N. H., praying that an appropriation be made for a scientific investigation into the industrial conditions of women in the United States; which was referred to the Committee on Education and Labor.

He also presented a petition of the congregation of the Garden Memorial Presbyterian Church, of Washington, D. C., praying for the enactment of legislation to protect the first day of the week as a day of rest in the District of Columbia; which was referred to the Committee on the District of Columbia.

He also presented a petition of the Department of the Potomac, Grand Army of the Republic, of Washington, D. C., praying for the enactment of legislation to provide a temporary home in the District of Columbia for ex-volunteer soldiers and sailors of the late wars; which was referred to the Committee on the District of Columbia.

He also presented the petition of John Henry Hammond, of New York City, N. Y., praying for the enactment of legislation to regulate the employment of child labor in the District of Columbia; which was referred to the Committee on the District of Columbia.

He also presented a petition of Giles Taintor, of Boston, Mass., praying for the enactment of legislation to amend the Revised Statutes of the United States relating to the extension of patents; which was referred to the Committee on Patents.

Mr. BURKETT presented a memorial of sundry citizens of Valentine, Nebr., remonstrating against the consolidation of third and fourth class mail matter; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented the petition of Anthony Higgins and John M. Thurston, praying that an allowance be granted them as counsel in the impeachment proceedings of Charles Swayne; which was referred to the Committee on the Judiciary.

Mr. CULLOM presented a petition of the Manufacturers' Association of Chicago, Ill., and a petition of sundry citizens of Durand, Ill., praying for the enactment of legislation to remove the duty on denaturized alcohol; which were referred to the Committee on Finance.

He also presented memorials of the Business Men's Association of Bloomington, of sundry citizens of Bloomington and New Athens, in the State of Illinois, remonstrating against the enactment of legislation to consolidate third and fourth class mail matter, and also the passage of the so-called "parcels-post bill;" which were referred to the Committee on Post-Offices and Post-Roads.

He also presented memorials of sundry citizens of Mascoutah and Alton, in the State of Illinois, remonstrating against the repeal of the present Chinese-exclusion law; which were referred to the Committee on Immigration.

He also presented a petition of the Lake Seamen's Union of Chicago, Ill., praying for the enactment of legislation relating to the complement of crews of vessels; which was referred to the Committee on Commerce.

He also presented petitions of the Tuesday Club of Chicago; of the Woman's Club of Park Ridge; of the South Side Club, of Chicago; of the Woman's Club of Irving Park; of the Hull House Woman's Club, of Chicago; of the Fortnightly Club, of Galina; of the Woman's Club of Oregon; of the Aid and Loan Society Club, of Chicago; of the Woman's Club of Elgin; of the Every Wednesday Club, of Elgin, and of the Woman's Club of Bloomington, all in the State of Illinois, praying that an appropriation be made for a scientific investigation into the industrial conditions of women in the United States; which were referred to the Committee on Education and Labor.

Mr. SCOTT presented a petition of the Woman's Literary Club of Huntington, W. Va., praying for an investigation into the industrial conditions of women in the United States; which was referred to the Committee on Education and Labor.

ALASKA RAILROAD COMPANY.

Mr. TILLMAN. I present a memorial remonstrating against the passage of the bill (S. 191) to aid in the construction of a railroad and telegraph and telephone line in the district of Alaska. I ask that the memorial lie on the table and be printed in the RECORD.

There being no objection, the memorial was ordered to lie on the table and be printed in the RECORD, as follows:

WASHINGTON, D. C., *March 20, 1906.*

The honorable the Senate of the United States, Washington, D. C.:

As one long interested in the development of the district of Alaska, and now extensively engaged in commercial, transportation, and other business in the district, I desire to protest against the passage of the bill (S. 191) entitled "A bill to aid in the construction of a railroad and telegraph and telephone line in the district of Alaska," for the following reasons:

First. This bill proposes that Congress incorporate the Alaska Railroad Company and grant it a blanket right of way from the Gulf of Alaska, at or near the head of Cordova Bay, to a point on the Yukon River within 2 miles of Eagle. In addition to this proposed railroad company, there are now four others, in one of which—the Copper River and Northwestern Railroad Company—I am interested, building or proposing to build the same field. These four companies have been duly incorporated under the laws of several States, have made or are making surveys of their proposed routes under the act of Congress approved May 14, 1898 (Appendix D, S. Doc. No. 142, 59th Cong., 1st sess.), granting a right of way through the lands of the United States in the district of Alaska. Some of these companies have completed more or less of the laying out and grading of the line or route by which they are to build, and at least one of them has definitely, with the approval of the Land Office and the Secretary of the Interior, located a considerable part of its permanent right of way. This proposed Alaska Railroad Company is the only company desiring to enter that particular field, asking of Congress special incorporation and special privileges in the shape of a right of way not taken under existing law. In view of the fact that four companies are now occupying or proposing to occupy the same field, an incorporation by Congress of any one is uncalled for and unnecessary. All of the other companies have been compelled to secure their incorporation under State laws, and are faithfully complying with the act of Congress referred to, and with the regulations of the Department of the Interior, found in the circular of the General Land Office of June 8, 1898, to secure their right of way. They have necessarily been to great expense of time, labor, and money in making and filing the surveys required by law, and ask only to be allowed to go ahead under existing law, and not be placed at a disadvantage in the same field by a road getting a special incorporation and special and extraordinary privileges and grants by Congress. In view of this progress already made without the aid of Congress, the only object this proposed corporation without an actual survey can have in asking for the great privilege of an incorporation and a right of way from Congress itself must be the money value of your indorsement of the whole scheme, including the personnel of the directory. With existing law granting ample opportunity and privilege of incorporation and right of way, Congress should not select one particular set of men and construct them into a corporation with higher powers and a higher position than is enjoyed by others.

The preamble setting forth the object of the bill states that it is to aid in the construction of a railroad in the district of Alaska. It is a mistake to say that such an act would encourage or aid railroad building in the district. On the contrary, it would in a measure kill all of the enterprises heretofore started and in course of accomplishment. The prestige of your indorsement of one particular company would dwarf all others in granting to that particular company all the fruits of what has been so carefully worked for by the others. If there is to be any respect to the act approved May 14, 1898, this proposed corporation should take its chances under that act, as all the rest of us have done.

AS TO THE BILL ITSELF.

First. On page 18, line 7, the bill confers a right of way from Cordova Bay to the Yukon River by the most eligible route that shall be determined by the company. No one else dare move until this company determines what it wants. It is a blanket right of way covering all the region.

On pages 21 and 22, section 2, the language of the bill follows closely the wording of the act extending homestead laws of Alaska, and grants to this proposed company not only 160 acres more than is given in the same act for "terminals," but also "mud flats or tide lands in front thereof."

Compare act of May 14, 1898 (Appendix D, S. Doc. 142, 59th Cong., 1st sess., p. 487): "*Provided*, That nothing in this section contained shall be construed as impairing in any degree the title of any State that may hereafter be erected out of said district, or any part thereof, or the right of such State to regulate the use thereof, nor the right of the United States to resume possession of such lands, it being declared that all such rights shall continue to be held by the United States in trust for the people of any State or States which may hereafter be erected out of said district."

If you give this proposed corporation the ownership of the "tide lands" you thereby repeal the act of 1898 to that extent.

The aforesaid act of 1898, section 3 (Appendix D, S. Doc. 142, p. 487, sec. 3350), declares that a railroad which passes through any canyon, pass, or defile shall not prevent any other railroad company from use and occupancy of said canyon, pass, or defile for the purposes of its road, in common with the road first located.

If you will compare the proposed bill, page 23, lines 17, 18, and 19, you will see that the bill changes the whole scope of this provision of existing law by the insertion of the words, line 18, page 23, "upon such terms and compensations as are just."

Therefore the right to the canyon, pass, or defile, which you have declared shall be held in common and enjoyed by all, is here given to one concern, and no one else may pass over therein except "upon such terms and compensation *as are just*" *to that concern.*

That is the second amendment to the act of 1898 proposed by the bill.

Another change in the existing law proposed by the bill in this section is the omission of the words "and all shippers shall be entitled to equal accommodations as to the movement of freight and without discrimination in form of any person or corporation." (Sec. 3350, Doc. 142, Appendix D, p. 488.)

On page 25 section 5 of the proposed bill gives the proposed corporation the right to file a preliminary plat of its proposed route, "and said *preliminary plat* shall, from the time of filing the same, have the effect to render all the lands upon which said preliminary plat and route shall pass subject to said right of way."

Which is to say, that "right of way" passes absolutely to the company on the mere filing of a paper, which can be prepared in the company's office without a survey or without a single official ever having been on the ground.

Section 3352, Appendix D, page 488, requires "the preliminary map of location;" then in twelve months "a map and profile of at least a 20-mile section of its road, as definitely fixed," "and upon the approval of the Secretary of the Interior * * * *thereafter* all such lands over which the right of way shall pass shall be disposed of subject to such right of way."

The supervision and control of the Secretary of the Interior is repealed by the proposed bill, the requirement of an actual survey of each 20 miles of road is abandoned, and the "right of way" is given away without even requiring the proposed company to produce evidence of its good faith.

The act referred to makes the completion of all railroads in the district mandatory in four years from the filing of the map of definite location, and on failure to complete within that time provides that the rights granted shall be forfeited.

The proposed bill extends the time for this proposed company to *eight years*, and the forfeiture clause reads thus: "The rights herein granted *may be forfeited* as to any *uncompleted portion by Congress.*"

This proposed company is to have twice as long as other companies in which to do its work, and an appeal to Congress for clemency in case of its failure to complete its road.

By section 6 it is provided "That if said Alaska Railroad Company shall not complete and put in operation at least 20 miles of its said railroad within three years from the passage of this act, all the lands granted by this act shall revert to the United States." That is to say, if the proposed corporation builds 20 miles of railroad in three years, its title to all the lands, coal, terminal, and otherwise, herein mentioned, vests absolutely in the corporation.

We have noted that this company (section 2 of the bill) is to receive 100 more acres of land than other companies in Alaska for a terminal, and "the mud flats or tide lands in front thereof," and now, by section 10, "in addition to the terminal lands hereinbefore granted for railroad purposes, there be, and is hereby, granted to said Alaska Railroad Company *2,560 acres* of public lands * * * together with the mud flats or tide lands in front thereof at its terminus at or near the head of Cordova Bay."

Two thousand five hundred and sixty acres more! and more "tide lands!"

This is a request for favoritism. The land laws have been extended to Alaska and opportunity is offered to this proposed company as well as others to avail itself of such laws. I can see no reason why they should be repealed for the benefit of this company, which, as yet, has no existence.

By section 11 of the proposed bill there is granted "to said Alaska Railroad Company one section of coal land in Alaska."

A section is defined to be 640 acres in the aggregate, and need not be confined to any shape—that is, it need not be 1 square mile of land.

This gift repeals the coal-land laws of the United States for the benefit of this proposed company; these laws are found on page 104, Document 142, heretofore referred to. I know no ground on which this proposed company can ask the repeal of the Revised Statutes of the United States on its behalf and for its sole benefit, for it has done no work, made no survey or other act to entitle it to the special benefits except to ask of Congress its consideration.

Other companies are mining coal in Alaska under the provisions of the acts of Congress which limit the locations of persons or associations to rectangular tracts containing 40, 80, or 160 acres, but it is proposed to give this proposed company by this bill four times as many acres in the aggregate as any other company may locate under existing law.

Not only this, but since a section need not be taken in a rectangular form, the limit to the amount of coal lands which may be taken under such a grant can hardly be estimated.

The Copper River and Northwestern Railroad starts at Valdez and goes over the Marshall Pass to the Copper River where it meets the right of way which the proposed bill would give to the Alaska Railroad Company. It has already completed and cleared all obstructions from a definite survey to this point of meeting and for some distance up the river. It has filed in the General Land Office a preliminary survey for that distance and a permanent survey for half the distance, the latter having been approved by the Land Office and the Secretary of the Interior.

It has built at Port Valdez docks and other improvements, and has graded its right of way from that point to Keystone Canyon, 12 miles; it has about completed a very difficult piece of rock work through this canyon, a distance of 4 miles, and is continuing this work along its right of way as fast as the inclement winter season will permit. The financial arrangement for the building of this road—The Copper River and Northwestern Railroad—has been fully made, and its completion is assured.

I am informed that The Copper River Railroad Company and the Alaska Pacific and Terminal Railroad Company have on file in the General Land Office preliminary surveys covering 130 miles of their proposed routes, which would also be covered by the right of way asked for in this bill, and are fully prepared, financially and otherwise, to build their roads. The Alaska Central Railroad Company has already built and in operation 45 miles of railroad under the general law and has asked for no special act of incorporation.

There is no evidence on file in the Land Office to show that the proposed company, asking for these special favors, has ever been over its route with instruments; it has made no survey or measurements, as shown by the testimony of its chief engineer before the Committee on Territories, House of Representatives, February 1, 1906, page 60, Hearings on Railroads in Alaska.

In conclusion, I wish to reiterate that this bill should not pass unless Congress desires to put a cloud upon the titles of all these companies already at work in this region, which will be a menace for eight years to all railroad building in the country.

Respectfully, D. H. JARVIS.

REPORTS OF COMMITTEES.

Mr. MCCUMBER (for Mr. CARMACK), from the Committee on Pensions, to whom was referred the bill (S. 4217) granting an increase of pension to Carrick Rutherford, reported it with an amendment, and submitted a report thereon.

He also (for Mr. CARMACK), from the same committee, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 5434) granting an increase of pension to Hugh Green;

A bill (H. R. 3806) granting a pension to Eva L. Martin;

A bill (H. R. 11990) granting an increase of pension to Daniel M. Coffman;

A bill (H. R. 9705) granting a pension to George W. Robinson;

A bill (H. R. 15449) granting a pension to Rhoda Kennedy; and

A bill (H. R. 14078) granting an increase of pension to Catherine Summers.

Mr. McCUMBER (for Mr. GEARIN), from the Committee on Pensions, to whom was referred the bill (H. R. 8891) granting an increase of pension to Josephine Rogers, reported it with an amendment, and submitted a report thereon.

He also (for Mr. GEARIN), from the same committee, to whom was referred the bill (S. 2287) granting an increase of pension to James V. Pope, reported it with an amendment, and submitted a report thereon.

He also (for Mr. GEARIN), from the same committee, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 2549) granting an increase of pension to George W. Boyles;

A bill (H. R. 7839) granting a pension to Ray E. Kline;

A bill (H. R. 8333) granting an increase of pension to John G. Honeywell;

A bill (H. R. 9087) granting an increase of pension to William Winn;

A bill (H. R. 5933) granting an increase of pension to Winnie Pittenger;

A bill (H. R. 7856) granting an increase of pension to Norman C. Potter;

A bill (H. R. 9898) granting an increase of pension to Abraham H. Miller;

A bill (H. R. 9904) granting an increase of pension to Neeta H. Marquis;

A bill (H. R. 11214) granting a pension to Isaac Baker;

A bill (H. R. 11269) granting an increase of pension to Thomas Griffith;

A bill (H. R. 11905) granting an increase of pension to Elizabeth E. Atkinson;

A bill (H. R. 12897) granting an increase of pension to Robert B. Malone;

A bill (H. R. 14646) granting an increase of pension to Amlrose R. Fisher;

A bill (H. R. 14077) granting an increase of pension to George W. Chesebro;

A bill (H. R. 14076) granting an increase of pension to William Sanders;

A bill (H. R. 13904) granting an increase of pension to Francis A. Barkis; and

A bill (H. R. 8339) granting a pension to Vienna Ward.

Mr. McCUMBER (for Mr. GEARIN), from the Committee on Pensions, to whom were referred the following bills, reported them severally with amendments, and submitted reports thereon:

A bill (S. 4797) granting an increase of pension to Jacob Franz; and

A bill (S. 230) granting an increase of pension to Alfred A. Woodin.

Mr. FULTON, from the Committee on Claims, to whom was referred the bill (S. 4725) to provide for the division of penalty recovered under the alien contract-labor law, reported it without amendment, and submitted a report thereon.

Mr. CULLOM, from the Committee on Foreign Relations, reported an amendment proposing to appropriate $5,071.45 for the erection of a building for the United States consulate at Tahiti, Society Islands, intended to be proposed to the diplomatic and consular appropriation bill, and moved that it be referred to the Committee on Appropriations, and printed; which was agreed to.

He also, from the same committee, reported an amendment proposing to appropriate $250,000 for the purchase of a site and the erection of a building for the United States consulate at Shanghai, China, intended to be proposed to the diplomatic and consular appropriation bill, and moved that it be referred to the Committee on Appropriations, and printed; which was agreed to.

Mr. LODGE, from the Committee on Foreign Relations, to whom was referred the bill (S. 5131) incorporating the Archæological Institute of America, reported it without amendment.

HEARINGS BEFORE COMMITTEE ON INDIAN AFFAIRS.

Mr. KEAN, from the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred the resolution submitted yesterday by Mr. CLAPP, reported it without amendment, and it was considered by unanimous consent and agreed to as follows:

Resolved, That the Committee on Indian Affairs be, and the same is hereby, authorized to employ a stenographer from time to time, as may be necessary, to report such hearings as may be had on bills or other matters pending before said committee, and to have the same printed for the use of the committee, and that such stenographer be paid out of the contingent fund of the Senate.

JOHN W. HALLEY.

Mr. McCUMBER. I move that the bill (S. 1250) granting an increase of pension to John W. Halley be taken from the Calendar and indefinitely postponed, on account of the death of the beneficiary of the bill.

The motion was agreed to.

NANCY G. BEASLEY.

Mr. McCUMBER. For the same cause, I move the indefinite postponement of the bill (S. 326) granting an increase of pension to Nancy G. Beasley.

The motion was agreed to.

PUBLIC LANDS IN ALABAMA.

Mr. HANSBROUGH. From the Committee on Public Lands I report back favorably without amendment the bill (H. R. 13194) to authorize the Secretary of the Interior to reclassify the public lands of Alabama. It is a small bill, and I ask unanimous consent for its present consideration.

The Secretary read the bill; and, there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. TILLMAN introduced a bill (S. 5232) for the relief of the trustees of Three-Mile Creek Church of Christ, of Barnwell County, S. C.; which was read twice by its title, and referred to the Committee on Claims.

Mr. FULTON introduced a bill (S. 5233) granting an increase of pension to Edwin Elliott; which was read twice by its title, and referred to the Committee on Pensions.

Mr. FLINT introduced a bill (S. 5234) for a public building for the United States Geological Survey at Washington, D. C.; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

Mr. McENERY introduced a bill (S. 5235) granting an increase of pension to James S. Rosebery; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

He also introduced a bill (S. 5236) for the relief of the heirs of Victor Faisons, deceased; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

Mr. BAILEY (by request) introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Claims:

A bill (S. 5237) for the relief of the estate of T. H. Coalloe, deceased;

A bill (S. 5238) for the relief of Elizabeth A. Baker;

A bill (S. 5239) for the relief of H. Polkinhorne; and

A bill (S. 5240) for the relief of the estate of George H. Giddings, deceased.

He also introduced a bill (S. 5241) for the relief of Mrs. James M. Jett; which was read twice by its title, and referred to the Committee on Claims.

Mr. WARNER introduced a bill (S. 5242) for the relief of Virginia K. Hahn and Mary E. Carroll, heirs of James Bridger, deceased; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

He also introduced a bill (S. 5243) for the erection of a public building at Clinton, Mo.; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Public Buildings and Grounds.

Mr. PILES introduced a bill (S. 5244) granting an increase of pension to Horace A. Gregory; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. KITTREDGE introduced a bill (S. 5245) to amend the Code of Law of the District of Columbia, approved March 3, 1901, as amended by the acts approved January 31 and June 30, 1902; which was read twice by its title, and referred to the Committee on Patents.

Mr. GALLINGER introduced a bill (S. 5246) to provide for the extension of Geneseo place, District of Columbia; which was read twice by its title, and, with the accompanying papers, referred to the Committee on the District of Columbia.

Mr. McCUMBER introduced a bill (S. 5247) granting an increase of pension to Jacob Wigel; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. CULLOM introduced the following bills; which were

severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 5248) granting an increase of pension to William Ramage;

A bill (S. 5249) granting an increase of pension to Adam P. Gay; and

A bill (S. 5250) granting an increase of pension to John Stockwell.

WITHDRAWAL OF PAPERS—JAMES A. HUMPHREYS.

On motion of Mr. LONG, it was

Ordered, That all the papers in the office of the Secretary of the Senate relating to the bill (S. 6729, Fifty-eighth Congress) for the relief of James A. Humphreys, be withdrawn, there having been no adverse report on said bill.

REGULATION OF RAILROAD RATES.

Mr. CULBERSON submitted an amendment intended to be proposed by him to the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission; which was ordered to lie on the table, and be printed.

AMENDMENTS TO BILLS.

Mr. PILES submitted an amendment authorizing the issuance of patents in fee simple to George Bowen and certain other allottees for lands heretofore allotted to them; and also removing the restriction upon the patent heretofore issued to Charles Sheostal, Swinomish allottee, etc., intended to be proposed by him to the Indian appropriation bill; which was referred to the Committee on Indian Affairs, and ordered to be printed.

Mr. KITTREDGE submitted an amendment proposing to appropriate $6,000 for laundry purposes and $3,500 for a water system for the asylum for insane Indians at Canton, S. Dak., intended to be proposed by him to the Indian appropriation bill; which was referred to the Committee on Indian Affairs, and ordered to be printed.

Mr. KITTREDGE (for Mr. CLAPP) submitted an amendment intended to be proposed by him to the bill (H. R. 8131) to prohibit the wearing of the uniform of the Army, Navy, Marine Corps, or Revenue Service of the United States, and so forth; which was referred to the Committee on Military Affairs, and ordered to be printed.

DEPARTMENTAL INFORMATION AFFECTING MARKETS.

Mr. CLARK of Wyoming. I ask leave, on behalf of the conference committee, to withdraw the conference report on the bill (H. R. 10129) to amend section 5501 of the Revised Statutes of the United States.

The VICE-PRESIDENT. The Senator from Wyoming asks permission to withdraw the conference report on House bill 10129. Without objection, leave is granted.

Mr. CLARK of Wyoming. I desire to say that following the suggestion made in the Senate yesterday a concurrent resolution will be prepared to remedy the defect. I trust I may be allowed to express the hope that at last we have a distinct precedent for the refusal of the Senate to concur in new legislation in a conference report; and I trust that in the future it will be exercised as strongly against measures that are less meritorious than the one which was presented by your committee yesterday.

FORTIFICATIONS APPROPRIATION BILL.

Mr. PERKINS. Mr. President, I gave notice yesterday that I would ask the Senate this morning to continue the consideration of House bill 14171, there being one amendment proposed by the committee not yet disposed of. The senior Senator from Virginia [Mr. DANIEL] desires to speak to that amendment. I notice that he is absent from his seat, and therefore I will ask that the bill may temporarily go over. He will probably be in during the day.

In the meantime I will take this occasion to submit a statement as to the floating dry dock *Dewey*, about which inquiry was made yesterday.

For the floating steel dry dock *Dewey*, appropriations were made as follows:

Act of July 1, 1902 (Pulsifer comp., p. 380)	$200,000
Act of March 3, 1903 (Pulsifer comp., p. 411)	300,000
Act of March 27, 1904 (Pulsifer comp., p. 442)	725,000
Total	1,225,000

It was built after designs similar to those of the floating dry dock at New Orleans. It was constructed by the Maryland Steel Company at Sparrows Point, Md., on Chesapeake Bay, about 4 miles from Baltimore.

REGULATION OF RAILROAD RATES.

Mr. TILLMAN. Mr. President, I ask the Senate to proceed to the consideration of the unfinished business.

The VICE-PRESIDENT. The Senator from South Carolina moves that the Senate proceed to the consideration of the unfinished business, being House bill 12987.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission.

Mr. BAILEY. Mr. President, several days ago I prepared two amendments to this bill which I thought would greatly improve it. I did not indulge the hope that those amendments would be entirely satisfactory, either in form or in substance, to all who agree with me upon the main question, because no Senator can prepare any important bill or amendment which will meet the approval of all Senators. The utmost that I expected was that those amendments would become a basis for conferences and suggestions among those who sincerely desire an efficient rate-regulation law, and that out of those conferences and suggestions we would evolve a proposition which would command our united support.

In accordance with that view, I refrained from offering the amendments in the open Senate, and I took care that they should not find their way into the public prints of the country, because I felt that all ought to be consulted before any definite line of action was proposed. My plan was to submit that amendment to my Democratic associates, and after I had received the benefit of their wisdom and their advice, then to pass it to the Republican friends of efficient rate regulation for such suggestions in the way of omissions or additions or modifications as they might see fit to make.

I perfectly understood that in refusing to make those amendments public I would give people an opportunity to misrepresent them, but that consideration could not deflect me from my course, and I would still deem it best to withhold them, except for a statement which was made yesterday by the Senator from Iowa [Mr. DOLLIVER], which appears in the New York Sun of this morning, and which, I am told, also appears in the Chicago Record-Herald of to-day.

The Senator from Iowa asked yesterday if he could see one of those amendments and it was cheerfully shown to him, without any thought, however, that he would consider himself at liberty to discuss it in the newspapers. I am sure that he made his statement without due reflection, because I know that he would not ask to see a paper, which the author of it considered private, and then discuss the contents of it for the public.

I waive all question of propriety, but the statement of the Senator from Iowa requires that I should now submit these amendments to the Senate in order that intelligent men throughout the country may see how widely the Senator from Iowa misunderstands their scope and meaning. He is quoted by the New York Sun as saying, in reference to one of these amendments:

> It will never do. It leads us into a worse morass than anything yet proposed.

Then he specifically objects to my standard of a "just compensation," and declares that "it is thoroughly preposterous to try to determine what would constitute a just compensation."

Mr. President, when the Senator from Iowa characterizes the standard of a just compensation as a preposterous one he assails the fundamental law of this land. He seems to have overlooked the fact that the identical words which I have used, and to which he objects, and which he characterizes as preposterous, are taken from the Constitution itself. If I have erred in proposing as the standard for the Commission a "just compensation" for the service, I have the satisfaction of knowing that I have erred in the company of the great and wise men who wrote and adopted the fifth amendment to the Constitution, and that I have erred in using words which have never before been criticised in the legislative or in the judicial history of this Republic.

I remind the Senator from Iowa that all the property which he holds to-day, all that I hold, and all that any American citizen holds is held under the single guaranty that it shall not be taken from him for a public use without a "just compensation." The Constitution does not say it shall not be taken without "a just, reasonable, and fairly remunerative" price. It does not attempt to guarantee the profit of an enterprise by saying that the price at which the public may use it shall be a "fairly remunerative one;" but, without reference to the cost, it says that when you take it you must allow a just compensation for it, and that is what I have provided in this amendment.

Mr. President, I do not believe there is a man in this Republic who, if you put the question to him straight, will say that he wants the railroads to serve him for less than a just compensation. Perhaps there are men who would like to make the rail-

roads serve them for no compensation at all, but they will not dare affront the common honesty of the people by saying so. Nor is there a railroad manager in all this land to-day who will admit that he wants the people who use his railroad to pay more than a just compensation for its use. Perhaps there are railroad managers who would like to take the entire consignment for the freight bill, but even that kind pay a tribute to honesty by claiming that all they want is a just compensation for their service.

Then, sir, if the shipper says he is willing to pay a just compensation, if the carrier says he only wants a just compensation, and if the Constitution says he shall have a just compensation, it looks to me like Congress can not go very far astray in saying that the Commission shall fix a rate which affords a just compensation.

The Senator from Iowa declares in this interview that my proposition did not take into consideration the subject of discriminations, which, after all, was the greatest evil.

The Senator from Iowa of course read the amendment hurriedly, and he doubtless did not compare it with the bill; and therefore it will probably surprise him when I tell him that there is not a line in the amendment which he read and to which he objects that changes the Hepburn bill in respect to discriminations in the least. It leaves that bill precisely as it found it in respect to discriminations.

Now, Mr. President, as to the amendment giving the carrier his day in court, we had not proceeded far enough with it to indicate the point at which it should be inserted in the bill. It was an expression to be considered and amended, if it was deemed necessary to change it. But in order that the country may see it precisely as the Senator from Iowa saw it, I intend to offer it without the change of a word and without the ordinary addition providing for the line of the bill at which it should be inserted.

The other amendment providing the standard had gone so far as to say where it should be inserted in the bill, and yet it, like the longer amendment, was tentative.

I submit them, Mr. President, and I submit them with the assurance to every sincere friend of this legislation that if he can provide a better one I will abandon mine and gladly join in the support of a better one. I have no pride of authorship, and I fervently thank God that I have never felt that petty jealousy which finds fault with all work except my own.

Mr. KNOX. I ask that the amendments may be read at the desk.

The VICE-PRESIDENT. The amendments submitted by the Senator from Texas will be read at the request of the Senator from Pennsylvania.

The SECRETARY. On page 10 of the bill, line 19, after the word "what," strike out all down to and including the word "prescribed," in line 5, on page 11, and insert the following:

A rate or charge which shall afford a just compensation to the carrier or carriers for the service or services to be performed, and a regulation or practice which shall be just and reasonable. The rate or charge, regulation, or practice so determined and prescribed shall be the only lawful rate or charge, regulation, or practice, and the carrier or carriers shall not thereafter demand or collect any other rate or charge or follow any other regulation or practice.

The VICE-PRESIDENT. The second proposed amendment will be read.

The Secretary read as follows:

Any carrier or person or corporation party to such complaint and dissatisfied with the rate or charge, regulation, or practice so established and prescribed may file a bill against the Commission in any circuit court of the United States for the district in which any portion of the line of the carrier or carriers may be located, alleging that such rate of charge will not afford a just compensation for the service or services to be performed, or that the regulation or practice is unjust and unreasonable, and if upon the hearing the court shall find that such rate or charge will not afford a just compensation for the service or services to be performed, or that the regulation or practice is unjust and unreasonable, it shall enjoin the enforcement of the same: *Provided, however*, That no rate or charge, regulation, or practice prescribed by the Commission shall be set aside or suspended by any preliminary or interlocutory decree or order of the court. Said proceeding shall have precedence over all other cases on the docket of a different character, and the court shall have power to make orders to secure the attendance of persons from any part of the United States, and the existing laws relative to evidence and proceedings under the act to regulate commerce shall be applicable. Either party to said proceeding shall have the right to appeal directly to the Supreme Court of the United States, and such appeal shall have precedence in said Supreme Court over all other cases of a different character pending therein.

Mr. DOLLIVER. Mr. President, I desire to occupy only a minute or two of the time of the Senate.

I need not say to my honorable friend from Texas that there is nobody in this Chamber who has a higher regard for him or a greater admiration for his abilities. I will add that I had no impression that there was any secrecy or anything of a confidential nature in these amendments. I had heard them freely discussed and talked of in the Senate for a long time. I have seen them discussed in the newspapers. Only a few days ago a very able lawyer in the State of Texas, which my friend so ably represents here, wrote me giving a rather particular account of what was in the mind of my honorable friend.

Mr. BAILEY. Mr. President——

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from Texas?

Mr. DOLLIVER. Certainly.

Mr. BAILEY. Of course the Senator refers to Judge Cowan——

Mr. DOLLIVER. Yes.

Mr. BAILEY. With whom I have discussed this question on more than one occasion; but neither Judge Cowan nor anybody else outside of the Senate, so far as I know, ever saw this amendment which the Senator read yesterday. I will say to the Senator besides that I made but one copy of it here, because I felt that everybody was entitled to see it and criticise it before it was given to the public; and that copy the Senator from Louisiana had and showed to the Senator yesterday.

Mr. DOLLIVER. Mr. President, I am very sorry that I did not know the exact status of this amendment. I had heard it discussed so freely and had had it, in its substantial provisions, brought so repeatedly to my attention, that I confess I did not understand its secrecy, and can not understand now how a matter should be shown to everybody and its privacy preserved. I have not been able to accomplish that result even after a good deal of effort. On the whole, it is not sure that it would be a desirable thing, even if it could be accomplished. But I desire to disclaim any intention to embarrass and certainly any intention to disturb the feelings of my friend.

It is never pleasant to plead the privileges of a person who has been overtaken by the energy of the newspaper press. After a good many years in this Capitol, I have never had occasion to seriously complain of any report of anything I have said; but it is due to me, in view of what my honorable friend has said, to state that the conversation upon which the interview was based occurred yesterday evening as I was trying to get out of the door and occupied only the few moments of time. While I have not read the report or had my attention called to it, I see by the portion which my friend from Texas has read that, without going any further, it is rather a fragmentary and imperfect presentation of what I tried to say. My impression is that, although I would not be sure, the enterprising correspondent who interviewed me himself stated what the position of the Senator from Texas was, but my impression may be wrong about that. I certainly had in my mind no intention to betray any of the secrets of this Chamber.

My objection to the amendment was not one that need arouse any acrimonious spirit of controversy. As one Senator the other day, in a very able speech—I think the Senator from Texas [Mr. CULBERSON], the colleague of my friend—pointed out, there has been for many generations, both at common law and in the statutes of all English-speaking countries, one standard to which railway rates are to be referred test their lawfulness. That standard is embraced in the phrase "just and reasonable."

I confess more than a passing interest in the suggestion of the junior Senator from Texas, that that time-honored phrase should be abandoned—a phrase taken out of its surroundings in the Bill of Rights and put into the body of this law as a standard to govern the Interstate Commerce Commission. My objection to it is based altogether upon the fact that it is an impracticable standard. It is impossible for a commission or a court or a railroad or anybody else to tell in advance whether a rate is reasonably compensatory—that is to say, whether it affords a reasonable profit on the cost of the service.

Of course, there is very persuasive influence in the words of the Constitution, that "private property shall not be taken for public use without just compensation," but my honorable friend from Texas, I think, will not dispute the fact that there is at least a question whether that language refers to the service of a railroad in respect to a particular rate.

The property of a railroad that may not be taken for public use without just compensation can not be defined by the action of a commission in respect to a specific rate. It is well known to everybody that very many of the rates made by railways themselves do not pretend to afford a compensation for the service that is rendered in that particular case. Every railway schedule is full of sacrifice rates, made for the purpose of eliminating business in some other department. No great railway system pretends to make every rate which is in its schedule compensatory in any practical sense of the word. The great railway systems, which are continental in their scope, confessedly carry goods from one sea coast to the other, not on the basis of what is a just compensation for the service, but because

they must carry at that rate or not carry the goods at all. So that, as a practical proposition, it will be perceived that in departing from the old standard of "just and reasonable" and creating a new standard, a just compensation for a particular service, you contradict the whole scheme of railway rate making.

It must be considered that no railroad can know in advance, with certainty, whether a rate it fixes will be compensatory for that particular service. For that reason no commission could properly be charged with the duty of finding out what the cost of the service is in a particular case, and no court of justice has any facility to determine any such question.

I have been interested in reading a little book entitled "The Elements of Railway Economics," by Mr. W. M. Acworth, printed at Oxford, England, last year. Mr. Acworth is, in many respects, one of the most intelligent students of practical railway problems that there is in the world. He has been a lecturer in one of the great institutions of learning in England, and last spring had the kindness, while the Committee on Interstate Commerce was in session, to appear before that committee and bear very interesting and very valuable testimony. I desire to read from page 51 of that little book a statement of Mr. Acworth, which I believe will be verified by the practical experience of nearly everybody. He says:

> Once we have grasped these fundamental facts, we can promptly get rid of not a few popular fallacies as to the equitable basis of railway rates.

Mr. RAYNER. Will the Senator allow me?

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from Maryland?

Mr. DOLLIVER. Certainly.

Mr. RAYNER. I should be obliged to the Senator from Iowa if he would explain to the Senate what the court does under the Hepburn bill except to determine whether the railroad has received just compensation.

Mr. DOLLIVER. I will come to that in a minute.

Mr. RAYNER. That is the fifth amendment of the Constitution, as I understand it.

Mr. DOLLIVER. Mr. Acworth continues:

> Volumes have been written to show that railway rates ought to be based on cost of carriage. For two generations parliamentary committees and royal commissions have been implored to compel English railways to charge on this basis. Whether it is desirable that railway rates should be so based is a question to which we shall need to recur at a later stage. It is simpler to say at this point that such a basis is impossible, as no one knows, or can know, what the cost of carriage is.

Mr. BAILEY. Will the Senator from Iowa permit me to ask him a question?

Mr. DOLLIVER. Certainly.

Mr. BAILEY. Does the Senator not know that this eminent authority, from whom he reads, declares that the express business in this country is done by the Pullman Company?

Mr. DOLLIVER. I am not aware of that.

Mr. BAILEY. It is true.

Mr. DOLLIVER. I have read this book with some care, but I have not found that.

Mr. BAILEY. I think it is not in that book. I have not read that book.

Mr. DOLLIVER. I have heard that statement made as a jest at the expense of an English traveler, but I do not think it interferes with his general authority as a student of railway economics.

Mr. BAILEY. I think the Senator will find that Mr. Acworth says the express business in France is done by a company whose French name he gives, and in the United States it is done by the Pullman Company. I will ask the Senator from Ohio [Mr. FORAKER] to give us the benefit of his suggestion also.

Mr. FORAKER. I have no objection, if the Senator from Iowa will pardon me.

Mr. DOLLIVER. Certainly.

Mr. FORAKER. I will say to the Senator from Iowa that other writers on railway economics have advanced the same proposition, that because of the complexity of rate making it is impossible to tell what is a just compensation in the case of any particular rate standing by itself.

Mr. DOLLIVER. I have not finished. The writer then goes on to point out why it is impossible to take up a particular railroad rate and tell in advance whether it will afford compensation for the service involved in it or not.

Mr. Acworth adds:

> It comes, therefore, to this: That even if it were, which it is not, possible to say what it would cost to carry x units of traffic, no one could so fix a rate as to obtain precisely the cost plus a determined percentage of profits, because the percentage of profit varies enormously according as the actual volume of traffic carried recedes on the one side or the other from the assumed volume x.

I will add to what my honorable friend from Ohio [Mr. FORAKER] has said, that numerous writers lay down the same proposition, and I believe there is no authority in the English language which does not concede that in the case of a particular rate it is impossible either for a railroad or for a commission or for a court to tell certainly in advance whether the compensation in that particular case will or will not produce a just compensation. The reason is that the human mind has no faculty that enables it to find out what the cost of carrying a particular article a particular distance is, such is the complexity of the railway system; and no system of statistics or accounting or expert investigation has ever fathomed the question which my honorable friend proposes to present to the Interstate Commerce Commission to the exclusion of all other considerations which affect the case.

I do not agree with the Senator from Texas that every railroad rate must afford a compensation for the particular service involved in it in order to avoid the prohibition of the fifth amendment of the Constitution of the United States to which he alludes. That amendment, as I understand it, guarantees the integrity of the railway property, and the question of just compensation would not arise unless a showing was made that, on the whole, this order of the Commission had so interfered with the earnings of the company as to invade the integrity of its property.

I do not believe that my honorable friend, who I am sure is earnest and sincere in his anxiety to secure railway rate legislation—and I will add that no man has contributed more to the argument in behalf of the people on this question than the Senator from Texas—will, upon reflection, put upon the Commission the task of doing an impossible thing. If he does that, I trust that he will leave the work of the Commission to stand as in some sense a finality in the matter.

Yesterday or the day before the Senator from Texas paid a magnificent tribute to the ability of an expert railway commission, composed of great business men, with experience and practical knowledge, and to their superior capacity, compared to our judges, to pass upon rate questions. Now, if it is his purpose to bring these railway rates to the test of whether the compensation is just in a particular case, I beg of him to leave the decision of the Commission to stand as the law governing that particular case.

I can not—and I used the word "morass" in that interview, hurried as it was, in no objectionable sense—I can not imagine a worse situation for the public or for the railroads than the proposition the Senator from Texas suggests. He puts upon the Commission the duty of solving an insoluble problem, and then passes their answer to the question over to the courts to determine whether the Commission has solved it correctly or not. It is to be feared that it will turn out a difficult and ineffective scheme.

I agree with my honorable friend that there ought to be a fair and full conference in this Chamber as to this matter. I have been greatly interested, so far, in the debate that has gone on here. It has illuminated this question from a variety of standpoints. There is no doubt that the debate will continue to throw light and interest upon this great problem; but in our anxiety to reach harmony and unity of action, I do not desire to lose sight of the main issue, and I do not intend to do so if I can help it.

There are two questions presented here, both of which can be defended. One of them has been presented by the Senator from Ohio [Mr. FORAKER], who proposes to take every railroad rate that is complained of directly into the court to be adjudicated; and the other has been presented by the bill which comes to us from the House of Representatives, which proposes to put these disputed railway rates before a great expert commission and charge them with the duty of investigating them and deciding them, taking into consideration every question that may properly enter into it, not only the cost of service, but every other question that may be properly involved in the formation of a railway rate. That proposition can be defended. But there is hovering here in the air of this Chamber a proposition which can not be successfully defended, and that is to create a great commission, with great salaries, and give them experience and learning and wisdom to discuss and to determine a practical question like the fixing of a railway rate—give that jurisdiction to the Commission, allow them to exercise it, and then solemnly transplant the entire controversy to be redetermined, rejudged, and redecided by a circuit court of the United States. That proposition, in my humble opinion, can not be defended. I do not deny that much can be said of a most persuasive character about it; but when people get down to a determination of this question, very few, in my judgment, will hold that the court ought to be made the ultimate arbiter in these railway disputes, for the very minute a man reaches the opinion that the court ought to be the ultimate arbiter, that

very minute he ought to go to the support of my honorable friend from Ohio, who has a proposition pending here to make the court the sole and original judge in these disputed questions.

I do not care, Mr. President, at this time to say anything further, except again to disclaim any intention of hurting the feelings of the Senator from Texas or disturbing the proprieties which ought to prevail here. I certainly have not done anything or said anything except with the most sincere good will toward the Senator from Texas.

Mr. BAILEY. The Senator from Iowa did not need to make that disclaimer, because I anticipated him in it and declared that I was satisfied his statement was made without understanding the situation as it appeared to us. I can not, however, accept the Senator's reasons for objecting to the amendment as readily as I accept his disclaimer. When the Senator says that for the court to determine what is a just compensation is an "insoluble problem," he declares, in effect, that every citizen in the United States holds every dollar's worth of his property subject to a rule which is not reducible to a reasonably certain human standard. If we accept his statement that it is impossible to determine what constitutes a just compensation, then every man within the jurisdiction of this Republic holds his property by an insecure and shifting tenure. If what the Senator has said is true, the railroad can file against him or me a bill to condemn the home where our children were born, to appropriate the farm which holds the ashes of our ancestors—can condemn and apply them to its use; and yet this test established by the Constitution for our protection is incapable of fair enforcement.

Let me tell the Senator that, after all, the only way in which to sustain the law authorizing the public to take any person's property—and under the law a railroad corporation is a person and entitled to the protection of its property rights—is by paying it a just compensation. If "a reasonable and fair compensation" does not mean at least as much as "a just compensation," then Congress would be without authority.

Mr. President, the Senator from Iowa does not understand this question as I do, because he spoke of a profit. It is immaterial to me whether a just compensation nets the railroad a profit or a loss. What the railroad is entitled to receive is a just compensation for the service; and the right of the railroad to receive it imposes upon the man who uses the railroad an obligation to pay a just compensation for the service. If the railroad company, through extravagance and mismanagement, can not so construct and operate its property as to serve the public for a just compensation, that is the loss of the people who built or buy the railroad. If the railroad company can construct it and operate it in such an economical way as to give good service for a just compensation and then have a profit, that is the good fortune or the good judgment of the men who construct, operate, and own the railroad.

When the railroad comes to condemn my property—and I derive much of my view upon this whole question from that original circumstance of the right and power of the railroad to take my property—when the railroad reaches my home and seeks to condemn it, what is the test? Not what I paid for the property, because if I bought it for less than it was worth the railroad is not entitled to the advantage of my bargain, and if I paid a foolish price for it, I can not shift to the railroad the burden of my mistake. It is competent for the railroad, or it is competent for me, to prove what I paid for it, but that is not conclusive. The test is, What is it worth? What is the market value of it, if it is a property which has a market value.

That there is a practical difficulty in reducing market values to an exactness every lawyer understands. How often is it that you summon from their homes and their pursuits a jury composed of twelve good and lawful men. You put them on oath to try the case; then you put the witnesses under oath to give the evidence upon which the jury must decide it; you put the judge under oath who delivers the law according to which they must apply the evidence; and yet all of these men, each alike striving to do his duty, will differ as to what is a just compensation for your property. How often have we known juries to compromise their verdicts in such a case. One man believes the property is worth a thousand dollars, another man believes it is worth $2,000, and between these two extremes there are perhaps ten other opinions; and yet, as sensible, honorable, just-minded men, charged to perform their duty, they arrive, not at the exact truth, because that is not required in the ordinary affairs of this world—it is not required because it is not attainable—but these men arrive at the truth as best they can, and probably render a verdict assessing the value of the property or allowing the just compensation at $1,500. That is $500 less than the highest estimate and $500 above the lowest estimate; yet I have never heard it suggested that we ought to abolish the trial by jury in such cases because every man on the jury could not measure the recovery in exactly the same sum.

When the Commission comes to determine what is a just compensation for a service, I have no doubt that the several members of the Commission, just as several members of a jury, will differ as to the exact amount which ought to be allowed; but does the Senator from Iowa save us from that difficulty by prescribing a just and reasonable and a fairly remunerative rate? Will not the same learned and upright men differ among themselves as to what is just and reasonable and fairly remunerative? The Senator encounters the precise difficulty in one case that he does in the other.

Mr. DOLLIVER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from Iowa?

Mr. BAILEY. Certainly.

Mr. DOLLIVER. If the Senator from Texas will observe, the test of the rate fixed by the Commission in the House bill is not the question whether the rate will be just and reasonable and fairly remunerative, but what, in the judgment of the Commission, would be a just, reasonable, and fairly remunerative rate. I observe that those words "in the judgment of the Commission" appear to be omitted in the amendment of my honorable friend.

Mr. BAILEY. And I omitted them deliberately to avoid a legal danger.

Mr. DOLLIVER. So that, under the amendment, the Commission is required to find what a just compensation is, and, for fear they will not do it accurately and correctly, the courts are given an appellate jurisdiction practically to review it.

Mr. BAILEY. I shall address myself to that question a little farther on, and I think I can make it plain that, if some such provision is not made or does not exist without the making of it, the bill would not be worth the paper on which it is written. You can not deprive a man in this country of the right of a trial in the courts for his property.

Mr. KNOX. Mr. President——

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from Pennsylvania?

Mr. BAILEY. I do.

Mr. KNOX. The Senator from Iowa [Mr. DOLLIVER] stated in respect to that feature of the amendment offered by the Senator from Texas this morning, as well as that feature of the bill which I introduced some weeks ago, referring to the right of any party interested in the controversy to appeal to the courts, that that was a position which was wholly indefensible, and that anyone who stood for that had better accept the bill proposed by the Senator from Ohio [Mr. FORAKER] to give the courts jurisdiction of the matter in the first instance.

I intend later on to address myself to that proposition, but I should like the Senator from Texas when he comes to that point, as he says he will, to press upon the Senator from Iowa to know then what do these words mean in the Hepburn bill, if it is not intended that this controversy can be transferred to the courts? If I may be permitted to take the time——

Mr. BAILEY. Certainly.

Mr. KNOX. I read from page 14 of the bill, commencing at line 8:

> The Commission shall be authorized to suspend or modify its orders upon such notice and in such manner as it shall deem proper, and the orders of the Commission shall take effect at the end of thirty days after notice thereof to the carriers directed to obey the same, unless——

Now, unless what?—

> unless such orders shall have been suspended or modified by the Commission or suspended or set aside by the order or decree of a court of competent jurisdiction.

And also, if you will permit me to finish, on page 17, reading from line 10:

> The venue of suits brought in any of the circuit courts of the United States——

Brought for what?—

> to enjoin, set aside, annul, or suspend any order or requirement of the Commission shall be in the district, etc.

Now, in conclusion, I wish to say if there is anything in relation to this proposed rate legislation that is thoroughly misunderstood throughout the country it is this. You stop ten men on the street, and nine of them will tell you that there is a party here contending for the right to review the orders of the Commission in the court, and there is another party contending that the orders of the Commission shall be final. I say the real issue here is between this absolutely recognized, unrestricted jurisdiction of the circuit courts in the Hepburn bill and the restrictions proposed to be placed upon it both by the amendment of the Senator from Texas and the bill I had the honor to propose to the Senate.

Mr. BAILEY. Mr. President, I need not add anything to the very clear and excellent statement which the Senator from Pennsylvania has just made. When it is suggested to the friends of the Hepburn bill that a man can not be denied his day in court under the Constitution of this country, because to do so would be to deprive him of his property without due process of law, they tell us that the Hepburn bill recognizes his right to go into court. And then when we propose to limit the right which they recognize, they fill the air with indefinite suggestions that somebody is trying to confer too much power upon the judicial tribunals. What inconsistency!

I do not believe there is a lawyer in the Senate—certainly there is not a lawyer who ought to be in the Senate—who will contend that you can pass a law authorizing the public to take any person's property and deny the person whose property is taken a right to try the justness of the compensation in the court, because that would be taking property without due process of law.

When we say that, the proponents and the defenders of the Hepburn bill say they recognize every man's right to go to court. If so, then I ask, in the name of ordinary, every-day, common sense, why should grown men wrangle over the question as to whether they will leave the right to resort to the court understood or express it in plain words?

When the Senator from Iowa intimates that I am proposing to give the courts a larger jurisdiction than the Hepburn bill, I remind him that he is on record, with other distinguished Senators, as declaring that the courts have, independently of and beyond the power of Congress to deprive them of it, the right to interpose at any stage of the proceeding to prevent the Commission from fixing too low a charge at which the railway must transport our property. I challenge that statement of the law; but they are right, and if we can not abridge the power of the courts and we leave it without an effort to define it, it is not only as broad as the jurisdiction which Congress has given, but it supports the view maintained by some lawyers, that the court then possesses all the jurisdiction that Congress could give it over the subject. It is therefore true, absolutely true, that both the bill introduced by the Senator from Pennsylvania and the amendment which I have proposed limit the extent of judicial inquiry more than the Hepburn bill.

There is a difference between the provision of the Senator from Pennsylvania and my own. He recognizes the right to suspend by an interlocutory order of the court the rate fixed by the Commission, and I expressly deny that right. I think that is a difference of vast importance, but it is not one which I propose to discuss at this time.

Mr. KNOX. Mr. President——

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from Pennsylvania?

Mr. BAILEY. I do.

Mr. KNOX. I doubt whether the Senator from Texas meant exactly what he said. As I understood him, he said he denied the right of the courts to suspend the order. I do not understand that to be his proposition. I understand his proposition to be that it is within the power of Congress to deny the right of the court to suspend the order.

Mr. BAILEY. I used the word "deny" there in the sense that the bill deprives them of the right, and not in the sense that I deny their right to issue the injunction if not expressly forbidden to do so. I thank the Senator for calling my attention to that expression, because it might have left the same impression upon the mind of somebody else, though the word "deny" can be used, as he knows, with accuracy in either sense.

Mr. TILLMAN. Will the Senator yield to me for a question?

Mr. BAILEY. Certainly.

Mr. TILLMAN. I should like to have him give us the benefit of his opinion as a great lawyer as to how it can be possible to differentiate or separate the two classes of appeals. If the railroad goes into court upon the plea of unreasonableness or unjustness or unfairness, that is one thing. If the railroad goes into court upon the plea of confiscation, that is another thing.

Now, I am deeply concerned, and I hope every other Senator here is, that the roads shall not be permitted to get into court upon the plea of confiscation when they have no just reason for doing it, while I am perfectly willing for them to go there if they have an honest purpose in doing so.

As I understand the Senator's purpose in denying to the courts the right to suspend the order of the Commission, it is to allow them to litigate either proposition, but to give to the shipper the benefit of the doubt that the action of the Commission is just and reasonable, and that the courts shall not have the right to suspend the order until the Supreme Court shall have declared that the railroad has a valid reason to complain of the justness of the order.

I should like the Senator to point out, if he can—and no doubt he can, if anybody can—how we shall differentiate these two classes of cases on appeal.

Mr. BAILEY. The only possible way to protect the Commission and to protect the people against frivolous suits instituted in bad faith is to provide that the court can not set aside the rate until the question has been fully adjudicated. Of course, you can not look down into the heart of a suitor when making allegations that his lawful rights are impaired or about to be sacrificed and determine whether he acts in good faith or not. But the most you can do—and I will say to the Senator from South Carolina that that is one of the chief purposes of this limitation—the most you can do is to say that no court shall suspend the order until a final hearing, and thus no frivolous suit can do much harm.

Mr. TILLMAN. I just want to mention in this connection what the Senator mentioned yesterday, and that is that railroad officials do not seem to be very scrupulous about making oaths, as is illustrated by the letter from the gentleman in Florida, where, in an effort to get an injunction, some railroad official had sworn that the value of the property was five millions and something, and when he returned the same property for taxation swore it was worth only a million and a quarter or a million and a half. We must guard against the possibility of some railroad man doing some lying around here.

Mr. BAILEY. The railroads, like everybody else who must employ a great number of people, can always find somebody with an elastic conscience.

I had not any thought of discussing this question in any respect to-day, and I am not going to continue more than a moment, because at some other time I hope to present my views at length, but I want——

Mr. FULTON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from Oregon?

Mr. BAILEY. Certainly.

Mr. FULTON. The Senator from Texas and the Senator from Pennsylvania have both made the statement that the amendments offered by each are restrictive of the right of review rather than an enlargement of that right. I confess my inability to understand that to be the case, and I want to ask the Senator from Texas if this is not the law: Where Congress, either directly or through a Commission, shall prescribe railroad rates, those rates will stand unless some specific provision be made for a review by the court, and they may not be assailed or attacked in court unless they amount to what we have become habituated to call "confiscatory," or noncompensatory to the degree that they amount to the taking of property without just compensation? Therefore if no provision be made in the bill for a review, no review can be had unless the rate fixed drops below the point where it will amount to that compensation which the carrier is entitled to receive for the use of its property.

The amendment offered by the Senator from Pennsylvania, as well as that offered by the Senator from Texas, proposes to enlarge that right of review and extend it to all orders, the Senator from Pennsylvania providing that security shall be given, the Senator from Texas prohibiting any injunction being issued under any circumstances to suspend an order of the Commission.

I beg pardon for taking so much time, but I have to take time in order to explain my position. It seems to me that the contention is incorrect that the amendments offered by the Senator from Pennsylvania and the Senator from Texas are restrictive of the right of review. They are an enlargement of the right of review; and it seems to me that can be demonstrated.

Mr. BAILEY. The Senator from Oregon will not so contend when he reads my amendment. The amendment limits the right of the court to an inquiry into the justice of the compensation or the reasonableness of the regulation. I want to say to the Senator, and I want to say it in the presence of every Senator, that if there was no constitutional provision I would never vote for a law that authorized one man to use another man's property without paying him a just compensation. I have no patience with this idea which would make one man serve another without giving him fair compensation for his service.

Mr. FULTON. If the Senator will allow me, I will say that I will join hands with him on that proposition, and I will never vote for such a law—that is, if I know it when I am doing it.

Mr. BAILEY. The Senator does not "know" when he said a moment ago that my amendment enlarges the power of the court. I suggest to the Senator that he read it.

Mr. FULTON. I may not understand the Senator's amendment. This is my proposition: That unless a provision be made

for a review, in the law or by some other statute, no review can be had by the court unless the rate established by the Commission amounts to confiscation or a taking of property without just compensation. Therefore, in view of the fact that we can not deny the railroads or the transportation lines the right of review or the right to appeal to the courts in a case where the order of the Commission would amount to a taking of their property without just compensation, to give them a right of review in cases other than that is certainly enlarging the right of review. The bill as it comes from the House and as reported by the committee does not deny them the right to go into court when their property is about to be confiscated. It could not deny them that right. We have no power to deny them that right. That is a right they have under the Constitution and we can not take it away from them; but that is the only right they have under the bill as it now stands. The Senator proposes, as I understand his amendment, to give them greater rights—that is, to grant them the right of review in every instance when dissatisfied with the order of the Commission. Consequently he must be enlarging the right of review.

Mr. BAILEY. The Senator does not understand it; that is all; and that is a sufficient reply at this time. The Senator, upon an examination of the bill and a comparison of it with the amendment I have offered, will concede what I say; but if, after he examines and compares the two, the Senator then insists upon the view he has here expressed, I will be glad to debate it with him.

Mr. FULTON. Will the Senator answer this question? Does the Senator think Congress could prohibit the right of review where the rates established were confiscatory in their character?

Mr. BAILEY. Mr. President, I do not like the word "review." You can not deny to any man in this country the right to protect his property by a trial in court. I prefer to consider it an original proceeding. The court has said that you can authorize courts to review what has been done by other tribunals; and, although you miscall it an appeal, it matters not what you call it, the real question is, What is the nature of the proceeding? I dislike the word "review," and I have objected to it throughout all this discussion.

My own opinion is that every fair-minded man in this country is willing for every other man to have a fair trial of his property rights. All I contend for—and that is the entire abridgement of that right which I propose—is that the court shall not suspend what has been done by the Commission until there has been a fair trial, and because I propose that, the Senator from Oregon and others say that I am proposing what the Constitution does not warrant. I am perfectly sure that the right to a trial, sacred as it is, only means that you must give a man his day in court; that is all. The amendment I have proposed does that, but I believe that until that day shall come, and until a full hearing shall have been had, it is perfectly competent for Congress to provide that the rate established by the Commission shall be the only lawful rate.

Mr. DANIEL. Mr. President——

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from Virginia?

Mr. BAILEY. Certainly.

Mr. DANIEL. Mr. President, I should like to make a brief statement while the Senator is upon this subject. It seems to be inevitable that a court can take jurisdiction of any act passed upon this subject and will deal with this matter after we leave it. That being the case, the great difficulty which seems to exist in the administration of the law is that of delay. These two facts, one of law and one of actuality, being true, and all desiring to provide a proper review or a writ of error or method for the court, has the Senator reflected upon the propriety or expediency of providing that after the Interstate Commerce Commission has heard the whole case, it might be taken, within thirty days or sixty days while the order is not yet in execution, to a court by a writ of certiorari, where then the court would have before it the whole evidence in the case before it acted?

I should like to ask, if the Senator has fully investigated that matter, whether he does not think that perhaps a writ of certiorari might be the most convenient and also the most expeditious method of getting a conclusion of the controversy?

Mr. BAILEY. As a matter of convenience, I think the Senator is correct, but I think there is a very serious question as to the right of a court to issue a writ of certiorari to a body like this Commission.

Mr. RAYNER. I will take the liberty of interrupting the Senator from Texas to call the attention of the Senator from Virginia——

Mr. DANIEL. I will say to the Senator from Texas that he will find abundant precedents for the use of the writ of certiorari in writs of review, both for bodies which are entirely juridical and for those which are, to use the expression of the writers, quasi juridical, or have to exercise powers juridical in their nature. It has been done in a great many cases and seems to supply the very order of procedure which might be best employed here. I will state to the Senator, as we are trying to arrive at the best result in this matter through our colloquies, that I think he will discover that the precedents are sufficient in that regard.

Mr. RAYNER. I should like to suggest——

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from Maryland?

Mr. BAILEY. I do.

Mr. RAYNER. I should like to suggest to the Senator from Virginia that the Supreme Court has said that you can not certiorari from a judicial tribunal to an administrative body. The Senator from Pennsylvania [Mr. KNOX] gave the case the other day, and I gave two cases with which I suppose the Senator from Texas is familiar. You can not get a writ of certiorari from a judicial tribunal to an administrative body.

Mr. DANIEL. It may be you can not now, but it does not follow that Congress may not create power by which it may be done. All that any person is entitled to is to a full remedy and the right to be heard, and the process by which that remedy may be issued is due process of law if Congress provides it without impinging upon the rights of anybody to a full and fair hearing.

Mr. BAILEY. The trouble about that is this: We confer upon this board a mere administrative power, in my opinion, and the writ of certiorari is intended to review an exercise of judicial power. I speak of the Commission as a board, and I provide that the individual can resort to the courts as well as the railroad; I also use the word "corporation" there to include municipal corporations. But whoever takes the matter into court does so by alleging that the board has transcended its power, and thus presents a judicial question.

I know that if there should be absolutely no word or line in this bill about going to the court, you could not keep the railroads out of the court, because they would simply refuse to obey the order, and then when you indicted the officials or sought a mandamus against the road or sought to recover a penalty and brought them into court, they would plead that your law was unconstitutional. You could not deprive them of that right, because if you once take them into court, they could have that question tried, and if you did not take them into court, they would simply disregard your law. The only process, in my judgment, just alike to the road and just alike to the people, is the one—I say it with all deference—which I have proposed.

But now, Mr. President, a word, and a word only, as between the just compensation I suggest and the language of the Hepburn bill——

Mr. PATTERSON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from Colorado?

Mr. BAILEY. Certainly.

Mr. PATTERSON. I wish to make a suggestion to the Senator from Texas before he concludes, and if he prefers I will wait until he has concluded.

Mr. BAILEY. The Senator may proceed now.

Mr. PATTERSON. What I wish to call the attention of the Senator to is the trouble or troubles that Senators upon both sides have discovered in this attempted legislation: First, the extent to which a review will be allowed by a court. Next, as to whether or not there shall be interlocutory orders staying the operation of the finding of the Interstate Commerce Commission before the final determination by the court; and, in connection with that, the matter of delays that seem inseparable from court proceedings.

Now, why might not the matter be solved by transforming the Interstate Commerce Commission into an interstate-commerce court, eliminating the Commission, establishing a special court, as has been done in a great number of instances by Congress under the constitutional provision, and in the act constituting the interstate-commerce court, embrace practically every one of the provisions found in the interstate-commerce act and amendments thereto? Pretty nearly all the powers that are conferred upon the Interstate Commerce Commission may be said to be judicial powers. The Commission exists for the purpose of making investigations, for the purpose of determining questions of fact, to listen to the complaints of those who are injured in dealing with the railroad companies, and then to provide relief for the injured parties.

If we have the interstate-commerce court, there will be no room for interlocutory orders. If there is an appeal, then there will be nothing but an appeal; there will not be any original

proceeding. As the matter stands in the proposed act, in whatever form it may ultimately pass, when the side to a controversy that has the complaint to make enters the court the trial is de novo. It must be as though there had been no money expended by litigants upon either side before the Interstate Commerce Commission. The witnesses must be again subpœnaed, the books must be again examined, the lawyers must again be heard; and it is only after the long and the tedious trial which must be had when you first get into a court that there is room or standing for an appeal.

If the Interstate Commerce Commission can be transposed into a court, then there is no need nor is there room for an interlocutory order, for, of course, the rate must stand as it stood when you appear for the first time before the Interstate Commerce Commission, until there shall be an adjudication of the question that is presented by the aggrieved shipper or by whomsoever else may desire to enter a court. Then comes an appeal, an appeal under proper limitations, an appeal in which there will be no room for the interposition of an injunctive order. The appeal comes upon the record, and there is not even the necessity or the opportunity for a second trial.

It seems to me, Mr. President, that if this is within the bounds of possibility it should be the remedy, and it should afford a solution of the controversies and the grave troubles which are shown to exist by Senators upon either side of this question, all concurring that there are existing evils, that the evils must be remedied, and the only thing sought being a method of bringing relief to those who are suffering by reason of the evils. It does seem to me that the proposition is well worthy of consideration, and I can not see that there is any insuperable constitutional objection to the plan that I tentatively suggest.

Mr. TILLMAN. Mr. President, the Senator from Texas [Mr. BAILEY] has just been in receipt of news of the death of his father, which of course caused him to withdraw from the debate at this time.

Mr. HEYBURN. Mr. President, unless there is some one else who wishes to take the floor I want this morning merely to submit an inquiry to the minds of Senators as to whether or not the services of a public carrier necessarily in all cases constitutes that class of property which can not be taken under the fifth amendment to the Constitution. The services of an individual constitute private property. It is a question in my mind as to whether the services of a common carrier which operates under a franchise that is an implied contract to remain always subject to the regulation of the creator comes within the provisions of the fifth amendment to the Constitution to the same extent as the services of an individual. That is an inquiry which has been in my mind ever since this debate commenced, and I have been seeking for light upon it. I merely commend it to Senators for their legal considerations, because——

Mr. CLAPP. Will the Senator yield to me for a moment?

Mr. HEYBURN. Certainly.

Mr. CLAPP. I anticipate the Senator intends discussing that question. The great majority of all discussion grows out of a misunderstanding of the subject of difference which is being discussed. I should like to ask the Senator whether his proposition involves taking below the limit of a reasonable rate? Does he claim that below that rate it can be taken, or whether down to that rate there is an implied obligation on the carrier to carry at that rate, and consequently it can not be taken?

Mr. HEYBURN. My inquiry goes further than that. My mind is not troubled in drawing the line as to the profitable or unprofitable service of the carrier. I am not troubled about that.

Mr. CLAPP. I am not speaking of what is profitable or unprofitable. The courts say that carriers take their charters subject to the implied obligation to carry at a reasonable rate.

Mr. HEYBURN. Yes.

Mr. CLAPP. Now, it is the right of the shipper to have freight carried at that rate; and what I should like to ask the Senator is where he suggests that it is not properly within the protecting clause of the Constitution, whether he means below that rate it can be taken.

Mr. HEYBURN. I will, for the purpose of submitting this subject of inquiry, accept it upon the suggestion of the Senator from Minnesota as to whether, under the implied contract of the charter under which a man enters upon the duties of a common carrier, with the privileges that go with it, he is not subject to the control of the Government that creates him a common carrier, even to the extent of being put out of business, so far as his right to claim immunity from attack under the fifth amendment to the Constitution is concerned. He enters into a contract that he will do business with the public as long as the public will agree with him as to the terms upon which the business shall be transacted. But it is a question as to whether or not he obtains a charter unrepealable at the hands of the public to do business with them upon some terms within the protection of the fifth amendment to the Constitution, which says that private property shall not be taken for public purposes without just compensation. Of course the basis upon which all the arguments have rested is that he was entitled to continue in business, and he was entitled to be protected in continuing in business to the extent of making a profit.

Now, there is a question in my mind, and a very serious question, as to whether or not that is true. If it is not true, then all of this argument as to our power falls to the ground; it is just that much waste time; it is an academic discussion of the question. If that is not the class of property that is protected by the fifth amendment, then all of this argument as to whether or not we can keep the common carrier out of court or can compel him to go into court falls to the ground, because the right to appeal to the courts is based upon the charge that a constitutional right is being taken away from a common carrier. If the right to charge for his services so as to yield a certain profit is not a constitutional right and the profits for such services are intangible property, then there is nothing in the argument.

Mr. BACON. Will the Senator permit me to suggest to him that these franchises in nine cases out of ten, or probably in greater proportion, are not held under the Federal Government?

Mr. HEYBURN. I beg the Senator's pardon; my attention was distracted, and I did not just catch his question.

Mr. BACON. I venture to suggest to the Senator that in the application of the principle which he invokes, even if it is a correct one, there lies the fact that in nine cases out of ten the charters of the corporations, the rates of which this bill seeks to regulate, are under State authority and not under Federal authority; in other words, the authority which seeks to regulate is not the authority which has granted the franchise.

Mr. HEYBURN. My answer to that is that the State can not grant any charter that gives any charter party a right to do an interstate business except subject to revision by the Congress of the United States. Of course I am speaking only as to interstate commerce. States may create a public servant, a common carrier, but if he does more than local State business Congress can compel him as absolutely as though he were created by Congress.

Mr. BACON. If the Senator will pardon me, nobody disputes that proposition, but here is the point: As I understood the suggestion of the Senator, it is that corporations, holding their franchises as they do at the will of the sovereign, it is within the power of the sovereign which granted that franchise to limit or curtail or infringe upon it. I was simply taking the liberty of suggesting to the Senator, that being the principle, that the sovereign in the two cases is not the same. The sovereign which granted the charter is one, and the sovereign having, as it does undoubtedly, jurisdiction over interstate commerce, but having none over the franchise in this case, is the Federal sovereign and not the State sovereign.

Mr. HEYBURN. But still the sovereignty of the State that created the corporation or the carrier for local uses ceases at the State line, and by the courtesy of the Government is allowed to go into other States, or rather through States, to do business, and is subject to our control.

I would not maintain for a moment that any tangible property of a corporation or common carrier could be taken against the prohibition of the fifth amendment; but the question is whether or not a profit on the services, the performance of which are in a large measure optional at the hands of the common carrier, are that kind of property.

Mr. BACON. If the Senator will permit me again to interrupt him, if I do not obtrude——

Mr. HEYBURN. I am glad to be interrupted.

Mr. BACON. I understand the suggestion of the Senator to be that the right of a railroad chartered in one State to go into another State depends upon the authority given by the United States Government.

Mr. HEYBURN. No; it depends upon the authority given by the other State.

Mr. BACON. Of course; but I understood the Senator to state it the other way. I was about to refer him to the case——

Mr. HEYBURN. I think I will make myself plain in a moment.

Mr. BACON. In the case in 13 Peters of Earle *v.* The Bank of Augusta, the Senator will find that the Supreme Court lays down the doctrine very fully.

Mr. HEYBURN. I have that in mind. I will state what I intended to say. I perhaps expressed myself inadequately. The privilege of doing business in a State other than that of the creator is a matter of grace on the part of that State. Yet under the provision of the Constitution that we are considering Congress has power over interstate commerce. It does not matter who creates the agency, whether it is the corporation or

whether it is an individual, the control of interstate commerce is given to Congress by the Constitution; and so the question as to whether the corporation is the creature of one State or another becomes of minor importance. But the question is as to the character of property that is proposed to be taken as to whether it is that class of property which is protected by the fifth amendment. That is what I have in my mind.

As I was proceeding to say, of course we could not take any tangible property from such a corporation, because it bears an entirely different relation to that class of property which is recognized as property in the hands of any person, artificial or natural. The services of an individual are the individual property, held by the grace of nobody but himself; but the services of a public carrier belong to the public, subject to regulation by the public. The framers of the Constitution had that in mind when they gave Congress the power to control the performance of interstate commerce and duties of that character.

Now, if the suggestion has merit that profits on the services of a public carrier are not such property, then this discussion could be curtailed to the extent of eliminating all question of the power of the Congress to control this matter without giving the right of appeal to the courts, because it is only upon that ground, and that alone, that we are laboring with this question.

The suggestion is one that has been growing up out of the discussion of this case. I have no doubt that a careful examination of the decisions of the court would disclose a line of demarcation between the class of property as represented by personal services at the hands of the individual as distinguished from profits at the hands of the public carrier. It is one of those conclusions that are obvious. Here is a creature that owes a duty to the public, that is performing it by the grace of the public statute, and that is made subject to the control of the law. The Constitution did not undertake to say that Congress could regulate the services of an individual as to whether he operated in one place or another, but only the public carrier, who owes a duty to the public, who derives a benefit by reason of being a common carrier.

The obvious conclusion is that if he does not like the restrictions which the people, speaking through their statutes, place upon his business he can go out of business. He still has his property. We have not taken his property. He can sell it to some other person who is willing to go into business. We leave him with his property and his right to enjoy it, provided that he will enjoy it within the will of the people.

Mr. ALLISON. May I ask the Senator a question? Would not the person to whom this property is sold find himself subjected to the same public authority, and would he not be in the same difficulty? Is it not true that the value of a railroad is in its use? It might be sold, it is true, and the person who buys it must use it, and if he uses it under the restrictions and limitations suggested the property is of no value to him or to another corporation, because it could only be sold for use. The rails can not be taken up. The land taken for this use is not valuable for any other purpose of the corporation. So it seems to me that after all it must be very clear that compensation for the use of the railroad must be regarded as property, under the Constitution. I should think so.

Mr. HEYBURN. I think that is true, and I would distinguish between the term "use" and the wage which the railroad earns.

The Senator has to some extent taken a rather different position from that which I understood his colleague [Mr. DOLLIVER] to take, that this is a duty to be performed for a compensation. Based upon what? The value of the property or the value of the service? Much of the argument here on this question has been to the effect that the compensation was to be based upon the value of the property. I say the compensation should be based upon the value of services, and so does the Senator. I would agree heartily with a measure that would recognize that principle.

Mr. ALLISON. But I think that is rather a fine distinction. The value of the property depends upon the value of the service rendered or that can be rendered. If there were only one train of cars running from New York to Chicago on a four-track railway, the railway itself would be of very little value. But if there were a thousand cars running daily and the four tracks were in use, then the property would be valuable, and it would be compensation derived from that use which would make it valuable. I do not quite see the distinction.

Mr. HEYBURN. I think I can make that distinction plain to the Senator from Iowa. The distinction between the value of the service and the value of the property can be illustrated in this way. Of course, always when I speak of the value of the property I mean the claimed value of it, not the real value.

I will take a railroad that is overcapitalized, or that is extravagantly constructed, or that has incurred an indebtedness which was not warranted by law. The owners of the road will estimate the value of that property to be what it cost them. But it may have cost them four times as much as it should have cost them. Now, the value of the service is the cost of transporting a ton of commodity a given number of miles. It is represented by the cost of the structure of the road—that is, the honest cost of it—by the cost of the equipment of the road, and by the cost of the service—what you might call the labor—the expenditure required to operate the trains.

That is the cost of carrying a ton of freight; but if you base it upon the value of the property and allow the railroad company themselves to fix the value, it is a very different proposition. That question has got to enter into the consideration of every proposition which is submitted to the Interstate Commerce Commission under this bill. The Commission can not determine what is a fair and reasonable charge without, as a basis of their determination, ascertaining the cost. I do not mean the extravagant charges that are made against the corporation, but the real value of the investment. They have got to ascertain it in order, first, to determine how much would be a just compensation for the use of the money represented by the investment; and it is going to be quite an undertaking for them as to certain railroad companies I have in mind to ascertain what is the real investment.

Now, Mr. President, you have got to face the question as to whether these charges are to be based upon the cost of the service or whether they are to be based upon the claimed or real value of the property. It is a divisible question as to who shall ascertain and upon what basis shall be ascertained the value of the property. The Interstate Commerce Commission have got to fight that question out with the railroad companies, and then the courts will have to define the rights of the investors, the producers, shippers, and the railroad companies. We are laying out a big work for the Commission here, and we will need men of pretty large caliber to perform the duties that are to be vested in them under this measure should it be enacted into a law, because, in the first place, they have got to determine and establish some basis upon which to fix charges that shall be fair and reasonable, for the reason that the courts have never laid down a satisfactory rule. Take a railroad I have in my mind. It picked up $90,000,000 of bonded indebtedness of another railroad combination under the plea that they were going to retire these bonds, and incurred $90,000,000 indebtedness against their own line for the purpose of raising the money. They never retired the bonds of the road they purchased, and to-day there is on the market $180,000,000 of bonds representing $90,000,000 indebtedness, which you can readily understand. That is a transaction which passed between two of our leading railroad systems not very long since.

Now, what will the Interstate Commerce Commission do with that? In estimating what is a fair and reasonable charge will they consider that this road has cost $180,000,000 or will they say that the road is worth $80,000,000 or whatever it could be constructed for? Will they take that as a basis upon which to estimate profits or will they say, "We will not go beyond the record and inquire as to the indebtedness of the road on the face of its balance sheet?"

I think we will eventually have to come back to the proposition of considering the cost of transporting the passenger or the ton of freight. The junior Senator from Iowa [Mr. DOLLIVER] this morning said that would be a work of infinite detail and that it would perhaps be impossible. Well, it has been done in Germany, it has been done in France, it has been done in some of the States of this Union. Iowa did it. Iowa has a complete schedule of charges that were made up by a committee of the legislature or its instrument, fixing the charges in detail to every part of the State of Iowa and over every road in it. Of course it was a work of infinite detail; but it can be accomplished. I would not like to admit that the Interstate Commerce Commission can perform a public duty that the Senate is not capable of performing through its methods of doing business. It may be that we will have to go more into detail in regard to the establishment of rules by which our Commission shall be governed in determining this question.

But I did not rise to discuss that question at this time. I merely wanted to project the inquiry into the legal minds of the Senate as to whether or not the profits of a common carrier was a class of property that came within the prohibition of the fifth amendment to the Constitution. I am inclined to think it is not, because it is a class of property that may be either extended or withheld. It is entirely within the power of the common carrier, represented by the individual control that operates it, to withdraw from business. The Senator from Iowa [Mr. ALLISON] says some one else would have to do it. That is very true. I know of an instance, very familiar to the Senate,

where a railroad corporation that was not able to earn 1 per cent upon its fixed charges, including indebtedness, squeezed out $265,000,000 of its consolidated mortgage indebtedness and picked its property up on a basis of its real value and is paying dividends, and has never missed one since.

It may be, if Congress will so legislate, that these common carriers will be compelled to present an honest front to the public who patronize them; that they, too, will find a remedy, either through the hands of those who operate them now or through the means of wiser hands that will pick up the responsibility when they have failed.

Mr. TILLMAN. Mr. President, I suggest to the Senator from Idaho that if he will address himself to providing some remedy for this overcapitalization in the way of an amendment I, at least, will be very friendly toward it, and if it will accomplish its purpose, I certainly will vote for it. So I hope he will think it over seriously and give us the benefit of his study and investigation.

Mr. HEYBURN. Mr. President, at the last session of Congress and at the beginning of this Congress I introduced a measure that was calculated and that, in my judgment, is sufficient to meet the necessities of this occasion. It is doubtless receiving the careful consideration of the committee upon whose table it is now reposing.

Mr. TILLMAN. I would prefer the Senator not to dodge or to get around the question I put to him, or the request I made, by referring to something that he did last year or when Congress met; but, as we are legislating or attempting to legislate, having a bill here, let him prepare an amendment that will remedy the trouble which he sees and which everyone recognizes. I certainly will give it most careful consideration, and I am sure the Senate will; and if it will accomplish the purpose, I certainly will vote for it. But do not say that there is something somewhere, and that a committee of which I am a member is considering it. We have had a great many things to consider. It took us three months to get this bill before the Senate without an amendment on it. So I am afraid if you refer this idea of an amendment to remedy this trouble back to the Committee on Interstate Commerce we will never hear anything more from that committee. It has got to come into the Senate.

Mr. HEYBURN. Mr. President, I realize that it may be possible that the discussion of this question at this time might awaken some new train of thought in the minds of Senators which would prolong this discussion, but it seems to me that it is germane to the consideration of the whole question.

Mr. TILLMAN. I say it is entirely germane, and I hope the Senator will not confine his discussion to an academic treatment of it, but will give us a concrete proposition in the shape of an amendment, so that we can vote on it.

Mr. HEYBURN. Mr. President, I have an amendment on my desk, and I may have others subsequently, but this debate has not really proceeded to that point where it seems to me profitable to undertake the injection of that kind of amendment. It has been more of a general discussion by each member, sometimes with interruptions, but, as a rule, it has been what we might call—without any disrespect to those who have addressed the Senate on the subject—a set of formal addresses. In the period of general debate, if this bill shall reach that period, and I hope it will, when Senators will take an interest in and quick notice and apprehension of the views of each other—when that period comes, I think there will probably be a good many amendments suggested to this bill.

Mr. TILLMAN. There is no doubt about that; but unless the Senator will give us the benefit of his studies in the shape of an amendment which we can examine and debate when the time comes for this quick interchange of thought and action by voting, I am afraid that some of the valuable suggestions which he is making will be lost; and as we are discussing this very question of the justice or injustice, the reasonableness or the unreasonableness of rates—and I agree with the Senator that the question of capitalization or overcapitalization is one of the essential factors in that matter—I hope he will not back water, but that he will get ready to present his ideas in the shape of amendments.

Mr. HEYBURN. I do not think there is any question closer to my consideration of the bill of which the Senator from South Carolina has charge than that which I expressed when I first addressed the Senate to-day—that is, whether or not the services of a public carrier are the class of property contemplated by the fifth amendment of the Constitution. That is a question we have to decide in order to intelligently dispose of this bill.

Mr. PETTUS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Idaho yield to the Senator from Alabama?

Mr. HEYBURN. I do.

Mr. PETTUS. I merely wish to ask the Senator a question. I desire to ask him if the Commission were converted into a court, would there not be much more difficulty in delegating to a court the powers that this Commission now have than there would be in delegating them to a board without judicial power?

Mr. HEYBURN. That is a question evenly balanced. We can not delegate to a judicial tribunal administrative powers, nor can we delegate to an administrative tribunal judicial powers, except within the limitations of the Constitution.

Mr. PETTUS. Has such a thing ever been authorized?

Mr. HEYBURN. No; I think that is a matter for the legislative branch of the Government to dispose of. The Constitution says we may create other courts than those mentioned in the Constitution and confer such jurisdiction upon them as we see fit, within the general limitations of the Constitution.

Mr. PETTUS. How will the Senator get rid of that clause in the Constitution which says that one of these departments of the Government can not exercise the powers of another?

Mr. HEYBURN. I would not infringe on it. That is the easiest way to avoid the difficulty; but we can create minor courts, or other courts. We created the circuit courts and the district courts; we created all the United States courts, except the Supreme Court of the United States. The Constitution created that, but gave to Congress the power to create the other courts. The Constitution also says that we may confer such jurisdiction upon them as we see fit within the limitations, of course, of the general provisions of the Constitution, which define where judicial power shall rest and to what extent it may be extended.

There is much merit in the suggestion of the Senator from Colorado [Mr. PATTERSON] on that question of substituting a transportation court, or a court for transportation, for an interstate-commerce bureau or commission. In England, I believe, the court is denominated a transportation court, or a court of transportation; but, of course, England has not a constitution that delineates and defines the boundaries between concurrent jurisdictions. There the jurisdiction is all from the Crown.

But, Mr. President, I should like the Senator from South Carolina [Mr. TILLMAN] to understand, if I am correct, that the question which I have submitted, as to whether or not there is any constitutional prohibition or limitation upon us here, exists. That question exists; and it is before us, and we have got to take notice of it in determining this matter. It is not an academic question as applied to the measure under consideration at all; but it is a live question; and it has got to be disposed of, and it will be disposed of, whether we take notice of its disposition or not. It will be wrapped up and involved in anything we do in this matter, to be unwrapped by the courts.

Mr. TILLMAN. Does the Senator mean capitalization?

Mr. HEYBURN. No; I mean the question as to whether or not there is such a prohibition against our action as will affect the right of the railroads to hire themselves out to the public. Perhaps I have not succeeded in making myself plain enough for the Senator to comprehend just exactly what I mean; but that is the question that is behind every bit of discussion on the rate bill that has taken place here during the last week.

Mr. TILLMAN. If I understand the Senator at all, it is to the effect that the value of the service alone shall govern the compensation.

Mr. HEYBURN. That has nothing to do with the question of whether we can confiscate or take away the compensation for the services entirely, and, as I say, put the transportation companies out of business. They exist by our grace. I am not speaking of the justice of it. I have no sympathy with the confiscation of the property of anybody, whether it be individual or corporate, and I have no sympathy with those who inveigh against the railroads of the country. They have been the instruments of its civilization and its growth and progress; and to-day in the State that I represent we have, I believe, five separate railroad corporations of the country constructing railroads. We have no desire to array ourselves as the opponents or enemies of railroads, whether operating, constructed, or under construction; but I am speaking now of a principle of law involved in this legislation.

Mr. TILLMAN. Will the Senator kindly repeat it?

Mr. HEYBURN. The principle involved in this legislation is as to whether or not we are under any obligation to take notice of or anticipate the question of confiscation in dealing with rates—not what we may do in regulating freight rates. The Commission and the courts will deal with those questions in executing and applying the law. I am inclined to believe that it does not necessarily enter into the consideration of this ques-

tion by us at all, and that we should not be violating the fifth amendment to the Constitution of the United States in dealing with this question, even though we might pass beyond that into the realm of confiscation of profits dependent on economical management.

Mr. TILLMAN. Does the Senator think Congress would have the power to compel public carriers to transport persons and freight at a loss?

Mr. HEYBURN. No; you can not compel them to do that any more than they could compel you—I speak of Congress—to do it. We can not compel a man to work for us since the abolition of slavery in this country; but if we do accept his services, if he is a private individual, we do it by contract, and if he is a public servant it is because the law imposes a liability or duty upon him to do it. That is the difference.

There are two classes of services. A railroad company can be compelled to operate its trains so long as it holds itself out as a public carrier; but a railroad company can go out of business like anybody else. I saw 60 or 70 miles of track taken up by a railroad built into a country where it proved to be unprofitable; and it went out of business. In the case which went to the Supreme Court from the State of Washington, involving the question as to whether or not the inhabitants of a certain section of the Spokane suburbs could compel a railroad to operate its line, the question was thoroughly passed upon, and I do not know but the Senator from Washington may have had something to do with it. At least he is familiar with it. We know very well where the line is drawn; but there is nothing we can do to compel a public carrier to continue in business. It may sell its property to a successor, and the successor would take its place—that is all right—and take the belongings and conduct the business in the best way it could to meet the views of the public and perform the service within the limits of a fair and reasonable compensation.

I would not be understood as attacking public carriers or railroad corporations or transportation companies of any kind. My sympathies are with them. I believe in such legislation as will encourage that kind of enterprise; but I do not believe in turning the country over to them without that control necessary to compel them to deliver valuable services for the benefits that they derive from the public. My suggestion in regard to overcapitalization was merely incidental to that question.

Mr. PILES. Mr. President——

The VICE-PRESIDENT. Does the Senator from Idaho yield to the Senator from Washington?

Mr. HEYBURN. I do.

Mr. PILES. I do not know that I quite understand the Senator's position; but I understand him to contend that it is within the power of Congress to fix such a rate as will compel a railroad company to operate its trains, if it operates them at all, at a loss. Is that the question at issue to which the Senator refers?

Mr. HEYBURN. I do not think that correctly states my views. I did not intend so to express them. I intended to say that we were not compelled to take into consideration the question of the profit or loss of operating a railroad regardless of the manner of operation of such road; that we were not to guarantee profits to a reckless and wasteful management, but if we enacted a law here that resulted in a burden upon transportation companies, so long as that law existed they could either conform to it or go out of business. But I would not vote for any measure here that, in my judgment, would operate to compel a public carrier or transportation company to perform services without an adequate compensation—not for a moment would I give my support to such a measure.

Mr. NEWLANDS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Idaho yield to the Senator from Nevada?

Mr. HEYBURN. Certainly.

Mr. NEWLANDS. Mr. President, I will state to the Senator from Idaho [Mr. HEYBURN] that the doctrine for which he contends was, as I understand, the doctrine that was declared in the case of Munn against Illinois. There the question was as to the right of the legislature to fix elevator charges, I believe. The Supreme Court laid down the rule that, wherever a person employed his property in a use in which the public had an interest, he granted the public an interest in the use, and must submit to regulation by the public. My recollection is that the Chief Justice in that case stated it was no objection to the doctrine that the regulation might result even in a deprivation of compensation, that the remedy of the party regulated was to abandon the use; but that so long as the use itself was maintained, the regulation would be maintained. That doctrine was subsequently very much modified, until recently, in the case of Ames against Smith, the court laid down the doctrine that, in fixing rates, regard must be had for a fair return on the value of the property; and that in determining that value the original cost, the cost of reproduction, the issues of stocks and bonds, etc., should be considered.

I think, if the Senator will look over the authorities, he will find that there has since been a gradual advance made by the Supreme Court to this position, which gives to the common carriers owning property affected by a public use the protection of the fifth amendment to the Constitution; a protection which was absolutely denied, according to my recollection, in the case of Munn against Illinois. As I remember, in that case the Chief Justice asserted that if there was legislation which accomplished an injustice upon a party who dedicated his property to the public use, the only remedy was at the polls. That would certainly be an impossible remedy in the case of common carriers and corporations engaged in the public service, for it is certainly impossible for them to carry any proposition at the polls, except perhaps by indirection.

Mr. HEYBURN. Yes, Mr. President, the Granger cases went to the extreme, and the pendulum swung too far back. The cases to which the Senator from Nevada refers involve the question, not of what the legislature could do, but what it should do. If a person accepts the services of a public carrier, he must make a fair return for prudent, honest, and economical service. In the cases referred to the services had been performed, and it was a question of a fair return for those services. But I was dealing with the question from the standpoint that the services were not yet performed and that the option was open. I merely wanted to suggest the inquiry because it will have to be taken into account.

The other questions, when they may properly be brought before the Senate, I shall take pleasure in discussing, as the Senator from South Carolina suggests, at more length and with more particularity, because I am strongly in sympathy with a provision, either in this bill or another, that will prevent a common carrier from demanding of the public compensation upon fictitious values.

Mr. TILLMAN. I hope the Senator will get it ready for this bill; I am afraid we will never get another.

Mr. HEYBURN. Well, I think the elements of it are in this bill, and it only needs elaborating a little. The House bill requires that the Interstate Commerce Commission shall inquire into values, and I think perhaps that that section of the bill—I do not recall the number of the section—particularized and elaborated a little might probably authorize the Interstate Commerce Commission to require such a statement; and upon that statement make such investigation as would determine the bona fides of the fixed charges that were the basis of the demand of the railroad or the transportation company for compensation. I think that might be done.

Mr. TILLMAN. Several Senators have notified me of their desire to speak on this bill. The Senator from Massachusetts [Mr. LODGE] will speak to-morrow, and the Senator from Wisconsin [Mr. SPOONER] was to have spoken to-day, but something has prevented him from coming here; I think he is ill perhaps. I therefore ask that the bill may be laid aside for the day, without losing its place as the unfinished business.

EXECUTIVE SESSION.

Mr. FORAKER. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After one hour and thirty-five minutes spent in executive session the doors were reopened.

DEATH OF REPRESENTATIVE GEORGE R. PATTERSON.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, communicated to the Senate the intelligence of the death of Hon. GEORGE R. PATTERSON, late a Representative from the State of Pennsylvania, and transmitted resolutions of the House thereon.

The message also announced that the Speaker of the House had appointed Mr. SAMUEL, Mr. BARCHFELD, Mr. LILLEY, Mr. SCHNEEBELI, Mr. BUTLER, and Mr. KLINE, of Pennsylvania; Mr. LOUDENSLAGER, of New Jersey; Mr. PRINCE, of Illinois; Mr. FOSTER, of Vermont; Mr. ANDREWS, of New Mexico; Mr. BROUSSARD, of Louisiana; Mr. GOULDEN, of New York; Mr. PATTERSON, of North Carolina, and Mr. AIKEN, of South Carolina, members of the committee on the part of the House to attend the funeral.

The VICE-PRESIDENT. The Chair lays before the Senate resolutions from the House of Representatives, which will be read.

The Secretary read the resolutions, as follows:

IN THE HOUSE OF REPRESENTATIVES,
March 21, 1906.

Resolved, That the House has heard with profound sorrow of the death of Hon. GEORGE R. PATTERSON, a Representative from the State of Pennsylvania.

Resolved, That a committee of thirteen Members of the House, with such members of the Senate as may be joined, be apointed to attend the funeral.

Resolved, That the Sergeant-at-Arms of the House be authorized and directed to take such steps as may be necessary for carrying out the provisions of these resolutions, and that the necessary expenses in connection therewith be paid out of the contingent fund of the House.

Resolved, That the Clerk communicate these resolutions to the Senate, and transmit a copy thereof to the family of the deceased.

Mr. PENROSE. Mr. President, I present the resolutions which I send to the desk, and I ask unanimous consent for their immediate consideration.

The VICE-PRESIDENT. The resolutions submitted by the Senator from Pennsylvania will be read.

The Secretary read the resolutions, as follows:

Resolved, That the Senate has heard with profound sorrow the announcement of the death of Hon. GEORGE R. PATTERSON, late a Representative from the State of Pennsylvania.

Resolved, That a committee of six Senators be appointed by the Vice-President to join a committee appointed on the part of the House of Representatives to take order for superintending the funeral of the deceased.

Resolved, That the Senate communicate these resolutions to the House of Representatives.

The resolutions were considered by unanimous consent, and unanimously agreed to.

The VICE-PRESIDENT appointed, under the second resolution, as the committee on the part of the Senate to act in conjunction with the committee on the part of the House of Represenatives, Mr. PENROSE, Mr. KNOX, Mr. ALLEE, Mr. SCOTT, Mr. BACON, and Mr. DUBOIS.

Mr. PENROSE. Mr. President, I submit a further resolution, which I send to the desk.

The VICE-PRESIDENT. The resolution will be read.

The Secretary read the resolution, as follows:

Resolved, That as an additional mark of respect to the memory of the deceased, the Senate do now adjourn.

The resolution was considered by unanimous consent, and unanimously agreed to; and (at 4 o'clock and 8 minutes p. m.) the Senate adjourned until to-morrow, Thursday, March 22, 1906, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate March 21, 1906.

ASSOCIATE JUSTICE OF ARIZONA SUPREME COURT.

Fletcher M. Doan, of Arizona, to be associate justice of the supreme court of the Territory of Arizona. A reappointment, his term having expired January 20, 1906.

PROMOTION IN THE NAVY.

Lieut. (Junior Grade) Joseph K. Taussig to be a lieutenant in the Navy from the 3d day of October, 1904, vice Lieut. Armistead Rust, promoted.

PROMOTIONS IN THE ARMY.

Medical Department.

Lieut. Col. Edward B. Moseley, deputy surgeon-general, to be assistant surgeon general with the rank of colonel from March 17, 1906, vice Hall, retired from active service.

Maj. Louis A. La Garde, surgeon, to be deputy surgeon-general with the rank of lieutenant-colonel from March 17, 1906, vice Moseley, promoted.

Capt. Paul F. Straub, assistant surgeon, to be surgeon with the rank of major from March 17, 1906, vice La Garde, promoted.

Artillery Corps.

Lieut. Col. John McClelland, Artillery Corps, to be colonel from March 16, 1906, vice Merrill, retired from active service.

POSTMASTERS.

ARKANSAS.

Benjamin F. Campbell to be postmaster at Fayetteville, in the county of Washington and State of Arkansas, in place of Benjamin F. Campbell. Incumbent's commission expires April 22, 1906.

Fred C. Furth to be postmaster at Pine Bluff, in the county of Jefferson and State of Arkansas, in place of Fred C. Furth. Incumbent's commission expires March 24, 1906.

CALIFORNIA.

Samuel S. Johnston to be postmaster at National City, in the county of San Diego and State of California, in place of Samuel S. Johnston. Incumbent's commission expired January 13, 1906.

COLORADO.

Edward E. Eversole to be postmaster at Monte Vista, in the county of Rio Grande and State of Colorado, in place of Edward E. Eversole. Incumbent's commission expired March 14, 1906.

Frank M. Reardon to be postmaster at Victor, in the county of Teller and State of Colorado, in place of Frank M. Reardon. Incumbent's commission expired February 10, 1906.

FLORIDA.

Joshua Mizell to be postmaster at Punta Gorda, in the county of De Soto and State of Florida, in place of Joshua Mizell. Incumbent's commission expires March 25, 1906.

GEORGIA.

William E. Burch to be postmaster at Hawkinsville, in the county of Pulaski and State of Georgia, in place of William E. Burch. Incumbent's commission expires April 17, 1906.

ILLINOIS.

Ulysses S. G. Blakely to be postmaster at Plainfield, in the county of Will and State of Illinois, in place of Ulysses S. G. Blakely. Incumbent's commission expired December 12, 1905.

Lenthold C. Brown to be postmaster at Wheaton, in the county of Dupage and State of Illinois, in place of Lenthold C. Brown. Incumbent's commission expired January 13, 1906.

Jacob G. Reul to be postmaster at Mendota, in the county of La Salle and State of Illinois, in place of Albert W. McIntire, removed.

William C. Roodhouse to be postmaster at Roodhouse, in the county of Greene and State of Illinois, in place of William C. Roodhouse. Incumbent's commission expired January 13, 1906.

IOWA.

John G. Bardsley to be postmaster at Neola, in the county of Pottawattamie and State of Iowa, in place of George L. Wilkinson. Incumbent's commission expires April 10, 1906.

John R. Smull, jr., to be postmaster at Stuart, in the county of Guthrie and State of Iowa, in place of John R. Smull, jr. Incumbent's commission expired March 5, 1906.

KANSAS.

Harvey G. Lowrance to be postmaster at Thayer, in the county of Neosho and State of Kansas, in place of Harvey G. Lowrance. Incumbent's commission expires April 10, 1906.

William T. McElroy to be postmaster at Humboldt, in the county of Allen and State of Kansas, in place of William T. McElroy. Incumbent's commission expires April 10, 1906.

Edwin R. Smith to be postmaster at Mound City, in the county of Linn and State of Kansas, in place of Edwin R. Smith. Incumbent's commission expires April 2, 1906.

MASSACHUSETTS.

George A. Coolidge to be postmaster at Hudson, in the county of Middlesex and State of Massachusetts, in place of Henry S. Moore, resigned.

John F. Freese to be postmaster at East Walpole, in the county of Norfolk and State of Massachusetts, in place of John F. Freese. Incumbent's commission expired March 1, 1906.

Edwin M. Wheelock to be postmaster at Hopedale, in the county of Worcester and State of Massachusetts, in place of Edwin M. Wheelock. Incumbent's commission expired March 14, 1906.

Arthur P. Wright to be postmaster at East Pepperell, in the county of Middlesex and State of Massachusetts, in place of Arthur P. Wright. Incumbent's commission expired March 1, 1906.

MICHIGAN.

Charles W. Browne to be postmaster at Mason, in the county of Ingham and State of Michigan, in place of Charles W. Browne. Incumbent's commission expired March 19, 1906.

Frederick Kruger to be postmaster at St. Ignace, in the county of Mackinac and State of Michigan, in place of Frederick Kruger. Incumbent's commission expired March 5, 1906.

Daniel P. McMullen to be postmaster at Cheboygan, in the county of Cheboygan and State of Michigan, in place of Daniel P. McMullen. Incumbent's commission expired March 19, 1906.

Josiah C. Richardson to be postmaster at Jackson, in the county of Jackson and State of Michigan, in place of Oscar J. R. Hanna. Incumbent's commission expires April 10, 1906.

MINNESOTA.

Samuel Y. Gordon, jr., to be postmaster at Brown Valley, in the county of Traverse and State of Minnesota, in place of Samuel Y. Gordon, jr. Incumbent's commission expires April 5, 1906.

MISSISSIPPI.

Lizzie Baldwin to be postmaster at Canton, in the county of Madison and State of Mississippi, in place of Lizzie Baldwin. Incumbent's commission expires April 2, 1906.

MISSOURI.

Walter Tholburn to be postmaster at Webb City, in the county of Jasper and State of Missouri, in place of William H. Haughawout. Incumbent's commission expires May 8, 1906.

Clark Wix to be postmaster at Butler, in the county of Bates

and State of Missouri, in place of Adelbert O. Welton. Incumbent's commission expired January 22, 1906.

NEBRASKA.

Theodore C. Hacker to be postmaster at Red Cloud, in the county of Webster and State of Nebraska, in place of Theodore C. Hacker. Incumbent's commission expired March 14, 1906.

NEW HAMPSHIRE.

Luther H. Morrill to be postmaster at Tilton, in the county of Belknap and State of New Hampshire, in place of Luther H. Morrill. Incumbent's commission expires May 9, 1906.

Forrest W. Peavey to be postmaster at Wolfboro, in the county of Carroll and State of New Hampshire, in place of Forrest W. Peavey. Incumbent's commission expired January 29, 1906.

Osmon B. Warren to be postmaster at Rochester, in the county of Strafford and State of New Hampshire, in place of Osmon B. Warren. Incumbent's commission expires May 9, 1906.

NEW YORK.

Robert M. Skillen to be postmaster at Akron, in the county of Erie and State of New York, in place of Robert M. Skillen. Incumbent's commission expired March 14, 1906.

Alvin T. Smith to be postmaster at Worcester, in the county of Otsego and State of New York, in place of Henry H. Smith, deceased.

NORTH DAKOTA.

Andrew S. Ellingson to be postmaster at Northwood, in the county of Grand Forks and State of North Dakota, in place of Andrew S. Ellingson. Incumbent's commission expired January 20, 1906.

OKLAHOMA.

Aloise Hopkins to be postmaster at Cement, in the county of Caddo and Territory of Oklahoma. Office became Presidential January 1, 1906.

PENNSYLVANIA.

S. Clay Miller to be postmaster at Lancaster, in the county of Lancaster and State of Pennsylvania, in place of S. Clay Miller. Incumbent's commission expired February 8, 1905.

Charles Koch to be postmaster at Pitcairn, in the county of Allegheny and State of Pennsylvania, in place of Charles Koch. Incumbent's commission expired March 10, 1906.

Charles Seger to be postmaster at Emporium, in the county of Cameron and State of Pennsylvania, in place of Charles Seger. Incumbent's commission expires April 10, 1906.

RHODE ISLAND.

John W. Cass to be postmaster at Woonsocket, in the county of Providence and State of Rhode Island, in place of John W. Cass. Incumbent's commission expired March 1, 1906.

VIRGINIA.

J. Harvey Furr to be postmaster at Waynesboro, in the county of Augusta and State of Virginia, in place of James Craig. Incumbent's commission expired January 21, 1906.

WASHINGTON.

Charles H. Jones to be postmaster at Arlington, in the county of Snohomish and State of Washington, in place of Charles H. Jones. Incumbent's commission expires April 2, 1906.

WEST VIRGINIA.

Samuel E. Stafford to be postmaster at Elkhorn, in the county of McDowell and State of West Virginia, in place of Samuel E. Stafford. Incumbent's commission expires April 26, 1906.

WISCONSIN.

William J. Guetzloe to be postmaster at Kiel, in the county of Manitowoc and State of Wisconsin, in place of William J. Guetzloe. Incumbent's commission expired January 20, 1906.

CONFIRMATIONS.

Executive nominations confirmed by the Senate March 21, 1906.

GOVERNOR OF ALASKA.

Wilford B. Hoggatt, of Juneau, Alaska, to be governor of Alaska.

REGISTERS OF LAND OFFICES.

Clarence W. Leininger, of California, to be register of the land office at Redding, Cal.

Louis J. Cohn, of Reno, Nev., to be register of the land office at Carson City, Nev.

RECEIVERS OF PUBLIC MONEYS.

Earl W. Tremont, of Manhattan, Nev., to be receiver of public moneys at Carson City, Nev.

Lloyd L. Carter, of California, to be receiver of public moneys at Redding, Cal.

POSTMASTERS.

ARIZONA.

Laura G. Crable to be postmaster at Tombstone, in the county of Cochise and State of Arizona.

CALIFORNIA.

T. E. Dimock to be postmaster at Lompoc, in the county of Santa Barbara and State of California.

Stephen F. Kelley to be postmaster at San Bernardino, in the county of San Bernardino and State of California.

IOWA.

E. H. Allison to be postmaster at Grundy Center, in the county of Grundy and State of Iowa.

Charles H. Anderson to be postmaster at Anamosa, in the county of Jones and State of Iowa.

Denton Camery to be postmaster at Toledo, in the county of Tama and State of Iowa.

Henry A. Perrin to be postmaster at Monroe, in the county of Jasper and State of Iowa.

William G. Power to be postmaster at Mount Vernon, in the county of Linn and State of Iowa.

Don W. Rathbun to be postmaster at Marion, in the county of Linn and State of Iowa.

John L. Waite to be postmaster at Burlington, in the county of Des Moines and State of Iowa.

KANSAS.

Andrew McClellan to be postmaster at Onaga, in the county of Pottawatomie and State of Kansas.

William H. McIntyre to be postmaster at Ashland, in the county of Clark and State of Kansas.

David W. Naill to be postmaster at Herington, in the county of Dickinson and State of Kansas.

Frank H. Roberts to be postmaster at Oskaloosa, in the county of Jefferson and State of Kansas.

LOUISIANA.

Frank C. Labit to be postmaster at Crowley, in the parish of Acadia and State of Louisiana.

MASSACHUSETTS.

Benjamin F. Martin to be postmaster at Marblehead, in the county of Essex and State of Massachusetts.

John W. Richardson to be postmaster at Winchester, in the county of Middlesex and State of Massachusetts.

Nathan H. Sears to be postmaster at Millbury, in the county of Worcester and State of Massachusetts.

Albert G. Thompson to be postmaster at Lowell, in the county of Middlesex and State of Massachusetts.

Luther Wait to be postmaster at Ipswich, in the county of Essex and State of Massachusetts.

MICHIGAN.

Elliott O. Bellaws to be postmaster at Stanton, in the county of Montcalm and State of Michigan.

Fred A. Butty to be postmaster at Grand Haven, in the county of Ottawa and State of Michigan.

Walter D. Sharp to be postmaster at Litchfield, in the county of Hillsdale and State of Michigan.

Aaron R. Wheeler to be postmaster in St. Louis, in the county of Gratiot and State of Michigan.

MONTANA.

George W. Irvin to be postmaster at Butte, in the county of Silver Bow and State of Montana.

Augusta C. Sheridan to be postmaster at Bigtimber, in the county of Sweet Grass and State of Montana.

NEBRASKA.

Percy A. Brundage to be postmaster at Tecumseh, in the county of Johnson and State of Nebraska.

NEVADA.

Dwight A. Dawson to be postmaster at Reno, in the county of Washoe and State of Nevada.

NEW HAMPSHIRE.

Walter H. Stickney to be postmaster at Epping, in the county of Rockingham and State of New Hampshire.

NEW JERSEY.

Chester A. Burt to be postmaster at Helmetta, in the county of Middlesex and State of New Jersey.

James D. Mackay to be postmaster at Lambertville, in the county of Hunterdon and State of New Jersey.

NORTH CAROLINA.

Mary Green to be postmaster at Warrenton, in the county of Warren and State of North Carolina.

OHIO.

Murray P. Brewer to be postmaster at Bowling Green, in the county of Wood and State of Ohio.

Frank Fortune to be postmaster at Jefferson, in the county of Ashtabula and State of Ohio.

SOUTH DAKOTA.

J. Melroy Staley to be postmaster at Clear Lake, in the county of Deuel and State of South Dakota.

TENNESSEE.

Archelaus M. Hughes to be postmaster at Columbia, in the county of Maury and State of Tennessee.

Charles S. Moss to be postmaster at Franklin, in the county of Williamson and State of Tennessee.

Alexander Ragan to be postmaster at Newport, in the county of Cocke and State of Tennessee.

Zeph Roby to be postmaster at Erin, in the county of Houston and State of Tennessee.

Albert L. Scott to be postmaster at Dickson, in the county of Dickson and State of Tennessee.

Harry Swaney to be postmaster at Gallatin, in the county of Sumner and State of Tennessee.

TEXAS.

Florence Burke to be postmaster at Elgin, in the county of Bastrop and State of Texas.

Thomas J. Darling to be postmaster at Temple, in the county of Bell and State of Texas.

Carlton A. Dickson to be postmaster at Cleburne, in the county of Johnson and State of Texas.

Edwin Fore to be postmaster at Pittsburg, in the county of Camp and State of Texas.

Charles J. Hostrasser to be postmaster at Hearne, in the county of Robertson and State of Texas.

Harry Martin to be postmaster at Bonham, in the county of Fannin and State of Texas.

WISCONSIN.

Edith E. Baker to be postmaster at Shell Lake, in the county of Washburn and State of Wisconsin.

Frank J. Boyle to be postmaster at South Milwaukee, in the county of Milwaukee and State of Wisconsin.

Matthew J. Connors to be postmaster at Hurley, in the county of Iron and State of Wisconsin.

Frank E. Riley to be postmaster at Two Rivers, in the county of Manitowoc and State of Wisconsin.

Joel L. Stewart to be postmaster at Clintonville, in the county of Waupaca and State of Wisconsin.

D. B. Gorham to be postmaster at Shawano, in the county of Shawano and State of Wisconsin, in place of D. B. Gorham. Incumbent's commission expired March 18, 1906.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *March 21, 1906.*

The House met at 12 o'clock noon.

The Chaplin, Rev. HENRY N. COUDEN, D. D., offered the following prayer:

Oh, Thou great Spirit, who hast been the inspiration of men to high and noble achievement, help us to realize that it is not what we get out of the world but what we put into the world that counts for righteousness. Inspire us, therefore, with high conceptions of right and duty, and help us to noble endeavors that we may leave the world a little better than we found it. Profoundly impressed by the sudden and unexpected death of one of the Members of this House, we are warned that we must work while it is yet day, for the night cometh when no man can work. God be with the bereaved family; give them that hope and confidence in Thee which will inspire them with lofty thoughts and bring them closer to Thee, and finally to that happy reunion beyond this land, where no death enters. Hear us in the name of Christ our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

LEAVES OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. CLARK of Florida indefinitely, on account of important business.

To Mr. BENNETT of Kentucky for two weeks, on account of important business.

DEATH OF HON. GEORGE R. PATTERSON.

Mr. SAMUEL. Mr. Speaker, it is my sad duty to announce the death of my late colleague, Hon. GEORGE R. PATTERSON, a Representative from the Twelfth district, who died very suddenly and unexpectedly this morning. I offer the following resolutions.

The SPEAKER. The Clerk will report the resolutions.

The Clerk read as follows:

Resolved, That the House has heard with profound sorrow of the death of Hon. GEORGE R. PATTERSON, a Representative from the State of Pennsylvania.

Resolved, That a committee of thirteen Members of the House, with such members of the Senate as may be joined, be appointed to attend the funeral.

Resolved, That the Sergeant-at-Arms of the House be authorized and directed to take such steps as may be necessary for carrying out the provisions of these resolutions; and that the necessary expenses in connection therewith be paid out of the contingent fund of the House.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

The SPEAKER. The question is on agreeing to the resolutions.

The question was taken; and the resolutions were unanimously agreed to.

The SPEAKER. The Chair appoints the following committee.

The Clerk read as follows:

Mr. SAMUEL, of Pennsylvania; Mr. BARCHFELD, of Pennsylvania; Mr. LILLEY, of Pennsylvania; Mr. SCHNEEBELI, of Pennsylvania; Mr. BUTLER, of Pennsylvania; Mr. KLINE, of Pennsylvania; Mr. LOUDENSLAGER, of New Jersey; Mr. PRINCE, of Illinois; Mr. ANDREWS, of New Mexico; Mr. BROUSSARD, of Louisiana; Mr. GOULDEN, of New York; Mr. PATTERSON, of North Carolina; Mr. AIKEN, of South Carolina.

The SPEAKER. The gentleman from Pennsylvania also offers the following resolution.

The Clerk read as follows:

Resolved, That as a further mark of respect to the memory of the deceased, this House do now adjourn.

The motion was agreed to; and accordingly (at 12 o'clock and 8 minutes p. m.) the House adjourned to meet to-morrow, at 12 o'clock noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. HAY, from the Committee on Military Affairs, to which was referred the House joint resolution (H. J. Res. 103) authorizing a commission to examine the battlefields around Petersburg, Va., and report whether it is advisable to establish a battlefield park, reported the same with amendment, accompanied by a report (No. 2469); which said joint resolution and report was referred to the House Calendar.

Mr. FRENCH, from the Committee on the Public Lands, to which was referred the bill of the Senate (S. 4862) allowing settlers with permanent improvements on the town sites of Heyburn and Rupert, in Idaho, to buy lots on which said improvements are located at an appraised price for cash, reported the same without amendment, accompanied by a report (No. 2471); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. PARKER, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 14928) for the relief of F. V. Walker, reported the same with amendment, accompanied by a report (No. 2468); which said bill and report were referred to the Private Calendar.

Mr. CUSHMAN, from the Committee on Private Land Claims, to which was referred the bill of the Senate (S. 538) for the relief of Charles T. Rader, reported the same without amendment, accompanied by a report (No. 2470); which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. BURKE of South Dakota: A bill (H. R. 17112) directing the Court of Claims to hear and determine the question of the restoration of the unpaid annuities of the Sisseton and Wahpeton bands of Sioux Indians—to the Committee on Indian Affairs.

Also, a bill (H. R. 17113) providing for the allotment and distribution of Indian tribal funds—to the Committee on Indian Affairs.

By Mr. DIXON of Montana: A bill (H. R. 17114) to provide for the disposition, under the public land laws, of the lands in the abandoned Fort Shaw Military Reservation, Mont.—to the Committee on the Public Lands.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. ACHESON: A bill (H. R. 17115) granting an increase of pension to Robert Brewer—to the Committee on Invalid Pensions.

By Mr. FLACK: A bill (H. R. 17116) granting an increase of pension to Nelson W. Spaulding—to the Committee on Invalid Pensions.

By Mr. FORDNEY: A bill (H. R. 17117) granting an honorable discharge to William Barker—to the Committee on Military Affairs.

By Mr. HAYES: A bill (H. R. 17118) granting an increase of pension to John Burke—to the Committee on Invalid Pensions.

By Mr. HOWELL of New Jersey: A bill (H. R. 17119) granting a pension to Melissa Gravatt—to the Committee on Invalid Pensions.

By Mr. JONES of Washington: A bill (H. R. 17120) granting a pension to Rhoda Munsil—to the Committee on Invalid Pensions.

By Mr. KENNEDY of Nebraska: A bill (H. R. 17121) granting an increase of pension to Evan Wyman—to the Committee on Invalid Pensions.

By Mr. LIVINGSTON: A bill (H. R. 17122) granting a pension to Frank L. Herbert—to the Committee on Pensions.

By Mr. VAN WINKLE: A bill (H. R. 17123) granting a pension to Annie Bosche—to the Committee on Invalid Pensions.

By Mr. RUSSELL: A bill (H. R. 17124) for the relief of the heirs of James C. Lipscomb—to the Committee on Claims.

By Mr. SHERMAN: A bill (H. R. 17125) granting a pension to Abbie A. Smith—to the Committee on Invalid Pensions.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of bills of the following titles; which were thereupon referred as follows:

A bill (H. R. 11290) granting a pension to Charles May—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 16427) granting an increase of pension to William W. Carter—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 17063) for the relief of the heirs of John McDonald—Committee on Invalid Pensions discharged, and referred to the Committee on War Claims.

A bill (H. R. 16774) granting an increase of pension to James D. Leach—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 17068) granting an increase of pension to Charles Sherrod—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER: Petition of individuals and organizations of the United States, for admission of Oklahoma as a State—to the Committee on the Territories.

Also, petition of the Southern Brewers' Convention, for a quarantine law for Gulf ports—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Chamber of Commerce of New Haven, Conn., for forest reservation in the White Mountains—to the Committee on Agriculture.

By Mr. ACHESON: Petition of Dr. E. D. Jackson, of Newcastle, Pa., for the Heyburn pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of the faculty of Bryn Mawr College, for bill H. R. 15268—to the Committee on Ways and Means.

Also, petition of Thomas Winsmore, of Philadelphia, for the Littlefield bill (H. R. 5281)—to the Committee on the Merchant Marine and Fisheries.

By Mr. BARCHFELD: Petition of S. L. Gardner, L. M. Harrington, H. L. Speer, J. C. Goss, and C. I. Barr & Co., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of Kelly & Harris, E. M. Bates, and William H. McClaren, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, paper to accompany bill for relief of John D. Lloyd—to the Committee on Invalid Pensions.

By Mr. BATES: Petition of 10,000 people of Tulsa, Ind. T., for statehood—to the Committee on the Territories.

Also, paper to accompany bill for relief of Robert S. Dame—to the Committee on Military Affairs.

Also, paper to accompany bill for relief of George H. Woodard—to the Committee on Invalid Pensions.

Also, petition of the General Federation of Women's Clubs, for investigation of the industrial condition of women in the United States—to the Committee on Appropriations.

Also, petition of C. F. Adams, for statehood for Oklahoma—to the Committee on the Territories.

Also, petition of John L. Emerson, of Titusville, Pa., for admission of Oklahoma to statehood—to the Committee on the Territories.

By Mr. BELL of Georgia: Petition of Gainsville Council, No. 17, Junior Order United American Mechanics, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. BENNETT of Kentucky: Paper to accompany bill for relief of Capt. J. H. O'Brien—to the Committee on Invalid Pensions.

By Mr. BOWERSOCK: Petition of the National Consumers' League of New York, for the pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of citizens of Redmond, Hinton, and Oscuma, and the Caddo Club, of Caddo, Okla., for statehood—to the Committee on the Territories.

Also, petition of the Woman's Club of Lawrence, Kans., for investigation of the industrial condition of women in the United States—to the Committee on Appropriations.

Also, petition of citizens of Paden, Ind. T., for joint statehood—to the Committee on the Territories.

By Mr. BURKE of Pennsylvania: Petition of the faculty of Bryn Mawr College, for bill H. R. 15268—to the Committee on Ways and Means.

Also, petition of Walter H. William, for a pure-food law—to the Committee on Interstate and Foreign Commerce.

Also, paper to accompany bill for relief of Charles T. Murray and John C. Parkinson—to the Committee on Invalid Pensions.

Also, petition of H. L. Speer and George A. Percy, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of the H. R. Mulford Company, for the pure-food bill (S. 88)—to the Committee on Interstate and Foreign Commerce.

Also, petition of D. E. Hall and George A. Percy, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of John L. Nicholson, Haldit & Cummings, and Stetson & Winsmore, for bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

Also, petition of Thomas Winsmore, for the Littlefield bill (H. R. 5281)—to the Committee on the Merchant Marine and Fisheries.

By Mr. BURKE of South Dakota: Petition of citizens of South Dakota, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. BURLEIGH: Petition of A. B. Remick et al., of Marlboro, Me., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. BURNETT: Papers to accompany bill for relief of Albert Merriam, R. Z. Rogers, and Milton Shearer et al.—to the Committee on Invalid Pensions.

By Mr. BURTON of Delaware: Petition of Diamond State Division, No. 342, for the Penrose-Bates injunction bill—to the Committee on the Judiciary.

Also, petition of Midland Grange, No. 27, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of Nassau Council, No. 21, Order United American Mechanics, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of the Brotherhood of Painters, Decorators, and Paper Hangers of America, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. BUTLER of Tennessee: Paper to accompany bill for relief of Benjamin Francis—to the Committee on Invalid Pensions.

By Mr. CAMPBELL of Ohio: Petition of the Buffalo Chamber of Commerce, for the Gallinger bill—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the Japanese and Korean Exclusion League, for the Chinese-exclusion law as it is—to the Committee on Foreign Affairs.

By Mr. CHAPMAN: Petition of the Federation of Women's

Clubs of Flora and Harrisburg, Ill., for Government investigation of the industrial condition of women in the United States—to the Committee on Appropriations.

By Mr. CURRIER: Petition of Ashuelot Grange, Gilsum, N. H., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. CURTIS: Petition of citizens of Oklahoma, for the Senate amendment to the statehood bill—to the Committee on the Territories.

By Mr. DALZELL: Petition of the Retail Grocers' Association of Pittsburg, Pa., for the pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of Turtle Creek Council, Junior Order United American Mechanics, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. DAVIDSON: Paper to accompany bill for relief of George W. Sutton—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of Benjamin F. Andrews—to the Committee on Invalid Pensions.

By Mr. ELLIS: Paper to accompany bill for relief of Harriet Payne—to the Committee on Pensions.

By Mr. ESCH: Petition of the National Board of Trade, for forestry reservations—to the Committee on Agriculture.

Also, petition of citizens of Wisconsin, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. FLACK: Paper to accompany bill for relief of Nelson W. Spaulding—to the Committee on Invalid Pensions.

By Mr. FORDNEY: Petition of citizens of Ellington, Mich., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of 200 citizens of Vassar, Mich., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. FOSTER of Indiana: Petition of the Indiana Retail Merchants' Association, against a parcels-post law—to the Committee on the Post-Office and Post-Roads.

Also, petition of the Northern Indiana Historical Society, for preservation of the U. S. frigate *Constitution*—to the Committee on Naval Affairs.

By Mr. FOWLER: Petition of the Essenic Manufacturing Company, of Plainfield, N. J., for bill H. R. 10091—to the Committee on Patents.

Also, petition of John T. Cosgrove, against bill H. R. 12973—to the Committee on Foreign Affairs.

Also, petition of Joseph W. Stone et al., of Elizabeth, N. J., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of the Clio Club of Roselle, Rahway, and Westfield, N. J., for investigation of the industrial condition of women—to the Committee on Appropriations.

Also, petition of the Woman's Club of Westfield, N. J., for the pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of Charity Organized Society, of Elizabeth, N. J., for improvement of social conditions in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of Local Union No. 20, Brotherhood of Painters, Decorators, and Paper Hangers of America, of Westfield, N. J., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. FRENCH: Petition of citizens of Kenterville, Cottonwood, and Moscow, Idaho, against bill H. R. 7067—to the Committee on Indian Affairs.

By Mr. FULLER: Petition of the Master House Painters and Decorators of Massachusetts and citizens of Durand, Ill., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of the Woman's Club of Rockford, Ill., for an appropriation for scientific investigation of the industrial condition of women in the United States—to the Committee on Appropriations.

By Mr. GARNER: Petition of citizens of Corpus Christi, Tex., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. GILLETT of Massachusetts: Petition of Barre (Mass.) Grange, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. GOLDFOGLE: Petition of the American Society for the Prevention of Cruelty to Animals, against bill H. R. 47—to the Committee on Interstate and Foreign Commerce.

Also, petition of Robert H. Ingersoll & Bros., for an amendment to the trade-mark law—to the Committee on Patents.

Also, petition of the Consumers' League of New York, for a pure-food law—to the Committee on Interstate and Foreign Commerce.

Also, petition of the New York Board of Trade and Transportation, for an appropriation for Point Judith—to the Committee on Rivers and Harbors.

By Mr. GRAHAM: Petition of H. K. Mulford Company, for bill S. 88—to the Committee on Interstate and Foreign Commerce.

Also, petition of Walter H. Williams, for a pure-food law—to the Committee on Interstate and Foreign Commerce.

Also, petition of Thomas Winsmore, for bill H. R. 5281 (the Littlefield bill)—to the Committee on the Merchant Marine and Fisheries.

By Mr. HAYES: Petition of citizens of California, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of the West Side Fruit Growers' Association, of Santa Clara County, Cal., for the pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Associated Charities of Redlands, Cal., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of the San Pedro Labor Council, against bill H. R. 12973 (the Foster bill)—to the Committee on Foreign Affairs.

Also, petition of citizens of San Jose, Cal., against bill H. R. 12973—to the Committee on Foreign Affairs.

Also, paper to accompany bill for relief of William I. Reid—to the Committee on Military Affairs.

Also, paper to accompany bill for relief of John Burke—to the Committee on Invalid Pensions.

By Mr. HEDGE: Petition of the Commercial Club and merchants of Keokuk, against a parcels post—to the Committee on the Post-Office and Post-Roads.

Also, petition of citizens of Iowa, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of the Louisa County Good Citizens' League, for the Hepburn-Dolliver bill—to the Committee on the Judiciary.

By Mr. HOWELL of New Jersey: Petition of the Woman's Club of Orange, N. J., for investigation of the industrial condition of women in the United States—to the Committee on Appropriations.

Also, petition of the Board of Trade of Newark, N. J., for the pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of Edgar Brick, for the Heyburn pure-food bill—to the Committee on Interstate and Foreign Commerce.

By Mr. HOWELL of Utah: Petition of citizens of Utah, against a parcels-post law—to the Committee on the Post-Office and Post-Roads.

By Mr. HUNT: Paper to accompany bill for relief of Charles H. Sloan—to the Committee on War Claims.

Also, petition of Eastern Lodge, No. 481, Brotherhood of Locomotive Firemen, for the Bates-Penrose bill—to the Committee on the Judiciary.

By Mr. KEIFER: Petition of citizens of Neil, Ind. T., for the Senate amendment to the statehood bill—to the Committee on the Territories.

Also, petition of citizens of Oklahoma and Indian Territory, for the Senate amendment to the statehood bill—to the Committee on the Territories.

By Mr. KENNEDY: Paper to accompany bill for relief of John W. McKay—to the Committee on Invalid Pensions.

By Mr. KNAPP: Petition of citizens of New York, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. KNOWLAND: Paper to accompany bill for relief of Henry Finnegass—to the Committee on Military Affairs.

By Mr. LINDSAY: Petition of the Brooklyn Bank, for the Townsend bill (H. R. 15846)—to the Committee on Interstate and Foreign Commerce.

By Mr. LITTLEFIELD: Petition of organizations of railway employees, for the Bates-Penrose bill—to the Committee on the Judiciary.

Also, petition of the San Francisco Labor Council, against bill S. 27 and for the Senate amendment to bill H. R. 12472—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the Sailors' Union of the Pacific, against bill S. 27, etc.—to the Committee on the Merchant Marine and Fisheries.

Also, petition of A. Stinson and National Grange, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. McCALL: Petition of citizens of Waltham, Mass., for National Government forest reservations—to the Committee on Agriculture.

By Mr. McNARY: Petition of A. E. Yoell, of the Japanese and Korean Exclusion League, for the Chinese law as it is—to the Committee on Foreign Affairs.

Also, petition of the International Association of Master House Painters and Decorators, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. MARTIN: Petition of citizens of Bridgewater, S. Dak., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. MOUSER: Petition of many citizens of New York and vicinity, for relief for heirs of victims of *General Slocum* disaster—to the Committee on Claims.

By Mr. NORRIS: Petition of the Nebraska Cement Users' Association, for continued experiments by the Geological Survey, relative to structural materials—to the Committee on Appropriations.

Also, petition of the International Association of Master House Painters and Decorators of America, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. OLMSTED: Petition of ladies of Carlisle, Pa., for forest reservations in the White Mountains and the Southern Appalachian Mountains—to the Committee on Agriculture.

Also, petition of ladies of Carlisle, Pa., for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

Also, petition of ladies of Carlisle, Pa., for preservation of the forests of Minnesota—to the Committee on Agriculture.

Also, petition of Group No. 5, Pennsylvania Bankers' Association, of Harrisburg, Pa., for bill H. R. 8972—to the Committee on Banking and Currency.

Also, petition of school-teachers of Harrisburg, Pa., for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

By Mr. SAMUEL: Petition of Ed. Roth, of Shamokin, Pa., against bill H. R. 12973 (the Chinese-exclusion law)—to the Committee on Foreign Affairs.

By Mr. SHACKLEFORD: Petition of T. H. Jenkins et al., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. SHARTEL: Petition of citizens of Missouri, for a parcels-post law—to the Committee on the Post-Office and Post-Roads.

Also, petition of citizens of Missouri, for the Senate amendment to the statehood bill for Oklahoma and Indian Territory—to the Committee on the Territories.

Also, petition of citizens of Missouri, against Sunday banking in post-offices—to the Committee on the Post-Office and Post-Roads.

Also, petition of citizens of Missouri, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. SLAYDEN: Petition of public school teachers of San Antonio, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of citizens of Texas, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. SMITH of Kentucky: Paper to accompany bill for relief of the Christian Church at Campbellsville, Ky.—to the Committee on War Claims.

By Mr. SAMUEL W. SMITH: Petition of citizens of Oklahoma, for statehood—to the Committee on the Territories.

Also, petition of citizens of Flushing and Bellville, Mich., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of citizens of Michigan, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of citizens of Michigan, for an experimental parcels post—to the Committee on the Post-Office and Post-Roads.

By Mr. SPERRY: Petition of citizens of New Haven, Conn., against sale of liquor in Government buildings—to the Committee on Alcoholic Liquor Traffic.

By Mr. STEVENS of Minnesota: Petition of the New York Clearing House, for an amendment to bill H. R. 8973—to the Committee on Banking and Currency.

Also, petition of citizens of Minnesota, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. TOWNSEND: Petition of Typographical Union No. 154, of Ann Arbor, Mich., for the Gilbert bill—to the Committee on the Judiciary.

Also, petition of the State Normal School of Michigan, for an appropriation to support the department of elementary agriculture in State normal schools in the United States—to the Committee on Agriculture.

Also, petition of Grange No. 280, of Morenci, Mich. for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. VAN WINKLE: Petition of Ellsworth Camp, Sons of Veterans, against bill H. R. 8131—to the Committee on Military Affairs.

Also, paper to accompany bill for relief of Ellen Ramsey—to the Committee on Invalid Pensions.

SENATE.

THURSDAY, *March 22, 1906.*

Prayer by the Chaplain, Rev. EDWARD E. HALE.

The Journal of yesterday's proceedings was read and approved.

NAVIGATION OF WATER CRAFT.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of Commerce and Labor, transmitting drafts of three bills to amend each of the three general "collision laws" affecting the navigation of water craft upon waters within the United States, so as to bring within the scope of these several laws rafts navigating in tow, etc.; which, with the accompanying papers, was referred to the Committee on Commerce, and ordered to be printed.

PATENTS FOR ALLOTTED LAND IN OKLAHOMA.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Interior, transmitting, in response to a resolution of the 14th ultimo, a letter from the Commissioner of Indian Affairs, submitting schedules of copies of all correspondence in the case of the Kickapoos and Martin J. Bentley, ex-special United States agent in charg. of the Kicking Mexican Kickapoo Indians; which, with the accompanying papers, was referred to the Committee on Indian Affairs.

FINDINGS OF COURT OF CLAIMS.

The VICE-PRESIDENT laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of Mary T. Sweeting, heir at law of John Joins, deceased, *v.* The United States; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

He also laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of the Trustees of the Presbyterian Church of Marshall, Va., *v.* The United States; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

He also laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of the Trustees of the Cumberland Presbyterian Church, of Clarksville, Tenn., *v.* The United States; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

He also laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of The Trustees of the Mount Zion Methodist Episcopal Church (colored), of Middletown, Va., *v.* The United States; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

He also laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of The Trustees of the Fredericksburg Baptist Church, of Fredericksburg, Va., *v.* The United States; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. DRYDEN presented the petition of E. H. Parvin, of Newfield, N. J., and the petition of Charles B. Gould, of Caldwell, N. J., praying for the enactment of legislation to remove the duty on denaturized alcohol; which were referred to the Committee on Finance.

He also presented petitions of the Woman's Club of Westfield, of the Cosmos Club of Elizabeth, of the Reading Club of Woodbury, of the Travelers' Club of Newark, and of the Woman's

Club of Orange, all in the State of New Jersey, praying that an appropriation be made for a scientific investigation into the industrial conditions of women in the United States; which were referred to the Committee on Education and Labor.

He also presented a petition of the American Saw Mill Machinery Company, of Hackettstown, N. J., and a petition of the Atha Tool Company, of Newark, N. J., praying for the passage of the so-called "Williams-Mallory bill," relating to quarantine regulations of the Gulf ports; which were referred to the Committee on Public Health and National Quarantine.

Mr. NELSON presented a petition of the National Brotherhood of Railroad Trainmen, praying for the enactment of legislation to restrict immigration; which was referred to the Committee on Immigration.

Mr. PLATT presented a memorial of the Woman's Christian Temperance Union of Greenwich, N. Y., and a memorial of the congregation of the Methodist Episcopal Church of Clifton Springs, N. Y., remonstrating against the repeal of the present anticanteen law; which were referred to the Committee on Military Affairs.

Mr. SPOONER presented a petition of sundry citizens of Barron County, Wis., praying for the removal of the internal-revenue tax on denaturized alcohol; which was referred to the Committee on Finance.

He also presented memorials of sundry citizens of Janesville, New Glarus, Wilmot, Mayville, St. Cloud, Racine, Milwaukee, Greenwood, Columbus, Sheboygan, and Kenosha, all in the State of Wisconsin, remonstrating against the passage of the so-called "parcels post bill;" which were referred to the Committee on Post-Offices and Post-Roads.

Mr. FLINT presented a petition of the Board of Trade of Corona, Cal., praying for the adoption of an amendment to the so-called "Hepburn railroad rate bill," granting authority to the shipper to route his fruit; which was referred to the Committee on Interstate Commerce.

He also presented a petition of the Methodist Preachers' Association, of Los Angeles, Cal., and a petition of the Presbyterian Ministerial Association, of Los Angeles, Cal., praying for the enactment of legislation to prohibit the sale of intoxicating liquors in all Government buildings and grounds; which were referred to the Committee on Public Buildings and Grounds.

He also presented a petition of sundry citizens of San Diego, Cal., praying for the enactment of legislation to restrict immigration; which was referred to the Committee on Immigration.

He also presented a memorial of the San Francisco Labor Council, of San Francisco, Cal., remonstrating against the repeal of the present Chinese-exclusion law; which was referred to the Committee on Immigration.

Mr. GALLINGER presented a petition of the New Century Club, of Manchester, N. H., and a petition of the Woman's Club, of Berlin, N. H., praying that an appropriation be made for a scientific investigation into the industrial conditions of women in the United States; which were referred to the Committee on Education and Labor.

He also presented a petition of the Consumers' League of Maryland, of Baltimore, Md., praying for the enactment of legislation to regulate the employment of child labor in the District of Columbia; which was referred to the Committee on the District of Columbia.

He also presented the memorial of T. W. Tyrer, of Washington, D. C., remonstrating against the enactment of legislation providing for the purchase of land as an addition to Rock Creek Park; which was referred to the Committee on the District of Columbia.

Mr. KITTREDGE presented a petition of the Federation of Women's Clubs, of Flandreau, S. Dak., praying for an investigation into the industrial conditions of the women of the country; which was referred to the Committee on Education and Labor.

Mr. KEAN presented the memorial of Grover C. Traynor, of Westfield, N. J., remonstrating against the repeal of the present Chinese-exclusion law; which was referred to the Committee on Immigration.

He also presented a petition of Trenton Lodge No. 38, Brotherhood of Railroad Trainmen, of Trenton, N. J., praying for the enactment of legislation to restrict immigration; which was referred to the Committee on Immigation.

He also presented a petition of the Cosmos Club of Elizabeth, N. J., praying that an appropriation be made for a scientific investigation into the industrial conditions of women in the United States; which was referred to the Committee on Education and Labor.

He also presented a petition of the J. C. Smith & Wallace Company, of Newark, N. J., praying for the enactment of legislation relating to the issuing by common carriers of bills of lading; which was referred to the Committee on Interstate Commerce.

He also presented a petition of the Society for Organized Charity of Salem, N. J., praying for the enactment of legislation to regulate the employment of child labor in the District of Columbia; which was referred to the Committee on the District of Columbia.

Mr. RAYNER (for Mr. GORMAN) presented sundry papers to accompany the bill (S. 5093) granting an increase of pension to Josiah F. Staubs; which were referred to the Committee on Pensions.

He also presented sundry papers to accompany the bill (S. 5094) granting an increase of pension to Samuel F. Baublitz; which were referred to the Committee on Pensions.

REPORTS OF COMMITTEES.

Mr. GALLINGER, from the Committee on the District of Columbia, to whom was referred the bill (S. 4982) relating to the sale of poultry in the District of Columbia, reported it with amendments, and submitted a report thereon.

Mr. PENROSE, from the Committee on Commerce, to whom was referred the bill (S. 4967) to establish additional aids to navigation in Delaware Bay and River, reported it with amendments, and submitted a report thereon.

Mr. PILES, from the Committee on Commerce, to whom was referred the bill (S. 5026) providing for the construction and equipment of a first-class life-saving ocean-going tug, also a launch tender to be used in connection therewith, for service on the north Pacific coast of the United States, reported it with amendments, and submitted a report thereon.

Mr. FRAZIER, from the Committee on Claims, to whom was referred the bill (S. 4245) for the relief of George T. Larkin, reported it without amendment, and submitted a report thereon.

Mr. CLARK of Wyoming, from the Committee on Public Lands, to whom was referred the bill (S. 4628) providing that the State of Wyoming be permitted to relinquish to the United States certain lands heretofore selected and to select other lands from the public domain in lieu thereof, reported it with amendments, and submitted a report thereon.

Mr. WARREN, from the Committee on Military Affairs, to whom was referred the bill (S. 5110) to remove the charge of desertion from the military record of Henry Mitchelson and to grant him an honorable discharge, asked to be discharged from its further consideration and that it be referred to the Committee on Naval Affairs; which was agreed to.

Mr. MILLARD, from the Committee on Public Buildings and Grounds, to whom was referred the bill (S. 2350) providing for the erection of a public building at the city of Plattsmouth, Nebr., and for other purposes, reported it with amendments, and submitted a report thereon.

Mr. CLARK of Montana, from the Committee on Indian Affairs, reported an amendment intended to be proposed to the bill (H. R. 8461) to amend chapter 1495, Revised Statutes of the United States, entitled "An act for the survey and allotment of lands now embraced within the limits of the Flathead Indian Reservation, in the State of Montana, and the sale and disposal of all surplus lands after allotment," as amended by section 9 of chapter 1479, Revised Statutes of the United States; which was ordered to lie on the table, and be printed.

PURCHASES BY ISTHMIAN CANAL COMMISSION.

Mr. MILLARD, from the Committee on Interoceanic Canals, reported the following resolution; which, with the accompanying paper, was referred to the Committee on Printing:

Resolved, That a tabulated statement prepared by the auditor of the Isthmian Canal Commission, entitled "Statement showing orders issued by the Isthmian Canal Commission for purchases involving $1,000 or more, November 1, 1905, to March 7, 1906," be printed as a Senate document, in pursuance of a motion adopted by the Committee on Interoceanic Canals, and that this resolution be referred to the Senate Committee on Printing.

SHOSHONE OR WIND RIVER INDIAN RESERVATION IN WYOMING.

Mr. HANSBROUGH. From the Committee on Public Lands I report back without amendment the joint resolution (H. J. Res. 117) extending the time for opening to public entry the unallotted lands on the ceded portion of the Shoshone or Wind River Indian Reservation in Wyoming. I ask for its present consideration, as it is an emergency measure.

The Secretary read the joint resolution, and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It extends the time for opening to public entry the ceded portion of the Shoshone or Wind River Indian Reservation in Wyoming to the 15th day of August, 1906, unless the President shall determine that the same may be opened at an earlier date.

The joint resolution was reported to the Senate without

amendment, ordered to a third reading, read the third time, and passed.

Mr. HANSBROUGH. I am directed by the Committee on Public Lands, to whom was referred the joint resolution (S. R. 42) extending the time for opening to public entry the unallotted lands on the ceded portion of the Shoshone or Wind River Indian Reservation in Wyoming, to report it back adversely, and move its indefinite postponement.

The motion was agreed to.

SURVEY OF THE OHIO RIVER NEAR CINCINNATI.

Mr. ELKINS. I am directed by the Committee on Commerce, to whom was referred the bill (S. 5035) authorizing a survey of the Ohio River at Cincinnati, Ohio, for the purpose of establishing an ice harbor, to report it back adversely, and in lieu thereof to report a concurrent resolution which is supposed to be in better form. I will ask the indefinite postponement of the bill, and as the concurrent resolution is only four lines long, I will ask for its immediate consideration.

The VICE-PRESIDENT. Without objection, the bill will be indefinitely postponed. The concurrent resolution will be read.

The concurrent resolution was read, considered by unanimous consent, and agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, authorized and directed to cause to be made a survey and examination of the Ohio River at or near Cincinnati, Ohio, for the purpose of establishing a suitable ice harbor.

BILLS INTRODUCED.

Mr. TILLMAN introduced a bill (S. 5251) granting an increase of pension to William Woods; which was read twice by its title, and referred to the Committee on Pensions.

Mr. CULLOM introduced a bill (S. 5252) to renew and extend certain letters patent; which was read twice by its title, and referred to the Committee on Patents.

He also introduced a bill (S. 5253) granting an increase of pension to Isaac B. Doolittle; which was read twice by its title, and referred to the Committee on Pensions.

Mr. FRAZIER introduced a bill (S. 5254) for the relief of Nathaniel R. Carson and William C. Carson; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Claims.

Mr. DILLINGHAM introduced a bill (S. 5255) granting an increase of pension to John D. Cutler; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. SMOOT introduced a bill (S. 5256) granting an increase of pension to John Johnson; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. PLATT introduced a bill (S. 5257) granting an increase of pension to Marvin Chandler; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. PENROSE introduced a bill (S. 5258) to provide for the erection of a public building at Albuquerque, Territory of New Mexico; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

He also introduced a bill (S. 5259) making an appropriation of $20,000 to construct an additional building to the Indian school at Santa Fe, N. Mex.; which was read twice by its title, and referred to the Committee on Indian Affairs.

He also introduced a bill (S. 5260) to provide for an additional associate justice of the supreme court of the Territory of New Mexico; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. WETMORE introduced a bill (S. 5261) granting an increase of pension to Stephen A. Barker; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

He also introduced a bill (S. 5262) granting an increase of pension to Frank N. Nichols; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. WARNER introduced a bill (S. 5263) authorizing the appointment of Francis M. McCallum, contract surgeon, United States Army, as a captain and assistant surgeon on the retired list; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. BLACKBURN introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Claims:

A bill (S. 5264) for the relief of George Taylor, administrator of the estate of Elizabeth Taylor, deceased;

A bill (S. 5265) for the relief of C. B. Kinnett;

A bill (S. 5266) for the relief of Frank W. Clark;

A bill (S. 5267) for the relief of the estate of Solomon Jones, deceased;

A bill (S. 5268) for the relief of the estate of R. W. Hawkins, deceased;

A bill (S. 5269) for the relief of Elizabeth Neal;

A bill (S. 5270) for the relief of Ellenor Gibson Whitney;

A bill (S. 5271) for the relief of William G. Hayden;

A bill (S. 5272) for the relief of George W. Vermillion;

A bill (S. 5273) for the relief of the estate of Mary Reedy Cammack, deceased;

A bill (S. 5274) for the relief of the estate of John H. Seebold, deceased;

A bill (S. 5275) for relief of the estate of Samuel W. Venable;

A bill (S. 5276) for the relief of Rudolph Minton;

A bill (S. 5277) for the relief of the estate of T. J. Pritchett, deceased;

A bill (S. 5278) for the relief of the estate of T. S. Grider, deceased;

A bill (S. 5279) for the relief of Cash Claxon;

A bill (S. 5280) for the relief of the estate of M. G. Horton, deceased;

A bill (S. 5281) for the relief of the estate of William Peach, deceased; and

A bill (S. 5282) for the relief of the estate of M. G. Crossfield, deceased.

Mr. FULTON introduced a bill (S. 5283) for the relief of John T. Rennie; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Claims.

Mr. PERKINS introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Civil Service and Retrenchment:

A bill (S. 5284) for the retirement of employees in the classified civil service without cost to the Government; and

A bill (S. 5285) to improve the civil service by providing for the retirement of aged, infirm, or otherwise incapacitated employees of the classified civil service of the United States.

Mr. CLAY introduced a bill (S. 5286) for the relief of Mrs. Mary Lloyd; which was read twice by its title, and referred to the Committee on Claims.

Mr. GALLINGER introduced a bill (S. 5287) granting an increase of pension to John M. Prentiss; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. OVERMAN introduced a bill (S. 5288) appropriating $5,000 to inclose and beautify the monument on the Moores Creek battlefield, North Carolina; which was read twice by its title, and, with the accompanying paper, referred to the Committee on the Library.

Mr. FORAKER introduced a bill (S. 5289) to acquire certain ground in Hall and Elvan's subdivision of Meridian Hill for a Government reservation; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. SIMMONS introduced the following bills; which were severally read twice by their titles, and, with the accompanying papers, referred to the Committee on Pensions:

A bill (S. 5290) granting an increase of pension to James Ramsey;

A bill (S. 5291) granting an increase of pension to E. A. Smith; and

A bill (S. 5292) granting an increase of pension to Michael J. Sprinkle.

AMENDMENT TO INDIAN APPROPRIATION BILL.

Mr. PILES (for Mr. ANKENY) submitted an amendment authorizing the Secretary of the Interior to sell and convey by patent in fee to the Big Bend Transit Company not to exceed 350 acres of land on the Spokane Indian Reservation, State of Washington, for town-site and terminal purposes, etc., intended to be proposed by Mr. ANKENY to the Indian appropriation bill; which was referred to the Committee on Indian Affairs, and ordered to be printed.

M. E. THOMAS.

Mr. LODGE submitted the following resolution; which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay to M. E. Thomas the sum of $100 for indexing hearings had before the Committee on Philippines on H. R. 51 from the appropriation for the expenses of special and select committees of the contingent fund of the Senate.

ENGAGEMENT AT MOUNT DAJO, ISLAND OF JOLO.

Mr. CULBERSON. Mr. President, I desire to offer a Senate resolution, but before doing so I ask the Senate to indulge me a moment in explanation of it.

A few days ago the Senate adopted a resolution directing the

Secretary of War to send to the Senate copies of all official reports and communications between the War Department and officials of the United States in the Philippines, respecting the recent attack by American troops on Mount Dajo. That report has been received. Apparently, though I am not sure about it, there are some omissions. For instance, on page 1 of the report the Secretary uses this language:

Following condensed from Maj. Gen. Leonard Wood.

Apparently indicating that the War Department has condensed the report from General Wood, whereas the resolution called for copies of all reports. So on page 3 of the report there is manifestly an omission from the report made by General Wood in answer to the Military Secretary, shown by stars in the published report we have received.

I therefore offer a resolution broader than the one adopted the other day directing the Secretary of War to send to the Senate full copies of all reports and all other communications which have passed to this date between the officials in the United States and any such officials in the Philippine Islands. The purpose of broadening the resolution is twofold: First, to secure full copies of the reports, which have been made here apparently in a condensed form, and, second, to secure copies of any communications which may have been made by the President of the United States with reference to this matter and subsequent reports which may have been submitted by General Wood. For instance, I noticed in the press a few days ago that General Wood has latterly denied that any women and children were killed, or has certainly denied that all of them were killed. I think it is important, in the interest of truth, if that should be the fact, that we shall have that information here.

My purpose in introducing the resolution is to get all the facts upon this subject within the control of the Government of the United States, so that if the Senate desires to take any action with reference to this matter, it may be done upon full information so far as we have it to this date. I therefore offer the resolution I send to the desk and ask for its present consideration.

The VICE-PRESIDENT. The resolution will be read for the information of the Senate.

The resolution was read, as follows:

Resolved, That the Secretary of War is hereby directed to send to the Senate full copies of all reports and all other communications which have passed to this date between the officials of the United States in the United States and any such officials in the Philippine Islands respecting the recent attack by troops of the United States on Mount Dajo.

The VICE-PRESIDENT. Is there objection to the present consideration of the resolution?

Mr. LODGE. I ask that it may go over until to-morrow.

The VICE-PRESIDENT. There being objection, the resolution will lie over until to-morrow.

PROPOSED ISLE OF PINES INVESTIGATION.

Mr. MORGAN. Mr. President, I offer a resolution, and in connection with it and in support of it three affidavits, and also an extract from the Daily Telegraph, published in Habana, Cuba, March 13, 1906. I ask that the resolution be read and that the affidavits and this extract be printed in connection with it and go over for consideration until to-morrow.

The VICE-PRESIDENT. The resolution will be read.

The resolution was read, as follows:

Resolved, That a committee of seven Senators be appointed by the Chair, with instructions to make diligent and careful examination into the condition of the people of the Isle of Pines before and since the enactment of the law known as the "Platt amendment" to the Army appropriation bill, approved the 2d day of March, 1901, and up to the time of the execution of this order and their report thereon.

Such inquiry shall include the form of the so-called "government de facto" in said island, its officers, and by whom appointed, and the manner in which such government has been conducted by those who claim or have claimed to be in authority there since the Army of the United States was withdrawn from the Island of Cuba and the government of that island was turned over to the Congress and people of Cuba.

The committee shall inquire and report whether under such government in the Isle of Pines any official abuses or oppressions have occurred with reference to the people of that island affecting their liberties, their persons, or their schools, their churches, their sepultures, their taxation, their employment or vocation, their property of any description, the registry of their land titles or wills or other conveyancies, their intercourse and trade on the island, or with other ports or places, or with shipping engaged in the trade of the island.

They will inquire and report in respect of any alleged judicial proceedings, civil or criminal, conducted or entertained by any judge, magistrate, or alcalde acting under the laws of Cuba, against any of the inhabitants of the Isle of Pines, resulting in their imprisonment or amercement in fines or forfeitures, and of the places at which such trials were had, and as to the removal of such defendants, by force or compulsion, to any place in the island of Cuba to answer such accusations or prosecutions. And also whether the alleged judicial officers so employed in such proceedings were appointed by the Government of Cuba or of any department thereof.

Said committee will further inquire and report as to the number of American citizens that were residing in the Isle of Pines at the time when the Government of Cuba was turned over to the Congress and people of the Republic of Cuba and before that time, and when the immigration of such citizens into said island first begun.

They will further ascertain and report as to the progress of such immigration, and the classes of people who settled in the island as seekers and builders of permanent homes or places of residence, and the number of such citizens who now reside in the Isle of Pines as permanent settlers; and also what increase or decrease of population and of what citizenship, respectively, has taken place in that island since the evacuation of Cuba by the Army of the United States.

The committee will also examine into the condition of the island as to agriculture, fruit growing, and the extent to which the immigrants from the United States are landowners and cultivators, and whether their crops, orchards, and farm productions, such as cattle, hogs, and poultry, are becoming productive and prosperous.

They will also give descriptions of the topography of the island, its waters and water courses, and its coasts, bays, inlets, and harbors, with reference to navigation; and its roads and bridges and by whom constructed and paid for; its forests and their value; the healthfulness of the island, and the character and conduct of the citizens of the United States who reside there, and, generally, any facts that will inform the Senate as to all material facts concerning the duty of the Government toward the safeguarding, protection, and regulation and control of its citizens who inhabit the Isle of Pines.

2. Said committee is empowered to visit the Isle of Pines, or to designate a subcommittee to visit the same, and to send for persons and papers. Oaths to witnesses may be administered by any member of the committee or subcommittee.

3. The committee is empowered to appoint a secretary, a stenographer, a typewriter, and a sergeant-at-arms, and to pay them their compensation at the rate prescribed by law.

The necessary allowances for travel and board of the committee and its officers and for attendance and the mileage and attendance of witnesses shall be paid on proper vouchers approved by the chairman of the committee, out of the contingent fund of the Senate.

The committee may sit during the sessions of the Senate or during its vacations and at any place in the United States or in the Isle of Pines.

The VICE-PRESIDENT. The resolution will be printed and lie over.

Mr. FORAKER. I ask that it be printed and go over until to-morrow.

The VICE-PRESIDENT. That was the request the Senator from Alabama made. Did the Chair understand the Senator from Alabama to request that the affidavits accompanying the resolution should be printed as a document?

Mr. MORGAN. Printed as a part of and in support of the resolution.

The VICE-PRESIDENT. As a public document?

Mr. MORGAN. I do not care about its being a document for general circulation. I want it for the information of the Senate.

Mr. ALLISON. That will be a public document.

Mr. MORGAN. That will be a public document, I understand.

The VICE-PRESIDENT. Without objection, it is so ordered.

Mr. MORGAN. And in connection with it an extract from the Daily Telegraph of Tuesday, March 13, 1906, published at Habana.

Mr. FORAKER. I did not hear what the Senator from Alabama said.

The VICE-PRESIDENT. The Senator from Alabama requests that there be printed in connection with the resolution an article appearing in the Daily Telegraph of Tuesday, March 13, 1906, published at Habana, Cuba.

Mr. FORAKER. I request that there be published in connection with the resolution an article which appeared in the New York Sun Monday, March 5, 1906, which I send to the desk.

The VICE-PRESIDENT. Does the Senator from Ohio desire that the article he has just sent to the desk be printed in connection with the public document ordered to be printed at the request of the Senator from Alabama?

Mr. FORAKER. Immediately following the article that is to be published at the request of the Senator from Alabama. If newspaper articles are to cut any figure in this matter, we can fill the RECORD full of them. This is only a specimen of a hundred I could send to the desk.

Mr. MORGAN. The Senator, who is probably opposed to the resolution, when it comes up could either undertake to meet it by offering testimony in contradiction of it or in support of his position. But the Senator can have his sweet way about it. I have no objection.

I will offer in this same connection a letter from Mr. Fries, a very distinguished attorney of Cincinnati, and ask that it be also printed in connection with the resolution.

The VICE-PRESIDENT. Is there objection to the request of the Senator from Alabama?

Mr. FORAKER. That is a letter from Mr. Fries. Has the Senator one from the chief justice of the Republic of the Isle of Pines, who also resides at Cincinnati when he is at his home?

Mr. MORGAN. We will not discuss letters here this morning, if the Senator will excuse me.

Mr. FORAKER. I shall be very glad to discuss them this morning or at any other time. I sent the newspaper article to the desk only to illustrate in a practical way that what appears in one newspaper may be easily offset by what appears in another newspaper. I apprehend that when we determine this very important matter it will not be determined upon what somebody has seen fit to cause to be published in newspapers, but upon information that we obtain in a proper way and which we know is reliable. Every day there is something appearing in the newspapers that might be quoted first on one side and then on the other. My only purpose was to show that there are two sides in the newspapers to this controversy.

Mr. MORGAN. I offered what I have sent to the desk—the three affidavits and the newspaper extract—for the purpose of supporting my resolution. The Senator from Ohio has seen proper to offer something that I suppose he thinks is against the resolution. It is a very unusual proceeding, sir. I merely ask that the papers be printed in connection with the resolution.

Mr. FORAKER. And I merely ask that my newspaper article be printed along with the rest of them.

Mr. MORGAN. That is all right. I consent to that, and anything else the Senator wants to put in.

There being no objection, the matter was ordered to be printed as a document, and to be printed in the RECORD, as follows:

NUEVA GERONA, ISLE OF PINES, W. I.,
March 1, 1906.

Maj. J. E. RUNCIE,
Habana 58, Habana, Cuba.

DEAR SIR: We, the undersigned committee, were appointed at a mass meeting of the American residents of the island to confer with you in regard to the case of A. E. Moerke, of Columbia, Isle of Pines. We inclose herewith his letter to the American minister, dated February 22, which was sent to him by the boat on that date, and as yet he is without an answer. The authorities here have been feeling around offering some sort of a compromise to Moerke, but he prefers to take his medicine until the minister replies to his request for a release.

At the mass meeting held here to-day many thought it best to seek his release, hence this committee was appointed to confer with legal advice and be guided by that advice. This committee has procured all the additional facts possible, and submit them below:

On Wednesday morning, February 21, five rural guards came to Mr. Moerke's place of business and demanded $100 cash bond, or they would arrest him and take him to Nueva Gerona. Mr. Moerke refused to put up the cash bond, and also explained to the guard that this being mail day that his duties as postmaster required him to be on hand upon the arrival of the boat and transport the mail from the dock to the post-office at Columbia, of which he is postmaster. Thereupon they arrested him, but promised to let him return in time to permit him to attend to the mail. After arrival at Nueva Gerona, instead of taking him before the judge, he was taken to the Cuban jail under the pretense of reporting to the captain of the guard, and he was thereupon locked up, and was not taken before the judge until 2 o'clock p. m. of same day. The first and only question asked him by the judge was: "Do you recognize my authority as judge of the Isle of Pines?" To which Mr. Moerke replied: "Under the circumstances and the present status of the Isle of Pines, I do not consider that you have any legal authority on this island." Whereupon the judge became furious, and stated that he would fine him $100 and fifty days in jail; that he would teach the Americans to acknowledge his authority; but after cooling down somewhat he changed the fine to $50 cash or fifty days in jail, and asked Mr. Moerke which he would accept. Mr. Moerke replied that he would not pay the fine, and at the judge's order he was incarcerated in the Cuban prison. During all of these proceedings nothing was said to him to indicate why he had been arrested or why he was fined for contempt of court other than for the language above quoted.

The second day after his incarceration six rural guards, by order of the judge, went to Mr. Moerke's place of business at Columbia, and, as Mrs. Moerke was there alone, she refused them admittance. The neighbors came to see what was being done and witnessed the guards with guns cocked force themselves into the store department of the building, and removed all merchandise therefrom, and not being satisfied with the amount found therein, demanded entrance into the living departments of the same building, which was refused by Mrs. Moerke, she stating to the guards that the door she was guarding was the door to the post-office, through which they had to pass to reach their living rooms. In spite of refusal and information, they persisted, with their weapons again cocked, forced their way into the post-office and living rooms, carrying off, among other effects, a sewing machine, being the personal property of Mrs. Moerke, notwithstanding the fact that they were shown the evidence that same was her property. This seizure was made without due process of law and while Mr. Moerke was illegally detained in jail.

Mr. Moerke telegraphed to the Postmaster-General that he was prevented from his official duties as postmaster and referred the Postmaster-General to the Postal Code, article No. 31, requesting him to advise, since which he has nothing from him. These are the facts presented for your consideration and advice as to what procedure is necessary to bring about the best results for the cause for which we are all working, Mr. Moerke being willing to do whatever is necessary.

Yours, respectfully,

JAS. M. STEERE,
CHARLES REYNARD,
R. P. EWING,
Committee.

The above letter, written by a committee, of which I was chairman, appointed to investigate the arrest and imprisonment of Postmaster Moerke, of the Columbia post-office, to Major Runsie, of Habana, for the purpose of obtaining legal advice upon the subject, contains the truth concerning all the circumstances as we ascertained them to be after an impartial investigation.

JAS. M. STEERE.

DISTRICT OF COLUMBIA,
Washington, D. C., ss:

Personally appeared before me, James M. Steere, of the Isle of Pines, who, first being duly sworn, deposes and says that the above letter and his statement following are true in all essential facts, according to the best of his personal knowledge and belief.

[SEAL.] BENJ. VAIL, *Notary Public.*

IN JAIL, NUEVA GERONA, ISLE OF PINES, W. I.,
February 22, 1906.

Hon. Mr. MORGAN,
United States Minister to Cuba, Habana, Cuba.

DEAR SIR: As a law-abiding citizen of the United States I hereby appeal to you to take the necessary steps in my behalf in having me released from this Cuban prison. I was placed here by a Cuban judge under the charge of contempt of court, my sentence being a fine of $50 or fifty days in jail.

The facts which have led up to this state of affairs I will briefly state, as follows: I came here from the State of Iowa, and located at Columbia, Isle of Pines, upon the assurances of the War Department that this was and would remain American territory. Have opened a small store, selling a stock of general merchandise, and have paid the tax or license, which is very heavy, up to the 1st of last July, but when the Cuban Government added to my license 30 per cent for the purpose of paying off the bonds issued for the payment of their Cuban soldiers I refused to pay any part of same, as my understanding is that General Wood had a distinct understanding with the Cuban Government that the Isle of Pines would remain as a de facto government until the United States took charge of same. In fact, I maintain that under the Platt amendment and under the Cuban constitution they have no rights on this island. They have tried in many ways to make me pay what I firmly believe I have no right to pay and what I believe they have no right to make me pay.

My place of business is 6 or 7 miles from this place, and last Monday I was summoned to appear before the judge here. I came at the appointed hour and waited some time to see the judge, but could not get any satisfaction as to the time he would see me, and as I had important business to attend to at home, being the postmaster at that point for the Cuban Government, hence an officer of that Government, I could not wait longer, and went back to my home and business. The next morning the rural guards arrested me and brought me to this place and placed me in jail to await the pleasure of the judge. At 2 o'clock I was taken through the streets of this town to the court and was sentenced without a trial to a fine of $50 or fifty days in jail.

If you have ever visited a Cuban jail or even seen their "bill of fare," you will know what I am suffering, to say nothing of the humiliation of being obliged to submit to such punishment from such a source, especially when I know they have no rights that entitle them to inflict this punishment on an American citizen. Had I committed any criminal act there might be some excuse for my incarceration, but simply because I could not wait all day for his pleasure to see me he inflicts this unheard-of fine. Had he sent again for me and stated the time he would see me I would have accommodated him, even at considerable inconvenience to me. In fact, I have never been informed why I was summoned, and can only surmise it related to my nonpayment of their demand for license. They have never expended a centen for the benefit of this island, and many owners of vehicles are refusing to pay taxes on their vehicles until the Cuban Government does something for the betterment of the roads and bridges.

I trust that you will make or cause to be made an investigation of my case at your earliest possible moment, before any more of my fellow-citizens are subject to such outrageous treatment.

Yours, very respectfully,

A. E. MOERKE.

WASHINGTON, D. C., *March 22, 1906.*

To the Senate of the United States:

Your petitioner, James M. Steere, formerly a citizen of Texas, living in what he believes to be American territory, is constrained to apply to your honorable body for such relief as may be in your power to grant. Your petitioner has lived with his family in the Isle of Pines, which he was led to regard as American territory through the representations made by officials of the War and other Departments of the United States Government for a period of the year passed. Prior to that time, although now 61 years of age, he has never been summoned to any court or been under arrest for any criminal act. He served honorably and with distinction as a Union soldier in the civil war. He was discharged in 1862 under a surgeon's certificate of disability, but was reenlisted in 1864 after partial recovery as regimental commissary sergeant on the understanding that his physical condition would permit him to do clerical work. He then served to the end of the civil war. He has been entitled to a pension for the past forty years, but never even made an application for the same, not wishing to become a pensioner as long as he was able to earn his own living.

Since the war time he has held many responsible and honorable positions, filling at one time or another the positions of secretary and treasurer of the Missouri Iron Works, of St. Louis; agent of the Canada Southern Fast Freight Line for nine consecutive years, and assistant general freight agent of the Gulf, Colorado and Santa Fe Railway, a part of the system of the Atchison, Topeka and Santa Fe, for eight years. During the time that he was assistant general freight agent, he was appointed assistant adjutant-general of the Department of Texas, Grand Army of the Republic. He was the general agent for the Kansas and Texas Coal Company for Texas and Mexico. He was president of the Republican League Club of Dallas, Tex., for several years, and was the representative of the Sixth Congressional district on the Republican State central committee of Texas for several years. He was induced to go to the Isle of Pines on account of his health, mainly through the alluring description of the island sent out under the auspices of the War Department and the letters of that and other Departments sent out to the effect that the Isle of Pines of right was and would be continued as American territory.

Notwithstanding his unblemished character and services and his eminently peaceful and quiet demeanor at all times, he has been forced to abandon his home and property in the Isle of Pines and flee to the United States to escape a Cuban prison for no offense that would be recognized in any civilized country as worthy of even a jail sentence of a few days in duration. He has dutifully complied with all reasonable orders of the Cuban courts, but is now unwilling to serve a term of from three to six years in a Cuban prison at his advanced time

of life and in his present state of health on a charge of malversation of public property which he has turned over to the Isle of Pines court as ordered, and so far as he knows, is now in their possession. Such in the sentence he firmly and truly believes awaits him in Habana if he answers in person to the summons which he has received, and which he has been informed is simply the prologue to a severe penalty of imprisonment which has been determined on in advance of his trial. He truly believes that this persecution from the Cuban authorities is due mainly to his recent prominent part in the mass meetings of American citizens in the Isle of Pines held for the purpose of securing an American government in the island if possible. Following is a translation of the summons which warned him that he would have to flee the country or be imprisoned without cause:

"Señor JAMES A. STEERE (case No. 3906):

"By order of the judge you are cited to appear on the 28th of the present month before the second division of the first criminal court of the district of Havana, for the purpose of answering as defendant in open court in the case numbered on the margin, brought against you for the malversation of public property. You are advised to present yourself or give sufficient reason as to what prevents and show cause therefor.

"Nueva Gerona, March 6, 1906; given at 2 p. m.

"JOAQ. F. ALCAZAR, *Clerk of the Court.*"

Statements which recently appeared in the Havana Telegraph of the date of March 13, a newspaper published in the city of Havana, were to the effect that the Cuban rural guard, in the Isle of Pines, had orders, seemingly from the Cuban secretary of state, to shoot down all Americans who offered the slightest resistance or provocation to the high-handed procedure of the Cuban authorities, or who should commit any act against Cuban sovereignty. On account of this and many other threats in La Lucha, another Cuban newspaper published in the same place, as well as on account of other statements by hot-headed Cubans, both in Cuba and on the Isle of Pines, many Americans are leaving the island, especially women and children, who are thus obliged to abandon their homes and their property.

A clear statement of the facts which lead up to the interference of the Habana courts in my case in the Isle of Pines may be had from the following letters written by me to Edward P. Ryan, at Washington, D. C., who was elected as a delegate to represent the Isle of Pines settlers at the capital of the United States:

NUEVA GERONA, ISLE OF PINES,
January 20, 1906.

Mr. ED. P. RYAN, *Washington, D. C.*

DEAR SIR: Since writing you last I have had a little case of Cuban justice, which I will truthfully explain below. The Palace Hotel, as you are aware, got into financial difficulty, and its creditors had to go into court to obtain their just dues. When judgment was obtained each creditor had the privilege of taking sufficient goods or articles as they thought would cover the amount claimed. These were seized by the court and removed from the hotel to a place of storage awaiting the time to elapse for a public sale.

One of Mr. Pearcy's houses was selected and a verbal agreement made with the court officers that the storage for each lot of goods taken from the hotel would be 50 cents per day. I was made the custodian of the goods for safe keeping. There were two lots placed in the rooms at different dates by the court, and after the sale of the first lot the court demanded delivery, which I made. After which I asked for the rent due for the storage, amounting to $10.50. The clerk of the court gave me to understand that it was all right and that I would get the money "mañana." This in English means "to-morrow," but it seems to have no meaning in the Cuban vernacular. The first lot was delivered on December 21, and when the court demanded the delivery of the second lot, January 15, the first bill for storage was still unpaid. Hence I refused to deliver the second lot until the agreement had been complied with regarding the first lot. I agreed, however, if the judge would promise me that the bills would be paid at some definite date, that I would deliver them, but as he would not give me any satisfaction I flatly refused to give up the goods. The municipal judge thereupon had me arrested and taken before the next higher court on a criminal charge of withholding goods belonging to the court.

This higher court, after going through a lot of irrelevant red tape, evidently to impress me with the dignity of the court, stated to me the charges, to wit, for withholding from the municipal court the goods of which it had placed me in custody. I replied that it was a fact and that I proposed to hold them until I could get some satisfaction for the rent incurred, for which I was held responsible. The judge stated that I could not hold the goods for that purpose. I then asked him if the municipal court was part of the Cuban Government. He replied "Yes." I then asked if the custom-house was also a part of the Cuban Government, eliciting the same reply. I then stated to him that it was impossible for us to get a single package from the custom-house warehouse, even though the same was in a dilapidated, leaky condition, without paying every cent of storage due on it. He said that was different, but still insisted that I could not hold these goods for the storage charges. He said, however, that if I would deliver them and then present my bill to the municipal court he would see that the bill was paid, and further stated that all proceedings in the present case would be stopped. To this I consented, and then delivered the goods in question. I presented the bill to the municipal judge and he would not receive it; hence I took it to the higher judge, and much to my amazement and chagrin he stated that I would have to look to the parties that instituted the suits against the hotel and not to the municipal court. What do you think of that for chicanery?

Well, yesterday I received another notice from this higher judge to appear at his office this morning at 9 o'clock or be subject to a fine. I went there and was told by the clerk that as these proceedings had been commenced it would be necessary for me to appear at his court every Monday morning until the case was disposed of in Habana. I expressed my surprise at this new phase of annoyance and humiliation after the distinct understanding of the day before that all proceedings would be dropped if I would give up the goods. But in order to assist them in disposing of the case I decided that I would consent to come to the court every Monday morning. To this agreement I had to sign my name. After this was done and I was preparing to leave the court room I was requested to sit down, and then the clerk stated that it will be necessary for me to give a $100 bond in cash. I then saw the nigger in the wood pile, which was nothing more nor less than to get another whack at an American's money. This I refused to do, as I was not prepared to do so. He then stated that if I would declare that I had no property I could get two responsible residents to go on my bond. I told him that I had property and that I would let him know later in the day whether I would or would not give bond. I thereupon consulted with some of the best citizens of the island, and they said that I had done enough, and advised me to so notify the judge and they would stand by me to the last. I therefore went to the court prepared to tell the judge, and after waiting for half an hour I asked the clerk for permission to see the judge, as my office was locked up and I was anxious to get back. His reply was, in a most insulting tone, that if I could not wait to get out. There was no business before the judge at the time, and he could have seen me without any trouble; but they desire to make themselves very officious, especially to Americans. Such is the gratitude of the Cubans, for whom the Americans have done so much without appreciation. In fact, it seems to be the delight of Cubans to take all the advantage possible of the American population. I do not know what the result may be in this matter, but presume they will send me to jail for attempting to do my duty. But some day these Cubans will go a little too far, and there are now too many Americans on this island to fool with, and God pity them when that time comes.

Yours, truly,

JAMES M. STEERE.

[Letter No. 2.]

NEUVA GEROME, ISLE OF PINES,
January 24, 1906.

Mr. ED. P. RYAN,
398 East Capitol street, Washington, D. C.

DEAR SIR: Since writing you on the 20th instant I have been subjected to all kinds of persecution at the hands of the judge of the court of first instance. He has tried every way to get hold of some of my money, so that Cuba can keep her wheels greased. I have been obliged to put all my property out of my hands even to the necessary household goods, as I am informed that it is their intention to cause me all the annoyance possible on account of my connection with the movement to have the United States assume possession of their own property.

This is only a reflection of the position advocated by the honorable Secretary of State and it is bearing early fruit. The former judge, Delago, was bad enough for the Americans, still he did occasionally use a little judgment and ignored a few cases as too insignificant, hence he was removed, and another judge sent here for the distinct purpose of prosecuting Americans to the fullest extent possible under the peculiarities of Cuban-Spanish laws. This is evidenced by the Cuban paper La Lucha, which gave the new judge great credit in its last Sunday edition for his punishment to be inflicted on one of the so-called "new government officials" (meaning myself). This article was inspired before I was aware of any further proceedings growing out of my attempt to protect myself in the responsibility of collecting the rent for the goods held in storage for the municipal court. This is all the wrong that I have done, and as soon as the judge informed me that I could not hold the goods for the rent, as agreed to by the court that placed me in charge, I delivered them with the distinct understanding that he would assist me in collecting the rent due and would drop all these proceedings. After they recovered the goods by this ruse, proceedings have been continued and every effort made to make me give $100 bond, for the sole purpose of tacking on all kinds of costs and taking it out of the deposit. I am now told to-day that the case is to be continued in Habana, thus compelling me to go to the expense and annoyance of going there and hiring a lawyer to plead my case.

It is, of course, useless to appeal to the American minister in Habana on account of this unjust and uncalled treatment, as his attitude in the past has in nowise operated to stop persecution. Can not you get some Senator to take up this case and prevent this farce from proceeding further? I am not able to go to Habana or employ a lawyer to represent me. Hence the probabilities are that there will be a very heavy fine imposed in addition to numerous court costs, and if this is not paid by me on presentation I am liable to be cast into a Cuban prison, and if such should be the result there is no telling what the American residents might do, as these whole proceedings are so foreign to American justice they will not stand for it, and it would result in further complications for our cause. Quick action is necessary. I have given you the whole facts in my two letters. Every other nation protects its citizens, why should not ours do likewise? It does seem to me that there are some patriotic citizens in America that are more considerate of their fellow-men than to abandon them to persecution. I have always been a law-abiding citizen of the United States and can give all the references necessary to back up this assertion. I am 61 years of age and never was called into a court of justice before in my whole life, and have always held positions of honor and trust. I have always admired President Roosevelt, but I regret to see that notwithstanding his promise to carry out the policy of our late lamented William McKinley he appears anxious to deliver this possession of the United States to a people that are not fit to govern themselves, and also that he will tolerate a Secretary of State who does not stop them from persecuting us to the limit. They did not need this liberty, as they were already making it as uncomfortable for Americans as they possibly could, instead of being grateful to us for giving them their liberty—in fact, like itself. Spain would have annihilated them in a few months longer had not the United States taken up the fight for them. But this is digressing. In support of my assertions in regard to my previous conduct and character, I take the liberty of referring to Mr. W. W. Finley, of Washington, D. C., vice-president of the Southern Railway. He has known me for many years. I also refer you to the Hon. JOSEPH W. BAILEY, Senator from Texas.

It is generally understood here on the island that the present treaty is likely to be hung up indefinitely, and if this is the case something must be done to relieve the tension on the Americans here. They demand that as a safeguard to their peace and liberty the Congress of the United States send us a governor until it is fully determined what is to be done with the island. From all that I can gather the Americans will not be satisfied with amendments that will carry with them Cuban possession. It will create more friction than the Anglo-Saxon race will stand, and it is better for all concerned to have American rule pending further negotiations.

Yours, truly,

JAMES M. STEERE.

[Letter No. 3.]

NUEVA GERONA, ISLE OF PINES, W. I.,
March 5, 1906.

Mr. ED. P. RYAN,
No. 398 East Capitol Street, Washington, D. C.

DEAR ED.: Referring to my letters to you under date of January 20 and 24, in regard to the continuance of the proceedings against me for

trying to collect the rent due for storage on the goods held for the municipal court. I am advised to-day that the court at Habana has notified this judge here to notify me that it will be necessary for me to appear in Habana on the 28th of this month, or be subject to an additional fine. This is going to place an additional hardship on me, and as I delivered these goods as soon as the judge here explained that I could not hold them for the storage charges and also agreed to see that the bill for the same was paid, and that he would drop all these proceedings, I can not see why I should be persecuted further. Neither can I see where the Cuban Government can compel my presence in Cuba for any offense committed on the Isle of Pines, as their constitution does not apply to this island until the treaty now under consideration is ratified. It seems to me, however, that they are doing as they please, without any action of the United States to the contrary. I certainly do not feel called upon to go to Habana, as the Cuban authorities have obtained all they were contending for—the possession of the goods without paying one cent of the storage charges, which are still unpaid, notwithstanding the promise of the judge to see that I got the money. I have reported to the court every Monday morning according to my promise to do so. I can not afford to get tangled up with these Cuban courts even though I know that I am right, without some backing from my own Government. It is the delight of these Cubans to soak an American at every opportunity, and this is a fair sample of their idea of justice.

American residents are becoming very restless at the condition of things in general, and some action should be taken at Washington before it becomes unbearable, and thus save trouble.

Yours, truly, JAMES M. STEERE.

As a remedy for the evils above set forth, your petitioner suggests that a committee of the Senate be appointed to make a complete examination on the ground and also in Cuba of the present conditions in the Isle of Pines and to report the same for the future action of your honorable body. The same committee should also report to the Senate what is the proper final disposition to make with regard to the title to the sovereignty over the island. He advises these steps because under present conditions some act of oppression at any moment may cause riot or bloodshed on the island, which would, in my opinion, reopen the entire Cuban question and involve the citizens of the United States in filibustering expeditions, coupled with rebellion and civil war in Cuba. The conditions at present are charged with dynamite and must be taken in hand at once to avoid endless complications.

JAS. M. STEERE.

DISTRICT OF COLUMBIA, *ss:*

Personally appeared before me James M. Steere, of Nueva Gerona, Isle of Pines, West Indies, and after being duly sworn deposes and says that all the facts alleged in the above petition to Congress and in the letters to Mr. Ryan embodied therein are true and correct to the best of his personal knowledge and belief.

Subscribed and sworn to before me this 22d day of March, A. D. 1906.

[SEAL.] BENJ. VAIL, *Notary Public.*

DISTRICT OF COLUMBIA, *ss:*

James M. Steere, first being duly sworn, deposes and says that he is a resident of the Isle of Pines and that he has been a resident of that island for the past year; that he was present when a committee was recently appointed at a mass meeting of American citizens at Nueva Gerona, on the Isle of Pines, March 1, 1906, consisting of R. P. Ewing, Driver Fullton, and E. C. Rogers, with such assistance as might be needed, to take a census of the people living on the island, without in any way interfering with the rights of any person resident on said island. It was deemed necessary that such a census should be taken in order that the truth should be given to the Senate of the United States and to the world regarding the continued and persistent misstatements to the effect that only a few land speculators from the United States held property on the island and that the great majority of residents and property owners were Cubans. Particular instructions were given to the members of this census committee to ask no questions of individuals in the course of their census taking which might offend Cuban sensibilities. Each member of the committee, it was understood, knew in a general way the number of people in each household of the district he was assigned to. The Cubans, however, discovered the personality of two of the committee, namely Messrs. Driver Fullton and H. A. Mayer. Fullton was arrested, and after being threatened by the alcalde with imprisonment if he persisted in taking the census, was allowed to go. He feared subsequent proceedings and left the island.

As regards Mr. Mayer, more stringent measures were attempted. The assistant alcalde, accompanied by a Cuban rural guard, went to his home and made threats of arrest, and during the argument which followed it was stated by Mr. and Mrs. Mayer that the assistant alcalde used toward Mrs. Mayer a grossly indecent epithet. This caused Mayer to threaten to break the assistant alcalde's neck, but fearing the Cuban law, which is usually administered in the Isle of Pines so as to convict the American and allow the Cuban to escape, he desisted in assault on the offender.

Mr. Mayer afterwards had the assistant alcalde arrested for insulting his wife, but when the case was brought up for trial the court refused to allow either Mayer or his wife or his brother-in-law, who was present, to testify as to the insult, on the ground that the Cuban law does not allow interested parties to testify in criminal cases. There being no accusing witnesses who would be allowed to testify, the assistant alcalde was triumphantly acquitted, while Mr. Mayer was fined $5 for bringing a case against an official or else for attempting to take a census. No reason was given for imposing the fine.

This outrage has greatly incensed Americans living on the island, who, under all conditions, respect their wives and mothers, and it is liable to cause future trouble and perhaps bloodshed. It is needless to call attention to the fact that Americans will not long submit to this kind of law administered, as it is always, in favor of the office-holding Cuban classes.

JAS. M. STEERE.

DISTRICT OF COLUMBIA,
City of Washington, ss:

Personally appeared before me James M. Steere, of Nueva Gerona, Isle of Pines, West Indies, and made oath to the foregoing on this 22d day of March, A. D. 1906.

[SEAL.] BENJ. VAIL, *Notary Public.*

[From the Habana Daily Telegraph, Tuesday, March 13, 1906.]

ON ISLE OF PINES—SAID THAT AMERICANS THERE HAVE DECLARED INDEPENDENCE.

The following note was yesterday given out to the press by rural guard headquarters:

"The chief of the detachment of the rural guards on the Isle of Pines sends word that a group of Americans residing in the island have met and decided to declare the island independent of Cuba, and the person presiding at the meeting undertook to communicate what had been done to the administrator of customs there."

A representative of the Telegraph called upon Secretary Freyre de Andrade to inquire if he had received any further details regarding the matter, but the secretary said he had not, and treated the report as of no consequence whatsoever.

Governor of the province, Gen. Emilio Nuñez, was also called upon, and also said that he had heard nothing whatsoever regarding the matter beyond the rural-guard report. The governor said that there was no particular alarm in the adoption of such resolutions as long as they were not acted up to, and that the collector of customs on the isle would probably show no resentment when informed of them.

The governor said, however, that heretofore the Cuban Government had not insisted on the payment of taxes on the island, but had now started in to collect them. He considered the amendment to the Isle of Pines treaty, presented by Senators BACON and SPOONER, an impossible proposition, as, in his opinion, its enactment would require a radical change in the Cuban constitution, which provides for only six provinces and no territories. The governor did not, however, think that any serious trouble was imminent on the disputed islet.

Señor Villalon, of Secretary Freyre de Andrade's department, seemed to take the thing more seriously than his chief, and when asked about it by another reporter of the Telegraph stated that the rural guards had received instructions to shoot the Americans the moment the latter should commit any act of rebellion against Cuban sovereignty.

As there is now wireless communication between Cuba and the isle it is safe to say, however, that nothing of any moment occurred when the chairman of the territorialist meeting handed in his chestnut.

[The Sun, Monday, March 5, 1906.]

ON THE ISLE OF PINES—AN AMERICAN WHO FAVORS CUBAN GOVERNMENT.

To the Editor of The Sun.

SIR: It is the business of a little band of political agitators and land boomers on this end of the Isle of Pines to meet all American tourists and to keep their minds occupied with harrowing tales of Cuban atrocities and with stories of profits which would be sure to accrue to all holders of island real estate should Uncle Sam drive the "hated" Cubans off the island. Of course all this is more or less entertaining to the tourists, that depending chiefly upon their digestive organs, and has earned for the boomers the expressive appellation of "that crowd."

The statement is made in the literature sent out by the would-be revolutionists that it would be humiliating to a great degree for the Americans here to be governed by "an inferior people." I can say as missionary pastor here that I have failed to discover such inferiority. True, there are people here of a low order of civilization, but in any comparisons which may be made one must take into consideration the disadvantages under which these poor people have been by way of education, etc. It must be distinctly understood, however, that this is not the class which does the governing.

I number among my friends no more courteous or obliging gentlemen than the Cuban officials on the Isle of Pines. They rank with our best class of American citizens, and when compared with those who would belittle them, in education, integrity, courtliness of manners, and good citizenship, the superiority of the Cubans is quite apparent.

I wish to appeal to the sense of honor and Christian charity of the American people in making their decision upon this Isle of Pines affair. The Cuban people believe the American people to be their friends. They do not believe that "La Gran Republica" could perform one of the grandest acts in the history of any nation—that of fighting and winning a victory for a downtrodden people—and then say to them: "Your country is yours; work out your political salvation and we will help you in such ways as may seem advisable to maintain your government as an independent republic," for selfish reasons. No; the Cuban people believe in the American people and in their high ideals. They do not believe that that august body, the great American Senate, will permit the great injustice to be done them of taking from them this little island, which never could be of any real benefit to our Government, but which would be a bill of expense continually.

In looking for ideals to weave into the social fabric of Cuba, her people look for the best that is to be had from their friends of the great Republic, and if Cuba is to construct a government which will stand, she must do so on the foundation that has withstood the onslaughts of time, upon truths which are as eternal as the heavens, because they are of God who is eternal; upon an abiding faith in the Lord Jesus Christ as the Savior and character builder for the human race, knowing that great governments are but the reflex of national character, and can be had in the smallest republic as well as the greatest.

For a working example of such a government it is natural that the Cuban people should look to their benefactor, the United States of America, whose statesmen have for the most part been actuated by the thought and sustained by the idea that unsullied reputation in the individual is the first great step toward national greatness.

KENNETH M. DEDRICK.

NUEVA GERONA, ISLE OF PINES, *February 22, 1906.*

WASHINGTON, D. C., *March 22, 1906.*

DEAR SENATOR MORGAN: As requested, I give you a list of such persons interested in the Isle of Pines who are from Cincinnati and vicinity. I have only included such as are personal friends and neighbors; there are many more with whom I am not personally acquainted—in all about 100—they are all small landholders who invested under the belief that the island would remain under the jurisdiction of the United States. At present some of them are residents on the island, some have their representatives there who are getting their land under cultivation, planting orange groves, etc., and all hope at some time to make the island their permanent winter home.

To the most of them the ceding of the island to Cuba would fall as a great calamity. Many of them have invested the savings of years, believing they were preparing a winter home in this delightful climate under the American flag in which to spend their declining years.

Admitting that they had no right to accept the assurances of Assistant Secretary of War, Governor-General Wood, and other officials of this Government, as intimated in the majority report of the Committee on Foreign Relations, the fact remains that they have done so and stand to suffer considerably by this change of front on the part of this Government. We therefore, as American citizens, demand the most earnest consideration of the question before action is taken on the proposed treaty, believing that a way can be found out of this difficulty which will work no such injustice as would result from the proposed action.

Yours, respectfully, ARCHIBALD FRIES.

	Acres.
Lewis N. Gatch, attorney	200
Rev. H. T. Crane, minister	200
R. H. Bishop, retired merchant	100
Miss Willa H. Spillard, teacher	10
Miss Edna M. Spillard, teacher	10
Miss Sarah V. Spillard, teacher	10
Miss Edith Crane, teacher	10
Miss Ida T. Smith, teacher	50
Mr. George Smith, laundryman	50
Mr. Forest Nelson, farmer	100
Mr. Frank Nelson, farmer	100
Mr. Frank Rothenhoafer	500
Dr. G. S. Junkerman, dentist	80
Mrs. Guido Kemper, widow	80
Mr. Henry Ransom, merchant	40
Mr. George W. Losh, merchant	100
Mr. Thomas Earhart, lumberman	50
Mr. Frank J. Norris, stenographer	40
Mr. Arthur Shubert, clerk	40
Mr. William Shubert, clerk	40
Mr. A. Burkhart, bookkeeper	40
Mr. William Durham, retired merchant	40
Mr. George Durham, farmer	250
Mr. Ernest Fries, attorney	100
Mr. Albert N. Fries, laundryman	100
Mr. Archibald Fries, freight agent	300

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. B. F. BARNES, one of his secretaries, announced that the President had approved and signed the following acts:

On March 16:

S. 3288. An act to authorize the Pennsylvania Railroad Company and the Pennsylvania and Newark Railroad Company, or their successors, to construct, maintain, and operate a bridge across the Delaware River; and

S. 4128. An act permitting the building of a dam across the Red Lake River at or near the junction of Black River with said Red Lake River in Red Lake County, Minn.

On March 19:

S. 51. An act to create a juvenile court in and for the District of Columbia;

S. 589. An act granting a pension to Joseph L. Prentiss;

S. 675. An act granting a pension to Ulrika Bottcher;

S. 772. An act granting a pension to Jerusha Hayward Brown;

S. 2044. An act granting a pension to Solomon F. Wehr;

S. 2080. An act granting a pension to Ruth F. Bennett;

S. 2735. An act granting a pension to Marcelina S. Groff;

S. 2968. An act granting a pension to George W. Hale;

S. 3125. An act granting a pension to Parthenia W. Baker;

S. 3187. An act granting a pension to John Harper;

S. 3224. An act granting a pension to Nancy A. Teeters;

S. 3312. An act granting a pension to Oscar F. Renick;

S. 3626. An act granting a pension to Catherine Coyle;

S. 3721. An act granting a pension to Mary C. Morgan;

S. 4227. An act granting a pension to John H. McKenzie;

S. 4280. An act granting a pension to Aurelia Cotten;

S. 17. An act granting an increase of pension to Levi A. Tripp;

S. 19. An act granting an increase of pension to Alphonso B. Holland;

S. 22. An act granting an increase of pension to Andrew Smith;

S. 94. An act granting an increase of pension to Albert Wines;

S. 162. An act granting an increase of pension to David D. Griffith;

S. 165. An act granting an increase of pension to Henry Russell;

S. 180. An act granting an increase of pension to Joseph W. Legro;

S. 187. An act granting an increase of pension to James H. Kane;

S. 200. An act granting an increase of pension to Frederich Behrens;

S. 203. An act granting an increase of pension to Edward E. Needham;

S. 218. An act granting an increase of pension to James White;

S. 220. An act granting an increase of pension to Jonathan F. Gates;

S. 251. An act granting an increase of pension to Martin L. Adams;

S. 325. An act granting an increase of pension to Henry B. Burton;

S. 446. An act granting an increase of pension to Mary C. Duane;

S. 466. An act granting an increase of pension to James H. Lewis;

S. 482. An act granting an increase of pension to Amos M. Runkel;

S. 492. An act granting an increase of pension to Barney Whitney;

S. 527. An act granting an increase of pension to Alfred McPherran;

S. 548. An act granting an increase of pension to William Carr;

S. 555. An act granting an increase of pension to Henry H. Hill;

S. 597. An act granting an increase of pension to David M. Pearson;

S. 599. An act granting an increase of pension to Mary A. Megrue;

S. 623. An act granting an increase of pension to Bridget Evans;

S. 641. An act granting an increase of pension to James M. Conrad;

S. 655. An act granting an increase of pension to Charles E. Bishop;

S. 656. An act granting an increase of pension to Abraham Walters;

S. 672. An act granting an increase of pension to James F. Hubbard;

S. 671. An act granting an increase of pension to Charles Conine;

S. 712. An act granting an increase of pension to Lizzie M. McLauchlan;

S. 716. An act granting an increase of pension to Theodore H. Hanson;

S. 721. An act granting an increase of pension to Orange S. Mason;

S. 725. An act granting an increase of pension to William M. Smith;

S. 784. An act granting an increase of pension to George L. Cooley;

S. 790. An act granting an increase of pension to William Benkler;

S. 836. An act granting an increase of pension to Charles A. Fay;

S. 842. An act granting an increase of pension to William A. Eggleston;

S. 859. An act granting an increase of pension to Richard T. Fried;

S. 861. An act granting an increase of pension to Thomas O'Connor;

S. 969. An act granting an increase of pension to Howard Ellis;

S. 1011. An act granting an increase of pension to John E. Woodsum;

S. 1023. An act granting an increase of pension to Peter Shippman;

S. 1130. An act granting an increase of pension to Isaiah Mitchell;

S. 1138. An act granting an increase of pension to Albert S. Blake;

S. 1173. An act granting an increase of pension to James M. Fernald;

S. 1227. An act granting an increase of pension to Henry J. Patterson;

S. 1228. An act granting an increase of pension to Julia L. Plimpton;

S. 1230. An act granting an increase of pension to Eugene Gaskill;

S. 1246. An act granting an increase of pension to William F. Wilson;

S. 1251. An act granting an increase of pension to Peter Burns;

S. 1273. An act granting an increase of pension to Eleanora A. Keeler;

S. 1357. An act granting an increase of pension to Orlando C. Pinkham;

S. 1399. An act granting an increase of pension to Henry Jordan;

S. 1418. An act granting an increase of pension to Levi E. Cross;

S. 1420. An act granting an increase of pension to Sarah A. Tyler;

S. 1421. An act granting an increase of pension to Harvey C. Brown;
S. 1437. An act granting an increase of pension to William F. Davis;
S. 1527. An act granting an increase of pension to John M. Odenheimer;
S. 1555. An act granting an increase of pension to Mary C. Bishop;
S. 1624. An act granting an increase of pension to Peter Betz;
S. 1634. An act granting an increase of pension to Solomon R. Ruch;
S. 1645. A act granting an increase of pension to Jacob G. Orth;
S. 1665. An act granting an increase of pension to John C. Estes;
S. 1666. An act granting an increase of pension to George W. Beard;
S. 1834. An act granting an increase of pension to Frederick W. Partridge;
S. 1889. An act granting an increase of pension to Arthur Thompson;
S. 1905. An act granting an increase of pension to Edgar Tibbils;
S. 1908. An act granting an increase of pension to Francesco Del Gindice;
S. 1911. An act granting an increase of pension to Gunnerus Ingebretson;
S. 1978. An act granting an increase of pension to Thomas Edsall;
S. 2090. An act granting an increase of pension to Sarah E. Adams;
S. 2091. An act granting an increase of pension to John P. Bambush;
S. 2096. An act granting an increase of pension to Nathaniel R. Kent;
S. 2103. An act granting an increase of pension to Lorin R. Bingham;
S. 2142. An act granting an increase of pension to Adelle D. Irwin;
S. 2153. An act granting an increase of pension to Helen B. Read;
S. 2168. An act granting an increase of pension to Isaac B. Hewitt;
S. 2182. An act granting an increase of pension to John J. Bullington;
S. 2216. An act granting an increase of pension to David W. Magee;
S. 2250. An act granting an increase of pension to John Rauch;
S. 2332. An act granting an increase of pension to Ashley A. Youmans;
S. 2344. An act granting an increase of pension to Albert C. Andrews;
S. 2346. An act granting an increase of pension to John W. Reed;
S. 2393. An act granting an increase of pension to John L. Clark;
S. 2406. An act granting an increase of pension to Thomas Milliman;
S. 2473. An act granting an increase of pension to Charles L. Noggle;
S. 2548. An act granting an increase of pension to Jesse M. Furman;
S. 2840. An act granting an increase of pension to George L. Jaquith;
S. 2863. An act granting an increase of pension to Garrett Rourke;
S. 2868. An act granting an increase of pension to George W. Flick;
S. 2882. An act granting an increase of pension to Samuel E. Johnson;
S. 2950. An act granting an increase of pension to Joseph E. Stines;
S. 3029. An act granting an increase of pension to Delia A. Hooker;
S. 3031. An act granting an increase of pension to Frank Westervelt;
S. 3036. An act granting an increase of pension to John O. Thorn;
S. 3043. An act granting an increase of pension to Henry D. Hall;
S. 3121. A act granting an increase of pension to John G. Blessing;
S. 3132. An act granting an increase of pension to Georgia D. Brown;
S. 3189. An act granting an increase of pension to Elizabeth Rutherford;
S. 3199. An act granting an increase of pension to Andrew J. Coulton, alias Samuel Myers;
S. 3242. An act granting an increase of pension to Daniel Woolley;
S. 3310. An act granting an increase of pension to Richard M. Ogle;
S. 3315. An act granting an increase of pension to Henry V. Hamenstaedt;
S. 3472. An act granting an increase of pension to Lena Sherman;
S. 3473. An act granting an increase of pension to La Forrest C. Darling;
S. 3474. An act granting an increase of pension to James B. Kellogg;
S. 3475. An act granting an increase of pension to Everett S. Fitch;
S. 3492. An act granting an increase of pension to Catharine Bechtol;
S. 3539. An act granting an increase of pension to Dominick Cavanaugh;
S. 3547. An act granting an increase of pension to Stephen M. Davis;
S. 3575. An act granting an increase of pension to Sargent R. Emerson;
S. 3588. An act granting an increase of pension to James Lebo;
S. 3640. An act granting an increase of pension to Oliver Brenton;
S. 3714. An act granting an increase of pension to James Ruth;
S. 3751. An act granting an increase of pension to Daniel D. Nash;
S. 3800. An act granting an increase of pension to Albert D. Cordner;
S. 3866. An act granting an increase of pension to Samuel J. Burlock;
S. 3888. An act granting an increase of pension to Susan E. Israel;
S. 3903. An act granting an increase of pension to John McCoy;
S. 3905. An act granting an increase of pension to James M. Garritt;
S. 3932. An act granting an increase of pension to David Rankin;
S. 3933. An act granting an increase of pension to Sidney R. Smith;
S. 4000. An act granting an increase of pension to Crosby Pyle Woodward;
S. 4006. An act granting an increase of pension to Charles S. Parrish;
S. 4020. An act granting an increase of pension to Henry C. Johnson;
S. 4096. An act granting an increase of pension to Norman W. Lombard;
S. 4097. An act granting an increase of pension to Julius T. Williamson;
S. 4100. An act granting an increase of pension to Carlton A. Wheeler;
S. 4131. An act granting an increase of pension to John Connor;
S. 4159. An act granting an increase of pension to Mary P. Johannes;
S. 4181. An act granting an increase of pension to Margaret Hallett;
S. 4187. An act granting an increase of pension to Nathaniel E. Skelton;
S. 4188. An act granting an increase of pension to Frank D. Smith;
S. 4223. An act granting an increase of pension to Benjamin F. Peirce;
S. 4226. An act granting an increase of pension to James Cain;
S. 4286. An act granting an increase of pension to Thomas J. Davies;
S. 4319. An act granting an increase of pension to Frederick C. Sturm;
S. 4337. An act granting an increase of pension to Barney McGirl;
S. 4362. An act granting an increase of pension to William Fluegel;
S. 4381. An act granting an increase of pension to John T. McGarraugh;
S. 4422. An act granting an increase of pension to Lindsay Kirby;

S. 4496. An act granting an increase of pension to Alphonso Brooks;

S. 4507. An act granting an increase of pension to Joseph Chandler, jr.;

S. 4535. An act granting an increase of pension to Amos McMunn;

S. 4636. An act granting an increase of pension to Henry R. Pease; and

S. 4637. An act granting an increase of pension to Frederick Zimmerman.

REGULATION OF RAILROAD RATES.

Mr. TILLMAN. I ask that the unfinished business be taken up for consideration.

The VICE-PRESIDENT. The Senator from South Carolina asks unanimous consent that the Senate proceed to the consideration of the unfinished business.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission.

Mr. LODGE. Mr. President, I ask that the amendment which I offered to the bill, and to which I desire to address myself, may be read by the Secretary.

The VICE-PRESIDENT. The Secretary will read the amendment submitted by the Senator from Massachusetts.

The SECRETARY. It is proposed to strike out section 8 of the bill and to insert the following:

On the passage of this act an Interstate Commerce Commission shall be appointed by the President, by and with the advice and consent of the Senate, to take the place of the present Interstate Commerce Commission. Said Commission shall consist of nine members, one for and from each judicial circuit of the United States. Not more than five members of said Commission shall be of the same political party; at least three of said Commission shall be lawyers of good and regular standing at the bar, and three others shall be persons of experience in the management and operation of railroads. Three members of said Commission shall be appointed for three years, three shall be appointed for six years, and three for nine years, and all subsequent appointments made on the expiration of a term of service shall be for nine years. Any Commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office, and vacancies caused by death, removal, or resignation shall be filled by the President, by and with the advice and consent of the Senate, by appointments for the remainder of the unexpired terms. The members of the Interstate Commerce Commission shall receive $12,000 compensation annually, and the chairman of the Commission, who shall be a lawyer, $12,500.

No person owning stock or bonds of any common carrier subject to the provisions of this act, or who is in any manner pecuniarily interested therein, shall enter upon the duties of such office or at any time hold the same. Said Commissioners shall not engage in any other business, vocation, or employment. No vacancy in the Commission shall impair the right of the remaining Commissioners to exercise all the powers of the Commission. All laws and parts of laws conferring powers and imposing duties upon or otherwise relating to the heretofore existing Interstate Commerce Commission shall continue in full force and effect and be applicable to the Interstate Commerce Commission established by this act, except as herein otherwise provided.

All the proceedings depending before the heretofore existing Interstate Commerce Commission at the time this act shall take effect shall, without break or interruption, be deemed to be depending before the Commission established by this section, and shall continue on to conclusion before the new Commission.

Mr. LODGE. Mr. President, this amendment was founded upon one which was offered by the Senator from Virginia [Mr. MARTIN] at the last session of Congress. I prepared it after consultation with Senators on both sides of the Chamber, I hope that it may receive the attention of the Senate and if there are changes which will improve and perfect it I trust they will be made.

The purpose of the amendment is apparent upon its face. It is an effort, so far as it can be done by law, to give to this Commission by salary and by tenure of office all the strength and dignity which it is possible to confer. When one of the Commissioners appeared before the Interstate Commerce Committee of the Senate he stated that he did not think an increase of salary was of much importance; that there would be no difficulty in getting suitable men for this Commission, just as it was always possible to get good men for the courts. It seems to me that that is a mistaken idea. Nothing can give to any executive commission, the creature of yesterday, the dignity which pertains to and adheres in a court. The courts and the judges represent centuries of tradition. They have been the arbiters of life and death. They have been the support of power, and in later days the sure defense of personal rights and personal liberty. They have in almost all the history of the English-speaking race, and, indeed, of all civilized nations, filled a great place, and about them have gathered that indefinable respect and reverence which time alone can give. But this Commission has, and necessarily can have, none of these qualities except what an act of Congress can confer. Therefore, Mr. President, it seems very important to do all in our power to elevate its character and assure its ability so far as is possible by law.

There seems to be a tacit assumption in all the discussion which has gone on here that if a matter is referred to the Interstate Commerce Commission all will be well; that they, like the king in the English maxim, can do no wrong. Yet they are, after all, men and fallible like the rest of us. I think we have not paused enough to consider how immensely important are the functions to which we are about to call this body of men by the bill which we now have under consideration, and I wish to touch briefly on some of the duties which we expect those officers to perform.

The great importance of our railroad system is well known, and in a general way is constantly stated; but I desire, if I can, to bring it home a little more forcibly by some details. Burke said in a very famous speech that "small minds and great empires went ill together," and certainly what is true of a great empire, as he then contemplated the governments of the world, is true of this Interstate Commerce Commission. After they are clothed with the powers which we propose to confer upon them they will be able to affect the welfare of more people, and the value of infinitely more property, than could have been affected by the act of any monarch ruling in Europe at the time when Burke made his great speech on conciliation with America.

We call upon them primarily to decide as to the rates to be established by the railroads. We know that that is a large question; but, Mr. President, I confess I did not realize how large and intricate a question it was until I had made some careful investigations in regard to the interdependence of rates. I desire to read at this point a brief statement which I have had prepared in regard to that matter. The facts given are somewhat dry, but it brings home, I think, better than anything I have yet been able to find, the enormous complication and importance of the questions which this Commission will be called upon to decide from day to day and in the course of the work imposed upon them.

The course of the railroads of the United States has naturally been laid between the industrial and commercial centers, between places of production and the various markets. The early railroads were built after this tendency from and to the cities which had grown to be commercial centers principally because of their advantageous position for the conduct of traffic by water—Boston, New York, Philadelphia, Baltimore, Savannah, Mobile, New Orleans, and Galveston because of their harbors on the Atlantic and the Gulf; Pittsburg, Cleveland, Cincinnati, Detroit, St. Louis, and Chicago because of their favorable situation on the inland waterways. The development of the western grain fields, to which Chicago was the natural gateway, and the great traffic which ensued between Chicago and New York led to the building of numerous railroads, which competed with the water routes between those cities. Second in importance were the channels of traffic between New York and Cincinnati and St. Louis, which led to the building of competing railroads between those cities and to Boston, Philadelphia, and Baltimore, seaports competing with New York. The traffic between any one of these western cities and any one of these eastern cities, whether eastbound or westbound, came into competition with the traffic between any other eastern and western city, it being evident that certain regions beyond Chicago could also be reached via St. Louis, that certain regions beyond St. Louis could also be reached via Cincinnati, and that the entire European market could be reached through either Boston, New York, Philadelphia, or Baltimore. The contests between these different commercial centers and seaports and the railroads connecting them gave rise to rate wars which were fierce and almost continuous until, after many tentative compromises, there was attained the rate adjustment which is in effect to-day. By reason of the volume of traffic which flows between them the rate between Chicago and New York is the basis to which practically all the rates east of the Mississippi and north of the Ohio rivers are adjusted. The rates between New York and Chicago, which are the result of contests which have been fought to a finish by the railroads and the communities concerned, are designated as 100 per cent rates. The rates to and from intermediate cities and territories have also been arrived at through contest and compromise and are established as percentages of the 100 per cent rate—that is, the rate from New York to Pittsburg is 60 per cent; to Cleveland, 71 per cent; to Detroit, 78 per cent; to Indianapolis, 93 per cent; Peoria, 110 per cent, and to St. Louis, 116 per cent of the New York-Chicago rate. By arbitration and other adjustment the rates to and from Philadelphia and Baltimore bear a fixed relation to the New York-Chicago rate. Rates from Boston and interior New England points, rates from the territory surrounding Buffalo and Pittsburg, and from other interior points are established in relation to the New York-Chicago rate, as well as rates to and from Norfolk

and other points in Virginia. Rates in the opposite direction—that is, from Chicago to New York—are also considered as 100 per cent, upon which basis are likewise made practically all the West to East rates from points on the Mississippi and Ohio rivers and the territory north and east thereof.

If, therefore, a railroad rate upon an article of general production and consumption is reduced between an eastern and a western point in the territory specified, the equities and rivalries of other producing and consuming localities and the competition of carriers produce the following results:

(1) All railroad rates are reduced between all eastern and all western points in the territory described.

(2) Rates for combined rail and lake transportation are reduced.

(3) Rates via the Erie Canal and the Great Lakes are reduced to maintain the difference between them and the all-rail rates and the rail-and-lake rates.

(4) Rates on through traffic from and to points west of the Mississippi River and from and to points south of the Ohio River are reduced.

(5) Rates may be reduced to and from points in Canada. It has been estimated that a change in one of the rate bases mentioned has forced the changing of not less that 8,000 rates.

Upon the 60 per cent of the Chicago-New York rate fixed for Pittsburg are based, as the result of many years of controversy between competing manufacturers and rate wars between the railroads serving the several districts, the fixed differences for rates from the Mahoning and Shenango valleys, which are 40 cents per ton higher than the Pittsburg rate; from the Cleveland district, which is 60 cents per ton higher than the Pittsburg rate, and from the Johnstown district, which is 30 cents per ton less to the East than the Pittsburg rate. The rates on the raw materials that enter into the manufacture of pig iron—coke, ore, and limestone—to the Pittsburg, the Mahoning Valley, the Shenango Valley, and the Wheeling districts are adjusted in equilibrium so delicate that a change in the rate on ore, coke, or limestone to either of these districts would necessitate a change in the rates on these commodities to the other districts or else a change in the rate on the manufactured iron and steel from the district in which the rates on the raw material had not been adjusted. Likewise a serious reduction in the rates on the products of the furnaces at South Chicago and Joliet will necessitate changes from the Pittsburg district, and therefore from the Wheeling, Mahoning Valley, Shenango Valley, and Cleveland districts.

The adjustment of rates to and from points in the territory south of the Ohio and east of the Mississippi rivers depends not only upon the rates that are made from the West to the crossing points on the Mississippi and from the North to Cairo, Evansville, Louisville, Cincinnati, and other crossing points on the Ohio River, but on the rates by water from New York and Baltimore on the east and on rates from New Orleans and Mobile in connection with the water lines to those points.

What follows the changing of one important rate in this southern territory is exemplified by the following statement of what happened as a consequence of a recent change in rates from Baltimore to Atlanta and Louisville to Atlanta. Rates corresponding to the reduction from Baltimore were made from Boston, New York, Philadelphia, and the other eastern seaports as well as from all interior Eastern and New England cities to Atlanta. Reductions corresponding to that from Louisville were made from Cincinnati, Evansville, Cairo, and Memphis. These reductions from the eastern seaports and the Ohio and Mississippi River crossings necessitated a reduction in the rates from every point in the United States north or west of these gateways, and likewise a relative reduction from Virginia cities to Atlanta and reduction from the South Atlantic ports of Norfolk, Charleston, Savannah, and Brunswick. The changes in these rates to Atlanta forced corresponding change to the neighboring city of Nashville and a proportionate reduction to Chattanooga, Macon, Columbus, and other cities in Georgia. The change at Chattanooga in turn affected rates from Florence, Sheffield, and Decatur; from Knoxville, Montgomery, Selma, and Birmingham, as well as from New Orleans and Mobile. This change in the rates to Atlanta also ramified throughout Virginia and the Carolinas, the total changes necessitated by the initial change being not less than a hundred thousand.

Another traffic current which affects rates throughout a wide territory and in multiplied ramifications is that between Chicago and St. Louis and New Orleans. The roads tributary to this port naturally work to develop its traffic, with the result that lines leading from the grain and grazing regions of the West to the Atlantic seaports have had to make certain revisions in their rates. A reduction in the grain rate made in January of last year from Kansas City to Galveston forced reductions in rates on grain from the territory beyond and via Kansas City and Omaha not only to New Orleans, but to New York and Baltimore. Reductions were also forced to New Orleans from all stations in the grain-raising States of South Dakota, Iowa, Minnesota, and Illinois.

Changes similar to those which have been specified as following the modification of a rate from Louisville to a southern point also follow the change in a rate from St. Louis to New Orleans or other southern distributing point. In such a case the ramifications begin at Buffalo and Pittsburg and extend westward to Arkansas, Indian Territory, Oklahoma, and New Mexico, affecting the rates from these regions to points south of the Ohio and east of the Mississippi rivers. Changes in rates that affect New Orleans and other points in Louisiana also affect the rates to and from Texas, the present adjustment of rates to and from Texas and Louisiana being as delicate as that in other regions of the South where, as we have seen, a reduction in one rate may demolish the entire structure.

The growth of population in the Mississippi and Missouri valleys has brought about a development of industry and commerce which causes an extensive interchange of traffic between the communities that range from Minnesota and Wisconsin to Tennessee and Arkansas and from the Dakotas to Colorado and Oklahoma. It is obvious that to and from many places in these regions traffic can cross the Mississippi or Missouri rivers at any one of several gateways. Therefore there has grown up a rate adjustment for this traffic the interdependence of which may be illustrated by a reduction in the rates on buggies, carriages, and spring wagons recently made from Freeport, Ill., to points in Iowa, which immediately brought about corresponding reductions from Chicago, Peoria, St. Louis, and Dallas, and then reductions from Milwaukee, Racine, Madison, Janesville, Beloit, Wis., Kankakee, Bloomington, Decatur, and other points in Illinois to all points in Iowa and Wisconsin. These reductions spread from all shipping points east of the Illinois-Indiana State line to all points west of the Mississippi River. A reduction in the rate on wire and nails from Chicago to Denver brought similar reductions from other Illinois to all Colorado points, and had the effect of reducing the rates on wire and nails eastbound from the Colorado mills through all of the Missouri River gateways. The interrelation of rates in this region may be summarized by the statement that a change in a rate between St. Louis and either Kansas City, St. Joseph, Atchison, Leavenworth, Nebraska City, Omaha, or Council Bluffs immediately changes the rate to each other of these Missouri River gateways and automatically reduces the rates between Memphis, St. Louis, Peoria, Chicago, St. Paul, Duluth, Sioux City, Sioux Falls, and all points between the Missouri River and the Rocky Mountains.

The rates from St. Louis, Mo., to St. Paul and Minneapolis are on an established basis, attained after compromise through the customary period of warfare, of 105 per cent of the rates from Chicago to St. Paul and Minneapolis; the Chicago rates apply throughout Illinois as far south as Peoria, Decatur, and Springfield. The rates from Chicago and Des Moines are made a percentage of the rates from St. Louis to Des Moines, and the rates from Chicago to interior points in Iowa, such as Cedar Rapids, Ottumwa, and Marshalltown, bear a fixed relation to the rates from Chicago to Des Moines. The rates from St. Louis to Des Moines are fixed upon the rates from St. Louis to St. Paul and Minneapolis. Therefore a reduction in a rate from Chicago to St. Paul and Minneapolis would result in a corresponding change from St. Louis to these cities, which, in turn, would change the rate from St. Louis to Des Moines, which would change the rate from Chicago to Des Moines, and likewise the rates from Chicago to Cedar Rapids, Ottumwa, and Marshalltown.

The complications which beset the making of rates between the regions east of the Rocky Mountains have their effect upon the rates to and from the Pacific coast, which also must be kept in certain adjustment with the ocean rates, a change in the through rate via any route from any place of production in the East necessitating a change via any other route to any seaport competing with another seaport for the trade of the interior. It is the same with the rates from the Pacific coast. For example, canned, dried, and green fruit and vegetables produced in California, Oregon, and Idaho compete with one another not only in the West, but pretty much throughout the United States and in certain parts of Europe. A change in the rate on any one of these commodities via any route from any producing center would bring about corresponding changes via other routes from the same and other producing centers.

As another example, sugar is produced and refined in Texas and Louisiana and also in Colorado, Utah, Idaho, and in California; sugar from Cuba is imported and refined at New York

and Philadelphia. All of these places of production and refining compete for the markets of the Mississippi and Missouri valleys. Therefore a change in the rate on sugar from California to a Missouri Valley distributing center would probably cause a change in the rate on sugar from New York, Philadelphia, Utah, and Colorado. A change in the rate on any commodity from St. Paul to Butte, a distributing center of Montana, would cause a change in the rate from every crossing point on the Missouri River to the distributing points not only in Montana, but in Utah and Idaho.

In a word, the merchants of Chicago, St. Louis, St. Paul, Duluth, Sioux City, Omaha, Kansas City, Denver, Salt Lake City, Butte, Spokane, Seattle, Tacoma, Portland, San Francisco, Los Angeles, Galveston, and New Orleans are all competing to a greater or less degree for the trade of the entire territory between the Mississippi River and the Pacific Ocean. The rate adjustment now existing is the result of experience, of competition between carriers, competition between communities, competition between the producers and between the distributers. It is an adjustment that is ever in unstable equilibrium, changes constantly being made to meet the fluctuating conditions of industry and commerce which in this region are peculiarly and intensely energetic.

For the grazing grounds which range from the Canadian boundary to the line of the Union Pacific Railway Chicago is the controlling market. If the rate for beeves from any point in this vast region to Chicago is reduced, corresponding reductions must be made from the adjoining points, and these reductions affect the rates from all other points on the various railroads leading from that territory. As the cattle are on the hoof and can be shifted from one end of a range to another, often over a distance of two or three hundred miles, without damage or increased expense, this shifting can readily be made to a station on a road which has reduced its rates and away from the railroad that has not made a corresponding reduction. An attempt to adjust live-stock rates through the Interstate Commerce Commission necessitated the inclusion in the complaint by certain of the live-stock interests of all the railroads between Canada and Texas. But be it said that the complaint was far from unanimous, many shippers expressing entire satisfaction with the status.

An interesting example of competition arose out of the enormous demand for flour in China and Japan during the recent war. Enormous purchases were made from the Minneapolis millers, who were quoted rates via the Atlantic seaboard and the Suez Canal. The railroads leading to the Pacific coast were enabled, by the necessity of transporting cars to the coast to bring east products of the Northwest and of the Orient, to quote the low rates necessary to secure shipments of this flour from Minneapolis to the Orient via Puget Sound. This rate, established solely to obtain this particular and temporary traffic, was so low as to cause the millers and farmers at interior points on the Pacific coast to demand correspondingly low rates on their shipments for domestic consumption at the coast. As it was impossible to grant their request, the low rates from Minneapolis were withdrawn.

The exposition just made applies to that interdependence of railroad freight rates which grows out of the competition between railroads, between communities, between producing centers and markets. There is another phase of this interdependence which grows out of the relation and competition between commodities themselves. It is a general principle that crude or raw materials should, other things being equal, pay lower railroad rates than the manufactured products. Therefore, for example—

(1) Rates on pig iron are lower than rates on steel billets, blooms, and ingots, which rates in their turn are lower than those upon finished iron or steel products.

(2) Animal hides are accorded lower rates than leather.

(3) Wool and cotton are accorded lower rates than woolen and cotton fabrics.

(4) Rates on live stock are less than on dressed beef, and less on hogs than on hams and other provisions.

(5) The rates on ore are less than on bullion and matte.

(6) Rates on lumber are less than on products manufactured therefrom.

(7) Rates on denims are less than on overalls and jumpers.

It therefore follows that a change in the rate on a finished product or on a raw material which is a factor in its production may necessitate changes on the other kinds of raw material and on the finished product. For example, a change in the rate on lumber would result in a corresponding change on articles taking lumber rates, such as lath, shingles, telegraph and telephone poles, and upon articles manufactured from lumber and taking higher rates, such as sash, doors, blinds, and interior finish; or, as another example, a change in the rate on sulphur to paper-manufacturing points would result in corresponding changes on other articles of paper stock, such as brimstone, caustic, soda, kaolin, copperas, potash, soda ash, resin, ground clay, and ground rock.

That competition known in economics as "substitution"—the use of one commodity in the stead of another if there is too great a variant in the price—compels the railroads in behalf of established industries to maintain a certain relative adjustment in the rates on competing commodities, for example, as follows:

(1) Soap, soap extracts, soap powders, washing compounds, washing powders, and washing crystals, all of which are used for cleansing purposes and are commercially competitive.

(2) Glue (animal product), dextrin (vegetable product), casein or milk curd (animal product), all of which are adhesives largely used for manufacturing purposes and directly competitive.

(3) Hemp, sisal, manila, and jute, all vegetable fibers, directly competitive in the manufacture of rope and twine.

(4) Strawboard, wood-pulp board, binder's board, box board, news board, and chip board.

(5) Corundum, carborundum, and emerald.

(6) The different kinds of paint.

(7) The different kinds of paper.

(8) Copper wire, copper rope, copper cable, insulated wire, insulated cable.

(9) Wrought-iron pipe, cast-iron pipe, all iron and steel tubes.

(10) Rolled oats and all cereal foods.

(11) Raisins, dried prunes, dried peaches, dried apricots, dried pears.

(12) Canned salmon and all other canned fish.

(13) Canned fruits and canned vegetables.

This analysis of rates, Mr. President, is simply to show the fact which I desire to call especial attention to—that these railroad rates are all interdependent and interlaced and that when you decide as to one rate you may affect ten thousand rates covering a third or a half of the United States, and that means affecting for weal or woe the daily business of all that great area.

But, Mr. President, this is not all by any means which the Interstate Commerce Commission is called upon to do. I have not the slightest intention of casting any reflection whatever upon the able and distinguished gentlemen who now occupy those important positions. They have been eulogized by the eloquent and distinguished Senator from Iowa [Mr. DOLLIVER], and he has pointed out to attentive consideration the ten volumes of their reports, which is certainly, as he said, a monument of industry, if nothing else. But that is not all. This Commission has been engaged in promoting and advocating legislation. I find, in the testimony taken before the Interstate Commerce Committee on the 8th day of December, 1899, that the following proceedings were had in the Interstate Commerce Commission:

[Reprinted from hearings before Committee on Interstate Commerce, United States Senate, Friday, April 13, 1900, page 396.]

PROUTY EXHIBIT A.

At a general session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 8th day of December, A. D. 1899.

Present: Hon. Martin A. Knapp, chairman; Hon. Judson C. Clements, Hon. James D. Yeomans, Hon. Charles A. Prouty, Commissioners.

The following proceedings were had, to wit:

AMENDMENT OF THE ACT TO REGULATE COMMERCE.

Cooperation with certain mercantile organizations to secure the adoption of amendments to the act to regulate commerce being under consideration,

It was unanimously voted to instruct the Secretary to cooperate with the representatives of these organizations for the purpose of securing the adoption of necessary amendments, and particularly the passage of a bill which has been approved by such organizations at a meeting held in Chicago on November 22, 1899, and to that end to give the public information as to the present state of the law and the necessity for amending it by distributing such reports, papers, and documents as are designed to accomplish that purpose, and to devote himself assiduously to such duty.

A true copy.

[SEAL.] EDW. A. MOSELEY, *Secretary.*

That was a formal order of the Commission to enter, in conjunction with mercantile organizations throughout the country, upon a general campaign in favor of amendments they thought proper to the interstate-commerce act in order to enlarge their own powers. There follows on the next page, which I will not read, a circular which they subsequently sent out.

Mr. FORAKER (to Mr. LODGE). Why not insert it?

Mr. LODGE. Very well, I will insert the whole of this statement, including the order of the Commission and the circular.

Mr. BEVERIDGE. What is the nature of the circular?

Mr. LODGE. It refers to Senate bill 1439, introduced by the Senator from Illinois [Mr. CULLOM], and then advocates the changes proposed in that bill. It was circulated throughout

the country in order to secure support for that measure, which had the approval of the Commission.

The circular letter referred to is as follows:

Inclosed please find copy of Senate bill No. 1439, introduced by Senator CULLOM December 12, 1899, which embodies provisions amendatory of the act to regulate commerce. The bill is designed to give the Interstate Commerce Commission the authority intended to be conferred by Congress when the law was originally enacted.

A few railroad officials and some newspapers have charged that the Commission by recommending these amendments is seeking unlimited authority to make rates. This charge is entirely without foundation. The Commission neither asks nor desires to be invested with general rate-making power. It simply asks for authority to correct rates which have been previously established by the carriers in the full exercise of their rate-making power, when such rates are found by the Commission, after due notice, investigation, and full hearing, to be in violation of the act; and the Commission asks this because experience has demonstrated that there is practically no other way by which the public can be protected against excessive or unjustly discriminative rates.

It has been asserted in some quarters that the powers asked for in this regard would imperil the commercial interests of the country. This statement is altogether erroneous. On the contrary, the passage of this measure would conserve the interests of producers, manufacturers, and shippers generally, while protecting the rights of the carriers. On November 22, 1899, this bill was submitted to a convention composed of representatives of leading commercial and industrial organizations of the country at Chicago. There were present authorized delegates from the Millers' National Association of the United States, the National Association of Manufacturers of the United States, the National Business League, the National Board of Trade, the National Transportation Association, the National Live Stock Association, the United States Brewers' Association, the Vapor Stove Manufacturers' National Association, the National Hay Association, the National Association of Freight Commissioners, and others.

After carefully considering the measure section by section it was approved by the conference. Since that time more than twenty other national business associations have expressed their approval of the bill. The shippers of the country, therefore, with the approval of the Interstate Commerce Commission, seek such amendment as will empower the Commission to proceed on the lines and to the ends contemplated by the original act. The language and phraseology of that act, as interpreted by the Supreme Court of the United States in various decisions, has been found insufficient to authorize the procedure and action necessary to give effect to its purpose. The language of the proposed amendments is believed to be so clear as to admit of no misinterpretation.

Your attention is particularly called to the fact that the authority to correct rates which have been found to be unlawful is neither arbitrary nor final under the provisions of this bill. In every case the carriers must have due notice and opportunity to be heard before any change in rates can be ordered, and all orders of this character are made subject to review by a circuit court of the United States and by the Supreme Court of the United States.

As already stated, the sole purpose of these amendments is to furnish the means of enforcing the present provisions of the law against unreasonable rates and unjust discriminations, and to that end to confer upon the Commission the degree of authority respecting rates which for ten years it was supposed to have, but which the Supreme Court has declared it does not possess.

If the general features of the bill as above outlined meet your approval, it is respectfully suggested that you take action expressing your approbation and support to the Senators and Representatives from your State and to the Committees on Interstate and Foreign Commerce of the United States Senate and House of Representatives at Washington, either alone or with others, or by petition or otherwise.

I would be glad to hear from you in respect to the matter, and would be pleased to receive advice of any action which you may take and copies of any letters, petitions, or other documents which may be forwarded to Senators and Representatives or either of the committees.

Very respectfully,

EDW. A. MOSELEY, *Secretary.*

Mr. DOLLIVER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Iowa?

Mr. LODGE. Certainly.

Mr. DOLLIVER. I should like to be informed by the Senator as to the impropriety of that, and how far it differs from the activity of other Departments of the Government in making recommendations for bringing the law into harmony with the good of the public service?

Mr. LODGE. The Senator from Iowa seeks to defend what I have not attacked. I have not attacked the Commission for doing that nor have I reflected upon them. I am pointing out that this is a great function which they are filling; and I was going on to say that in the resolution in which the Senator from South Carolina [Mr. TILLMAN] is so much interested, although he is such a relentless opponent of executive power, the Commission are specifically authorized and invited to suggest legislation to Congress.

Mr. DOLLIVER. Mr. President, I had that resolution in mind; and my recollection is that it passed the Senate by a unanimous vote of the body.

Mr. LODGE. It did; and I have not yet criticised the Commission. I am pointing out the duties which are placed upon them. Without that resolution, however, they have been doing that work; they have been——

Mr. NEWLANDS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Nevada?

Mr. LODGE. With pleasure.

Mr. NEWLANDS. I wish to ask the Senator whether he bears in mind the fact that the original interstate-commerce act calls upon the Interstate Commerce Commission to make recommendations to Congress from time to time in regard to legislation?

Mr. LODGE. I had forgotten that they were called upon to make recommendations to Congress. But I am finding no fault with their making recommendations. My point is that that body will have, in addition to the duties they have to perform under this act, very large additional duties in preparing legislation and advocating the enlargement of their own powers when they find them too small or are overruled by the courts.

Mr. FORAKER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Ohio?

Mr. LODGE. Certainly.

Mr. FORAKER. I rise only to suggest that there is certainly a very wide difference that must be manifest to anyone the moment he thinks about it, between making an official recommendation, in accordance with the requirements of a statute, and organizing a propaganda, and in carrying out the particular purpose, writing, preparing, and distributing literature in behalf of a purpose connected with legislation.

I remember that during the last two or three years there has been a great outcry because the letter carriers of the United States have had the presumption to ask, through their organization, that their pay might be increased. That has been thought to be very wrong indeed, and they have been criticised and threatened with dismissal from the service if they persisted in it. That same rule has been applied to others who are engaged in the public service; and the rule prohibiting men who are engaged in the public service becoming the promoters of particular ideas with respect to legislation has been, as I think, generally approved.

I did not rise to criticise the Interstate Commerce Commission, but only to call attention to this fact. I know in all the newspapers it was commented on when this convention was held in Chicago last August, I think it was, that a representative of the Interstate Commerce Commission was there, acting as a sort of secretary; that he had much to do with the marshaling of many civic and commercial bodies and organizations that were represented there; and it was charged that some of them existed only on paper. I do not know what the fact is, but it showed how thoroughly an organization may be brought into bad repute when they go into that kind of business. I think it is bad practice.

Mr. LODGE. Mr. President, the resolution to which I referred authorized the Commission to make suggestions to Congress, and the Senator from Nevada [Mr. NEWLANDS] calls my attention to the fact that they were invited to give recommendations under the original law. I do not question their right at all, but I merely desired to point out that it was a very important duty to impose on any executive board.

Mr. TILLMAN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from South Carolina?

Mr. LODGE. Certainly.

Mr. TILLMAN. The Senator from Nevada having called attention to it, I have looked up the original act, and I find in it this section:

SEC. 21. That the Commission shall, on or before the 1st day of December in each year, make a report to the Secretary of the Interior, which shall be by him transmitted to Congress, and copies of which shall be distributed as are the other reports issued from the Interior Department. This report shall contain such information and data collected by the Commission as may be considered of value in the determination of questions connected with the regulation of commerce, together with such recommendations as to additional legislation relating thereto as the Commission may deem necessary.

Now, it has occurred to me—it is not my function or purpose to rush in to defend the Commission, and the Senator from Massachusetts says he is not attacking them——

Mr. LODGE. I have not attacked them.

Mr. TILLMAN. But the Senator from Ohio [Mr. FORAKER] has seemed to indulge in some very caustic criticisms. I want to remark that after the decision of the Supreme Court in 1897, practically destroying the Commission except as a body of statisticians and arbitrators or conciliators, as we have had them described in the Interstate Commerce Committee, these people, I presume, were afraid that their functions would become so useless that they would be legislated out of office some day, and they were probably considering whether or not they had not better hustle about and attract attention to the worthlessness of the Commission in order to let people see that, if they were to be of any use, there must be some amendment to the law.

Mr. LODGE. I think, Mr. President, that their minds probably worked very much in that way, but, of course, if it is to be held that when the court overrules a decision of some board of this kind, then the board is to immediately go to work and

get the law changed so as to accord with their view of it, there is nothing further to be said. The law and the recent resolution authorized them, invited them, to suggest legislation. I say it is an important duty. I do not find, however, in any law that they are called upon or invited to carry on a public agitation throughout the country, as they have done by writings, by speeches, and by circulars. That work has been done very actively and very thoroughly. In illustration of it I shall presently call attention to a speech which one of ablest and most distinguished of the Interstate Commerce Commissioners has recently made.

But my point now is this, Mr. President: If we are creating a board of Interstate Commerce Commissioners who are to be in the operation and discharge of their functions judge, jury, and prosecuting officer, resembling nothing that I can think of except the French juge d'instruction, if they have those multiplied powers, to begin with, and in addition are to be charged with preparing and recommending legislation for Congress, with making investigations into the general business of the country, and with carrying on a perpetual discussion about all railroad legislation, I say, Mr. President, we can not go too far in our effort to secure for those positions the highest talent and the highest character which the country affords.

Now, I desire to call attention a little in detail to the objects and purposes of this amendment:

> Said Commission shall consist of nine members, one for and from each judicial circuit of the United States.

That is a rough way—the only way that suggested itself to me or to others—of getting a proper representation of the different sections of the country upon this Commission.

Mr. TILLMAN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from South Carolina?

Mr. LODGE. Certainly.

Mr. TILLMAN. Has the Senator examined to find out whether or not that would be giving a proper distribution of representation on the Commission?

Mr. LODGE. I said it was a rough way of reaching it. Unless we go to work and make up districts ourselves, and say there shall be one from each of the districts set forth in the act, I know of no better way of getting at it. It seems to me it is a desirable result, but if there is a better way of attaining it, and the Senator from South Carolina will suggest the method, I shall very gladly adopt it. My only desire is to get a proper representation of the different sections of the country.

Mr. TILLMAN. I had naturally drifted into the idea, along with others, that nine was a very desirable number of Commissioners. We think there ought to be an increase, and as there are nine judicial circuits, one from each circuit would probably distribute the members of the Commission geographically in a fair and proper manner; but I find such inequalities in the circuits as to population, area, railroad mileage, and the number of complaints that have come to the Interstate Commerce Commission, that it would seem, upon a little examination of a map which I had prepared, but can not put my hand on at the moment—I will get it before this debate is over—that that is wholly inappropriate and would be unfair and unwise. If we are going to say they must come from any particular place or section, we would have to divide the country anew. I will illustrate that by reciting from memory that I think the first judicial circuit has only about 6,000 miles of railroad in it, whereas there is a circuit down on the Gulf which has 30,000 miles of railroad in it. That is a mere illustration of the inequality that would come from judicial-circuit distribution. I will present the map later. I have had it prepared and will get it.

Mr. LODGE. It seems to me that business is a better test than mileage, but I am perfectly willing to accept any fair scheme which will distribute nine commissioners so as to give representation to the different sections of the country. I think that it is well to increase the number with that same purpose in view. Take as an illustration the present Commission, which consists of five members. There is one Commissioner from Vermont, one from close by in New York, one from Georgia, one from Missouri, and a new one from California has just been named. There is the great Middle West entirely without representation, and the Northwest, and a large part of the Southwest with no representation on that Commission. I doubt if it is possible with only five Commissioners to get any proper geographical distribution, and I think it is very desirable to have the different sections of the country represented. After all, the Commissioners are merely human—I do not wish to be thought to be making an attack upon them when I say that—and almost all human beings are more or less affected by the very human preference for the localities to which they are attached, for the State which they represent, for the places where they were born, and so on. It would be very unnatural if they should not have preferences of that kind. Therefore, I think it is extremely important that there should be some distribution of the Commission, so that every portion of the country may be fairly represented on the board, either by judicial circuits or by such other arrangement by districts as we may make here. I have no doubt, as the Senator from South Carolina says, we can make much better ones than those which now exist in the judicial circuits.

Mr. TILLMAN. Mr. President, I merely want to suggest to the Senator, by way of letting his mind rest on that view in that connection, whether or not he regards this Commission as approximating in dignity and power and responsibility the Supreme Court?

Mr. LODGE. I think, Mr. President, that it has enormous power, but I do not think that it approximates in dignity or in weight to the Supreme Court, nor do I believe it can ever do so, for the very reasons which I have already suggested. It has neither the traditions nor the habits of a court, nor is it one of the great constitutional departments of the Government.

Mr. TILLMAN. With that I agree in some measure, but the responsibility which rests upon this Commission, or will rest upon it if we legislate along the lines we are contemplating, and the power it will have will be so great that I would regard it as the nearest in dignity and power to the Supreme Court of any department of the Government not mentioned in the Constitution. Of course, I probably ought to except the Senate and House of Representatives, which will create and govern that body; but, holding the view that I do, that this Commission is to be a body of great responsibility and power, with very large salary, and everything to lift it as far above partisanship and sectionalism as is possible, I would deprecate anything which would look like a recognition of sectionalism in its composition, if we can possibly get rid of it.

Mr. LODGE. Does the Senator from South Carolina think it would be a good idea to have all three Commissioners from the State of New York, for example?

Mr. TILLMAN. No, I should think it would be a good plan for the President to consider most carefully and seriously the make-up and antecedents of any man whom he might suggest to us for appointment on the Commission.

Mr. FORAKER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Ohio?

Mr. LODGE. With pleasure.

Mr. FORAKER. I can not resist the temptation, unless the Senator from Massachusetts objects to my interrupting him here, to say that I am in accord with the suggestion just now made by the Senator from South Carolina, that men should not be selected for this Commission, if we are to have one, representing the different sections. I say that, not alone upon argument, to which I have not time to resort, but rather upon experience. I do not know whether or not the Senator from Massachusetts is familiar with the Maximum Rate case, so called.

Mr. LODGE. I have read it.

Mr. FORAKER. We have, in the decision rendered in that case, an illustration of what the representation of sections will do, without anybody intending to do anything except only his full duty.

That was a case, as Senators will remember, in which the question before the Commission was whether the rates from Chicago and Cincinnati to Chattanooga, Atlanta, Rome, Meridian, Knoxville, and other places in that territory were relatively too high. The Commission found that they were. They ordered a reduction. I will go into this at length when I have the time. I merely want now to give the Senator the benefit of what is in my mind, if it shall be of any benefit.

The opinion was prepared by Mr. Clements, a member of the Interstate Commerce Commission, who resided at Rome, Ga. Now, Rome and Atlanta were common points. The rate from Cincinnati, for instance, to Atlanta and Rome was $1.07. It was the same to both points. The rate was the same from Chicago to both Atlanta and Rome. They were common points. But they so worked it out, honestly, of course, Mr. President—I do not mean to reflect at all on Mr. Clements, who wrote the opinion——

Mr. LODGE. I trust the Senator from Ohio is not going to read the opinion.

Mr. FORAKER. I am not going to read the opinion, but I am going to state the result.

What was the result? To make it short, the Commission agreed—Mr. Clements wrote the opinion—that the rates were too high from Cincinnati and Chicago to Rome and Atlanta

and these other points, and they made a reduction. They reduced the rate, on an average, 19 per cent to all points except Rome, and reduced the rates to Rome nearly 29 per cent. In other words, the rate from Cincinnati to Rome and Atlanta was $1.07. They reduced the rate from Cincinnati to Rome to 75 cents and to Atlanta to 86 cents. They worked that out according to a rule which they adopted. But it shows, whether consciously or not, that Mr. Clements was there, representing his section, determined to see that it had a square deal, and to give it a square deal. Rome, not the Rome that sat on her seven hills and from her throne of beauty ruled the earth, but Rome, sequestered in the foothills of northern Georgia, a common point with Atlanta, was given this greater reduction.

Mr. TILLMAN. Mr. President——

Mr. LODGE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from South Carolina?

Mr. TILLMAN. The Senator from Massachusetts will permit me——

Mr. FORAKER. Now, I want to say—and then I will not interrupt the Senator from Massachusetts further unless I feel inclined to and he will allow me—that the vice of this whole business is the idea that the different sections have got to be represented, the different professions have got to be represented, the different political parties have got to be represented. What have parties and what have sections to do with the efficient discharge of this duty?

Mr. President, I shall contend at the proper time that if you are going to have a rate-making commission it shall be composed of three men, all of whom shall live in Washington, or some other place from which men can be chosen who are supposed to have no prejudices, no biases, no sections to represent, and who will be fair and honest toward all the interests involved.

Mr. LODGE. Mr. President——

Mr. BACON. I hope the Senator will permit me for just a moment.

Mr. TILLMAN. Will the Senator from Massachusetts indulge me for a moment?

The VICE-PRESIDENT. The Senator from Massachusetts has not yielded.

Mr. LODGE. I desire to reply to the Senator from Ohio before I yield to others.

The argument of the Senator from Ohio is mine. I think it leads directly to what I am advocating, because I do not believe we can find in this country three men or five men or nine men who are wholly devoid of local feeling and prejudice. I repeat, I think these gentlemen on the Interstate Commerce Commission are merely human, and the example of Rome, Ga., is a perfect example of exactly what I want to avoid by giving a representation to each section, so that there will be no possibility of favoritism to one town or one section over another, because the Commissioners will be able to balance each other and see that one section is not punished and another unduly benefited. I draw a different conclusion from the example which the Senator from Ohio has cited. It seems to me to argue my case and not his.

Now, Mr. President——

Mr. TILLMAN. Will the Senator indulge me a moment before he resumes his argument? I dislike to interrupt him.

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from South Carolina?

Mr. LODGE. I yield.

Mr. TILLMAN. I merely want to say that while I am in no sense a defender of Mr. Clements, I should like to know a little more in regard to this alleged favoritism to Rome.

Mr. LODGE. I wish the Senator from South Carolina would not discuss Mr. Clements and his favoritism in the middle of my speech. He can do it just as well later on.

Mr. TILLMAN. The Senator can strike out everything I say after I get through.

Mr. LODGE. That is a detail which we can take up subsequently.

Mr. TILLMAN. I think when Mr. Clements has been attacked, as I think probably unfairly, or——

Mr. FORAKER. I expressly stated that I was not making any attack upon Mr. Clements.

Mr. LODGE. I must proceed, Mr. President.

The VICE-PRESIDENT. The Senator from Massachusetts declines to yield further.

Mr. TILLMAN. Of course I must surrender, if the Senator from Massachusetts will not permit me to proceed.

The VICE-PRESIDENT. The Senator from Massachusetts declines to yield further.

Mr. LODGE. I think it is desirable to make this board, so far——

Mr. BACON. Mr. President, I do hope the Senator from Massachusetts will permit me to say a word for Mr. Clements right in this connection. He has been assaulted here, and a very grave reflection has been made upon him. Certainly I will not occupy much of the time. I just want to say this——

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Georgia?

Mr. LODGE. I have made no reflection whatever upon Mr. Clements.

Mr. BACON. I know; but the Senator yielded to the Senator from Ohio, who did, and I think in the same connection——

Mr. LODGE. I had no idea what the Senator from Ohio was going to say.

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Georgia?

Mr. BACON. I simply want to say a word.

Mr. LODGE. I yield, certainly.

Mr. BACON. Mr. President, I do not propose to go into the discussion of the question as to the propriety of the ruling which was made. I have known Mr. Clements for a long time, and am perfectly certain that when the facts are ascertained there will be such an explanation of them as will relieve him absolutely of such reflection as that cast upon him by what has been said by the Senator from Ohio.

Mr. FORAKER rose.

Mr. BACON. The Senator will permit me for a moment. If the Senator from Ohio had simply sought to apply what has been done by the Commission to the contention that Mr. Clements naturally favored the section from which he came, that might have been so in accordance with what is human nature that no reply would have been needed. But the idea of suggesting that Mr. Clements, coming from Rome, was a party to the deliberate and intentional discrimination between Rome and Atlanta is utterly beyond all reason or possibility of correct foundation in fact or reason.

Mr. Clements has been a member of the Commission for fourteen years, and in all that period this is the first thing I have ever heard which in the least reflects upon him as a man finely fitted for his position, devoted to his duties, diligent, capable, honest, and impartial; and I am sure that an examination of his record will prove that I have in no manner overstated the estimate in which he is held, and is entitled to be held, by the public.

I think, so far as Atlanta and Rome are concerned, if the Senator from Ohio knew how big a place Atlanta is he would not for a moment suggest that anybody in the State of Georgia would discriminate against Atlanta in favor of any other locality, even if he lived in the latter.

Mr. FORAKER. Mr. President, I fully subscribe to all that the Senator from Georgia has said in favor of Mr. Clements. I know Mr. Clements and I have a high regard for him, and I was particular to say that Mr. Clements in making this decision acted honestly and in accordance with the rule which he and the Commission had adopted, but which worked out this particular result.

But nevertheless the fact remains, as the result of what they did, that Rome did get this exceptional benefit, which does look like a discrimination, and which was regarded as a discrimination by all the interested cities at the time the order was made.

Mr. BACON. But if it was the unanimous act of the Commission, how can it be that it was influenced by the fact that Mr. Clements lived in Rome? It seems to me that defeats the entire contention of the Senator, unless he means to say that Mr. Clements's influence over the Commission was so great that he could secure from them a unanimous ruling in favor of the small town of Rome.

Mr. FORAKER. I mentioned that simply as a coincidence——

Mr. LODGE. Mr. President, I must decline to yield any further to a discussion about Mr. Clements.

The VICE-PRESIDENT. The Senator from Massachusetts declines to yield further.

Mr. LODGE. We have now heard from the complainant and from the defense, and I think the question may rest there.

Whether we can remove the Commission from undue geographical considerations or not, I think everybody will agree that it is in the highest degree desirable to put them as far away as possible from geographical considerations, and also whether we get the three archangels, whom the Senator from Ohio is going to have, living in Washington, or whether we get merely nine honest and able American citizens, I regard it as highly important to put them by their tenure and by their salary and by all the dignity we can confer upon the office as far beyond the effect of geographical considerations or public clamor as it is possible to place them.

We are all susceptible to public clamor as well as to local patriotism. That is a weakness of human nature. Senators will remember an illustration of it in Pickwick, when Mr. Pick-

wick and his friends went down to see the election at Eatanswill. When they arrived there was a mob in the street, which called upon them to cheer for Slumpkey. Under Mr. Pickwick's lead they all cheered for Slumpkey. "Who is Slumpkey," whispered Mr. Tupman. "Hush," said Mr. Pickwick; "I do not know, but I have observed that under these circumstances it is generally wise to do what the mob do." "But," said Mr. Snodgrass, "suppose there are two mobs?" "Shout with the larger," said Mr. Pickwick. Volumes could not have said more.

Mr. Pickwick, who was a very wise man, pointed out a common weakness of human nature. There is a tendency always to shout with the largest crowd. I wish to see the Commission raised as far as possible to a point where they will be not susceptible to public clamor, where they can decide these great questions with an eye single to the public good, and with an absolute regard for the rights of all who are involved.

I have also provided in this amendment that three of the Commissioners shall be lawyers. There have been forty-three cases taken up from the Commission to the Supreme Court. In thirty of these the Commission has been overruled; in only two affirmed. The cases that were not taken up were really more in the nature of arbitration. I think it would be desirable to have men to interpret the law under which they act who could make a little better percentage of affirmations in the Supreme Court when their cases were taken up for review.

The term of the Commissioners is made long by my amendment for the same reason that the salary is made high, in the hope of securing the very best men.

I have also proposed that three Commissioners shall be men who have had experience in railroad management and operation. It seems to me it is very desirable to have on the Commission men who know something about the practical operation of railroads. Mere hostility to railroads does not seem to me a sufficient qualification in itself for passing upon these great questions. I think we need more knowledge than that. In my opinion we require on the Commission a knowledge of law and good lawyers. I think that they also should have a knowledge of railroads. Let the other three members be simply laymen without special knowledge, if you please, or without special training either in law or railroads. In suggesting that the chairman of the Commission shall be a lawyer, I merely follow the English precedent, where the railway commission court has for its presiding officer one of the judges of the highest court, recognizing in that way the importance of great legal ability when it comes to the decision of these important questions.

Mr. President, I think it is a good rule, whenever Congress confers great powers, to guard them well, and I would guard them here, first, by the character and ability of the Commission, and then by assuring to all who come before the Commission their day in court afterwards if they are dissatisfied with the Commission's ruling.

In the speech which I made some little time ago on this same question I made no allusion to any local or sectional aspect which it might present. We in New England believe that the prosperity of one part of the country makes for the prosperity of all. We can not conceive that we should prosper while the rest of the country or any other important part of the country was suffering from adversity. At the same time to every section of this country the powers conferred on the Commission are a matter of great moment, and I desire, if I may so far trespass on the patience of the Senate, to point out the nature of the importance this bill possesses to that part of the country from which I come.

One of the railroad Commissioners, Mr. Prouty, has recently been making speeches in New England, and he made one speech in Boston in which he took occasion to point out how mistaken the attitude of the New England Senators and Representatives was in regard to this bill. I do not know that he was quite clear as to just what our position was, but he certainly thought we were making a mistake. His speech was widely read. It might, if unanswered, give a very false impression of the attitude of New England Senators and Representatives, and I do not think it states very fairly the condition of New England in relation to this question. There is no part of the country which so much requires proper regulation of railroads as New England, and there is no part of the country which would suffer more from a misuse or abuse of the powers conferred by this proposed act than the New England States.

Mr. Prouty in his Boston speech took occasion to point out how much better off New England would be if she only could have a railroad commission here in Washington, if not at home, vested with great powers; and in order to show our depressed and unfortunate condition he took as a standard of comparison the State of Iowa and the Kingdom of Prussia, or, rather, Germany. He wished to suggest how much better off we would be if we only had the laws of Iowa or the laws of Germany in regard to our railroads.

Mr. President, the comparison with Iowa is a severe one for Massachusetts or any one of the little New England States to encounter. Iowa is a great State of over 55,000 square miles. There is probably no spot in the world that has a richer soil. It is a beautiful State. It has great deposits of coal. It has enormous natural endowments. It is equally fortunate in the character of its population. There is no State in the Union with a finer or better population than that of the State of Iowa. There is no State which has been more strongly or powerfully represented in the National Government than the State of Iowa from the day when she first entered the Union. At this moment there are two representatives of that great State in the Cabinet. The leader of the Senate, honored and beloved by all Senators on both sides, is the senior Senator from Iowa [Mr. ALLISON]. The name which this bill bears is that of a distinguished Member of the House of Representatives from the same State. No State is more fortunate in its natural gifts and in the ability and character of its people than that great State of Iowa, in the heart of the country.

As to Massachusetts, Mr. President, we are very proud of our old State; very proud of its great history, and of the men who have made that history. But it is a small State. It has only about 8,000 square miles. It has not a fertile soil. It has no mines. It is dependent on its sister States for all the materials which it works up into finished products in its many industries. Certainly, Mr. President, if the legislation of Massachusetts is bad, no State ought to show it so quickly or be so sensitive to it.

Yet, Mr. President, I turn for comparison in population to the census of 1905, which was taken during the past year in Massachusetts and also in Iowa, and I find, according to the statement furnished me by the Director of the Census, that the population of the State of Iowa, according to the State census of 1905, was 2,210,000, and in 1900, according to the returns of the Twelfth Census, it was 2,231,000, a loss in five years of 21,000. The population of Massachusetts, according to the census of 1900, was 2,805,000. The population in the past year was shown by the State census to be 3,003,000. The State of Massachusetts gained practically 200,000 people in the last five years, while the State of Iowa appears on the face of the census reports to have lost 21,000.

Mr. President, those figures, considering the enormous natural advantages of the State of Iowa, a great State, six times as large as the State of Massachusetts, certainly, I think, disprove the proposition of Mr. Prouty that we are suffering in Massachusetts from injurious or ineffective legislation or that we are in sore need of more and new legislation to save us from ruin. We have a railway commission in Massachusetts. We were one of the earliest States to adopt such a commission. It does not undertake to fix rates. It advises the rate to be made and trusts to publicity. Our law has been copied in England. It is a law praised by Mr. Acworth in his testimony as a model law on the subject of railroads, and under that law the State has suffered as little from railroad discrimination, I will venture to say, and has come less, I am sure, to the Interstate Commerce Commission for relief than almost any other State in the Union.

Mr. NEWLANDS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Nevada?

Mr. LODGE. I do.

Mr. NEWLANDS. The Senator from Massachusetts has called attention to the fact that Massachusetts has gone ahead while Iowa has retrograded in population during the past five years, notwithstanding the fact that the State of Iowa has great natural advantages and great natural wealth that Massachusetts does not have.

I would ask the Senator from Massachusetts whether that might not be attributed to the economic policy of the country, which, through a high tariff, has protected the special industries of Massachusetts unduly, building up wealth and population there; and also whether the financial control of the railroad systems of the country, largely centered in Massachusetts, New York, and States adjoining, has not resulted in such an adjustment of rates as to drain the wealth from the interior of the country to Massachusetts and adjoining States?

Mr. LODGE. Mr. President, I will not enter into a tariff discussion at this point. In regard to the railroad rates, Mr. Prouty's argument, made in Boston, was that New England would be a great deal better off if she could only have an interstate commerce commission with larger powers; that they would give her better rates than she has now. That was his whole argument as addressed to New England, and it was an abso-

lately sectional appeal. He took his hearers up into a high mountain at the board of trade dinner and showed them all the glories he was going to confer upon them when these enlarged powers were placed in the hands of the Interstate Commerce Commission. He did not take the view of the Senator from Nevada, that Massachusetts has been making rates favorable to herself, and I never heard anybody suggest for a moment that such rates were made by the railroads.

Mr. NEWLANDS. Mr. President, there was some testimony by Mr. Tuttle, of the Boston and Maine system, before our committee, Mr. Tuttle being one of the most intelligent and capable railroad men in the country, showing that Massachusetts had a watchful eye regarding the rates throughout the entire country; and the rates were so adjusted through the control of different railway systems as to secure a market for Massachusetts products in far-distant States. Whether that adjustment was right or wrong, I do not pretend to say, but it is very evident throughout the testimony that through the great railway managers who control these great systems (and recollect that the financial control is all in a very small area—New York, Massachusetts, and Pennsylvania) there is an organized system of so adjusting the rates as to advance these States of great population and wealth.

Mr. LODGE. Mr. President, I have failed signally in my attempt to convey my meaning to the Senator from Nevada. Mr. Prouty's argument in New England was that New England was suffering from undue discrimination, and he used as an argument that the rates in Iowa and the rates in Germany were a great deal lower than they were in New England. That is his argument. I leave the Senator from Nevada to discuss that with Mr. Prouty himself. What I want to show is that though the rates in New England are somewhat higher than they are in Iowa, Mr. Prouty did not have his facts quite correct, and that there is a good deal to be said by way of explanation.

In the first place, Mr. President, it was much more expensive to build the railroads of New England than to build the railroads in the West. It was an old, settled community. The land damages were very great and in a thousand ways the expenses of the railroads in New England far surpass those of roads in the newer parts of the country. For instance, this one single item will show what I mean. When the railroads began in Massachusetts and in New England generally they ran at grade crossings everywhere. The country was not then as thickly settled as it is now, but with the growth of population this condition became intolerable. We have therefore compelled the railroads to abolish those grade crossings, and in the last fifteen years the railroads have expended in Massachusetts $11,000,000 in abolishing grade crossings alone, having been forced to do it by acts of the legislature. Then, under our law we have no stock or bonds in any of our railroads which do not represent absolutely paid-up capital. There is no watered stock in the railroads. It has all been paid up under our corporation act. In order to earn even a very moderate dividend on these railroads it is absolutely necessary that the charges should be somewhat higher than in portions of the country where the original cost was very much less. It is also to be remembered that the Federal Government gave the Iowa railroads land of enormous value to assist them in the work of construction. A writer in the United States Investor for September 2, 1899, estimates that over 6,000,000 acres, about the area of the State of Massachusetts, was given by the Federal Government to the railroads of Iowa. In the same journal for November 25, 1899, Mr. W. W. Baldwin, the present assistant to the president of the Chicago, Burlington and Quincy Railroad, estimated that the grant was about 2,700,000 acres, or about half the area of Massachusetts. Of course in the old States there were no such aids to railroad building; there could not be in the nature of things.

Mr. Prouty takes as his principal standard of comparison the railroad haul from Boston to Newport, Vt., the town in which he lives, a small town near the Canadian line, I think. When he compares the railroad haul from Boston to Newport—250 miles—with the same distance in Iowa, it is almost as if one should compare an absolutely flat surface with the same distance measured up a mountain. In other words, the grades in Massachusetts have made the railroads very much more expensive. I have not been able to get any full information on the subject, but I believe that the grades in Iowa are practically nothing as compared with New England. For example, in going from Boston to Newport, Vt., over the White Mountain division, the train has to cross Warren Summit, where the altitude is 1,090 feet, thence it descends, and in going over the Passumpsic division it again reaches the altitude of 1,150 feet. It finally reaches Newport, which is at a level of 950 feet. If the freight trains should go over the Concord division they would have to go over Canaan Summit, which is 956 feet high, and then descending it must go over the Passumpsic division at the height of 1,150 feet. Such grades as these have added, of course, enormously, as I have just said, to the expense of the roads.

Without undertaking to discuss in detail all the intimations made by Mr. Prouty as to what the Commission would do in the way of reducing freight rates for the benefit of New England if it had the power, I was interested particularly by his suggestion that if this Interstate Commerce Commission secured its enlarged powers there ought to be a reduction of "millions of dollars" a year in the rates on coal consumed in New England. He explains that this reduction would not fall on the New England roads, but on the great coal-carrying roads of the country, mentioning the Delaware, Lackawanna and Western, the Reading, the Pennsylvania, the Baltimore and Ohio, the Norfolk and Western, and the Chesapeake and Ohio. Yet the Senator from Nevada a moment ago was pointing out to me that Massachusetts and New York control these railroads and were able to get low rates, and that is the reason why there was a prosperous and growing population. Here Mr. Prouty comes along and says that under a properly administered Interstate Commerce Commission there ought to be a saving of millions of dollars a year taken out of the coal roads outside of Massachusetts and New England. It is perfectly evident that if the charges of these roads on that proportion of their coal traffic destined for New England should be reduced proportionate reductions would have to be made on all their coal traffic, and if the reduction to New England alone should amount to millions of dollars, the total reduction would amount to many millions more. It will be remembered that when a delegation of railway employees called on the President and stated their objections to rate-making legislation he assured them that there would be no such reductions of rates as would affect their wages, and the advocates of this legislation have uniformly made light of the argument that it would endanger either the wages of employees or the incomes of the owners of railway securities. But if, according to Mr. Prouty, when they get new powers and begin to benefit New England by their rulings "millions of dollars" are to be cut off of the incomes of the roads on one item of traffic alone it must be apparent that this could not be carried very far without reducing wages and endangering dividends and interests on bonds.

Mr. FORAKER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Ohio?

Mr. LODGE. Certainly.

Mr. FORAKER. If it will not interrupt the Senator from Massachusetts, I call his attention in this connection to the fact that the only provision made in the Hepburn bill under which rates can be affected is a provision providing for the reduction of rates or the fixing of a maximum rate, which is generally regarded as a provision for reducing, because nobody expects the Commission to make rates higher. So there could not be any action taken by the Commission to relieve the people of the great burden that the Senator from South Carolina has so frequently referred to, except in the direction of reducing rates and reducing revenues, and thereby bringing about the result that the railroad men on the occasion mentioned were complaining of.

Mr. LODGE. These coal rates are one special grievance from which Mr. Prouty proposes to relieve New England, and he makes it appear that rates on coal to New England are higher than the coal rates either in Prussia or in Iowa. Assuming that the rates he cites are correct, I call attention to some testimony before the committee. Mr. H. S. Rand, president of the Burlington Lumber Company, in a letter to the Senate Committee on Interstate Commerce (pp. 3368 et seq., Report of Hearings), indicates that the Iowa coal rates are far from satisfactory to people doing business in Iowa. He says, on page 3371:

> Owing to the above, the Iowa rates on coal to Burlington are so high that our factories get their supply from Illinois.

He cites rates from Dunfermline, Ill., to Burlington, 88 miles, 85 cents per ton; from Peoria, Ill., 96 miles, 85 cents, and contrasts these with rates made by the Iowa commission from Avery, Iowa, to Burlington, 93 miles, 97 cents, and from Oskaloosa, Iowa, 105 miles, $1.01. In his testimony before the committee, on page 2194, Mr. Rand says:

> The principal reason why we do not have more manufacturing in Iowa is that it is more profitable to put your money into farming. Another reason is the inelasticity of our Iowa distance tariff.

Exactly what happened, if he is right, in every country in Europe where there are fixed Government rates—

> and another reason is that when you want outside people to come in and go into manufacturing they always find this Iowa distance-

tariff law, and they say: "If you are fools enough to make that kind of a law we will not live with you."

Mr. G. W. Trayer, engaged in coal mining in Illinois and Iowa, gave some interesting testimony (pp. 2224 et seq.) on the effect of Iowa rates on the coal business in that State. On page 2225 he said:

Instead of being manufactured at home with Iowa coal, Iowa corn and live stock are mainly sent out of the State, where Iowa coal can not naturally reach the manufacturer of them, or it is prevented in part by the same rate disabilities which sent the corn and live stock away. Missouri and Kansas coal go into Omaha on as favorable terms and relatively more favorable terms than Iowa coal does, and Missouri and Kansas coal go clear up to Sioux City on relatively more favorable terms. I am not speaking of absolute rates; I am speaking of relatively more favorable terms.

Mr. Murray Carleton, on page 2519, testified:

In Iowa, where rates are made by a State commission, the inelastic nature of the tariff, based only on distance, has driven practically everything except agriculture and mercantile business out of the State.

He quotes from the Des Moines Daily Capital of February 4, 1902, to show that the Iowa law is retarding the development of that State. Mr. E. T. Koch, traffic manager of T. M. Sinclair & Co., pork and beef packers at Cedar Rapids, Iowa (pp. 3320 et seq.), at the bottom of page 3323, said:

It is the railroads' arrangement of rates outside the State that makes it possible for the pork-packing industries within the State to thrive.

Then Mr. Prouty took up the cotton-manufacturing industry in New England, and intimated that New England was not treated fairly by the railroads, and suggesting that if the Hepburn bill should be passed the Commission would readjust the rates for the benefit of the cotton mills. The mills now have the advantage of water rates for their raw material, but their rates on finished goods are not so low relatively as Mr. Prouty thinks they should be, and he intimates that he would cut them to a level proportionately as far below first-class rates as the rates from southern mills are below first-class rates from southern points.

One of the points he made is that when they reduced rates from Atlanta to Chicago they reduced them more than they did the eastern rate, although by doing so the goods from Atlanta and Massachusetts came into Chicago on an equality. In this new propsition he would abandon considerations of distance, for the distance from Atlanta to Chicago is 275 miles shorter than the distance from New England. Notwithstanding this greater distance from the New England mills, he does not apparently believe that the southern roads should be permitted to make rates enabling southern cotton goods to compete in Chicago on equal terms with those of New England. They go in now on a parity, and he would have his audience believe that the Commission would interfere with the making of such rates as those on cotton goods from Atlanta when they are to the disadvantage of New England, but that when low rates are made to enable New England industries to compete on an equality in distant markets the Commission would not disturb the adjustment. He refers, for instance, to the rate on paper from Rumford Falls, Maine, to Chicago. He said:

That strikes me as an exceptional rate, made undoubtedly to enable the manufacturer at Rumford Falls to meet in the Chicago market the manufacturer of Wisconsin and Minnesota. Similar special rates exist in all parts of this country—

I am quoting from Mr. Prouty—

There is nothing in this proposed legislation which would in the slightest degree interfere with the maintenance of that rate or any corresponding rate.

It is a rate so low that he felt bound to call attention to it, but this statement as to the Rumford Falls rate can be reconciled with what Mr. Prouty said about the cotton-goods rates only on the assumption that his intimation that those rates would be reduced was merely meant to please his audience, or that he really believes—which I can not imagine—that the Commission would be influenced by sectional considerations and would interfere with rate adjustments enabling the South to compete on an equality with New England, but would not interfere with those enabling New England to compete on an equality with Wisconsin and Minnesota.

He also makes a suggestion in regard to boots and shoes, an enormous interest in New England, and especially in Massachusetts. It is hard to tell just what Mr. Prouty means in his reference to boots and shoes. He says he has a complaint that the classification is unjust. If he has, that is a matter which the Commission can deal with under the present law, for the United States court in Cincinnati, in the Proctor & Gamble case, recently sustained an order of the Commission changing the classification of soap in less than carload lots. If, then, there is a grievance and a complaint about boots and shoes in New England, as Mr. Prouty says there is, why does not his Commission remedy it now?

I will now give some detailed comparisons with rates in New England and Iowa in order to show how valueless comparisons are which are made on isolated examples.

No one denies that the average rates in New England are higher than in Iowa for the reasons I have already given as to the grades, cost of service, etc. If, however, one was to make comparisons, as Mr. Prouty does in his Boston speech, it is possible to make a very specious argument, taking the following samples of unusually low New England rates to show that because of the inefficiency of the Iowa State commission rates were very much higher than in New England. Eighty-five per cent of the railroad business in Iowa is through business, only 15 per cent being local. Taking New England, however, as one State about the size of Iowa, as Mr. Prouty did, it is a fact that about 80 per cent of the revenue of the Boston and Maine system would be local and only 20 per cent through traffic.

The following is a memorandum of low rates in force on the Boston and Maine Railroad, and if they stood alone and were used as Mr. Prouty used his examples, they would give an impression the reverse of that which he was seeking to convey:

Rate on crush stone, any distance over 100 miles and not over 150 miles, 75 cents per gross ton, carloads of 20 gross tons or more.

Rate on manure, any distance over 190 miles and not over 200 miles, 75 cents per 100 pounds, carloads of 30,000 pounds or more.

Rate on slab wood and edgings from Newport, Vt., to Boston, Mass., $18.24 for not exceeding 30,000 pounds. The distance from Newport, Vt., to Boston, Mass., is 250 miles.

Rate on iron pyrites, Charlemont, Mass., to Boston, Mass., 87½ cents per gross ton of 2,240 pounds, carloads of 20 gross tons or more; distance, Charlemont, Mass., to Boston, 127 miles.

Rate on sand-struck brick, Mechanicsville, N. Y., to Boston, Mass., $1.80 per thousand, weighing between 4,500 and 5,000 pounds per thousand brick; distance, Mechanicsville, N. Y., to Boston, 189 miles.

Rate on import clay, Boston, Mass., to Mechanicsville, N. Y., carloads of 30,000 pounds or more, 10 cents per 100 pounds, a distance of 189 miles.

Class rates from Rockland, Me., to Pittsburg, Pa., a distance of 955 miles are:

1	2	3	4	5	6
50	43	33	24	20½	17

cents, and from Brunswick, Me., to Palatine Bridge, N. Y., via Rotterdam Junction and the West Shore Railroad, class rates are:

1	2	3	4	5	6
38	32	26	19½	17	15

cents for a distance of 378 miles.

It is hardly fair to draw any comparison between the rates on agricultural products transported in New England with the rates charged on similar commodities shipped within the State limits of Iowa. On the main lines of the railroads in Iowa the freight trains will haul from 2,000 to 2,800 tons gross in one train, whereas on the different divisions of the Boston and Maine Railroad they can not haul to a train a greater average than 1,000 tons gross, excepting on the southern division, from Concord, N. H., to Boston, where they haul about 1,800 tons gross. Let me take now some of Mr. Prouty's examples and examine them from the New England standpoint.

The rate on potatoes, carloads, from Newport, Vt., to Boston is 17 cents per 100 pounds—not 19 cents, as stated by Mr. Prouty. This 17-cent rate extends as far north as Sherbrooke, Province of Quebec, a distance of 273 miles from Boston, and to Swanton, Vt., a distance of 286 miles from Boston. The rate from points in northern Aroostook County, Me., to Boston is 21 cents per 100 pounds, as stated by Mr. Prouty, but there is in force a rate of 26 cents per 100 pounds, all rail, to Pier 50, East River, New York, the distance being 636 miles. Rate of 29½ cents per 100 pounds, quoted by Mr. Prouty, applies to Thirty-third street, New York City, via Troy, N. Y., and the New York Central Railroad. The distance is 736 miles, and the higher rate is charged on account of the increased distance and the added terminal charges of the delivering railroad. The supply of potatoes for the Boston market comes principally from Aroostook County, Me., the shipments from Vermont being limited. Considerable quantities are shipped from points in New York. The rate from a point in New York 250 miles from Boston, the same distance as from Newport to Boston, is 17 cents per 100 pounds, the same as the Newport rate, but a rate of 18½ cents per 100 pounds extends across the State of New York as far as Buffalo, a distance of nearly 500 miles. The rate from Ogdensburg, N. Y., to Boston, not to be exceeded from intermediate stations on the Rutland Railroad, a distance of 393 miles, is 17 cents per 100 pounds.

The rate on hay—carloads—Newport, Vt., to Boston, is 17 cents per 100 pounds, as stated by Mr. Prouty. This same rate extends to Sherbrooke, Province of Quebec, and Swanton, Vt., and an 18-cent rate extends beyond Sherbrooke, as far as Levis, Province of Quebec, a distance of 416 miles from Boston. An 18-cent rate also extends as far west as Ogdensburg, N. Y., on the Rutland Railroad, 393 miles, and an 18½-cent rate as far west as Buffalo, about 500 miles. Very little hay is shipped from Newport and vicinity, it being a dairy country, and the

hay is principally consumed on the farms. Last year there were shipped, all told, out of Newport, ten carloads of hay.

In establishing rates on such commodities as hay and potatoes, it is necessary, on account of commercial conditions, to have substantially the same rate cover a large area of territory, so that it would not be fair to cite a rate on hay and potatoes from a point like Newport, Vt., 250 miles from Boston, without considering the rates made from the entire territory from which the great bulk of the commodities is shipped. Mr. Prouty has explained the principle involved, in his reference to the milk case, in which he stated that beyond a distance of 190 miles the carriers might charge the same rate, no matter what the distance was.

It is true, as stated by Mr. Prouty, that the rate on lumber from Newport, Vt., to Hartford, Conn., a distance of 256 miles, is 15 cents per 100 pounds, but this same rate extends to Hoboken, N. J., via Rotterdam Junction, N. Y., and the West Shore Railroad, a distance of 450 miles; while a carload of lumber can be shipped from Newport to Pittsburg, Pa., a distance of 800 miles, at a rate of 17 cents per 100 pounds.

Mr. Prouty stated that the carload rate on butter, Newport to Boston, was 46 cents per 100 pounds. No one ever shipped a carload of butter from Newport to Boston to any one consignee. Butter is shipped from several different shippers to several different parties, in less than carload lots, and the rate is 45 cents per 100 pounds. A special butter train is run weekly throughout the year. The butter is picked up in small lots at all points along the line of the Passumpsic division, reaching Boston ready for early morning delivery the following day. In the summer time refrigerator cars are furnished, and every possible attention is given to this important traffic. Considering the service performed and the fact that the shipments are never made in carload lots, the 45-cent rate appears to be a reasonable one.

Mr. Prouty also said:

It is possible that rates can be found which are lower for corresponding distances in New England than they are in either Iowa or Prussia. I know of none.

One of the great industries of Vermont is the granite business, considerable quantities of which are shipped from Mr. Prouty's home town—Newport, Vt. There is a rate in force on building stone, carloads, Newport to Albany, N. Y., of $1.26 per ton, divided among two railroads, and netting the Boston and Maine Railroad 96 cents per ton for its haul of 278 miles, from Newport to Troy, N. Y. This pays the Boston and Maine Railroad a rate of 3 mills per ton per mile. There is also a rate of 18 cents per 100 pounds on building stone, carloads, Newport to Chicago, Ill., via Sherbrooke, Province of Quebec, and Grand Trunk Railway, a distance of 981 miles, 3.67 mills per ton per mile; also a rate of 6 cents per 100 pounds on paving and curbing stone, carloads, Newport to Troy, N. Y., a distance of 278 miles, 4 mills per ton per mile; also a rate of 15 cents per 100 pounds on building stone, carloads, Newport to Pittsburg, Pa., a distance of 800 miles, 3.71 mills per ton per mile. Perhaps rates lower than three and four-tenths of a cent per ton per mile can be found in Iowa and Germany, but they certainly do not show themselves at once to the investigator in either case.

Now, let us look at Mr. Prouty's argument from the Iowa side so far as I have been able to get the figures. The rate on potatoes, let me say in passing, for 250 miles in Iowa is 13.05 cents instead of 12½ cents, as stated by Mr. Prouty. It is not fair, however, to draw any comparisons between rates on agricultural products applicable in the mountainous and rough New England States, where the cost of building railroads and operating railroads is very many times greater than in Iowa, and whose principal industry is manufacturing, with the rates applicable in the flat prairie State of Iowa, where on the main lines of our railroads freight trains of from 2,000 to 2,800 tons gross are hauled in one train, where there is practically no industry except agriculture, and where the entire traffic originating in the State is composed of farm products of one kind or another. It would be just as fair to compare the average yield of farm products per acre of the total acreage of the State of Vermont with the average yield per acre in Iowa.

On potatoes and hay the comparison seems to be very unfavorable to New England, but probably not more so than the relative tonnage and importance of the agricultural products to the entire tonnage moved in Iowa and in the New England States or the tonnage of these commodities raised in Iowa and in New England. Hay is one of the most important crops of that State. The principal market for Iowa hay is in the far South and East, where the mileage is very long, and the rates to these markets have to be on a very low basis to permit the marketing of hay at all. It is probable that the low rates made for long mileages over which hay is actually moved largely influenced the Commission in the low rates which they made on State business and on which very little hay is shipped, each section of Iowa producing all the hay required for local consumption.

Butter rates in Iowa are very low, as any butter moved in this State in carloads is not for consumption, but is for concentration, to be reshipped later to eastern cities, principally New York, Philadelphia, and Baltimore.

On lumber carloads the New England rates compare very favorably with Iowa rates, taking into consideration the cost of construction and cost of operation of New England railroads.

Mr. Prouty states that there is now very little claim on the part of the Iowa railroads that these Iowa rates are too low. Yet the railroads refuse to accept on interstate business—which is naturally long-haul business which justifies the railroads in handling it at a lower rate per ton per mile than should in all fairness be charged on short-haul business—as their fair proportion, the rates fixed by the Commissioners, and in many instances their proportion of such interstate rates on the usually accepted bases of divisions gives them higher earnings than would the Commissioners' rates. This is recognized by connecting railroads not reaching Iowa and who do not demand of the Iowa lines that they accept for their earnings the State rates, nor do the railroads permit of the application on interstate traffic of the combination of rates on stations situated on the Iowa State line where such combinations would make a lower through rate on interstate traffic than that authorized in the regularly published interstate tariffs. The reason that the low rates of Iowa have not seriously embarrassed the railroads is that only a very small percentage of the traffic handled in this State is local within the State. About 85 per cent of the traffic is said to be interstate and consequently not affected by the Commissioners' rates. Furthermore and most important, these low rates have prevented the railroads from making any joint rates locally in the State of Iowa, on the ground that the Commissioners' rates are so unreasonably low that no railroad can afford to accept any less than these rates in the forming of joint through rates between points on two different railroads, and a rate from a point on one railroad to a point on another railroad is made by adding the rates to and from the junction point of the two lines, there being no joint rates or through rates applicable over the continuous mileage of two different railroads.

Let us apply the Iowa conditions to the less than carload shipments of copper wire, dynamos, etc., referred to by Mr. Prouty, and the rates would be as follows:

On copper wire, less than a carload, from Providence, R. I., of which Phillipsdale is practically a suburb, to Bradford, Vt., the rate would be on the Iowa basis as just described:

	Miles.	Cents.
Providence to Boston, via the N. Y., N. H. & H.	45	16.49
Boston to Bradford, Vt.	173	27.75
Through	218	44.24

Instead of 32.16 cents, as stated by Mr. Prouty.

On dynamos and transformers, less than carload, from Pittsfield, Mass., to Bradford, Vt., the rate would be:

	Miles.	Cents.
Pittsfield, Mass., to Springfield, Mass., via the Boston and Albany	52	20.4
Springfield, Mass., to Bradford, Vt.	247	48
Through	299	68.4

Instead of 54.4 cents, as stated by Mr. Prouty.

Carrying this principle still further, the rates from Newport, Vt., to New York, via the most direct lines, would be made as follows on the Iowa basis:

POTATOES (CARLOADS).

	Miles.	Cents.
Newport to Springfield, Mass., via Boston and Maine	324	16.5
Springfield to New York, via New York, New Haven and Hartford	136	8.8
Through	460	25.3

HAY (CARLOADS).

Newport to Springfield	324	14
Springfield to New York	136	7.36
Through	460	21.36

BUTTER (CARLOADS).

	Miles.	Cents.
Newport to Springfield	324	31.5
Springfield to New York	136	18.8
Through	460	50.3

LUMBER (CARLOADS).

	Miles.	Cents.
Newport to Springfield	324	11.13
Springfield to New York	136	7.18
Through	460	18.31

In the opposite direction:

FERTILIZER (CARLOADS).

	Miles.	Cents.
New York to Springfield	136	6.24
Springfield to Newport	324	12.50
Through	460	18.74

SUGAR (CARLOADS).

	Miles.	Cents.
New York to Springfield	136	10.72
Springfield to Newport	324	21.50
Through	460	32.22

I wish now to say a single word in regard to the comparison with Prussia. I have seen much discussion and have read a number of answers to Mr. Meyer's book, and I have seen extracts from the report of the Prussian commissioners to which the Senator from South Carolina [Mr. TILLMAN] referred when I spoke before, and I have not yet seen anything which meets the main point that I then made. They upset Mr. Meyer's proposition about milk rates into Berlin, a point to which I did not allude and which seemed to me of no great moment, but they do not touch the main argument which I ventured to offer when I discussed that question before.

In making any comparison with a European country let me say at the outset we overlook too much the fact that we are dealing with a huge system in this country, a system of 212,000 miles—more than all Europe—while all these systems of individual countries in Europe are little systems easily managed in comparison with ours. This fact ought always to be kept steadily in mind in this discussion of comparative rates.

I know of no publication in this country giving details as to Prussian rates by which Mr. Prouty's figures can be checked. I understand that the Commission sent a man abroad last summer and it is probable that these figures were obtained by him. In any event Mr. Prouty's use of the figures is such as to create the impression that Prussian rates are lower than those in New England or in Iowa. They seem to be so in the specific cases which he cites. Yet the fact remains that the average rate per ton per mile in Prussia is far above the average rate in the United States. Mr. Prouty does not think that comparison should be made on the ton-mile basis, but that basis seems to me to be the only one on which intelligent comparisons of average rates can be made. It is undoubtedly true that the average in America is brought down by the large volume of long-distance low-class traffic. Mr. Prouty would have us believe that the rates in Prussia are not similarly reduced by low-class traffic because that traffic in Prussia moves by water. I am satisfied from my own investigations that the reason is just the other way and that the low-class traffic in Germany goes by water because the railroad rates are high.

Mr. Prouty says that the fact that there are no express companies in Prussia has the effect of increasing the average ton-mile rate, as small packages are handled by rail on express time and at higher rates than are charged for ordinary service. He says nothing of the fact that the German Government operates a parcels-post service, carrying packages up to 110 pounds in weight (50 kilos) (see Pratt's Railways and their Rates), and that the great bulk of the business done by express companies in the United States is done by the parcels post in Germany, which is excluded from computation because it is government postal business, thus lowering the average returned rate. Moreover, if it is fair to direct attention to the fact that the average Prussian rate is increased by the higher charges for fast freight, it is equally fair to direct attention to the way in which the average rate in the United States is increased by fast-freight service in this country, such as the fruit and vegetable trains, that are moved on schedules faster than those of many passenger trains and on which the rate per ton per mile is far in excess of the average for the United States. Taking these things into consideration, the comparison based on rates per ton-mile is not unjust to Germany. As a matter of fact, German rates ought to be lower than those in the United States. Germany as a whole is a much more densely populated country and ought to have a much greater density of railroad traffic, and density of traffic is the most powerful factor in rate reduction. Another reason why rates should be lower in Germany than in the United States is that the wages of railway employees in Germany are much lower. The pay of employees on the railways of the United States makes up about two-thirds of the total cost of operation. On page 3126 of the Senate hearings Mr. Slason Thompson gives an unsatisfactory table of comparison of railway wages in the United States and other countries. The figures he gives for the United States are not an average for all employees, but are the average for "other trackmen," as given by the statistician of the Interstate Commerce Commission for 1903. This is the lowest-paid class of American railway labor, and the average for 1903 was $1.31. He gives the average German wage at 57 cents per day, but does not say what class of labor it represents. If Mr. Thompson's figures for Germany represent the lowest-paid class in that country, and the other classes are paid in about the same proportion, it would make the daily wage of a German railway engineer about $1.75 per day, against an average of $4.01 in the United States in 1903 and $4.10 in 1904. That the wages of a German engineer are probably below $1.75 would seem to be indicated by the fact that according to some figures published by the Bureau of Manufactures in the Department of Commerce and Labor, about the 1st of last September, the average wage of a locomotive engineer in England is $1.62 per day, and that of an engineer in Belgium $1.01. Mr. Thompson gave these same figures on page 3127 of the Senate committee hearings. The Fifteenth Annual Report of the Commissioner of Labor on Wages in Commercial Countries has some better data as to the daily wages of railway employees in Germany in 1898. The figures given for locomotive engineers range from $1.19 to $1.83 per day; for locomotive firemen, from 78 cents to $1.43, and for conductors, from 51 cents to $1.56 per day. The average wages of these same classes of employees in the United States in 1898 were: Locomotive engineers, $3.72 per day; firemen, $2.09, and conductors, $3.13. In 1904, the latest year for which statistics are published, these wages in the United States were: Locomotive engineers, $4.10; firemen, $2.35, and conductors, $3.50. These figures speak for themselves and require no comment.

Mr. Prouty further says that German passenger rates are lower than ours. How he reaches such a conclusion I can not imagine. I have traveled in Germany a good deal. I have made some investigations in these matters there out of curiosity. I did so last summer as to their passenger rates. Their passenger rates, as I found them, are much higher than ours. If Mr. Prouty reaches his conclusion by taking their third-class rate, which involves a car that no American would travel in, I can imagine that he might probably reduce their rates of passengers to a low rate; but even then I do not see how he can get it down lower than our passenger rates on the average, because ours are the lowest in the world, and our cars are incomparably better than the best German cars.

I have looked at Rolfe's Satchel Guide to Europe, 1905, which, according to the title page, is revised annually, and I find some German rates, with distances stated in miles. From Leipzig to Berlin, 101 miles, the rates are: Express, 15.40 and 11.80 marks; ordinary, 13.20, 9.90, and 7.20 marks. Counting the value of a mark at 23.8 cents, would make the first-class rate on express trains $3.6652, or about 3.66 cents per mile; second-class express, $2.8084, or about 2.80 cents per mile; first class on ordinary trains, $3.1416, or about 3.14 cents per mile; second class on ordinary trains, $2.3562, or about 2.35 cents per mile, and third class on ordinary trains, $1.7136, or about 1.71 cents per mile. For the year ended June 30, 1904, the average passenger rate in the United States was 2.006 cents per mile, which is far below any service of equal goodness anywhere in Europe. This rate has increased very slightly in recent years, owing to the effect of the trolley lines in taking off of the steam railways a considerable proportion of their short-distance traffic carried on commutation rates. The effect of the voluntary and compulsory reductions in passenger rates being made during the current year will, of course, have a decided effect on the average rate. You will note that in these Leipzig-Berlin rates not only the first-class, but the second-class rates as well, are above the average in the United States. As a sample of short-distance German rates, I find that from Berlin to Potsdam, 16 miles, with a first-class rate of 2.10; second class, 1.60, and third class, 1.05

marks; equivalent, respectively, to 49.98 cents, 38.08 cents, and 24.99 cents. These rates per mile would be about 3.12 cents, 2.38 cents, and 1.56 cents. Other rates given in this guide book would figure out about the same.

Mr. Slason Thompson, on page 3126 of the Senate hearings, under the head of foreign passenger rates, says:

Germany.—Fast trains: First class, 3.45 cents; second, 2.55; third, 1.79. Ordinary trains: First, 3.06 cents; second, 2.3; third, 1.53, and fourth, 0.77 (not allowed on fast trains); average receipts per passenger mile about 1.07 cents, due to 90 per cent of travel being third and fourth class on cars little better than American box cars.

I can not understand how Mr. Prouty makes the average Prussian passenger rate 9 mills per mile, unless he includes all classes and divides the total receipts by the number of passengers carried 1 mile, including all free passengers, which would include the large number of soldiers transported every year.

Mr. SCOTT. Will the Senator from Massachusetts allow me a moment?

Mr. LODGE. With pleasure.

Mr. SCOTT. As to the accommodations between Leipzig and Berlin, the rails and the cars that are run on them are perhaps the best they have in Germany. Is not that true?

Mr. LODGE. Yes; and that is the reason why I took it for comparison.

Now, Mr. President, Mr. Prouty also took up the case of port differentials. The Senator from Ohio in that very great argument which he made the other day, in discussing the question of port differentials, pointed out that by their action on port differentials the Commission had the power to close the port of Boston to-morrow if they so pleased. They could indeed close every port in New England, and our seaboard is the one great natural gift that we have. I am not going to argue this point elaborately, for I have already taken much more time than I ought to have taken, and I will try to dispose of it in a few sentences.

Mr. Prouty's reference to port differentials raises the question of what might be expected if the Commission should undertake to fix export rates to the several ports under the Hepburn bill. Their action in making the recent arbitral award was entirely extra-official, and their award has no more force than that given it by the agreement of the commercial bodies to submit the controversy to arbitration and abide by the decision. If, however, they should undertake to fix port rates under the Hepburn bill, their action would be official, and the question would be brought up whether they would not be governed by the clause of the Constitution prohibiting the giving of any preference to the ports of one State over those of another by any regulation of commerce or revenue. If the courts should hold that the power to fix port rates was subject to this limitation, it is difficult to see how export rates to the ports could be made on any but a mileage basis. The short distance from Chicago to Boston is 1,001 miles; to New York, 912 miles; to Philadelphia, 822 miles, and to Baltimore, 801 miles. It is apparent, therefore, that mileage rates on export grain would not only give to Philadelphia and Baltimore increased advantages on the inland rates as compared with Boston, but would give to New York an advantage over Boston, while at present Boston and New York have equal rates.

As an example of the manner in which the Commission now deals with this vital question let me cite the following case: Export grain is carried from the West by lake vessels both to Buffalo, N. Y., and to Fairport, Ohio. Thence the grain is carried by rail from Buffalo to Boston over the New York Central and Boston and Maine lines, and from Fairport to Baltimore over the Baltimore and Ohio Railroad. The distance from Fairport to Baltimore and from Buffalo to Boston happens to be the same—480 miles. There was absolutely no evidence introduced to show that there was any difference in the railroad cost of hauling grain from Fairport to Baltimore as compared with Buffalo to Boston, yet the Commission ruled that all grain carried from Buffalo to Boston must take a rate of one-sixth of a cent per bushel higher on oats and barley and three-tenths of a cent per bushel higher on wheat, corn, and rye than between Fairport and Baltimore.

But I ask leave of the Senate to print some further facts in regard to the port differentials which I have here, an extract from one of the Boston newspapers.

The paper is as follows:

ATTACKS FACTS CITED BY PROUTY—"MERCHANT" DOUBTS THE INTERSTATE COMMISSIONER'S SINCERITY IN RAISING THE CASE OF IOWA FOR COMPARISON.

To the Editor of The Herald:

While to the casual reader the address delivered by Mr. Prouty, the Interstate Commerce Commissioner, before the State Board of Trade yesterday may seem a powerful argument in favor of greater control on the part of the Interstate Commerce Commission of railroad rates, yet a critical examination will show the absurdity of some of the statements put forth by Mr. Prouty.

He evidently desires the people of Massachusetts to believe that if increased power is given to the Interstate Commerce Commission rates in Massachusetts generally will be lowered, the implication being that railroad rates are now higher here than they should be. He cites the case of Iowa, and compares it with Massachusetts and other New England States, claiming that the rates in Iowa are lower than in Massachusetts because Iowa has a railroad commission having powers similar to those now desired by the Interstate Commerce Commission. It is almost impossible to credit Mr. Prouty with sincerity in advancing such an argument.

In the first place, the advisory decisions of the Massachusetts railroad commission are as effective as the decrees of the Iowa State commission, or any other State commission.

Secondly, Iowa can not properly be compared with Massachusetts. Iowa is an agricultural State, relatively speaking, it has very few manufactures. Its great products are corn, cattle, and hogs. To compare its fertile prairies with the rocky soil of New England and claim that rates should be as low in Massachusetts, with its unproductive soil, heavy grades, expensive tunnels, and high cost of fuel, is simply disingenuous.

The railroad mileage in Iowa is over 9,000 miles; in Massachusetts, 2,000. Iowa has 41 miles of railroad to every 10,000 inhabitants; Massachusetts has only 7 miles. On the other hand, the Massachusetts railroads are taxed $1,400 per mile of line, while the Iowa railroads are taxed only $200 per mile. Iowa has an ample supply of domestic coal; Massachusetts has none.

If Mr. Prouty will read the testimony recently taken before the Senate committee at Washington he will find that witness after witness testified that rates in the State of Iowa were inelastic, owing to the decisions of the State commission; that its railroads universally charged the full maximum rates, and that as a result Iowa has no large cities, its manufacturers have not increased, it has no large jobbing houses, and seems destined to remain forever an agricultural State—practically because of the fact that its local railroad charges are fixed by the commission.

Furthermore, if the rates in Massachusetts and Iowa were to depend solely upon cost of railroad transportation, it is clear that rates much higher than those of Iowa would be justified on the ground of extra expense.

In speaking of the recent controversy as to port differentials between the Atlantic seaports, Mr. Prouty again misstates the position of Boston. He said:

"Boston claimed that we should take away the entire advantage of Baltimore upon the land and should compel it to bear the entire burden of its disadvantage upon the ocean."

The above statement is not true. Boston claimed that the through rates from the West to Europe should be the same, whether the merchandise went on board the steamer at Boston, New York, Philadelphia, or Baltimore. The Commission decided that for years the through rates by way of Baltimore and Philadelphia had been lower than through Boston, and that Philadelphia and Baltimore had a right to a lower through rate. Boston claimed, furthermore, that if the Commission decided to give Baltimore and Philadelphia a differential against New York, logic should compel it to give the same differential to Boston, which claim the Commission refused to concede.

Boston showed conclusively that steamship rates were little, if any, higher at the southern ports than at Boston; that the cost of handling cargo was much higher at Boston than at the southern ports, and that if there were any steamship advantages at Boston over the southern ports they were more than compensated by the shorter land haul to said latter ports.

The Commission decided, largely on the ground of distance, that the southern roads should have lower railroad rates on this export traffic than Boston, entirely ignoring the fact that on the through distance from the West, for example, to Liverpool Boston is over 200 miles shorter, at least a day's sailing on an average freight steamer.

The remarks by Mr. Prouty show an amount of misinformation almost appalling.

MERCHANT.

Mr. LODGE. Also, Mr. President, to show how much this law involves and why it means so much to our people, I wish to introduce a few statistics in regard to the port of Boston, which is to be put absolutely at the mercy of this Interstate Commerce Commission, and then ask if it is unreasonable that we should desire provisions which would protect us, in common with the rest of this country, so far as possible against injudicious or hasty action, and let it be remembered that what we ask for ourselves is just as important to every other corner in the country and every other State, great or small.

For the fiscal year ending June 30, 1905, Boston was the second port in the country, with aggregate receipts of $24,369,384.72. For the seven months ending February 1, 1906, Boston was again the second port in the country, with aggregate receipts of $16,236,365.76. I will ask leave to print these and some additional figures in my speech.

The VICE-PRESIDENT. Without objection, leave will be granted.

The figures referred to are as follows:

[Extracts from annual report of the Secretary of the Treasury.]

Fiscal year ended June 30, 1905.

Name of port.	Duties and tonnage tax.	Aggregate receipts.	Cost to collect $1.
Baltimore	$3,154,535.50	$3,314,349.41	$0.042
Boston	24,369,384.72	24,578,214.28	.013
Chicago	7,950,855.35	7,964,313.73	.001
New Orleans	5,461,144.72	5,491,270.35	.052
New York	172,580,741.04	174,574,125.16	.021
Philadelphia	18,967,983.55	19,065,414.00	.010
San Francisco	7,406,555.09	7,462,152.26	.065

Fiscal year ending July 1, 1906.

For seven months ending February 1, 1906:

Boston	$16,236,365.76
New York	118,996,502.00
Philadelphia	12,153,878.42
Chicago	6,285,832.04
New Orleans	3,414,656.99
San Francisco	4,371,437.31

Mr. LODGE. Mr. President, it is within the power of those who administer this law, it is within the power of any Executive who appoints these Commissioners, and of the Commission itself, to make or unmake the fortunes of any portion of the country.

Mr. SCOTT. Mr. President, will the Senator allow me to ask him a question?

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from West Virginia?

Mr. LODGE. Certainly.

Mr. SCOTT. If the Commission made a rate per ton per mile, would it not, in the Senator's judgment, ruin the coal interests of my own State of West Virginia?

Mr. LODGE. Certainly; beyond doubt.

Every State is vulnerable; but there is no part of the country that is so vulnerable as New England, New York, and New Jersey. New England has her seaboard, with some forests in Maine, and a few granite quarries, and then you come pretty much to an end of her economic possessions which can not be taken from her. New York has her marvelous port, which nothing can take from her, and she has her highway to the Lakes; but we in the East have no mines, we have no indefinite tracts of fertile soil, we have no coal, and we have no iron. We must go to the States of the South to get our cotton; we must go to the Middle States to get our iron and our coal; we must go to the West to get our leather and our food stuffs; we must bring into New England everything that we manufacture, and our manufactures constitute the wealth of those six States.

Mr. FORAKER. I should like to ask the Senator whether or not he ever made a calculation to ascertain how much cotton he would get for the cotton mills of New England if the rates were fixed upon a mileage basis or anything approximating that?

Mr. LODGE. Why, Mr. President, if rates were fixed upon a mileage basis, every manufacturing industry in New England would go out of existence; it would turn it all into a desert. If you should, in addition, abolish differentials, you would send the entire exports of the country to New York chiefly and, in a smaller degree, Boston; you would have in New England one great city, Boston, and behind it nothing. We have now a uniform rate stretching—I take this as an illustration, of course it would go further, but I take simply the New England territory—we have a uniform rate from North Adams, a town on the western border of my State, to Waterville in Maine. The whole intervening territory between, north and south of that line and 300 miles in width, is filled with industries giving life and support to thousands of human beings. But force upon them a mileage rate, fix a distance rate, and you drive every industry back to the North Adams line.

Mr. NELSON. Will the Senator yield to me for a question?

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Minnesota?

Mr. LODGE. Certainly.

Mr. NELSON. Is there any proposition in this bill to make a distance mileage rate?

Mr. LODGE. No, Mr. President; none absolutely requiring a distance rate.

Mr. NELSON. Then what is the use of discussing it?

Mr. LODGE. Mr. President, I can discuss this subject in any manner I feel inclined to; and one way of discussing it is to point out what an enormous stake my section of the country and your section of the country, Mr. President, have in it. I am trying now to show the enormous possibilities for evil as well as for good which are contained in this bill. I want this legislation, and am just as anxious for it as the Senator from Minnesota. There is no part of the country which needs proper railroad regulation and supervision more than New England, and there is none which needs to have that legislation better guarded than New England, New York, and New Jersey.

Mr. FORAKER. I should like to ask the Senator, or any Senator who can give the information, whether or not the Interstate Commerce Commission, when it has undertaken to fix rates, has ever undertaken to fix rates except either upon the mileage basis or what approximated to a mileage basis. Did they ever do it, or is it possible to do it?

Mr. PERKINS. I should like to ask the Senator from Massachusetts what, in his opinion, would be the effect of a mileage rate applied to the citrus and other fruits of California?

Mr. LODGE. I think the result will be that you will have to sell them all in the Philippines. [Laughter.]

Mr. FORAKER. If the Senator from Massachusetts [Mr. LODGE] will allow me, I will give the Senator from California [Mr. PERKINS] a bit of information on that point. I am in receipt of a letter from Milford, Del., making bitter complaint that the citrus-fruit growers of California are allowed the same rates to New York as they are charged in Delaware. [Laughter.]

Mr. LODGE. Mr. President, my point is not to charge anything against the Interstate Commerce Commission. I am trying to argue simply the importance of having a commission worthy to undertake this work and, further, the necessity of guarding it by a proper access to the courts, but this speech about New England was made by an Interstate Commerce Commissioner in my own State and my own city, and I wish to reply to it. I wish to show why we are so very anxious to have this bill, when it passes, a safe as well as an effective bill.

I was describing when I was interrupted the conditions of New England, her natural endowments, and those of New York and New Jersey, for they are practically in the same class, in order to point out that we were peculiarly vulnerable, because our prosperity rests upon our experience, our traditions, our invested capital, and on our organization of workingmen and of industry. With unjust treatment all these conditions can be easily broken down and disappear.

In order to demonstrate what I have just said I desire now to call attention to some of the interests of New England and to show how dependent we are upon railroad rates. I saw it stated the other day in some newspaper that the New England Senators were dominated by the special interests of New England, by the manufacturing and the railroad interests. Why, Mr. President, in the manufacturing industries of my State alone there are, according to the census of 1900, 500,000 people engaged. To-day in the railroads of the State, little State as it is, there are 60,156 people engaged. In other words, there are from a million and a half to two millions of the population of Massachusetts absolutely dependent on the well-being of the industries and the railroads of the State, and if I am not to represent the interests of those people, whose interests am I sent here to represent? I may be very easily mistaken in my view of this bill, but certainly the only influence which guides me is my desire to protect and guard the interests which give my State life and prosperity and which furnish income and employment to the people who live within its borders. That is the only motive that influences any Senator from New England or from any State in the Union.

Mr. President, I now wish to call attention very briefly to a few figures which I have put down here simply to show how important this matter of railroad rates is to us. Mr. Prouty thinks we are not fairly treated now. That may or may not be the case, but what we want is that the Government regulations shall be guarded and shall be safe.

The area of Massachusetts is 8,040 square miles. Her population to-day is 3,003,680, with a density of population of 348.9 to the square mile. The gross value of her agricultural products is $42,298,274, or $15 per capita. The gross value of her manufactured products is $1,035,198,989, or $369 per capita. Her agricultural and manufactured products together amount to $384 per capita.

Let me quote at this point the following extract from the inaugural message of Governor Guild, of Massachusetts:

> Of all the States and Territories on this continent only four contain a smaller area. Because of geographical limitation, as well as from a notable lack of mineral deposits, forests, and rich arable soil, a slow rate of gain in material prosperity might logically be expected of Massachusetts in comparison with many States possessing greater natural advantages. Yet, on the contrary, at the last taking of our national census it was found that Massachusetts, fifth from the foot in area, is seventh from the top in population, fifth from the top in the annual value of her manufactures, and third from the top in the annual amount paid in wages. Measured by assessed valuation of the property in her borders, Massachusetts is exceeded by but two States. Fifth from the foot in area, Massachusetts is third from the top in wealth.
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> Our Massachusetts census, just taken, tells a wonderful story. Immigration does not swarm to hopeless fields. In the decade between 1895 and 1905 Massachusetts added over half a million to her population. It is extraordinary that this great increase, which is, within less than fifty thousand, the same increase that was shown between 1885 and 1895, should have been possible in what was and is, with one exception, the most densely populated State in the Union.
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> It is more extraordinary that this half million of increase, largely immigrants, should be not merely vast in proportion to area, but, with four exceptions only, larger in actual numbers than the increase shown by any other State or Territory in the whole United States.
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> The annual value of the manufactured products of Massachusetts increased by but $175,173,033 between 1885 and 1895. It increased by $300,267,558 between 1895 and 1905. The total value of goods made in Massachusetts was $1,150,074,860 in 1905.
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> The increase in the value of the annual product of cotton goods from

1885 to 1895 was $32,190,463. From 1895 to 1905, in spite of southern competition, it was $38,949,280. The increase in our wool and worsted products between 1885 and 1895 was $7,400,533. Between 1895 and 1905 it was $50,581,514. The increase in our shoe product between 1885 and 1895 was $7,405,548. Between 1895 and 1905 it was $70,271,966.

On October 31 the total amount on deposit in our savings banks was, in 1885, $274,998,412; in 1895, $439,269,861, and in 1905, $662,808,312. The increase in the last decade was greater by over $58,000,000 than in the decade that preceded it. In 1885 the average deposit for each person of population was $141.64; in 1895, $175.69, and in 1905, $220.67. The gain in deposits per capita in the last decade was greater by nearly a third than the gain in the preceding decade.

Massachusetts is the forty-first State in area in the United States; she is the thirty-first in agriculture; she is seventh in population; she is second in density of population, and she is fourth in manufactures. Among all the States in the Union in the capital invested in manufactures Massachusetts is third; in wages paid she is third, and in the number of wage-earners she is third.

New England has an area of 69,973 square miles; a population of 5,592,017. The gross value of her agricultural products is $169,523,435; the gross value of her manufactured products is $1,875,792,081, making a grand total of $2,045,315,516. Of all the capital invested in the United States New England represents almost 20 per cent, and with the Middle States 60 per cent.

Among all the States and Territories of the Union, Massachusetts is—

In textiles first, with $212,000,000 (Pennsylvania second, with $160,000,000).

In cotton goods first, with $110,000,000 (South Carolina second with $30,000,000).

In woolen goods first, with $73,000,000 (Pennsylvania second with $49,000,000).

In boots and shoes first, with $117,000,000 (New York second, with $25,000,000. Total for whole United States, $261,000,000).

In paper and wood pulp second, with $22,000,000 (New York first, with $26,000,000).

In proportion of wage-earners to total population:

	Per cent.
Rhode Island first	21
Connecticut second	19½
Massachusetts third	18
New Hampshire fourth	17
New Jersey fifth	13
Delaware sixth	12
New York seventh	12
Pennsylvania eighth	12
Maine ninth	11
Vermont twelfth	8½

Mr. President, on the industries which those figures indicate there are a great many people dependent for life, for existence, for their daily wage, for their homes.

Let me call attention to another point. Nothing is more common here than to describe with noble indignation the half-dozen men in New York who get together and make the rates, as if all we had to do was to break their power, and as if that was all that was involved. I desire, Mr. President, simply to call attention to the misleading character of such statements, and I take the figures from my own State as an example.

The Commonwealth of Massachusetts in its sinking funds, established for paying the outstanding indebtedness of the State, holds Fitchburg Railroad bonds for $5,000,000; Boston and Maine Railroad bonds, $5,000,000. The amount of railroad securities held by our Massachusetts savings banks and trust companies is $152,551,438.08. The total amount of deposits in the Massachusetts savings banks on October 31, 1905, was $662,808,312, divided among 1,829,487 open accounts. (See p. 5, Savings Bank Report.) Under the law no account can be over $1,000, and the average of such accounts deposited is $362.29. In those institutions, under a carefully guarded law, of those savings of our working people, $662,808,312, in all there is $152,000,000 invested in railroad securities of different kinds. The total amount of stock of Massachusetts railroads held in Massachusetts is $129,055,425, divided among 36,201 Massachusetts holders. These figures were furnished by the accountant of the railroad commissioners of this State as of June 30, 1905, and their report gives a good statement of the railroad situation in Massachusetts. This makes an aggregate of $291,606,863 of railroad securities held in Massachusetts, exclusive of bonds held by life and fire insurance companies and national banks.

Mr. President, in this great measure we are dealing with the fortunes of all those people, and this law is capable of bringing them to ruin or of maintaining them in prosperity. Is it any wonder that we, their representatives, should be anxious about it? We have not in New England, as I have said, great natural endowments, the mere possession of which gives wealth. Whatever we have there we have worked for hard. We ask for no discriminations in our favor. We ask merely for the equality of treatment that every portion of the Union ought to have. But what we possess is perhaps to a greater extent than is true of any other portion of the country the result of more than two centuries of unremitting toil.

Inde durum genus sumus experiensque laborum.

Naturally in that dense population, dependent almost entirely on manufacturing industry, there is great anxiety as to the passage and the terms of this great bill.

Mr. President, I repeat what I said at the beginning, that, with these great interests, New England desires a good railroad-rate bill. She desires, in my judgment, proper railroad regulation and supervision, and she desires the Commission to be made up of the highest ability and best men we can get. I am sure that the Senators from New England represent her when they say that access to the courts should be preserved; that every man in this country is entitled to his day in court.

The Senator from Texas [Mr. BAILEY], toward the close of his very able argument on Monday last, said that to create distrust in the courts was to do the country irreparable injury, but that it was an even greater injury to teach a debasing belief in the infallibility of the courts. With that proposition I am in full accord. A debasing belief in the infallibility of any human institution or in human beings clothed with any function is a peril of the most serious kind, but I do not think that this point is a practical one. It does not seem to me that we are in any danger at this moment from too great belief in any man or too great reverence for any institution. On the other hand, I think that there is a very great danger, indeed, of the creation of that distrust of our institutions of government which the Senator from Texas spoke of as an irreparable injury to the country.

It is the fashion at this moment in certain quarters to indulge in furious attacks, and with utter disregard of truth, not only upon all our institutions of government, but upon our character as a people and the conduct of both our public and our private affairs. Concocting slanders and heaping together falsehoods for the purpose of selling them is not a pleasing trade, and when carried on in the name of virtue and reform it is a peculiarly repulsive one. To seek in this way to gratify that envy which is, unfortunately, not uncommon in human nature, or thus to take advantage for hire and salary of popular passions or of righteous popular indignation at proved wrong-doing, is a miserable calling and morally on a very low level. Slander and misrepresentation directed against individuals are not of much importance. If a man, whether engaged in public or private business, is not able by his character and his honesty to withstand such assaults, he is of little worth. As Doctor Johnson wisely said, "No man was ever written down except by himself." Men, moreover, are evanescent. Slanderer and slandered soon fade away and disappear. "We strut and fret our hour upon the stage, and then are heard no more." But wise institutions and free systems of government, painfully wrought, tried in the fires of sacrifice and suffering, should endure, for if they fall, they bring countless miseries in their ruin.

The real evil of all this sorry business lies in the creation of that distrust of our institutions to which the Senator from Texas referred. Yet the most serious quality of these attacks does not reside in those directed against the Senate. Every branch of the executive and legislative departments of the Government has been at one time or another in our history subjected to these indiscriminate assaults. No President was ever so maligned as Lincoln, and I have lived to see his fame rise up as world-wide as it is pure and unsullied, unharmed by the abuse of the forgotten creatures who thought to blacken his character and thwart his purposes. Within my own brief experience I have seen the House held up to public scorn and its Speaker denounced with unbridled ferocity on account of reforms which all men and all parties accept to-day, and which rescued that great body from a condition of inanition and contempt.

At this moment it is the turn of the Senate of the United States. The Senate has been assailed as virulently before when it has undertaken to perform the duties for which the Constitution designed it. Checks and balances in government are rarely popular, and the brake which is essential to preserve the train from accident or destruction not unfrequently jars some people's nerves when it is applied. But President and House and Senate all have one great security—they can ask the popular verdict, they can take the judgment of the people after the sober second thought, and they can plead their own cause before the great popular tribunal. Thus they have come through many trials, and they will have no difficulty in securing justice now as before.

But the case is widely different with the courts. They can

make no popular appeal; they can enter upon no defense; they can secure no verdict at the ballot box. They must do their duty in silence, and trust to the slow processes of time to vindicate them. For this reason it has been an unwritten law of our politics—a law rarely infringed—not to assail the courts. It is no debasing belief, no superstitious reverence, which has dictated this custom. No one thinks for a moment that the courts are infallible. There have been in our history some bad judges, happily very few, to our honor be it said; there have been, and there are, many of only moderate capacity; but the courts of the United States as a whole, and the Supreme Court above all, irreproachable in character and of high ability, have been one of the finest achievements and one of the great glories of our American system of government. No greater harm could be done, no more malignant evil could be wrought, than to breed popular distrust in the administration of justice.

I cut from a newspaper the other day an interview with Mr. Debs. It appears that there are some men in the far West suspected, apparently on good prima facie grounds of complicity in a brutal assassination. Mr. Debs objects to their being tried at all. His language is:

> We have no courts to appeal to; they belong to the plutocracy, and I am opposed to spending our means going up against a brace game judiciary.

His remedy is civil war. You may say that is the raving of a man of violence and of anarchy. Perhaps it is the last extreme; but is it wise for others to encourage that wholly false view of the courts and to teach the American people that the courts are not to be trusted?

I took from the Chicago Record-Herald of December 31, 1904, the following interview with Mr. Prouty, a distinguished, energetic, and able member of the Interstate Commerce Commission. He said:

> "If the Interstate Commerce Commission were worth buying, the railroads would try to buy it. They have bought pretty nearly everything in this country that is worth buying, and the only reason they have not tried to purchase the Commission is that this body is valueless in its ability to correct railroad abuses."
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> This statement was made by Interstate Commerce Commissioner Charles A. Prouty yesterday in a discussion of legalized pooling. Asked, in view of this statement, whether it would be wise to give a commission control over rates, the Commissioner replied:
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> "The public must trust some one, and that would be the best remedy it is possible to obtain under existing conditions. I am aware, however, that the great danger would lie in the possibility of the body to which should be intrusted the guardianship of the people's rights not performing its duty."
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> Because of a possibility of purchase by the railroad interests, he was asked.
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> "Yes; but not in the sense of an actual cash transaction. The railroads, it is well known, own many of our courts and other public bodies, but not because they have of necessity bought them by the expenditure of money. They have a different way of doing things. They see to it that the right men, the men of friendly inclinations, are elected. There would exist the danger of their doing this in the case of a 'strong' Commission, so that it might be composed of men who would sit idly by and do nothing of value."

Now, Mr. President, there is a man of high character, holding a high public position, deliberately stating to the people of this country that the courts and other public bodies are owned by the railroads. He says the railroads own them by electing them. United States judges are appointed. They are not elected. They are appointed by the President. The necessary implication is that if they are owned by the railroads the President has appointed men owned by the railroads.

If this were the utterance of some of our irresponsible magazine writers, whose only thought was to turn a penny by meeting what seemed a momentary demand for a sensational statement, it would be bad enough, but very far from fatal. Writers of that type come and go. They seize upon the excitement of the moment and presently rise like a flock of shore birds and whirl away to another spot where they think they can find a fresh feeding ground. These modern imitators of Titus Oates will pass away as he passed away. They will bring no innocent heads to the block as he did, although they may here and there cause distress. They will not end in the pillory as he did, because the pillory has been abolished, but they will go out of fashion just as he did into silence and contempt. It is when a man of ability and character holding high Government position like that of an Interstate Commerce Commissioner uses the language which I have quoted that the matter becomes deeply serious. It is when doubts and suspicions as to our courts are suggested by the words of men eminent in public office, as has been the case in the past months during the discussion of this question; it is when every effort is made to shut the courts out from all consideration of the momentous questions raised by this bill that the matter grows grave indeed, for it is in this way that the distrust is bred of which the Senator from Texas spoke and which every reflecting man must believe to be an inestimable if not an irreparable injury to the country. Congress should be the last place where any such attacks on the courts should be made—the last place where ideas of that sort could find a lodgment.

I have no superstitious reverence for the courts and no belief in their infallibility, but I look upon them not only as the bulwark of society and the guardians of liberty, but the symbols also of law and liberty. Where the decisions of the courts are obeyed, where justice is unimpeded, there are liberty and order, and there is no liberty without order. The oppression of the one tyrant is bad enough, but the oppression of a multitude of tyrants is infinitely worse. All Europe turned from the tyranny of the countless feudal lords and gave itself up to the tyranny of the one man who was made the king. It was far better than the tyranny of many. With disorder you may have license, you may have anarchy, but you will have no liberty. When you get to anarchy and disorder then you go over the dreary round, the old vicious circle, and land in the "reaction" and the "savior of society." We want neither socialism, which would reduce all things to a dead level and put all power into the hands of the Government, nor do we want anarchy, which represents chaos.

> We want men to be free,
> As much from mobs as kings; from you as me.

We want the sober freedom for which we have paid so great a price and which we have slowly and painfully built up and maintained. It is not that I apprehend these dangers from this specific bill, but I do apprehend grave dangers now lurking in the readiness to criticise the institutions of Government made by the hands of the people themselves and to slander the courts which administer our justice. Men are of slight importance. Let them say of us what they like and banish us forever if they choose—we men here—but it is the duty of every one of us to see to it that the great heritage of the past, which has given us freedom and everything we love and have fought for, is handed on untainted and unbroken to the generations which come after us. [Applause in the galleries.]

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 12707) to enable the people of Oklahoma and of the Indian Territory to form a constitution and State government and be admitted into the Union on an equal footing with the original States, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. HAMILTON, Mr. BRICK, and Mr. MOON of Tennessee managers at the conference on the part of the House.

STATEHOOD BILL.

The VICE-PRESIDENT laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 12707) to enable the people of Oklahoma and of the Indian Territory to form a constitution and State government and be admitted into the Union on an equal footing with the original States, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. BEVERIDGE. I move that the Senate insist upon its amendments, agree to the conference asked for by the House, and that the Chair appoint the conferees on the part of the Senate.

Mr. FORAKER. The proposition to which the House has disagreed is one which was not represented by the chairman of the Committee on Territories, who has just now addressed the Senate, and one with respect to which I fear he would not suggest conferees who would be agreeable to those of us who did represent that proposition. I rise, therefore, to object to the appointment of conferees in the usual way, and to ask that they may be selected by the Senate in such manner as may be proper for us to proceed in making the selection.

The VICE-PRESIDENT. The Chair will divide the motion, as, in his opinion, it is clearly divisible. The question is, Will the Senate insist upon its amendments and agree to the conference asked for by the House?

The motion was agreed to.

The VICE-PRESIDENT. The question is upon the appointment of the conferees.

Mr. FORAKER. I move——

Mr. BEVERIDGE. Mr. President——

Mr. FORAKER. I yield to the Senator from Indiana.

Mr. BEVERIDGE. The remaining portion of the motion is now the question.

The VICE-PRESIDENT. The Senator from Ohio is recognized.

Mr. FORAKER. I move as a substitute for that part of the Senator's motion that the conferees on the statehood bill on the part of the Senate be appointed by the Senate.

The VICE-PRESIDENT. The Senator from Ohio moves to amend the motion of the Senator from Indiana, so that the conferees shall be appointed by the Senate. The question is on the amendment.

Mr. BEVERIDGE. Mr. President——

Mr. FORAKER. I was about to suggest, if it met with the concurrence of the Senator from Indiana, that this matter go over until to-morrow morning, so as to give us an opportunity to confer with each other as to the conferees. It may be that we shall be able to agree upon the conferees. I do not know as to that. I have had no communication with the Senator from Indiana on the subject. But if he wants it disposed of now, I am willing that it shall be disposed of at this time.

Mr. BEVERIDGE. I am willing to take any course that may be agreeable, although if it involves anything but the usual procedure, I think, perhaps, it might as well be disposed of now——

Mr. PATTERSON. Mr. President, we on this side of the Chamber can not hear.

Mr. BEVERIDGE. Unless the Senator from Ohio is particularly insistent upon its going over.

Mr. FORAKER. I am not insistent upon its going over. I merely suggested that if it goes over until to-morrow, we will be able to take it up after consideration and after some conference.

Another reason for that is that if we go into this matter at this time, it is likely to create debate. I know there are some Senators who want to address the Senate on this subject. Other Senators have given notice that they desire to address the Senate at this time on other matters. The Senator from Wisconsin [Mr. SPOONER] has been waiting throughout the speech of the Senator from Massachusetts [Mr. LODGE] in order to secure an opportunity to address the Senate. I think, out of courtesy to him, it would be well enough to let the matter go over until to-morrow. Certainly no harm can arise from doing so.

Mr. BEVERIDGE. Very well, Mr. President. If the Senator from Wisconsin wishes to proceed now, and if this matter is likely to consume any time, I will let it go over until to-morrow morning.

In view, then, of that consideration and in view of the other suggestion of the Senator from Ohio, we will let it go over until to-morrow morning.

The VICE-PRESIDENT. Without objection, the motion and the amendment will lie over until to-morrow.

REGULATION OF RAILROAD RATES.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission.

Mr. SPOONER obtained the floor.

Mr. TILLMAN. Will the Senator from Wisconsin yield to me for a moment?

Mr. SPOONER. Certainly.

Mr. TILLMAN. From the Committee on Interstate Commerce I wish to present as an appendix, which has just come to us from the experts, some figures and facts relating to the Prussian railways. I send it to the desk and ask that it be printed.

The VICE-PRESIDENT. The Senator from South Carolina asks that the papers sent to the desk by him be printed as a public document.

Mr. TILLMAN. The same number of copies as of the testimony.

Mr. KEAN. May I ask the Senator from South Carolina a question?

Mr. TILLMAN. Certainly.

Mr. KEAN. What is this?

Mr. TILLMAN. This is an appendix prepared by Messrs. Adams and Newcomb, under orders from the committee and under instruction from its chairman, sent to the committee and given to me by the chairman.

Mr. KEAN. And what both have agreed to?

Mr. TILLMAN. Both have agreed to.

The VICE-PRESIDENT. Is there objection to the request of the Senator from South Carolina? The Chair hears none, and it is so ordered.

Mr. SPOONER. Mr. President, it is embarrassing to ask the Senate to turn from the eloquent periods uttered by the Senator from Massachusetts [Mr. LODGE] to what I am conscious will at best be an unsatisfactory discussion of what is purely a question of constitutional law, for I do not rise to discuss anything contained in the "rate bill," so called, save as to a single phrase in it.

Some days since the distinguished Senator from Texas [Mr. BAILEY], whose absence to-day I lament, not only because I am compelled without his presence to discuss a portion of the amendment which he has submitted, and to reply somewhat to the speech which he made upon it, but also for the sorrowful event which compels his absence, expressed the opinion that Congress may constitutionally incorporate in this bill, in connection with a provision for judicial review of an order of the Interstate Commerce Commission fixing rates, a clause prohibiting the circuit courts of the United States in such cases to restrain by injunction the enforcement of the order before final decree. This raises, obviously, a question of very grave import.

I entertain the profoundest respect and admiration for the Senator from Texas, not only for his great ability and learning as a lawyer, but for his high character, independence, and patriotism in the discharge of public duty. When I find myself differing from him upon a constitutional question which has received his attention it is with a distrust of my own opinion which leads me to a careful reexamination of the subject.

The Senator from Maryland [Mr. RAYNER], in a very eloquent speech upon the pending measure, seemed to attach great significance to the words "or be suspended or set aside by a court of competent jurisdiction," in the clause relating to the time of taking effect of an order of the Commission fixing rates. To my mind these words are quite insignificant. They confer no jurisdiction upon any court of the United States not already possessed by it. They are mere recognition of existing jurisdiction, which can not constitutionally be withdrawn, and if they were stricken from the bill they would not in anywise affect the power of the circuit courts on a proper bill in equity to restrain by interlocutory or final decree the order affecting the rate or rates involved. To accomplish that object, if it be possible to accomplish it, it is necessary that there shall be a change in existing law governing jurisdiction of the circuit court in equity. The Senator from Texas fully realized this, and hence his proposition that the bill shall contain a prohibition against suspension of the order prior to final decree.

Mr. President, I am not able to agree with the Senator from Texas and others as to the power of Congress to so legislate. I have little doubt that if the bill when enacted shall contain such a prohibition it would be unconstitutional in that respect, and fear it will be regarded as so intertwined with the part of the bill authorizing the fixing of rates as to endanger it.

Many of us think the pending measure is in more than one respect of doubtful constitutionality, to say the least of it. I think I may justly say that many of us regard it as unconstitutional in one or two important particulars.

It is our duty, as it is justly to be expected of the Senate, that we shall give to the perfection of the measure, which is of the highest importance, the utmost of our ability, care, and industry. I should greatly dislike, Mr. President, not simply for myself, but for the body, of whose just fame I am as jealous and proud as any Senator can be, that this measure when it shall have passed the Senate, should fail in the courts for any want of constitutionality which we can remedy. It may contain some provisions as to the constitutionality of which many of us have doubt, but that danger should be limited to those provisions only which ought to be incorporated in it if they can constitutionally be incorporated in it, and in order that their constitutionality may be presented to the highest tribunal for determination.

The time has certainly come when the scope of the commerce clause of the Constitution in respect of interstate transportation should be determined by the Supreme Court. This can only be done by the enactment of a statute raising the question.

The weakness, if there be one, in the proposition and in the argument made in support of it—that this proposed provision may constitutionally be enacted—seems to rest in a failure to distinguish between jurisdiction and judicial power. The Constitution, Article III, section 1, says:

> The judicial power of the United States *shall be vested* in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish. * * *
>
> SEC. 2. The judicial power *shall extend* to *all* cases in law and equity arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States; between a State and citizens of another State; between citizens of different States; between citizens of the same State claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign States, citizens, or subjects.
>
> In all cases affecting ambassadors, other public ministers, and consuls, and those in which a State shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the Congress shall make.

I concede, under the decisions, of course, that the circuit and district courts of the United States are statutory courts; that

they do not derive their jurisdiction immediately from the Constitution. They are created by the Congress. Their jurisdiction is to be found in the legislation of Congress. For many years Congress withheld from their jurisdiction a large number of cases or controversies enumerated in the Constitution. That Congress could lawfully do this I do not question.

Mr. President, the framers of the Constitution manifestly did not intend to create a judicial department that was to be dependent in the exercise of *judicial power* upon the will of Congress. They had painful memories of the history of jurisprudence in England. They knew that the bar of England and the fearless judges of England had done more for personal liberty than all the other forces of England could do. They knew, too, that judges of England, holding office by favor simply of the King, and therefore dependent upon his will, had perpetrated wrongs and tyrannies indescribable; for there is no tyranny any worse than the tyranny of a lawless judge. They knew, too, that out of the confusion of legislative and judicial functions in the English system had arisen intolerable abuses. They intended by the Constitution to create, and did create, three coordinate and independent branches of the Government, to each of which was assigned its proper function, clothed with the power essential to their proper discharge. They intended that each should be in its sphere absolutely free from invasion by the others. They created the legislative department to enact rules of action, the executive department to administer the laws, the judicial department (the weakest of all in a way) to hold each of the others, the legislative and the executive, strictly to the limitations of the Constitution. Each was to be permanent as the Government itself until changed by the people.

They clearly contemplated a Federal judicial system. They secured the independence of the judges by making their tenure of office dependent only on good behavior and by preventing the legislative department from starving them into weakness by diminution of their compensation.

It was not intended to create a judicial department that should be defenseless against the passion or unwisdom of the legislative department. They vested, by the same language with which they clothed the other two departments with their functions of government, the judicial power of the United States in one Supreme Court *and* in such inferior courts as the Congress may from time to time ordain and establish. The Supreme Court, of course, could not have existed without legislation by Congress. The constitutional provision was not self-executing, but it laid a mandate upon Congress to organize the Supreme Court and inferior courts. For Congress to have omitted the organization of the Supreme Court would have been revolutionary. For Congress to have omitted the organization and establishment of inferior courts would have been equally revolutionary. The result would have been that the Government as it was made would have failed of organization, for where the Constitution provided for three departments there would have been but two, in fact.

Congress, in obedience to the consititutional mandate, organized the Supreme Court, and the Constitution placed it beyond reach of any subsequent Congress, save to increase or possibly to reduce its numbers. Its jurisdiction is original in but two cases; in all others it is appellate.

My proposition is: That when the Congress confers *jurisdiction* upon the inferior courts of the United States over any one of the cases or controversies enumerated by the Constitution the judicial power, *ex necessitate rei*, goes with it, including the instrumentalities which inhere in the jurisdicton and are necessary to its efficient exercise.

It never could have been in the minds of the framers that there could come a time when there would be life judges of the inferior courts without inferior courts.

It is insisted by some that Congress may destroy these inferior courts, and as the greater includes the lesser, it may limit as it sees fit the exercise of judicial power where jurisdiction exists. I do not know what may be the opinion of the Senator from Texas as to the power of Congress to destroy the inferior courts without substituting other inferior courts in their places, but justice to him in his absence requires it to be said in this connection that he did not base his argument for the power of Congress to limit the issue of injunctions as proposed upon any such ground.

I find support, Mr. President, for the proposition for which I am contending in an illuminating opinion upon the judicial clauses of the Constitution, delivered by Mr. Justice Story, of the Supreme Court, in the case of Martin *v.* Hunter's Lessee (1 Wheaton, 304). His reasoning is worth rereading many times. It was dissented from only by one justice, and not by any as to the portion of it which declares specifically the law to be as I am contending for it. It is so important and complete that I beg leave to read it. Speaking for the court, he says, after quoting the third article:

Let this article be carefully weighed and considered. The language of the article throughout is manifestly designed to be mandatory upon the legislature. Its obligatory force is so imperative, that Congress could not, without a violation of its duty, have refused to carry it into operation. "The judicial power of the United States shall be vested [not may be vested] in one Supreme Court, and in such inferior courts as Congress may, from time to time, ordain and establish." Could Congress have lawfully refused to create a Supreme Court, or to vest in it the constitutional jurisdiction? "The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive, for their services, a compensation which shall not be diminished during their continuance in office." Could Congress create or limit any other tenure of the judicial office? Could they refuse to pay, at stated times, the stipulated salary, or diminish it during their continuance in office? *But one answer can be given to these questions; it must be in the negative. The object of the Constitution was to establish three great departments of government; the legislative, the executive, and the judicial departments. The first was to pass laws, the second to approve and execute them, and the third to expound and enforce them. Without the latter, it would be impossible to carry into effect some of the express provisions of the Constitution. How, otherwise, could crimes against the United States be tried and punished? How could causes between two States be heard and determined? The judicial power must, therefore, be vested in some court, by Congress; and to suppose that it was not an obligation binding on them, but might, at their pleasure, be omitted or declined, is to suppose that, under the sanction of the Constitution, they might defeat the Constitution itself. A construction which would lead to such a result can not be sound.*

The same expression, "shall be vested," occurs in other parts of the Constitution in defining the powers of the other coordinate branches of the Government. The first article declares that "all legislative powers herein granted shall be vested in a Congress of the United States." Will it be contended that the legislative power is not absolutely vested? That the words merely refer to some future act and mean only that the legislative power may hereafter be vested? The second article declares that "the executive power shall be vested in a President of the United States of America." Could Congress vest it in any other person; or is it to await their good pleasure whether it is to vest at all? It is apparent that such a construction in either case would be utterly inadmissible. Why, then, is it entitled to a better support in reference to the judicial department?

If, then, it is the duty of Congress to vest the judicial power of the United States, it is a duty to vest the whole judicial power. The language, if imperative as to one part, is imperative as to all. If it were otherwise, this anomaly would exist, that Congress might successively refuse to vest the jurisdiction in any one class of cases enumerated in the Constitution, and thereby defeat the jurisdiction as to all, for the Constitution has not singled out any class on which Congress are bound to act in preference to others.

The next consideration is as to the courts in which the judicial power shall be vested. *It is manifest that a Supreme Court must be established; but whether it be equally obligatory to establish inferior courts is a question of some difficulty. If Congress may lawfully omit to establish inferior courts, it might follow that in some of the enumerated cases the judicial power could nowhere exist. The Supreme Court can have original jurisdiction in two classes of cases only, namely, in cases affecting ambassadors, other public ministers, and consuls, and in cases in which a State is a party. Congress can not vest any portion of the judicial power of the United States, except in courts ordained and established by itself; and if in any of the cases enumerated in the Constitution the State courts did not then possess jurisdiction, the appellate jurisdiction of the Supreme Court (admitting that it could act on State courts) could not reach those cases and, consequently, the injunction of the Constitution, that the judicial power "shall be vested," would be disobeyed. It would seem, therefore, to follow that Congress are bound to create some inferior courts in which to vest all that jurisdiction which, under the Constitution, is exclusively vested in the United States, and of which the Supreme Court can not take original cognizance. They might establish one or more inferior courts; they might parcel out the jurisdiction among such courts from time to time at their own pleasure. But the whole judicial power of the United States should be at all times vested either in an original or appellate form in some courts created under its authority.*

* * * * * * *

It being then established that the language of this clause is imperative, the next question is as to the cases to which it shall apply. The answer is found in the Constitution itself. The judicial power shall extend to all the cases enumerated in the Constitution. As the mode is not limited, it may extend to all such cases, in any form, in which judicial power may be exercised. It may, therefore, extend to them in the shape of original or appellate jurisdiction, or both; for there is nothing in the nature of the cases which binds to the exercise of the one in preference to the other.

* * * * * * *

BUT EVEN ADMITTING THAT THE LANGUAGE OF THE CONSTITUTION IS NOT MANDATORY AND THAT CONGRESS MAY CONSTITUTIONALLY OMIT TO VEST THE JUDICIAL POWER IN COURTS OF THE UNITED STATES, IT CAN NOT BE DENIED THAT WHEN IT IS VESTED, IT MAY BE EXERCISED TO THE UTMOST CONSTITUTIONAL EXTENT.

The judicial power of the Constitution extends to all cases *in law and equity* arising under the Constitution, etc. The words "law and equity," as used in the Constitution, were not used without definite meaning. As to equity, they referred to a system of jurisprudence which had long been established in England and was administered in this country prior to the adoption of the Constitution.

In Pennsylvania *v.* Wheeling Bridge Company (13 How., 562) the court says:

In exercising this jurisdiction the courts of the Union are not limited by the chancery system adopted by any State, and they exercise their functions in a State where no court of chancery has been established. The usages of the high court of chancery in England, wherever the jurisdiction is exercised, govern the proceedings. This

may be said to be the common law of chancery, and since the organization of the Government it has been observed.

* * * * * * *

Under this system, where relief can be given by the English chancery similar relief may be given by the courts of the United States.

The word "law" was used in contradistinction to equity and admiralty and maritime jurisprudence. They referred not simply to the suits which the common law recognized among its old and settled proceedings, but suits in which *legal* rights were to be ascertained and determined in contradistinction to those where equitable rights alone were recognized and equitable remedies were administered.

Upon the demand of the States, after the adoption of the Constitution, an amendment was adopted declaring that in suits at common law where the value in controversy shall exceed $20 the right of trial by jury shall be preserved, etc., and this meant the jury of the common law.

It is quite plain that the distinction between law and equity expressly recognized in the Constitution can not be abolished. (Parsons *v.* Bedford, 3 Peters, 443. See also Fenn *v.* Holme, 21 Howard, 481.)

In equity an issue may be sent to the jury, but the verdict is only advisory. The function of the common-law jury and the effect of its verdict is different.

The preventive relief afforded by equity through injunctions is an essential part of the equity jurisprudence. That jurisprudence came into being only because of the inability of the common law to furnish more than redress for wrongs. It could award damages, but there were an infinite number of cases which its rules and processes did not embrace. The main necessity which called it into existence was the power to afford preventive relief. A bill for permanent injunction was one of the main elements of the system. To strike out of the jurisprudence the bill for injunction would be to destroy the harmony and utility of the jurisdiction. If the power to grant a preliminary injunction, where the efficient exercise of the judicial power in equity demands it, were taken away, the system would be unrecognizable.

In a vast number of cases, Mr. President, the permanent injunction would be fruitless but for the preliminary injunction. It would be an idle thing to decree a permanent injunction to prevent some irremediable wrong if the court did not possess the power in proper cases to prevent the doing of that wrong pendente lite. The first bill in equity I ever drew was for injunction to restrain the negotiation of promissory notes obtained by gross fraud from a farmer and secured by a mortgage on his farm. What relief would equity afford in such case without the preliminary writ, and that, too, without notice? Innumerable cases occur to any lawyer of experience, and are noted in the books, and it has been so from the beginning, in which without preliminary injunction the judicial power of equity to permanently enjoin would be as idle as the wind that blows.

I have not seen a criticism of the reasoning and conclusion of Mr. Justice Story which I have read. Mr. Justice Field, in the case of Taylor *v.* Hammond (4 Wallace, 411), thus refers to it:

> How far this judicial power is exclusive, or may, by the legislation of Congress, be made exclusive, in the courts of the United States has been much discussed, though there has been no direct adjudication upon the point. In the opinion delivered in the case of Martin *v.* Hunter's Lessee (1 Wheat., 334) Mr. Justice Story comments upon the fact that there are two classes of cases enumerated in the clause cited between which a distinction is drawn; that the first class includes cases arising under the Constitution, laws, and treaties of the United States, cases affecting ambassadors, other public ministers, and consuls, and cases of admiralty and maritime jurisdiction; and that, with reference to this class, the expression is that the judicial power shall extend to all cases; but that in the subsequent part of the clause, which embraces all the other cases of national cognizance and forms the second class, the word "all" is dropped. And the learned justice appears to have thought the variation in the language the result of some determinate reason, and suggests that, with respect to the first class, it may have been the intention of the framers of the Constitution imperatively to extend the judicial power either in an original or appellate form to all cases, and, with respect to the latter class, to leave it to Congress to qualify the jurisdiction in such manner as public policy might dictate.

Mr. Justice Field further says:

> Many cogent reasons and various considerations of public policy are stated in support of this suggestion. The vital importance of all the cases enumerated in the first class to the national sovereignty is mentioned as a reason which may have warranted the distinction and which would seem to require that they should be vested exclusively in the national courts—a consideration which does not apply, at least with equal force, to cases of the second class.

Mr. Justice Miller seems to take much the same view. (Miller on the Constitution, p. 312 et seq.)

Now, Mr. President, let me repeat, although I have repeated much, how is it possible that the Congress, having conferred jurisdiction in equity upon an inferior court over one of the cases or controversies named in the Constitution, can withhold in that case the judicial power of the Constitution? If it may do so in part, it may do so altogether. If it may prohibit, although necessary to the exercise of the judicial power, the right to issue in a proper case a preliminary injunction, why may it not withhold the power to decree a permanent injunction? Whether when the jurisdiction exists the efficient exercise of the judicial power requires the issue of a preliminary injunction would seem to be a question for the judge—a judicial and not a political question—and if Congress may say that, whatever the showing may be, the court having jurisdiction of the suit shall not, although it be, in the opinion of the court, demanded, issue a preliminary injunction, does not the Congress rather than the court really exercise the judicial power? Is it not a commingling of the legislative with the judicial functions? Is it not an emasculation of the judicial power, and an invasion by one department of the Government of the power of another? If the distinction between the jurisdiction which the Congress may withhold and the exercise of the judicial power where jurisdiction exists is destroyed, and the Congress may regulate by act the exercise of the judicial power itself, is this the Government which the framers of the Constitution intended to create?

Is the judiciary an independent department of the Government, which the Constitution intended it to be? If the power exists in any degree to interfere with the exercise of judicial power, except by regulating procedure and practice, it is for Congress alone to say how far that power shall be exercised. It is inconceivable that the judiciary, whose function under the Constitution it is to see to it, among other things, that the executive department and the legislative department keep within the limitations of the Constitution, overturn acts when, in their judgment, they are violative of the fundamental charter, can be, to the extent involved in the amendment here, subject to Congressional control.

It is the function of the Supreme Court and the inferior courts to secure to the citizens the guaranties of the Constitution of life, liberty, and property. It certainly could not have been in the contemplation of the framers that their power to discharge this function should be exercised in given cases not according to the judgment of the court, but according to the legislative will.

It is said by Mr. Justice Baldwin in ex parte Crane (5 Peters, 190–202):

> Though the courts of the United States are capable of exercising the whole judicial power as conferred by the Constitution, and though Congress *are bound to provide by law for its exercise in all cases to which that judicial power extends*, yet it has not been done, and much of it remains dormant for the want of legislation to enable the courts to exercise it, it having been repeatedly and uniformly decided by this court that legislative provisions are indispensable to give effect to a power to bring into action the constitutional jurisdiction of the supreme and inferior courts.

There is no question about that.

It is said that in the judiciary act there are prohibitions upon the power of the circuit courts of the United States in equity. That is true. There is a prohibition in the judiciary act that the court shall not have jurisdiction where there is a plain and adequate remedy at law. That is declaratory of the law as it was before the adoption of the Constitution. That is one of the fundamental principles of jurisdiction in equity.

Mr. MORGAN. That is the law now, is it not?

Mr. SPOONER. That is the law now.

Mr. MORGAN. Under the Constitution?

Mr. SPOONER. Under the Constitution, and it was the law of the English chancery before the Constitution. Wherever redress could be afforded at the common law those who were wronged were remitted to the common law; wherever the common law would not and could not afford relief, recourse was had to the courts of chancery if the case were such as to render it possible—a splendid system of jurisprudence, Mr. President. If one will read the maxims of equity, he will find that they are golden lines. There will never come a civilization which they will not fit; they seem almost the "perfection of human wisdom," and how splendidly, all in all, they have been administered by the courts of the United States.

The Supreme Court, sitting here at the capital, removed from the passions of the multitude, far above the prejudices excited among the people, however strong the clamor, however unpopular the litigant, however they may be threatened from without, has gone on in that calm, quiet way which the Constitution contemplated in the discharge of judicial duty. It has done more to assert the vital principles of the Constitution and to protect the people of the United States against wrongs existing and wrongs threatened in a large way than all the Congresses that have convened.

Mr. RAYNER. Will the Senator submit to an interruption?

The VICE PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Maryland?

Mr. SPOONER. Certainly; although I know I am making a very disjointed argument.

Mr. RAYNER. It is a highly instructive one to me, but I understand the proposition is that under the Constitution Congress has the right to ordain and establish inferior courts.

Mr. SPOONER. Yes.

Mr. RAYNER. Suppose Congress had never ordained or established any inferior courts?

Mr. SPOONER. Suppose Congress had never established the Supreme Court of the United States.

Mr. RAYNER. No; inferior courts; the Constitution provides for the organization of the Supreme Court. Suppose that Congress—because this is right at the threshold of this inquiry—had never established or ordained an inferior court of the United States, is there any way on earth by which Congress could have been compelled to ordain or establish inferior courts?

Mr. SPOONER. Certainly not.

Mr. RAYNER. Well, now, one moment. There is no power by which you could have compelled Congress to ordain and establish an inferior court?

Mr. SPOONER. No.

Mr. RAYNER. It did establish and ordain inferior courts?

Mr. SPOONER. Yes.

Mr. RAYNER. If there is no way to compel it to establish or ordain an inferior court, why can not Congress destroy an inferior court—abolish an inferior court?

Mr. SPOONER. There are two or three answers to the Senator. There was no way to compel Congress to organize the Supreme Court of the United States. No bill for specific performance would anywhere lie. There was only one power under the bending sky by which that mandatory duty could have been enforced and that is the power in whose interest we are all working here if we are faithful; that is the power of public opinion; that is the power of the people. To have failed to organize it would have been a monumental piece of treason to the Constitution; and it is not to be supposed or imputed to Congress, as the predicate, I beg to say to my friend, of any argument on that subject, it seems to me.

Mr. RAYNER. I am not now speaking of treason or anarchy. I am speaking of constitutional power. I am aware of the fact that if Congress destroyed the courts we would have a condition of anarchy.

Mr. SPOONER. Yes.

Mr. RAYNER. The organization of the Supreme Court is provided for by the Constitution.

Mr. SPOONER. But it required legislation, did it not?

Mr. RAYNER. It required legislation.

Mr. SPOONER. Suppose Congress had not legislated?

Mr. RAYNER (reading)—

The judicial power of the United States shall be vested in one Supreme Court——

Mr. SPOONER. "And"——

Mr. RAYNER. One moment—

and in such inferior courts as the Congress may from time to time ordain and establish.

After vesting the power, the next article provides that—

In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be party, the Supreme Court shall have original jurisdiction.

Here is the Constitution vesting in the Supreme Court original jurisdiction, and it is giving Congress the right to establish and ordain inferior courts. What do you do with the decision which I referred to before here, in which a unanimous court, in construing that provision, says:

It must be admitted that if the Constitution had ordained and established the inferior courts and distributed to them their respective powers, they could not be restricted or divested by Congress. But as it has made no such distribution one of two consequences must result—either that each inferior court created by Congress must exercise all the judicial powers not given to the Supreme Court or that Congress, having the power to establish the courts, must define their respective jurisdictions.

You do not object to my interrupting you?

Mr. SPOONER. No; if it is not too long.

Mr. RAYNER. There are only three or four lines more.

Mr. SPOONER. Go ahead.

Mr. RAYNER. Very well.

The first of these inferences has never been asserted, and could not be defended with any show of reason, and if not, the latter would seem to follow as a necessary consequence. And it would seem to follow also that, having a right to prescribe, Congress may withhold from any court of its creation jurisdiction of any of the enumerated controversies. Courts created by statute can have no jurisdiction but such as the statute confers. No one of them can assert a just claim to jurisdiction exclusively conferred on another or withheld from all.

Mr. SPOONER. I admitted that within fifteen minutes after I began this wearisome address.

Mr. RAYNER. You admitted it?

Mr. SPOONER. I admit it now.

Mr. RAYNER. But your argument is dead against the case.

Mr. SPOONER. That begs the question. My argument is not in the slightest degree, with due deference to my friend from Maryland——

Mr. RAYNER. I beg your pardon.

Mr. SPOONER. Contrary to the decision or its reasoning.

Mr. RAYNER. Now, before the Senator goes to that, let me ask just one question, because it seems to me that the lines of opposition are converging and we want to get to some practical understanding if we can.

I understood you to say, in the course of your argument, that you did not object to a provision in this bill that before the suspending orders are issued, either the Interstate Commerce Commission or the shipper should have some notice of the issuance of the orders. Did I understand you to say that you did not object to that?

Mr. SPOONER. Whether I said it or not, I say it now.

Mr. RAYNER. Then let me say——

Mr. SPOONER. That simply regulates the practice.

Mr. RAYNER. It is a matter which goes right to the heart of the bill.

Mr. SPOONER. Let me answer the Senator's question.

Mr. RAYNER. It is a matter which goes to the heart of the controversy.

Mr. SPOONER. That is an afterthought. The argument that has been made here and splendidly made, which I am attempting to controvert, was not upon the question whether Congress can regulate the practice of issuing injunctions so as to require notice; not at all. The judiciary act did that. It was provided in the judiciary act that no injunction should be issued by a Federal court without reasonable notice. It was provided in 1872 that no injunction should be issued by a Federal judge without notice. But the Federal judge was authorized, where, in his judgment, it was necessary to do justice, at the time of issuing the order to show cause, to grant a restraining order. Nobody disputes that. But it is a far, far cry from that to the proposition that the Congress can prohibit a court of equity, clothed by its legislation with jurisdiction and with the judicial power of the Constitution in equity, from granting a preliminary injunction even with notice. Now, to come back——

Mr. RAYNER. I never made any such argument as that.

Mr. SPOONER. I am not arguing this bill. I am discussing this question. I may be wrong about it. This is what troubles me, however: Does the power exist in Congress to confer jurisdiction upon a court to exercise the judicial power of the Constitution in equity, and at the same time has it the power to chip off the judicial power as it chooses, to give power to a court of equity to entertain a bill for specific performance, and yet deny the court the power to issue the writs essential to carry that jurisdiction into effect?

If the broad claim rather argued by the Senator just now, far beyond this matter of notice, is the law in this country, the people of the United States may well beware, because in the last analysis the protection of the people of the United States in the enjoyment of all the personal guaranties of the Constitution is to be found in the courts of the United States. It is not to be found in the Congress. It is not to be found in the White House. It is to be found in the courts.

The preservation of the Constitution itself is to be found in the courts. The last refuge of liberty, of property rights, large and small is in the judiciary of the United States. If you will draw the distinction between jurisdiction and judicial power, I am content. What does the Senator say about that?

Mr. RAYNER. I say, if the Senator will allow me, that this goes back to the proposition upon which I respectfully agree with the Senator from Wisconsin. If you were to take the words "or be suspended" out of this bill, a court of equity would still have the power to issue a preliminary injunction. That is the statement of the Senator—if those words were out of the bill?

Mr. SPOONER. Yes.

Mr. RAYNER. I think most of us agree with the Senator.

Mr. SPOONER. The courts could do so with them in the bill or out of the bill.

Mr. RAYNER. Why, then, do you put them in the bill?

Mr. SPOONER. I did not put them in the bill.

Mr. RAYNER. Why do you object to taking them out of the bill?

Mr. SPOONER. I do not object.

Mr. RAYNER. Then we are getting very close together.

Let me ask the Senator this: If the words "or be suspended" were taken out of this bill—this is a practical proposition——

Mr. SPOONER. Let us have the question.

Mr. RAYNER. I will get to the question as quickly as I can. The bill reads:

Unless the same shall be suspended or modified or set aside by the Commission or be suspended or set aside by a court of competent jurisdiction.

If the words "or be suspended" were eliminated from the bill, courts of equity would still have a right to issue preliminary injunctions?

Mr. SPOONER. Yes.

Mr. RAYNER. Why did you put them in the bill? That is the question.

Mr. SPOONER. I do not object to striking them out.

Mr. RAYNER. If the Senator does not object to their being stricken out, does the Senator object to adding:

The courts shall not issue preliminary or temporary injunctions without notice to the Interstate Commerce Commission.

Mr. SPOONER. Oh, Mr. President——

Mr. RAYNER. That is the point in controversy. You may call it practice or not; that is, that the inferior courts of the United States shall not issue injunctions against a decision by the Interstate Commerce Commission without giving the Interstate Commerce Commission the right to be heard in answer to the bill for an injunction. You may call it practice or not.

Mr. SPOONER. The Senator can not make any issue with me on that; not at all. His argument the other day, which was quite elaborately based on the words which he recites, was based on nothing if he thinks to-day those words mean nothing whether they are in or taken out. I think they mean nothing in the bill. If they are not in the bill the court would have the power to grant preliminary injunctions. If they are left in the bill, with some other language there, perhaps the court in almost every instance would be obliged to grant a preliminary injunction. I have been in favor of taking them out of the bill. They serve no useful purpose there, it seems to me.

Mr. RAYNER. I agree with you.

Mr. SPOONER. But I have understood Senators on the other side, at any rate the Senator from Texas and some others, not to be content with taking those words out of the bill, but to insist that there shall be put in the bill a provision preventing the granting by interlocutory order of any injunction.

Mr. RAYNER. I understood that fully.

Mr. SPOONER. What is the Senator's opinion about that?

Mr. RAYNER. The Senator's opinion is that you are delivering a very instructive argument upon that proposition, and that there may possibly be some question about it. My argument the other day was based upon the proposition that a suspending order without notice was not a constitutional incident; that to give the court the right to issue a suspending order without notice to the Interstate Commerce Commission was not a constitutional incident under the fifth amendment. I think the lines of opposition are gradually converging on this matter. Would the Senator agree to an amendment here saying that the courts shall issue no suspending order without notice to the Interstate Commerce Commission? That is the point.

Mr. SPOONER. I am not in charge of this bill.

Mr. RAYNER. Would you agree to that?

Mr. SPOONER. I have said that twice. I speak only for myself.

Mr. RAYNER. Then we are getting pretty close together.

Mr. SPOONER. It seems, from the Senator's present statement, that I have been rather close to him all the time. I did not know it.

Mr. RAYNER. I am very glad to have you. You are a very good man to be close to.

Mr. SPOONER. I am obliged to the Senator. But the proposition he is making——

Mr. BACON. Will the Senator from Wisconsin let me ask him a little side question, as it were?

Mr. SPOONER. Certainly.

Mr. BACON. What does the Senator mean—he has repeated it several times and that is the reason why I make the inquiry—when he says Senators "on the other side," referring to this side?

Mr. SPOONER. I understood the Senator from Maryland the other day to speak for Senators on the other side.

Mr. RAYNER. I especially refrained from doing that. I said three times, and if the Senator will be kind enough to read what I said he will find it, that I spoke for no one except myself, and the Senator from Texas also said he spoke for no one but himself. I am in favor of the amendment of the Senator from Texas, and I intend to vote for it if it has no other vote in the Senate. I think there may possibly be some question about the proposition, but I never have thought for a moment that there was any doubt about the proposition that when a rate is fixed by the Interstate Commerce Commission no carrier should have the right to go into court and obtain an order suspending that rate without giving the Interstate Commission notice of its application to the court.

Mr. SPOONER. Mr. President——

Mr. RAYNER. One moment. Speaking now for myself——

The VICE-PRESIDENT. The Chair understood the Senator from Wisconsin to yield to the Senator from Georgia. The Chair recognizes the Senator from Georgia.

Mr. BACON. I wish to apologize to the Senator from Wisconsin for somewhat diverting his attention from the line of his argument. But this is a question upon which, so far as I know, there is not a division on party lines.

Mr. SPOONER. That is true.

Mr. BACON. Therefore I think it is rather inappropriate for the Senator, as he has done several times in his argument, to refer to the position of Senators "on the other side." Some of us have not yet exactly indicated what our position may be on some of these law points, although we heartily favor the bill in its substance.

Mr. SPOONER. I thank the Senator. It is always a great pleasure to me to be able to agree with him, and I do agree with him that it was an inappropriate thing for me to say.

Mr. RAYNER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Maryland?

Mr. SPOONER. Certainly.

Mr. RAYNER. The point is that I think we are closing up a part of the controversy.

Mr. SPOONER. No.

Mr. RAYNER. We are getting pretty close to it on suspending orders.

Mr. SPOONER. No; we are not.

Mr. RAYNER. You and I are.

Mr. SPOONER. No; you and I are not.

Mr. RAYNER. Why not?

Mr. SPOONER. Because you will vote for a proposition prohibiting the court from granting an interlocutory injunction.

Mr. RAYNER. I will.

Mr. SPOONER. I will not.

Mr. RAYNER. If that is defeated, and if the Senator will offer an amendment that the Commission shall have notice before the granting of an interlocutory injunction, I will vote for the amendment. I will vote for the amendment if you will give the Commission a right to be heard and not go with your orders before a Federal judge and have the rate enjoined without notice.

Mr. SPOONER. It would be as much the Senator's rate as mine.

Mr. RAYNER. How?

Mr. SPOONER. You said "your orders."

Mr. RAYNER. I am talking about the orders of the Commission.

Mr. SPOONER. I understand the position of the Senator from Maryland, and in order that there may be no mistake about it I will restate it. He is in favor of an amendment prohibiting, no matter what the bill may show, no matter what the exhibit may show, the granting of an interlocutory injunction by the circuit courts of the United States to suspend, pending hearing of all parties, the order. I am not, for I believe it would make the bill unconstitutional.

The Senator, secondly, is in favor, if he can not get that, of prohibiting the issue of an injunction without notice to the Interstate Commerce Commission. I am not in the slightest opposed to that. So that so far as the Senator and I are concerned we understand each other at last. The amendment, or the only part which I am discussing, is this:

Provided, That no rate or charge, regulation or practice prescribed by the Commission shall be set aside or suspended by any preliminary or interlocutory decree or order of the court.

Mr. TILLMAN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from South Carolina?

Mr. SPOONER. Certainly.

Mr. TILLMAN. As I said the other day in making a report on this bill, I spoke for no one but myself. Unfortunately, I am not in a position to confer with the majority of the Committee on Interstate Commerce and get a united opinion of such majority to represent that committee in indicating what its wishes are. Therefore, I again speak only for myself when I say, without any pretense of knowing anything about the law or these constitutional refinements, that if the Supreme Court shall hold that Congress has no power to control these courts which it has created, in an attempt to give the people the relief which is sought in regard to railroad rates and other regulations of railroads, I believe the people will send to Congress men who

will give them relief, if they have to do it in the way that Congress once before notified the court, by reason of public opinion, that the legal-tender acts, which had been declared unconstitutional, had to be declared constitutional, and the court was reformed in some way so that it discovered that they were constitutional.

I predict that sooner or later these refinements will all be brushed aside by a Congress which will enact a law prohibiting any inferior judge from suspending the order of the Commission which has given the people relief.

Mr. SPOONER. I never derive very much information or benefit from the advice of a man who prefaces his remarks by saying that he does not know anything about the subject.

The Senator from South Carolina is an honest man. He wants the right thing done about this bill. He wants it, when it passes the Senate, to be a constitutional bill. He does not want it emasculated. Neither do I. He does not want it to contain a taint which would make it a failure after it is enacted. But the Senator must not assume that he is more patriotic than the rest of us. He must not assume that those of us who have spent our lives in the study of the law are not better advised than those who have not as to what is safely and what is not safely within the Constitution. The Senator said the other day that he is a "cornfield" lawyer.

Mr. TILLMAN. I repeat it.

Mr. SPOONER. I have had many "cornfield" lawyers come to me and pay me, to get the opinion and advice of a lawyer who had studied and practiced the law.

Mr. TILLMAN. Nevertheless the Senator can not refine away this cornfield common sense, that whatever you can create you can control.

Mr. SPOONER. There it is—"cornfield common sense." If the Supreme Court of the United States does not square its decisions with the cornfield common sense of the Senator from South Carolina, he would reform the Supreme Court of the United States; and if the Supreme Court of the United States did square its decisions with some of the cornfield common sense of the Senator from South Carolina, the people of the United States would need to reform the court.

Now, what does the Senator mean? We want the same thing that the Senator wants. Does not the Senator believe—perhaps he would call that a refinement—that the dropping out of the present law of the jury trial provided for by the Constitution, helps this bill any?

Mr. TILLMAN. No; I want it put back.

Mr. SPOONER. Did you learn that in the cornfield——

Mr. TILLMAN. Yes.

Mr. SPOONER. Or from lawyers?

Mr. TILLMAN. I got it from my little knowledge of English jurisprudence and American liberty which I inherited with my mother's milk.

Mr. SPOONER. All right.

Mr. TELLER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Colorado?

Mr. SPOONER. Certainly.

Mr. TELLER. The Senator from Wisconsin can not conclude to-night.

Mr. SPOONER. I only want to say this——

Mr. TELLER. I thought perhaps he would like to quit now and resume in the morning. We want him to go on and finish his speech—everybody does—and I know there are several points on which he can not touch to-night, and I think he intends to touch upon them. Otherwise he would not do justice to the case.

Mr. SPOONER. I have not done justice to the case.

Mr. TELLER. So far as you have gone we do not find any fault. I should like to give the Senator an opportunity to postpone his remarks until to-morrow, if he wants it.

Mr. SPOONER. I hope the Senator from South Carolina will acquit me of any purpose to offend him.

Mr. TILLMAN. I have never found the Senator to be malicious.

Mr. SPOONER. The Senator will permit me. I appreciate his ability and aptitude for the discharge of public duty here, his patriotism, his industry. I appreciate his friendship. I would not want it if I did not appreciate him as an honest man. But the Senator from South Carolina is a little apt, without knowing it, by innuendo to impugn the good faith of men who believe in him and who are as faithful to the public service as he can be. The Senator ought not, because I am dealing with a question of great importance and dealing with a question of constitutional law, to assume, as he seems to do, that this is simply the legal refinement of the lawyer. Does the Senator think for one moment that we are not trying here to make a good bill of this?

Mr. TILLMAN. I have not said so.

Mr. SPOONER. Does the Senator think that those of us who as lawyers have studied this bill are not doing it as a matter of public duty to help the people in this legislation?

Mr. TILLMAN. I have not said so.

Mr. SPOONER. The Senator from South Carolina would not, if it were left to him, want to have the responsibility of this bill as it came from the House?

Mr. TILLMAN. No; I never would have put in it a third that there is in it.

Mr. SPOONER. The Senator would have left some things out of it that ought to be in it, as the House left some things out of it that ought to be in it; and the Senator may very well be glad, on this complicated and intricate subject, to have the advice and assistance of the lawyers of this body, a class of men a part of whose habit of life it is to be loyal in the discharge of duty to a client, if it be a client; to the people, if they are in the public service.

Mr. TILLMAN. The Senator from Wisconsin does me wrong when he imagines for a moment that I assume that I am any better than any other Senator here in my devotion to the people. I do not claim that. I do not pretend any such thing.

Mr. SPOONER. I know in your sober moments you do not.

Mr. TILLMAN. I am as sober now as I ever was in my life. The Senator has not made me as drunk to-day as he usually does.

Mr. SPOONER. The other day the Senator from South Carolina challenged the Senator from Pennsylvania.

Mr. TILLMAN. On what point?

Mr. SPOONER. As being an attorney for the Pennsylvania Railroad——

Mr. TILLMAN. I had every reason to believe it, because it had been sent broadcast by the Associated Press and all the newspapers.

Mr. SPOONER. As being a man with whom the President could not safely advise on matters of this kind.

Mr. TILLMAN. I say I had seen it. I do not want to have anything to say in regard to the Senator from Pennsylvania, but if the Senator from Wisconsin wants to challenge me——

Mr. SPOONER. No.

Mr. TILLMAN. I will bring out the evidence upon which I based that statement.

Mr. SPOONER. I do not challenge, but the Senator ought to know that he is not to take everything for granted. I have seen things in the newspapers about the Senator from South Carolina. Does the Senator think I would believe them?

Mr. TILLMAN. I did not say I believed these other reports.

Mr. SPOONER. Does the Senator think I would tell them in public as statements which I believe? Not at all.

Mr. TILLMAN. I simply stated about the Senator from Pennsylvania what has been common property to every man who reads newspapers in the United States, and I said it right here where he could hear it.

Mr. SPOONER. The Senator from Pennsylvania—and that is the wickedness of this whirlwind of detraction—a great lawyer, opposed for confirmation (so long ago I dare say it now) upon the theory that he had been in the employ of corporations, has done more, and did do more during his tenure of the Attorney-General's Office to enforce the antitrust law and to carry to successful decision in the highest courts the laws enacted by Congress to protect the people against unlawful combinations than all the men who have been in the Attorney-General's Office for twenty years. I say that without reflection upon his predecessors.

Mr. TILLMAN. Do not let us go off on the Senator from Pennsylvania. I do not want to drag him in.

Mr. SPOONER. It is the principle of the thing.

Mr. TILLMAN. And the Senator brings it up, too, in an unpleasant connection. Why do you not go back to this proposition of cornfield law that the courts of the United States, except the Supreme Court, being statutory courts created by Congress, can be controlled by Congress?

Mr. SPOONER. What does the Senator mean by "control?"

Mr. TILLMAN. Anything; "control" means everything.

Mr. SPOONER. That is the control the Senator would have Congress exercise over the courts. The Senator from Maryland says, sotto voce, "to destroy." The Senator from Maryland is an orator and a lawyer of extraordinary ability——

Mr. TILLMAN. Yes; and you two great lawyers are right here pulling wool over these little technicalities, and when I give you the law you will not take it. [Laughter.]

Mr. SPOONER. When the Senator from Maryland and I are

in conflict on legal propositions it is the place of a cornfield lawyer to keep out of the controversy. [Laughter.]

Now, the Senator from Maryland said it could destroy. Does the Senator from Maryland mean that? Does the Senator from Maryland mean that under the Constitution Congress may pass a law destroying the circuit courts of the United States and the district courts of the United States, putting no inferior tribunal or tribunals in their place in which shall be vested the judicial power of the Constitution?

Mr. RAYNER. I will answer, if the Senator will allow me.

Mr. SPOONER. Does the Senator mean that?

Mr. RAYNER. If you pass a law here and have no court to review the decision, so that you can not execute the fifth amendment, that law would be void. That is an answer to the question. The law itself would be void. For instance, if there is no court now in existence with any right to review the order of the Interstate Commerce Commission under the Hepburn bill, then the very law proposed to be passed here would, under the Minnesota case, be void. I agree with the Senator upon that proposition.

Mr. SPOONER. Does the Senator think that Congress has the constitutional power to obliterate all the inferior courts of the United States by a valid act which does not itself substitute some inferior tribunal in their place?

Mr. RAYNER. I believe that if Congress were to-day to abolish either the district courts or circuit courts——

Mr. SPOONER. Either of them?

Mr. RAYNER. Allow me to finish my answer. If Congress to-day should pass an act abolishing the circuit courts or the district courts either, while that act might be anarchy, there is nothing unconstitutional about it, and nothing the Senator from Wisconsin has said has satisfied me that there would be anything unconstitutional about it. We are not discussing anarchy and we are not discussing treason. I say if there were a law here now before us abolishing the district courts of the United States, there would be nothing unconstitutional in that act.

Mr. SPOONER. The Senator from Maryland concedes my contention. He answered my question as I expected a lawyer like him to answer it. He dared not, as a lawyer, answer it affirmatively, and he did not. He would not here say that it is in the constitutional power of Congress to obliterate the inferior courts of the United States, the courts of equity, the courts of law, the courts in which all offenses against the laws of the United States are tried, the courts, Mr. President, which protect life, liberty, and property under the Constitution, putting none in their place. He would not claim that.

Mr. RAYNER rose.

Mr. SPOONER. Wait a moment. That would be anarchy. That would be hoisting the red flag of revolution.

Mr. RAYNER. I admit all that.

Mr. SPOONER. That would be Jacobinism.

Mr. RAYNER. I admit that.

Mr. SPOONER. That would be treason to the Constitution. The Senator would not say Congress could do that. But the Senator did say that the Congress could obliterate the *district courts* of the United States *or* the circuit courts of the United States. Probably so; but that is not all. That would leave the great equity tribunal on the one hand or it would leave the great law tribunal on the other.

But I want to say to the Senator, as he has met me half way, he ought to qualify his proposition and say that the Congress could wipe out the district court or the circuit court if by the same act it clothed the survivor with the law power and the equity power of the Constitution, as the case might be.

Judge Story was not wrong. The mandatory language of the Constitution, that the judicial power of the United States, in law and equity, "shall be vested in one Supreme Court *and* in such inferior courts as the Congress may from time to time ordain and establish," meant something. Out of the exercise of that power, or the execution of it, came the judiciary act, drawn by Oliver Ellsworth in the main, a very important man in the Constitutional Convention, afterwards Chief Justice of the Supreme Court of the United States, and from that day to this, Mr. President, for over a hundred years, we have had the circuit courts and the district courts created by the Congress under the Constitution exercising these functions, and never until now——

Mr. RAYNER. Mr. President, the Supreme Court has said three times that we had absolute control over the inferior courts of the United States, in the case in 8 Howard, another case in 18 Wallace, and the case in 147 U. S., and from that proposition and these premises they have argued the right to regulate them. Now, I do not pretend to say that it would not be anarchy, and chaos, and Jacobinism to abolish them, but the constitutional right of Congress to destroy what the Constitution has given it the right to ordain and establish is unquestionable in my mind. States can destroy the courts, if they want to. Suppose a State should fail to provide by statute for the crime of murder or any other crime; what would that be? Would that be unconstitutional? It would be anarchy; it would be chaos; it would be Jacobinism, or anything else you may call it; but we are arguing now the constitutional question whether Congress, having the right to ordain and establish, has not the right to destroy. The Constitution gives it the right to ordain and establish. It never would destroy our judicial system; there is not the remotest danger of doing it; the question is utterly impractical and a visonary question, but that it has the constitutional right to do it I never heard questioned by anyone except the Senator from Wisconsin.

Mr. SPOONER. The argument of the Senator is, on the assumption Congress has the power to destroy these courts, substituting none other for them, that Congress has the power, the courts remaining as they are, clothed with the jurisdiction in equity and law, to emasculate that jurisdiction in special cases. That is the argument. The greater includes the lesser. The predicate in the last analysis upon which the contention rests that Congress may take away from a court of equity the power to grant an interlocutory injunction is the power of Congress to revolutionize the country, to destroy these courts.

Mr. RAYNER. Let me say a word to the Senator before he closes.

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Maryland?

Mr. SPOONER. I yield.

Mr. RAYNER. There has not been one word said upon this side—I will speak of this side now—in opposition to giving the courts a full review over the decision of the Interstate Commerce Commission.

Mr. SPOONER. I am not talking about that.

Mr. RAYNER. But the Senator's argument tends in the direction that we here were willing to destroy the inferior courts of the United States.

Mr. SPOONER. I am not talking about that, nor do I think it of anyone here.

Mr. RAYNER. The amendment of the Senator from Texas [Mr. BAILEY] proposed the proposition to give the courts a full review—to let the case go up to the courts and give them the right to try the case over again—and the controversy between us was whether or not suspending orders ought to be issued without limitation, without qualification, and without giving notice to the Interstate Commerce Commission of the issue.

Mr. SPOONER. The Senator is making the same observations he has made several times this afternoon. They mean now what they did on each occasion, nothing more and nothing less. I am not discussing this bill, nor whether it is necessary to its constitutionality that there be incorporated in it a provision for a review. I think it is necessary; but I am not discussing that. I am discussing simply the validity of a proposition which has been offered and which I read for myself, and which I think is as I read it. That is what I am discussing, and not the question to which the Senator alludes.

Now, Mr. President, I have spoken under some embarrassment. I will be glad if I may be permitted to conclude in the morning.

Mr. TELLER. I am glad the Senator from Wisconsin will go on to-morrow. The Senator says he has spoken under some embarrassment. I think it is pretty difficult for a man to make a legal argument when he does not occupy the floor more than half the time. There are some points that some of us lawyers in this body would like to hear the Senator upon. I should hope that to-morrow when the Senator takes the floor Senators who may not agree with him will wait until he has a fair opportunity to present his views of the law. There are several points in the bill that any lawyer who has read it must have trouble with. As has been said, it is not a political question. It is an economical question, a question that the people are concerned in and that the property of the country is concerned in. I think we should give the Senator a fair opportunity to present his case, and if anyone wants to challenge it he should challenge it later.

I have heard the Senator say that he thought there are some unconstitutional provisions in the bill. That is what I want to hear him address himself to to-morrow.

Mr. SPOONER. I have been in the habit generally of outlining my own observations.

Mr. TELLER. Yes; I expect the Senator to do that.

Mr. SPOONER. I intend later to discuss the bill, but I have not intended to do so to-day. I do not object to interruptions. I came here ill, and that is what I referred to as an embarrassment.

Mr. RAYNER. I was interrupted a number of times myself.

Mr. SPOONER. I do not object to that at all. I intend to confine myself to a discussion of this one proposition. I wish to discuss the proposition to-morrow that, admitting, for the purposes of the argument, the power of Congress generally to deprive the circuit courts of the United States of the power to grant interlocutory injunctions, to do it in this bill would be upon grounds peculiar to itself unconstitutional.

Mr. TELLER. Of course, I did not intend to intimate that I was going to direct the Senator.

Mr. SPOONER. I know that.

Mr. TELLER. But, knowing something of his views, I want to hear him on two or three other points in the bill. I have an inquiring mind on those questions; and I should like to hear some man upon them who is a recognized authority, as is the Senator from Wisconsin. I should like to hear him discuss those questions.

I do not mean to say that I agree with everything the Senator said here to-day, but I have felt inclined to let him complete his remarks, and if I had any difference of opinion with him I would express it on another day. I know it is not quite easy for a Senator to lay out a plan for the discussion of a legal question and then be diverted by questions that sometimes are not strictly appropriate and proper to what he is discussing. That is what I meant to suggest to the Senator. I meant nothing else.

Mr. SPOONER. I am certain of that.

Mr. SCOTT. Mr. President, there are many of us who are not constitutional lawyers, and not even "cornfield" lawyers, and we would really be glad to listen to the Senator from Wisconsin or any other Senator on constitutional questions and on law with the hope that he may enlighten us so that we can vote intelligently upon the bill that is before us.

EXECUTIVE SESSION.

Mr. ALLISON. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were reopened, and (at 5 o'clock p. m.) the Senate adjourned until to-morrow, Friday, March 23, 1906, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate, March 22, 1906.

APPOINTMENTS, BY TRANSFER, IN THE ARMY.

First Lieut. Wallace M. Craigie, Seventh Infantry, from the Infantry Arm to the Cavalry Arm, with rank from February 2, 1901.

First Lieut. Russell T. Hazzard, First Cavalry, from the Cavalry Arm to the Infantry Arm, with rank from February 2, 1901.

CONFIRMATIONS.

Executive nominations confirmed by the Senate March 22, 1906.

AMBASSADOR.

Charles S. Francis, of New York, to be ambassador extraordinary and plenipotentiary of the United States to Austria-Hungary.

POSTMASTERS.

GEORGIA.

John B. Dunagan to be postmaster at Jefferson, in the county of Jackson and State of Georgia.

Benjamin A. Lifsey to be postmaster at Barnesville, in the county of Pike and State of Georgia.

S. T. Nance to be postmaster at Arlington, in the county of Calhoun and State of Georgia.

Joel F. Thornton to be postmaster at Greensboro, in the county of Greene and State of Georgia.

INDIANA.

John W. Henderson to be postmaster at Greenwood, in the county of Johnson and State of Indiana.

Albert H. Leist to be postmaster at Michigan City, in the county of La Porte and State of Indiana.

Joseph H. Miller to be postmaster at Syracuse, in the county of Kosciusko and State of Indiana.

INDIAN TERRITORY.

John K. Hannah to be postmaster at Sallisaw, in District Eleven, Ind. T.

KENTUCKY.

Arthur M. Hughes to be postmaster at Louisa, in the county of Lawrence and State of Kentucky.

NEW YORK.

Frank I. Hadaway to be postmaster at Montgomery, in the county of Orange and State of New York.

Egbert L. Hodskin to be postmaster at Fairport, in the county of Monroe and State of New York.

Stott Mills to be postmaster at Warwick, in the county of Orange and State of New York.

OKLAHOMA.

William E. Johnston to be postmaster at Tecumseh, in the county of Pottawatomie and Territory of Oklahoma.

PENNSYLVANIA.

Clark Collins to be postmaster at Connellsville, in the county of Fayette and State of Pennsylvania.

S. Clay Miller to be postmaster at Lancaster, in the county of Lancaster and State of Pennsylvania.

Nathan Tanner to be postmaster at Lansford, in the county of Carbon and State of Pennsylvania.

Frederick W. Ulrich to be postmaster at South Bethlehem, in the county of Northampton and State of Pennsylvania.

WEST VIRGINIA.

Richard A. Hall to be postmaster at Weston, in the county of Lewis and State of West Virginia.

Alonzo E. Linch to be postmaster at Moundsville, in the county of Marshall and State of West Virginia.

HOUSE OF REPRESENTATIVES.

THURSDAY, *March 22, 1906.*

The House met at 12 o'clock m.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of yesterday's proceedings was read and approved.

STATEHOOD BILL.

Mr. DALZELL. Mr. Speaker, I submit the following privileged report from the Committee on Rules.

The SPEAKER. The gentleman from Pennsylvania makes the following privileged report from the Committee on Rules, which the Clerk will read.

The Clerk read as follows:

The Committee on Rules, to whom was referred the resolution of the House (No. 369), have had the same under consideration, and respectfully report the following in lieu thereof:

"*Resolved*, That the bill (H. R. 12707) entitled 'An act to enable the people of Oklahoma and of the Indian Territory to form a constitution and State government and be admitted into the Union on an equal footing with the original States; and to enable the people of New Mexico and of Arizona to form a constitution and State government and be admitted into the Union on an equal footing with the original States,' be, and hereby is, taken from the Speaker's table, with the Senate amendments thereto, to the end that the said amendments be, and hereby are, disagreed to; and a conference be, and hereby is, asked with the Senate on the disagreeing votes on the said amendments, and the Speaker shall immediately appoint the conferees."

Mr. DALZELL. Mr. Speaker, I move the adoption of the report, and on that I ask the previous question.

The SPEAKER. The gentleman from Pennsylvania moves the adoption of the resolution and demands the previous question.

The question was taken on ordering the previous question; and the Speaker announced that the ayes seemed to have it.

Mr. WILLIAMS. Division, Mr. Speaker.

The House divided; and there were—ayes 149, noes 124.

Mr. WILLIAMS. Let us have the yeas and nays, Mr. Speaker.

The yeas and nays were ordered.

The question was taken; and there were—yeas 173, nays 153, answered "present" 5, not voting 52, as follows:

YEAS—173.

Acheson	Burton, Ohio	Dawson	Gaines, W. Va.
Adams, Pa.	Butler, Pa.	Deemer	Gardner, N. J.
Allen, Me.	Calder	Denby	Gilbert, Ind.
Allen, N. J.	Campbell, Kans.	Dickson, Ill.	Gillett, Mass.
Andrus	Capron	Dixon, Mont.	Graff
Barchfeld	Cassel	Dovener	Graham
Bates	Chaney	Draper	Greene
Bennet, N. Y.	Chapman	Dresser	Grosvenor
Birdsall	Cocks	Driscoll	Hamilton
Bishop	Cole	Dunwell	Haskins
Boutell	Conner	Dwight	Haugen
Bowersock	Cooper, Pa.	Edwards	Hedge
Bradley	Cooper, Wis.	Ellis	Henry, Conn.
Brick	Cousins	Fassett	Hepburn
Brownlow	Crumpacker	Flack	Higgins
Buckman	Currier	Fletcher	Hill, Conn.
Burke, Pa.	Curtis	Foss	Hinshaw
Burke, S. Dak.	Dalzell	Foster, Ind.	Hoar
Burleigh	Davis, Minn.	Foster, Vt.	Hogg
Burton, Del.	Dawes	Fowler	Howell, N. J.

	McCall	Perkins	Stafford
	McCarthy	Pollard	Steenerson
	McCleary, Minn.	Powers	Sterling
	McGavin	Prince	Stevens, Minn.
	McKinley, Ill.	Reynolds	Sulloway
	McKinney	Rhodes	Tawney
	Madden	Rives	Taylor, Ohio
	Mahon	Roberts	Tirrell
	Mann	Rodenberg	Townsend
	Michalek	Samuel	Van Winkle
	Miller	Schneebeli	Volstead
	Moon, Pa.	Scroggy	Vreeland
	Morrell	Shartel	Waldo
	Mouser	Sherman	Wanger
	Murdock	Sibley	Watson
	Norris	Slemp	Weeks
	Olcott	Smith, Iowa	Wharton
	Olmsted	Smith, Samuel W.	Wiley, N. J.
	Overstreet	Smith, Pa.	Wilson
	Palmer	Smyser	Wood, N. J.
	Parker	Snapp	The Speaker
	Parsons	Southard	
	Payne	Southwick	
	Pearre	Sperry	

NAYS—153.

	Gaines, Tenn.	Lee	Rucker
	Garner	Legare	Ruppert
	Garrett	Lester	Russell
	Gilbert, Ky.	Lever	Ryan
	Gill	Lewis	Shackleford
	Gillespie	Lindsay	Sheppard
	Gillett, Cal.	Livingston	Sherley
	Glass	Lloyd	Sims
	Goebel	McCreary, Pa.	Slayden
	Goulden	McKinlay, Cal.	Smith, Cal.
	Granger	McLachlan	Smith, Ky.
	Gregg	McLain	Smith, Md.
	Gronna	McMorran	Smith, Tex.
	Gudger	Macon	Sparkman
	Hardwick	Marshall	Spight
	Hay	Maynard	Stanley
	Hayes	Meyer	Stephens, Tex.
	Hearst	Minor	Sullivan, Mass.
	Henry, Tex.	Mondell	Sulzer
	Hermann	Moon, Tenn.	Talbott
	Hill, Miss.	Moore	Taylor, Ala.
	Hopkins	Mudd	Thomas, N. C.
	Houston	Murphy	Towne
	Howard	Needham	Tyndall
	Howell, Utah	Otjen	Underwood
	Humphrey, Wash.	Padgett	Wachter
	Humphreys, Miss.	Page	Wallace
	Hunt	Patterson, N. C.	Watkins
	James	Patterson, S. C.	Webb
	Johnson	Pou	Weisse
	Jones, Va.	Pujo	Welborn
	Jones, Wash.	Rainey	Wiley, Ala.
	Kelliher	Randell, Tex.	Williams
	Kennedy, Ohio	Reeder	Wood, Mo.
	Kitchin, Claude	Reid	Woodyard
	Kitchin, Wm. W.	Rhinock	Young
	Kline	Rixey	
	Knowland	Robertson, La.	
	Lamar	Robinson, Ark.	

ANSWERED "PRESENT"—5.

	Dixon, Ind.	Richardson, Ala.	Richardson, Ky.

NOT VOTING—52.

	Darragh	Hull	Small
	Fordney	Kahn	Smith, Ill.
	Fuller	Lamb	Smith, Wm. Alden
	Garber	Landis, Frederick	Southall
	Gardner, Mass.	Little	Sullivan, N. Y.
	Gardner, Mich.	Loudenslager	Thomas, Ohio
	Goldfogle	McDermott	Trimble
	Griggs	McNary	Van Duzer
	Hale	Martin	Wadsworth
	Heflin	Nevin	Webber
	Hitt	Patterson, Tenn.	Weems
	Holliday	Ransdell, La.	Williamson
	Hubbard	Scott	Zenor

So the previous question was ordered.

The Clerk announced the following pairs:

For the session:

Mr. LOUDENSLAGER with Mr. RICHARDSON of Alabama.

Until further notice:

Mr. BARTHOLDT with Mr. HEFLIN.

Mr. HITT with Mr. LITTLE.

Mr. CAMPBELL of Ohio with Mr. SOUTHALL.

Mr. FREDERICK LANDIS of Indiana with Mr. DIXON of Indiana.

Mr. WADSWORTH with Mr. BANKHEAD.

Mr. HOLLIDAY with Mr. BUTLER of Tennessee.

Mr. DALE with Mr. BOWIE.

Mr. CROMER with Mr. ZENOR.

Mr. BENNETT of Kentucky with Mr. RICHARDSON of Kentucky.

Mr. ALEXANDER with Mr. CLAYTON of Alabama.

Mr. HUBBARD with Mr. BRUNDIDGE.

For the day:

Mr. WM. ALDEN SMITH with Mr. SULLIVAN of New York.

Mr. GARDNER of Michigan with Mr. GARBER.

Mr. HALE with Mr. MCDERMOTT.

Mr. GARDNER of Massachusetts with Mr. CLARK of Florida.

Mr. NEVIN with Mr. GOLDFOGLE.

Mr. MARTIN with Mr. LAMB.

Mr. SCOTT with Mr. MCNARY.

Mr. SMITH of Illinois with Mr. RANSDELL of Louisiana.

Mr. WEEMS with Mr. VAN DUZER.

For the statehood bill:

Mr. FULLER with Mr. TRIMBLE.

Mr. AMES with Mr. KAHN.

Mr. BLACKBURN with Mr. THOMAS of Ohio.

For the vote:

Mr. BINGHAM with Mr. GRIGGS.

Mr. HULL with Mr. SMALL.

The result of the vote was announced as above recorded.

The SPEAKER. The gentleman from Pennsylvania [Mr. DALZELL] is entitled to twenty minutes, and the gentleman from Mississippi [Mr. WILLIAMS] is entitled to twenty minutes.

Mr. DALZELL. Mr. Speaker, as is well known, the House at this session of Congress passed a bill admitting to statehood Oklahoma and Indian Territory as one State, and Arizona and New Mexico as another State; two States out of the four Territories. That bill went to the Senate, and came back to the House with sundry amendments, forty in all. Two of those amendments were important ones. One of them eliminated from the bill the provision for the admission of Arizona and New Mexico, the other substituted for the House appropriation of certain lands a different appropriation. As a result, under the rules of the House, the bill would require consideration in Committee of the Whole. Under our practice, therefore, it went at once to the Speaker's table, and from the Speaker's table it would have gone by reference to the Committee on Territories had it not been for an agreement between the parties representing the opposing interests, that it should remain on the Speaker's table. It is now on the Speaker's table, and it can be taken therefrom only in one of three ways: Either, first, by unanimous consent, which of course in this instance can not be had; or, second, by reference to the Committee on Territories; or, third, by a special rule.

If the bill came from the Speaker's table by unanimous consent or by a reference to the Committee on Territories and its subsequent report it would require consideration in the Committee of the Whole. It would require, in other words, the consideration of forty amendments, and the bill would be upon the Calendar without any special privilege whereby it could be reached. It is manifest, therefore, that if we are to have speedy legislation and an adjustment of the differences between the two Houses, the bill must be at once sent to conference, and that is the purpose of the rule that I have introduced. If it be adopted the bill will be taken from the Speaker's table, Senate amendments will be disagreed to, and a conference asked. If the resolution be not adopted the bill will remain on the Speaker's table, subject to be referred to the Committee on Territories by the Speaker, to remain there until that committee shall see fit to report it back to the House.

Mr. Speaker, having explained the parliamentary situation, I reserve the balance of my time.

The SPEAKER. The gentleman from Pennsylvania reserves the balance of his time.

Mr. WILLIAMS. Mr. Speaker, this rule presents to the House a plain proposition. Whoever votes "aye"—that is, to adopt the rule—votes to cut off and vote down any motion to concur in any Senate amendment which would otherwise, under the rules of the House, have precedence. Mr. Speaker, the usual course of procedure this morning ought have been reversed. We ought to have had, first, the reading and approval of the Journal, and then the moving of the previous question upon this rule, and then an invocation by the Chaplain for the mercy of God upon this Republican House. [Applause and laughter.] In my opinion, they will need it before they get through monkeying with this proposition. I ask those of you who are going to vote for this rule, What is your object in doing it? Why will you cast the vote? What is the object of the leading coterie of the House? Is it to yield later and admit Oklahoma as a State in the Union, as is being bruited as an inducement for your support? My friends, those of you who believe that had best remember the old adage and "fear the Greeks who are bearing gifts." And if it be true that there is an intention later on to yield and admit Oklahoma, then what infinite foolishness and childishness is all this thundering in the index? If you are ready to force a later yielding, why not force it now and save time?

Mr. Speaker, I shall consume no more time. I have appealed to your side of the House once or twice, and have warned them. "Though one rose from the dead" to warn them again, his voice would fall utterly impressionless at their feet.

Mr. Speaker, I now yield five minutes to the gentleman from Washington [Mr. HUMPHREY].

Mr. HUMPHREY of Washington. Mr. Speaker, no man regrets more than I to be compelled to vote against the majority of his party, even when that majority is wrong. It is useless to discuss the purpose of this rule. It is perfectly apparent it is a part of a prearranged programme. The object of this rule is to coerce the minority on this side of the House to vote against their honest judgment. [Applause.] The purpose of this rule is to compel us to commit an unnatural crime against Arizona in order that we may be just to Oklahoma and the Indian Territory. This rule links the iniquitous with the righteous and demands that we take both or nothing.

The only reply to these statements is that you are an insurgent. That statement commands neither my respect nor my fear. [Applause.] I am comforted with the thought that the regular of to-day is the insurgent of to-morrow. [Applause.] Many of the most illustrious of the majority to-day but yesterday were enrolled among the most uncompromising of insurgents. The history of the world shows that the defeated are the rebels; that the victorious are the patriots. We may be insurgents in this House, we may be in the minority here; but throughout the country we are in the countless majority. [Applause.]

Public sentiment in favor of admitting Oklahoma and the Indian Territory, without regard to New Mexico and Arizona, is making the atmosphere so hot that those who are opposed to it can not long breathe it and live. Mark the prediction! The insurgents of to-day will be the victors of to-morrow. The rebel of his party will be the patriot of his country. There is nothing involved in this matter except the remote contingency of two additional United States Senators, and every man in this House knows that that is the whole truth. The people know it is the truth, and yet the business of this country must be held up and embarrassed while we wrangle about it.

The people are looking on in amazement and disgust. It is our duty to vote down this rule and settle this question here and now. It is our duty to give statehood to the Indian Territory and Oklahoma and leave the destiny of Arizona and New Mexico to the future. A few days ago the illustrious and beloved Speaker of this House said that the world was growing better; that the people of the present were as honest and intelligent as those who had gone before. To that doctrine I unreservedly subscribe. I do not believe that wisdom will perish from the earth with this Congress. For one I am willing to to do our duty now and trust something to the honesty, the wisdom, the justice, and the judgment of those who shall come hereafter. [Applause.]

Mr. WILLIAMS. Mr. Speaker, I now yield three minutes to the gentleman from Missouri [Mr. FULKERSON].

Mr. FULKERSON. Mr. Speaker, having voted against the adoption of the rule which had the twofold effect of cutting off all right of amendment and of preventing a majority of this body from expressing their real sentiments as to the merits or the demerits of the double-barreled proposition involved in the Hamilton bill, and afterwards having cast my vote for the passage of that same bill, a word of explanation for such seemingly contradictory conduct may not be entirely out of order.

I voted against the adoption of that rule for two reasons, either of which, in my judgment, was more than sufficient to justify my course.

First, I deny the right—not the power, however—of this or any other body to so combine two separate, distinct, and entirely independent propositions that a Member can not vote either aye or nay, nor can he refuse to vote and feel that by so doing he has done his whole duty. There was in this instance no reason for so combining the two double-statehood propositions, and no Member on this floor has yet put forth even a fair excuse for so doing. Hence I voted against the adoption of what I consider an unfair and unjust rule.

Second, I am unalterably opposed to the admission of New Mexico and Arizona Territories to statehood, either united or separated. They and each of them are now in the same condition that every other State of the Union has been in at some period of that State's history, save and except the original thirteen States, to which number, for special reasons, might be added the Lone Star State. The Territories of Arizona and New Mexico are not now fitted for statehood, as this body well knows. Then why not allow them to proceed on their weary way in the same manner that other new States have proceeded? Give them time; if it takes ten years, all right; if it takes a hundred years, all right; but give them an opportunity to show themselves worthy and well qualified, and before admitting them at any future time compel them to do so. The majority of this side of the Chamber admit that neither is entitled to statehood alone, but on the theory that two negatives make an affirmative, I suppose, you try to convince yourselves and this House that they should be admitted as a single State. But not so. Two Territories wholly unfitted for statehood can not be combined so as to eliminate all objectionable features and stand, thus united, the perfect example of what a Territory ought to be before the greater estate of statehood is conferred. Numbers alone do not make a State, nor are they the strongest factor in determining the right to statehood. The quality should count for more than the quantity. The immediate future prospects of the proposed State—for wealth, for industry, for intelligence, and for all those many qualities that go to make up a strong and powerful community, a community capable of self-government, with an ever-increasing tendency toward still further cultivation of those capabilities—should all be taken into account. Until any given Territory reaches such a stage of development it should not have the effrontery to come here and ask for statehood, and even if it does we should have the moral courage to refuse to grant such a request. The mere possibility that some future Congress may fall so far short in the performance of its duty as to forget the responsibilities which may rest upon it and in an evil hour do something that might turn out wrong, or perhaps enact a piece of legislation that would prove to be unwise, should not deter us from discharging our obligations, and discharging them now. But why borrow trouble? Let us not cross any bridges until we have at least come in sight of them. "Sufficient unto the day is the evil thereof." For reasons stated I voted against the adoption of the rule.

And then when the original bill came before this House for the first time, I consoled myself with the thought that I had done my level best to prevent that nefarious union—this union that could only result in the birth of twin States, even though the advent of one should be so extremely premature as to entitle its arrival to a more accurate and descriptive appellation—and having done my best in a preventive way, I was next forced to the unpleasant alternative of choosing between two evils—that of denying a positive and altogether too long delayed right of statehood to Indian Territory and Oklahoma, or else force upon Arizona the uninvited embraces of an alien and uncongenial, not to say anything about unlovable, neighbor. All things being equal I would have considered it my duty to vote against the passage of the bill, but there are so many more people to suffer for want of statehood in the first-named Territories than there are now in Arizona to suffer by reason of enforced statehood that I finally chose what I considered the lesser of two evils, and hence voted for the bill.

But to-day we are face to face with a new order of things. "The best laid schemes o' mice and men gang aft a-gley." The bill passed by this House did not receive the enthusiastic approval of the Senate, nor did its terms measure up to the requirements and demands of the people. That measure was not right when it left this body. It has been taken by another body, corrected, perfected, and passed by it, and returned here for our concurrence. The opportunity is now presented to us to correct our former blunder. The case is before us as on a motion for a rehearing—a very fortunate thing for us. It does seem that there is something in that old adage that "God takes care of fools and children," for the error committed by us having been pointed out, it is not yet too late, and indeed the opportunity is now afforded us to make the much needed correction.

Oh, why do you wait, dear brothers?
Oh, why do you tarry so long?

Why not come in out of the brush of error and defeat and do our duty, our whole duty by these people of Oklahoma and Indian Territory, and give them statehood? Let us concur in the Senate amendment, and concur now. To longer delay is only to invite further criticism. Every hour we delay this matter will only add to the humiliation of our past error, the humiliation of continued defeat. We all know down deep in our hearts that the Senate bill, so far as the one State feature is concerned, will become law, or else no statehood at all.

You ask me why the Senate bill will pass or none? I will tell you. Because that body, strange as it may seem to some, is absolutely right on this proposition. They have discussed it, they have deliberated upon it, and they have spoken in no uncertain tones their conclusion. The Senate has the people of this country with them on this proposition, a fact worthy of note and consideration. It has from four to six years of service ahead for two-thirds of its Members, and thus securely intrenched behind all the essential fortifications, why should it yield its present position to an assaulting column unarmed for either offense or defense, and every soldier of our band, including the old General himself, liable to receive his discharge within the next few months.

It is all nonsense to say that the Senate will recede. They will do no such thing. It will be easier and much less expen-

sive to vote to concur in that part of the Senate amendment which strikes out all reference to New Mexico and Arizona that to delay this matter indefinitely and have to include in our expense bill an additional outlay for materials with which to dissolve our irritated and inflamed, if not wounded, pride.

And why should New Mexico and Arizona be united? There is no reason on earth for it. New Mexico alone has 122,460 square miles of land surface. All New England, with her six States and twelve United States Senators, has but 61,973 square miles of land surface. New Mexico and Arizona combined have 235,380 square miles of land surface—more than any other State in the Union, except Texas. California, the second State in size, has 155,980 square miles of land surface, yet with Arizona and New Mexico combined into one State you will have an area in which you can place the entire State of California, the entire New England States, Delaware, and New Jersey; have land enought to make another New Jersey and still have hundreds of square miles left. Oh, I hear some one say that this land out West is sandy and can never be cultivated. But such is not the case. The same argument was made against Kansas and Nebraska. Why, there are men here who have seen the old school geographies, which put that land now known as Kansas and Nebraska down on the map as the Great American Desert. And it was correctly described then, too. But that great Republican measure, introduced and pushed through Congress by the great Morrill, of Vermont, the homestead act, has given an opportunity to American pluck and manhood, and by the force of determination and never lessening industry the American farmer, the American homesteader, has pushed back that waste line of the Great American Desert until to-day it is playing hide and seek among the mountains of the far West. And that same pluck, that same determination, can and will transform those desert places of the far West into fertile fields and blossoming gardens. The United States census shows that Arizona during the last decade more than doubled her population. Oklahoma did even better than that, but no State in the Union did as well. The people of Arizona do not ask for statehood, but they do ask to be let alone. I think we should let them alone. I have faith in Arizona's future. I have faith in New Mexico's future. They can and will be developed into great States with great populations. I am surprised that the majority of my colleagues from Kansas and Nebraska should feel as they do toward these Territories and seek to combine them into one State, and that against their will. What has been done in Kansas and Nebraska can and will be done in Arizona and New Mexico. The latter Territories have this very important advantage, they have mineral wealth untold.

But I am still more surprised when these same Members vote to delay statehood for Oklahoma and Indian Territory. But why dwell longer on this painful subject. You have your minds made up and are determined to delay matters. You say your course will eventually bring in the new State of Oklahoma. I hope you are right in your belief. But I am in favor of bringing it in now. Vote to concur in the Senate amendment above indicated, and the forty-sixth State of the Union can be admitted at once. Add one more star to Uncle Sam's bejeweled headgear, and let it stand for the great and growing Commonwealth of Oklahoma. [Applause.]

Mr. WILLIAMS. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. WILLIAMS. Mr. Speaker, how much time has been consumed by each side?

The SPEAKER. The gentleman from Mississippi has consumed nine minutes, and the gentleman from Pennsylvania three minutes.

Mr. WILLIAMS. Then, Mr. Speaker, I would ask the gentleman from Pennsylvania to consume some of his time.

Mr. DALZELL. Mr. Speaker, I yield three minutes to the gentleman from Vermont [Mr. FOSTER].

Mr. FOSTER of Vermont. Mr. Speaker, every consideration of propriety and orderly procedure requires the adoption of this rule and the reference of this bill to a committee of conference. This bill does not represent any hasty action on the part of the House, or on the part of the majority of the House. The bill was reported by a committee that had carefully considered it. The majority of the House, which is responsible for legislation here, and which never hesitates to assume that responsibility, went into conference to consider what should be done with the bill, and after due consideration it decided that the House ought to pass the bill and send it to the Senate for its concurrence. The House acted upon the recommendation of that majority, and passed the bill and sent it to the Senate for its concurrence. Now, if the Members of the House comprising that Republican majority which passed the bill have any convictions of their own, if they are actuated by what they believe to be for the best interests of this great country, they ought to stand by those convictions and send the bill to conference. They should indicate by their action here that they are not to be turned aside or to be blown down by every breath of hot air that comes to us from the north end of the Capitol. [Applause and laughter.] The bill as it passed the House, embodied the convictions of the majority voting for it upon the question of statehood for Arizona and New Mexico. And nothing has occurred during the few weeks that have elapsed since the bill passed the House to change in any way the question of statehood for those two Territories. The character of the two Territories has not changed in this brief time. Their population has not materially increased. The sands are as parched, the mines as rich, the irrigated patches as green and fertile, as when we voted for double statehood. If, therefore, we who supported the bill a few weeks ago have any self-respect, if we have any regard for the dignity and prestige of the House, we will stand by this resolution and send the bill to conference.

Why, our distinguished friends on the other side, who are urging us now in the most earnest way to back down and concur in the amendment of the Senate cutting out statehood for Arizona and New Mexico, would be standing in their places jeering at us for our lack of stability, for our lack of leadership, for our lack of ability to resist the encroachments of the Senate if we were proposing to yield at this time and agree to the Senate amendment cutting out statehood for those two Territories. We are not determining to-day what will be the fate of the bill. We are deciding to-day that the bill, with the Senate amendments, shall take the usual course—shall be sent to a committee of conference. When that committee reports the House will have an opportunity to determine what its final position upon the propositions involved shall be. Now we are standing for our self-respect. We are standing for the dignity and integrity and prestige of the House. We are standing for the proposition that when, as the representatives of 80,000,000 people, we, after due consideration, deliberately crystallize our convictions and send to the Senate for concurrence a bill embodying those convictions, we are not to be expected to surrender to or adopt the suggestions of that great body until we have had an opportunity to meet it in conference and to satisfy it, if possible, that we, and not it, are right.

It is a matter of history that in the Fifty-seventh Congress the House considered this very matter, and finally sent to the Senate for concurrence a bill creating four States out of these four Territories. You remember what became of that bill. You recall how the Senate so amended it as to provide for the very double statehood for which the House is struggling in its efforts to pass this bill. It is a further matter of history that in the Fifty-eighth Congress the House, after reflecting upon the course taken by the Senate in the preceding Congress, and after many personal interviews with many of the members of the Senate, passed a bill providing for the same double statehood for which the Senate had stood in the preceding Congress. That bill failed to receive the approval of the Senate. But we were assured that the failure was due to accident. Then at the opening of this Fifty-ninth Congress, after listening to the recommendation of President Roosevelt indorsing the double statehood proposition, this bill was passed and sent to the Senate for its concurrence. The propositions involved in this bill, therefore, are not new to the Congress. Each of the coordinate branches of the Congress has expressed its views upon these propositions. Now, let us send the bill to conference. And let us send it with sufficient momentum to impress upon the other coordinate branch of Congress that in passing the bill the House stood for its convictions. [Applause.]

Mr. DALZELL. Mr. Speaker, I yield two minutes to my colleague from Pennsylvania, Mr. SIBLEY.

Mr. SIBLEY. Mr. Speaker, there seems to be from all sections of the country a universal desire that Oklahoma shall receive that to which she is entitled, namely, statehood. There seems to be but one way that Oklahoma can secure statehood and that is by sending this bill to conference. [Applause.] I suppose that there is not a Member here who has not received letters or telegrams urging him in behalf of justice to give Oklahoma statehood. Now, I want to see Oklahoma have statehood, and take the floor simply to say to those people who are sending telegrams to me and to other Members of this body that those telegrams should be directed to the gentlemen sitting at the other end of this Capitol. Let those telegrams go to the Senators. We have passed through this House a measure which gives Oklahoma statehood and which confers upon Arizona and New Mexico statehood. Therefore I am sure that they are wasting their money in telegraphic tolls in asking us to recede. [Applause.]

Mr. WILLIAMS. Mr. Speaker, I now yield three minutes to the gentleman from Wisconsin [Mr. BABCOCK].

Mr. BABCOCK. Mr. Speaker, I propose to vote against this rule, and I do so because it is an innovation on the practices of the House, and intended to prevent this body from expressing itself fully and freely. The usual practice, as we all know, is when a House bill comes back with Senate amendments for the chairman to move concurrence or nonconcurrence. Often many amendments are concurred in and others are nonconcurred in and then a conference is asked for. In this case, Mr. Speaker, the House is denied the privilege of the ordinary motion to concur in the Senate amendments, which would end the whole proposition and admit Oklahoma and Indian Territory. Now, we have had some experience with this same proposition before in sending a bill to a committee of conference. It is a good burying ground. This same bill sent there last Congress never came back. Mr. Speaker, I hope that this bill will appear before this Congress and that this body will have an opportunity to express itself intelligently on these amendments, but I make this prediction now, and I believe that if this rule is adopted it ends the whole proposition and we will not have an opportunity to vote upon it again this session. [Applause.]

Mr. WILLIAMS. Mr. Speaker, I would ask the gentleman from Pennsylvania to consume some of his time.

Mr. DALZELL. I wish the gentleman now to use all of his time, because I prefer to reserve the remainder of mine. I have only twelve minutes.

Mr. WILLIAMS. I will ask the gentleman from Pennsylvania whether he is going to consume all the balance of his time in one speech or not?

Mr. DALZELL. No; I am not.

Mr. WILLIAMS. Then, Mr. Speaker, I submit that the gentleman use some part of his time now.

Mr. DALZELL. Well, I yield five minutes to the gentleman from Ohio [Mr. GROSVENOR].

Mr. GROSVENOR. Mr. Speaker, the dictatorial manner by which the representative of the minority on this floor undertakes to perform upon the discretion of those on this side of the House is significant of the condition we are in. A solid Democratic vote, regardless of every consideration, apparently, undertakes to not only agitate this side of the House, but dictate the time and manner in which we shall present the affirmative of a question with which we are charged and which the other side of the House is charged with no duty except to follow. It is a most remarkable situation. It indicates that arrogant dictatorial spirit that undertakes to misrepresent purposes and disposition. Now, I want to reply to the gentleman from Wisconsin in the speech he made. What warrant has he to impugn the honor and integrity of the majority on this floor? What warrant has he to say that a proposition sent by a majority of this House to a conference is to be buried? Has there been any effort to bury anything during the progress of this contention? The majority of the House of Representatives have been called together time after time and the course of events have been conducted by the will of that majority. The majority has grown in the conference. Conference after conference has been held and the same expression of opinion has been given, and we are standing exactly by the wish of the majority of the House. I do not impugn any man's motive who feels he is bound at this particular moment of time to break asunder from the control of the majority and vote in favor of some amendment—I do not know what—but I do stand for the orderly procedure of this bill. We are doing just exactly what we do under all circumstances almost. There has not been an appropriation bill passed in this House of any considerable importance in years gone by that has not taken exactly the course that this bill is taking now. It is sent to a conference. The Senate has amended their bill. We know nothing about the spirit with which it has been done, but it has made an important amendment to the House bill.

Now, what is this vote? This vote is to say to the Senate, "We desire to consult with you now about what is to be done in regard to these differences of opinion," and that is all there is involved in here. The time may come when more than that will be made an issue upon this particular bill, but at the present time we stand simply in favor of an orderly procedure, as the gentleman from Vermont has very well said. The other side—a dictatorial Democratic side—is that something different and otherwise than the ordinary rules shall be done, because, forsooth, a solid Democratic vote is in favor of it. If the Republican House desire to make themselves felt upon legislation of the Fifty-ninth Congress they will have to stand together and demand recognition at the hand of whoever may contest, but it will be a bad day for Republican domination in this House when the gentleman from Mississippi is allowed to crack his party whip about his own side of the House and then seek to disorganize and break up the Republican side of the House. Nothing is going to be concluded by this vote; the bill is to go to conference. I have yet to have heard before that an important bill was ever smothered in conference, and it would be perfectly fair for the gentleman from Wisconsin, if he knows of any such bill, to tell us when it was and under what circumstances.

Mr. BABCOCK. This very same bill in the last Congress.

Mr. GROSVENOR. Not at all.

Mr. BABCOCK. Was it ever reported back to the House after conference?

Mr. GROSVENOR. Not because of any refusal upon the part of the House to have a report made.

Mr. BABCOCK. It is out of the hands of the House when in conference.

Mr. GROSVENOR. When final disagreement was inevitable and both Houses stood in opposition to each other, as a matter of course there can be no report made. There was no report ready and there could be no report. The gentleman talks about an organized purpose here and makes a prediction. Well, my prediction is that the gentleman is mistaken in his proposition.

Mr. BABCOCK. I do say that the bill in the last Congress went to conference and stayed there.

Mr. DALZELL. I will say to the gentleman from Mississippi that I propose to use my seven minutes after he is through on his side.

Mr. WILLIAMS. Mr. Speaker, that remark is unnecessary. If the gentleman had waited a minute, he could have relied on the gentleman from Mississippi doing what was fair. I yield five minutes to the gentleman from Minnesota.

Mr. BEDE. Mr. Speaker, if there is any gentleman in this Chamber who is opposed to the admission of Oklahoma, I pause here to give him an opportunity to say so now; and if he does not, I will ask him forever after to hold his peace. If we are all in favor of admitting Oklahoma—and you say it is one of the Administration measures—and you have an opportunity to do it now in ten minutes, why do you not get busy and admit Oklahoma, and not hitch it up with some other proposition that is not an Administration measure? [Loud applause.] The President has not asked us to include four Territories in one bill. If we have to hitch up——

Mr. HAMILTON. Will the gentleman allow me to ask him a question?

Mr. BEDE. I will, if the gentleman will take it out of his own time, but I do not yield for the gentleman to take it out of my time.

Mr. HAMILTON. I can not do that.

Mr. BEDE. Hitching up Oklahoma with Arizona and New Mexico is about like the way Noah put the menagerie into the ark when he numbered the animals two by two, the elephant and the kangaroo. [Laughter.] It is about time we get down to business and do things right and legislate on one question at a time. When I think of the proposition of hitching up New Mexico and Arizona I am reminded of the two Mormon boys who went to an eastern State to school. They gave the same family name, and the teacher said, "You are brothers, are you?" and they said, "Yes." They gave their ages the same, and the teacher said, "You are twins, are you?" They said, "Yes; on our father's side." [Laughter.] So Arizona and New Mexico are twins on the father's side. They both came from Mexico, but they had different mothers, and they have learned different languages and have different institutions. It is an insult to both of them to hitch them up together and force them in against their will, and an insult to Oklahoma, with her 2,000,000 population, to hitch her up to these Territories jointly or severally in this bill.

You say we are against the Administration. I am not against the Administration. I am with the Administration on everything except this bill and the wife-beating bill. [Laughter.]

In his message a year ago the President gave eight lines advocating the whipping post for the wife beater, and this year he gave us thirteen lines for the admission of these four Territories. Which is the Administration measure? Some of the leaders induce the President to put in his message a few lines favoring their kind of statehood, and then "point with pride" and cry aloud that we are opposing the Administration if we do not stand for it. On such minor matters I must guide myself.

I like the President. I like him because he is enlisted in a great work; he is in the midst of great deeds; he is intrenched with high resolves—a lofty purpose at every outpost—while his pavilion round about him is a nation's regard.

But I like him best because he permitted a Member of this

House to break into his private home without sounding an alarm. I like him because when he got ready to give his daughter away he gave her to a real American, in every way worthy of the gift, and not to some degenerate prince, unappreciative of our institutions. [Applause.] I like him because when he gave her away he gave her to a Member of the House of action and correction at this end of the Capitol, and not to the House of detention at the other. [Applause.]

But the Senate has acted. It has done what the President urged us to do—to admit Oklahoma and the Indian Territory as one State; and in ten minutes we can make those Territories a State. The question is, Will we do it? Are you willing to do part of what the President recommended, when you know that you can not do all that he recommended? Ah! You throw a lot of criticism at the Senate. I wish to go on record as saying that never in the history of the United States have we had so able a Senate as we have to-day; never. [Applause.]

The SPEAKER. The time of the gentleman from Minnesota has expired.

Mr. WILLIAMS. I yield one minute more to the gentleman.

Mr. BEDE. Mr. Speaker, I have been granted one minute more. They talk about a Senator of the United States holding up the whole country. We have a strong man in the House who can hold up 100,000 square miles more than anybody in the Senate. [Laughter.] This time the Senate has done something, and it has done the right thing. If we are looking for a quarrel with the Senate, let us quarrel with it when the Senate is wrong and we are right. Let us not quarrel with it when we are wrong and it is right. I appeal to every man who stands for justice and fairness to vote against this resolution, and let us get to this business on its merits, which we are refused the opportunity to do under the special rule now offered to the House. [Applause.]

Mr. WILLIAMS. A parliamentary inquiry, Mr. Speaker. How much time has this side left?

The SPEAKER. Three minutes.

Mr. WILLIAMS. I yield those three minutes to the gentleman from Missouri [Mr. DE ARMOND].

Mr. DE ARMOND. Mr. Speaker, in the very short time that I have of course I could not discuss the beauties or the iniquities of this rule. The plain proposition presented to us, and upon which we are to vote, is, Shall we admit Oklahoma and the Indian Territory to statehood, or shall we retire them to the conference committee? There is nobody in this House and nobody in the other House, nobody, so far as I know, in the country, who openly opposes the admission of the Indian Territory and Oklahoma to statehood; but it is very evident that there are a good many here and a good many elsewhere who secretly and hypocritically oppose that admission. There are officeholders down there who are not in favor of statehood. There are persons here and elsewhere who have friends and perhaps relationships closer than friendships down there. There are persons who profit by this chaotic condition which they would perpetuate. There are persons who are making money out of keeping the Indian Territory and Oklahoma in the condition in which they are. The honest citizenship of both Territories is overwhelmingly in favor of admission to statehood. The honest citizenship of the United States is overwhelmingly in favor of admitting those Territories to statehood. Nothing but what you choose to call "politics," nothing that is American, nothing that has reason or right to stand upon, opposes it. A vote for this rule is distinctly, directly, positively, knowingly a vote to keep Oklahoma and the Indian Territory out of the Union. [Applause.] Cast that vote if you please, but in casting it know what you do. Know that others know what you do. [Applause.] A vote against this rule is a vote to submit to this House the question of concurrence to the Senate amendment, the adoption of which by this House will send to the President a bill to admit Oklahoma and the Indian Territory to statehood. Deny by your superior voting power, if you choose, to two millions of American citizens down there, not merely the privilege but the absolute right of admission to statehood; but when you do it, take the responsibility for it. Do not attempt elsewhere, as you seem to be attempting here, to delude anybody into the belief that principle or right or precedents or justice or any other thing that you can stand upon—that can be explained, declared, or defended—can justify your action. [Applause.]

Mr. DALZELL. Mr. Speaker, I listened with a great deal of interest, as the House always does, to the gentleman from Minnesota [Mr. BEDE], and he was very entertaining, as he always is. I listened to the speech of my friend from Missouri [Mr. DE ARMOND], which I have so often heard, as to the iniquities of the rules of this House; but after all it seems to me that the Members of the House want to know just what is involved in this vote, and I propose to tell them in a few moments in a plain, simple way. There is nothing extraordinary involved in this proceeding, either from a parliamentary point of view or from any other point of view. The gentleman from Mississippi [Mr. WILLIAMS] a few days ago put into the RECORD a brief as to the parliamentary situation which entirely misrepresented the parliamentary situation. He cited a precedent established in the Forty-eighth Congress where a bill was taken from the Speaker's table, but taken from the Speaker's table under a rule which prevailed in the Forty-eighth Congress and does not prevail in this Congress. In the Forty-eighth Congress the Speaker's table was one of the calendars of the House and could be approached by a motion as any other calendar could be approached. Under our rules any bill with an amendment calling for an appropriation, unless by unanimous consent, must go to the committee that originated the bill by way of the Speaker's table, so that there is nothing unusual in this situation so far as that is concerned.

The gentleman from Wisconsin [Mr. BABCOCK] says that you are deprived of the right to concur in the Senate amendments. The gentleman from Wisconsin [Mr. BABCOCK], if he knows anything about the rules of this House, knows that no such concurrence is possible or ever was possible save by unanimous consent, and that is absolutely out of the question in the present situation. Now, instead of proceeding in an unusual and extraordinary way, the House is proceeding to-day in a decent and orderly way, following the usual means pursued of bringing together the two Houses to settle their differences.

Mr. BEDE. Mr. Speaker, will the gentleman yield for a question?

The SPEAKER. Does the gentleman yield?

Mr. DALZELL. Yes.

Mr. BEDE. Does the gentleman deny that if the Speaker of the House would give his consent that we could get unanimous consent of the House?

Mr. DALZELL. I think so; yes.

Mr. BEDE. I think not.

Mr. DALZELL. I think the gentleman would not get unanimous consent as long as I had a voice. Now, there is nothing extraordinary in the parliamentary proceeding at all. It is not the advocates of the House measure, but the opponents of the House measure who are seeking to resort to extraordinary tactics. The customary way when the Senate sends a House bill back to the House with disagreement and with amendments thereto is for the House to seek a conference, a full and free conference, with the Senate, and thereby seek an adjustment of the differences. The gentlemen who are opposing the House bill would have us, instead of going to a full and free conference where we might adjust our differences, adopt without further parley the Senate bill as against the House bill. Will anyone show me any good reason why the House should abandon its policy and accept the Senate policy without even the formality of a conference—why we should lower our flag and enlist under the Senate flag? The Senate of the United States is not dealing out any such courtesy to us. There are bills over there on important subjects, sent from the House, that are meeting with scant courtesy. There will be between this and the adjournment of this session many opportunities for negotiation with the Senate upon matters in which the House is interested, and it seems to me becoming in us not to announce in advance a policy of surrender, but to stand by our guns. [Applause.]

Mr. Speaker, let me refer to a few facts. In the Fifty-eighth Congress the Republican House of Representatives passed a bill admitting Oklahoma and Indian Territory as one State and Arizona and New Mexico as another State. The President of the United States, adopting the policy of a Republican House, indorsed that policy and recommended its adoption in his message. The Republican House of the Fifty-ninth Congress, this House, adopted precisely the same measure that was adopted by the Republican House in the last Congress, and the Senate demurs to our policy. What is it now that I am asking you to do? Nothing unusual. I am asking you to stand by the Republican measure of the Fifty-eighth Congress. I am asking you to stand by the indorsement and recommendation of your own Republican President. I am asking you to stand by the policy of the House of this Fifty-ninth Congress. I am asking you to stand by your own personal honor and dignity and the honor and dignity and independence of the House of Representatives intrusted by the people to your keeping. [Applause.]

The SPEAKER. The question is on agreeing to the resolution.

Mr. WILLIAMS. Mr. Speaker, I think we better save the time of the House and have the yeas and nays now. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 175, nays 156, answered "present" 6, not voting 46, as follows:

YEAS—175.

Acheson	Dixon, Mont.	Knopf	Rhodes
Adams, Pa.	Dovener	Lacey	Rives
Allen, Me.	Draper	Lafean	Roberts
Allen, N. J.	Dresser	Landis, Chas. B	Rodenberg
Andrus	Driscoll	Law	Samuel
Barchfeld	Dunwell	Lawrence	Schneebeli
Bates	Dwight	Le Fevre	Scroggy
Bennet, N. Y.	Edwards	Lilley, Conn.	Shartel
Birdsall	Ellis	Lilley, Pa.	Sherman
Bishop	Fassett	Littauer	Sibley
Boutell	Flack	Littlefield	Slemp
Bowersock	Fletcher	Longworth	Smith, Iowa
Bradley	Foss	Lorimer	Smith, Samuel W.
Brick	Foster, Ind.	Loud	Smith, Pa.
Brownlow	Foster, Vt.	Lovering	Snyser
Buckman	Fowler	McCall	Snapp
Burke, Pa.	Gaines, W. Va.	McCarthy	Southard
Burke, S. Dak.	Gardner, N. J.	McCleary, Minn.	Southwick
Burleigh	Gilbert, Ind.	McGavin	Sperry
Burton, Del.	Gillett, Mass.	McKinley, Ill.	Stafford
Burton, Ohio	Graff	McKinney	Steenerson
Butler, Pa.	Graham	Madden	Sterling
Calder	Greene	Mahon	Stevens, Minn.
Campbell, Kans.	Grosvenor	Mann	Sulloway
Capron	Hamilton	Michalek	Tawney
Cassel	Haskins	Miller	Taylor, Ohio
Chaney	Haugen	Moon, Pa.	Tirrell
Chapman	Hedge	Morrell	Townsend
Cocks	Henry, Conn.	Mouser	Tyndall
Cole	Hepburn	Murdock	Van Winkle
Conner	Higgins	Norris	Volstead
Cooper, Pa.	Hill, Conn.	Olcott	Vreeland
Cooper, Wis.	Hinshaw	Olmsted	Waldo
Cousins	Hoar	Overstreet	Wanger
Crumpacker	Hogg	Palmer	Watson
Currier	Howell, N. J.	Parker	Weeks
Curtis	Huff	Parsons	Weems
Dalzell	Jenkins	Payne	Welborn
Davis, Minn.	Keifer	Pearre	Wharton
Dawes	Kennedy, Nebr.	Perkins	Wiley, N. J.
Dawson	Ketcham	Pollard	Wilson
Deemer	Kinkaid	Powers	Wood, N. J.
Denby	Klepper	Prince	The Speaker
Dickson, Ill.	Knapp	Reynolds	

NAYS—156.

Adams, Wis.	Fulkerson	Knowland	Rhinock
Adamson	Gaines, Tenn.	Lamar	Rixey
Aiken	Garner	Lamb	Robertson, La.
Babcock	Garrett	Lee	Robinson, Ark.
Bannon	Gilbert, Ky.	Legare	Rucker
Bartlett	Gill	Lester	Ruppert
Beall, Tex.	Gillespie	Lever	Russell
Bede	Gillett, Cal.	Lewis	Ryan
Beidler	Glass	Lindsay	Shackleford
Bell, Ga.	Goebel	Livingston	Sheppard
Bonynge	Goulden	Lloyd	Sherley
Bowers	Granger	McCreary, Pa.	Sims
Brantley	Gregg	McKinlay, Cal.	Slayden
Broocks, Tex.	Griggs	McLachlan	Small
Brooks, Colo.	Gronna	McLain	Smith, Cal.
Broussard	Gudger	McMorran	Smith, Ky.
Brown	Hardwick	McNary	Smith, Md.
Burgess	Hay	Macon	Smith, Tex.
Burleson	Hayes	Marshall	Sparkman
Burnett	Hearst	Maynard	Spight
Byrd	Henry, Tex.	Meyer	Stanley
Cadderhead	Hermann	Minor	Stephens, Tex.
Candler	Hill, Miss.	Mondell	Sullivan, Mass.
Clark, Mo.	Hopkins	Moon, Tenn.	Sulzer
Cockran	Houston	Moore	Talbott
Cushman	Howard	Mudd	Taylor, Ala.
Darragh	Howell, Utah	Murphy	Thomas, N. C.
Davey, La.	Humphrey, Wash.	Needham	Towne
Davidson	Humphreys, Miss.	Otjen	Underwood
Davis, W. Va.	Hunt	Padgett	Wachter
De Armond	James	Page	Wallace
Ellerbe	Johnson	Patterson, N. C	Watkins
Esch	Jones, Va.	Patterson, S. C	Webb
Field	Jones, Wash.	Pou	Weisse
Finley	Kelliher	Pujo	Wiley, Ala.
Fitzgerald	Kennedy, Ohio	Rainey	Williams
Flood	Kitchin, Claude	Randell, Tex.	Wood, Mo.
Floyd	Kitchin, Wm. W.	Reeder	Woodyard
French	Kline	Reid	Young

ANSWERED "PRESENT"—6.

Alexander	Campbell, Ohio	Richardson, Ala.	Richardson, Ky.
Bowie	Dixon, Ind.		

NOT VOTING—46.

Ames	Fordney	Hull	Smith, Wm. Alden
Bankhead	Fuller	Kahn	Southall
Bartholdt	Garber	Landis, Frederick	Sullivan, N. Y.
Bennett, Ky.	Gardner, Mass.	Little	Thomas, Ohio
Bingham	Gardner, Mich.	Loudenslager	Trimble
Blackburn	Goldfogle	McDermott	Van Duzer
Brundidge	Hale	Martin	Wadsworth
Butler, Tenn.	Heflin	Nevin	Webber
Clark, Fla.	Hitt	Patterson, Tenn.	Williamson
Clayton	Holliday	Ransdell, La.	Zenor
Crowther	Hubbard	Scott	
Dale	Hughes	Smith, Ill.	

So the resolution was agreed to.

The Clerk announced the following additional pair:

Until further notice:

Mr. BINGHAM with Mr. VAN DUZER.

The result of the vote was announced as above recorded.

Mr. WILLIAMS. Mr. Speaker——

The SPEAKER. The Chair announces the following conferees. The Clerk will report the names of the conferees.

The Clerk read as follows:

Mr. HAMILTON, Mr. BRICK, and Mr. MOON of Tennessee.

Mr. WILLIAMS. Mr. Speaker, I want to offer a motion which is right here and now in order.

The SPEAKER. For what purpose does the gentleman from Mississippi rise?

Mr. WILLIAMS. I rise for the purpose of offering a motion which is here and now in order.

The SPEAKER. If so it will here and now be considered. [Applause and laughter.] The Clerk will report the resolution.

The Clerk read as follows:

Moves to instruct the conferees on the part of the House of Representatives to agree to the amendment of the Senate striking the provision admitting Arizona and New Mexico out of the bill as it passed the House.

Mr. WILLIAMS. Mr. Speaker, now I wish to be heard upon the point of order. I have the floor, I believe.

Mr. PAYNE rose.

Mr. DALZELL. Mr. Speaker, I make the point of order——

Mr. WILLIAMS. I have the floor, I believe.

The SPEAKER. One moment. For what purpose does the gentleman from New York rise?

Mr. PAYNE. I rose to make the point of order, but the gentleman from Pennsylvania made it. I make the point that the House having adopted the resolution sending the bill to a free and full conference, and the conferees having already been appointed, this resolution of the gentleman from Mississippi is out of order.

The SPEAKER. The Chair will hear the gentleman from Mississippi through courtesy upon the point of order, although the Chair is prepared to rule in the line of precedents upon this matter that are as strong as they can be.

Mr. WILLIAMS. Mr. Speaker, I am profoundly grateful to the Chair for the courtesy of the Chair; and when I get through arguing the point of order the country will be profoundly grateful to the Speaker for his sense of justice, to be shown by his ruling that the motion is in order. I ask the Chair to listen respectfully and seriously to the reasons which I have to give why the motion sent up is in order. I ask the Chair to dismiss from his mind, as far as he can, every consideration that conflicts with an impartial hearing, in order to arrive at a just conclusion.

The SPEAKER. The Chair will hear the gentleman from Mississippi briefly. [Laughter.]

Mr. WILLIAMS. Mr. Speaker, I have long since learned to be thankful for "brief" favors, even. Now, the adoption of this resolution has a certain effect. The effect of its adoption is to send this bill to conference, and that is all of the effect of the adoption of this resolution.

The SPEAKER. Will the gentleman, upon that point, listen to the concluding words of the order that has been adopted by the House? "And the Speaker shall immediately appoint the conferees," which the Speaker has done.

Mr. WILLIAMS. Why, I had read that, and for that very reason I made the motion between the time of the announcement of the vote and the appointment of the conferees.

The SPEAKER. As a question of fact, the gentleman did not have the floor. The Chair was in the performance of his duty, under the direction of the resolution, and the gentleman did not have the floor for the purpose, and did not make the motion.

Mr. WILLIAMS. Mr. Speaker, I heard the names announced.

The SPEAKER. And could not under the operation of the rule.

Mr. WILLIAMS. Mr. Speaker, if the Chair will listen to me; the Chair has so frequently outdebated me and argued me while on the floor, I thought I had an opportunity to do the arguing myself once in a while, when he was in the chair, and to submit this question to him as a judge and not as a debater upon the other side. The names of the conferees have not been announced to the House, and therefore, the conferees not having been appointed until now——

Mr. HAMILTON. The names have been announced.

Mr. WILLIAMS. The Speaker has not announced the names of the conferees as yet, and as usual in almost every case before the conferees are appointed, the Speaker says he will appoint the conferees now.

The SPEAKER. Let us get at the question of facts. On the contrary, the conferees have been announced.

Mr. HAMILTON. Everybody around here heard the names of the conferees announced.

Mr. WILLIAMS. Mr. Speaker, I was upon my feet to the very best of the capacity of my lungs claiming the attention of the Speaker before the announcement of the conferees, and the Speaker must have heard me, and when the Speaker recognized me at all his recognition related back to the time when I claimed his recognition.

Mr. DALZELL. He did not recognize you at all.

Mr. WILLIAMS. That is the ordinary practice of the House. It may be as the Speaker said, that the Clerk had read the names of the conferees to the House. If so, I confess I did not hear them. Others around me say they did not. Of course if it is a fact it is a fact, and the Speaker's word is sufficient for me, even if others did not hear it.

Now, Mr. Speaker, passing that point, when a recognition is granted, it is a recognition from the time that the recognition was claimed, and when this recognition was claimed, I was upon my feet struggling with all the vociferousness of any note of my poor lungs alone to obtain that recognition at the proper time, and I want to read a couple of authorities. The effect, as I understand, now is that this resolution puts this matter in conference.

I read from the Manual, as follows:

It is in order to instruct conferees, and the resolution of instruction should be offered after the House has voted to insist and ask a conference, and before the conferees have been appointed.

That refers to section 1379, Parliamentary Precedents of the House of Representatives, first session of the Forty-ninth Congress, RECORD, page 7404, and other authorities which the Speaker will there find. Now, "the House having instructed its conferees, in the first instance, should have to inform the Senate by message of the instruction. The latter body objected to the instruction, and to the transmission of them by message." That would seem at first blush to be somewhat the other way. That went to the Senate upon a motion made by the gentleman from Alabama [Mr. UNDERWOOD] of this body to instruct the conferees after a matter had been voted to conference and before the conferees were appointed. After the motion had been made upon this floor to disagree and go to a conference and before the conferees were actually appointed the motion was made by the gentleman from Alabama, and the Speaker of the House at that time ruled that was in order. The Senate, the rebel against which we are kicking this morning, resisted that, but the authority is plain, so far as House action is concerned.

The SPEAKER. The Chair is ready to rule.

The resolution adopted by the House a short time ago is the rule of the House and binding on the House, and on the Speaker as the presiding officer of the House. It begins "Resolved," etc., and the conclusion of the rule is "And the Speaker shall immediately appoint the conferees." That binds the House; that binds the Speaker, and under a rule adopted by the majority it binds the gentleman from Mississippi as well, whatever may have been his opinion or that of the minority of the House as to the propriety of the adoption of the rule. The Chair will not take much of time in referring to authorities, but will ask the Clerk to read a ruling made by Mr. Speaker Carlisle, when he was Speaker, that follows the ruling in such cases.

The Clerk read as follows:

The gentleman from Michigan has raised the point of order that the resolution can not be acted on because the subject is not before the House. The House having disposed of it by further insisting upon its disagreement to the Senate amendment and requesting a conference, and the managers of the conference having been appointed on the part of the House, theoretically, of course, the matter has gone to the Senate and is not in the House.

Therefore the Speaker did not entertain the motion of instruction.

The SPEAKER. That is under the ordinary rules of the House. In their operation the motion to instruct conferees always follows after the motion to disagree with the Senate and before the appointment of the conferees. In the case upon which Speaker Carlisle ruled that was under the ordinary rules of the House. The House had disagreed to the Senate amendments and the conferees had been appointed. Immediately thereafter the Member from Michigan moved the instruction, and Speaker Carlisle, in the opinion which the Chair has had read to the House, held the motion out of order; but the Chair again calls the attention of the House to the fact that this is a proceeding under his rule, which not only by virtue of its adoption nonconcurs in every one of the forty amendments to the bill and asks a conference, but in the language of the rule—

And the Speaker shall immediately appoint the conferees—

binds the Speaker. The conferees were appointed, and, in the language of Speaker Carlisle, theoretically at least, the House has not the bill; it has gone to the Senate, and therefore, under the provision of the special order, the Chair sustains the point of order.

Mr. LITTAUER. Mr. Speaker——

The SPEAKER. The gentleman from New York.

Mr. WILLIAMS. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman from Mississippi rise?

Mr. WILLIAMS. I rise for the purpose of appealing from the decision of the Chair.

The SPEAKER. From the ruling of the Chair the gentleman from Mississippi [Mr. WILLIAMS] appeals.

Mr. DALZELL. And I move to lay that appeal on the table.

The SPEAKER. The gentleman from Pennsylvania moves to lay the appeal on the table.

The question was taken on the motion of Mr. DALZELL; and on a division (demanded by Mr. WILLIAMS) there were—ayes 146, noes 91.

Accordingly the appeal was laid on the table.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had passed without amendment bills of the following titles:

H. R. 13194. An act to authorize the Secretary of the Interior to reclassify the public lands of Alabama;

H. R. 16381. An act leasing and demising certain lands in La Plata County, Colo., to the P. F. U. Rubber Company;

H. R. 15583. An act to authorize the Madison Bridge Company to construct a bridge across the St. Francis River in St. Francis County, Ark., at or near the town of Madison, in said county and State; and

H. R. 4736. An act for the relief of the County of Custer, State of Montana.

The message also announced that the Senate had passed bills of the following titles; in which the concurrence of the House of Representatives was requested:

S. 4886. An act to simplify the issue of enrollments and licenses of vessels of the United States; and

S. 4109. An act to increase the efficiency of the Bureau of Insular Affairs of the War Department.

The message also announced that the Senate had passed with amendments bills of the following titles; in which the concurrence of the House of Representatives was requested:

H. R. 12845. An act to consolidate the city of South McAlester and the town of McAlester, in the Indian Territory; and

H. R. 13103. An act making appropriations for the payment of invalid and other pensions of the United States for the fiscal year ending June 30, 1907, and for other purposes.

The message also announced that the Senate had passed the following resolutions:

Resolved, That the Senate has heard with profound sorrow the announcement of the death of Hon. GEORGE R. PATTERSON, late a Representative from the State of Pennsylvania.

Resolved, That a committee of six Senators be appointed by the Vice-President to join a committee appointed on the part of the House of Representatives to take order for superintending the funeral of the deceased.

Resolved, That the Senate communicate these resolutions to the House of Representatives.

Resolved, That as an additional mark of respect to the memory of the deceased, the Senate do now adjourn.

And that in compliance with the foregoing resolutions the Vice-President had appointed, under the second resolution, as the committee on the part of the Senate to act in conjunction with the committee on the part of the House of Representatives, Mr. PENROSE, Mr. KNOX, Mr. ALLEE, Mr. SCOTT, Mr. BACON, and Mr. DUBOIS.

Also:

Senate concurrent resolution No. 160.

Resolved by the Senate (the House of Representatives concurring), That the invitation extended to the Congress of the United States by the American Philosophical Society of Philadelphia, Pa., to attend the celebration of the two-hundredth anniversary of the birth of Benjamin Franklin, to be held at Philadelphia, Pa., commencing April 17, 1906, be, and is hereby, accepted.

That the President of the Senate and the Speaker of the House of Representatives be, and they are hereby, authorized and directed to appoint a committee, to consist of six Senators and ten Representatives of the Fifty-ninth Congress, to attend the celebration referred to, and to represent the Congress of the United States on that occasion.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

A message, in writing, from the President of the United States was communicated to the House of Representatives, by Mr. BARNES, one of his secretaries, who also informed the House of

Representatives that the President had approved and signed bills of the following titles:

On March 15, 1906:

H. R. 58. An act to prevent the unlawful wearing of the badge or insignia of the Grand Army of the Republic or other soldier organizations; and

H. J. Res. 83. Joint resolution for report, and so forth, upon the preservation of Niagara Falls.

On March 16, 1906:

H. R. 345. An act to provide for an increased annual appropriation for agricultural experiment stations and regulating the expenditure thereof.

On March 17, 1906:

H. R. 8163. An act to authorize the construction of a bridge between Fort Snelling Reservation and St. Paul, Minn.;

H. R. 13398. An act to amend section 4400 of the Revised Statutes, relating to inspection of steam vessels; and

H. R. 15263. An act to authorize William Smith and associates to bridge the Tug Fork of the Big Sandy River, near Williamson, W. Va., where the same forms the boundary line between the States of West Virginia and Kentucky.

SENATE BILLS REFERRED.

Under clause 2, of Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 4109. An act to increase the efficiency of the Bureau of Insular Affairs of the War Department—to the Committee on Military Affairs.

S. 4886. An act to simplify the issue of enrollments and licenses of vessels of the United States—to the Committee on Merchant Marine and Fisheries.

Senate concurrent resolution 16:

Resolved by the Senate (the House of Representatives concurring). That the invitation extended to Congress of the United States by the American Philosophical Society, of Philadelphia, Pa., to attend the celebration of the two hundredth anniversary of the birth of Benjamin Franklin, to be held at Philadelphia, Pa., commencing April 17, 1906, be and is hereby accepted.

That the President of the Senate and the Speaker of the House of Representatives be, and they are hereby, authorized and directed to appoint a committee to consist of six Senators and ten Representatives of the Fifty-ninth Congress to attend the celebration referred to, and to represent the Congress of the United States on that occasion—

To the Committee on Rules.

ENROLLED BILLS SIGNED.

Mr. WACHTER, from the Committee on Enrolled bills, reported that they had found truly enrolled bills of the following titles; when the Speaker signed the same:

H. R. 15583. An act to authorize the Madison Bridge Company to construct a bridge across the St. Francis River, in St. Francis County, Ark., at or near the town of Madison, in said county and State;

H. R. 4736. An act for the relief of the county of Custer, State of Montana;

H. R. 1056. An act granting a pension to Galon S. Clevenger;

H. R. 9216. An act granting an increase of pension to Catharine R. Mitchell;

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. WACHTER, from the Committee on Enrolled bills, reported that this day they had presented to the President of the United States, for his approval, the following bills:

H. R. 484. An act granting a pension to William Mayer;

H. R. 628. An act granting a pension to David L. Finch;

H. R. 1569. An act granting a pension to Elizabeth Murray;

H. R. 1775. An act granting a pension to Alexander Kinnison;

H. R. 1803. An act granting a pension to George S. Taylor;

H. R. 1809. An act granting a pension to Lener McNabb;

H. R. 1857. An act granting a pension to Emeline Malone;

H. R. 1888. An act granting a pension to William T. Scandlyn;

H. R. 1942. An act granting a pension to Julia A. Powell;

H. R. 1977. An act granting a pension to Emma C. Anderson;

H. R. 2006. An act granting a pension to Florence B. Knight;

H. R. 2093. An act granting a pension to Sarah A. Pitt;

H. R. 2614. An act granting a pension to General M. Brown;

H. R. 2736. An act granting a pension to William Merideth;

H. R. 3384. An act granting a pension to Benjamin H. Decker;

H. R. 4704. An act granting a pension to Alice Rourk;

H. R. 6148. An act granting a pension to Henry P. Will;

H. R. 6921. An act granting a pension to Eliza B. Wilson;

H. R. 7478. An act granting a pension to George W. Jackson;

H. R. 7984. An act granting a pension to Henry R. Hill;

H. R. 8826. An act granting a pension to Elizabeth A. Mason;

H. R. 9593. An act granting a pension to Charles M. Priddy;

H. R. 9887. An act granting a pension to George Saxe;

H. R. 9955. An act granting a pension to James W. Baker;

H. R. 10353. An act granting a pension to Thomas B. Davis;

H. R. 10677. An act granting a pension to Maria Elizabeth Posey;

H. R. 10770. An act granting a pension to Helen P. Martin;

H. R. 10920. An act granting a pension to Mary Edna Cammeron;

H. R. 11078. An act granting a pension to Rosa Zurrin;

H. R. 11625. An act granting a pension to William C. Robison;

H. R. 12516. An act granting a pension to James S. Randall;

H. R. 12720. An act granting a pension to Sarah Duffield;

H. R. 12955. An act granting a pension to Lyman Critchfield, jr.;

H. R. 13161. An act granting a pension to Cynthia A. Embry;

H. R. 13165. An act granting a pension to Martin Nolan;

H. R. 13282. An act granting a pension to Lydia B. Bevan;

H. R. 13402. An act granting a pension to John Reynolds;

H. R. 485. An act granting an increase of pension to William H. Bantom;

H. R. 550. An act granting an increase of pension to Joseph E. Scott;

H. R. 1058. An act granting an increase of pension to Alphonso H. Harvey;

H. R. 1071. An act granting an increase of pension to William K. Keech;

H. R. 1137. An act granting an increase of pension to Abraham M. Kaufman;

H. R. 1205. An act granting an increase of pension to Samuel P. Bigger;

H. R. 1243. An act granting an increase of pension to John W. Burton;

H. R. 1331. An act granting an increase of pension to Roswell J. Kelsey;

H. R. 1440. An act granting an increase of pension to Matilda E. Lawton;

H. R. 1460. An act granting an increase of pension to Charles W. Renell;

H. R. 1533. An act granting an increase of pension to Harvey J. Fulmer;

H. R. 1566. An act granting an increase of pension to Thomas Lowry;

H. R. 1685. An act granting an increase of pension to George W. Bedient;

H. R. 1742. An act granting an increase of pension to Jonathan Daughenbaugh;

H. R. 1787. An act granting an increase of pension to Joseph M. West;

H. R. 1911. An act granting an increase of pension to Harriet E. Grogan, formerly Preston;

H. R. 1962. A act granting an increase of pension to George C. Myers;

H. R. 1967. An act granting an increase of pension to Joseph Baker;

H. R. 1968. An act granting an increase of pension to John Monroe;

H. R. 1997. An act granting an increase of pension to Sanford C. H. Smith;

H. R. 2060. An act granting an increase of pension to John Farrel;

H. R. 2080. An act granting an increase of pension to Sydney A. Asson;

H. R. 2088. An act granting an increase of pension to Sewall A. Edwards;

H. R. 2100. An act granting an increase of pension to Hiram Wilde;

H. R. 2150. An act granting an increase of pension to William E. Smith;

H. R. 2151. An act granting an increase of pension to Lydia C. Wood;

H. R. 2244. An act granting an increase of pension to Fred Dilg;

H. R. 2245. An act granting an increase of pension to Troy Moore;

H. R. 2264. An act granting an increase of pension to Robert McAnally;

H. R. 2344. An act granting an increase of pension to Selden C. Clobridge;

H. R. 2443. An act granting an increase of pension to George W. Mower;

H. R. 2705. An act granting an increase of pension to Henry W. Perkins;

H. R. 2749. An act granting an increase of pension to Agnes Flynn;

H. R. 2763. An act granting an increase of pension to Anthony Sherlock;

H. R. 2766. An act granting an increase of pension to Horace E. Brown;
H. R. 2982. An act granting an increase of pension to Ansel K. Tisdale;
H. R. 2991. An act granting an increase of pension to Henry F. Landes;
H. R. 3225. An act granting an increase of pension to William B. Philbrick;
H. R. 3255. An act granting an increase of pension to Isaac N. Ray;
H. R. 3284. An act granting an increase of pension to Jeremiah Callahan;
H. R. 3397. An act granting an increase of pension to Nicholas Chrisler;
H. R. 3418. An act granting an increase of pension to John Snouse;
H. R. 3435. An act granting an increase of pension to Thomas W. Sallade;
H. R. 3452. An act granting an increase of pension to Jacob McGaughey;
H. R. 3553. An act granting an increase of pension to Levi Pick;
H. R. 3557. An act granting an increase of pension to James B. Wilkins;
H. R. 3685. An act granting an increase of pension to James O. Tobey;
H. R. 3698. An act granting an increase of pension to Joseph E. Miller;
H. R. 3811. An act granting an increase of pension to James White;
H. R. 3981. An act granting an increase of pension to John McKeever;
H. R. 4219. An act granting an increase of pension to John C. Keener;
H. R. 4257. An act granting an increase of pension to Alice M. Durney;
H. R. 4596. An act granting an increase of pension to John J. Hughes;
H. R. 4616. An act granting an increase of pension to William W. West;
H. R. 4759. An act granting an increase of pension to Jane E. Bullard;
H. R. 4810. An act granting an increase of pension to Jerome Goodsell;
H. R. 4816. An act granting an increase of pension to John A. Sherwood;
H. R. 4823. An act granting an increase of pension to John G. C. Macfarlane;
H. R. 4832. An act granting an increase of pension to Henry W. Yates;
H. R. 4989. An act granting an increase of pension to Dominick Arnold;
H. R. 5026. An act granting an increase of pension to Asa Tout;
H. R. 5215. An act granting an increase of pension to Jennie Little;
H. R. 5383. An act granting an increase of pension to John W. Davis;
H. R. 5553. An act granting an increase of pension to Oliver L. Kendall;
H. R. 5564. An act granting an increase of pension to Albert G. Cluck;
H. R. 5615. An act granting an increase of pension to John Coleman, jr.;
H. R. 5616. An act granting an increase of pension to Edger Schroeders;
H. R. 5724. An act granting an increase of pension to William O. Gillespie;
H. R. 5727. An act granting an increase of pension to William T. Harris;
H. R. 6066. An act granting an increase of pension to Albert H. Lewis;
H. R. 6177. An act granting an increase of pension to John Houck;
H. R. 6395. An act granting an increase of pension to Daniel Ward;
H. R. 6453. An act granting an increase of pension to William H. Marsden;
H. R. 6507. An act granting an increase of pension to James M. Busby;
H. R. 6508. An act granting an increase of pension to John P. Moore;
H. R. 6918. An act granting an increase of pension to Heinrich Krumdick;
H. R. 6936. An act granting an increase of pension to William Miller;
H. R. 6988. An act granting an increase of pension to Seymour Cole;
H. R. 7208. An act granting an increase of pension to Thomas G. Massey;
H. R. 7223. An act granting an increase of pension to George Blair;
H. R. 7229. An act granting an increase of pension to Slater D. Lewis;
H. R. 7396. An act granting an increase of pension to John E. Ball;
H. R. 7412. An act granting an increase of pension to Isaiah Collins;
H. R. 7547. An act granting an increase of pension to George W. Allison;
H. R. 7615. An act granting an increase of pension to Joseph D. Tate;
H. R. 7622. An act granting an increase of pension to Hermann Lieb;
H. R. 7631. An act granting an increase of pension to Joseph W. Foster;
H. R. 7765. An act granting an increase of pension to George Gaylord;
H. R. 7770. An act granting an increase of pension to Burgess Cole;
H. R. 7815. An act granting an increase of pension to Thomas G. Covell;
H. R. 7827. An act granting an increase of pension to William H. Uhler;
H. R. 7883. An act granting an increase of pension to Daniel Dilts;
H. R. 8048. An act granting an increase of pension to William F. Bottoms;
H. R. 8063. An act granting an increase of pension to Mary Coburn;
H. R. 8161. An act granting an increase of pension to Alonzo Douglas;
H. R. 8176. An act granting an increase of pension to Thomas E. Bishop;
H. R. 8202. An act granting an increase of pension to Henry Guy;
H. R. 8207. An act granting an increase of pension to Daniel A. Proctor;
H. R. 8208. An act granting an increase of pension to Eli Brainard;
H. R. 8218. An act granting an increase of pension to Mary C. Spangler;
H. R. 8275. An act granting an increase of pension to Robert Aucock;
H. R. 8289. An act granting an increase of pension to Isaac J. Holt;
H. R. 8376. An act granting an increase of pension to Mary J. McConnell;
H. R. 8607. An act granting an increase of pension to Arthur Haire;
H. R. 8642. An act granting an increase of pension to Henry Crandell;
H. R. 8739. An act granting an increase of pension to Frank N. Gray;
H. R. 8836. An act granting an increase of pension to Elizabeth C. Howell;
H. R. 8917. An act granting an increase of pension to James Hines;
H. R. 9127. An act granting an increase of pension to Isaac L. Rerick;
H. R. 9235. An act granting an increase of pension to Kate H. Kavanaugh;
H. R. 9248. An act granting an increase of pension to James T. Butler;
H. R. 9249. An act granting an increase of pension to Richard S. Cromer;
H. R. 9267. An act granting an increase of pension to William Cook;
H. R. 9447. An act granting an increase of pension to John L. Edmundson;
H. R. 9860. An act granting an increase of pension to Joseph H. Hirst;
H. R. 10047. An act granting an increase of pension to George W. Elicott;
H. R. 10166. An act granting an increase of pension to Elizabeth Morgan;
H. R. 10217. An act granting an increase of pension to William A. Barnes;

H. R. 10271. An act granting an increase of pension to Stephen G. Smith;

H. R. 10322. An act granting an increase of pension to Edgar W. Calhoun;

H. R. 10339. An act granting an increase of pension to John H. H. Sands;

H. R. 10478. An act granting an increase of pension to William McGowan;

H. R. 10632. An act granting an increase of pension to Samuel Preston;

H. R. 10723. An act granting an increase of pension to Benjamin French;

H. R. 10724. An act granting an increase of pension to David Bruce;

H. R. 10725. An act granting an increase of pension to Etta D. Conant;

H. R. 10817. An act granting an increase of pension to William J. Morgan;

H. R. 10827. An act granting an increase of pension to Frank Crittenden;

H. R. 10886. An act granting an increase of pension to Martha S. Campbell;

H. R. 10894. An act granting an increase of pension to William J. Riley;

H. R. 10897. An act granting an increase of pension to Isaac Deems;

H. R. 10914. An act granting an increase of pension to John Hamilton;

H. R. 11000. An act granting an increase of pension to Martha J. Wilson;

H. R. 11052. An act granting an increase of pension to John P. Vance;

H. R. 11065. An act granting an increase of pension to Joseph Pollard;

H. R. 11071. An act granting an increase of pension to Allen E. Williams;

H. R. 11107. An act granting an increase of pension to William E. Fritts;

H. R. 11196. An act granting an increase of pension to William H. Joslyn;

H. R. 11259. An act granting an increase of pension to Barnes B. Smith;

H. R. 11335. An act granting an increase of pension to Thomas Chandler, alias Thomas Cooper;

H. R. 11353. An act granting an increase of pension to Isaac M. Woodworth;

H. R. 11408. An act granting an increase of pension to George W. Reed;

H. R. 11415. An act granting an increase of pension to Victoria Bishop;

H. R. 11416. An act granting an increase of pension to Lizzie Belk;

H. R. 11516. An act granting an increase of pension to Marquis D. L. Staley;

H. R. 11557. An act granting an increase of pension to Clinton A. Chapman;

H. R. 11687. An act granting an increase of pension to Matt Fitzpatrick;

H. R. 11689. An act granting an increase of pension to Byard H. Church;

H. R. 11742. An act granting an increase of pension to Charles H. Culver;

H. R. 11745. An act granting an increase of pension to James D. Billingsley;

H. R. 11849. An act granting an increase of pension to Robert M. Young;

H. R. 11886. An act granting an increase of pension to Solomon R. Trueblood;

H. R. 11927. An act granting an increase of pension to Calvin D. Weatherman;

H. R. 12030. An act granting an increase of pension to Mary M. Stark;

H. R. 12229. An act granting an increase of pension to Reuben I. Turckheim, alias Joseph Adler;

H. R. 12275. An act granting an increase of pension to Verelle S. Willard;

H. R. 12289. An act granting an increase of pension to Joseph C. Grissom;

H. R. 12292. An act granting an increase of pension to George T. Hill;

H. R. 12351. An act granting an increase of pension to John Foltz;

H. R. 12354. An act granting an increase of pension to Tillman T. Herridge;

H. R. 12391. An act granting an increase of pension to J. Frederick Edgell;

H. R. 12396. An act granting an increase of pension to James Hutchinson;

H. R. 12494. An act granting an increase of pension to John H. Crane;

H. R. 12565. An act granting an increase of pension to Jeremiah Kincaid;

H. R. 12903. An act granting an increase of pension to Daniel T. Ferrier;

H. R. 12948. An act granting an increase of pension to Frederick Bierley;

H. R. 13035. An act granting an increase of pension to Maggie D. Ross;

H. R. 13166. An act granting an increase of pension to William Evans;

H. R. 13348. An act granting an increase of pension to Nancy F. Shelton;

H. R. 13611. An act granting an increase of pension to William Clough;

H. R. 13643. An act granting an increase of pension to Davis W. Hatch;

H. R. 13976. An act granting an increase of pension to John R. Stalcup;

H. R. 14123. An act granting an increase of pension to Gottlieb Spitzer, alias Gottfried Bruner;

H. R. 14358. An act granting an increase of pension to William H. Morrow;

H. R. 14739. An act granting an increase of pension to Hannah A. Preston;

H. R. 6009. An act to regulate the construction of bridges over navigable waters;

H. R. 14515. An act making it a misdemeanor in the District of Columbia to abandon or willfully neglect to provide for the support and maintenance by any person of his wife or of his or her minor children in destitute or necessitous circumstances;

H. R. 15521. An act establishing regular terms of the United States circuit and district courts of the northern district of California at Eureka, Cal.; and

H. J. Res. 115. A joint resolution amending joint resolution instructing the Interstate Commerce Commission to make examinations into the subject of railroad discriminations and monopolies, and report on the same from time to time, approved March 7, 1906.

CHANGE OF REFERENCE.

Mr. CURTIS. I ask unanimous consent to withdraw Senate bills 134 and 1669 and have them recommitted to the Committee on the Judiciary.

The SPEAKER. Is there objection?

There was no objection.

WAR CLAIMS.

Mr. MAHON. Mr. Speaker, this being the day set apart for the consideration of war claims, I move to substitute Friday of next week, the 30th of this month.

The SPEAKER. The gentleman from Pennsylvania [Mr. MAHON] moves that Friday of next week be substituted for to-day for the special order for the consideration of war claims. Is there objection?

There was no objection.

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

Mr. LITTAUER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 16472—the legislative, executive, and judicial appropriation bill.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the legislative, executive, and judicial appropriation bill, with Mr. OLMSTED in the chair.

The CHAIRMAN. The Clerk will proceed with the reading of the bill.

The Clerk read as follows:

For miscellaneous items and expenses of special and select committees, exclusive of salaries and labor, unless specifically ordered by the House of Representatives, $50,000.

Mr. UNDERWOOD. Mr. Chairman, I ask unanimous consent that I may proceed for fifteen minutes instead of five.

Mr. LITTAUER. In connection with this bill?

Mr. UNDERWOOD. I shall speak on this bill and on other matters.

Mr. LITTAUER. Can you not defer it? This bill has been held along now for so many days.

Mr. UNDERWOOD. I will say to the gentleman that I do not desire to defer it.

Mr. LITTAUER. I desire very much to go ahead with the bill.

Mr. UNDERWOOD. There is a general latitude allowed in the debate, and if the gentleman does not wish it he can raise the point of order. I make the request.

The CHAIRMAN. The gentleman from Alabama asks unanimous consent to proceed for fifteen minutes. Is there objection?

There was no objection.

[Mr. UNDERWOOD addressed the committee. See Appendix.]

The Clerk read as follows:

The Public Printer shall submit for the fiscal year 1907, and annually thereafter, estimates for all clerks and other employees, additional to the foregoing, who are required in the executive or administrative offices of the Government Printing Office.

Mr. COOPER of Wisconsin. Mr. Chairman, I would like to ask the gentleman in charge of the bill a question. I notice that the paragraph just read provides that the Public Printer shall submit for the fiscal year 1907, and annually thereafter, estimates, etc. When is he to submit those estimates?

Mr. LITTAUER. In the annual estimates which, according to law, are submitted to the Houses of Congress on the first Monday in December of each year.

Mr. COOPER of Wisconsin. Has he ever been before required to submit that?

Mr. LITTAUER. He never has been as to clerks employed in the administrative offices in addition to the seven above specified.

Mr. COOPER of Wisconsin. Would it be implied that he must submit that on the first Monday of December?

Mr. TAWNEY. Mr. Chairman, I will say that the law specifically requires all officers to submit estimates on or before the first Monday of December, and this provision requires the Public Printer to submit an estimate for his entire administrative force, and of course he must submit it in accordance with the law requiring other Departments to submit estimates.

Mr. COOPER of Wisconsin. Does the gentleman call the Public Printing Office a Department?

Mr. LITTAUER. No; it is an independent office.

Mr. COOPER of Wisconsin. Then would a statute merely requiring a "Department" to submit an estimate at a certain time compel also the Public Printer to submit an estimate at the same time?

Mr. LITTAUER. Unless I am mistaken, the statute requires that all Government officers shall submit their annual estimates on the first Monday in December. The annual estimates for the Public Printer, except this small force, have been considered in the sundry civil bill.

Mr. COOPER of Wisconsin. But there is a difference between a statute requiring a Department to submit an estimate and a statute drawn like this, which simply requires a bureau chief to submit one.

Mr. LITTAUER. But the Public Printer is subordinate to no Department; he is an independent force or office.

Mr. COOPER of Wisconsin. Well, to whom would he submit this report?

Mr. LITTAUER. To Congress. He reports directly to Congress.

Mr. COOPER of Wisconsin. Is there any general statute which provides that all reports of estimates by bureau chiefs directly to Congress shall be made at a certain time?

Mr. LITTAUER. Yes.

Mr. COOPER of Wisconsin. I thought the gentleman stated that the requirements relate to reports of estimates by Department chiefs.

Mr. TAWNEY. I may have said Departments; but all officers, heads of Departments or otherwise, are required to submit annual estimates to the Secretary of the Treasury first, and then the law requires the Secretary of the Treasury to transmit them to Congress on or before the first Monday in December of each year.

Mr. LITTAUER. I would state to the gentleman also that the Public Printer submits estimates each year according to the law, and the object of this provision is that he should submit specific estimates for all clerks and other employees required in the executive or administrative offices of the Public Printer.

Mr. COOPER of Wisconsin. One moment. The gentleman from New York said a moment ago that under this particular paragraph the Public Printer would submit these estimates to Congress.

Mr. LITTAUER. Yes.

Mr. COOPER of Wisconsin. The gentleman from Minnesota has just said that there is a general statute which requires bureau chiefs to submit their estimates to the Secretary of the Treasury.

Mr. TAWNEY. Heads of Departments.

Mr. COOPER of Wisconsin. Well, heads of Departments.

Mr. LITTAUER. And the method of transmission to Congress is through the Secretary of the Treasury.

Mr. COOPER of Wisconsin. But the Public Printer is an independent office, subject to no Department, and therefore a statute which merely requires "Department" chiefs to submit estimates at a certain time would not at all fix a definite time for the submitting of estimates by the Public Printer.

Mr. LITTAUER. But the law declares all officers of the Government should submit estimates, whether they be Department chiefs or otherwise. The Public Printer does now submit estimates, but we desire to have these estimates in a specific shape, especially as refers to his clerks and administrative employees. The gentleman will readily recognize that a force of seven clerks is not the entire executive force in connection with the Public Printer's office. We sought this year to find out whether we could not, in view of much that is gone on in investigation in connection with the public printing, take up the entire executive force specifically.

Mr. COOPER of Wisconsin. Will the gentleman permit me? The object of the paragraph, of course, I understand and deem commendable. The only point I sought to raise was this, whether under this particular paragraph there was a time definitely fixed for the submission of estimates by the Public Printer.

Mr. LITTAUER. The law declares that on or before the 15th day of October these estimates must be forwarded by the officers of the Government to the Secretary of the Treasury, who transmits them to Congress.

Mr. CRUMPACKER. And the Secretary sends a printed copy to each Congressman.

Mr. LITTAUER. Yes, sir; on the assembling of Congress.

Mr. CRUMPACKER. I remember having received one in the mails at the beginning of this Congress.

Mr. TAWNEY. I will state, Mr. Chairman, for the information of the gentleman from Wisconsin, that the Public Printer is to-day submitting his estimates through the Secretary of the Treasury to Congress, for all the money that he deems necessary to conduct the office of Public Printer, or Government Printing Office. Now, all of his estimates and all of the appropriations for his department to-day, except a few executive clerks carried in the legislative bill, are carried in the sundry civil bill, and it is in connection with the preparation of the sundry civil bill that his estimates are now to be considered for the next fiscal year. Now, then, we ask him to submit a detailed statement with respect to all classes of employees in connection with the executive department of the Printing Office, and instead of carrying them in a lump sum, as heretofore, under the sundry civil appropriation bill, he will have to specify particularly all the clerks, the salaries paid to all the clerks, and that will afford Congress an opportunity to review these salaries and reduce them if in the judgment of Congress they should be reduced. It is simply a change in the form of submitting the estimates, and instead of being in a lump form carried in the sundry civil appropriation bill he will hereafter submit estimates in detail as to the executive force. The rest of the force will be carried in the sundry civil bill as heretofore.

The Clerk read as follows:

Order (purchasing): For chief of division, $2,500; assistant, $1,500; assistant, $1,200; three assistants, at $900 each; two assistants, at $720 each; two assistants, at $600 each; assistant, $520; and two messenger boys, at $360 each; in all, $11,780.

Mr. JOHNSON. I move to strike out the last word, so as to inquire of the gentleman having the bill in charge as to the object of this purchasing agent having a force of eleven clerks drawing salaries; and I would like to know what they do?

Mr. LITTAUER. The chief of the order division has in charge the recording and all the work in connection with the purchase of books and the correspondence attending purchases from appropriations, amounting to a total of nearly $100,000. In addition thereto this division has charge of receiving all additions to the Library, from whatever source they may come, from the operation of the copyright law or from gifts, exchanges, or otherwise.

Mr. JOHNSON. There is another provision in the bill for the copyright force which carries about $75,000.

Mr. LITTAUER. That appropriation is to take care of the business under the copyright law itself, and to make the proper records in connection with the granting of copyrights. This

order division of the Library is in charge of all accessions to the Library proper, whether by purchase or by gift, or through the operation of the copyright law. As the gentleman knows, the Library receives two copies of everything that is copyrighted.

Mr. JOHNSON. Does not the gentleman think that for purchases amounting to $100,000, $11,000 for clerks to make these purchases rather exorbitant?

Mr. LITTAUER. I did at first think so; but if the gentleman will turn to page 74 of the hearings he will find a question as to this expense was put to the Librarian of Congress, and his answer was very plain. He said:

> It has to do not merely with purchases, but with all material that comes into the Library proper, from whatever source—for instance, from copyrights, so far as copyright deposits are drawn on by the Library proper. They have to be passed through the order division and entered there and stamped there. Material coming by gift and exchange also passes through it.

The Librarian then proceeds to comment on the character of work extending to the purchase of $98,000 worth of books, annually.

Mr. JOHNSON. Mr. Chairman, I withdraw the pro forma amendment. I wanted information. I thought the amount rather large.

The Clerk read as follows:

> Periodical (including evening service): For chief of division, $2,000; chief assistant, $1,500; two assistants, at $900 each; stenographer and typewriter, $900; three assistants, at $720 each; two messenger boys, at $360 each; for arrears of sorting and collating and to enable periodical reading room to be open in the evenings, two assistants, at $720 each; in all, $10,520.

Mr. HARDWICK. Mr. Chairman, I reserve the point of order on the provision for an additional stenographer and typewriter, in line 21, page 26. I want to know why they want this stenographer.

Mr. TAWNEY. Will the gentleman permit me to ask him a question? Do you think this typewriter is necessary, or do you know anything about it?

Mr. HARDWICK. I am asking the gentleman in charge of the bill about it.

Mr. LITTAUER. I would like to ask the gentleman what his point of order is?

Mr. HARDWICK. I make the point of order.

The CHAIRMAN. Will the gentleman state his point of order?

Mr. HARDWICK. The point of order I make is that there is no provision for the employment of that clerk. There is no provision in existing law nor in the pervious appropriation bill.

The CHAIRMAN. What law?

Mr. HARDWICK. It is not in the previous appropriation bills. This is an increase in the force by the provision made in this bill for a stenographer and typewriter at $900. It is also subject to the point of order that there is no provision of law authorizing it. It is making law—creating an office in this bill.

The CHAIRMAN. Does the gentleman from New York desire to be heard on the point of order?

Mr. LITTAUER. I do not.

The CHAIRMAN. The Chair sustains the point of order.

The Clerk read as follows:

> Congressional reference library: For custodian, $1,500; assistant, $1,200; assistant, $900; assistant, $720; two messenger boys, at $360 each; in all, $5,040.

Mr. JOHNSON. Mr. Chairman, I move to strike out the last word. I want to inquire of the gentleman having this bill in charge why the necessity of so many employees in the Congressional reading room. I want to say to the gentleman that I happen to reside very close to the Congressional Library. I frequently visit the rooms prepared for Representatives in Congress, and I have never seen but two men there. They are always there. This bill carries about half a dozen employees, and there are but two men there.

Mr. LITTAUER. The Librarian states that there are three employees in charge of the branch library on the floor of this House and three who are assigned to the care of the Congressional rooms at the Library. Three in both places—three there and three here.

Mr. JOHNSON. That is all right. I just wanted the information. I withdraw the amendment.

Mr. HEPBURN. Mr. Chairman, I desire to ask the gentleman in charge of the bill if he can inform the House as to the total cost of this institution that we call the Congressional Library?

Mr. LITTAUER. I think that I can. The total cost of the Library can be divided into five chief items. First, the cost of the Library proper, its administration, and the purchase of books, $442,460. Next there is an annual appropriation of $40,000 for furniture and expenses in that line. For the maintenance and care of the building and grounds a total of $80,305 is appropriated, or was appropriated last year, and in addition thereto $32,500 for fuel, lights, and expenditures under similar heads.

That makes a total of $595,265 carried in this bill, in addition, to which, I believe, the sundry civil bill of last year carried an allowance of $185,000 for printing and binding. That brings the total to about $787,000.

Mr. HEPBURN. And if you include the interest on the plant, what would then be the total cost of this Library to the American people?

Mr. LITTAUER. I have never made such a computation of the total cost of this Library.

Mr. HEPBURN. Something over a million dollars a year, would it not be, including the interest on the plant?

Mr. LITTAUER. Oh, if the total cost of the building and like matters were to be considered, I do not know what that would amount to. But, Mr. Chairman, we all recognize that our Library is an expensive institution. Yet I believe that the appropriations for this purpose are approved by the enlightened people of the United States, and that they are willing to stand this large expenditure for the maintenance and expansion of this great National Library, housed in that most magnificent yet suitable building.

Your committee recognized that there was criticism and some rumors afloat regarding the conduct of the administration of this Library and its great cost, and consequently we held very thorough and extended hearings, which have been published in this pamphlet of over a hundred pages that I hold in my hand, now at the service of the Members of this House.

The Library of Congress is not particularly a library of Congress; it is the great national institution, reflecting great credit upon the Federal Government. It stands for our progress and for our power and for our intellectual development. It is the great American library of research and investigation, and all those who work there in the investigation of subjects in which they are interested are enthusiastic as to its opportunities, as to the way they are treated, and the courtesy extended to them, and the sensible helpfulness whereby they are enabled to take advantage of its unrivalled opportunities. The Library performs a necessary service for the investigator, and through him spreads knowledge throughout the country. It is a vast storehouse of knowledge and information. It performs a great service in many varied lines. Our copyright office is there, which protects the intellectual property of our citizens. It prepares and distributes historical information, particularly on matters connected with American history. Its maps are used in our law courts for the determination of boundaries, and were of essential aid in the determination of Alaskan boundaries. Its system of card-catalogue distribution is extended to over 700 libraries.

The expenditure of $780,000 seemed to us to be a very great one, which led to careful investigation. The force connected with the institution is appointed without reference to civil-service rules. We made a thorough examination into how that force was appointed and how promotions took place in the force, and the general condition of the administration. We found that out of some 236 appointments made by the present Librarian more than three-quarters of them, 167 in number, were appointed without even a letter of recommendation from either a Senator or a Representative.

Mr. GROSVENOR. I would like to ask from what States they were appointed, and did you find out how many were indorsed by two certain Senators from the New England States?

Mr. LITTAUER. We went into the matter thoroughly. We did not go into the matter of how many were indorsed by any particular Senator, but over three-quarters of all who work there, appointed by the present Librarian, were appointed without any reference to any recommendation either by a Member of this House or a member of the other body.

Mr. HEPBURN. Will the gentleman tell us how he ascertained that fact as to these recommendations?

Mr. LITTAUER. By the statement of the Librarian and the record of appointments submitted to us. In this book of hearings a very complete statement of all the employees in the Library at this time can be found. As far as our investigations went, we felt that the Library was being conducted in an able, efficient, and conscientious manner, and that the result was that its great accumulations were being intelligently handled for their best utilization.

Now, as long as I am on my feet, I want to comment on the seemingly great cost of the care and custody of the building. Everyone who visits the Library is delighted with the conditions in which they find that building preserved and maintained and with its cleanliness. Not only is the beauty of the original structure preserved, but all the accessories connected with

the development of the Library are properly maintained. This care is in the charge of a man who was connected with the building of the Library, who is one of the most praiseworthy public officials, exceptionally capable in many lines; who not only performs the work that he is paid for as custodian of the building, but has found opportunities of gaining recompense in other lines. In fact, Congress——

Mr. HEPBURN. I would like to ask the gentleman from New York if he thought in the mere inquiry I made, which he has construed into a criticism, that I had any purpose whatever in criticising the efficiency of the scrub women? [Laughter.]

Mr. LITTAUER. No; I thought the gentleman was looking higher up. [Laughter.] The efficiency of the scrub women——

Mr. HEPBURN. Is beyond compare.

Mr. LITTAUER. Unquestionably so; and the efficiency of the care of the building, the custody and maintenance of the building, and the erection of its accessories is also beyond compare.

Mr. COOPER of Wisconsin. Will the gentleman from New York permit me to ask him a question?

Mr. HEPBURN. I believe the gentleman from New York has the floor in my time.

The CHAIRMAN. Does the gentleman from New York yield the time of the gentleman from Iowa to the gentleman from Wisconsin? [Laughter.]

Mr. LITTAUER. I will yield to the gentleman.

Mr. COOPER of Wisconsin. I have listened to the remarks of the gentleman from New York in commendation of the custodian of the Library building and grounds. The gentleman spoke not only of the custodian's efficiency, but of the fact that he has been enabled to earn money in addition to his salary as custodian. I want to ask the gentleman if it is a fact, as reported in the newspapers, that the custodian is of such high efficiency that he gets $5,000 a year—as much as a Senator or Representative in Congress—as custodian of the Library buildings and grounds, and at the same time $4,000 for going to Harrisburg and taking care of the construction of the Pennsylvania State capitol; that he also gets some pay—$2,000 a year, I believe—for taking care of the construction of the new Museum on the Mall; and that he also received a percentage, a very respectable sum, for superintending or assisting in the superintending of the construction of the New Willard Hotel? And all of this time receiving $5,000 a year for attending to his duties as custodian of the Library building and grounds?

Mr. LITTAUER. The facts are not exactly correct as stated by the gentleman from Wisconsin, but in the main they would lead to a right impression. Let me say to the gentleman that this gentleman has been the custodian of the Library and has a salary of $5,000. He is the disbursing officer for all the Library in all of its activities.

Mr. COOPER of Wisconsin. How many employees are there in the building?

Mr. LITTAUER. In the Library, 430. He is disbursing officer for the Library, and then by law he was designated as superintendent of construction of the new National Museum, and disbursing officer of that work also, for which he receives a salary of $2,000. He was designated so by law, and I take it for granted that no one would take the superintendence of construction of such a work, who had no other emolument from the Government, for $2,000 a year.

Mr. COOPER of Wisconsin. I am not familiar with the statutes touching salaries, and would therefore like to ask the gentleman if there is any statute which prohibits an employee of the Government from receiving two salaries from the Government of the United States at the same time?

Mr. LITTAUER. There is; but this law expressly provides——

Mr. COOPER of Wisconsin. But you say this man receives two salaries from the Government besides superintending the construction of the building at Harrisburg and of buildings elsewhere?

Mr. LITTAUER. The sum that he receives from Harrisburg, or that he did receive as a consultant, is not received from the Federal Government.

Mr. COOPER of Wisconsin. Does the gentleman think it is right for a Government employee in receipt of $7,000 a year—two salaries from the Government of the United States—to be permitted to go to Harrisburg and be enabled to cut under, if you choose, many men competent to attend to that work?

Mr. LITTAUER. I do not believe there was any cutting under. In this case I think the eminent services of the gentleman were demanded by the State of Pennsylvania, and that he was requested to go there. He simply states that he goes there about once a month and it takes about one day of his time.

Mr. COOPER of Wisconsin. For which he receives pay at the rate of $15 a day from the United States Government.

Mr. LITTAUER. At any rate, he so conducts his work here that no one can find fault with the work in charge of the laborers.

Mr. COOPER of Wisconsin. Is that the same gentleman whose name as assistant superintendent of construction is carved on the marble tablet in the Library above the names of the architects?

Mr. LITTAUER. I suppose it is, if that is the fact that it is there.

Mr. GROSVENOR. I would like to ask the gentleman from New York a question.

Mr. LITTAUER. Certainly.

Mr. GROSVENOR. Has the committee considered any alternative proposition upon which the Government can fasten in case of the natural or accidental death of this person? [Laughter.]

Mr. LITTAUER. Yes; they thought the succession would be easily taken care of, but nevertheless the committee hopes his services may be retained to the Government for many years to come, for it believes they have been very eminent.

Mr. COOPER of Wisconsin. Has the gentleman's committee, as the result of their investigations, recommended any legislation which would prevent the gentleman from receiving two salaries from the Government of the United States when he is also receiving another salary from the State government of Pennsylvania and compensation for working for private parties?

Mr. GRAHAM. Mr. Chairman, will the gentleman from New York permit me to answer the question of the gentleman from Wisconsin?

Mr. LITTAUER. Certainly.

Mr. GRAHAM. I will state that his (Col. Bernard R. Green's) services are dispensed with upon the building of the new capitol at Harrisburg, Pa., because that building is to all intents and purposes finished, and his services there are no longer necessary, nor is he now drawing any salary in connection therewith. But I will say, for the benefit of the gentleman from Wisconsin [Mr. COOPER] that his services there were most eminent, that they saved the Commonwealth of Pennsylvania many, many thousands of dollars, that we could not have obtained an expert equal to him in value and at the same time honest in watching all the details for the amount of money that I, with other members of that commission who employed him, were glad to pay. We sought his services. He did not seek us. He has served the State of Pennsylvania most eminently and properly.

Mr. BRICK. As I understand it, you were one of a board of five commissioners that were appointed to erect that new capitol?

Mr. GRAHAM. Yes.

Mr. BRICK. I take it he was not what you call an assistant architect?

Mr. GRAHAM. He was a consulting engineer and an expert and authority on granite. That building is constructed of granite. It is a magnificent building, the finest State building in the United States, and completed at less cost than any other building in the United States of like character, a result mainly due to the eminent abilities of this gentleman who assisted the commission in preventing overcharges and graft. That is one of the few buildings in the United States which has been erected within the time and within the original appropriation and without scandal or graft connected therewith, just as was the Library here in the city of Washington, a record of which Pennsylvania is justly proud.

Mr. TAWNEY. Mr. Chairman, I would like to ask the gentleman from Pennsylvania [Mr. GRAHAM] if his reasoning applies also to the employment of this gentleman in superintending the construction of the New Willard Hotel and the Raleigh Hotel?

Mr. GRAHAM. I have no knowledge of anything connected with that. I only speak from personal knowledge of the eminent services that this gentleman has rendered the Commonwealth of Pennsylvania.

The CHAIRMAN. The time of the gentleman from Iowa has expired.

Mr. LITTAUER. Mr. Chairman, I ask unanimous consent that the gentleman from Iowa may be permitted to conclude his remarks.

The CHAIRMAN. The gentleman from New York asks unanimous consent that the time of the gentleman may be extended so that he may be permitted to conclude his remarks. Is there objection?

There was no objection.

Mr. HEPBURN. Mr. Chairman, I do not want the gentleman from New York [Mr. LITTAUER] to jump on me with all four hands and feet. I did not intend to criticise this institution at all. I did indulge in a little criticism a year ago and I find that I was taken up in the annual report of the Librarian, and I have been a little timid about making any suggestion. A year ago, in speaking of what I regarded as a wanton and useless and foolish expenditure of the public money in regard to this Library, I called attention to the entire number of books that had been taken from the shelves for the use of those who went to consult that Library, as reported by the Librarian. I did not assume to say that that measured the usefulness of the Library, but I did say that if that fact could be taken as a measure of its usefulness, then we ought to adopt some other method, because it costs more money to put into the hands of each one of the visitors to that Library who sought the books upon its shelves than it would have cost for Congress to have bought the books and made a present of them to those who inquired for them.

If that was a fair test, it cost more than $1 to hand a book to the inquirer that went to that Library. In the last annual report of the Librarian he refers to that fact, and he put into my mouth sentences that I did not use, refused to make use of the qualifying sentences that I did use, and then undertook to demolish the supposed argument that I made by showing the vast usefulness of the institution in other directions and in other ways than simply by the use of the books. Now, Mr. Chairman, I notice that in the report this year—or at least if it is there I have not been able to find it—that method of testing the usefulness and the cost to the public is taken away, for the report does not show the number of people who have been accommodated with the books of that Library. I am not one who wants to run amuck against the Library. I believe it is a great institution, I believe that its usefulness ought to be preserved to the American people, that it ought to be made more useful, but I submit it ought to be so made useful within the limitations of reasonable expenditure. Nearly $800,000 is an enormous sum for the people to pay for this institution, and if you calculate its cost, grounds and all, nearly $7,000,000, and add the interest on that vast sum—we are paying on some of our bonds, 4 per cent—then you find you have the wonderful total of nearly $1,000,000 to maintain a library. I think that some other method ought to be adopted, and if no other method can be adopted, then some other man ought to be put at the head of it. It is not enough to say that a man has been connected with this great institution and that great institution and this other great institution and therefore necessarily is the fit man for this responsible position. We want something more of practical results than this, and yet with this extraordinary expenditure, without recommendations in the way of economy, without a suggestion as to how this grand total can be made less, $90,000 are put into the hands of this gentleman, and I understand that he is ransacking the second-hand book stores of the world by communication and by his messengers to find books, books. What kind? What do the American people care for the curiosities in the bookbinder's art or for these old and musty tomes probably reprinted over and over again? What do we or the American people care for being the owners and custodians of this class of literary curiosity? I think that something ought to be done in order to curtail the wonderful expenditure that is imposed upon the American people.

I know with what delight we and our constitutents visit that building. It is a wonder, and I confess that I feel much of gratitude to the gentleman, Mr. Green, who has been referred to time and again for his participation in its construction. I think the American people owe him much for the skill that he has manifested, for his wonderful ability in assembling the talent that was necessary for the adornment of that great pile. I know that our people love to visit it and are proud to point to it as perhaps the finest specimen of architecture known to the world. But remember that that achievement, that the construction of that building and making it one of the wonders of architecture is something entirely beyond this man who is now charged with these vast expenditures and who is known as the "Librarian." He is entitled to none of that credit. He was not a participant in that class of labor; he did nothing to assemble the skilled artists who have made the building a thing of beauty, and this fact ought not to be lost sight of when we are discussing his qualifications for the position he is now in. He is responsible at least for the fact that no recommendations are made by the custodian of that Library and by the man who expends these vast sums in the direction of economy, and that is the criticism I desire to make.

Mr. BURTON of Ohio. Mr. Chairman, I desire unanimous consent to proceed for ten minutes.

The CHAIRMAN. The gentleman from Ohio asks unanimous consent to proceed for ten minutes. Is there objection. [After a pause.] The Chair hears none.

Mr. BURTON of Ohio. Mr. Chairman, I am frank to confess a partiality for the Library of Congress. Some of the pleasantest and most profitable hours I have ever enjoyed have been within its walls, and I am unwilling to listen to any strictures upon its management or any accusations of extravagance without a word in reply. It is maintained that Mr. Green, superintendent of the building, is receiving too high a salary or too many salaries. I would we had more public servants like Mr. Bernard R. Green. He has been forty-three years in the employ of this Government and on the whole roll we can not find a man who has been more efficient or faithful in the performance of his trust.

It is false economy to indulge in cheeseparing with the salaries of competent men. It is true Mr. Green receives $5,000 a year as superintendent of the Library building, $2,000 by special act of Congress for superintendence of the building of the National Museum, and then again as consulting engineer at Harrisburg and in other places, for a time not exceeding his annual leave, he has received further compensation. Now, I would be one of the last men on this floor to advocate a general rule under which a man in the employ of the Government may be employed outside, but this is an exceptional case. He has to do with construction and with improvements in the heating, wiring, and lighting of buildings, and it is exceedingly desirable that he should be in touch with all the methods that are in vogue elsewhere. Thus every hour he gives to the State capitol of Pennsylvania makes him more competent for the management of the Congressional Library. We certainly can not complain of the extra $2,000, because we ourselves passed that statute. He is a man who, as I know, is devoted to his work during the daytime and often until late at night. He had to do with the construction of the Washington Monument, with the examination of the Washington Aqueduct when graft had been detected there. He constructed one wing of the State, War, and Navy building, and it means something when you point to the fact that of the two wings of that building one wing was constructed by others and another was under his superintendence, and the wing constructed under his superintendence cost $1,459,000 less than the other. It is something to his credit also that this Congressional Library was finished within the estimate of $6,500,000, and within the time prescribed for its completion.

A report has been given a wide circulation that the custody, care, and maintenance of the Library building and grounds cost more than for this Capitol. I would it were so. The fact is that it costs just about three times as much for this building here as it does for the Congressional Library. Naturally it would cost more. There is perhaps a greater variety of expenditure. There is the occupancy of many committee rooms. This is an older building, and requires more repair and, in a way, a larger degree of attention from watchmen and others.

I ask unanimous consent, Mr. Chairman, to file with my remarks a statement showing the comparative size and cost of maintaining the Library and the Capitol buildings.

The CHAIRMAN. The gentleman from Ohio asks unanimous consent to insert in his remarks a statement such as he has indicated. Is there objection? [After a pause.] The Chair hears none.

Mr. BURTON of Ohio. It seems to me that in making criticisms in regard to the expense for books people overlook the essential nature of this Library. It is not a circulatiag library at all. It is a reference library. It is like the British Museum, which costs for annual maintenance $636,000 a year, where wages are much cheaper than here, or the Bibliothèque Nationale, in Paris, and we should provide for it all the valuable books which may be useful. In the more than a million books there you will find a copy of the original folio edition of Shakespeare's works and numerous books from Thomas Jefferson's library, which not only have his bookmark, but thumb marks as well, and his notes written in the margin. It is far and away more valuable and complete than any library in the world of the same age. It has by far the best building. A reference library and a circulating library are very different in their essential requisites. One of the characters in The Rivals made the remark that "a circulatiag library in a community is an evergreen tree of diabolical knowledge."

I do not accept that as a proper characterization of a circulating library, but it is one where the demand for books is largely for fiction and reading that is sensational. But this is one in which are collected works of history, of art, and of geography, and in every branch in which the scholar or general reader may be interested. It is especially useful for re-

search, and includes as well treasures of art and of architecture which will please the eye. We are prone here to strain out a gnat and swallow a camel, and that is what we are doing when we object to the sum of $780,000, which it has been stated is the annual cost of the Library. Bear in mind that this includes $182,000 for printing and binding, which are not maintenance and in large part are an addition; also that a portion of that amount is to furnish shelves, which are another addition to the permanent value of the library; $98,000 is for the acquisition of books, which increase the investment that the Government has there; about $70,000 is to take care of the copyright division, and yet the copyright fees collected and covered into the Treasury are considerably more than the amount appropriated for that division. There is a division which furnishes catalogue cards to other libraries. That is comparatively inexpensive, for the work of composition would be done in any event, and the cards are exceedingly valuable to the libraries of the country, although the very small charge for them more than covers the cost to the Library of Congress. Let us compare these expenses with the cost of maintaining a battle ship, estimated last year at $517,000 per annum, and we are building and maintaining a considerable number of them. Is it not for the benefit of this country to maintain this institution, even if it should cost a little more than the maintenance of a battle ship, when it stands for education, for art, and all that is best in modern civilization? It is called the "Library of Congress," and some say the name should be changed to the "National Library." For one, I want the name "Library of Congress" to remain, as a monument, one of the great monuments, to legislation by this Congress. [Loud applause.]

Comparison of the comparative size, cost of custody, care, etc., of the Capitol, Library of Congress, and State, War, and Navy buildings.

[The references to pages are to the Digest of Appropriations for the year 1905 and to the Report of the Superintendent of the Capitol Building and Grounds.]

THE CAPITOL.	THE LIBRARY.
Dimensions, say 9,764,984 cubic feet.[a]	Larger if anything (10,000,000 cubic feet).
Floor area, 11 acres.	8½ acres, plus 27 floors of the book-stacks; 2,200 windows, dusting, cleaning, shifting, and guarding of collections aggregating 2,000,000 items.
In use as a whole less than two-thirds of each year and part of each week day.	Every day and evening in the year except two, which equals 660 days of 7 hours each. Care and maintenance includes law library at Capitol.
Appropriation for care and maintenance at least..... $244,265 (Service only. See appended analysis, not including $22,524 for "Salaries, Superintendent's office.")	$79,585. (P. 24 of Digest.) (Includes Superintendent and his entire office, $11,000.)

STATE, WAR, AND NAVY BUILDING.

Dimensions, say 8,500,000 cubic feet.
Floor area, about 10 acres.
Care and maintenance, $128,980. Does not include salary of superintendent (an officer) nor care of rooms, but only of public corridors. (P. 151 of Digest.)

THE CAPITOL.

[Annual expenditures for care and maintenance.]

Reference [1905]. (Service only.)

[Digest, p. 10.] For Senate, under the Superintendent, engineers, elevator conductors, electricians, foreman, etc		$27,465
[Digest, p. 14.] For House, under the Superintendent, engineers, elevator conductors, electricians, foreman, etc		30,400
[Digest, p. 13.] For Senate police (watchmen)		37,550
[Digest, p. 19.] For House police (watchmen)		37,550
[13 and 19.] For police, contingent fund		300
For one month's extra pay to Senate and House employees		10,080
[Digest, p. 10.] Legislative act, Senate.		
1 upholsterer	$1,440	
3 carpenters	2,880	
1 janitor	1,200	
50 laborers	48,040	
2 attendants, ladies' room	1,440	
2 telephone operators	1,800	
1 telephone messenger	720	
		57,520
[Digest, p. 15.] Legislative act, House.		
27 janitors for committee rooms	20,000	
53 laborers	22,680	
1 attendant, ladies' room	720	
		43,400
		244,265

The above does not include the following:

[Digest, 255.] Salaries, Superintendent's office	$22,524.00
[Digest, p. 255.] For services at Capitol and general repairs	21,182.45
[P. 258.] For improving Capitol grounds and repairs	[b] 21,428.68
[P. 258.] For lighting Capitol grounds	23,349.40

[Last three items under Interior Department in sundry civil bill.]

Mr. HEPBURN. Mr. Chairman, I move to strike out the last word.

I do not know, Mr. Chairman, that the gentleman from Ohio has thrown any particular light upon the subject that I tried to bring to the attention of Congress. I do not want it understood that I am hostile to this institution. I do want it understood that I am hostile to what I regard as a wanton, flagrant, wasteful expenditure of money. The gentleman has suggested two reasons why this large expenditure was desirable. One was that one of the original books of Shakespeare has been added to the Library. Now, I do not know whether the gentleman, in pursuing his Shakespearean studies, would prefer to get hold of that old and musty and dog-eared volume or to have a clean one in modern print. I think that, perhaps, would be valuable in a collection of curiosities in our National Museum, perhaps, if it did not cost too much. And why should the gentleman especially desire that volume of Thomas Jefferson's that has the thumb-marks of Thomas Jefferson on the margin? Does he take any pleasure in ascertaining the fact that Thomas Jefferson was not as cleanly in his habits as he ought to have been? [Laughter.] Does that improve the public mind? Does that give value to this great institution?

Mr. BURTON of Ohio. If the gentleman will permit an interruption, there is no accusation of uncleanliness. The gentleman realizes that every book that we read thoroughly and handle a great deal is liable to become somewhat soiled.

Mr. HEPBURN. I understood the gentleman to make a special reference in a commendatory way to the dirty thumb-marks on the margin of that page. [Laughter.] Now, I think that might be relegated to our museum of curiosities. How much did we have to pay for those thumb-marks? That is a practical question that comes up in this every-day world of ours; and we have no limit, no control, no espionage whatever over this gentleman who is in charge of these expenditures. He may value a thumb-mark of Thomas Jefferson at $5,000, for aught I know.

I am inclined to think, from the remarks of my friend from Ohio [Mr. BURTON], that probably he would put an extraordinary estimate upon it, and after what he has said, much as I respect him and much of confidence as I have in him on all matters pertaining to the river and harbor bill and to aquatic improvements of that kind, I would not trust him to buy volumes that may have the thumb-marks of Thomas Jefferson on them. [Laughter.]

Mr. PERKINS. Mr. Chairman, I ask unanimous consent to proceed for five minutes.

The CHAIRMAN. The gentleman is recognized for five minutes under the rule.

Mr. PERKINS. Mr. Chairman, I wish to say a word or two in reference to the management of the Library. I wish to say first that the gentleman from Wisconsin [Mr. COOPER] raised the question that the Superintendent of the Library Building, receiving $5,000 a year salary, had no right to receive any outside compensation. Let me suggest to the gentleman from Wisconsin that we fix the salaries, for instance, of the reporters of this House at $5,000 a year, and they are allowed, and they should be allowed, and they do, as a matter of fact, exercise their right during the months when Congress is not in session and when their work is not required here to earn other sums. I have the highest respect for these gentlemen, but I want to say that the services of a man competent to be the superintendent and architect of this great Library of Congress—and no one questions his competency—ought certainly also to be worth $5,000 a year. The gentleman from Wisconsin did not criticise the payments which we make to our own shorthand reporters, with opportunities for other employment during the Congressional recess, but when a man of extraordinary competency, upon whom great responsibilities are imposed, earns, in addition to his salary of $5,000 a year as superintendent of this building, other sums which are paid him for other work that he does, considers that is a matter of criticism.

Now, Mr. Chairman, just a word in reference to the Library of Congress. It has been my fortune to see some of the great foreign libraries and, to some extent, to carry on, with others, studies in the great libraries of the world. My friend from Iowa [Mr. HEPBURN], I presume, will say that those studies were of small importance, and certainly no one values their importance less than myself; but still in that way I have had the opportunity of comparing the great libraries of Paris and London with the great Library of the United States, and I have risen here to-day to say that in the opportunities which our Library furnish to scholars, however little value my friend from Iowa may attach to their labors, in the promptness with which they can be attented to, in the facilities which are furnished to them for the careful investigation of any branch of history or science, there is no library in the world that, in my judgment, furnishes such facilities, such promptness, and such convenience as the Congressional Library of the United States.

[a] Excluding upper area of Dome and the crypt.
[b] See Report of Superintendent of Capitol, page 6.

Certainly my friend from Iowa will admit that is a thing of some value. My friend criticises the cost of something over $600,000. Let it be that. It not only furnishes a library, but it furnishes a building of beauty which is one of the assets of this nation, the enjoyment of the beauty of which is shared by the people from all parts of the country. Surely my friend from Iowa regards that as an asset of value. We spend, including the cost of the seeds and the cost of sending them out, one-half of all that is spent on the National Library to distribute worthless seeds to people who do not want them. Does my friend from Iowa think that that is a more judicious distribution of the public money than the expenditure of $600,000 for the public Library of the United States? I do not believe that he does. As is suggested, we spend more than $600,000—we spend between one and two million dollars—in printing worthless documents, which no man will take off our hands and which we can not send to our own constituents. Does my friend think that is the part of wisdom, rather than an expenditure of $600,000 on a library which is the most beautiful and in some respects the best in the world? It seems to me, Mr. Chairman, that my friend from Iowa makes his criticism against an object not deserving of it and spares from his criticism a waste of public money far more reprehensible than any money spent on the Congressional Library of the United States. [Applause.]

Mr. LIVINGSTON rose.

Mr. LITTLEFIELD. Mr. Chairman, I move to strike out the last two words.

The CHAIRMAN. The gentleman from Georgia, a member of the committee, is recognized.

Mr. LIVINGSTON. If the gentleman from Maine wishes to speak now, I will yield to him.

Mr. LITTLEFIELD. Mr. Chairman, in a sense I agree with some of the suggestions of the gentleman from Iowa. It is a large sum of money for this purpose; whether it is too large or not I do not know. I do not understand that there is any specific suggestion made here that will reduce the expenses involved in the maintenance of the Library. Stated concretely and in gross, it does look to be a large sum. Whether it can be reduced or not I do not know. I have assumed that the committee, who has made a careful investigation of this and all other subjects, has found that no legitimate reduction could be made. I have not had time to investigate it. I would be glad to join the gentleman from Iowa in reducing any expenditure connected with the public Library of Congress that we could reasonably and legitimately make. I do not understand, as a matter of fact, that he intends to go any further than that. I do not understand that he makes any specific suggestion on this line. In the absence of a specific suggestion, so far as I am concerned, I feel that I must stand by the committee on their recommendation so far as these expenditures go.

Now, I think a word ought to be said in fairness in relation to the Librarian. I can understand how the gentleman from Iowa is justly disturbed on account of some things that may have occurred in connection with the Librarian. I am not qualified to express an opinion as to whether he is the best man for the place or not, but I can say that I fully indorse the suggestion of the gentleman from New York when he speaks of the efficiency of this Library as compared with others elsewhere. I have occasion to use both the Library of Congress and the Law Library, and to quite a large extent, and I undertake to say that it can not be questioned but that they are managed efficiently and successfully and that they exercise all care in enabling people to get a beneficial use of the Library.

I am not an expert on the matter as to what a librarian should be, but so far as my personal experience goes I want to say that the official force in the Library has treated every Member of this House with all consideration, and that we have ample opportunity for investigation so far as they have the books on hand. The force is able, competent, faithful, and efficient. This is no doubt due to the care and management of the Librarian. He should be given proper credit therefor.

Joking aside, I do not think any of us would contend that the Librarian was properly subject to criticism if he does put in the Library every book of a literary character that he can reasonably reach, rare and curious though it may be. Personally I should like to see in the Library—because I believe it to be one of the finest in the world—the finest literary collection in the world, and if it contained once in a while a curiosity I would not make any kick about that.

I would like to go there and if necessary be able to put my hand on any book, however rare and curious it might be. I would like to be able to go there in a legal investigation and get the benefit of the finest library in the world that ought to be maintained in connection with the court that has the largest jurisdiction in the world—the Supreme Court of the United States. Are the members of the committee aware of the fact that to-day down in this basement the reference law library has only about 30,000 volumes, and 70,000 or 80,000 volumes have to be carried away to the lumber rooms of the Library of Congress and can not be reached without delay and waiting for transmission? The Harvard Law School is arranging for a new library building, to be built this very next year, to contain—how many volumes do you think? And I wish you to compare it with the library that we have now which we can reach, with only about 30,000 or 40,000 volumes, as the case may be. Three hundred thousand volumes! So far as I am concerned I would like to see here in Washington where the profession can reach it and the courts can reach it as fine a library as they think necessary at the Harvard Law School in Cambridge, Mass. I do not wish to be understood as asserting that I am an expert on any part of this proposition, but I think every Member of the House, and I have no doubt my friend from Iowa [Mr. HEPBURN] would stand behind every proposition that would put into this library every book that any person might need in conducting any investigation—and he would be willing to vote, and I understand him to be now, any reasonable and proper expense necessary to the judicious maintenance and operation of the library; and I would be glad to go with him in that direction. But in the absence, as I say, Mr. Chairman, of specific suggestions—and I imagine my friend like myself has not had the time to examine this with care so that he would feel justified in making specific criticisms of particular offices—in the absence of that I feel like following the recommendations of the committee upon this particular proposition.

Mr. LIVINGSTON. Mr. Chairman, there is no motion to amend or to strike out. I think the Clerk ought to read.

The CHAIRMAN. Without objection, the pro forma amendment will be considered as withdrawn. The Clerk will read.

The Clerk read as follows:

Copyright office, under the direction of the Librarian of Congress: Register of copyrights, $3,000; chief clerk and chief of bookkeeping division, $2,000; chief of application division, $2,000; two clerks, at $1,800 each; four clerks, at $1,600 each; eight clerks, at $1,400 each; ten clerks, at $1,200 each; eight clerks, at $1,000 each; thirteen clerks, at $900 each; two clerks, at $800 each; ten clerks, at $720 each; two clerks, at $600 each; two messenger boys, at $360 each. Arrears, special service: Three clerks, at $1,200 each; porter, $720; messenger boy, $360; in all, $75,300.

Mr. HEPBURN. Mr. Chairman, I would like to ask the gentleman in charge of the bill what the expense of the copyright division was, say, ten years ago?

Mr. LITTAUER. In 1898 the appropriations for the copyright office were $36,440. They were increased in 1901 to $51,080; in 1903 to $65,520; in 1905 and 1906 to the neighborhood of $75,000. The reason for this increase is that the new copyright law has drawn to the copyright office a very much greater number of applicants.

Mr. HEPBURN. Mr. Chairman, I was sorry to see the gentleman from New York [Mr. LITTAUER] drop down from the high altitude that he was upon when discussing the uses of this Library to run his annual tilt against beans and peas and those other seeds that are so useful to the people of this country. [Laughter.] I did not suppose that he would find it necessary to bring in the seed question here, but I can see why gentlemen of his ilk, the scholars of the land, the men who are engaged in literary work, who are year after year making it necessary to have a large library building to hold the volumes that they thrust upon an unsuspecting public [laughter]—why that class of gentry should desire this Library to be maintained. I find that the gentleman regards it as a matter much to his credit, because it is inserted in his biography, which he himself, I suppose, kindly edited, that he is the author of a large number of publications. [Laughter.] Of course he is in favor of libraries. He wants some depository for them, and he wants the assistance of these trained men who know just where to put their hands on a volume to help him prepare these books. I take it that many an employee of this building helps literary gentlemen to original articles by knowing just where to put their hands on them in the shelves. [Laughter.] That class of men are especially in favor of the Library. I did not know that there was any selfishness in the defense made by the gentleman from Ohio [Mr. GROSVENOR], but I shall begin to suspect him [laughter], and I shall look soon for some publication copyrighted over here by his friends, and to which the shelves of the Library have made valuable contributions.

But what I wanted to say particularly was to protest again at a suggestion that was made by the gentleman from New York [Mr. LITTAUER] the third time—that I have hostility to this enterprise, to this institution. I want it to be maintained, but I do not want hundreds of thousands of dollars needlessly

thrown away upon it. I do not want an army of unnecessary employees there. I do not want an entire regiment of the friends and protégés of this man Putnam to be foisted upon the public rolls, at salaries more or less extravagant. That is what I do not want.

And I want simply to direct the attention of the House to what I regard as a flagrant abuse, not that it can be remedied now, but that some one charged with the duty—the chairman of some committee having supervision of this matter—will take it up and strive in a businesslike way to bring it within the limitations of business methods.

Mr. HARDWICK. Mr. Chairman, I raise the point of order on page 29, line——

Mr. LITTAUER. Mr. Chairman, I call the attention of the Chair that it is too late to raise the point of order on this paragraph.

The CHAIRMAN. The Chair thinks the point submitted by the gentleman from New York is well taken. Debate having closed upon the paragraph, the point of order is too late.

Mr. HARDWICK. Were there any amendments offered to the paragraph?

The CHAIRMAN. There has been debate on this paragraph.

Mr. HARDWICK. I thought the debate was about something on page 31. My attention was temporarily distracted.

The CHAIRMAN. The debate was on the paragraph in reference to the copyright office, and has now been finished.

Mr. HARDWICK. The reading has been finished?

The CHAIRMAN. The reading has been finished, and there was five minutes' debate, and the point of order now comes too late. The Clerk will read.

Mr. UNDERWOOD. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. UNDERWOOD. I move to strike out the last word.

The CHAIRMAN. The gentleman from Alabama moves to strike out the last word.

Mr. UNDERWOOD. Mr. Chairman, there are not many things we are allowed to enjoy in this great country of ours since the last forty years of Republican rule that are free. The principal thing that the Republican party has done for the country is to levy taxes on everything we enjoy, but we have got a free library, a library that every citizen of the United States may enjoy without taxation, a library that we may be proud of, and I am rather surprised to hear the indictment that the gentleman from Iowa has laid against his colleagues in this House who manage the business of the Republican party. I am heartily in favor of economy in the House, of our economizing in the Government where we can. I did not know before that there were hundreds of men and women employed in this library in the service of the Government whose services were not necessary, but I knew that we had a committee whose duty it is, in the examination of this particular bill, to investigate these questions and not appropriate money to carry on the Government rolls people whose services are not needed by the Government, and I am surprised that the gentlemen in charge of this great legislative bill should allow the indictment brought against them by the gentleman from Iowa to go unanswered, to the effect that they are now appropriating money for the carrying on of this library that involves the maintenance of numbers of men in the public service who are not needed.

Mr. BURLESON. Mr. Chairman, I feel that in justice to the Librarian of Congress the statement made a moment ago by the gentleman from Iowa that he has persistently filled the Library with his friends and relatives should not go uncontradicted. As a matter of fact, the principal complaint made by some persons against the Librarian has been that he invariably insists that every appointment made in the Library shall be based exclusively upon efficiency, requiring always that the person appointed shall have ability to discharge the duty for which he or she is appointed. The truth is, since Mr. Putnam has been in charge of this Library, he has not made appointments, as has been charged, but on the contrary there has been a more earnest effort made than ever has been made in the past to make a fair selection of appointees for the Library service from the various sections of our country, keeping in mind always the fitness of the person for the place to be filled. Now, as far as the accusation of extravagance in the conduct of this great Library is concerned, it can be answered in a word, and when made it can not be successfully contradicted. That answer is, that the scale of wages or the scale of salaries fixed in this bill, which obtains for all lines of clerks and employees in the Library of Congress, is lower than the scale of wages or salaries paid in any other Department of this Government for like services or employment. No man upon this floor can gainsay that statement. [Applause.]

The Clerk read as follows:

Distribution of card indexes: For service in connection with the distribution of card indexes and other publications of the Library, including not exceeding $500 for freight charges, expressage, and traveling expenses connected with such distribution, $10,800.

Mr. HARDWICK. Mr. Chairman, I make the point of order that this is an increase over the amount carried for the appropriations last year, which were $7,500.

Mr. LITTAUER. I understand the point of order is reserved.

The SPEAKER. The Chair understands the gentleman to reserve his point of order.

Mr. LITTAUER. Unquestionably the $10,800 submitted to the committee here is an increase over the amount for this purpose last year. We believe that there is no item in the bill more worthy of an increase than the one we have now reached. This distribution of card indexes is made to about 700 librarians throughout the United States—in the South, the North, the East, and the West. It is a service that is continually being asked for more and more. It is one of the aids the Library of Congress gives to every other library in the United States, or at least the 700 that avail themselves of the privilege. The importance of this service is growing very rapidly, and in order to meet the increased demand this extra $3,000 for this force is required. The net income from the sale last year was $15,500, or more than twofold the salaries paid to this force. The force required is a growing one, and ought to grow year by year, consequently can not be specifically appropriated for. The salaries extend from $360 up to $2,000; the majority of those employed on this work are paid under $660 a year. It seems to me that the attention the Committee on Appropriations has given this and sundry other similar matters should be taken into account before indiscriminate points of order are made against items of this kind. These items received a thorough investigation, and the committee is ready at all times to give a proper explanation to this House for its submissions if the hearings do not contain the information that is necessary.

Mr. CRUMPACKER. Will the gentleman allow me to ask him a question?

Mr. LITTAUER. Yes, sir.

Mr. CRUMPACKER. How long has an item like this been carried in the appropriation bill?

Mr. LITTAUER. Since 1904.

Mr. CRUMPACKER. And the increase in the appropriation here is made necessary simply by reason of the increase in that branch of the service?

Mr. LITTAUER. The demand is increasing largely.

Mr. CRUMPACKER. I do not think it is subject to a point of order, being a work in progress.

Mr. LITTAUER. The amount in the last appropriation bill was $7,800; the one before that, $6,800, and in the one before that, $4,900. It is a work in progress.

Mr. CRUMPACKER. I do not think that would be subject to the point of order.

The CHAIRMAN. Does the gentleman from Georgia make the point of order?

Mr. HARDWICK. Yes, sir.

The CHAIRMAN. Will the gentleman please state his point of order?

Mr. HARDWICK. The point of order is that it is an increase in the amount authorized by law to be appropriated for this purpose. It is new legislation. It is for the payment of extra officers that are not provided for by any existing law. I just want to say this, if the Chair will permit me. I understand the gentleman has suggested in his statement that they had to have this money to go on with this work, increasing the force and spreading out this work. Now, the bare fact that the thing has been done from one year to another does not make it a work—that is, a continuous work—that would justify the gentleman from Indiana in the conclusions he reaches. As far as I can judge from reading it, so far as it can be ascertained from any statement of the gentleman from New York, it does not seem to be that way. It seems to be a new, additional, force. I want to say this in answer to the gentleman's statement, that I do not know anything as to whether it is meritorious or not, but I object to the system, and I am willing to reply to him every time he makes that contention. I am not trying to do anything except to insist upon having the rules of this House carried out in the consideration of this bill.

Mr. FITZGERALD. Mr. Chairman, I desire to say that the Library of Congress is authorized by law. This is a part of the Library work. It is one of the things which is generally authorized in the maintenance of the Library. It is not one of

those cases where a point of order is good against the item. It is a service done in continuation of the work of the Library, and merely because the amount is increased it does not come within the rule so as to make it subject to a point of order, as it would if it were an increase of salary. It is for a continuation of a work in progress, the work of maintaining the Library, which is existing under the law, and which work is done in pursuance of law. It seems to me under these circumstances it is proper to appropriate the amount determined upon by the committee.

Mr. LIVINGSTON. Mr. Chairman, this distribution of cards is not a new matter in the appropriation bill, but the increase in the number of cards and the increase in the distribution of cards to State libraries and to private libraries is growing every year. As long as that policy is pursued this appropriation must increase year by year. If you cut down the appropriation, there is about $600 of this amount of increase that is necessary for paying express charges on these cards, which are sent to Texas, to Nevada, and all over the country. If you cut down the appropriation, then the distribution of these index cards, so much desired and sought for by State libraries, will have to cease. Whether it is the business of the librarian to do that work for that purpose, and to send those index cards abroad, is another proposition. I think I have made the statement so that you can understand what this increased appropriation is for.

Mr. PRINCE. Mr. Chairman, just a word upon the point of order. I think the gentleman from Georgia, who has just spoken, has struck the nub of the whole thing. If the law which created the Congressional Library authorized the Librarian or those connected with the Library to furnish at public expense card indexes to the libraries throughout the country, this provision is, then, a continuing law; but I question the right. They have just as much right to send anything else they may see fit, and I insist that the point of order is good, because these people in doing this work are outside of their legal purview. Being outside of it, anything they do thereunder is contrary to law, any appropriation made thereunder is in violation of law, and the whole provision is subject to a point of order.

Mr. McCLEARY of Minnesota. Will my friend yield for a question?

Mr. PRINCE. Yes.

Mr. McCLEARY of Minnesota. Does my friend know that these card indexes are not furnished at public expense, but that they are paid for by the people who get them, and that the money received from this source is turned into the Treasury, and that this item does not amount to one-third of the money that is returned from this source and turned into the Treasury?

Mr. PRINCE. I will grant that.

Mr. McCLEARY of Minnesota. And that this Library by this paragraph in the bill is enabled to serve all the libraries throughout the United States?

Mr. PRINCE. I will ask the gentleman, who is on the Library Committee and the chairman of the joint committee, if he will please state to the House whether there is any authority of law conferred upon the Library to do this work?

Mr. McCLEARY of Minnesota. Why, just as the gentleman from New York indicated, it is part of the ordinary work of the Library.

Mr. PRINCE. Is it a part of the duties of the Librarian?

Mr. McCLEARY of Minnesota. I think it is a part of the legitimate functions of the Library.

Mr. PRINCE. And you regard the distribution of the cards as a part of the business of collecting the books of the country and maintaining and taking care of them? I think it is clearly contrary to law.

Mr. CRUMPACKER. Mr. Chairman, the Congressional Library is a national institution. Its purpose is to serve the entire country, and if it could reasonably have been contemplated at the time it was authorized and its several functions were established by law that distributing index cards would be a part of its duty in serving the country, perhaps it would have been specifically mentioned; but I think it is clear that as a national institution it must have been contemplated that it would perform all of the reasonable things that go with an institution of that character. It is said that these card indexes are made partly for use in the establishment itself and the surplus is distributed for the benefit of the people, through the respective libraries of the country. It seems to me that that is one of the minor details, one of the minor functions of the institution that the law did not provide for, that no law could have made adequate provision for in detail. The Library is authorized to do these general things that are implied from the very nature of the institution itself, and among those things it seems to me nothing can be clearer that its implied right to perform the ordinary functions of a national library, that it has a right to publish and distribute surplus copies of the card indexes, in order that the people of the country may receive additional benefits from an institution which they established and for which they pay.

I do not believe it is necessary under the rules adopted by this House for every particular minor item of detail to be enacted into specific law; that these matters of detail that are essential and a part of the general functions of an institution are presumed to go along with it, and appropriations may be made under the rules to carry them out. If that is the case, if there is an increase of expenditure, or if the enlargement of some particular branch makes an increase of expenditure necessary, it is not subject to a point of order at all. I believe the point of order against this proposition is not well taken.

Mr. PRINCE. Mr. Chairman, one further suggestion. If it be true that they have a right to get a force to distribute card indexes, would it not follow that they have a right to get a force to distribute the books themselves throughout the country on the ground that the people want the books out of the National Library, and therefore they will send them out? The moment you begin to distribute a portion of it, will gentlemen be kind enough to tell me where it will stop? I maintain that this is outside of the function of the Library. There seems to be a very lax management over at that building. Here is an opportunity to close at least this door for an improvement. You permit them to distribute card indexes, and the next time they will say, "We are distributing books and sending them to New York; sending them to Atlanta, Ga., and to Galesburg, Ill.," and claim that this distribution of the books to the people throughout the country is a part of the business of the Library.

The CHAIRMAN. It is hardly within the province of the Chair to enter into a minute consideration and discussion of the various duties imposed upon the Librarian by the general act of Congress creating his office and in more or less general terms defining his duties. It seems to have been conceded by both branches of Congress and the President in past years that this was a proper part of the duties, because appropriations have from time to time been made for it. The gentleman from Georgia makes the point of order that the amount of appropriation is increased this year without previous authority of law, and that point would be good were it not for the exception found in the last part of the second clause of Rule XXI in favor of public works and objects already in progress. The Chair finds that it was ruled in the Fifty-seventh Congress, as appears on page 349 of the Manual, that "an appropriation to complete a list of claims was held to be the completion of a public work or object." The Chair thinks that this is even more within the exception than the completion of a list of claims, and therefore overrules the point of order.

The Clerk read as follows:

Temporary services: For special, temporary, and miscellaneous service, at the discretion of the Librarian, to continue available until expended, $2,000.

Mr. HAY. Mr. Chairman, I move to strike out the last word. I would like to ask the gentleman in charge of the bill what this is used for.

Mr. LITTAUER. Largely for stenographic work in connection with various bureaus. It is a miscellaneous fund at the service of the Librarian, of $2,000, and he applies it wherever it may be needed.

Mr. HAY. The only thing in the hearings is this:

Mr. LITTAUER. The next item is a temporary service, $2,000. Do you use all the appropriation?

Yes, sometimes in the summer time we are able to save several hundred dollars, but we use it all before the year is over.

I do not think there is any explanation of what that is used for. It does seem to me with all the appropriations for the Library for the different kinds of service, that there ought to be some explanation of the use of this money.

Mr. LITTAUER. I believe in the early part of the hearing the Librarian did state that he was compelled to draw on this appropriation for temporary services to aid in the work, both in his own office and in one or two of the subdivisions for stenographic work. Two thousand dollars has been appropriated year after year, and is always used to good advantage.

The CHAIRMAN. Without objection, the pro forma amendment will be withdrawn.

There was no objection.

The Clerk read as follows:

For miscellaneous and contingent expenses of the Library, stationery, supplies, and all stock and materials directly purchased, miscellaneous traveling expenses, postage, transportation, and all incidental

expenses connected with the administration of the Library and the Copyright Office, which sum shall be so apportioned as to prevent a deficiency therein, $7,500.

Mr. JOHNSON. Mr. Chairman, I move to strike out the last word. The day before yesterday I came forward in a modest way as a reformer. I undertook to point out a few cases in which several thousand dollars now uselessly expended could be saved to the Treasury. I did not receive much encouragement and I received still less help. I have no pride of opinion about these matters. I am not responsible for the legislation. I call the attention of the members of the committee to the facts and they can assume the responsibility. Before we read the next paragraph I wish to call the attention of the committee to the fact that the expense of maintaining the Library since 1898 has increased from $30,000 to $77,505.

Mr. LITTAUER. Will not the gentleman call attention to the fact that in two years thereafter—that in 1899 the expense was $69,265?

Mr. JOHNSON. I did not know it. The gentleman from New York can call attention to that fact.

Mr. LITTAUER. But the gentleman stated that for 1898 the expense was but $30,000. It seems to me that the gentleman is misinformed. The figures before me show that in 1898, $51,440 was expended for its care.

Mr. JOHNSON. In reply to the gentleman from New York, I will state that the chairman of the Committee on Appropriations stated in these hearings that the expense in 1898 was $30,000.

Mr. LITTAUER. He must have been mistaken.

Mr. JOHNSON. That is where I got the information. The Library is no larger now than it was in 1898. The grounds are no larger than they were in 1898. This expenditure has nothing to do with the books in the Library, the clerical force in the reading room, or the force among the shelves.

Mr. LITTAUER. Not one-half of the space that is now occupied in the Library was occupied in 1898. The expense then was $51,440 for maintenance and care. The $30,000 statement was an evident mistake. The expense now is $77,505. The collections have since been arranged and distributed, and the building is visited by at least twice as many people now.

Mr. JOHNSON. I hope I will make myself clear to the gentleman. I have the figures here, but let me answer the gentleman from New York. I am not talking about the books in the Library.

Mr. LITTAUER. I understand that you refer to the care and custody of the establishment.

Mr. JOHNSON. I am not talking about the people who handle those books. I am talking about the care and maintenance of the building and grounds. The building is no larger and the grounds are no larger. It requires no more watchmen, and it ought to require no more expense to take care of that building now than it did ten years ago. Beginning with 1898, the expense of the maintenance of the Library building and grounds has increased from $51,440 in 1898 to $79,445. I notice that the second item in the next paragraph provides for the clerical force in charge of the superintendent. There are clerks whose aggregate salary is $6,000. When questioned before the committee as to what these clerks were doing the testimony was that they disbursed $500,000 a year. There are some 300 employees of all kinds. The salaries of these employees are paid through this office. I have in mind as I am talking now a manufacturing plant that cost a million of dollars, which employs 1,500 to 2,000 people. Their wages are paid twice a month. The books of that great corporation, whose output amounts to millions of dollars a year, and all the pay rolls of these 1,500 or 2,000 employees are made up by three bright young men, whose aggregate salaries do not reach $5,000 a year. Yet over here at the Library of Congress, with only about 300 people on the rolls, whose salaries run in even sums, $100 or $200 or $250 a month, we expend $6,000 in clerical hire to make up those rolls and to pay those 300 people. Gentlemen, I believe that one bright young man worth $1,500 a year can keep those books and disburse that money. Still, we have four clerks, and I don't know how many janitors and messengers, and all that sort of thing. I simply call attention to it. If you want to correct it, you can do it.

The other day the remark was made all around me and on the other side, "Oh, you must not attack these little fellows." If you are afraid to attack the picket line you will surely be afraid to take the breastworks.

The CHAIRMAN. The time of the gentleman has expired.

Mr. JOHNSON. Mr. Chairman, I ask unanimous consent for one minute.

The CHAIRMAN. The gentleman from South Carolina asks unanimous consent that his time may be extended for one minute. Is there objection?

There was no objection.

Mr. JOHNSON. If we propose to correct the small abuse, you cry out that it is such a little thing that you ought to let the poor folks alone, and then when you undertake to correct the great abuse you come in contact with great political influence and power. I believe that this House ought to take these bills and all these offices and correct the evils as they come to them, whether they are large or whether they are small, and as you get one out of the way it will be that much easier to dispose of the next one.

The CHAIRMAN. Without objection, the pro forma amendment will be withdrawn.

Mr. COOPER of Wisconsin. I would like to ask the gentleman from New York one question. I notice in line 18, page 29, there is a provision for "special temporary and miscellaneous services, $2,000."

Mr. LITTAUER. The gentleman from Virginia has already called attention to that item.

Mr. COOPER of Wisconsin. And on line 18, page 30, is for "miscellaneous expenses." What is the difference between miscellaneous services and miscellaneous expenses?

Mr. LITTAUER. One is for clerical service and the other can not under the statute be used for clerical service. One is for general expenses—purchases of small items, like stationery supplies, stock—and the other is for clerical service. As I stated before, under the law miscellaneous contingent expense appropriations can not be disbursed for personal services.

The Clerk read as follows:

Custody, care, and maintenance of Library building and grounds: For superintendent of the Library building and grounds, $3,000; chief clerk, $2,000; clerk, $1,600; clerk, $1,400; clerk, $1,000; one messenger; one assistant messenger; two telephone operators, at $600 each; captain of watch $1,400; lieutenant of watch, $1,000; eighteen watchmen; carpenter, $900; painter, $900; foreman of laborers, $900; fourteen laborers, at $480 each; two attendants in ladies' room, at $480 each; two check boys, at $360 each; mistress of charwomen, $425; assistant mistress of charwomen, $300; forty-five charwomen; chief engineer, $1,500; one assistant engineer, $1,200; three assistant engineers, at $1,000 each; electrician, $1,500; assistant electrician, $1,000; machinist, $1,000; machinist, $900; two wiremen, at $900 each; plumber, $900; three elevator conductors, at $720 each; nine firemen; six skilled laborers, at $720 each; in all, $77,505.

Mr. LITTLEFIELD. Mr. Chairman, I move to strike out the last word for the purpose of inquiring of the gentleman in charge of the bill, and in view of the criticisms that have been made within the last few minutes as to the size of this force, what investigation the committee made in reference to the necessity of the various employees for which an appropriation is recommended.

Mr. LITTAUER. We have from time to time, year after year, looked into the matter of this force. Instead of six clerks employed in the care and disbursement of funds under the charge of the custodian I find but four appropriated for here, plus one messenger and one assistant messenger. There are 432 employees. There are, I think, about a dozen different heads of appropriations, each one of which has to be taken care of. We all know how much more complicated Government bookkeeping is than the ordinary commercial bookkeeping. I do not believe the number of clerks is excessive. Leaving the clerks and coming down to the other force, such as telephone operators, required in the conduct of the work there, we come to the watch force of eighteen men. These watchmen do practically the same work as our policemen about the Capitol and they receive $720.

Mr. HAY. You have no specific appropriation for the wages of the watchmen.

Mr. LITTAUER. There is a general provision for watchmen.

Mr. HAY. Who fixes that?

Mr. LITTAUER. If you turn to page 161 of the bill, section 2, you will find the pay for telephone switchboard operators, assistant messengers, firemen, and watchmen is at the rate of $720 per annum.

Mr. HAY. That is a new provision, is it?

Mr. LITTAUER. No; it has always run along in that way.

Mr. GOULDEN. Will the gentleman yield for a question?

The CHAIRMAN. The gentleman from Maine has the floor.

Mr. LITTLEFIELD. I yield to the gentleman from New York for a question if he desires it.

Mr. LITTAUER. I do not believe the force connected with the work of care and maintenance of the Library is excessive or their salaries are excessive.

Mr. LITTLEFIELD. Then, as I understand it, it is the judgment of the gentleman in charge of this bill, after his personal investigation as a basis for these appropriations, that we can not reasonably dispense with any of those men who are mentioned in this paragraph of the bill.

Mr. LITTAUER. I could not indicate to you where any one of them could be reduced. I do not believe the force at all has any supernumerary in it.

Mr. LITTLEFIELD. In other words, every man appropri-

ated for here is necessary for the proper discharge of the duties under these circumstances and the proper care of the building?

Mr. LITTAUER. Yes. I will say the increase in force has only been an occasional charwoman or an elevator conductor.

Mr. LITTLEFIELD. And notwithstanding the size of the gross appropriation the committee is satisfied that the details are absolutely necessary?

Mr. LITTAUER. I surely am.

Mr. BURLESON. Mr. Chairman, in reference to the six clerks I would like to have a word to say, because I do not think the record is exactly complete upon the subject. When the item was first reached in the consideration of this bill in subcommittee it struck me the force was too large, and I interrogated the superintendent in charge of the buliding, who has control of these clerks, upon the subject, and here is what he says: I read from the hearings. The superintendent said:

> Now, there are 240 people in the Library proper; charwomen, 45, and 15 laborers; and all told in our force there are about 110 or 115 individuals of all sorts. The pay rolls have to be made up carefully, and payments are made twice a month. There is no end of vouchers for detail expenditures of all kinds, purchases of books and expenditures made by the Librarian himself, as well as our own expenditures. That keeps the force pretty busy.

That satisfied me.

Mr. FITZGERALD. I wish to call the attention of the gentleman to this fact: That in addition to these disbursements this force makes the disbursements for the Botanic Garden, and also all matters that come under the control of the Joint Committee on the Library.

Mr. BURLESON. That is a fact.

Mr. FITZGERALD. And at times there are certain monuments and other matters for which disbursements are made, which come under the control of this force.

Mr. JOHNSON. Mr. Chairman, I do not know who has the floor, but I would like to ask the gentleman from New York a question.

The CHAIRMAN. The time of the gentleman from Maine has expired.

Mr. LITTLEFIELD. I move to strike out the last two words.

The CHAIRMAN. The gentleman can not be recognized to amend his own amendment.

Mr. LITTLEFIELD. I ask unanimous consent for permission to ask the gentleman from New York [Mr. FITZGERALD] a question. I understood the gentleman from New York [Mr. FITZGERALD] to corroborate the suggestion of the gentleman in immediate charge of the bill as to the necessity of all these employees?

Mr. FITZGERALD. No; I did not.

Mr. LITTLEFIELD. Now, if the gentleman does not do that can he state what employees we can dispense with?

Mr. FITZGERALD. I do not say that we can dispense with any employees.

Mr. LITTLEFIELD. Can we; and if so, which of them?

Mr. FITZGERALD. I do not know. I am unable to state. Unfortunately I have not had the same opportunity to investigate this as the gentleman in charge of the bill has had. As long as they were making up the record as to just what services were to be performed by these clerks, I thought something should be stated that evidently had been overlooked, and that was that these clerks also have charge of the disbursements for the Botanic Gardens and of matters coming under the control of the Joint Committee on the Library. Now, I am in the same position as the gentleman from Maine. I am compelled to rely very largely upon the investigations that have been made by members of the subcommittee.

Mr. LITTLEFIELD. I got the impression that the gentleman from New York had particularly investigated this matter, and that is why I made the inquiry. I understand now the contrary to be the fact.

Mr. FITZGERALD. I have assumed that these gentlemen who investigated the matter did not find that this service was such that it demanded a radical change; and, although, perhaps, they might not have been convinced, that if they had an opportunity and free hand to do so they would have effected some improvement.

Mr. JOHNSON. Mr. Chairman, I would like to ask the gentleman from New York a question. I would like to know how much is the appropriation for the Botanic Garden and this extraordinary labor put upon these various clerks?

Mr. FITZGERALD. I do not know. I am not a walking encyclopedia of appropriations, and I can not answer that.

Mr. JOHNSON. It is $20,000.

Mr. BURLESON. It is something about half a million disbursed there by the Library.

Mr. JOHNSON. These clerks disburse, in round numbers, half a million dollars a year that we appropriate for the Congressional Library. They also disburse $20,000 which we appropriate for the Botanic Garden; so that they disburse, in round numbers, five to six hundred thousand dollars a year, and they keep books and pay about 300 employees their salaries for their services.

Mr. LITTAUER. Four hundred and thirty-two.

Mr. JOHNSON. And it takes four high-priced men to do it. I repeat what I said before. I believe one bright young man worth $1,500 a year could keep these books and disburse that money.

Mr. FITZGERALD. I wish to call the gentleman's attention to this fact, that the amount disbursed is not a fair criterion of the labor needed. For instance, the gentleman will find farther on in this bill that there is a cashier at the assay office in the city of New York who handles $51,000,000 a year. He has been receiving $2,000.

Now, it may be much easier to handle that much money than to pay the employees connected with these other two establishments. If the gentleman knows of one man who can efficiently perform this work, why, he has a remedy now. I suggest that in the performance of his duty he should move to strike out those clerks which he considers unnecessary and put in the bill a provision for a clerk at a salary that he thinks proper for the duties required there. Then the committee will have an opportunity to pass upon something definite, and he will not be indulging in criticisms that he is unprepared to back up with definite suggestions as to the manner in which reforms can be effected.

He may be correct. He may know some bright young man who could do this work. It may be true that he could, but I am assured by those gentlemen who investigated this matter that they do not believe it could be done; and in my opinion they are better qualified, with the information they have, to pass upon this matter than the gentleman from South Carolina.

Mr. LIVINGSTON. Mr. Chairman, I will give the gentleman the information he wants. The trouble in the minds of some of the Members is to account for the increased expenses in caring for this building. It began in 1898 with $51,440. It has run up in nine years to $77,500. That is $26,000 increase in nine years. That increase can be accounted for by the increased work done by the Library.

Let me give just one illustration. The gentleman from Georgia a moment ago made a point of order against an increase of expenditure here, from $7,000 to $10,000, for distributing cards. Those cards are packed by these people whom the gentleman from South Carolina talks about. There is something in there besides bookkeeping. There is something in there besides disbursing money. They pack all those cards, they send them to the depot, they send men with them to the libraries, they bring back and unpack and repack, day after day, to every library throughout the country. There are a lot of increased expenses that were not incurred a few years ago, and there are a lot of things just like it being done now that were not done in 1898, when we began this expenditure at $51,440. No one, unless he sits at the table where we sit, can be blamed for not knowing these things. It would take months to sit here and pass this bill if we had to do what the gentleman from South Carolina wants to do now, give a detailed statement and explain to this House every dollar of increase in expenditures all along the line carried in this bill.

Mr. Chairman, I want to say to the gentleman from South Carolina if you have any confidence in your Committee on Appropriations you must take some of these things for granted as correct.

Mr. JOHNSON. Will the gentleman allow me to interrupt him?

Mr. LIVINGSTON. I do not mind the interruption. I only want to satisfy the gentleman.

Mr. JOHNSON. I have the utmost confidence in every member of the Committee on Appropriations, and the other day I took occasion to express my very great appreciation of the zeal that they have shown in trying to find out where this money was going to. I am complaining about the whole system. The committee have done the best they could, but the trouble is that they bring before them the heads of the bureaus and the heads of the Departments, and they come with only one song and that is, "Give us more men and give us more pay." Now, that is all the evidence that the Committee on Appropriations have to go by. I think they go to the wrong sources to get their information. Some of these bureau chiefs who come before them do not know anything about it themselves.

Mr. LIVINGSTON. Mr. Chairman, with all respect for the gentleman from South Carolina and for his information and the sources of his information, I want to say that he has made an unjust criticism of the Committee on Appropriations. We do

not make up this bill at haphazard, as he seems to think. It is true that some of the heads of Departments, as I stated on the floor in my opening speech, are not in touch with the business in detail. They do not know the details, and once in awhile in the hearings we run across a man of that kind; and you seem to read that man's testimony and not all the testimony.

Mr. JOHNSON. I have read all the testimony you took, and you did not take enough.

Mr. LIVINGSTON. We did not leave out any.

Mr. McCLEARY of Minnesota. Just one question. I notice that the total expenditure for the custody, care, and maintenance of the Library building and grounds is $77,505.

Mr. LIVINGSTON. Yes.

Mr. McCLEARY of Minnesota. Now, this property cost over $7,000,000. The result of a little computation will show that that is less than 1 per cent per annum.

Mr. LIVINGSTON. Yes.

Mr. McCLEARY of Minnesota. The gentleman ought to be able to admit offhand that that is not an unreasonable expense for maintenance.

Mr. LIVINGSTON. The gentleman from Iowa says that here is a new building with no repairs to be made, and he says that it should be kept up for much less money than we pay for it. Now, in the keeping and the maintaining of the building, as you will discover in this bill, there is much else done than simply sweeping and scouring. The opinion held by some Members is that keeping and maintaining a building is simply keeping it clean and lighted and beautiful.

Mr. McCLEARY of Minnesota. I am sustaining the gentleman's contention.

Mr. LIVINGSTON. I understand.

Mr. McCLEARY of Minnesota. It only costs 1 per cent to maintain it in its present magnificent condition.

Mr. LIVINGSTON. Yes. I want to say that when we get up this bill next winter you will probably find an increase right at this point. Why? Because the appropriation authorizes the superintendent of the building to expend more and more each year, and if we are going to keep that up, you will find an increase of expenditure all along the line. We can not avoid it.

Mr. GOULDEN. May I ask the gentleman a question?

Mr. LIVINGSTON. Certainly.

Mr. GOULDEN. Did the committee in its investigation in regard to the Library look into the official conduct of the captain of the watch?

Mr. LIVINGSTON. Yes.

Mr. GROSVENOR. I have information that that gentleman is not efficient and has not been doing his work in the manner that he ought to do it.

Mr. LITTAUER. Who is the gentleman speaking of?

Mr. GOULDEN. The captain of the watch.

Mr. LITTAUER. On the contrary, he is one of the most efficient men we have. The result of his work is certainly beyond criticism. Any gentleman can see that by observing how well the building is preserved from any chipping or marring or anything of that sort, and how perfectly order is maintained throughout the building.

Mr. GOULDEN. When the committee undertakes to investigate this question again, I would like to be called before it with some information that may lead the committee to think differently.

Mr. LIVINGSTON. I do not want to conceal the fact that as long as men perform these functions that are human, you will find that a captain of the watch or it may be a clerk, or it may be the chief clerk or somebody else in some Department does not do his duty. I have no doubt about that.

Mr. GOULDEN. I asked the gentleman for information whether the committee had investigated in regard to it.

Mr. LITTAUER. We have investigated. I want to say to you that it is our policy not to drag into this House on the floor everything that we hear. I could tell the gentleman a story that would illustrate that wonderfully well if it was possible on this floor. Mr. Chairman, I withdraw the pro forma amendment.

The Clerk read as follows:

BOTANIC GARDEN.

For superintendent, $1,800.

For assistants and laborers, under the direction of the Joint Library Committee of Congress, $14,593.75.

Mr. HARDWICK. Mr. Chairman, I make a point of order against the provision in line 18, page 32, that the amount appropriated for assistants and laborers under the direction of the Joint Library Committee of Congress, $14,593, is an increase of $2,000 over the amount carried by previous bills and over the amount authorized by law.

Mr. LITTAUER. What law do I understand the gentleman is invoking by this point of order?

The CHAIRMAN. The Chair understands the gentleman from Georgia to make the point that the appropriation of $14,593.75 is a certain amount of increase over the amount authorized by law.

Mr. LITTAUER. It is a work authorized by law; it is a continuance of the work; it is the Botanic Garden.

The appropriation is for a continuing work, and it seems to me that it stands on all fours with the ruling of the Chair a moment ago.

Mr. HARDWICK. Mr. Chairman, I want to be heard on the point of order.

Mr. LIVINGSTON. Mr. Chairman, in addition to what the gentleman from New York has said, it is not only a continuous work, but it was developed before the committee that the grounds had become barren and would not sustain the shrubbery and flowers as authorized by law to be planted and maintained there. Part of this money, or the most of it, is for fertilizer.

Mr. SMITH of Kentucky. I think the gentleman is on the wrong item.

Mr. CRUMPACKER. Is not there a statute that authorizes the employment of additional laborers and assistants in the service in Washington?

Mr. LITTAUER. Yes; but that is in the classified clerical service. This appropriation here is for the assistants and laborers. It was a continuance of the work authorized by law. The increase of appropriation appears to me to be as regular as any appropriation.

Mr. CRUMPACKER. It would be analogous to the purchase of additional shrubbery or bulbs or something of that kind in connection with the service.

Mr. LITTAUER. That is what this is for.

Mr. BURLESON. The cost of labor has increased, but we are not increasing the number of laborers at all.

Mr. HARDWICK. Mr. Chairman, if the Chair desires to hear me, I would like to say just a word. This particular appropriation against which I made the point of order is undoubtedly subject to it. It is for the pay of assistants and laborers. It is increasing the pay of people employed, over the amount carried by law last year, and if I understand the rules at all or any of the rulings made by the occupant of the chair, I do not see how there can be any distinction. Every laborer continues to work as long as the Government keeps him and pays him, of course.

Mr. LITTAUER. Mr. Chairman, I can not appreciate why this increase should be more subject to a point of order on the gentleman's reasoning than any part of the appropriation would be.

Mr. HARDWICK. But I have made it only on this increase.

Mr. PRINCE. Mr. Chairman, I tried to hear the argument made by the gentleman from Indiana [Mr. CRUMPACKER], and he said that this was a continuing work, just the same as purchasing trees, shrubs, and plants. The gentleman should read what follows on lines 20 to 25. There is a provision for the purchasing of trees, shrubs, and plants.

Mr. LITTAUER. One is the same as the other.

Mr. PRINCE. Oh, no; one can not be the same as the other. One is for assistants and laborers. Now, if the number of assistants and laborers has not been increased, then the salaries of those have been increased, because there has been an increase in the present bill. It was formerly $12,593.75. If there were then ten laborers drawing $12,500 and odd, there are twelve laborers now proposed drawing $14,500. Clearly there is an increase in the salaries of the assistants and laborers. If they have added to the number of assistants and laborers, namely, twelve, and they purpose having fourteen now under the law or twenty under the law, then they have added to the number of laborers. Take either horn of the dilemma that you wish and you will fall within Rule XXI, which forbids you on an appropriation bill to increase the salary of laborers or to add to their number except by law or by resolution. The burden is upon the proponents of this bill to show that they are within the rules of the House. The burden is not upon us who oppose the proposition to show that we are outside of the rules. They have brought a bill in here supposed to be within the rules of the House, and when we question their right to a proposition under the rules they should show the law by which they make this proposition, else it goes out.

Mr. LITTAUER. Mr. Chairman, all I care to take exception to is the last part of the statement. In my judgment the gentleman making the point of order against the provisions of a bill has the duty to perform to inform the committee why he makes that point of order. Those in charge of the bill can not

be called upon to infer what reasons may be in the mind of the gentleman making the point of order.

Mr. LIVINGSTON. I desire to say to the gentleman who has just taken his seat and to the gentleman from Illinois [Mr. PRINCE] that if you look to the estimates you will discover that there is no addition to the salaries of the laborers and assistants.

Mr. HARDWICK. Then I desire to ask the gentleman how the increase comes?

Mr. LIVINGSTON. It comes in the number of laborers and assistants.

Mr. PRINCE. Then you increase the number?

Mr. LIVINGSTON. From all the information before us it is an increase in the force and not in the salary, and that is all there is in it.

The CHAIRMAN. Does the gentleman from Georgia insist upon his point of order?

Mr. HARDWICK. Yes.

The CHAIRMAN. This is an item of appropriation for assistants and laborers under the direction of the Joint Library Committee of Congress. The Chair is unable to see that this stands in a different position from the appropriation for laborers in and about any of the other Departments or buildings, and thinks that it hardly comes within the exception as to public works in progress mentioned in the second clause of Rule XXI. The Chair sustains the point of order.

Mr. PRINCE. Mr. Chairman, I now move an amendment. We do not wish to cripple the service in any sense. I move to amend by inserting the original amount, $12,593.75.

Mr. LITTAUER. Mr. Chairman, I trust the committee will not insert the amendment of the gentleman from Illinois.

Mr. HARDWICK. Mr. Chairman, will the gentleman tell me why he is opposed to it?

Mr. LITTAUER. I am opposed to it because in our own way we hope to restore it.

Mr. HARDWICK. How?

Mr. LITTAUER. I trust in the end that we may have a rule here to enable the committee—a majority of it—to vote to determine what salaries are to be paid and what forces to be employed.

Mr. PRINCE. Then the gentleman's purpose is to transfer the consideration of the appropriation for the legislative, executive, and judicial departments of the Government from the Committee of the Whole House to the Committee on Rules?

Mr. LITTAUER. I stated my purpose, and that is all I care to state. I trust the committee will support me in my position.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Illinois.

The question was taken; and on a division (demanded by Mr. PRINCE) there were—ayes 36, noes 37.

So the amendment was rejected.

The Clerk read as follows:

For procuring manure, soil, tools, fuel, purchasing trees, shrubs, plants, and seeds; and for services, materials, and miscellaneous supplies, and contingent expenses in connection with repairs and improvements to Botanic Gardens, under direction of the Joint Library Committee of Congress, $6,500.

Mr. HARDWICK rose.

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. HARDWICK. Mr. Chairman, I rise to make the point of order against this paragraph, or I will reserve it if any gentleman wishes to discuss it. I do not think this is a continuing work. The question has already been argued in advance by two gentlemen who are opposed to my position in this matter, the gentleman in charge of the bill and the gentleman from Georgia [Mr. LIVINGSTON]. I do not care to submit any argument, but they did not convince me that this was a continuing work in the sense of the uniform rulings of all the occupants of the chair upon this question, and I therefore make the point of order.

Mr. LIVINGSTON. Mr. Chairman, I covered this a moment ago, but I want to repeat that procuring manure, soil, tools, fuel, and purchasing trees is an annual expense ever since the garden was established and an increasing annual expense ever since it has been established. If that is not continuing work, then I am sadly mistaken.

Mr. BURLESON. I will direct the Chair also to the fact that last year there were $5,000 appropriated and $1,000 in the deficiency bill also.

The CHAIRMAN. The paragraph against which this point of order is urged shows upon its face that it is for the purpose of improving and continuing a Government plant. It is in continuation of appropriations heretofore made for a public work and object in progress, and therefore within the exception to the general prohibition found in the second clause of Rule XXI. The Chair therefore overrules the point of order.

The Clerk read as follows:

EXECUTIVE.

For compensation of the President of the United States, $50,000.

Mr. HARDWICK. Mr. Chairman, I move to strike out the last word. I want to ask the gentleman in charge of this bill if he can tell me in what part of this bill provision is made for the employee at the White House commonly known as the social secretary to the wife of the President of the United States?

Mr. LITTAUER. We have never taken up the exact employment of persons connected with the executive force employed at the White House. They are provided for on the recommendation of the President of the United States through his secretary. I have no doubt every one of that executive force is included in the next three paragraphs that will be read.

Mr. HARDWICK. I am asking the gentleman in all sincerity; I observe the hearings of the committee do not disclose the fact—that from the Executive Office appearing before the committee.

Mr. LITTAUER. It has been customary for committees on appropriations to take the wish of the President of the United States as their reason for the insertion of items in connection with the executive force of his own office.

Mr. HARDWICK. Does the gentleman know in point of fact whether or not any of the employees who are supposed to be assigned to the President's office, and who are included in this appropriation, perform the service of the official commonly known as "social secretary?"

Mr. LITTAUER. I do not know anything about it, but I should say, if I were President of the United States, I would want some one to take care of that duty.

Mr. HARDWICK. I am talking about the fact, not whether you would or would not; I am inquiring whether there is such an appropriation in this bill.

Mr. LITTAUER. Everyone who performs duty in connection with the executive work of the President, as far as the clerical force goes, is included in this bill.

Mr. HARDWICK. Is there provision for that sort of thing in this bill?

Mr. LITTAUER. What sort of thing?

Mr. HARDWICK. For the employment of a "social secretary" under the guise of a clerk.

Mr. LITTAUER. I do not know where the gentleman gets the designation of "social secretary;" it is not known to the law.

Mr. HARDWICK. I know it is not known to the law, but it is known as a fact. There is one clerk of class 4, four clerks of class 3. What about the one clerk of class 2? Do you know what duties are performed by that clerk?

Mr. LITTAUER. I do not; I have made no inquiry into the service connected with this force.

Mr. HARDWICK. And know nothing about it at all?

Mr. LITTAUER. Except they are recommended by the President through his secretary.

Mr. HARDWICK. Through his secretary? Did the secretary appear before the committee?

Mr. LITTAUER. He did not; but we have the recommendation in the Book of Estimates.

Mr. HARDWICK. Nobody comes, but the secretary of the President sends down a little note telling what he wants?

Mr. LIVINGSTON. I will answer the gentleman's question candidly. There was not a scintilla of evidence to show that Mrs. Roosevelt has a social clerk at $1,400. I never heard of it until the committee had made up the bill, and I do not believe that there is a member of the Committee on Appropriations that had ever heard of it. Now, so far as we were concerned, we knew nothing about it then, and know nothing about it now. Whether it is true or not I do not know.

Mr. HARDWICK. I withdraw the amendment.

The Clerk read as follows:

For compensation to the following in the office of the President of the United States: Secretary, $5,000; two assistant secretaries, at $3,000 each; executive clerk, $2,500; executive clerk and disbursing officer, $2,000; seven clerks, at $2,000 each; one clerk of class 4; one clerk of class 4, who shall be a telegrapher; four clerks of class 3; one clerk of class 2; steward, $1,800; chief doorkeeper, $1,800; eight doorkeepers, at $1,200 each; four messengers, at $1,200 each; five messengers, at $900 each; watchman, $900; one fireman; laborer, $720; laborer, $600; in all, $66,340.

Mr. HARDWICK. I offer this amendment, and I desire to have it reported and then I will speak to it.

The Clerk read as follows:

Add after the word "dollars," at the end of line 21, page 33, the following: "*Provided*, That no part of this appropriation shall be used to pay the salary of any clerk who shall perform the duties of the

position or office commonly known as the 'social secretary' of the wife of the President of the United States or any service of that nature."

Now, Mr. Chairman, the New York papers have carried an article like this about this matter:

WASHINGTON, *March 17, 1906.*

Miss Isabelle L. Hagner, social secretary to the wife of the President, is a beneficiary of and the President the sponsor for an example of diversion of funds appropriated by Congress that is causing widespread resentment here. Miss Hagner is carried on the rolls at the White House under a contingent fund as a clerk at $1,400 a year, while the appropriation contemplated no such use of the money.

Mrs. Fairbanks, wife of the Vice-President; Mrs. Bonaparte, wife of the Secretary of the Navy, and others pay their social secretaries out of their personal funds, but the wife of the President does not do so. There has been strong objection to the action of some of the Cabinet officials in diverting money from the uses for which it was appropriated, and now the abuse is found to exist in the White House itself. It is believed that some searching and pertinent questions will be asked on the floor when the appropriation bill comes up next week.

[Laughter.]

Mr. MANN. That refers to the gentleman, I suppose.

Mr. HARDWICK. I resent the imputation. I didn't know anything about it.

Mr. MANN. I do not understand that the gentleman resents the imputation that he could ask searching questions.

Mr. HARDWICK. I do not like the gentleman's manner about this thing.

Mr. MANN. If the gentleman does not want my manner, I will change it. There are a good many people who do not like the gentleman's manner about this bill, and I think if he would change it, it would meet the approval of the House.

Mr. HARDWICK. I have no doubt that some people who want this bill to go through just as it is would approve it. Their opinion is immaterial to me. I have offered this amendment because I do not think there is any law or any public sentiment that will authorize the wife of the President of the United States, not the President himself, to have a "social secretary" without paying for it out of her own pocket, and like all the Cabinet ladies. This has never been done before.

Mr. LITTAUER. Never been done?

Mr. HARDWICK. If it has ever been done I will withdraw this amendment. I understand it has never been done under any Administration before. If the gentleman can state it as a fact that any President of the United States has ever, no matter what political party he belonged to, had it done, I will withdraw my amendment.

Mr. LITTAUER. I am not advised as to the fact as to whether or not in the past there was a social secretary for the wife of the President of the United States provided for, but I have heard it stated that Mrs. Cleveland had from this very appropriation like service, and that it has been the custom at the White House for many years past to provide such clerical assistance out of this appropriation, and no one before has ever questioned the right to do so.

Mr. HARDWICK. If the gentleman would state that as a fact I would not insist upon this amendment. I have inquired diligently, with a view of finding out what the facts were, but have never found anybody who claimed that there had been such an officer before this Administration.

Mr. LITTAUER. I think I have stated what is substantially the fact, as substantially as any of the statements made by the gentleman here.

Mr. HARDWICK. On what basis?

Mr. LITTAUER. On rumor. What is your statement of fact based on?

Mr. HARDWICK. I have asked two or three of the Members here—the old Members. The gentleman seems to be inclined to be facetious about this thing, but I am in earnest.

Mr. LITTAUER. I am in earnest, and trust the committee is also.

Mr. HARDWICK. If this be true, it is not right.

Mr. BURLESON. I would like to ask the gentleman what paper he read that from?

The CHAIRMAN. The time of the gentleman has expired. The Chair recognizes the gentleman from Ohio.

Mr. GROSVENOR. I hope the gentleman from Georgia will not only withdraw his proposition, but will take back all he has said on the subject. He is a Member of the Congress of the United States. He is speaking in the hearing of the whole world. The American people are maintaining a very moderate and modest establishment known as the "White House." They are maintaining the President and certain secretaries and clerks for the convenient and orderly management of the business of that representative institution. It is the most modest in the expenditure of any country's executive office known as a respectable country in the world; modest in all respects, carefully administered; and this is the first time, I believe I may say, in the whole history of the country that anybody has undertaken to criticise the expenditures of this clerical force at the White House and to place a limit upon the uses that the small force there may be put to.

I do not know a thing in the world about it so far as the necessity for clerical aid for the wife of the President is concerned. I know that there devolves upon the wife of the President a large volume of social duties, duties that she owes to the American people, duties that she owes to the women of America, official social duties, just as much incumbent upon her as the duties of the President are incumbent upon him. Is the American Congress willing to say: "Out of this pittance of appropriation we will guard against the possibility of that lady having a clerk to assist her in the performance of these social obligations?" The wife of the gentleman from Georgia, if he has a wife, and all our wives would feel offended if there should be neglect of those duties; and now that the gentleman is entering, as I hope, upon a political career, I beg him that he will not allow himself to be marked and pointed to in future as the man who undertook to say that the wife of the President should not have the use of a clerk in the White House. To me it is almost the most shocking thing that I have ever heard on the floor of this House, and the gentleman says he is in earnest about it. Does he reflect that the American people do not inquire into the details of the family relation of the President of the United States to public affairs? Does he reflect that we look upon the wife of the President as a part of the Government of the United States, as it were, and that we are careful in America not to impugn the motives or purposes of the gracious and beloved lady of the White House, the first lady of the land? Not alone in her exalted position, but also in the place she has won by her graceful and lovely bearing to the people who have had the honor of her acquaintance and have observed her bearing toward all. I hope the gentleman will withdraw his amendment, and we will all of us testify to the people of the country that it was the mere joke of a young man, and that he meant nothing by it. [Prolonged applause.]

Mr. HARDWICK rose.

The CHAIRMAN. The gentleman from Georgia having once spoken to his amendment, can only speak again to it by unanimous consent.

Mr. FITZGERALD. I hope the amendment of the gentleman from Georgia will not be adopted. I regret that it has been offered, the more so because it may be imagined that an attempt has been made to impugn the integrity of some member of the President's family. As the gentleman from Ohio [Mr. GROSVENOR] has well said, the President's family has certain social obligations which come from his occupancy of the White House. His wife is compelled to participate in certain functions because she is the wife of the President, and services are required in connection therewith which properly belong to the force of the Executive office and must necessarily be done by the clerks there. I have no doubt that some clerk has been particularly assigned to perform the duties that come from these circumstances, and it may be that such clerk has been designated as the social secretary of the President's wife. I would be in favor of appropriating specifically for a clerk under that title, if such a clerk be necessary. [Applause.] I would do that for more than one reason, but particularly because in my opinion the salary of the President of the United States is not at all commensurate with the position he occupies. [Applause.] And if we will not give him the compensation that we should give him, we at least should prevent his salary being taxed for services required because of his official position, and because of the fact that his wife is required to perform certain duties arising from her relation to the President and the obligations of the office, the help needed should be freely given.

Mr. HARDWICK. Will the gentleman permit a question?

Mr. FITZGERALD. Certainly.

Mr. HARDWICK. If that is true, why is not the wife of every Cabinet minister entitled to have a social secretary? Do they not also have social duties to the American people? And why, in a smaller degree, does not the thing go all down through official life?

Mr. FITZGERALD. Perhaps it might. I might have a social secretary, the gentleman from Georgia might have one, but nobody thinks that we need them. I am sure I do not; but the President of the United States is compelled during the year to entertain the representatives of foreign nations; and not only the officials themselves, but the members of their families. Every man who has been elected President of the United States has not been so fortunate as to have been familiar with the requirements and fine distinctions to be observed in official entertainment, and it would be most unfortunate if he and the

members of his family could not obtain the services of somebody who, by reason of special training, has become expert in such matters. Sometimes very grave offense may be given to representatives of foreign governments because of a failure to observe distinctions that are considered important by them. If I had my way, I would place in this bill, so that there would be no mistake, so that there would be no ground for criticism, a clerk to be known as the "social clerk."

Mr. LITTAUER. Do you not think we would have a point of order against it if it was placed in the bill?

Mr. FITZGERALD. I said if I had my way, which unfortunately for the country, is not the way of the House. [Laughter.] If I had my way, I would give this clerk—and not one, but as many as were deemed necessary—so that all of the functions at the White House, official and otherwise, might be conducted in a manner that would meet with the admiration and commendation of the entire American people.

Again, I express regret that the gentleman from Georgia has offered this amendment. He did not intend it in that way, but some unthinking people might believe that a reflection is involved upon the occupant of the White House. While nobody has been more free in criticising the present occupant of the White House for what I believe to be political and official, I hope that nobody has been more free from offering criticism on matters which are not the proper subjects of our criticism and which, in my opinon, we can well keep silent about. So I hope the gentleman from Georgia will accept the suggestion of the gentleman from Ohio, just to prevent any misconception of what was intended, and withdraw this amendment; and if necessary, that he himself will offer to add to this bill a provision for a clerk to perform whatever duties are required by reason of the social functions at the White House. [Applause.]

Mr. HARDWICK. Mr. Chairman, I move to strike out the last word. While I appreciate the difference of age and experience in this House between the distinguished gentleman from Ohio [Mr. GROSVENOR] and myself, I do not propose to allow him to lecture me about this thing. He may as well realize that. While I appreciate the kindly advice of the gentleman from New York [Mr. FITZGERALD], I want to say that neither one of them, nor both of them, nor all the Members of this House, can put me in a false attitude about this amendment. We are talking about appropriations. If to object to them, if to say that a certain appropriation is not right, involves a reflection on the person who is to get the benefit of the appropriation, I will have to submit.

But, Mr. Chairman, the people of the country will never take it that way. We are appropriating the money of the people out of the Treasury of the United States. I am not attacking anybody. I come from a section of the country where nobody but a dastard and a scoundrel attacks a woman, and God knows I will not yield to anyone in my respect for the first lady of the land. [Applause.]

While I discuss a legislative question, the question of appropriating something, or taking the people's money out of the Treasury of the United States, I have not in my heart, and have not in my head, the slightest intention of reflecting on the lady at the other end of this Avenue. Not at all. I do not know that she knows anything about this; in all human probability she does not. This appropriation is in this bill, and has been allowed for some time, in an indirect way, as I am informed; and I do say that if the people of the United States wish to appropriate money in that way it would be more manly, as the gentleman from New York suggests, to vote for it straight; let us do it directly and know what we are doing, and let the people know.

Now, if any Member on the other side will show me, or state to me of his own knowledge, that in any other Administration an appropriation like this has ever been made, I will withdraw the amendment with an apology, not for a wrong intention, for there is none, but for a mistake of fact. I claim that this appropriation ought not to be made. No such appropriation is made to Cabinet officers and other people who have social duties imposed upon them by official station. It is true that this lady, by her distinguished position, has more of those duties than anybody else, but how long will it be before we will be appropriating for "social secretaries," for Cabinet ministers, and pretty soon for Senators, I expect, and possibly for Representatives, and who can tell where it will end? I think every public officer who desires his wife to have a "social secretary" should foot the bill out of his own pocket.

I insist, Mr. Chairman, on my amendment, and I will not be misrepresented; I will not be put in a false attitude by anybody, be he old or young, Democrat or Republican.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Georgia.

The question was taken, and the amendment was rejected.

Mr. WILLIAMS. Mr. Chairman, I move to strike out the last word for the purpose of holding a colloquy with the gentleman from New York in charge of the bill. It is now 9 minutes after 5 o'clock, and I would inquire of the gentleman if he can not move that the committee do now rise?

Mr. LITTAUER. Mr. Chairman, I will adopt the suggestion of the gentleman from Mississippi and move that the committee do now rise.

The motion was agreed to.

Accordingly the committee determined to rise; and the Speaker having resumed the chair, Mr. OLMSTED, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 16472—the legislative, executive, and judicial appropriation bill—and had directed him to report that that committee had come to no resolution thereon.

CONSULAR SERVICE, UNITED STATES.

The SPEAKER laid before the House the bill (S. 1345) to provide for the reorganization of the consular service of the United States, with House amendment.

Mr. ADAMS of Pennsylvania. Mr. Speaker, I move that the House do insist on its amendment and agree to the conference asked for by the Senate.

The SPEAKER. The question is on the motion of the gentleman from Pennsylvania, that the House insist upon its amendment and agree to the conference asked for by the Senate.

The question was taken, and the motion was agreed to.

The SPEAKER appointed the following conferees on the part of the House: Mr. ADAMS of Pennsylvania, Mr. DENBY, Mr. TOWNE.

WESTERN JUDICIAL DISTRICT OF TEXAS.

The SPEAKER laid before the House the following message from the President of the United States:

To the House of Representatives:

In view of the following report from the Acting Attorney-General, I return herewith without approval House bill No. 8977:

"I have received your letter of March 12, inclosing H. R. 8977, entitled 'An act to create a new division of the western judicial district of Texas, and to provide for terms of court at Del Rio, Tex., and for a clerk for said court, and for other purposes,' and asking to be informed whether I know of any objections to its approval.

"I wired Judge Maxey, as follows:

"'Congress has passed bill constituting counties Uvalde, Zavalla, Maverick, Kinney, Valverde, Terrell, and Pecos a division of western judicial district, and providing that terms of United States courts shall be held twice each year at Del Rio. In order that I may properly advise the President, please wire me your opinion touching necessity for proposed legislation.'

"He has replied as follows:

"'In my judgment there is no necessity whatever for a court at Del Rio. All business originating in that vicinity may be easily and expeditiously transacted at San Antonio, I think, with as little expense as at Del Rio.'

"In response to the following inquiry:

"'Please wire me immediately how many cases, civil and criminal, respectively, from the counties of Uvalde, Zavalla, Maverick, Kinney, Valverde, Terrell, and Pecos were instituted in the Federal courts in each of the five years last past'—

"The clerk of the court at San Antonio advises me:

"'Business originating in counties Uvalde, Zavalla, Maverick, Kinney, Valverde for years 1901, 1902, 1903, 1904, and 1905, as follows: Criminal, sixty-four. For following offenses: Smuggling and receiving smuggled property, fifty-one; willfully destroying Government property, one; resisting customs officer, one; purchasing Government property, three; importing women, purpose prostitution, two; importing foreign labor, two; pension violation, one; being unlawfully in the United States, two; violation immigration laws, one; seizures on land (informations in rem) nine; bankruptcy, nine; circuit law cases, seven; bills in equity, five. Pecos and Terrell, latter recently organized from Pecos, not included in this statement for reason that deputy El Paso recently died and man in charge not sufficiently familiar with records to furnish data, but in fact few cases arose in those counties—not exceeding six for period mentioned.'

"I have given this matter careful consideration, have heard what the author and advocates of the bill have to say in its favor, and have also given consideration to a communication from Mr. SLAYDEN, who represents the district including San Antonio, and who opposes it.

"I am thoroughly persuaded that there is no necessity for what the bill proposes and that it should not, in the interest of the public service, become a law.

"Del Rio is a small place on the frontier and the surrounding country is sparsely settled.

"It appears that during the last five years there originated in the seven counties proposed to be included in the new division sixty-four criminal and twenty-six civil cases, most of them in the county of Maverick, in which Eagle Pass lies. This makes a yearly average of, say, thirteen criminal and five civil cases. It appears to me wholly unjustifiable to establish sessions of courts to try such a limited number of cases.

"The data furnished to this Department shows that in the last eighteen months there originated in the district included in the proposed new division eight civil and twenty-three criminal cases, of which sixteen criminal and seven civil originated in the county of Maverick.

"It is not much more inconvenient for the cases from Maverick County to go to San Antonio than to Del Rio. I do not think there is any necessity for the new division at all, but if conditions should at any time warrant another division obviously the court should be held at Eagle Pass.

"There will not be enough business in the courts at Del Rio to pay

for the time of a capable deputy clerk, which the bill requires shall be stationed there. The public service is hurt very materially when the court records are inefficiently kept. Moreover, the creation of the new division will affect the income of the clerk at San Antonio and thereby impair the efficiency of that office."

THEODORE ROOSEVELT.

THE WHITE HOUSE, *March 22, 1906.*

Mr. FOSTER of Indiana. Mr. Speaker, I move that the veto, with the papers, be referred to the Committee on the Judiciary.

The SPEAKER. The question is on the motion of the gentleman from Indiana.

The question was taken, and the motion was agreed to.

NATIONAL BANK LOANS ON REAL ESTATE.

Mr. GILLESPIE rose.

The SPEAKER. For what purpose does the gentleman rise?

Mr. GILLESPIE. To ask unanimous consent to file the minority views on the bill H. R. 8124.

The SPEAKER. The Clerk will report the title of the bill.

The Clerk read as follows:

A bill (H. R. 8124) to amend section 5136 of the Revised Statutes of the United States, permitting national banking associations to make loans on real estate as security, and limiting the amount of such loans.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

CHANGE OF REFERENCE.

Mr. GOLDFOGLE. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. GOLDFOGLE. I desire to have a change of reference of a bill for the pensioning of Thomas C. Hughes. By mistake it was referred to the Committee on Invalid Pensions, and I ask that it be referred to the Committee on Pensions, where it properly belongs.

The SPEAKER. Under the rule, change of reference of private bills must be made through the basket.

By unanimous consent, the Committee on Private Land Claims was discharged from the further consideration of the bill (S. 952) to authorize a patent to be issued to Stephen Teichner for certain lands therein described, and the same was referred to the Committee on the Public Lands.

The Committee on Private Land Claims was also discharged from the further consideration of the bill (S. 2450) for the relief of settlers upon the abandoned Fort Rice Military Reservation, and the same was referred to the Committee on the Public Lands.

Mr. LITTAUER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; and accordingly (at 5 o'clock and 18 minutes p. m.) the House adjourned until to-morrow, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred, as follows:

A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Cohansey River, New Jersey—to the Committee on Rivers and Harbors, and ordered to be printed.

A letter from the Secretary of the Interior, transmitting, with a favorable recommendation, a draft of a bill to amend section 2281, Revised Statutes—to the Committee on the Public Lands.

A letter from the Secretary of State, recommending the passage of a bill for the relief of the Campagnie Française des Cables Télégraphiques—to the Committee on War Claims, and ordered to be printed.

A letter from the Secretary of Commerce and Labor, transmitting, with a favorable recommendation, drafts of bills regulating the navigation of rafts in tow—to the Committee on Interstate and Foreign Commerce, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. DIXON of Montana, from the Committee on the Public Lands, to which was referred the bill of the House H. R. 16554, reported in lieu thereof a bill (H. R. 17135) providing that the State of Montana be permitted to relinquish to the United States certain lands heretofore selected and select from the public domain in lieu thereof, accompanied by a report (No. 2474); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. OLCOTT, from the Committee on the District of Columbia, to which was referred the bill of the Senate (S. 4046) to incorporate The Edes Home, reported the same without amendment, accompanied by a report (No. 2475); which said bill and report were referred to the House Calendar.

Mr. GAINES of Tennessee, from the Committee on the Public Lands, to which was referred the bill of the House (H. R. 4546) ceding to the city of Canon City, Colo., certain lands for park purposes, reported the same with amendment, accompanied by a report (No. 2476); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. DIXON of Montana, from the Committee on the Public Lands, to which was referred the bill of the House (H. R. 11862) authorizing the Secretary of the Interior to issue patents in fee to various missionary institutions in the Territory of Oklahoma, reported the same with amendment, accompanied by a report (No. 2477); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. GROSVENOR, from the Committee on the Merchant Marine and Fisheries, to which was referred the bill of the House (H. R. 16133) to simplify the issue of enrollments and licenses of vessels of the United States, reported the same without amendment, accompanied by a report (No. 2479); which said bill and report were referred to the House Calendar.

Mr. HOGG, from the Committee on Indian Affairs, to which was referred the bill of the House (H. R. 16357) authorizing the Secretary of the Interior to purchase and improve certain lands for Indians in California, reported the same with amendment, accompanied by a report (No. 2481); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. STEPHENS of Texas, from the Committee on Indian Affairs, to which was referred the House joint resolution (H. J. Res. 124) directing the Secretary of the Interior to allot certain lands to certain Indians, reported the same with amendment, accompanied by a report (No. 2482); which said joint resolution and report were referred to the Committee of the Whole House on the state of the Union.

Mr. MEYER, from the Committee on Naval Affairs, to which was referred the bill of the House (H. R. 5335) providing for rank and pay for certain retired officers of the Navy, reported the same without amendment, accompanied by a report (No. 2484); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. HIGGINS, from the Committee on the Territories, to which was referred the bill of the Senate (S. 267) to prohibit aliens from fishing in the waters of the district of Alaska, reported the same with amendment, accompanied by a report (No. 2485); which said bill and report were referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. GROSVENOR, from the Committee on Ways and Means, to which was referred the bill of the House (H. R. 1371) to refund to J. Tennant Steeb certain duties erroneously paid by him, without protest, on goods of domestic production shipped from the United States to Hawaii and thereafter returned, reported the same without amendment, accompanied by a report (No. 2472); which said bill and report were referred to the Private Calendar.

Mr. CALDERHEAD, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 14963) granting an increase of pension to Riley M. Smiley, reported the same without amendment, accompanied by a report (No. 2478); which said bill and report were referred to the Private Calendar.

Mr. HOPKINS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16190) granting an increase of pension to J. T. Caskey, reported the same with amendment, accompanied by a report (No. 2480); which said bill and report were referred to the Private Calendar.

Mr. DAWES, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 5504) for the relief of Jesse Elliott, reported the same without amendment, accompanied by a report (No. 2483); which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. SULZER: A bill (H. R. 17126) to promote the effi-

ciency of the Life-Saving Service—to the Committee on Interstate and Foreign Commerce.

By Mr. CUSHMAN: A bill (H. R. 17127) to provide for the subdivision and sale of certain lands in the State of Washington—to the Committee on the Public Lands.

By Mr. GREENE: A bill (H. R. 17128) to reduce the ravages of the dogfish and to create a market for such fish—to the Committee on the Merchant Marine and Fisheries.

By Mr. SULZER: A bill (H. R. 17129) to equip vessels with better life-preserving appliances—to the Committee on Interstate and Foreign Commerce.

By Mr. LAW: A bill (H. R. 17130) to establish a division of photo-engraving and printing in the Government Printing Office—to the Committee on Printing.

By Mr. ACHESON: A bill (H. R. 17131) providing for the employment of letter carriers at every post-office which produced a gross revenue for the preceding fiscal year of not less than $5,000—to the Committee on the Post-Office and Post-Roads.

By Mr. PEARRE: A bill (H. R. 17132) to repeal and reenact with amendments section 5203 of chapter 3 of the Revised Statutes of the United States; title, "National banks;" subtitle, "Regulation of the banking business"—to the Committee on Banking and Currency.

By Mr. BARTLETT: A bill (H. R. 17133) to amend section 558 of the Code of Law for the District of Columbia—to the Committee on the District of Columbia.

By Mr. THOMAS of North Carolina: A bill (H. R. 17134) to authorize a survey of Bay River, Pamlico County, N. C.—to the Committee on Rivers and Harbors.

By Mr. DIXON of Montana, from the Committee on the Public Lands: A bill (H. R. 17135) providing that the State of Montana be permitted to relinquish to the United States certain lands heretofore selected, and select other lands from the public domain in lieu thereof—to the Union Calendar.

By Mr. GILL: A bill (H. R. 17136) to authorize the Secretary of Commerce and Labor to designate, upon request of the governor of the State of Maryland, such officers of the Bureau of the Coast and Geodetic Survey and of the Bureau of Fisheries as may be necessary to cooperate with the board of shellfish commissioners of the State of Maryland in making a true and accurate survey of the natural oyster beds, bars, and rocks in the waters of the State of Maryland; and to furnish such instruments and appliances as may be necessary in making such survey from the Bureaus aforesaid, and to make from said surveys such plats, in the Bureau aforesaid, as may be requisite as full and complete evidence of said survey and of the location of said natural oyster beds, bars, and rocks—to the Committee on the Merchant Marine and Fisheries.

By Mr. FRENCH: A bill (H. R. 17137) providing for the increase of the salaries of the district attorney for the district of Idaho and the United States marshal for the district of Idaho—to the Committee on the Judiciary.

By Mr. STEVENS of Minnesota: A bill (H. R. 17138) to provide for a commission to examine and report concerning the use by the United States of the waters of the Mississippi River flowing over the dams between St. Paul and Minneapolis, Minn.—to the Committee on Interstate and Foreign Commerce.

By Mr. GILLETT of Massachusetts (by request): A bill (H. R. 17139) to promote the efficiency of the public service—to the Committee on Reform in the Civil Service.

By Mr. POU: A bill (H. R. 17140) to provide for the enlarging of the United States post-office building at Raleigh, N. C.—to the Committee on Public Buildings and Grounds.

By Mr. CASSEL: A bill (H. R. 17141) to reimburse the State of Pennsylvania for money expended in 1864 for military called into the military service by the governor under the proclamation of the President of June 15, 1863—to the Committee on War Claims.

By Mr. SAMUEL W. SMITH: A bill (H. R. 17142) to amend section 653 of the Code of Law for the District of Columbia, relative to assessment life insurance companies and associations—to the Committee on the District of Columbia.

By Mr. WILLIAMS: A resolution (H. Res. 371) to fix a date for the consideration of H. R. 14316—to the Committee on Rules.

By Mr. TALBOTT: A resolution (H. Res. 373) for the appointment of Charles H. Mann, superintendent of the reporters' gallery of the House—to the Committee on Accounts.

By Mr. HUGHES: A resolution (H. Res. 374) providing for the printing of 1,000 additional copies of House Document No. 326, Fifty-sixth Congress, first session, and House Document No. 235, of the Fifty-sixth Congress, second session—to the Committee on Printing.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. ADAMSON: A bill (H. R. 17143) granting an increase of pension to William Taylor—to the Committee on Invalid Pensions.

By Mr. BEALL of Texas: A bill (H. R. 17144) granting an increase of pension to Jesse Wiley—to the Committee on Pensions.

By Mr. BOWIE: A bill (H. R. 17145) granting a pension to Ira Campbell—to the Committee on Pensions.

By Mr. BRANTLEY: A bill (H. R. 17146) for the relief of James I. Fountain, of Mount Vernon, Montgomery County, Ga.—to the Committee on War Claims.

Also, a bill (H. R. 17147) granting an increase of pension to John I. Blanchard—to the Committee on Invalid Pensions.

By Mr. BROOKS of Colorado: A bill (H. R. 17148) granting an increase of pension to Frances M. McMahon—to the Committee on Invalid Pensions.

By Mr. BROWNLOW: A bill (H. R. 17149) for the relief of the heirs of James A. Galbreaith—to the Committee on Claims.

Also, a bill (H. R. 17150) granting a pension to George W. Gaby—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17151) granting a pension to William T. Morgan—to the Committee on Pensions.

By Mr. CAMPBELL of Ohio: A bill (H. R. 17152) granting an increase of pension to George W. Williams—to the Committee on Invalid Pensions.

By Mr. COLE: A bill (H. R. 17153) for the relief of Arthur B. Huff—to the Committee on War Claims.

By Mr. CURRIER: A bill (H. R. 17154) to amend the military record of Richard J. Huntoon and grant him an honorable discharge—to the Committee on Military Affairs.

By Mr. DARRAGH: A bill (H. R. 17155) granting a pension to Esther Crane—to the Committee on Pensions.

By Mr. DAVIDSON: A bill (H. R. 17156) for the relief of Roman Scholter—to the Committee on Claims.

By Mr. DE ARMOND: A bill (H. R. 17157) for the relief of R. L. Foster, surviving partner—to the Committee on War Claims.

By Mr. DICKSON of Illinois: A bill (H. R. 17158) granting a pension to Elvira Anderson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17159) granting an increase of pension to John Able—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17160) to remove the charge of desertion from the record of Herman Kneofler—to the Committee on War Claims.

By Mr. DIXON of Indiana: A bill (H. R. 17161) granting a pension to Lafayette Hendricks—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17162) granting an increase of pension to Scott Ruddick—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17163) granting an increase of pension to George R. McKay—to the Committee on Invalid Pensions.

By Mr. DIXON of Montana: A bill (H. R. 17164) for the relief of George Herbert—to the Committee on Claims.

By Mr. DUNWELL: A bill (H. R. 17165) granting an increase of pension to Sophie Pohlers—to the Committee on Invalid Pensions.

By Mr. EDWARDS: A bill (H. R. 17166) for the relief of Nancy Bobbit—to the Committee on War Claims.

By Mr. FLOYD: A bill (H. R. 17167) granting an increase of pension to Lafayette Cook—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17168) granting an increase of pension to Elizabeth W. Sparks—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17169) granting an increase of pension to Zeno F. Davis—to the Committee on Invalid Pensions.

By Mr. GAINES of West Virginia: A bill (H. R. 17170) granting an increase of pension to Jackson D. Turley—to the Committee on Invalid Pensions.

By Mr. GRAHAM: A bill (H. R. 17171) granting an increase of pension to David H. Parker—to the Committee on Invalid Pensions.

By Mr. GRAFF: A bill (H. R. 17172) granting an increase of pension to John Short—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17173) granting an increase of pension to Thomas J. Davis—to the Committee on Invalid Pensions.

By Mr. HASKINS: A bill (H. R. 17174) granting an increase of pension to Nathaniel C. Sawyer—to the Committee on Invalid Pensions.

By Mr. HIGGINS: A bill (H. R. 17175) granting an increase

of pension to Andrew E. Kinney—to the Committee on Invalid Pensions.

By Mr. HOUSTON: A bill (H. R. 17176) for the relief of John A. Herrod—to the Committee on War Claims.

Also, a bill (H. R. 17177) for the relief of Louis Nelson, administrator of the estate of Samuel B. Nelson—to the Committee on War Claims.

Also, a bill (H. R. 17178) for the relief of the heirs of Thomas Hord—to the Committee on War Claims.

By Mr. JONES of Washington: A bill (H. R. 17179) authorizing the Secretary of the Interior, in his discretion, to sell and patent to the Big Bend Transit Company certain lands of the Spokane Indian Reservation, State of Washington—to the Committee on Indian Affairs.

Also, a bill (H. R. 17180) granting a pension to Ansil S. Marble—to the Committee on Pensions.

By Mr. KEIFER: A bill (H. R. 17181) granting an increase of pension to Leonard Dellinger—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17182) granting an increase of pension to Henry E. Fultz—to the Committee on Invalid Pensions.

By Mr. WILLIAM W. KITCHIN: A bill (H. R. 17183) granting a pension to Agnes S. Ball—to the Committee on Invalid Pensions.

By Mr. LAW: A bill (H. R. 17184) to remove the charge of desertion from the military record of Thomas T. Inslee—to the Committee on Military Affairs.

By Mr. McKINLAY of California: A bill (H. R. 17185) granting a pension to J. J. Winkler—to the Committee on Pensions.

By Mr. McGUIRE: A bill (H. R. 17186) granting to the Territory of Oklahoma, for the use and benefit of the University Preparatory School of the Territory of Oklahoma, section 33, in township No. 26 north of range No. 1, west of the Indian meridian, in Kay County, Oklahoma Territory—to the Committee on the Territories.

By Mr. OLMSTED: A bill (H. R. 17187) granting an increase of pension to Fannie Huntt Gibson—to the Committee on Invalid Pensions.

By Mr. PARSONS: A bill (H. R. 17188) for the relief of Gwinthlean Macrae Robinson—to the Committee on Claims.

By Mr. RHINOCK: A bill (H. R. 17189) for the relief of the Forty-first Kentucky Volunteer Infantry—to the Committee on Military Affairs.

Also, a bill (H. R. 17190) for the benefit of John W. Kirby, late sheriff of Gallatin County, Ky.—to the Committee on Claims.

Also, a bill (H. R. 17191) granting an increase of pension to Marie Roth—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17192) to correct military record of John Crawford—to the Committee on Military Affairs.

By Mr. RHODES: A bill (H. R. 17193) granting an increase of pension to Edward Thompson—to the Committee on Pensions.

Also, a bill (H. R. 17194) granting an increase of pension to Jennie White—to the Committee on Pensions.

By Mr. RIVES: A bill (H. R. 17195) for the relief of Richard Isaacs—to the Committee on Military Affairs.

By Mr. ROBINSON of Arkansas: A bill (H. R. 17196) for the relief of the heirs of John G. Freeman, deceased—to the Committee on War Claims.

Also, a bill (H. R. 17197) to correct the military record of Albert I. Merrill—to the Committee on Military Affairs.

By Mr. SAMUEL: A bill (H. R. 17198) extending the term of patent No. 393848—to the Committee on Patents.

By Mr. SCROGGY: A bill (H. R. 17199) granting an increase of pension to John Lafferty—to the Committee on Invalid Pensions.

By Mr. SPERRY: A bill (H. R. 17200) for the relief of the estate of Frances B. Elliott—to the Committee on Claims.

Also, a bill (H. R. 17201) for the relief of the estate of Sarah B. Field—to the Committee on Claims.

By Mr. STEENERSON: A bill (H. R. 17202) granting an increase of pension to Benjamin H. Cool—to the Committee on Invalid Pensions.

By Mr. STEPHENS of Texas: A bill (H. R. 17203) for the relief of Lizzie De Graffenreid, widow of Jasper N. De Graffenreid—to the Committee on Claims.

By Mr. SULLOWAY: A bill (H. R. 17204) granting a pension to Sarah E. Robey—to the Committee on Invalid Pensions.

By Mr. TIRRELL: A bill (H. R. 17205) granting a pension to Alice Garvey—to the Committee on Invalid Pensions.

By Mr. WEBB: A bill (H. R. 17206) granting an increase of pension to Lawrence Grooms—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17207) granting an increase of pension to James D. Bradley—to the Committee on Invalid Pensions.

By Mr. WEEKS: A bill (H. R. 17208) to correct the military record of Thomas Casey, enlisted as Thomas Claney—to the Committee on Military Affairs.

By Mr. CALDERHEAD: A bill (H. R. 17209) granting an increase of pension to Alva D. Smith—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17210) granting an increase of pension to Daniel Vertner—to the Committee on Invalid Pensions.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of bills of the following titles; which were thereupon referred as follows:

A bill (H. R. 11510) granting an increase of pension to Joseph S. Larrance—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 1641) for the relief of Rev. George W. C. Smith—Committee on Claims discharged, and referred to the Committee on War Claims.

A bill (H. R. 4718) granting a pension to Cornelia S. Swaine—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER: Petition of citizens of Cloverton, Ind. T., for statehood—to the Committee on the Territories.

Also, petition of Walter M. Stein, for bill H. R. 7006 (the Mondell bill)—to the Committee on Mines and Mining.

Also, petitions of citizens of Oklahoma and Indian Territory, for statehood—to the Committee on the Territories.

Also, petition of citizens of Indian Territory, against joint statehood of Oklahoma and Indian Territory—to the Committee on the Territories.

Also, petition of citizens of New York State, for consolidation of third and fourth class mail matter—to the Committee on the Post-Office and Post-Roads.

Also, petition of Mills & Gibb, for Government regulation of quarantine of the Gulf ports—to the Committee on Interstate and Foreign Commerce.

Also, petition of the executive council of the American Federation of Labor, for redress of certain enumerated grievances—to the Committee on the Judiciary.

By Mr. ACHESON: Petition of the Women's Club of Beaver, Pa., for investigation of the industrial condition of women in the United States—to the Committee on Appropriations.

Also, petition of James W. Ellsworth & Co., of Cleveland, Ohio, for an appropriation to continue the work of the United States Geological Survey at the fuel-testing plant at St. Louis—to the Committee on Appropriations.

Also, petition of the Beaver Trust Company, for bill H. R. 8773—to the Committee on Banking and Currency.

Also, petition of the Woman's Club of New Brighton, Pa., for the Norris law regarding forest reservations—to the Committee on Agriculture.

Also, petition of the Woman's Club of New Brighton, Pa., for forest reservations in the White Mountains—to the Committee on Agriculture.

Also, petition of the Woman's Club of New Brighton, Pa., for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

By Mr. ADAMS of Pennsylvania: Petition of citizens of Philadelphia, against the conditions prevailing in the Kongo Free State—to the Committee on Foreign Affairs.

Also, petition of the faculty of Bryn Mawr College, for works of art on the free list—to the Committee on Ways and Means.

Also, petition of the Civic Club of Philadelphia, for forest reservation in the White Mountains—to the Committee on Agriculture.

By Mr. ALLEN of Maine: Petition of John Ward and 155 others, for the Senate amendment to the statehood bill—to the Committee on the Territories.

Also, petition of W. G. McKern and 8 others, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. BARCHFELD: Petition of Dr. T. R. Miller, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of the Japanese and Korean Exclusion League, for the Chinese-exclusion law as it is—to the Committee on Foreign Affairs.

Also, petition of the H. K. Mulfers Company, for bill S. 88—to the Committee on Interstate and Foreign Commerce.

Also, petition of the faculty of Bryn Mawr College, for bill H. R. 15268—to the Committee on Ways and Means.

Also, petition of the McKees Rocks Veterans' Association, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of Thomas Winsmere, favoring the Littlefield bill (H. R. 5281)—to the Committee on the Merchant Marine and Fisheries.

Also, petition of Walter H. Williams, opposing certain features in the Heyburn pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of Holdt & Cummings, Stetson & Winsmere, and the Vessel Owners and Captains' Association, all of Philadelphia, for bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

Also, petition of 10,000 people of Tulsa, Ind. T., for statehood—to the Committee on the Territories.

By Mr. BARTLETT: Petition of W. B. Matthews, jr., et al., to amend section 558 of the Code of Law for the District of Columbia—to the Committee on the District of Columbia.

By Mr. BATES: Petition of Pomona Grange, Erie, Pa., for the oleomargarine law as it is—to the Committee on Agriculture.

Also, petition of the Commercial Club of Comanche, Ind. T., for admission as a State—to the Committee on the Territories.

Also, petition of Thomas Winsmore, of Philadelphia, Pa., for the Littlefield bill (H. R. 5281)—to the Committee on the Merchant Marine and Fisheries.

Also, petition of J. F. Downing, of Erie, Pa., for statehood for Oklahoma—to the Committee on the Territories.

Also, petition of the State Federation of Women, of Union City, Pa., for forest reservations—to the Committee on Agriculture.

Also, petition of the Corry Humane Society, for a better law for the transportation of cattle—to the Committee on Interstate and Foreign Commerce.

Also, petition of the officers of Bryn Mawr College, for art works duty free—to the Committee on Ways and Means.

Also, petition of the Erie Chamber of Commerce, for the Gallinger bill—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the H. K. Mulford Company, of Philadelphia, Pa., for the pure-food bill—to the Committee on Interstate and Foreign Commerce.

By Mr. BEALL of Texas: Petition of citizens of Oklahoma, for the Senate amendment to the statehood bill—to the Committee on the Territories.

By Mr. BENNETT of Kentucky: Paper to accompany bill for relief of Isaac W. Musser (previously referred to the Committee on Invalid Pensions)—to the Committee on Military Affairs.

Also, paper to accompany bill for relief of James H. Warford (previously referred to the Committee on Invalid Pensions)—to the Committee on Pensions.

By Mr. BISHOP: Petition of Henry Finly et al., for statehood for Oklahoma and Indian Territory—to the Committee on the Territories.

By Mr. BOWERSOCK: Petition of citizens of Kibley, Okla., for statehood—to the Committee on the Territories.

Also, petition of citizens of Arlington, Okla., for statehood—to the Committee on the Territories.

By Mr. BRANTLEY: Paper to accompany bill for relief of John Blanchard—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of James S. Fountain—to the Committee on War Claims.

By Mr. BROOKS of Colorado: Petition of the Glenwood Post, against the tariff on linotype machines—to the Committee on Ways and Means.

By Mr. BURGESS: Petition of the Herald, against the tariff on linotype machines—to the Committee on Ways and Means.

By Mr. BURKE: Petition of the Japanese and Korean Exclusion League, for the Chinese law as it is—to the Committee on Foreign Affairs.

By Mr. BURLEIGH: Paper to accompany bill for relief of Charles A. Chase—to the Committee on Invalid Pensions.

By Mr. BURTON of Ohio: Petition of Alexander Winton et al., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. BUTLER of Pennsylvania: Petition of the State Federation of Pennsylvania Women, for the Morris law regarding forest reservations—to the Committee on Agriculture.

Also, petition of the State Federation of Pennsylvania Women, for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

Also, petition of the General Federation of Women's Clubs, for scientific investigation into the industrial condition of women in the United States—to the Committee on Appropriations.

Also, petition of the State Federation of Pennsylvania Women, for a forest reservation in the White Mountains—to the Committee on Agriculture.

By Mr. BUTLER of Tennessee: Paper to accompany bill for relief of Benjamin Francis—to the Committee on Invalid Pensions.

By Mr. CALDERHEAD: Petitions of the Salina Union, H. S. Montgomery, the Enterprise, the Democrat, the Publishers' League, and the Students' Herald, against the tariff on linotype machines—to the Committee on Ways and Means.

Also, petition of the Dames of 1846, for increase of pension for Mexican-war veterans—to the Committee on Pensions.

Also, petition of J. B. Sager, Davidson & Co., S. M. Engler, Walter Starcke, and the Morganville Mill Company, for two classes of mail matter only—to the Committee on the Post-Office and Post-Roads.

By Mr. CAMPBELL of Ohio: Petition of the National Grange, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. CLARK: Petition of many citizens of New York and vicinity, for relief for heirs of victims of *General Slocum* disaster—to the Committee on Claims.

By Mr. CURTIS: Petition of the Signal and the Daily Eclipse, against the tariff on linotype machines—to the Committee on Ways and Means.

Also, petition of citizens of Indian Territory, for the Senate amendment to the statehood bill—to the Committee on the Territories.

By Mr. DARRAGH: Petition of citizens of Michigan, against the bill for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of Garfield Grange, No. 1106, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. DAVIDSON: Petition of the Trades Council of Oshkosh, Wis., against bill H. R. 12973—to the Committee on Foreign Affairs.

Also, petition of the Musicians' Union, for bill H. R. 8748—to the Committee on Naval Affairs.

Also, petition of citizens of Oshkosh, Wis., for metric system—to the Committee on Coinage, Weights, and Measures.

Also, petition of Power Boat Club of Oshkosh, Wis., for bill to license operators of motor boats—to the Committee on the Merchant Marine and Fisheries.

By Mr. DAWSON: Petition of the Master House Painters and Decorators of Massachusetts, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of the Master House Painters and Decorators of the United States, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of citizens of Iowa, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of the Outlook Club of Iowa, for inquiry into the industrial condition of woman in the United States—to the Committee on Appropriations.

By Mr. DOVENER: Petition of the Enterprise, against the tariff on linotype machines—to the Committee on Ways and Means.

By Mr. DRAPER: Petition of the Greenwich Woman's Christian Temperance Union, for the McCumber-Sperry bill—to the Committee on Alcoholic Liquor Traffic.

By Mr. DRESSER: Petition of citizens of Pennsylvania, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. ESCH: Petition of the Caddo Statehood Club, for the statehood bill—to the Committee on the Territories.

By Mr. FLETCHER: Petition of citizens of Minnesota, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. FLOOD: Petition of Unionville Council, No. 157, Junior Order United American Mechanics, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of Columbia Council, No. 52, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. FLOYD: Petition of citizens of Arkansas, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of W. P. Langston, for additional courts, etc., in Indian Territory—to the Committee on Indian Affairs.

Also, paper to accompany bill for relief of Henrietta Hull—to the Committee on Invalid Pensions.

By Mr. GRAHAM: Petition of the Japanese and Korean Exclusion League, for the Chinese-exclusion law as it is—to the Committee on Foreign Affairs.

Also, petition of Haldt & Cummings, Stetson & Winsmore, and the Vessel Owners and Captains' Association, all of Philadelphia, for bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

By Mr. HASKINS: Petition of Craftsbury Grange, No. 269, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. HAYES: Petition of Orchard City Grange, for the Heyburn pure-food bill—to the Committee on Interstate and Foreign Commerce.

By Mr. HERMANN: Petition of Cyrus H. Walker, of Albany, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of Farnsworth Camp, Sons of Veterans, against bill H. R. 8131—to the Committee on Military Affairs.

Also, petition of citizens of Baker City, Oreg., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. HILL of Connecticut: Paper to accompany bill for relief of Leslie Smith—to the Committee on Military Affairs.

By Mr. HOWELL of Utah: Petition of citizens of Utah, against the parcels-post bill—to the Committee on the Post-Office and Post Roads.

By Mr. HUFF: Petition of D. Landworth Seed Company, of Bristol, Pa., against the free-seed distribution—to the Committee on Agriculture.

Also, petition of W. F. Massey, of the Practical Farmer, Philadelphia, against free-seed distribution—to the Committee on Agriculture.

Also, petition of the International Association of Master House Painters and Decorators of America, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of the H. K. Mulford Company, for amendment to bill (S. 88) to clearly define the term "poisonous substances"—to the Committee on Interstate and Foreign Commerce.

Also, petition of the officers of Bryn Mawr College, for bill H. R. 15268—to the Committee on Ways and Means.

Also, petition of the Buffalo Chamber of Commerce, for the Gallinger bill—to the Committee on the Merchant Marine and Fisheries.

Also, petition of Beaver Refining Company, of Washington, Pa., against discrimination adverse to independent refiners—to the Committee on Interstate and Foreign Commerce.

Also, petition of Charles T. Meger & Co., for bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

Also, petition of Cranberry Grange, for the Grange good-roads bill—to the Committee on Agriculture.

Also, petition of Cranberry Grange, for a parcels-post law—to the Committee on the Post-Office and Post-Roads.

Also, petition of Cranberry Grange, for retention of the tax on imitation butter—to the Committee on Agriculture.

Also, petition of Cranberry Grange, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of Haldt & Cummins, for bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

Also, petition of Thomas Winsmore, Stetson & Winsmore, and the Vessel Owners and Captains' Association, all of Philadelphia, for bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

By Mr. JENKINS: Petition of the Superior Tedinde, against the tariff on linotype machines—to the Committee on Ways and Means.

By Mr. KENNEDY: Petition of the Farm Magazine Company, against the tariff on linotype machines—to the Committee on Ways and Means.

By Mr. LAW: Paper to accompany bill for relief of James H. Stevens—to the Committee on Invalid Pensions.

By Mr. LINDSAY: Petition of the postmaster of New York City, for the pneumatic-tube system in the post-office—to the Committee on the Post-Office and Post-Roads.

Also, petition of Caddo Statehood Club, for the Senate amendment to the statehood bill—to the Committee on the Territories.

Also, petition of Richey, Brown & Donald, for bill H. R. 11836—to the Committee on the Post-Office and Post-Roads.

Also, petition of the J. B. Colt Company, for Federal quarantine in the Gulf ports and for the Williams and Mallory bills—to the Committee on Interstate and Foreign Commerce.

Also, petition of citizens of Maine, against conditions in the Kongo Free State—to the Committee on Foreign Affairs.

By Mr. MANN: Petition of the East Buffalo Live Stock Association, for extension of the twenty-eight-hour law relative to live stock in shipment—to the Committee on Interstate and Foreign Commerce.

Also, petition of the International Association of Master House Painters and Decorators of America, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of citizens of Chicago, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of the Chamber of Commerce of Buffalo, N. Y., for the Gallinger bill—to the Committee on the Merchant Marine and Fisheries.

By Mr. MARSHALL: Petition of citizens of North Dakota, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. MILLER: Petition of citizens of Kansas, against Sunday banking in post-offices—to the Committee on the Post-Office and Post-Roads.

By Mr. MOUSER: Petition of Wyandott Grange, No. 541, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. OLMSTED: Petition of citizens of Wisconsin, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of Star of Oberlin Council, Daughters of Liberty, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. PADGETT: Paper to accompany bill for relief of Frank M. Dooley—to the Committee on Invalid Pensions.

By Mr. PALMER: Petition of Washington Camp, No. 234, Patriotic Order Sons of America, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of John T. Jones et al., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. PAYNE: Petition of the Methodist Episcopal Church of Clifton Springs, against sale of liquor in Government buildings—to the Committee on Alcoholic Liquor Traffic.

Also, petition of citizens of New York, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. RAINEY: Petition of the Register and the Record, against the tariff on linotype machines—to the Committee on Ways and Means.

By Mr. RHINOCK: Paper to accompany bill for relief of John Crawford—to the Committee on Military Affairs.

By Mr. RIVES: Petition of many citizens of New York and vicinity for relief for heirs of victims of *General Slocum* disaster—to the Committee on Claims.

By Mr. ROBERTSON of Louisiana: Petition of the True Democrat, against the tariff on linotype machines—to the Committee on Ways and Means.

By Mr. RYAN: Petition of the Chamber of Commerce of Buffalo, N. Y., for the Gallinger bill—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the International Association of Master House Painters and Decorators of America, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. SCHNEEBELI: Petition of Seatington Council, No. 216, Order United American Mechanics, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of the faculty of Bryn Mawr College, for bill H. R. 15268—to the Committee on Ways and Means.

Also, petition of bankers, merchants, citizens, etc., for revocation of the post-office fraud order—to the Committee on Rules.

Also, petition of the Civic Club of Easton, Pa., for an appropriation to investigate the industrial condition of women in the United States—to the Committee on Appropriations.

Also, petition of Stetson & Winsmore, for bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the National Board of Trade of Philadelphia, for a forest-reservation law—to the Committee on Agriculture.

Also, petition of the Commercial League of South Bethlehem, Pa., for the pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of Thomas Winsmore, of Philadelphia, Pa., for bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

Also, petition of Charles Chapman's Sons, of Easton, Pa., against reduction of the tariff on hosiery—to the Committee on Ways and Means.

Also, petition of Dr. C. M. McIntire, for the pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Vessel Owners and Captains' Association of Philadelphia, Pa., for bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

Also, petition of Holdt & Cummings, of Philadelphia, Pa., favoring bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

By Mr. SCROGGY: Paper to accompany bill for relief of Daniel Craig—to the Committee on Invalid Pensions.

Also, petition of American Pad and Textile Company, against the Gilbert bill—to the Committee on the Judiciary.

Also, petition of the International Association of House Painters and Decorators, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of the American Pad and Textile Company, for the Senate amendment to the statehood bill—to the Committee on the Territories.

Also, petition of J. L. H. Barr, of the Cement Association, for continuance of Government investigation of structural material—to the Committee on Appropriations.

Also, petition of the Ford Seed Company, against free distribution of seeds—to the Committee on Agriculture.

Also, petition of the General Federation of Women's Clubs, to investigate the industrial conditions of women in the United States—to the Committee on Appropriations.

By Mr. SHACKLEFORD: Petition of citizens of Missouri, for statehood for Oklahoma and Indian Territory—to the Committee on the Territories.

By Mr. SMITH of Maryland: Petition of the Master House Painters and Decorators of Massachusetts, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. SNAPP: Petition of citizens of Illinois, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of the Patrol, against the tariff on linotype machines—to the Committee on Ways and Means.

By Mr. STEVENS of Minnesota: Petition of citizens of Stillwater, Minn., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. SULZER: Petition of the Philadelphia Board of Trade, favoring the Interstate Commerce Commission as the adjuster of railway rates—to the Committee on Interstate and Foreign Commerce.

Also, petition of the International Association of House Painters and Decorators, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of John Young, against free seed distribution—to the Committee on Agriculture.

Also, petition of the State Charities Association, for the pure food and drug bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Consumers' League, for the Hepburn pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Central Federated Union, for making battle ships at the Brooklyn Navy-Yard—to the Committee on Naval Affairs.

Also, petition of the Confederate Southern Memorial Association, for care of graves of Confederate dead—to the Committee on Military Affairs.

Also, petition of the Joint Commission of the Brooklyn Navy-Yard, for the construction of battle ships there—to the Committee on Naval Affairs.

Also, petition of the Phoenix National Bank, for bill H. R. 15846—to the Committee on Interstate and Foreign Commerce.

Also, petition of L. Gottleib & Son, for bill H. R. 11936—to the Committee on the Post-Office and Post-Roads.

Also, petition of the Douglas Manufacturing Company, for the pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Manufacturers' Association of New York, against the Gilbert bill—to the Committee on the Judiciary.

Also, petition of Edward J. Wheeler, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of citizens of New York, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of the American Wine Growers' Association, for the pure-wine bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Illinois Manufacturers' Association, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of James H. Williams, against bill H. R. 12973—to the Committee on Foreign Affairs.

Also, petition of the Marine Trades Council of New York, for battle-ship building at the Brooklyn Navy-Yard—to the Committee on Naval Affairs.

Also, petition of the Japanese and Korean Exclusion League, for the Chinese-exclusion law as it is—to the Committee on Foreign Affairs.

Also, petition of J. B. Colt & Co., for Government quarantine for the Gulf ports—to the Committee on Interstate and Foreign Commerce.

By Mr. THOMAS of North Carolina: Petition of citizens of North Carolina, for an appropriation to improve navigation of Bay River—to the Committee on Rivers and Harbors.

By Mr. TIRRELL: Petition of Framingham Grange, No. 113, and Littleton Grange, No. 188, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of many citizens of New York and vicinity, for relief for heirs of victims of *General Slocum* disaster—to the Committee on Claims.

By Mr. VAN WINKLE: Petition of the Newark Board of Trade, for the pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Bayonne Daily Times, against the tariff on linotype machines—to the Committee on Ways and Means.

By Mr. WEBB: Paper to accompany bill for relief of David C. Lamb—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of Patterson Reise—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of John Sheltan—to the Committee on Military Affairs.

By Mr. WEEKS: Petition of Sherborn Grange, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

SENATE.

FRIDAY, *March 23, 1906.*

Prayer by the Chaplain, Rev. EDWARD E. HALE.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. NELSON, and by unanimous consent, the further reading was dispensed with.

The VICE-PRESIDENT. The Journal stands approved.

FINDINGS OF COURT OF CLAIMS.

The VICE-PRESIDENT laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of M. T. Swick *v.* The United States; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

He also laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of The Cumberland University, of Lebanon, Tenn., *v.* The United States; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House insists upon its amendments to the bill (S. 1345) to provide for the reorganization of the consular service of the United States, disagreed to by the Senate; agrees to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. ADAMS of Pennsylvania, Mr. DENBY, and Mr. TOWNE, managers at the conference on the part of the House.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the Vice-President:

H. R. 1056. An act granting a pension to Galon S. Clevenger;

H. R. 4736. An act for the relief of the county of Custer, State of Montana;

H. R. 9216. An act granting an increase of pension to Catharine R. Mitchell;

H. R. 13194. An act to authorize the Secretary of the Interior to reclassify the public lands of Alabama;

H. R. 15583. An act to authorize the Madison Bridge Company to construct a bridge across the St. Francis River, in St.

Francis County, Ark., at or near the town of Madison, in said county and State; and

H. R. 16381. An act leasing and demising certain lands in La Plata County, Colo., to the P. F. U. Rubber Company.

PETITIONS AND MEMORIALS.

Mr. SCOTT presented a petition of Richlands Grange, Patrons of Husbandry, of Lewisburg, W. Va., praying for the removal of the internal-revenue tax on denaturized alcohol; which was referred to the Committee on Finance.

He also presented a petition of Union Council, No. 5, Daughters of Liberty, of Charleston, W. Va., praying for the enactment of legislation to restrict immigration; which was referred to the Committee on Immigration.

Mr. PENROSE presented a petition of the Pennsylvania Prison Society, of Philadelphia, Pa., praying for the enactment of legislation providing for the establishment of a laboratory for the study of the criminal, pauper, and defective classes; which was referred to the Committee on the Judiciary.

He also presented a petition of the Musicians' Protective Association of Reading, Pa., praying for the enactment of legislation to prohibit Government musicians from competing with civilian musicians; which was referred to the Committee on Naval Affairs.

He also presented a memorial of the New Century Club of Philadelphia, Pa., and a memorial of the Iris Club, of Lancaster, Pa., remonstrating against the repeal of the so-called "Morris law," providing for the protection of the forests of the United States; which were referred to the Committee on Agriculture and Forestry.

He also presented a petition of the masters of schooners of Millville, Pa., and the petition of Eva D. Rose, of Nimbus, Pa., praying that an appropriation be made for the improvement of the breakwater of the Delaware River and Bay; which were referred to the Committee on Commerce.

He also presented a petition of Local Lodge No. 593, Brotherhood of Railroad Trainmen, of Dubois, Pa., praying for the enactment of legislation to restrict immigration; which was referred to the Committee on Immigration.

He also presented petitions of the New Century Club of Philadelphia, of the New Century Club of Newton, and of the Iris Club, of Lancaster, all in the State of Pennsylvania, praying for the enactment of legislation to establish forest reservations in the White Mountains of New Hampshire and in the Southern Appalachian Mountain chain; which were ordered to lie on the table.

Mr. STONE presented memorials of sundry citizens of Desoto, of Andrew County, and of St. Joseph, all in the State of Missouri, remonstrating against the enactment of legislation for the consolidation of third and fourth class mail matter; which were referred to the Committee on Post-Offices and Post-Roads.

He also presented petitions of the Athenæum Club, of Kansas City, Mo., and of the Home Economic Club, of Chillicothe, Mo., praying for an investigation into the industrial condition of the women of the country; which were referred to the Committee on Education and Labor.

He also presented a memorial of the State Federation of Labor, of Kansas City, Mo., remonstrating against the enactment of legislation to abolish compulsory pilotage; which was referred to the Committee on Commerce.

He also presented a petition of the Board of Trade of Kansas City, Mo., praying for the enactment of legislation to establish a uniform standard for the classification of grain; which was referred to the Committee on Agriculture and Forestry.

He also presented a petition of Terminal Lodge, No. 472, Brotherhood of Railroad Trainmen, of St. Louis, Mo., and a petition of the Central Trades and Labor Assembly of Springfield, Mo., praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

He also presented a petition of the Berry Growers' Association of Monett, Mo., praying for the enactment of legislation to regulate the transportation of fruit in private cars; which was referred to the Committee on Interstate Commerce.

He also presented a petition of Campbell Camp, United Confederate Veterans, of Springfield, Mo., praying that an appropriation be made for the purchase of the battlefield of Wilsons Creek, in Missouri, for use as a national park; which was referred to the Committee on Military Affairs.

He also presented a petition of the Ladies' Aid Society of the Grand Avenue Presbyterian Church, of St. Louis, Mo., praying for an investigation of the existing conditions in the Kongo Free State; which was referred to the Committee on Foreign Relations.

Mr. GALLINGER presented a petition of the Froekel Club, of Keene, N. H., praying that an appropriation be made for a scientific investigation into the industrial conditions of women in the United States; which was referred to the Committee on Education and Labor.

He also presented a petition of the American Free Art League of Boston, Mass., praying for the enactment of legislation to remove the duty on works of art; which was referred to the Committee on Finance.

He also presented a petition of the Prescott Piano Company, of Concord, N. H., praying for the enactment of legislation to remove the duty on denaturized alcohol; which was referred to the Committee on Finance.

He also presented a petition of the legislative committee of the American Federation of Labor, of Washington, D. C., praying for the enactment of legislation to regulate the employment of child labor in the District of Columbia; which was referred to the Committee on the District of Columbia.

He also presented the petition of John G. McCreight, of Brookland, D. C., praying that in the enactment of legislation for the purchase of land from Seventh street to Bunker Hill road, Brookland, D. C., for opening up of Monroe street, the benefit assessments shall be made against the property which is actually affected; which was referred to the Committee on the District of Columbia.

He also presented a memorial of sundry property owners of Brookland, D. C., remonstrating against the taxation of Brookland property to pay for the extension of Monroe street at that place; which was referred to the Committee on the District of Columbia.

Mr. FRYE presented a petition of sundry citizens of Marlboro, Me., praying for the removal of the internal-revenue tax on denaturized alcohol; which was referred to the Committee on Finance.

Mr. BEVERIDGE presented a memorial of the Indiana Retail Merchants' Association, remonstrating against the passage of the so-called "parcels-post bill;" which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of the American Federation of Musicians, of Indianapolis, Ind., and a petition of the American Federation of Musicians, of Hammond, Ind., praying for the enactment of legislation to prohibit the employment of Government musicians in competition with civilian musicians; which were referred to the Committee on Naval Affairs.

Mr. PILES presented a memorial of the Seattle branch of the National Association of Credit Men, of Seattle, Wash., remonstrating against the repeal of the present bankruptcy law; which was referred to the Committee on the Judiciary.

Mr. KITTREDGE presented a petition of the Federation of Women's Clubs of Mitchell, S. Dak., praying for an investigation into the industrial condition of the women of the country; which was referred to the Committee on Education and Labor.

Mr. DUBOIS presented a petition of 19 citizens of Moscow, Idaho, praying for the removal of the internal-revenue tax on denaturized alcohol; which was referred to the Committee on Finance.

REPORTS OF COMMITTEES.

Mr. NELSON, from the Committee on Commerce, to whom was referred the bill (H. R. 14396) to incorporate the Lake Erie and Ohio River Ship Canal, to define the powers thereof, and to facilitate interstate commerce, reported it with amendments, and submitted a report thereon.

Mr. GAMBLE, from the Committee on Indian Affairs, to whom was referred the bill (H. R. 11946) to amend section 6 of an act approved February 8, 1887, entitled "An act to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the United States and the Territories over the Indians, and for other purposes," reported it with amendments, and submitted a report thereon.

PURCHASES BY ISTHMIAN CANAL COMMISSION.

Mr. PLATT, from the Committee on Printing, to whom was referred the resolution submitted yesterday by Mr. MILLARD, reported it without amendment, and it was considered by unanimous consent and agreed to, as follows:

Resolved, That a tabulated statement prepared by the auditor of the Isthmian Canal Commission, entitled "Statement showing orders issued by the Isthmian Canal Commission for purchases involving $1,000 or more, November 1, 1905, to March 7, 1906," be printed as a Senate document, in pursuance of a motion adopted by the Committee on Interoceanic Canals.

JICARILLA APACHE INDIAN RESERVATION.

Mr. TELLER. I am directed by the Committee on Indian Affairs, to whom was referred the bill (H. R. 15848) authorizing the sale of timber on the Jicarilla Apache Indian Reservation for the benefit of the Indians belonging thereto, to report it

favorably without amendment. This is purely a local bill, and it is a bill the Department is anxious to have passed. It will not create any debate and it will take but a moment or two to pass it. I ask that it be put on its passage.

The Secretary read the bill; and there being no objection the Senate, as in Committee of the Whole, proceeded to its consideration. It authorizes the Secretary of the Interior, under such rules and regulations as he may prescribe, to sell or otherwise dispose of any or all of the timber on the Jicarilla Apache Indian Reservation in New Mexico, whether allotted or unallotted—if allotted, with the consent of the allottee—the proceeds to be deposited in the United States Treasury, to be expended by the Secretary of the Interior for the benefit of said Indians, in such manner as in his judgment will tend to promote their welfare and advance them in civilization.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. PENROSE introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Military Affairs:

A bill (S. 5293) to correct the military record of Charles H. Silby; and

A bill (S. 5294) to correct the military record of David J. Fuller (with an accompanying paper).

He also introduced a bill (S. 5295) authorizing the procuring of additional land for the site of public building at Erie, Pa.; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

He also introduced a bill (S. 5296) to establish a division of photo-engraving and printing in the Government Printing Office; which was read twice by its title, and referred to the Committee on Printing.

Mr. SCOTT introduced a bill (S. 5297) providing for the erection of an addition to the post-office building at Washington, D. C.; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Public Buildings and Grounds.

He also introduced a bill (S. 5298) granting an increase of pension to Rebecca E. Pepper; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. DILLINGHAM introduced a bill (S. 5299) for the erection of a public building at Island Pond, Vt.; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

Mr. ALLEE introduced a bill (S. 5300) granting an increase of pension to William H. Millis; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 5301) correcting the military record of John Crothers; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Military Affairs.

Mr. LONG introduced a bill (S. 5302) for the relief of the heirs of William W. C. Chaney; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Claims.

Mr. RAYNER (by request) introduced a bill (S. 5303) to provide for the sale of lot 4, square 1113, in the city of Washington, D. C.; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. PATTERSON introduced a bill (S. 5304) for the relief of Oliver P. Wiggins; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. McCREARY introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 5305) granting an increase of pension to Arabella H. Colahan;

A bill (S. 5306) granting a pension to Isaac Stephens; and

A bill (S. 5307) granting an increase of pension to Elizabeth Puckett (with an accompanying paper).

Mr. CLARK of Montana introduced a bill (S. 5308) to amend the act of June 17, 1902, entitled "An act appropriating the receipts from the sale and disposal of public lands in certain States and Territories to the construction of irrigation works for the reclamation of arid lands," as published in volume 32, Statutes at Large, page 388; which was read twice by its title, and referred to the Committee on Irrigation.

He also introduced a bill (S. 5309) to provide for the payment of costs by the United States in certain cases; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. BLACKBURN introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Claims:

A bill (S. 5310) for the relief of the estate of John Yancy, deceased;

A bill (S. 5311) for the relief of the estate of John R. Poplin, deceased;

A bill (S. 5312) for the relief of W. F. Tomlinson, administrator of Samuel Tomlinson, deceased;

A bill (S. 5313) for the relief of A. Portwood;

A bill (S. 5314) for the relief of Van Foreman;

A bill (S. 5315) for the relief of J. W. Allen, administrator de bonis non of B. N. C. Allen, deceased;

A bill (S. 5316) for the relief of William McCracken;

A bill (S. 5317) for the relief of the estate of M. B. Frazier, deceased;

A bill (S. 5318) for the relief of the estate of Julia E. Rightor;

A bill (S. 5319) for the relief of John E. Lindsey, surviving partner of John Lindsey & Son;

A bill (S. 5320) for the relief of David B. Dowdell;

A bill (S. 5321) for the relief of J. C. Shelby; and

A bill (S. 5322) for the relief of H. Z. Taylor, administrator of the estate of H. R. M. Taylor, deceased.

Mr. McCUMBER introduced a bill (S. 5323) granting an increase of pension to Newton G. Cook; which was read twice by its title, and referred to the Committee on Pensions.

Mr. PILES introduced a bill (S. 5324) granting an increase of pension to Peter Sloggy; which was read twice by its title, and referred to the Committee on Pensions.

Mr. DUBOIS introduced a bill (S. 5325) for the relief of Gilbert H. Tracey; which was read twice by its title, and referred to the Committee on Indian Depredations.

Mr. SIMMONS introduced a bill (S. 5326) granting an increase of pension to Annie A. West; which was read twice by its title, and referred to the Committee on Pensions.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. PENROSE submitted an amendment proposing to appropriate $2,500 for editor of the Gazetteer of the Philippine Islands, and also proposing to reduce the number of clerks of class 3, Office of Bureau of Insular Affairs, from three to two, intended to be proposed by him to the legislative, executive, and judicial appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. KITTREDGE submitted an amendment authorizing the issuance of patents in fee simple to Sarah La Batte and certain other Sisseton and Wahpeton allottees for lands heretofore allotted to them, intended to be proposed by him to the Indian appropriation bill; which was referred to the Committee on Indian Affairs, and ordered to be printed.

GEORGIA RAILROAD AND BANKING COMPANY.

Mr. BACON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be, and he hereby is, directed to submit to the Senate a report showing any balance found due to the Georgia Railroad and Banking Company for services rendered by it under the name of the Georgia Railroad Company by carrying the United States mail on routes 6136, 6143, and 6144, Georgia, prior to May 31, 1861, when its contracts were annulled by the Postmaster-General, and whether any payment thereon has been made since said annulment; and also whether said contracts provided that in the event of their annulment by the Postmaster-General before their expiration said company should receive one month's pay, and if so, the amount thereof, and whether it or any part of it has been paid to said company.

PROPOSED ISLE OF PINES INVESTIGATION.

Mr. MORGAN. I desire to state that the resolution I offered yesterday, which comes over regularly to-day, by an arrangement between the Senator from Ohio [Mr. FORAKER] and myself, will go over without prejudice.

The VICE-PRESIDENT. Without objection, it is so ordered.

CONTRACTS WITH NEW PANAMA CANAL COMPANY.

Mr. MORGAN. I move that there be printed for the use of the Senate a letter addressed to myself by the Department of Justice at Washington, inclosing copies of contracts entered into between the United States and contracts proposed to be entered into between the United States and the New Panama Canal Company. One of the documents, the last one in the series, is partly in French and partly in English. I desire to have it printed just as it is, and hereafter I will ask the Senate to authorize the Committee on Interoceanic Canals to have a translation of the French document made. I move now the printing of those papers and their reference to the Committee on Interoceanic Canals.

The motion was agreed to.

THE STATEHOOD BILL.

Mr. BEVERIDGE. Out of order, and to accommodate one or two Senators who are on subcommittees and must leave the Chamber, I ask leave now to call up my motion to insist upon the amendments of the Senate to the House bill 12707, commonly known as the "statehood bill," agree to the conference asked by the House, and that the Chair appoint the conferees. I do this at the request of the Senator from Ohio [Mr. FORAKER].

The VICE-PRESIDENT. The question is on the motion of the Senator from Ohio [Mr. FORAKER] to amend the motion of the Senator from Indiana by providing that the conferees shall be appointed by the Senate. The question is on agreeing to the motion of the Senator from Ohio.

Mr. FORAKER. Mr. President, when this matter went over yesterday it was with the statement that I would confer with the Senator from Indiana with a view to reaching some agreement as to what should be the course to be taken with respect to the appointment of the conferees. I have had that conference with the Senator, with the result that I withdraw my motion and allow the conferees to be appointed in the usual way, the Senator from Indiana having given me certain assurances, which I understand he is quite willing to give to the Senate, that the action of the Senate will be faithfully represented by those who are appointed, although they voted against the main proposition which goes to conference.

Mr. BEVERIDGE. Mr. President, that, of course, is always involved in a motion to insist upon the amendments. The purpose of a conference is that the conferees of each House, while representing the views of its House, shall devise some method to bring the two Houses into agreement if possible, and if not to so report.

Mr. FORAKER. I think one other thing ought to be stated, perhaps, in this case. There is a bill pending here affecting Arizona, which it is understood will be called up and be disposed of at some time that shall suit the convenience of Senators before this matter is finally determined.

Mr. NELSON. To what bill does the Senator refer?

Mr. FORAKER. The bill to prohibit gambling in the Territory of Arizona, a bill that I want to have passed on by the Senate before this matter is finally determined. It is understood between us that that bill shall be acted upon.

Mr. BEVERIDGE. That course is perfectly agreeable, Mr. President.

Mr. LODGE. Mr. President, I may say a single word in regard to this matter. I had occasion to say something about it some time ago in the case of the immigration bill. It seems to me that it must be the absolute understanding always that conferees represent the views of the Senate and not their own views. It does seem to me that it is not possible we can carry on business upon any other basis; that the Senators in charge of the bill, even if they voted against the amendments of the Senate, would, of course, represent the views of the Senate, and that the bill should not be taken from the committee in charge of the measure.

Mr. FORAKER. In answer to that suggestion, if it is intended that it should involve any criticism of me for making the motion I did, I want to say——

Mr. LODGE. I did not intend to intimate that.

Mr. FORAKER. The motion I made was simply that the conferees should be appointed in compliance with the rule of the Senate, as I understand it, instead of the way we have drifted into, of having them appointed, by unanimous consent, by the Chair. I understand the rule of the Senate which I sought to evoke in this instance would but give those of us who were thinking there ought to be such action taken the benefit of the general rule that obtains, laid down by all parliamentary writers, that those who are the friends of a proposition should go to the conference to represent it.

But I do not wish to discuss it at all. I only want to call attention to the fact that the motion was made in perfect good faith, without reference to the personality of any Senator or his attitude in respect to any measure except only in so far as it pertains to the public business.

I wish to say one other thing. What I suggested should be done in this case is not without precedent. I remember, as all Senators who were here then must very well remember, that we had quite a controversy over this proposition in connection with the adoption of the joint resolution upon which we intervened in Cuba. The Chair at that time recognized the right of those favoring the proposition to be represented as the conferees, and they were appointed.

The VICE-PRESIDENT. The Senator from Ohio having withdrawn his proposed amendment, the question recurs upon the motion of the Senator from Indiana that the Chair appoint the conferees.

Mr. TELLER. Mr. President, I wish to say a word or two on this occasion. I have just come from a committee meeting and I do not know exactly what has been done; but I understood yesterday that the Senator from Ohio intended to withdraw his motion. I understood then that he would withdraw it because some members of the committee felt that it was a reflection on the committee to select as conferees anyone outside of the committee. I do not know but that some felt it was a reflection upon the presiding officer of the Senate.

Mr. President, the right to appoint the members of a conference committee belongs to the Senate. I am not going to find any fault with the withdrawal of the motion made by the Senator from Ohio; I agreed to its withdrawal last night. But I wish to say that it is no reflection upon a committee nor is it any reflection upon the Chair, because we recognize that without a motion to that effect the Chair has not the right to appoint a committee. The right to appoint the members of a conference committee is with the body that creates the committee. That is not always done, because it is convenient generally—and the custom has grown up to that effect—for the chairman of the committee to designate certain members of the committee having charge of the measure to act at the conference. The conferees of the two Houses are then supposed to represent the Senate or the House, as the case may be.

I understand also there is a feeling on the part of some members of the committee that to select anyone off of the committee or to select anyone even on the committee who had not been favorable to the first proposition perhaps would be a reflection on the committee. Whenever a conference committee is created it is created to bring the mind of the other body to that of this body, and to bring them together. It is not to represent the view of the minority, but to represent, if possible, the majority. Upon that theory the majority of the proposition that passes this body is entitled by custom and usage and on principle to name the committee. A majority only of this body can pass a bill. If the bill is different from what came from the House, the bill as it leaves this body is supposed to represent the sentiment of this body, and this body then is entitled to have a friendly committee.

I am not going to complain of anything that has been done. I am quite willing to submit to the chairman of the committee the right in this case to make the selection according to what has been somewhat the custom here. I heard Senators say around me yesterday that they thought a different course would be a reflection upon the committee, and therefore they could not favor it. I only want to enter a protest against hampering the Senate, whenever it chooses to exercise a right which belongs to it beyond any question, to select its conferees independent of the chairman of the committee and independent of the presiding officer.

So far have the English authorities gone on this subject in Parliament that they have declared that it was the duty, when a man was put on a conference committee or on any other committee to deal with a subject to which he was hostile, to refuse to become a member of the conference committee or any other committee. As was said by a distinguished English writer on parliamentary law, and as is quoted approvingly in Jefferson's Manual, "the child is not to be put to a nurse that cares not for it." Upon that principle the party that puts the bill through, whether it be an original bill or an amended bill, is entitled to name the committee. That has been done repeatedly in the Senate over and over again, and it is only practically recently—when I say recently I do not mean within the last five years, I mean in modern times—that the custom has grown up to allow the chairman of the committee, however hostile he may be to the bill as it passes the Senate, to designate who shall deal with the House in the effort by a conference to bring the House to the sentiment of the Senate. Everyone can see that logically the friends of the measure are the proper ones to represent the matter to the conferees on the part of the House and win them to the Senatorial mind.

I have said this, Mr. President, simply in the interest of what I consider to be the orderly and proper management of the business of the Senate, not by way of any reflection on the Senator who presides over the committee or because I have the slightest objection to the arrangement, friendly in its character, which was made yesterday by the friends on the other side of the Chamber.

The VICE-PRESIDENT. The question is on agreeing to the motion of the Senator from Indiana.

The motion was agreed to.

The VICE-PRESIDENT appointed Mr. BEVERIDGE, Mr. DILLINGHAM, and Mr. PATTERSON.

QUARANTINE AT PANAMA.

Mr. MORGAN. I have a letter from the Surgeon-General of the Public Health and Marine-Hospital Service relating to

quarantine at Panama, which is in a state of confusion. I ask that the letter be read and that it be printed and referred to the Committee on Public Health and National Quarantine and also to the Committee on Interoceanic Canals.

The VICE-PRESIDENT. Without objection, the Secretary will read the letter.

The Secretary read as follows:

TREASURY DEPARTMENT,
Washington, March 22, 1906.

Hon. JOHN T. MORGAN, *United States Senate.*

DEAR SIR: I have to acknowledge receipt of your letter of March 16, which was delayed in reaching me.

In reply to your inquiries concerning quarantine conditions in the Canal Zone, I have to state that before the purchase of the canal strip was consummated, under the act of February 15, 1893, medical officers of the Public Health and Marine-Hospital Service were detailed—one in the office of the American consul at Panama and another in the office of the American consul at Colon—to inspect vessels bound for the United States proper and sign bills of health in conjunction with the American consul. Shortly after it became evident that the Panama authorities were not properly conducting quarantine against incoming vessels, and that there was great danger of the introduction of infectious disease from South American countries at both Panama and Colon. The facts were brought to the attention of the State Department. Through representation by said Department, the Panama authorities readily turned over the administration of the incoming quarantine at both cities to the officers of the Public Health and Marine-Hospital Service who were stationed in the two consulates.

When the Isthmian Canal Commission took control of the Canal Zone it assumed the function of quarantine with other functions, and requested that the officers of the Public Health and Marine-Hospital Service serving as above mentioned be turned over to the Commission. These officers were accordingly made to report direct to the chairman of the Commission, who directed them to report to the chief sanitary officer of the Commission. The latter placed them in charge of the incoming quarantine at Panama and Colon.

The Public Health and Marine-Hospital Service, however, still has its representatives in the consular offices in Panama and Colon to sign the bills of health and to see that the Treasury regulations are enforced with regard to vessels and persons leaving said ports for the United States.

With regard to the Canal Zone itself, its sanitation is directly under the Commission. Two of its principal officers, namely, the director of hospitals and the chief quarantine officer, are officers of the Public Health and Marine-Hospital Service loaned to the Commission.

The above is the situation as it exists at the present time. Enclosed is a page from the annual report of this Service for 1904, in which is set forth the matter above mentioned.

Respectfully,
WALTER WYMAN,
Surgeon-General.

The VICE-PRESIDENT. The letter will be printed and referred to the Committee on Public Health and National Quarantine and also to the Committee on Interoceanic Canals.

ENGAGEMENT AT MOUNT DAJO, ISLAND OF JOLO.

The VICE-PRESIDENT. The morning business is closed. The Chair lays before the Senate a resolution coming over from yesterday, which will be read.

The Secretary read the resolution submitted yesterday by Mr. CULBERSON, as follows:

Resolved, That the Secretary of War is hereby directed to send to the Senate full copies of all reports and all other communications which have passed to this date between the officials of the United States in the United States and any such officials in the Philippine Islands respecting the recent attack by troops of the United States on Mount Dajo.

The VICE-PRESIDENT. The question is on agreeing to the resolution.

The resolution was agreed to.

REGULATION OF RAILROAD RATES.

Mr. TILLMAN. I move that the Senate proceed to the consideration of the unfinished business, being House bill 12987.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission.

Mr. SPOONER. Mr. President, I acknowledge my obligation to the Senate for the courtesy which permits me to resume the discussion of this subject to-day. I could not have finished it yesterday. I am extremely anxious to be through with it; but with leave of the Senate, to prevent any misunderstanding which may have arisen from irrelevant interruptions or from any misrepresentation, I wish to restate in a few words the proposition for which I contend.

In the Sewing Machine cases, in 18 Wallace, it is said:

> The circuit courts do not derive their judicial power immediately from the Constitution as appears with sufficient explicitness from the Constitution itself, as the first section of the third article provides that "the judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish." Consequently the jurisdiction of the circuit court in every case must depend—
>
> The *jurisdiction* of the circuit court—
>
> upon some act of Congress, as it is clear that Congress, inasmuch as it possesses the power to ordain and establish all courts inferior to the Supreme Court, may also define their jurisdiction. Courts created by statute can have no jurisdiction in controversies between party and party but such as the statute confers. Congress, it may be conceded, may confer such jurisdiction upon the circuit courts as it may see fit, within the scope of the judicial power of the Constitution, not vested in the Supreme Court, but as such tribunals are neither created by the Constitution nor is their jurisdiction defined by that instrument, it follows that inasmuch as they are created by an act of Congress it is necessary, in every attempt to define their power, to look to that source as the means of accomplishing that end. Federal judicial power, beyond all doubt, has its *origin*—
>
> That is italicized in the opinion of the court—
>
> in the Constitution, but the organization of the system and the distribution of the subjects of jurisdiction among such inferior courts as Congress may from time to time ordain and establish within the scope of the judicial power, always have been, and of right must be, the work of the Congress. (Case of the Sewing Machine Companies, 18 Wall., p. 577.)

Upon that basis, Mr. President, I am making the contention which rests entirely upon what I conceive to be a clear distinction between jurisdiction and judicial power.

What is the judicial power of the Constitution, Mr. President? Mr. Justice Miller has defined it, taking the definition from the Supreme Court:

> What is judicial power? It will not do to answer that it is the power exercised by the courts, because one of the very things to be determined is what power they may exercise. It is, indeed, very difficult to find any exact definition made to hand. It is not to be found in any of the old treatises of any of the old English authorities or judicial decisions, for a very obvious reason. While in a general way it may be true that they had this division between legislative and judicial power, yet their legislature was, nevertheless, in the habit of exercising a very large part of the latter. The House of Lords was often the court of appeals, and Parliament was in the habit of passing bills of attainder as well as enacting convictions for treason and other crimes.

That system, Mr. President, was not brought from the other side by the fathers into our Constitution, but fundamental and well carried out was their purpose to draw clear and distinct the line which would separate the legislative power from the executive power, and both from the judicial power.

> Judicial power is, perhaps, better defined in some of the reports of our own courts than in any other place, and especially so in the Supreme Court of the United States, because it has more often been the subject of comment there, and its consideration more frequently necessary to the determination of questions arising in that court than anywhere else.
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> What is it?
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> It is the power of a court to decide and pronounce a judgment and carry it into effect between persons and parties who bring a case before it for decision.

My proposition is, Mr. President, that when jurisdiction over any one of the enumerated cases is conferred upon the court, the judicial power of the Constitution goes with it, and that it is not in the power of Congress, while it might have withheld the jurisdiction, to invade at all the judicial function of hearing and determination and the exercise of those powers—incidental, if you please—essential to carrying into effect its decisions.

Given the jurisdiction, Mr. President, over the subject-matter and the parties, how the judicial power shall be exercised can not lawfully be controlled in any degree by the legislature. Dictation to courts and judges as to the decisions which they shall make, by legislature or executive, is not to be tolerated. When the chancellor decides that a just exercise of judicial power, which he is sworn to administer, demands a relief which is part of the judicial power, an appellate court, if he errs, may correct him. The legislature can not reverse his decree or exercise the judicial power for him, in whole or in part. Courts do not sit to execute legislative judgments or decrees. If it were otherwise, we would not be living under the Government which our fathers created, or in the times in which we live, but would be carried back a century and more, when Parliament passed bills of attainder, bills of pains and penalties, and the like.

It is well to recall what Mr. Webster said, in his great argument in the Dartmouth College case (4 Wheat., 518) in regard to the power of the legislature in this connection. He said:

> It shall *not judge* by *act*. It shall *not decide* by *act*, but it shall leave all these things to be *tried and adjudged* by the *law of the land*. Everything which may pass under the *form of an enactment* is *not*, therefore, to be considered the *law of the land*. Such a construction would render constitutional provisions of the highest importance completely inoperative and void. *It would tend directly to establish the union of all powers in the legislature*. There would be no *general permanent law for courts to administer*, or for men to live under. The administration of justice would be an empty form, an idle ceremony. *Judges would sit to execute legislative judgments and decrees*, not to declare the law or to administer the *justice of the country*.

Happily we have been very free from attempted Congressional usurpation of judicial power, but not absolutely so. The Congress attempted, Mr. President, in one instance to dictate to the Supreme Court in what manner the judicial power vested in it by the Constitution and laws should be exercised. It is an instructive case, and brings into bright light the distinction between judicial power and jurisdiction. It will be remembered

that the Constitution gives to the Supreme Court "appellate jurisdiction both as to law and fact, with such exceptions and under such regulations as the Congress shall make." By this language the Congress is invested with quite unrestricted power over the appellate jurisdiction of the Supreme Court.

The case of the United States *v.* Klein (13 Wall., 128) arose under the captured and abandoned property act. To make a short statement of the case, it had been held by the Supreme Court that the pardon granted by the President had blotted out the offense of giving aid and comfort to the enemies of the Republic, and the proof of loyalty, therefore, was not necessary to entitle the suitor to recover proceeds of the sale of captured and abandoned cotton which had belonged to him, and the proceeds of which the court had determined were held in trust for the benefit of loyal owners. Judgment had gone in favor of the claimant in the Court of Claims, from which appeal was permitted by Congress to the Supreme Court of the United States. In the meantime Congress passed an act epitomized by the Supreme Court as follows:

> The substance of this enactment is that an acceptance of a pardon without disclaimer shall be conclusive evidence of the acts pardoned, but shall be null and void as evidence of the rights conferred by it, both in the Court of Claims and in this court on appeal.

Of this act the court said:

> Undoubtedly the legislature has complete control over the organization and existence of that court and may confer or withhold the right of appeal from its decisions. And if this act did nothing more, it would be our duty to give it effect. If it simply denied the right of appeal in a particular class of cases, there could be no doubt that it must be regarded as an exercise of the power of Congress to make "such exceptions from the appellate jurisdiction" as should seem to it expedient.
>
> But the language of the proviso shows plainly that it does not intend to withhold appellate jurisdiction except as a means to an end. Its great and controlling purpose is to deny to pardons granted by the President the effect which this court had adjudged them to have. The proviso declares that pardons shall not be considered by this court on appeal. We had already decided that it was our duty to consider them and give them effect, in cases like the present, as equivalent to proof of loyalty. It provides that whenever it shall appear that any judgment of the Court of Claims shall have been founded on such pardons, without other proof of loyalty, the Supreme Court shall have no further jurisdiction of the case and shall dismiss the same for want of jurisdiction. The proviso further declares that every pardon granted to any suitor in the Court of Claims and reciting that the person pardoned has been guilty of any act of rebellion or disloyalty shall, if accepted in writing without disclaimer of the fact recited, be taken as conclusive evidence in that court and on appeal of the act recited; and on proof of pardon or acceptance, summarily made on motion or otherwise, the jurisdiction of the court shall cease and the suit shall be forthwith dismissed.
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> It is evident from this statement that the denial of jurisdiction to this court, as well as to the Court of Claims, is founded solely on the application of a rule of decision, in causes pending, prescribed by Congress.
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> The court has jurisdiction of the cause to a given point; but when it ascertains that a certain state of things exists, its jurisdiction is to cease, and it is required to dismiss the cause for want of jurisdiction. It seems to us that this is not an exercise of the acknowledged power of Congress to make exceptions and prescribe regulations to the appellate power.
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> The court is required to ascertain the existence of certain facts and thereupon to declare that its jurisdiction on appeal has ceased by dismissing the bill. What is this but to prescribe a rule for the decision of a cause in a particular way? In the case before us the Court of Claims has rendered judgment for the claimant and an appeal has been taken to this court. We are directed to dismiss the appeal, if we find that the judgment must be affirmed, because of a pardon granted to the intestate of the claimants. Can we do so without allowing one party to the controversy to decide it in its own favor? Can we do so without allowing that the legislature may prescribe rules of decision to the judicial department of the Government in cases pending before it?
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> We think not; and thus thinking, we do not at all question what was decided in the case of Pennsylvania *v.* Wheeling Bridge Company. (18 How., 429; 59 U. S., XV, 456.) In that case, after a decree in this court that the bridge, in the then state of the law, was a nuisance and must be abated as such, Congress passed an act legalizing the structure and making it a post-road; and the court, on a motion for process to enforce the decree, held that the bridge had ceased to be a nuisance by the exercise of the constitutional powers of Congress, and denied the motion. No arbitrary rule of decision was prescribed in that case, but the court was left to apply its ordinary rules to the new circumstances created by the act. In the case before us no new circumstances have been created by legislation. But the court is forbidden to give the effect to evidence which, in its own judgment, such evidence should have, and is directed to give it an effect precisely contrary.
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> We must think that Congress has inadvertently passed the limit which separates the legislative from the judicial power.
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> It is of vital importance that these powers be kept distinct. The Constitution provides that the judicial power of the United States shall be vested in one Supreme Court and such inferior courts as the Congress shall from time to time ordain and establish. The same instrument, in the last clause of the same article, provides that in all cases other than those of original *jurisdiction* "the Supreme Court shall have appellate jurisdiction both as to law and fact, with such exceptions and under such regulations as the Congress shall make."
>
> Congress has already provided that the Supreme Court shall have jurisdiction of the judgments of the Court of Claims on appeal. Can it prescribe a rule in conformity with which the court must deny to itself the jurisdiction thus conferred, because, and only because, its decision, in accordance with settled law, must be adverse to the Government and favorable to the suitor? This question seems to us to answer itself.

I need not pursue it. It was for Congress to permit or deny the appeal to the Supreme Court of the United States. It had entire control over that matter. It could do either, but it could not do both. It could not grant a conditional appeal, nor could it use the power which it possessed to grant an appeal to control the judicial power possessed by the Supreme Court under the Constitution. It could not do this in the slightest degree. Here is the true distinction, and it is vital, Mr. President.

Congress may withhold, or might have withheld, jurisdiction from the circuit courts in certain cases. They did it for many years, and we may admit they may now withhold jurisdiction from the circuit and district courts; but, Mr. President, so long as they do not deprive the court of jurisdiction, so long as looking into the statute the court can see that it is given jurisdiction of the subject-matter, Congress can not be permitted, on principle—a principle which this people never must suffer to be invaded or abrogated—to dictate to the court the manner in which it shall exercise this judicial power. That would be to emasculate the courts of justice; that would be to obliterate the line which the Constitution has drawn between the coordinate and independent branches of the Government. Under that theory the judicial department of the Government would cease to be an independent department of the Government, and a blow would be struck at the best work of the fathers.

The Senator from Texas [Mr. CULBERSON], in the very able and lawyer-like argument which he delivered here the other day, noted clearly and approved the distinction for which I am contending between jurisdiction and judicial power.

Mr. Justice Miller, a great judge, whose career as a justice of the Supreme Court added greatly to the just fame which throughout the world that tribunal has achieved for itself during its existence, said a word in his lectures on the Constitution upon the subject of the abolition of the inferior tribunals. Of course, he announced that it is beyond the power of Congress, as all concede, to destroy the Supreme Court of the United States, for that was directly created by the Constitution, although organized of necessity by the Congress. He says:

> It can not be abolished nor its judges legislated out of existence, although it has been forcibly argued, and *probably* with truth, that all the other courts can by legislative act be abolished *and their powers conferred on other courts or subdivided in different modes.*

It is said that the circuit courts and district courts of the United States were prohibited by the judiciary act from granting injunctions. In one case, yes—to restrain proceedings in State courts—and it is claimed that that is a contemporaneous construction of the Constitution and supports the power of Congress contended for now, while the jurisdiction in equity exists to whittle away the judicial power of the Constitution in equity. The exception to that prohibition was in bankruptcy cases. It may be said about that prohibition that under our system of Government, different from the government in which grew up the English chancery system, there were good reasons and strong reasons peculiar to our form of Government which led the Congress of that day, to prohibit injunctions to restrain proceedings in State courts, because we have *States*.

Mr. MORGAN. And they have sovereignty.

Mr. SPOONER. Yes; *imperium in imperio*. There is the sovereignty of the United States and the sovereignty of the States. The Constitution recognizes, of course, their sovereignty; and in order to avoid friction between the courts of the Union and the courts of the States it was wise, and in no degree diminished the chancery power which came to us through the Constitution, that the Congress should not permit unlimitedly the circuit and district courts of the United States to enjoin proceedings in the State courts.

This provision, enacted in 1793, is still the law. It is section 720 of the Revised Statutes and is as follows:

> The writ of injunction shall not be granted by any court of the United States to stay proceedings in any court of a State, except in cases where such injunction may be authorized by any law relating to proceedings in bankruptcy.

But the Supreme Court of the United States has decided more than once that, notwithstanding this plain prohibition to prevent friction between the courts of the United States and of the States, it possesses power to enjoin proceedings in the State courts *not in bankruptcy*, where such injunction is essential to the protection and exercise of its jurisdiction and to the giving effect to its decrees.

Mr. MORGAN. May I take the liberty of making a suggestion to the Senator from Wisconsin——

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Alabama?

Mr. SPOONER. Certainly.

Mr. MORGAN. The Senator from Wisconsin, as I understand, has contended that the power of injunction is one of the constituent powers of a court of equity and has been ever since such courts were founded. The powers of a court of equity are judicial. They are not political. The power that was mentioned and restrained in the judiciary act was a political power, and the purpose was to prevent the court from exercising

political power over the coordinate sovereignties of the United States.

Mr. SPOONER. Certainly. In the same way and following the line of suggestion which the Senator from Alabama makes, the judiciary act conferred upon the courts of the United States the power to grant *all writs necessary to the exercise of its jurisdiction*. That did not, and never has been held, to authorize the inferior courts of the United States to issue writs of mandamus in all cases.

The writ of mandamus at the common law was a high prerogative writ. It has become in later years—

> More and more assimilated to an ordinary remedy to the use of which the parties are entitled as of right. It was in this sense that Tawney, C. J., characterized it in modern practice as nothing more than an action at law between the parties. (24 Howard, 66.)
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> It is still an extraordinary remedy at law, in the same sense that injunction is in equity. The injunction is preventive and conservative, its object being to preserve matters in *statu quo*. Mandamus is remedial, tending to compel action and redress past grievances.

The Congress was not willing, nor was it needful, to confer upon the United States circuit courts by the judiciary act the general power to grant writs of mandamus. It has been so held. But they did confer the power to grant it wherever necessary to the efficient exercise of the judicial power vested in the courts. It is a necessary writ oftentimes for the control of the inferior tribunals.

Returning to the matter of the injunction, of which I was speaking when interrupted by the Senator from Alabama with a valuable suggestion, I call attention to the case of Julian *v.* The Central Trust Company (193 United States, 94). The syllabus sufficiently states the case:

> A purchaser of property sold under a decree of foreclosure in a Federal court in cases where the Federal court by its decree retains jurisdiction to settle all liens and claims upon the property, and who is in possession of the property under an order confirming the sale, can maintain an action in the same court to restrain the holders of judgments obtained in State courts against the former owner in actions to which the purchaser was not a party from levying upon and selling the property described in the decree of foreclosure and the order confirming the sale thereunder.

The courts say:

> If the sheriff is allowed to sell the very property conveyed by the Federal decree such action has the effect to annul and set it aside, *because in the view of the State court it was ineffectual to pass the title to the purchaser*. In such cases we are of the opinion that a supplemental bill may be filed in the original suit, with a view to protecting the prior jurisdiction of the Federal court, and to render effectual its decree. (59 Fed. Rep., 385; 88 Fed. Rep., 815; 110 Fed. Rep., 10.)
>
> In such cases where the Federal court acts *in aid of its own jurisdiction and to render its decree effectual*, it may, notwithstanding section 720, restrain all proceedings in a State court *which would have the effect of defeating or impairing its jurisdiction*. (Sharon *v.* Terry, 36 Fed. Rep., 337, per Mr. Justice Field; French *v.* Hay, 22 Wallace, 250; Dietzsch *v.* Huidekoper, 103 U. S., 494.)

In cases of concurrent jurisdiction it has always been held that the court whose jurisdiction first attached held it, and it has been repeatedly decided that in such case the Federal court may issue the writ of injunction in order to protect its jurisdiction and to enable it to exercise efficiently the judicial power vested in it by the Constitution.

Mr. OVERMAN. May I interrupt the Senator from Wisconsin?

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from North Carolina?

Mr. SPOONER. Certainly.

Mr. OVERMAN. I desire to say, on another point, that I myself brought that suit to the Supreme Court of the United States.

Mr. SPOONER. I know it, and I was going to refer to that fact.

Mr. OVERMAN. I desire to say that I have seen the abuses and felt the iron hand of a judge who grants an injunction without notice. I have twice been enjoined at midnight——

Mr. SPOONER. That is another thing.

Mr. OVERMAN. And the State court itself was enjoined without any notice. I merely wanted to illustrate it, that is all.

Mr. SPOONER. That is another thing. The Senator from North Carolina, I understand, has introduced an amendment to the pending bill, prohibiting the granting of an injunction without notice in suits brought under the proposed act to enjoin the enforcement of the Commission's order. That goes to a regulation of practice. That does not deny in any sense the right of the court to exercise the judicial power which inheres in the jurisdiction. There is a clear distinction between the two things. Congress for many years prohibited the Federal courts from granting an injunction without reasonable notice, as I have said.

Mr. OVERMAN. I understand that that decision held that the United States court having acquired jurisdiction of the subject-matter, although the case had gone off the docket, in order to protect its own decree it had the right to enjoin the State court.

Mr. SPOONER. That is the very point. Notwithstanding the prohibition that no injunction shall be issued by a Federal court to stay proceedings in a State court except in bankruptcy cases, it has been repeatedly decided that to effectuate the judicial power of the Federal court, to give force to its decrees, and to protect its jurisdiction in the very nature of the thing the court must exercise this power.

Mr. OVERMAN. And protect the title of those who bought under the decree.

Mr. SPOONER. That is giving effect to their decree; that is all.

Mr. President, without the power to protect its jurisdiction, without the power to exercise the functions essential to the jurisdiction, what would a court be? And to say that jurisdiction admitted, the Congress can hamper the court in the exercise of its judicial power, chop off a piece of it here and a piece of it there, is something which is not to be tolerated under our system of government, in my judgment.

Mr. President, I put against all comers on this question the statement of Mr. Justice Story in the case to which I called attention yesterday—Martin *v.* Hunter, reported in 1 Wheaton—at the end of an elaborate argument on the construction of the judicial clauses of the Constitution:

> But even admitting that the language of the Constitution is not mandatory and that Congress may constitutionally omit to vest the judicial power in courts of the United States, *it can not be denied that when it is vested it may be exercised to the utmost constitutional extent.*

That was one of the first opinions of the Supreme Court in the construction of the judicial clauses of the Constitution. It found its way in extenso into Judge Story's Commentaries upon the Constitution. No one of the great judges who sat with him on that bench, save Mr. Justice Johnson, criticised anything in that opinion. It is not to be supposed that Chief Justice Marshall was not familiar with it; that Mr. Justice Washington was not familiar with it; that Mr. Justice Livingston was not familiar with it; and had it not met their concurrence it is sure, from the practice of the judges of that day, that the dissent from its argument, even if its conclusions were approved, would have found its way into the reports. Mr. Justice Johnson criticised a portion of the opinion, although not that portion of it.

Now, I have found nothing in any utterance of the Supreme Court of the United States since that day which warrants me, Mr. President, in the belief that this distinction between jurisdiction and judicial power under the Constitution is not an abiding one, firmly embedded in the jurisprudence of the United States. It is that principle which makes the courts independent of Congress; it is that principle—the power to hear and determine and to carry into effect its decrees and judgments independent of popular clamor, independent of prejudice—that has made the court always, and so it will always be, the rock upon which this constitutional Government finds its sure and safe foundation. Break away from it and admit the power to strike down this function and that function of the chancellor; give him jurisdiction to grant a permanent injunction; deny him the power in the exercise of that jurisdiction by preliminary injunction in a proper case to prevent the doing of the irremediable wrong which the suit is brought to prevent and what is left of the courts? Only what Congress may see fit to leave of the court.

I agree that, so far as the power of Congress over the inferior courts of the United States is concerned, there is probably no distinction between the courts of equity and the courts of law. I do not see that there is. If the Congress can destroy one, directly or indirectly, I see no reason why it might not destroy the other.

I will go briefly over the cases cited as contravening my contention. I first note Connecticut *v.* New York (4 Dallas). What was held in that case was simply this:

> The prohibition contained in the statute that writs of injunction shall not be granted without reasonable notice to the adverse party or his attorney, extends to injunctions granted by the Supreme Court or the circuit court as well as those that may be granted by a single judge.

That may be admitted. It has nothing to do with this question.

It was held in the same case:

> An injunction will not be granted to stay proceedings in common law suits, at the instance of a *State not* a *party* thereto nor *interested in their decision.*

This was obviously rightly decided and is far away from any question involved here.

Turner *v.* The Bank (4 Dallas) was rightly decided. The judiciary act had provided that the Federal courts should not have jurisdiction of a suit brought by the assignee of a chose in action where it would not have had jurisdiction if the assignor

had brought the suit. I can conceive of two reasons, both founded in wisdom, why that provision was incorporated in the judiciary act. However, it affected the question of jurisdiction only; not the question of judicial power. But for that prohibition, constant fraud could have been perpetrated on the Federal jurisdiction and great hardship could have been perpetrated on debtors. If one by the mere assignment of a note to a person in another State could force the debtor from the local jurisdiction into a foreign jurisdiction, with the added burden of trouble and expense, it would have been a wrong to the citizen of the State; it would have been a fraud upon the jurisdiction of the Federal court. Colorable assignments for purposes of jurisdiction could have been prevented in no other way, but what has that to do, I beg to ask, with the question I am discussing? I think nothing.

In United States *v.* Hudson (7 Cranch) it was held:

The courts of the United States have no common-law jurisdiction—

It was a question of *jurisdiction*—

in cases of libel against the Government of the United States; but they have the power to fine for contempt, to imprison for contumacy, etc.

The court held that jurisdiction had not been conferred. That case was questioned by several of the judges of the Supreme Court of the United States in the case of the United States *v.* Coolidge (1 Wheaton, 415), and the syllabus in that case upon the same subject starts with a "*quaere*."

In McIntire *v.* Wood (7 Cranch, 504) the syllabus correctly sets forth the question involved and the determination of the court, thus:

The power of the circuit courts of the United States to issue the writs of mandamus is confined exclusively to those cases in which it may be necessary to the exercise of their jurisdiction.

The application was for a writ of mandamus to the register of the land office in Ohio, commanding him to issue final certificate of purchase to the plaintiff for certain lands in that State. The court held that the judiciary act had not conferred upon the circuit courts of the United States the power to issue writs of mandamus in all cases, but, on the other hand, confined that power exclusively to those cases in which the writ was necessary to the exercise of their jurisdiction. I have said in another part of my argument all that needs to be said of this case. It certainly does not bear in the slightest against the argument and conclusion of Mr. Justice Story, or upon the matter in controversy.

I am unable, saying it with great deference, to find in the decision in Cary *v.* Curtis (3 Howard, 236) anything, either in the question decided or in the opinion, sustaining the proposition that Congress, having vested the jurisdiction in equity over a case or controversy to which the judicial power extends under the Constitution, can deprive the court of any authority inhering in the judicial power over the subject-matter or essential to its exercise. The case was in assumpsit against Curtis, as collector of the port of New York, for duties alleged to have been illegally exacted. It had been held in the case of Elliott *v.* Swartwout (10 Peters, 158) that—

Where money is illegally demanded and received by an agent he can not exonerate himself from personal responsibility by paying it over to his principal.

And in the case of Bend *v.* Hoyt (13 Peters, 267) that—

There is no doubt the collector is generally liable, in an action to recover back an excess of duties paid to him as collector, where the duties have been illegally demanded and a protest of the illegality has been made at the time of payment, or notice then given that the party means to contest the claim, whether he has paid over the money to the Government or not.

This decision was based upon the assumption that, by notice to the collector or by protest aginst payment, the personal liability for the duties actually paid attaches, and that for his protection the correspondent right of retainer is created on his part in order to protect himself against the liability.

The Congress then passed an act providing that from and after its passage all money paid to any collector of customs, etc., for unascertained duties, or for duties paid under protest against the rate or amount of duties charged, should be placed to the credit of the Treasurer of the United States, kept, and disposed of as all other money paid for duties, as required by law or by regulation of the Treasury Department, and that it should not be held by said collector to await any ascertainment of duties or the result of any litigation in relation to the rate or amount of duty legally chargeable and equitable, but that wherever it should be shown to the satisfaction of the Secretary of the Treasury that, in case of unascertained duties or duties paid under protest, more money had been paid to the collector than the law required should have been paid, it should be the Secretary's duty to draw his warrant upon the Treasurer in favor of the person or persons entitled to the overpayment, directing the said Treasurer to refund the same out of any money in the Treasury not otherwise appropriated.

The question was whether this act of Congress had so changed the situation as to render the collector no longer liable in assumpsit, upon the authority of the cases of Elliott *v.* Swartwout and Bend *v.* Hoyt. The court held that it had, for two reasons. First, that the Treasurer no longer possessed the right to retain the money to protect himself against a successful action in assumpsit; that by forbidding him to retain for unascertained duties the moneys paid he had become "by law the mere instrument or vehicle to convey the duties paid into his hands into the Treasury;" that the payment was with notice of the law, and that no implied promise on the part of the officer upon which assumpsit could be based could arise where the law expressly made it his duty to pay the money at once to the Treasurer and forbade his retaining it to indemnify himself against loss through litigation. The court held, moreover, that—

In devising a system for appraising and collecting the public revenue, it was competent for Congress to designate the officer of the Government in whom the rights of that Government should be represented in any conflict which might arise and to prescribe the manner of trial.

The court held, moreover, that the claimant was not without other modes of redress had he chosen to adopt them; that he might have asserted his right to the possession of the good or his exemption from the duties demanded, either by replevin or in an action of detinue, or perhaps by an action of trover, upon his tendering the amount of duties admitted by him to be legally due.

The court held, also, that it was entirely competent for the Government to refuse to consent to be sued in its own courts.

The language of the opinion that it was competent for the court to deprive a citizen of the right to maintain an action in assumpsit against the collector under the circumstances is far away from holding that if the assumpsit had been permitted Congress could have regulated the exercise of the judicial power in the trial of the cause. The language of the opinion, of course, is to be read with reference to the case and the questions involved in it. After using the language which is quoted against my contention, the court says:

Perfectly consistent with such an admission is the truth that the organization of the judicial power, definition, and distribution of the *subjects of jurisdiction* in the Federal tribunals, and the modes of their action and authority, have been, and of right must be, the work of the legislature.

It was a question of jurisdiction. The Congress had seen fit in the exercise of undoubted power to clothe the Secretary of the Treasury instead of the courts with the investigation and determination of such cases.

The case falls fairly within the language of Mr. Justice Curtis in the case of Denn *v.* The Hoboken Land and Improvement Company (18 Howard, 272):

To avoid misconstruction upon so grave a subject, we think it proper to state that we do not consider Congress can either withdraw from judicial cognizance any matter which from its nature is the subject of a suit at the common law or in equity or admiralty; or, on the other hand, can it bring under the judicial power a matter which from its nature is not a subject for judicial determination. At the same time there are matters involving *public rights* which may be presented in such form that the judicial power is capable of acting on them, and which are susceptible of judicial determination, but which Congress may, or may not, bring within the cognizance of the courts of the United States as it may deem proper. Equitable claims to land by the inhabitants of ceded territories form a striking instance of such a class of cases, and as it depends upon the will of Congress whether a remedy in the courts shall be allowed at all in such cases, they may regulate it and prescribe such rules of determination as they may think just and needful.

In Sheldon *v.* Sill (8 Howard) it was held:

Where the mortgagor and mortgagee resided in the same State and the mortgagee assigned the mortgage to the citizen of another State, this assignee could not file his bill for foreclosure in the circuit court of the United States.

Affirming Turner *v.* Bank, McIntire *v.* Wood, and some other cases. I have already sufficiently referred to them.

The Sewing Machine cases, so often referred to here, an extract from which I read this morning, involved simply the question whether that case was removable from the State court to the Federal court under the removal act of Congress, and the court held it was not. That was a question of jurisdiction; only that and nothing more.

The case of Insurance Company *v.* Dunn (19 Wallace) is precisely the same case. It arose upon the challenged right of removal, and the court held that under the act of Congress it could not be removed. Only a question of jurisdiction. The right of removal of a case or suit from the State court is a statutory one.

I find nothing in the case of Fink *v.* O'Neil (106 U. S., 272), which to my mind affects the question. In that case the United States as plaintiff obtained a judgment in a common-law cause in the circuit court of the United States for Wisconsin against O'Neil. Execution was issued, and the marshal levied it upon

property, which under the constitution and laws of Wisconsin was exempt from sale on execution. A bill was filed by the defendant to restrain the marshal from further proceedings under the execution. The Supreme Court sustained the bill on demurrer. The statutory exemption had been enacted—

In compliance with a constitutional injunction wherein it was declared, in the seventeenth section of the Bill of Rights, that "the privilege of a debtor to enjoy the necessary comforts of life shall be recognized by wholesome laws."

It had been the constant policy of the State in such legislation, as construed by the Supreme Court, to favor by liberal interpretation exemptions in favor of the debtor. The court had stated—

For it can not be denied that in all the enactments found in our statute books in regard to homestead exemption the most sedulous care is manifest to secure the homestead to the debtor and to his wife and family against all debts not expressly charged upon it.

The law of the United States required the practice, pleadings, forms and mode of proceeding in civil cases other than equity and admiralty causes in the circuit and district courts to conform as near as may be to the practice, pleadings, and forms and modes of proceeding existing at the time in like causes in the courts of record of the State within which such circuit or district courts were held, any rule of the court to the contrary notwithstanding. The same act—Revised Statutes, section 916, provided that the party recovering a judgment in any common-law cause in any circuit or district court—

Shall be entitled to similar remedies upon the same by execution or otherwise to reach the property of the judgment debtor as are now provided in like causes by the laws of the State in which such court is held, or by any such laws hereafter enacted which may be adopted by general rules of such circuit or district court, and such courts may from time to time by general rule adopt such State laws as may hereafter be enforced in such States in relation to remedies upon judgments as aforesaid, by execution or otherwise.

The main question in the case was, whether the Government, being the suitor, it could be held bound by the law, even if private suitors were bound by it. The court held, to state it briefly—

That, as the statute of Wisconsin exempting homesteads from levy and sale upon execution was in force at the time the act of Congress of June 1, 1872, took effect, and has remained so continuously from that time, it also follows that the *exemption has thereby become the law of the United States within that State*, and applies to executions issued upon judgments in civil causes recovered in their courts in their own name and behalf equal with those for judgments rendered in favor of private parties.

It was clearly competent for the Congress to regulate the practice in the Federal courts and to make them conform as nearly as practicable in the common-law cases to the practice and procedure, including final process, of the several States. This was a wise exercise of Congressional power, as it enabled the bar, accustomed to the trial of causes under codes of procedure, or under the common-law practice, or civil-law procedure, as the case might be, to conduct the proceedings in the Federal courts as they were daily accustomed to conduct them in the State courts.

Upon high grounds of public policy, to prevent friction and promote justice and equality within a State, the Congress wisely adopted the beneficent homestead exemption laws of the States. It would have been almost intolerable that a homestead should be exempt from sale and seizure under process issued by State courts and be subject to seizure and sale under process issued by Federal courts sitting in the same State.

It is one thing for Congress to respect the exemption laws of a State. It is an entirely different thing to assert that this involves the proposition that Congress may, having created Federal tribunals, prohibit them from issuing any process to carry into effect their judgments and decrees. The one respects the policy of the States; the other would knock the foundation out from under the court itself. Without such an act of Congress a result would come about deplorable and in every way to be avoided. It is thus stated by the court:

If a contrary construction to the process acts should be given, on the ground that they do not include the United States, which, although a litigant, continues nevertheless to exercise the prerogatives of a sovereign, it would follow that they might resort to any writ known to the common law, however antiquated or obsolete, and, in defiance of the progress of enlightened legislation on that subject, revive all the hardships of imprisonment for debt, even without liberty of local statutory jail limits.

In Ex parte Robinson (19 Wallace) the court decided that—

The power to punish for contempts is inherent in all courts. Its existence is essential to the preservation of order in judicial proceedings and to the enforcement of the judgments, orders, and writs of the courts, and consequently to the due administration of justice. The moment the courts of the United States were called into existence and invested with jurisdiction over any subject they became possessed of this power.

The court, however, says in that case that happily the Congress has regulated the exercise of the power. Congress, by the act of 1831, drew a distinction between direct and constructive attempts and regulated the procedure. Still, under that law, ever since it was enacted the courts of the United States have possessed the power to punish summarily for contempt, contempt in the court room, contempt in disobedience to lawful orders and decrees, the procedure in one case differing a little from the procedure in the other. But to this matter of contempt as to procedure and punishment the relation of the United States is peculiar. The contempt of court is not a personal offense against the judge. If it were a personal offense against the judge, no judge could punish a contempt, for he would be sitting in judgment in a matter involving his own person and his own dignity. Contempt of court is an offense against the court. It is an offense which can be pardoned the United States. It is an offense against the United States, being subject, as other offenses, to pardon by the President by the President. It is more than a mere process like injunction or execution, and being an offense against the United dent, being triable by the judge in whose presence the offense is committed, it is sui generis considered with reference to the other matters to which I have alluded.

Now, because the Congress passed a law regulating the procedure in cases of contempt, will it be argued by anyone that it follows that the Congress may pass a valid enactment prohibiting any court of the United States from punishing for contempt? Does any Senator claim that? That would be to bring the courts into contempt. That would be to destroy the courts. That is a power which, in the Debs case, Mr. Justice Brewer declares to be inherent in a court.

He quotes, with approval, the following:

The summary power to commit and punish for contempt tending to obstruct or degrade the administration of justice was inherent in courts of chancery and other superior courts as essential to the execution of their powers and to the maintenance of their authority, and is part of the law of the land, within the meaning of Magna Charta and of the twelfth article of our Declaration of Rights. (In re Debs, 158 U. S., 577.)

There can be no court without it, and while it may be regulated as to the matter of procedure, I do not doubt if the Congress should pass a law prohibiting the courts of the United States from punishing for contempts in any case, the courts would not hesitate to declare it beyond the legislative power. The courts are the judges of their own jurisdiction. The courts would be justified in saying, "Destroy the court in a manly, straightforward way, if you have power; you will answer to the people for that; but so long as the courts exist, so long as they are clothed with jurisdiction to exercise the judicial power, you can not destroy the inherent power of the court to maintain order in the court room and to punish violation of its lawful orders and decrees." One might as well claim the existence of power growing out of this assumed power of life or death to prohibit all the courts of the United States from granting injunctions, all the courts of the United States from issuing executions, all the courts of the United States from granting the writ of mandamus, because, as I have said, if the power exists the extent to which it shall be exercised is a matter resting entirely in the discretion of the Congress.

Mr. SIMMONS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from North Carolina?

Mr. SPOONER. I do, if the Senator only wants to ask me a question.

Mr. SIMMONS. That is all; and I wish to say I do not ask the question in any spirit of antagonism to the Senator's position, but simply because, to use the familiar phrase of my friend from South Carolina [Mr. TILLMAN], "I want some light."

I am aware of the fact that the Senator is discussing a very close question of law, one that has given me a great deal of trouble, and one about which I have had doubts, and I still have some doubt.

I understood the Senator yesterday in his argument to take the position that although Congress had created these courts of inferior jurisdiction it did not have the power to destroy the courts unless at the same time it should substitute in their place courts possessed of similar jurisdiction. I understood the Senator to go further and to contend that one of the reasons, if not the chief reason why this could not be done, was that it would bring about a state of chaos and anarchy, and would be revolution; and that to take away a part of the powers of these statutory courts would pro tanto accomplish the same purpose, in that it would take away the arm of the courts, and to that extent would bring about chaos and revolution.

Now, the question I want to ask the Senator is this: If Congress should pass an act providing that the Interstate Commerce Commission might set aside or suspend a rate prescribed by a railroad after a full hearing, with the opportunity of all sides to be present with their witnesses and their attorneys,

could not Congress provide that the Interstate Commerce Commission having decided that question after full hearing and having set aside the rate established by the carrier, no court shall be permitted to suspend and set aside the rate thus substituted by the Commission without according to all parties the same fullness and the same completeness of hearing upon which the order of the Commission was based?

Is not that practically what is proposed here, and if that is done will that be a deprivation of any power of the court which is essential to its jurisdiction, or will it be a mere regulation of the practice of that court?

Mr. SPOONER. Mr. President, I did state yesterday, and I reiterate it to-day, that for the Congress to repeal the laws creating the district and circuit, substituting for them no other inferior courts, would bring about a condition of anarchy, not anarchy in the courts, for they would have been destroyed if it could be lawfully done, but anarchy among the people. It would leave no tribunals in which the guaranties of the Constitution which secure to every citizen life, liberty, and property could be tried by due process of law. It would leave no court in the United States which could try offenders against the laws of the United States.

Think for a moment of 80,000,000 people living under the Constitution without a Federal court from ocean to ocean. That is anarchy; that is revolution. No one could challenge that, and it is because of that inevitable chaos, because of that paralysis of the Government, because of the withdrawal of the judicial tribunals without which in some form, Mr. President, the operations of the Government could not be conducted, that I feel myself warranted in the absence of any authority to deny that the Congress, under the Constitution, can obliterate the judicial system of the United States and substitute nothing in its place. But let that go. I did not argue——

Mr. SIMMONS. The Senator does not understand me as disagreeing with him upon that proposition?

Mr. SPOONER. I am glad the Senator agrees with me about it. I did not, however, argue that depriving the courts of the United States of the power to grant a preliminary injunction would bring about anarchy and revolution in the United States.

Mr. SIMMONS. I did not mean to convey the idea that the Senator intended it would.

Mr. SPOONER. Even pro tanto, to use the language of the Senator. I am not criticising the Senator.

Mr. SIMMONS. I should like to interrupt the Senator further, if he will permit me. Perhaps he misunderstood me about that.

Mr. SPOONER. I understood the Senator perfectly. What I did say about that was that it would emasculate the chancery court. That is what I said, and that is what I say to-day. It would in thousands of cases rob the equity jurisdiction of the power to afford preventive relief, which is inherent in and essential to the jurisdiction in equity.

If in some way a negotiable note had been secured by fraud from the Senator from North Carolina upon misrepresentations which he had good reason to believe were true, involving his whole fortune, and he discovered suddenly that it was a fraud, what good would appeal to equity do the Senator if he could not secure promptly a restraining order to prevent the negotiation of that paper, the passing of it into the hands of a bona fide purchaser for value without notice? The Senator would be left to a remedy at law against a scoundrel who perhaps might be hundreds of miles away, or who might be utterly worthless. He would be irrevocably remediless without the exercise of this power, which ought to inhere in equity and in the chancellor to afford prompt, preventive relief until the case could be heard and the equities determined.

So it is, as I said yesterday, in cases of waste. So it is in cases of threatened trespass, of threatened offenses, even though they be punishable if perpetrated, affecting a man's life, his liberty, his property, if they may not be prevented irrevocable harm would come to the people.

Now, I do not for one moment discuss with the Senator the question either as to the power or the desirability in this case of requiring notice to be given before the issue of a preliminary injunction suspending the order of the Commission. I think in this case it must be accompanied by restraining order pending the hearing of the motion, to make the provision valid if the court finds it necessary.

Mr. SIMMONS. Mr. President——

The VICE-PRESIDENT. Will the Senator from Wisconsin yield to the Senator from North Carolina?

Mr. SPOONER. If the Senator insists.

Mr. SIMMONS. I was going to ask the Senator if his argument did not necessarily lead to the conclusion that Congress could not require the courts to issue notice before the granting of an injunction?

Mr. SPOONER. Not at all. It was provided in the judiciary act that no court in the United States should grant an injunction without reasonable notice. That is a matter for Congress to determine. That is one thing. But the denial to the court of equity of power to issue a preliminary injunction upon terms in proper cases is another thing.

The jurisdiction in equity over the subject-matter existing, the question whether the case is a proper case for preliminary injunction, whether it is a case in which justice and the efficient exercise of the judicial power in equity requires preliminary preventive relief, is a judicial, not a legislative, question. It can not be a political question. The judgment of the legislature can not be substituted for the judgment of the court upon that question.

Mr. TILLMAN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from South Carolina?

Mr. SPOONER. Yes; if my friend will not take much of my time.

Mr. TILLMAN. I want to ask the Senator if all his arguments, which are perfectly reasonable in the cases he supposes, do not fall to the ground in this case we are discussing? For instance, all the remedies by preliminary injunction which he is pleading for, which I acknowledge, do not apply in the case of the Interstate Commerce Commission——

Mr. SPOONER. Do they not?

Mr. TILLMAN. Which would be a body of high men, selected for their eminent fitness, I hope, for the work, who would do nothing without the most careful consideration and investigation, and who, having reached a decision that the rate was too high and declared it to be so, would order a lower and a just rate to go into effect. Does not the Senator see that his plea for the inherent power of the court and the right of the judge to grant protection does not lie in this case?

Mr. SPOONER. Mr. President, I proceed now to another phase of this subject, which, so far as my view of it goes, answers the question put to me by the Senator from South Carolina.

In the view I wish now to present I pass from the judicial articles of the Constitution, upon which I have been basing the observations which I have addressed to the Senate, and assume, for the purposes of the argument, that it may be lawful to prohibit generally the granting of interlocutory injunctions by the circuit courts of the United States, and yet be absolutely unlawful to prohibit the granting of such injunctions in cases arising under this bill if enacted into law.

What is the pending bill so far as it affects this question? It is a bill, among other things, to confer upon a commission the power, upon complaint and hearing, to overturn as unreasonable rates fixed by carriers engaged in interstate transportation, and to substitute for the rate or rates thus overturned rates fixed by the Commission as reasonable maximum rates.

Mr. President, I am assuming that the Congress has the power to confer that jurisdiction upon the Commission, making its rates in all courts and places prima facie reasonable rates.

Note that it is not proposed here by this amendment to modify the practice as to injunctions or the judicial power of the courts of equity of the United States in respect of issuing interlocutory injunctions generally. That is to be left as to *all other cases* to existing law and practice.

Now, Mr. President, that brings me to the Senator's question. There are restrictions in the Constitution upon the exercise by Congress in this particular class of cases, I think, upon the power to restrain courts of equity from issuing interlocutory injunctions. After the adoption of the Constitution, amendments to it were adopted which restrict in many ways the power of Congress as it was conferred by the Constitution itself. Among others is the fifth amendment, which is as follows:

> No person shall be held to answer for a capital or otherwise infamous crime unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces or in the militia when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use without just compensation.

Without that amendment, Mr. President, I should doubt if private property could be taken for public use without just compensation. I do not think it required a constitutional provision to prevent the Congress from enacting a law taking the property of one man and vesting it in another, because that would be violative of fundamental principles which underlie govern-

ment and which are an essential and vital part of the social compact as we know it.

In a decision of the Supreme Court long ago, the opinion being delivered by Mr. Justice Chase, and being one of great learning, it is declared that, without constitutional restriction, there are acts so abhorrent to natural equity and to every sane man's sense of justice that, although not prohibited by written constitutions, they can not be lawfully done. (See Calder *v.* Bull., 3 Dallas, 387.)

My friend from Minnesota [Mr. CLAPP] said the other day in his able speech that he had studied law in my office, which is true, and I felt like saying then what I say now—that he has splendidly redeemed in his maturer years the promises of his youth——

Mr. TILLMAN. He looks to be as old as you.

Mr. SPOONER. But he is not. I have been proud of his career at the bar and I have been proud of his career in the Senate, and it was a gratification to me that the Senator thus publicly alluded to our association of many years ago. He has just called my attention to the fact that in the first case in which an act of a legislature was set aside it was done upon the basis that while it violated no provision of a written constitution it was so abhorrent to common decency and equity that no court could sustain it. There are some things higher than constitutions. They underlie them, they pervade them, Mr. President, and run like golden threads through the warp and woof of the social fabric; and, though unwritten, except in the consciences of men, they are enforced by public opinion and enforced by the courts.

Mr. BACON. Mr. President, I suppose, of course, the Senator means by that when they are not in conflict with a written constitution?

Mr. SPOONER. Of course. I said when they are not in a constitution.

Mr. BACON. When they are not in conflict?

Mr. SPOONER. Certainly.

Mr. President, this is a restriction which can not be ignored:

> Nor be deprived of life, liberty or property without due process of law; nor shall private property be taken for public use without just compensation.

Mr. President, how does that apply to this case? It is conceded here, I take it, that no rate fixed by a commission to be charged by an interstate carrier for the service which it is compelled to render through the use of its own property, managed by its own servants, and at its own risk, can be enforced without a "day in court" some time and somewhere, upon the question of the justness of the compensation. It is conceded here by everyone that the door of the United States court is open, and can not be closed against an original bill filed by the carrier to set aside the rate fixed by such a commission upon the ground that it does not afford just compensation, that it is confiscatory in its nature, and therefore is a taking of property in violation of the fifth amendment. This bill is to regulate the taking of private property for a public use.

Mr. TILLMAN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from South Carolina?

Mr. SPOONER. Certainly.

Mr. TILLMAN. Is not the presumption to the contrary, however, that this matter having been determined by a high and impartial board or commission who have examined into the facts, and who in their attributes and characteristics are the equals of the judges—is it not the presumption that that tribunal has given justice and has not deprived anybody of property without due compensation? Why not give the man who is shipping the benefit of the doubt?

Mr. SPOONER. Let me answer the question. I answer it yes. I stated that. I said that these rates were made prima facie reasonable. The presumption is that they are reasonable. The burden is upon the carrier to show that they are not reasonable. If they are reasonable, if they afford just compensation for the property taken, the carrier fails in his lawsuit. If they are unreasonable, if they are confiscatory—and I use that word because it is expressive—the carrier must prevail. It is the theory that these rates are presumptively right; but it can not, under the Constitution, Mr. President, be made by Congress the law that they are conclusively right.

Mr. TILLMAN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from South Carolina?

Mr. SPOONER. I yield.

Mr. TILLMAN. Does not the Senator recognize the justice of the statement of the writers on this subject that a single rate, which alone will be in controversy, can not be confiscatory; that it would take a schedule of rates which could be demonstrated as yielding no proper return to make the basis of such a lawsuit? And that the carrier is allowed to go into court——

Mr. SPOONER. Mr. President——

Mr. TILLMAN. Please give me a minute. A carrier is allowed to go into court upon one case or one rate, because the possibility is that a constitutional right has been taken away from him by the Commission, and the judge is to be permitted to issue his order staying the rate and putting the case again into court, causing delay and all that kind of thing.

Mr. SPOONER. Mr. President, there is no power in the United States that could take away from the Senator from South Carolina his property. If the carrier takes a rate to the court and can not show it to be unlawful, the suit fails, and that is the end of it. That can only be determined by the court.

Mr. TILLMAN. Why, Mr. President, if I have not $2,000 worth of property involved I can not even get into this court, and the Senator knows it.

Mr. SPOONER. Does the Senator consider that an answer to what I was about to say? [Laughter.]

Mr. TILLMAN. I do not know what it is an answer to; but it is a thought that came into my mind on account of what the Senator did say.

Mr. SPOONER. Mr. President, there is no power under the Constitution to take private property for public use, save for just compensation, which is defined to mean "a full and fair equivalent."

Mr. TILLMAN rose.

Mr. SPOONER. Now, I beg the Senator to permit me to proceed with my argument.

The VICE-PRESIDENT. The Senator from Wisconsin declines to yield.

Mr. SPOONER. And, Mr. President, if the compensation is not just, if it is not determined according to judicial procedure, the Senator will have his remedy.

It will not be contended, I take it, that the property of the public carrier is not as completely within the protection of the fifth amendment to the Constitution as the property of any individual. It has been sometimes thought otherwise, but without any foundation. It does not follow because property is affected with a public use, that it ceases to be private property entitled to the protection, in its ownership, of the fifth amendment or in proper cases of the fourteenth amendment to the Constitution. The fact that it is charged with a public use, Mr. President, gives to the public the right to regulate it; it gives to the public the right to its use without unjust discrimination for just compensation. It is to secure that right of the public which is inherent as to property affected with a public use, and which can not be taken away, that there comes this right in behalf of the public to regulate the use of such property by its owner and to prevent extortionate charges or unjust discrimination in that use; but subject, Mr. President, to the rights which grow out of the public use with which the property is affected, it is private property as much as any property, and entitled under the Constitution to protection against spoliation as completely as if it were owned by a citizen.

Not long ago the Supreme Court had occasion to deal with that question. I do not know that anyone disputes it. One often hears it suggested that the property used thus by the public, created for public use, is public property, and, because public property, to be absolutely under the domination of the public. That is not the law. It is public in its use; it is private in its ownership, and it is entitled to the protection of the law. I want to read a word from the Supreme Court of the United States on that subject. (W. U. Tel. Co. *v.* Pennsylvania Co., 195 U. S.)

> A railroad's right of way has, therefore, the substantiality of the fee—

That is, whether it is acquired by a conveyance in fee or acquired in the exercise of the power of eminent domain—

> and it is private property even to the public in all else *but an interest and benefit in its uses.* It can not be invaded without guilt of trespass. It can not be appropriated in whole or part except upon the payment of compensation. In other words, it is entitled to the protection of the Constitution, and in the precise manner in which protection is given. It can only be taken by the exercise of the powers of eminent domain, and a condition precedent to the exercise of such power is, we said in Sweet *v.* Rechel, that the statutes conferring it make provision for reasonable compensation to the owner of the property taken.

Now, Mr. President, it must not be supposed that, in order to bring it within the purview of the constitutional amendment, property must in specie be taken. That is not the law. It was decided long ago by the Supreme Court in the "*Pumpelly case*" (13 Wall., 166) that, though property be not actually taken for public use, if the *owner's use* of it be destroyed by the Government, it is a *taking*. In that case public improvements surrounded the land with water so as to prevent its being utilized by the owner, and the Supreme Court held that it was a "tak-

ing" of the property within the Constitution which could not be consummated without just compensation.

In Scranton *v.* Wheeler (179 U. S., 153) the court says:

Undoubtedly compensation must be *made* or *secured* to the owner when that which is done is to be regarded as a taking of private property for public use within the meaning of the fifth amendment of the Constitution; and of course, *in its exercise of the power to regulate commerce*, Congress may not override the provision that just compensation must be made when private property is taken for public use.

* * * * * * *

In Pumpelly *v.* Green Bay Company (13 Wall., 166, 181) the court construed a provision of the constitution of Wisconsin declaring that the property of no person shall be taken for public use without just compensation therefor, observing that it was a provision almost identical in language with the one relating to the same subject in the Federal Constitution.

* * * * * * *

Referring to some adjudged cases which went, as the court observed, beyond sound principle, it was said that "It remains true that where real estate is actually invaded by superinduced additions of water, earth, sand, or other material, or by having any artificial structure placed on it, so as to effectually destroy or *impair its usefulness*, it is a taking within the meaning of the Constitution, and that this proposition is not in conflict with the weight of judicial authority in this country, and certainly not with sound principle."

How does this differ? Here, Mr. President, the *property is not taken*, but what is the same thing within the meaning of the law, its use is taken. There is little value in such property save in its use. It is the power to use it for the transportation of passengers and freight and to charge reasonable compensation for that use in which its value consists; and that use can not be taken, Mr. President, under the Constitution of the United States any more without just compensation than the property itself can be taken. Is that disputed?

It is said by the Supreme Court of the United States in Chicago, Milwaukee and St. Paul Railway Company *v.* Minnesota (134 U. S.):

From what has thus been said it is not to be inferred that this power of limitation or regulation is itself without limit—

Speaking of the regulation of freight rates—

This power to regulate is not a power to destroy, and limitation is not the equivalent of confiscation. Under pretense of regulating fares and freights the State can not require a railroad corporation to carry persons or property without reward; neither can it do that *which in law amounts to a taking of* private property for public use without just compensation or without due process of law.

* * * * * * *

If the company is deprived of the power of charging reasonable rates for the use of its property, and such deprivation takes place in the absence of an investigation by judicial machinery, it is *deprived of the lawful use* of its property, and thus, in *substance and effect*, of the *property itself*, without due process of law and in violation of the Constitution of the United States; and in so far as it is thus deprived, while other persons are permitted to receive reasonable profits upon their invested capital, the company is deprived of the equal protection of the laws. (Chicago, M. & St. P. Ry. Co. *v.* State of Minn., 134 U. S., 418.)

Mr. President, subject to the one limitation, that the compensation shall be just, the right to fix rates for the carriage of persons and property has many times been held to be within the power of the States. That is the right which, on behalf of the Government, underlies the proposition to pass this bill.

But what about the *justness* of the compensation? It is irrelevant at least to say that this Commission is, or will be, in point of ability and dignity and all that, the equal of the justices of the Supreme Court. That is apart from the question. It is a matter of principle upon which I am speaking. A suit brought to test the question as to whether the rate is a reasonable rate may be wrongly brought; it may be determined adversely to the carrier; it may be found that the rates afford just compensation within the definition of that expression by the Supreme Court. It may be, however, that this Commission will not be infallible. It is barely possible that it will be composed of human beings with all the likelihood to make mistakes and all the weaknesses of judgment which adhere in mankind. It may be that the rates which they fix would be confiscatory rates. Rates fixed by the States under such legislation have been many times held by the Supreme Court to be confiscatory rates. That is to be judicially determined, and I am speaking of the right to have it so determined one way or the other; and, Mr. President, here comes in a principle, universal in its application, with certain exceptions, laid down by the Supreme Court in extracts which I just read, and nowhere better stated than it is stated by Judge Cooley in his work on Constitutional Limitations. He takes what I first read from Chancellor Kent:

The settled and fundamental doctrine is that government has no right to take private property for public purposes without giving just compensation; and it seems to be necessarily implied that the indemnity should, in cases which will admit of it, be *previously* and equitably ascertained and be *ready for reception concurrently in point of time with the actual exercise of the right of eminent domain.*

An exception was made early to that general principle where towns take private property for highways and where counties or municipalities take private property for public uses. Upon this ground the exception was made, and it may be carried beyond this, that the taxable property of the town or of the county or municipality constitutes a *fund from which, when ascertained, the owner can, without doubt, secure his just compensation.* So the payment at the time of taking in such cases was dispensed with.

And while this is not an inflexible rule unless in terms established by the Constitution, it is so just and reasonable that statutory provisions for taking private property very generally *make payment precede or accompany the appropriation* and by several of the State constitutions this is expressly required. And on general principles it is essential that an adequate fund be provided from which the owner of the property can certainly obtain compensation; *it is not competent to deprive him of his property and turn him over to an action at law against a corporation which may or not prove responsible*, and *to a judgment of uncertain efficacy.* For the consequence would be in some cases that the party might lose his estate without redress, in violation of the inflexible maxim upon which the right is based.

On elementary principles the carrier is entitled to receive for the service rendered in the use of its property *at the time the service is rendered* the "just compensation" of the fifth amendment. Carriers can not be required to render the service upon credit or to deliver before payment property transported.

One could spend hours, Mr. President, reading decisions to the same purport. How does that apply to this case? In this way: The carrier in the exercise of a constitutional right files his bill in a Federal court—for it is a Federal question regardless of the matter of diverse citizenship—making the Interstate Commerce Commission parties defendant, and the original complainant ought probably to be made a party—alleging that the rate fixed is not "just compensation" within the language of the constitutional amendment, and asking a decree of the court that the Commission be enjoined from enforcing its order.

Mr. OVERMAN rose.

Mr. SPOONER. Excuse me a moment. I will listen to the Senator later. I beg the Senator's pardon; I do not mean to offend him.

If an adequate fund or other security were provided from which the carrier could certainly obtain the "just compensation" guaranteed by the fifth amendment when the compensation shall have been judicially ascertained, no such question would arise, for injunction would have no office to perform, none would be granted, and such prohibition would be valueless, and therefore probably innocuous to the bill. No such fund or security could be afforded except by the Government whose Commission fixes the compensation for the use of the property and in whose court the justness of the compensation is being challenged, and that would be "impossible" from every standpoint but that of financial ability.

What happens if without any fund or security, and pending the ascertainment of the just compensation, the court is prohibited from granting an interlocutory injunction, no matter if the bill and exhibits demonstrate its justice and necessity? The complainant carrier will have been compelled to furnish to the public for months, perhaps, the use of its property for the compensation fixed by the Commission and challenged in court from the beginning as noncompensatory. If the rate shall be held by the court in the end to be not "just compensation," and the enforcement of the order be perpetually enjoined as unlawful, how stands the carrier? The difference between the rate fixed by the Commission and "just compensation" may amount to many millions. It will have compulsorily rendered the service by the use of its property for the public without the "just compensation," to which the Constitution entitles and of which no valid law can deprive it. So far as it relates to the difference between the rates collected and just compensation, it will have been compelled to furnish the use of its property, through its own servants and at its own cost and risk *upon credit.* Where is its remedy? From "an adequate fund from which the owner of the property can certainly obtain compensation," as in the case of the individual? There is none such. There is no *remedy.* Its only recourse would be to bring many suits as there were separate shippers, for large sums and small sums, against the solvent and the insolvent, against estates of shippers who meanwhile have died, against parties in different jurisdictions—perhaps in other countries—certainly in different sections of our own country, involving a multiplicity of suits beyond comprehension very barren of result. It would all come to this: That private property would have been *taken for public use without just compensation* paid in hand and *without possibility of redress*, for there would obviously be no redress. Can this be done under the Constitution? Can Congress provide for the compulsory taking of this property, and at the same time by law applicable only to this class of cases prohibit the courts of the United States having *jurisdiction* of the subject-matter from exercising the *judicial power* to secure the full protection which the fifth amendment, upon the demand of the States, was adopted

to afford? It would not be a regulation of the jurisdiction, but a limitation of the judicial power. It would be substituting for the discretion of the chancellor the judgment of the legislature. It would be, in effect, making the rate fixed by the Commission *conclusive* pending final decree.

It will not be contended that Congress may lawfully provide that the rate shall be conclusive until final decree setting the order aside, and that the decree shall not relate back to the filing of the bill. In effect this would accomplish substantially the same result.

Mr. TILLMAN. Will the Senator allow me?

Mr. SPOONER. No; not now. Excuse me.

The VICE-PRESIDENT. The Senator from Wisconsin declines to yield.

Mr. SPOONER. Will not any Senator say that at least this is a serious and dangerous question whether that is constitutional or not?

Mr. TILLMAN. The Senator will not let me interrupt him. I tried to get in.

Mr. SPOONER. The Senator's observations would not illuminate what I have in my mind.

Mr. TILLMAN. But I would illuminate the subject all the same.

Mr. SPOONER. Oh, I do not mean to be discourteous or to minimize in the least the Senator's ability. He knows I do not. But I wish at this moment not to be interrupted by anyone.

There are in this bill, Mr. President, questions which can not be eliminated from it. The Supreme Court has left it an open question whether Congress has the power under the commerce clause to fix maximum rates or the prices which the carrier shall charge for interstate transportation. They said so in the Northern Securities case. Great lawyers differ about the power. It is not absolutely clear, but I think the power will be sustained. I know this, Mr. President, that it is time the Supreme Court passed upon that question, and it can not pass upon it until the Congress enacts legislation which involves it. Let that go. We can not eliminate that danger, if it be a danger. It is doubted by very able lawyers whether if Congress possesses the power to fix maximum rates, it possesses the power to delegate the function to the Commission which is provided for by this bill. That can not be eliminated because of anybody's doubt. Otherwise that question could not be presented to the Supreme Court.

But this danger is not necessary. The court may, without injustice to shipper or carrier, grant in proper cases, as is done in other cases, interlocutory injunctions *upon terms*. This course will, as nearly as possible, be just to all interests. The terms may be either a bond running to the Interstate Commerce Commission or otherwise, as may be thought wise, and conditioned to repay to shippers, if the order be sustained, the charges collected pending final decree in excess of those fixed by the order of the Commission. Or—and much I prefer this—the excess rates may be required to be paid into court monthly to abide the result of the litigation, for distribution among those entitled if the order is sustained. The payment of the excess is, in my opinion, practicable, and it would have a greater tendency to prevent litigation except upon good ground for it. I have thought much of this phase of the subject, but can not now discuss it. Either plan can be arranged to do approximate justice both to shippers and carriers *without endangering the validity of any portion of the act*.

All these fears about the eternity of such litigation are without foundation. That is largely a matter within the power of Congress. It largely is due to the Senator from Pennsylvania [Mr. KNOX], while Attorney-General, that measures have been placed upon the statute books for speeding such causes. These cases need not go to the court of appeals. They ought not to go there. They may go directly to the Supreme Court, and all the legislative power may be exercised, consistent with the validity of the procedure, to bring about speedy hearings and determination of the question.

Mr. SIMMONS. Will the Senator let me ask him a question with respect to this bond scheme? What provision would he make to see to it that the man who actually paid the freight, and not the man who nominally paid it, got the excess returned to him?

Mr. SPOONER. I think that is practicable. The Senator knows what my judgment about that is. It requires special provision to accomplish that. I think if it provided simply for the return to the "shipper" of the excess rates, in thousands of cases the man who really paid the excess would not get it. But I can not enter upon that at this time.

No man knows any better than I the good faith with which this proviso is offered. No man appreciates any more than I do the great ability with which it has been advocated by the Senator from Texas. I can not agree with him. It is an honest difference of opinion. It has always been my theory to avoid dangers in legislation, where it can be done, and I can see no possible justification for incorporating in the bill unnecessarily a provision which may afford good ground for the successful challenge of its validity.

Mr. President, I have finished. The question I have discussed is, in its relation to this measure and independent of it entirely, of the gravest possible import. Painfully conscious of the discursiveness and inadequacy of my presentation of it, I thank the Senate for the courtesy of its patient attention.

Mr. CLAY. The Senator does not think, if that feature of the bill was declared unconstitutional, it would affect the remainder of the bill?

Mr. SPOONER. I fear it would affect that part of the bill which authorizes the Commission to fix rates.

Mr. TILLMAN. Mr. President, I have no desire to trespass upon the Senate and I would not say anything at this time if the Senator from Wisconsin [Mr. SPOONER] had not forgotten his usual courtesy and refused to allow me to interrogate him or to make some side remarks as he went along. It is the first time he has ever done so, and, of course, he must reconcile it to himself why he did it.

Mr. SPOONER. The Senator will permit me. I would not be willing that the Senator should attribute it to anything else than the fact that I was speaking in a very great stress because of illness and have been anxious to conclude.

Mr. TILLMAN. If the Senator puts it on that ground, of course I will have to pardon him, but he is an old sinner in that regard.

Mr. President, I want to say only one or two things. The Senator from Wisconsin has spoken with great ingenuity and force and eloquence in condemnation of a remark which was let drop accidentally, sub rosa, yesterday by the Senator from Maryland [Mr. RAYNER] in regard to the power of Congress to destroy the courts, as though anyone anywhere had ever dreamed of any such desire or purpose lurking in anybody's mind. It was merely brought out by that Senator for the purpose of illustrating the contention of some of us that whatever we can create and whatever we can destroy we can control.

Mr. SPOONER. Mr. President——

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Wisconsin?

Mr. TILLMAN. I yield, certainly. I will not emulate the example of my friend in that respect.

Mr. SPOONER. I have not made a speech for three years wherein half of the time was not surrendered to the Senator from South Carolina, who upbraids me to-day for refusing to yield under the conditions I have stated.

Mr. TILLMAN. I do not want to speak in any sense as showing any ill will or anger, because I feel none; but I am merely trying to pick up some loose threads which the Senator left hanging around as he went along.

As I said, he has made a great deal of the point, if it be a point, that the Senator from Maryland let drop yesterday that we could destroy the courts, which, as I said, was for the sole purpose of enforcing the contention that if we can create and if we can destroy, we can control; and that would upturn or overthrow the Senator's contention that in this particular case we could not limit the power of the circuit court in that matter without destroying the constitutionality of the act, if it becomes one.

He has convinced himself, and undoubtedly he has convinced many others here, that that is good law. Possibly it is. It is the nature of all human beings to seek to aggrandize any power they have, and the judiciary of the United States have not been wanting in the effort to extend their jurisdiction and usurp jurisdiction in many cases where they had no right to go, and to assert authority and to do things that were tyrannical and outrageous; and these things have brought about the condition which is now broadcast in the country, where the people distrust the Federal judges. It is a great pity it is so, but I am merely stating the fact; and they are responsible for that distrust which exists because of the arbitrary and tyrannical way in which they have exercised their power.

The Senator from Texas [Mr. BAILEY] illustrated this a few days ago by stating how a judge in Florida has granted an injunction against everything and everybody down there, including the State government, I believe—anyhow the officers of the State government—bringing suit to test the question whether there was a legal case, which ought to be tested before its order was issued.

Mr. FORAKER. Mr. President——

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Ohio?

Mr. TILLMAN. With pleasure.

Mr. FORAKER. I dislike by my silence to appear to acquiesce in the statement of the Senator from South Carolina that at least so far as concerns the section of country where I reside the people distrust the Federal courts. Just the opposite, according to observation and according to my belief, is the truth. The people have always had the greatest confidence in those courts and the most entire respect for them, and I do not believe they have ever had for those courts greater respect or more confidence than they have at the present time.

Mr. TILLMAN. I am only expressing my own opinions and what I know exists in my part of the world. I have the impression that probably we have a class of judges, some of whom have come down to us from the past periods of unrest and disturbed conditions—conditions which made it unfortunate for our country that we had to have some men appointed—who have not entirely conformed to the ideas we possess of justice and good behavior on the bench.

But I am merely expressing the belief that the reason why the people are unwilling to have the order of the Commission subject to the arbitrary will of the Federal judiciary, or at least of these minor courts, is that they do not feel they can any longer trust them. I may be in error, but that is my judgment.

Mr. SCOTT. Will the Senator from South Carolina allow me?

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from West Virginia?

Mr. TILLMAN. With pleasure.

Mr. SCOTT. I should like to ask the Senator from South Carolina whether or not he is reflecting upon Judge Goff, United States judge in his district, a citizen of my State, and one whom we know to be above suspicion?

Mr. TILLMAN. I am not reflecting upon any individual, but I do know that some of the judges from the Potomac southward and westward have not been very careful or very decent in their exercise of judicial authority. I could hunt up instances, and if the Senator wants me to I will furnish him a catalogue of them.

Mr. SCOTT. I am waiting for the Senator to give me anything that would in any way reflect upon the character of Judge Goff, of my State, if he has any such evidence.

Mr. TILLMAN. I have not said a word about Judge Goff.

Mr. SCOTT. The Senator, in reflecting upon the judges of the courts, necessarily takes Judge Goff into consideration, and I resent the imputation that Judge Goff is not an honorable, true, upright judge.

Mr. TILLMAN. The Senator had better wait until I attack Judge Goff before he defends him.

Mr. SCOTT. The Senator attacked the courts.

Mr. TILLMAN. I have said what I believe to be true, and the Senator may make the most of it. I do not believe that the people of this country have that faith in the justice and fairness of the Federal judiciary which they ought to have and which they would have under different circumstances, or there would be no need for any such legislation in regard to the exercise of power as we propose, some of us, to try to get into this bill. That is all there is about it.

I merely made use of this observation to justify the efforts we are making to prevent a repetition of the programme that has disgraced Pennsylvania, where the oil producers at Titusville seventeen years ago, having had a hearing before the Interstate Commerce Commission and got a judgment in their favor against a rate, have been buffeted about from pillar to post for seventeen years, trying to get damages and have not succeeded. That is the reason why this condition of unrest and distrust exists.

Mr. SCOTT. We like to hear the Senator repeat that, as he has done for several days. It is very interesting to hear that same case repeated.

Mr. TILLMAN. Well, one good case, if it be true, is worth a thousand.

Mr. SCOTT. We like to hear it every day.

Mr. TILLMAN. Very well. I think I will have it printed every morning, something along the line of that famous saying of Cato the Elder, who never made a speech in Rome or anywhere else or on any occasion but that he always wound it up with that famous phrase, "Delenda est Carthago"—"Carthage must be destroyed, fellow-citizens." And if the Senator wants me to, I will try sometime during every day, when this debate is on, to allude to the fact that certain citizens of the United States, whose property was stolen from them by the railroads by unjust rates, so declared by the Interstate Commerce Commission, have been endeavoring for seventeen years to get back their property under the Constitution and can not do it.

There are many instances, I will inform the Senator from West Virginia, in which not the judges, but the roads which we are endeavoring to control, have been guilty of more arbitrary and outrageous things than that. I will, before I get through, furnish a catalogue of his home affairs, if the Senator does not know anything about them.

Mr. SCOTT. I presume the Senator refers to the letter from Governor Dawson.

Mr. TILLMAN. Oh, no; I have about forty letters from all sorts of coal miners and coke producers and every other kind of citizens in West Virginia, showing the iniquities and outrages to which they have been subjected.

The governor of West Virginia did me the honor of sending me a letter. I suppose the Senator feels aggrieved because he did not send it to him. I did not ask him to send it. I merely discharged my duty in giving it to the people of the country as an illustration of a condition which is outrageous and which we are seeking to remedy here by legislation.

Mr. SCOTT. Mr. President——

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from West Virginia?

Mr. TILLMAN. Oh, certainly, with pleasure.

Mr. SCOTT. Then I presume, as the Senator is so much interested in my State and in the coal operators, coke operators, etc., he will support the amendment I offered to this bill.

Mr. TILLMAN. I have forgotten what it was. I hope the Senator will give us a speech telling us why he introduced it, and then we will all know enough about it probably to vote intelligently. There are so many amendments pouring in here from all directions that I have not even time to read them. I am trying to read up on the general subject, and to keep posted as I go along as best I may.

Mr. President, I did not expect to get into any unpleasant controversy like this when I stated, as a general proposition, the reason why the passage of this bill is of such vast importance. It is because the people have lost faith in the judges. Now, I repeat it. I believe it. That is all there is about it. I may be wrong; I hope I am.

Mr. GALLINGER. I guess you are.

Mr. TILLMAN. I know I am not wrong about my own part of the country. I illustrated that in the case of Judge Pardee, and I know of many other instances of similar arbitrary and outrageous action on the part of the judiciary down there.

The Senator from Wisconsin has reasoned and argued and pleaded with great force and eloquence about the right of railroads not to have their property confiscated by an unjust rate which has been lowered by the Commission after a full hearing. He ridiculed me a little yesterday about being a cornfield lawyer. I have adopted that title myself. I do not feel at all discredited by it.

Mr. SPOONER. If the Senator will allow me——

Mr. TILLMAN. I say it is my own phrase.

Mr. SPOONER. The Senator gave me that himself.

Mr. TILLMAN. Yes. The Senator ridiculed it, however, in his sarcastic way. He said he did not want any advice from a cornfield lawyer, and that was as much as to say: "You are a nincompoop; just sit down and wait until I get through." [Laughter.] As I was saying, the Senator has pleaded with us and argued very strongly and eloquently to prevent the great outrage that would come to a railroad whose property would be taken without just compensation by the decree of the Commission which would lower a given rate, and he has argued that we must give the judges the right to issue an injunction and prohibit such a rate from going into effect while they take the case up and try it over.

There are other cornfield lawyers besides myself, and in my mail yesterday I received a letter which I will read. I want the Senator to follow it with attention.

NORMAN, OKLA., *March 19, 1906.*

Senator TILLMAN, *Washington, D. C.*

DEAR SIR: Please pardon me for calling your attention to one or two points relative to the paramount questions of the day—the regulation of freight rates and the tariff, the daddy of the trusts.

If the railroads can enjoin—

Now, this is a legal point of this cornfield lawyer or cotton-patch lawyer—

If the railroads can enjoin the lowering of a freight rate, can not the railway commission or any interested party enjoin the raising of rates by the roads?

That is a nice legal point, but it involves that old-time Anglo-Saxon doctrine of what is sauce for the goose should be sauce for the gander. The Senator from Wisconsin is arguing for the gander. I represent the goose in this controversy. I say it not as a witticism, but as an illustration of the fact. The Senator and those who agree with him plead for the railroads. I plead for those who produce these billions of American wealth.

They regard these laborers as geese, who do not do any thinking; and that is certainly true on election day.

Mr. SPOONER. Did the Senator say that I characterized him as a goose?

Mr. TILLMAN. Well, I am afraid the Senator has a rather contemptuous idea of the intelligence and capacity of cornfield lawyers.

Mr. SPOONER. I only want to say this——

Mr. TILLMAN. Oh, I am not going to charge the Senator with any undue disrespect or feeling of contempt for the average common man of the country. I do not think he is that way.

Mr. SPOONER. I want to be permitted to say——

Mr. TILLMAN. If I would treat the Senator like he treated me, I would say, "No, you had better wait until I get through." But go ahead.

Mr. SPOONER. I am treating the Senator, with his permission, as he has always treated me, and he has been welcome, too.

Mr. TILLMAN. Oh, I forgive the Senator for his little—well, departure from his time-honored method of his allowing me to help his speeches out, and he thought he would get one dull speech out without there being any TILLMAN in it.

Mr. SPOONER. He thought he would make a good speech to-day if he could make himself heard.

Mr. TILLMAN. By helping me in making speeches, you mean?

Mr. SPOONER. I have a great deal of respect for the Senator and his ability, and I have a great deal of respect for cornfield lawyers. There are very strong, able men among them. But I am going to say, and I hope the Senator will not regard it as any reflection upon his part of the legal profession, that if I had a constitutional question to be presented to the court I do not think I would hire a cornfield lawyer to do it.

Mr. TILLMAN. Of course we would get thrown out on the practice. We might knock you fellows out on the principle, but then we would go to flinders on the practice. [Laughter.]

Mr. SPOONER. I would hire a man who could get into court.

Mr. TILLMAN. This man is in court. Here is the question:

> If the railroads can enjoin the lowering of a freight rate, can not the railway commission or any interested party enjoin the raising of rates by the roads? Again, if a low rate can be confiscatory to the railroads, why can not a high rate be confiscatory to freighted stuff? If cotton cost 7 cents to grow, pick, and gin it, and the freight is 1½ cents to market it, and it only sells for 8 cents, is not this confiscatory? And will not the same conditions apply to a high or low rate equally, on corn, wheat, and so forth? If the Congressional railroad attorneys answer—

Now, these are his words, not mine:

> answer, "But your farm products cost too much." Then can not we people answer with equal legal right and truthfulness that your roads cost too much?

Mr. SPOONER. Does the Senator mean to apply that phrase to me?

Mr. TILLMAN. I expressly said "No;" that these are this man's words. I do not say that there are any railroad attorneys in the Senate. I hope to God there are none here. But it shows what this man thinks, and there are many millions of fellows back in the backwoods who are thinking and scratching their heads over the question as to what we are going to do to relieve them.

> Right here let me ask who paid for the building of these roads, now estimated at $13,000,000,000? According to my understanding, they were built on paper—that is, by floating stocks and bonds—and these are gradually redeemed through freight earnings. Then, every dollar paid to redeem the cost of this mushroom $13,000,000,000 has been through confiscation of property; and yet the roads cry "Confiscation!" Let me ask you: If it is unconstitutional to correct our present railroad law, then, since we had no railroads when our Constitution was made, what about that law?

There is more of this farmer's cold-blooded logic, but I will only quote his last sentence—

> We, the people, have been taught that we were the Atlas upon whose shoulders the Government rested, and that we had created our Congress to make laws to protect us in life and property, but it now seems that Congress has lost to us this heritage and that our railroads and other trusts are the Government.
>
> Please pardon me for this letter, but I am bursting just here to halloo.
>
> Yours, respectfully, T. J. JOHNSON.

This man has made his plea. I sincerely trust his cry may be heeded.

I hope the Senator from Wisconsin has got the point of this letter, which is this, that under this bill, if it becomes a law, every railroad will be required to fix a tariff on all things to be shipped and publish it, and that under law, except by the order of the Commission, no change can be made in that published tariff under thirty days. This man proposes that we shall incorporate in this law a provision to permit the Commission to ask an injunction to prevent a raise of rates, and I have taken the trouble, since getting this letter from my cornfield friend of the legal profession, to see how it would look on paper. So I have drafted an amendment which would incorporate this idea, and I should like the Senator's legal opinion, as well as his judgment, of the justice and good sense of the policy:

> Whenever any complaint is made against any carrier or carriers in accordance with section 15 as amended by this act concerning rates or charges which have been established and published by the carrier or carriers and which raise the rates then existing so as to provide greater compensation for transportation than the rates or charges which may at the time be enforced, but which rates so raised have not at the time of the filing of the complaint gone into effect, it shall be the duty of the Commission upon motion of the complainant to make an order forbidding the carrier or carriers to put in force the rates so raised and requiring the carrier or carriers to continue to charge and collect no more than the existing rates during the pendency of such complaint before the Commission.

Now, the Senator has labored here very eloquently, as I said, to show the great outrage and wrong that would come to the railroads if an order of the Commission is not allowed to be suspended by the court. This man asks us to incorporate a provision like that I have read in this bill; in other words, that if the court shall be permitted to enjoin the lowering of this rate, we shall give the producers, the shippers, the same right to go to the Commission and ask it to forbid the raising of any rate that is already in existence; and I presume, of course, the right to suspend the proposed higher rate of the railroads would be permitted by the court if we could get an injunction against the railroad. I would like the Senator's opinion on it.

Mr. FORAKER. Mr. President——

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Ohio?

Mr. TILLMAN. Certainly.

Mr. FORAKER. The Senator is not addressing himself to me, but is interesting all Senators, and if he does not object I will interrupt him to say that as I understand it, so far as the general principle is concerned, the provision for review by the court that he suggests is exactly what is desired for this bill—a provision in the bill, put there by amendment, that will be for the benefit of the shippers as well as for the benefit of the carriers. The bill as it now stands allows practically no appeal to the courts for either.

Mr. TILLMAN. But, Mr. President, the Senator does not address himself to the point which I presented, and that is this: If it is proper to provide in this bill that the order of the Commission shall not go into effect—if a judge sees proper to enjoin it—why will it not be proper to place in the bill a provision which will forbid the railroads from raising any rate pendente lite?

Mr. FORAKER. There is no objection to that. I have not heard of anybody objecting to it. On the contrary, that is precisely what is proposed by those who are favoring a broader court review.

Mr. TILLMAN. But the question of raising the rate by the railroad has never been discussed. It is not provided for.

Mr. FORAKER. Over and over again in the Committee on Interstate Commerce and here in the Senate over and over again that identical point has been urged. I have heard it; I can not recall just what particular Senators made that appeal; but the Senator from West Virginia did, I know; the Senator himself reminds me of it; he made a special point that the courts ought to be open to the shipper and to the carrier alike.

Mr. TILLMAN. Open to both to review or to appeal from the decision of the Commission; not open to both to have the Commission protect the shipper against the railroad raising its own rate.

Mr. FORAKER. Why, Mr. President, the moment either the carrier or the shipper gets into the court he is there, whether it be the carrier or the shipper, to receive justice according to the judgment of the court, whether it be in a permanent injunction or a temporary restraining order.

Mr. TILLMAN. But the Senator will not touch the point I am coming to, and it is this—if I can make myself understood—that when a railroad has published its rate and which, probably for good reasons, it is desirous to raise those rates it does not have to ask anybody's opinion or consent now. If we are going to permit a court to enjoin the order of the Commission so as to prevent redress to the shipper in the effort to get rates lowered, then the shipper should have the right to get an injunction against the railroads from raising the rate, if they propose to do it.

Mr. FORAKER. Mr. President, there is no trouble about that. I think if the railroad undertakes to raise a rate to a point that is extortionate, or that is unreasonable or unjust, or

to make a rate that is discriminatory, the court is now open to the shipper to appeal to it; and the court will, if necessary to avoid a multiplicity of suits, grant the shipper immediate relief upon an application for a restraining order and the presentation of the case that entitles him to it.

Mr. TILLMAN. Did the Senator ever hear of any court granting an injunction in that kind of a case? Has he ever heard of such a case being brought?

Mr. FORAKER. Under the Elkins law, which I hope, as the result of all this discussion, to see amended as the legislation we shall enact. That is exactly what was done, in different form, in the Chesapeake and Ohio and New Haven coal case. The court immediately on the filing of the bill granted a temporary restraining order, which stood until the case passed up to the circuit court of appeals and the Supreme Court, where that temporary restraining order was made final. So in the court, in fifteen minutes after the suit was brought, the relief was granted that was finally made perpetual and which continued until it was made perpetual.

Mr. TILLMAN. I am not very familiar with that case. The little I know about it is that one railroad sued another railroad and there was some dispute about the amount of freight; and the result was that the Supreme Court declared that there was an illegal and unlawful transaction, which they overthrew.

Mr. FORAKER. What the court decided was that the Chesapeake and Ohio was granting rebates. But, Mr. President, while the facts there differed from the case suggested by the Senator, the principle is precisely the same. He seldom will get two cases exactly alike in fact.

Mr. KNOX. Mr. President——

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Pennsylvania?

Mr. TILLMAN. With pleasure.

Mr. KNOX. I was only going to observe, and I think the Senator from Ohio has in his last remarks anticipated me, that the question of the Senator from South Carolina was met in referring to that particular case. I know something of that case, because it was instituted while I was Attorney-General. The charge there was not that the rate was too high to the shipper, but that through a contract for the sale of coal they had worked out a system of rebates and discriminations; and that is what the court enjoined in that particular case.

Mr. FORAKER. But the Senator will remember I said that what might be done in that character of case might also be done in the other. We are talking about the right of parties who have grievances to appeal to the courts for relief, and not about a particular case. The principle that is invoked in all such cases is the same.

Mr. KNOX. If I may interrupt the Senator further——

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Pennsylvania?

Mr. TILLMAN. Certainly.

Mr. KNOX. I would have grave doubts about the circuit court of the United States entertaining jurisdiction upon an appeal of a shipper against a railroad company to prevent it from raising its rates. I would have very grave doubts about it.

Mr. TILLMAN. I have such doubt about it that unless it is incorporated in some law I never expect to see it come about.

Mr. FORAKER. In my opinion the shipper can now interpose to enjoin an extortionate rate if without adequate remedy at law. I think I could satisfy the Senator from Pennsylvania that it is no longer an open question, if it ever was one, that in the courts, upon the appeal of any aggrieved party and to avoid a multiplicity of suits, an extortionate rate will be enjoined or a discriminatory rate will be enjoined. I cited some authorities to that effect when I addressed the Senate some days ago.

Mr. TILLMAN. But what about this particular point?

Mr. FORAKER. But referring to the question of the Senator from South Carolina, there is no objection that I know of to putting in here a provision which would embody that principle and give effect to it if it be properly framed.

Mr. CLAPP. Mr. President——

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Minnesota?

Mr. TILLMAN. With pleasure.

Mr. CLAPP. I doubt whether the Senator from Ohio is exactly correct in view of the effect of the Elkins law. We provided there that an injunction might lie where the complaint was not that the rate was too high per se, but too high in that it was discriminatory, and the Supreme Court did sustain that clause of the law. It has always been my judgment that independent of this rate bill as to the enlarged power of the court in that respect we ought to apply it as an amendment to that law. Then an injunction would lie either whether the rate was claimed to be too high in itself or, as now, where it is too high in that it is discriminatory.

Mr. TILLMAN. The point I have tried to make seems to be shied around or run over or hit out at by every lawyer who tackles it except my friend from Pennsylvania, and that is, whether or not it is now possible—and if not, why we should not make it possible—that a railroad that proposes to raise its published rates under this bill, if we make it a law, shall not be enjoined by the Commission from doing so by a judge upon a complaint made to the Commission by the parties interested.

Mr. FORAKER. Mr. President——

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Ohio?

Mr. TILLMAN. Certainly.

Mr. FORAKER. If the Senator will do me the honor to read the amendment to this bill which I have proposed he will find that I have made the provision for that exact relief. That is to say, I have undertaken to so amend the third section of the Elkins law as to provide that whenever any shipper makes a complaint, no matter in how informal a way, to the Interstate Commerce Commission it shall be the duty of the Interstate Commerce Commission at once to notify the railroad, and if it will not desist, then so far to investigate as to determine whether or not there be probable cause, and if so, to immediately send it to the proper court, where the court shall proceed forthwith to hear and determine whether or not the charge, if it be that an excessive rate is being collected, is unreasonable or unjust, and if so, to enjoin it.

Now, how could anything be more expeditious than that? Not only that, but I want the Senator to do me the favor to look carefully at that amendment, because this correspondent of his has directed his attention to a crucial point in this whole matter. I want to call his attention to the fact, and I want him to notice it when he reads that amendment, that it is here provided that in the court where that relief is sought the proceedings shall be not at the expense of the shipper, but in the name of the Government, and without any expense whatever to the shipper. If the railroad be found in fault, it shall pay all the expense. Otherwise the expense is borne by the public, as it should be, because the prosecution will be not for that complainant alone, but for all the members of the class to which he belongs.

Mr. TILLMAN. The Senator from Ohio will recall the fact that when he read his proposed law, which was a bill to be enacted into law in place of this one, and discussed it so luminously, as he always does, by common consent almost everybody on the committee who was there agreed that it was admirable if we would just put into it a provision that the Commission should have the power to fix rates and grant relief, as we propose to do in the Hepburn bill and as I proposed to do in that little bill of mine which is so peacefully sleeping upstairs. But the Senator's programme, as outlined in his bill, is to have no commission do anything toward relieving the people, but to confine the relief to the courts entirely, and have them determine once for all whether there is any grievance or wrong to be righted. Therefore his bill was never seriously considered by anybody but himself. It has some very admirable features in it, however.

Mr. FORAKER. Whether it was seriously considered by anybody else or not, I hope the Senator will allow me to urge it upon his attention.

Mr. TILLMAN. I think the Senator had better urge it upon the attention of the Senate than upon my attention, because I have but one vote here, and that is my own. [Laughter.]

Mr. FORAKER. I do not want to unduly urge it upon the Senator, but I shall urge it upon the Senate. I want to say to the Senator, with all due respect for his judgment in the matter, that I do not undertake to say that the courts shall make rates, but I undertake to say that the proceeding before the courts is more expeditious than the proceeding before a commission can possibly be to work out the remedies that the Senator seeks to secure by this legislation that he is advocating. I do not, however, wish at this late hour to interrupt the Senator if he does not wish to be interrupted.

Mr. TILLMAN. I wish to give way to the Senator from Virginia [Mr. DANIEL], who is here and has been patiently waiting for some time, because of an engagement he has, to make a speech on the fortifications appropriation bill, and with an apology to the Senate for having trespassed thus much on its time, I ask that the unfinished business be laid aside temporarily in order that the Senator from California [Mr. PERKINS] may ask for the resumption of the consideration of the fortifications appropriation bill.

Mr. FORAKER. I want to say that I was not aware that the

Senator from Virginia was waiting to make a speech, or I should not have interrupted the Senator from South Carolina.

The VICE-PRESIDENT. In the absence of objection, the unfinished business will be temporarily laid aside.

ADJOURNMENT TO MONDAY.

Mr. ALDRICH. I move that when the Senate adjourns today, it be to meet on Monday next.

The motion was agreed to.

FORTIFICATIONS APPROPRIATION BILL.

Mr. PERKINS. I ask unanimous consent that the Senate proceed to the consideration of House bill 14171, being the fortifications appropriation bill.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 14171) making appropriations for fortifications and other works of defense, for the armament thereof, for the procurement of heavy ordnance for trial and service, and for other purposes.

Mr. PERKINS. I desire to state that all the amendments to the bill proposed by the Committee on Appropriations have been considered and passed upon by the Senate, excepting the one on page 7, after line 7, to insert the provision for the erection of a powder plant. I ask that that amendment may now be read, as the Senator from Virginia [Mr. DANIEL] wishes to speak to it.

The VICE-PRESIDENT. The amendment referred to by the Senator from California will be stated.

The SECRETARY. The Committee on Appropriations reported an amendment, on page 7, after line 7, to insert:

POWDER FACTORY.

For the erection and equipment of a powder factory, with its necessary communications and accessory structures, upon such reservation now or that may hereafter be under the control of the War Department as may be selected by the Secretary of War, $125,000.

Mr. DANIEL. At this late hour, Mr. President, I should not ask the attention of the Senate but that I am compelled to leave the city to-night by an engagement of a kind that is bound to be respected. I shall endeavor to be as brief as possible consistently with the facts in stating the considerations which underlie this amendment and make its adoption expedient and necessary.

It will be observed that this amendment proposes to appropriate $125,000 for the establishment of a powder factory with its accessories. It is estimated by General Crozier, the Chief of Ordnance, that this factory will cost $100,000, and that the extra $25,000 will provide for incidental expenses and those accessories which will be indispensable thereto. It is estimated by an expert who testified before the committee that this powder factory when established can produce 5,000 pounds of smokeless powder per day.

THE NECESSITY FOR THE POWDER FACTORY—THE GIGANTIC POWDER TRUST.

The necessity of the amendment for the erection of this powder factory arises from a condition of facts of which Congress has but recently been apprised, not through public officials, but by a public-spirited citizen. On the 22d of February last Mr. Robert S. Waddell, who is himself the president of the Buckeye Black Powder Factory, at Peoria, Ill., wrote a public letter, which was widely circulated. Inquiry about that gentleman shows that he is a business man and a citizen of high standing. He has had long experience in the manufacture of powder, and was for twenty years or more connected with the Du Pont Powder Company. His presence before the committee indicated that he was a gentleman of dignity and intelligence, and it was obvious that he was one possessed of great information and of accuracy of statement. This public letter of Mr. Waddell I asked leave some two weeks or more ago to have inserted in the RECORD, because it seemed to me that the information which he imparted was of a character which should be publicly considered.

Without attempting to follow his exact words, it will be found, on a perusal of that letter that it contained six or seven, if not more, principal statements and charges with respect to this subject-matter. The first is that a gigantic trust has an absolute and exclusive monopoly for the manufacture of all the powder that the Government requires for offensive and defensive uses. That trust is the International Company, and it has embraced and swallowed up the Laflin & Rand Powder Company, of Wilmington, Del.; the California Powder Company, and all the powder companies in this country which are engaged in this manufacture. These powder companies are situated, two of them in California (one at Pinole, in Contra Costa County, and one at Santa Cruz), two in New Jersey (one at Haskell and one at Parlin), and one in Wilmington, Del.

SEPARATE AND SIMILAR BIDS BY CORPORATE MEMBERS OF THE TRUST.

It seems that in the course of the practice—and he so charges—that they all bid separately the same price for ordnance smokeless powder to be sold to the Government. That price is 70 cents per pound, the United States furnishing the alcohol, which costs, approximately, 5 cents a pound, so that the powder costs us about 75 to 80 cents per pound. All of the powder which we now use and all the markets for powder in this country to which we may go are controlled by this powder trust, and, under the inspection of Army and Navy officers stationed at the different plants, the trust manufactures this powder which it sells to the Government without a single competitor!

DIFFICULTIES OF COMPETITION—PATENTS CONTROLLED BY THE TRUST.

It will be asked, to begin with, why may not independent manufacturers compete with this trust? The trust has bought up all the patents on the subject, including the particular patents of Bernadou and Converse, officers of the Navy of the United States, and has specific and complete control both of the ideas which are used in the manufacture of this powder and of the actual manufacture of the product.

The writer states that for a number of years—and his statement is verified by the records of our Navy Department—this powder pool, or trust, for a long time charged this Government from 88 to 90 cents per pound; that when the International plant was built competition was reduced to the present basis, and that then the Du Pont trust obtained control of the International product.

The capacity of the several plants is stated as follows:

Name of plant.	Daily.	Yearly.
	Pounds.	*Pounds.*
Du Pont	7,000	2,100,000
Laflin & Rand	7,000	2,100,000
International	6,000	1,800,000
California	4,000	1,200,000

The three eastern seaboard plants are in almost constant operation.

EXPERIENCE OF THE KING POWDER COMPANY.

An important fact, also stated by this authority—and it is abundantly sustained, as it seems, by the testimony—is that the United States can build and equip, as Mr. Waddell says, four better plants than this trust owns at a cost of not exceeding $250,000 each, pay for these plants from the profits extorted from the people in a single year, and have more than a million dollars left in the Treasury that would, under present conditions, be paid to further enrich the trust.

The Army and the Navy can detail scores of men, graduates of the academies, who are more competent to direct the making of powder than those who now supply it.

Not only, Mr. President, does the existence of these patents stand in the way of the competition of American manufacturers who might desire to compete, but there is stated by Mr. Waddell, in a paper which I have before me, what I think I should read to the Senate. I shall not take part in using terms of accusation against anybody, but information of this kind, coming from a respectable source, ought to be publicly communicated, and if there be answer to it this forum is as open for the answer as it is for the suggestion. Mr. Waddell says:

Business men laugh when it is suggested that possibly Congress might open a way so that this powder could be made in competition with the "trust," and they recite the experience of the King Powder Company, of Cincinnati. It submitted samples and competed for Government business when black powder was furnished the Army and Navy. The tests all showed the King powder inferior, and the analysis and proof of tests were furnished. That company, satisfied that their product was as good or better than the Du Pont, the King company bought a quantity of Du Pont powder from a lot furnished the Government, packed it in King kegs, and submitted it. This Du Pont powder under King labels was tested and proved very much inferior to the King powder. Then the "King" went into the "trust." I was on the other side and chuckled over the results.

SEVENTY TO EIGHTY CENTS A POUND FOR POWDER.

Mr. President, the Government is now paying, and has for a long time been paying—for a period of nearly ten years—70 cents or more per pound for this powder.

Under interrogations by members of the subcommittee of the Committee on Appropriations, General Crozier, the Chief of Ordnance, produced a table, which will be found in the printed hearings before that committee, which shows the quantities of powder furnished at 70 cents a pound. I will ask that the table be printed in the RECORD without reading all of its separate items. It shows, in summary, that between the 26th day of June, 1898, and January 26, 1906, the number of pounds purchased at 70 cents per pound was 3,317,288. The quantity purchased at 80 cents a pound was 1,367,088 pounds.

The VICE-PRESIDENT. In the absence of objection, the table referred to by the Senator from Virginia will be printed in the RECORD without reading.

The table referred to is as follows:

Statement showing the amount of nitrocellulose powder purchased by Ordnance Department since February 9, 1899, the date it gave up the purchase of nitroglycerin powder.

Name of manufacturer.	Date of contract.	Pounds purchased at prices stated.		
		$0.695.	$0.70.	$0.80.
California	June 26, 1898			140,087
Do	May 3, 1900			300,000
Do	Mar. 8, 1901		235,000	
Do	Aug. 24, 1901		90,000	
Do	Apr. 3, 1902		50,000	
Do	Oct. 15, 1902		115,000	
Do	Nov. 28, 1903		182,720	
Do	Apr. 13, 1905		283,000	
Du Pont	Sept. 26, 1898			246,948
Do	May 3, 1900			329,921
Do	Mar. 8, 1901		125,000	
Do	Aug. 24, 1901		108,240	
Do	Apr. 3, 1902		50,463	
Do	Oct. 15, 1902		111,451	
Do	Apr. 13, 1905		125,000	
Do	June 8, 1905		180,000	
International	Aug. 24, 1901	230,073		
Do	Apr. 3, 1902		48,927	
Do	Oct. 15, 1902		119,225	
Do	Nov. 23, 1903		187,264	
Do	Aug. 22, 1904			[a]8,279
Do	Oct. 17, 1904		650	
Do	May 25, 1905		401,000	
Laflin & Rand	Sept. 30, 1898			139,715
Do	Mar. 8, 1901		93,000	
Do	May 3, 1900			202,138
Do	Aug. 24, 1901		97,800	
Do	Apr. 3, 1902		57,625	
Do	Oct. 15, 1902		150,142	
Do	Nov. 28, 1903		185,731	
Do	Apr. 3, 1905		200,000	
Do	May 29, 1905		50,000	
Do	Jan. 26, 1906		70,000	
Total		230,073	3,317,238	1,367,088

[a] Experimental.

230,073 pounds, at $0.695 per pound	$159,900.74
3,317,238 pounds, at $0.70 per pound	2,222,066.60
1,367,088 pounds, at $0.80 per pound	1,093,670.40
4,914,399	3,475,637.74

NOTE.—The United States furnished the alcohol required for the manufacture of this powder at a cost of approximately 4 cents per pound of powder.

Statement showing the amount of nitroglycerin powder for small arms purchased by the Ordnance Department since July 1, 1898.

Caliber .30 powder:	
14,800 pounds, at $1	$14,800.00
295,721 pounds, at $0.85	251,362.85
882,310 pounds, at $0.84½	745,551.95
1,192,831	1,011,714.80
Caliber .38 powder:	
48,869 pounds, at $0.85	$41,538.65
10,000 pounds, at $0.84½	8,450.00
6,850 pounds, at $0.94½	6,473.25
65,719	56,461.90
Total amount purchased, 1,258,550 pounds, costing	1,068,176.70

NOTE.—The United States did not furnish the alcohol used in the manufacture of this powder.

Mr. PERKINS. If the Senator will permit me——

The VICE-PRESIDENT. Does the Senator from Virginia yield to the Senator from California?

Mr. DANIEL. Certainly.

Mr. PERKINS. I should like to give the Senator some additional information which was not before our committee at the time the hearings were had.

Mr. DANIEL. I shall be very glad to have it.

Mr. PERKINS. It is as to the amount of powder purchased by the Navy Department at the same prices which the Senator has given. For the year ending June 30, 1905, we purchased from the powder companies 3,716,909 pounds of smokeless powder.

Mr. DANIEL. I am very glad, indeed, to have the statement of the Senator, and to have it inserted in the RECORD.

Mr. PERKINS. And we manufactured during the same year at Indianhead 581,729 pounds, making, I will say to the Senator, 4,298,638 pounds that were manufactured and purchased for the Navy Department in addition to the quantity which the Senator has stated. I should not have interrupted the Senator but for the fact I thought it might be well to give the information.

Mr. DANIEL. I am very glad to have that addition to the information on this subject. It is one with which most of us and the public generally are but little acquainted.

WHAT IS SMOKELESS POWDER?—ITS RAW MATERIALS AND COST.

What is this smokeless powder? What ought to be its cost? What quantity are we under obligation to obtain, and how is it best to get it? The raw materials of the smokeless powder consist, first, of cotton fabric. This cotton fabric is worth, at an extreme price, about 10 cents per pound. The quotations on the market recently are 10 cents, running down to 3 cents for the poorer grades. Putting it at the maximum price, we will say 10 cents per pound. The next ingredient is a solution of nitric and sulphuric acids, in which this cotton fabric is soaked and dissolved. The estimate of the cost of the quantity of these chemicals per pound of powder is 6 cents. The next ingredients are ether and alcohol. The quantity which goes into a pound of powder is worth about 4 cents. So that, in the rough, the materials which compose 1 pound of smokeless powder, used in this manner, come to about 20 or 22 cents per pound.

How much does the finished product cost? According to an estimate made by Mr. Waddell, who gave his figures apparently from close calculation and who made the impression upon the committee that he was a business man familiar with details and very accurate in his statements, this powder can be produced at about 35 cents per pound—about half of what we are now paying for it.

ESTIMATED COST AT INDIAN HEAD EXCESSIVE.

There were two witnesses before our committee, both of them gentlemen of great intelligence. One of them—and he was very familiar with this subject—was the Chief of Ordnance, General Crozier. According to his statements, at Indian Head, which is about 22 miles from here on the Maryland side down the Potomac River, the estimate of cost of a pound of smokeless powder is 60 or 61 cents. It was shown, as I think—and the committee seem to have shared my impression—that this estimate was in some respects an exaggerated one in calculation. The plant is not a very large one; it has not been worked to its capacity, and elements of cost enter into the calculation at a figure which ought to be reduced in any well-ordered factory and by a more careful estimate. For instance, the land on which this Indian Head Government factory is located cost some $62,000. The estimate of yearly deterioration, made from some general rule of business, is 10 per cent, and insurance is estimated at 6 per cent. Both of these items are too large. Mr. Waddell very properly and justly pointed out that such a calculation for deterioration was impossible, for the land stays there and will always be worth something like or at least a great part of its original value. It will not evaporate or vanish in ten years and may increase in value. He stated also that smokeless powder was less liable to explode and less destructive in its character than the black powder which he manufactured and that insurance to him in the manufacture of black powder was 2 per cent, and not 6, as had been calculated in the estimate of cost in the Government factory at Indian Head.

Other details of estimate I need not go into or report upon. Suffice it to say that it is considered by the committee, and on testimony which it regards as reliable, that the Government can make considerable saving by establishing the factory for which the amendment provides; that it can thus put a restraining power upon the trust and equip itself, in a measure at least, for emergencies liable to arise.

One fact emphasizes these considerations. It takes six months to make smokeless powder, for it takes that long to dry it and exhaust the volatile elements that are in it. In this process there is a recoupment of some of these elements, which abate in a degree and in time the cost.

NEW CONDITIONS REQUIRE GOVERNMENT TO MANUFACTURE THE ESSENTIALS OF DEFENSE.

Mr. President, this is about the whole case. I could repeat this argument in various shapes; I could add to it illustrations from various parts of the testimony, but I feel that it is unnecessary to do so.

Like many Senators, I am reluctant to go into the Government manufacture of anything. I have been taught from my youth, and the experiences and observations of my manhood have impressed that teaching, that that government is best which attends to its own concerns and leaves the people to conduct their own concerns in their own way. These principles, however, grew up and became endeared to the hearts and minds of the people under very different conditions from those which now surround us. As self-defense is the first instinct of nature, so it must always be the first instinct and the first provision of nations. When the fact is told that our national defenses are menaced and that our public Treasury is invaded by a double monopoly, one of patent and another of combination, and that this monopoly holds the only source of supply for the materials of national defense in this country, the absolute necessity of a nation to be on guard for its public interest requires that Con-

gress shall move forth to meet such conditions and to provide against them.

COMBINATIONS INSPIRE IDEAS OF GOVERNMENT OWNERSHIP.

I have taken little stock, Mr. President, in those political philosophies which inculcate the idea that the Government ought to run the railroads or that the Government ought to build up monstrous organizations to conduct the business of this country in various departments. Those ideas receive stimulus from every combination that puts itself in the way of the Government drawing its supplies according to their value from independent manufactories and in open markets of this vast country of production. It is no longer a question of desire as to what might be. It is a condition and not a theory which confronts us; we must meet that condition and destroy it or circumvent it with whatever means we can.

It is stated as a fact, and in answer to a question put by the Senator from California [Mr. PERKINS], that our battle ships as they go forth to the ocean are provided with powder only sufficient to sustain a fire of half an hour. The Department of War, which has control of the matter covered by this bill, desires to provide itself with enough powder to sustain a fire of two hours.

We have now but 4,000,000 pounds of powder on hand. In any general engagement or bombardment of any great war it would soon be shot into the air, and as matters stand to-day the Government would be at the absolute mercy of the powder trust. We have 12,000,000 pounds yet to purchase to put us upon a proper footing of preparation for defense. It is neither right nor just that we should leave ourselves thus stripped of the appropriate methods of that defense.

VAGUE APPROPRIATIONS.

There is one other thing, Mr. President, to which I desire to call brief attention. There are members of this body who have had much longer experience with appropriations than myself; but take up this appropriation bill and read it. As it came to the Senate it carried an appropriation of $4,838,993. An increase has been made by the Senate committee in some items, but as reported to the Senate it carries $4,350,669.90 less than the estimates. Let anyone take up this bill and look for the items. It is a dark continent in which he will find himself; it is a land of cloud and vagary. It deals in generalities, not glittering, indeed, but most general. Read the first six items—and most of the others are of like character.

For modernizing older emplacements, $150,000.

What older emplacements? Where? How modernizing them? Look to the Book of Estimates. There is just the slightest kind of information. Read the next item:

For construction of fire-control stations and accessories, including purchase of lands and rights of way, and for the purchase, installation, operation, and maintenance of necessary lines and means of electrical communication, including telephones, dial and other telegraphs, wiring and all special instruments, apparatus, and materials, coast signal apparatus, and salaries of electrical experts, engineers, and other necessary employees, connected with the use of coast artillery; for the purchase, manufacture, and test of range finders and other instruments for fire control at the fortifications, and the machinery necessary for their manufacture at the arsenals, $700,000.

An auction house, an old garret, the hotchpotch in the division of an estate—these are ideas that this appropriation suggests, and not that a body of American legislators are looking to where the people's money goes. And if you will look into the Book of Estimates—I need not produce it here and read it; it would take too much time—you will find very little light therein; some suggestive; some here and there specific. But after you have got it all you will not have an idea or half of an idea of what you are doing with this five or six or seven or eight million dollars which is being distributed.

THE PATENT MONOPOLY.

There is one other thing I desire to refer to before I close. There is one monopoly provided for in the Constitution of the United States. It is that of a patent. An impalpable conceit of the human mind is made property, to belong to the mind that conceived it. This was done in order to stimulate the researches and to reward the successes of thoughtful men. It is the value of a thought that is made an individual possession. Ideas govern the world and control the material things in it; and the United States has done well to give to the man who produces an original and useful idea of invention a property right therein and to secure him in the enjoyment of the fruits of his mental labor.

Mr. TILLMAN. If it will not disturb the Senator——

Mr. DANIEL. Just let me get through my idea.

The VICE-PRESIDENT. Does the Senator from Virginia yield to the Senator from South Carolina?

Mr. DANIEL. Yes; I will yield to the Senator.

Mr. TILLMAN. It is along the line of invention that I wish to inquire of him. Is it not the understanding of the committee—I so understood it—that if we use these patents in the manufacture of powder at the proposed powder factory, the Government will have to pay for those patents?

Mr. DANIEL. I am just introducing that subject, sir. I am coming to it.

Nothing that I am going to say shall derogate in the least against the ideal of the patent system. It is a great stimulus to the development of the human intellect and to the equitable and just securing to that intellect of the fruit of its cogitation, its inventions, its discoveries, and its toil.

Now, then, what are these patents which are now possessed by this great powder trust? Whose were the ideas that discover? How were these ideas derived? Since the invention of gunpowder, that nation which has had the best guns and the best powder, which knew how to use them, has been, as a rule, the triumphant nation. The United States, well aware of that, educates the young men of this country, in appropriate selections, at the West Point Military Academy and the Naval Academy at Annapolis. It takes them up in their youth, trains them in the way they should go, secures to them, if they are worthy, an honorable and well-compensated career; and when they grow old and can no longer work or fight it retires them with honorable title to rest, secured from want by salaries paid by the people and with honor in return for the fact that they dedicated their lives to the public service.

The United States at its own cost, paid out of the Treasury, provided experimental stations and sent officers of the Navy of the United States, who were detailed for the purpose upon continuing salaries, to make investigations into the manufacture of powder for its benefit. Two of those officers discovered or invented, while under the pay of the United States, while in the laboratories of the United States, and while employing their time and labor at the expense of the United States, this method of making this kind of powder for the use of the United States.

An illustration just here. Suppose we send a man-of-war to a strange region, and the commander of that ship discovers islands or countries which have not yet been possessed by civilization. Can he leap off the deck of his ship and claim those islands and countries for his own? Or does it become him to plant upon them the flag of the United States, whose uniform he wears, whose trust he embodies, and whose instructions he is obeying? No one would think of giving but one answer to that question. The answer is that the discovered land or country does not pertain to that man, but to the nation which sent him to discover it. Columbus discovered America; it belonged to Spain.

THE BERNADOU-CONVERSE PATENTS.

Now, then, Lieut. John B. Bernadou, of the United States Navy, and Commander George A. Converse, of the United States Navy, got out the patents on smokeless powders, or "nitrocellulose powders," as they are called. Specifications of the patents are printed in the record of the hearings before the Committee of the Senate on Appropriations.

They sold those patents to Charles A. Rutter, and Rutter sold them to the trust. It is not a wholly unfashionable thing for men educated in the United States, trained and raised up by the United States, enjoying honors and emoluments which they could never receive save from the United States, to quit the profession to which they had devoted themselves and go into private employment. When they get into those private employments they are as free as anybody else.

But I submit the question to the fair and disinterested mind: Is it fair, is it just that officers of the United States, while they wear their uniform, while they are paid out of its Treasury, while they are exercising their own faculties at its expense, with tools provided by it, and with all the costs borne by the United States, to discover something which they are there under the instructions of the United States to seek, and then patent their own ideas, and put up the price at which the United States has got to buy those ideas by selling out to somebody else, to get the benefit of it?

Mr. President, it is not my habit to make public accusations against anybody. I make none against these or against other officers of the United States who may be in the same category. I call in question no man's integrity, nor would I be warranted in doing so. I am speaking of a situation, a condition, and a system that exists in the open, and it is but right and just, in loyal service to the country, to state the facts; and if these are not the facts no man would be more gratified to learn otherwise than myself.

THE PRESENT STATUS.

In what status does it leave us? Not only these patents, but other patents have been absorbed by this trust. It has also absorbed the factories. It bestrides the continent like a Colossus, and here we are outside the breastworks. Those breast-

works are fortified by ideas which, to use a metaphor of speech, were manufactured at our expense.

This status is somewhat moderated. Mr. President, the Ordnance Bureau of the Navy Department of the United States has a license, I understand, to use these Bernadou and Converse patents. They have passed into the hands of a third party—that is, from the patentees to Rutter, and from Rutter to the trust. It is not impossible, if we should go on and manufacture the powder, that somebody may make some trouble for us about it. I do not know. Clearly we might have some equitable right to do it, and, at any rate, we must take the trouble if it comes and do the best we can to meet it. Defend ourselves we must.

INVESTIGATIONS.

I am not going to move at this time, and I do not know that I will move at any time, to investigate this subject. I may, if I conclude the game is worth the candle. It is an era of investigation. Every day there are sensational lines in the newspapers and there is a public exploitation of some trust or some company that has done something or other which has shocked the people. Public indignation is being fatigued about it. We take it as a matter of course. It can not go on uninterrupted without piling up more and more trouble for the next generation. Many of the conditions which we now confront would never have arisen but for sectional and political differences in this country. The public mind of this country has been clouded, in a measure, for forty years. A serener atmosphere has come, and more normal conditions are just beginning to settle down and environ us. What do we find? A thousand things have happened that nobody had any idea of and would pay no attention to. Their minds were interested in other things. We are beginning to get tolerably well acquainted with each other in this country. I will say for myself that my view of it has very much improved upon better acquaintance.

The more I have known the country and its people the better I have liked it and them, and if I ever have had any narrow or bigoted ideas—even when a man discovers that he has, he does not like to say so—they have been vanishing in a large degree as I have better known and understood the genius of this great nation and its great people, and I would fain believe that such thoughts as these have passed in many other minds than my own.

There is no man of thought who contemplates the future of this country that will not do so first with gratification that his lot is cast here; second, with strong and profound hope for the happiness and prosperity of this people for generations and ages to come. There is nothing in the past and nothing now to depress the wholesome human mind or to have any other effect upon it than to arouse and stimulate it to its best exertions in the mighty conflicts of opinion which are before us. But anyone must also see that great dangers confront us and great problems rise before us. But great dangers have always confronted the nations. Great problems have always risen before them. The Sphinx is always sitting with its hands on its knees, asking the winds and the deserts questions which they can not answer. There are skeletons in the closets of every nation, just as it has been said there are skeletons in every family. As long as we are inhabiting this sphere some sphinx and some skeleton will always obtrude its unanswerable questions or present its grusome presence, and as time and patience and Providence rid us of one, lo! there comes another. The overhanging problem that is present is always the one that bothers. Now, the spirit of reform and of betterment in this country is moving amongst all its people, and we have to act upon these things when we come to them.

People talk about the long Senate debates. I say this in reference to the great debate which we have been having here for a month or two and which perhaps we will have for weeks or it may be for months to come. I do not believe that we have lost time in the Senate in any speech that has been made about the rate question or about interstate commerce. The newspaper man gets tired of it. He wants something fresh all the time. The people of the country get tired of it. They like to have a change of scene all the time. But, Mr. President, the men who are responsible for the measure when it leaves here are very different from the people who are amused or interested or entertained by reading what is said, and they know that they can not get at the truth, either of law or of fact, save by that patient industry and by that open mind which is willing to hear and to modify opinions as facts and views may be presented that ought to modify them.

There is not a man in this Senate who is not better prepared to-day to consider the question of rates, commercial relations, and legal jurisdiction than he was when this debate was opened. There are few here who will not be still better prepared when the debate closes. If we were to do nothing else for the next two months but hear the views of conscientious, enlightened, and honest men expounded upon this floor on this question, it would be time profitably used for the future of this country, although we might all be tired, and everybody else tired also.

Mr. President, this topic is but part of the more comprehensive problems we have to deal with. We can take but a step at a time. This step, as the Appropriations Committee thinks, is a wise, just, and expedient step; nay, more, a step indispensable to national safety and to good government. I hope that every Senator here will vote for the amendment. That act will speak for itself. If we can get powder for 35 or 40 cents, we have no business paying anybody else 70 cents for it. There, in the printed hearings, is the proof of what I have said, and you can read it. I make no personal charges, but I simply recount dangers.

CONTRIBUTIONS OF CORPORATIONS AND TRUSTS TO POLITICAL CAMPAIGNS.

One species of public scandal I call attention to, not that I know it is in the least applicable here; but I know that conditions, such as exist in this case, invite it. Whence come the great contributions we hear of—of $100,000, $250,000, millions of dollars—to political campaign funds, and what becomes of them? Where do they come from? Do they not come from men who have a graft on the Government of the United States, or do they not come, in the main, from men who expect to have their interests subserved in some special way by Congress? When corporations compel excessive prices from the Government they can put up money for those who serve them. The class of men who put up tremendous sums of money for political purposes are not the men who are known in the world for great philanthropy. I doubt if anyone would attribute to them pure ideals in their contributions. Neither are they men, as a rule, who are distinguished above their fellows for the generous and wholesome liberalities of life. I am not aware that the men to whom such things are attributed are men more patriotic than the average American citizen. They give no sign that they are more attached to our free institutions. I also question whether they have made any greater sacrifice for honest opinion's sake than the average good citizen of every State has made or is making or would make in either peace or war.

When the Congress of the United States knows the fact or has good ground to believe the fact that an organized association is getting more money out of the Treasury than it is entitled to, there is but one thing for it to do. Stop them, if there is any process to stop them, or do something else to better provide for ourselves. We have lately heard a good deal about due process of law and of the law of the land. No new process nor new law of the land has yet reached—we have no assurance that it can reach—to the breaking up of such concerns. There is a problem, an interrogation mark, that has as yet only eluded answers. We can, though, take a step to defend ourselves. And the manufacture of materials of self-defense is a very different thing from the manufacture of other miscellaneous and staple articles of commerce. We manufacture cannon; we manufacture small arms—guns and pistols and sabers; we build ships; we can not neglect powder; and that Mr. President, is this case.

* * * * * * *

Mr. DANIEL subsequently said: Mr. President, I am compelled to leave the city this afternoon to attend a funeral, and I may wish to put in the remarks I have submitted a little of the evidence and some of the data in the case, which I ask permission to do if I so decide.

The VICE-PRESIDENT. Without objection, it will be so ordered.

The matter referred to is as follows:

[Commercial agency report. Furnished by Robert S. Waddell.]

INTERNATIONAL SMOKELESS POWDER AND CHEMICAL COMPANY,
Wilmington, Del., November 9, 1905.

This business was originally incorporated under laws of New Jersey, April 7, 1899, under the style of the International Smokeless Powder and Dynamite Company, with an authorized capital stock of $10,000,000, $1,000,000 of which was preferred stock and $9,000,000 common, par value of shares being $50 each.

On formation of the company Lewis Nixon was president; W. W. Gibbs, vice-president, and Walter Woolcott, secretary and treasurer, and their office was established at No. 650 Drexel Building, southeast corner Fifth and Chestnut streets, Philadelphia. It was then claimed that 20 per cent of the preferred stock had been paid in in cash, and all of the common stock was full paid. They established works at South Amboy, N. J., where they purchased real estate and erected a plant. The greater portion of their capital stock was issued for patent rights.

In August, 1899, they submitted a detailed statement in which they showed total assets of $291,000, with no liabilities. Later on there was a change in the officers and parties at interest, Carl D. Bradley succeeding Lewis Nixon as president. Up to that time Nixon was understood to own the controlling interest in the business and is said to have invested considerable money in starting the enterprise, having purchased the control of the patents and exclusive sale of the Bernadou-Converse process of manufacturing smokeless powder.

The company succeeded in interesting Army and Navy Departments, who accepted their product, and they have of late years been steadily increasing the business, and statements submitted from time to time show large investment and accumulated surplus.

At a meeting of the stockholders held April 3, 1903, it was voted to change the name of the corporation to the International Smokeless Powder and Chemical Company, and H. C. Watts was at that time elected president, succeeding Carl D. Bradley, the latter being made vice-president and general manager. W. E. Steen had succeeded Walter Woodcott as secretary and treasurer about April, 1901.

On May 6, 1905, Henry C. Watts died and E. G. Buckner succeeded him as president. The business was largely augmented by a consolidation with the Du Pont interests, who were in the same line for many years at Wilmington, Del., and consolidation being effected about the 1st of January, 1 90, and subsequently the headquarters of the business moved to Wilmington, Del.

It is claimed at this time they continue an office for certain departments of their business at No. 850 Drexel Building, Philadelphia, but refer to William E. Steen, secretary and treasurer at Wilmington, Del., for full financial report.

The records show that the concern has sustained a good credit standing for some time past, and they are believed to have made money.

The last statement submitted was from inventory of December 31, 1902, and is as follows:

Invoice value of patents.

ASSETS.

Patents	$9,118,460.89
Cash	5,326.95
Real estate, machinery, buildings, etc	587,312.96
Treasury stock	4,407.36
Accounts receivable	17,873.24
Water supply system	22,205.79
Pipe lines and underground construction	8,948.11
Railroad	13,235.97
Live stock, wagons, and harness	2,776.26
Smokeless powder on hand, finished and in process	210,343.51
Total	10,017,784.78

LIABILITIES.

Capital stock, common	$9,000,000.00
Capital stock, preferred	599,900.00
Accounts payable	57,277.64
Bills payable	204,500.00
Interest accrued	2,216.62
Insurance accrued	368.05
Cash dividend unpaid	110.00
Scrip dividend	94,066.67
Balance of undivided profit	59,345.40
Total	10,017,784.78

W. E. STEEN, *Treasurer.*

Also submits the following statement of the business for the year 1902:

INTERNATIONAL SMOKELESS POWDER AND CHEMICAL COMPANY,
Wilmington, Del., November 15, 1905.

Mr. W. E. Steen, interviewed for information concerning the affairs of the above firm, states that Wilmington is now their executive and only operating office, offices in other cities being simply transfer or sales offices. For future details as to their affairs he refers to Mr. T. C. Du Pont.

In response to request of the latter, the following is received: "In reply to request addressed to T. C. Du Pont advise that we have not adopted the practice of giving out statements of the International Smokeless Powder and Chemical Company. The company's affairs are in satisfactory shape, all bills being met promptly, and calls for credit are so few that it has not seemed advisable to make statements. I regret that no more definite information can be given at this writing.

"PIERRE S. DU PONT."

This concern is understood to be one of the many in which the Du Ponts of this city have purchased a controlling interest, and it is believed to be in capable and strong hands financially. Their connection inspire confidence in them here, and it is believed they are entitled to desired credit and that all bills and obligations will be met promptly. They, previous to coming here, maintained headquarters in Philadelphia, Pa.

INTERNATIONAL SMOKELESS POWDER AND CHEMICAL COMPANY,
DREXEL BUILDING, FIFTH AND CHESTNUT STREETS,
Philadelphia, Pa., November 16, 1905.

This concern has an office here for the transfer of stock only, the headquarters being at Wilmington, Del., where see for full report.

N. Q.

Mr. PERKINS. Mr. President, I desire to say only a few words. I would not venture to do that were it not that I think I should do so in justice to some of our Navy and Army officers who may think that we, by inference, perhaps, not understanding the facts, reflect upon their integrity or patriotism.

I wish to state that the committee were in full accord with the views expressed by the distinguished Senator from Virginia [Mr. DANIEL]. We unanimously voted for and have recommended to the Senate this appropriation of $125,000 for the purpose of building a smokeless-powder plant for the use of the Army of the United States. The estimated cost, as has been stated, of the plant is about $100,000. Twenty-five thousand dollars was added to the appropriation for the purpose of fixing up wharves, railroads, and other roads leading to the works, wherever they might be established upon a Government reservation.

I will also state that the appropriation is for a plant with a capacity of 3,000 pounds a day of eight hours, or three times that capacity for twenty four hours. It will cost about $100,000, and is but a unit of a system of plants we can establish if this one proves to be a success.

In this connection I wish to state, as a member of the Committee on Naval Affairs, that several years since we provided an appropriation for the building of a smokeless-powder plant for the Navy at Indian Head, on the Potomac River. It has a capacity of about 600,000 pounds per annum, working eight hours per day.

At the Government plant the employees work only eight hours a day, as you know, Mr. President, and we give fifteen days' leave of absence a year, and there are seven days national holidays, making twenty-two days for which the Government pays and for which no labor is received in return. I am not reflecting at all upon the policy; indeed, I am in favor of it; but for about 7 per cent of the time the Government pays for labor and receives no return. Notwithstanding this fact, the Government manufactured the powder for 48.35 cents a pound, without counting any interest upon the investment or making any charge for insurance.

Mr. KEAN. Forty-eight and thirty-five one-hundredths cents a pound?

Mr. PERKINS. Forty-eight and thirty-five one-hundredths cents a pound. That is what it is costing the Government.

Mr. GALLINGER. Taking into account the labor?

Mr. PERKINS. The labor and all. That was the report to the Navy Department of the net cost to the Government.

Mr. SPOONER. What does the Government pay for the powder which is bought?

Mr. PERKINS. We pay 70 cents a pound for the smokeless powder, the Government furnishing the alcohol, making that which we purchase from the powder manufacturers cost in the aggregate about 75 cents a pound.

I wish to say in relation to the patents which were invented by Lieutenant Bernadou and Captain Converse, now Captain Bernadou and Admiral Converse, that it is true they discovered this secret of manufacture of smokeless powder while they were in the employ of the Government, and the thought suggested itself to me that perhaps we were paying them a royalty upon it. I therefore addressed Rear-Admiral Mason, the Chief of the Bureau of Ordnance of the Navy Department, a letter in relation to these patents, and in justice to these gentlemen I wish to read his reply to me. I addressed a letter to him as follows:

UNITED STATES SENATE,
COMMITTEE ON NAVAL AFFAIRS,
Washington, D. C., March 21, 1906.

Rear-Admiral N. E. MASON, U. S. Navy,
Chief Bureau of Ordnance, Navy Department.

DEAR ADMIRAL: Will you kindly inform me what consideration, if any, our Government paid for the licenses to manufacture smokeless powder for the Navy Department under patents 673377, 652455, and 652505?

May I also ask if, in your opinion, our Government has the right to use the formulæ contained in these patents in manufacturing smokeless powder under the license named for any branch of the Government other than the Navy Department?

Thanking you in advance for your reply by the bearer, I remain,

Very truly, yours,

GEO. C. PERKINS,
United States Senate.

Rear-Admiral Mason replied as follows:

DEPARTMENT OF THE NAVY,
BUREAU OF ORDNANCE,
Washington, D. C., March 21, 1906.

SIR: Replying to yours of March 21, 1906, relative to letters patent Nos. 673377, 652455, and 652505, covering processes for the manufacture of smokeless powder—

1. The Bureau has to inform you that the licenses to manufacture smokeless powder under the three licenses mentioned in your letter were made to the Bureau of Ordnance, Navy Department, for a nominal consideration of $1 each.

2. These licenses are to the Bureau of Ordnance, Navy Department, only, and state that they can be used for the purposes of the United States naval powder works at Indian Head, Md., or at any other works that may hereafter be built by the Navy Department of the United States.

3. From this wording it is the opinion of the Bureau that the patents could not be used by any other Department of the Government than the Navy Department.

Respectfully,

N. E. MASON,
Chief of Bureau of Ordnance.

Hon. GEORGE C. PERKINS, U. S. S.,
United States Senate, Washington, D. C.

Mr. KEAN. The War Department would have to pay royalty, would it not?

Mr. PERKINS. I was about to come to that.

Mr. KEAN. I only want to know what the saving would be to the Government.

Mr. PERKINS. The question was asked the Chief of the Bureau of Ordnance of the Army when he was before your committee, first, if the powder was manufactured under these patents. His reply was, in substance, that the powder is manufactured under a formula furnished by the War Department,

and in his opinion it is not an infringement upon what is known as the "Bernadou and Converse patents."

I wish to make a further statement in behalf and in defense of these gentlemen, if they require any, which they do not, for since my experience here with the War Department and the Navy Department for the past ten or fifteen years I have never met a higher class of men, men of more patriotism and of higher honor in the performance of their duty than those who are connected with the Navy Department and with the Army. As evidence of that fact, the Chief of the Bureau of Ordnance, General Crozier, with his colleague at that time, now General Buffington, retired, invented what was known as the "Crozier-Buffington gun carriage." It has been experimented with again and again by our Government, and by other governments, and has now been generally adopted by the Board of Fortifications and Defenses as the most efficient and at the same time the most economical gun carriage in cost of construction that is known in the world. It saves to us a great amount by reason of the reduced cost of manufacturing the disappearing carriage. The gun carriage at Sandy Hook cost, perhaps, $500,000—a 12-inch carriage—while the ordinary 12-inch disappearing carriages can be manufactured at from $50,000 to $60,000 each. The Board of Ordnance, in their report, which I have before me, composed of eminent Army officers, say it is the best carriage to-day that is known in the world. That invention was given to the Government by General Crozier and his colleague, General Buffington, without the consideration of one dollar. I do not know of any instance where the Government has paid a royalty to any Army or Navy officers for any invention which they have made.

Our statute provides that in the case of anyone in the employ of the Government making application to the Patent Office for a patent for which the Government is to have the use, no fee shall be charged for issuing the patent or in connection therewith.

I only make this statement in passing in justice to these men for whose skill we are indebted for these patents. It is true they were educated by the Government at the Military Academy at West Point or the Naval Academy at Annapolis. Their discoveries have resulted in great benefit to our Government. Yet a general statute, which I do not think is defective, provides that any person in this country, not even a citizen, may apply to the Patent Office, and if he has made a discovery for an invention of value he may obtain a patent for the same and be protected in it for fourteen or seventeen years, as the case may be.

The powder factory for which we have provided will produce nearly the quantity of powder the War Department requires for use during the year, which is about 550,000 pounds, and which is now costing us, as I said before, about 75 cents a pound. There is no question but that there is a monopoly in the manufacture of powder. Yet the question was asked the Chief of the Bureau of Ordnance: "Is not every other powder company in the country invited to bid?" He answered in the affirmative that advertisements were placed in the papers and invitations were sent out to those who were engaged in the manufacture of powder, inviting them to submit bids to the Government to manufacture the powder for the Army in accordance with the formula furnished by the War Department. So it has been open to everyone to furnish this powder, and it is open to all to-day to do it.

I think this is a wise policy to enter upon. The reason why we did not recommend a larger appropriation is because the experience of the officers of the Army in manufacturing the powder will be of such great benefit to the Government that we will improve upon it as we go on, and add unit to unit in the factory, and it will hereafter give us a large reserve.

There is one other question which has not been referred to but which did not appear in the testimony before the committee. We are wholly dependent to-day upon niter that comes from Chile. Chile is the principal country that produces niter, and without nitric acid and sulphuric acid it is impossible to make smokeless powder. I wish to say in passing, however, that in California we have mines of niter which I believe will be developed now, since railroads are being built into those mines, and we hope that the problem will be solved. So I want to give notice here to Chile and other countries that in California and Nevada we will develop these great niter mines, and thus be independent of any foreign country.

Mr. GALLINGER. Is that a trust?

Mr. PERKINS. Mr. President, we trust in California only in the Lord, and that is the reason why we have been so successful in everything we have undertaken.

Mr. President, I think there is no objection to this amendment. I would not have referred to it except in defense of the Army and Navy officers, who, for their patriotism, their loyalty, and their individual honor, I think, are the peers of any, even of those who sometimes are sent here to represent the people in Congress. All the other amendments having been considered and disposed of, I hope that the pending amendment will be agreed to.

Mr. ALLISON. Mr. President, I was present but a few moments during the observations of the Senator from California, and I did not hear whether he stated that these patents have been transferred by Bernadou and Converse.

Mr. PERKINS. I stated it quite fully.

Mr. ALLISON. Transferred to the present powder manufacturers?

Mr. PERKINS. No; not to the present powder manufacturers. I said they were transferred to the Navy Department of the Government.

Mr. ALLISON. Oh; I beg pardon. I think the Senator ought to have stated also, at least it ought to be stated, that it appears from the testimony that although the Navy Department has a full right to manufacture this powder under the patents, it is a question whether the Government of the United States can do so.

Mr. PERKINS. If there be no objection, I will again place in the RECORD the letter addressed to me which refers to that fact.

Mr. KEAN. I ask the Senator how long these patents have to run?

Mr. PERKINS. It was invented in 1895. I think they have some twelve years to run.

Mr. SPOONER. How does the question arise as to the right of the Army to use this powder? Were not these patents assigned to the Government?

Mr. PERKINS. They were assigned to the Navy Department; the inventors were naval officers.

Mr. SPOONER. I know.

Mr. PERKINS. And the Secretary of the Navy at that time, I presume, invited them to transfer it to the Navy Department.

Mr. SPOONER. How is that done? The Navy Department is a Department of the Government. It has no entity that can acquire property or title to a patent or anything of that kind. Is it transferred to the Government for the sole use of the Navy Department?

Mr. PERKINS. I will again read what Admiral Mason, Chief of the Bureau, says:

DEPARTMENT OF THE NAVY,
BUREAU OF ORDNANCE,
Washington, D. C., March 21, 1906.

SIR: Replying to yours of March 21, 1906, relative to Letters Patent Nos. 673377, 652455, and 652505, covering processes for the manufacture of smokeless powder—

This is in answer to my letter—

1. The Bureau has to inform you that the licenses to manufacture smokeless powder under the three licenses mentioned in your letter were made to the Bureau of Ordnance, Navy Department, for a nominal consideration of $1 each.

2. These licenses are to the Bureau of Ordnance, Navy Department, only, and state that they can be used for the purposes of the United States naval powder works at Indianhead, Md., or at any other works that may hereafter be built by the Navy Department of the United States.

3. From this wording it is the opinion of the Bureau that the patents could not be used by any other Department of the Government than the Navy Department.

Respectfully,
N. E. MASON,
Chief of Bureau of Ordnance.

Hon. GEORGE C. PERKINS,
United States Senator, United States Senate, Washington, D. C.

Mr. ALLISON. That was the point I wanted to bring out. I thought it ought to be put into the RECORD.

Mr. PERKINS. However, the Senator from Iowa, the chairman of our committee, will remember that in answer to my query of the Chief of Ordnance, if in his opinion the formula which he furnishes the powder company to manufacture this powder is an infringement upon the patents named, he stated that in his opinion, and he gave it as a chemist, as I understand it, the formula is different, and therefore it would not be an infringement upon the patent.

Mr. ALLISON. I should be glad to be permitted to state one further fact. These patents were transferred in 1899, after this license was given to the Bureau of Ordnance of the Navy, to a gentleman in Philadelphia, who, it is claimed, as stated in the testimony, assigned the letters patent to what is known as the "Du Pont Company." So when we establish this powder factory we do run some risk that the opinion of General Crozier may not be the law of the case. I hope it will be; but we must take that risk, of course.

Mr. PERKINS. I think the Senator from Iowa states the case precisely as it is and as the evidence developed it before our committee. I will state, however, in addition, that the Navy Department in time of peace uses about eight times the quantity of powder per annum that the Army uses in time of peace. Last year there were used in the Navy nearly 5,000,000

pounds of smokeless powder, while in the Army there were used but 550,000 pounds of smokeless powder and 113,000 pounds of charcoal powder, the latter costing 8 cents a pound, and having been used for the purpose of firing the morning and evening guns, saluting the flag, and saluting honored guests.

The VICE-PRESIDENT. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

INSPECTORS OF HULLS AND BOILERS.

Mr. FRYE. I should like to have the present consideration of Senate bill 4300, to amend section 4414 of the Revised Statutes of the United States, inspectors of hulls and boilers of steam vessels.

I do not think that it is necessary to read the bill for the information of the Senate, for while it is quite a long bill it does nothing absolutely except to consolidate two inspection districts, Gallipolis, in Ohio, and Wheeling, in West Virginia, and to make an additional inspection district in Alaska. That is all the bill does. The reason of its length is that all the rest of it is existing law, but the section having been amended from time to time the Department was anxious that all the amendments should be comprised in one bill. So it does not seem to me that there is any necessity for reading the bill. I myself have examined it and know that to be so.

Mr. SCOTT. I think the Senator from Maine ought not to call up the bill in the absence of the Senator from Ohio [Mr. FORAKER].

Mr. FRYE. The Senator from Ohio has already said that he does not object to the bill.

Mr. SCOTT. If there is going to be a consolidation and the office is to be abolished, of course I must bow to the will of Congress and to the economic streak that is now prevailing in the country. We are building a new public building in Wheeling and we are providing offices for inspectors of steamboats there. Of course I should be very sorry to lose the office at Wheeling, but as I said before, if I must bow to the economic streak that is now prevailing, I shall have to allow the Senator to call up the bill.

Mr. FRYE. Unfortunately for Wheeling there were only 34 vessels inspected there last year, and the inspectors can inspect 300 vessels without the slightest difficulty. The consolidation will save $3,000 a year to the United States.

Mr. PENROSE. I should like to ask the Senator from Maine at what point he will have the inspectors located under the bill?

Mr. FRYE. At Point Pleasant, when I can get the bill before the Senate.

Mr. KEAN. Point Pleasant, W. Va.?

Mr. FRYE. In West Virginia; and it is much more convenient than any other place on the Ohio for the inspection.

Mr. SCOTT. Of course we let go of a matter of this kind very reluctantly. Wheeling is the oldest steamboat-inspecting office on the Ohio River from Pittsburg to the mouth of the river at Cairo, and it is my home city. While I do not want to offer objections to delay the bill, I shall content myself by saying that I think we ought to be allowed to retain the inspector's office at the city of Wheeling.

The VICE-PRESIDENT. Is there objection to the present consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. ALLISON. This seems to be a long bill. I see that it relates to the transfer of the location of inspectors, etc., in all the districts.

Mr. FRYE. No, sir; it does not at all. It makes only two changes. As I said, section 4414 has been amended from time to time, and the Department wished that the whole might be included in one bill. The only thing that this bill does is to consolidate these two districts and make one additional district in Alaska.

Now, Mr. President, I move to amend the bill, on page 1, line 4, by striking out the word "it," and at the end of the line, after the word "amended," I move to insert "so as to read." If amended the paragraph will read:

That section 4414 of the Revised Statutes of the United States be, and is hereby, amended so as to read as follows:

The amendment was agreed to.

Mr. FRYE. I move to strike out from line 6 down to line 18, inclusive, on page 2.

The amendment was agreed to.

Mr. FRYE. On page 3, line 11, I move to strike out the word "Parkersburg" and insert "Point Pleasant."

The amendment was agreed to.

Mr. FRYE. On page 4, line 20, I move to strike out "Parkersburg" and insert "Point Pleasant."

The amendment was agreed to.

Mr. FRYE. There is a provision for a clerk at $1,200. The Committee on Commerce, after investigation, became satisfied that good stenographers could not be employed at this place and in Alaska for $1,200, and they instructed me to offer an amendment increasing the amount to $1,600. On page 5, line 11, before the word "hundred," I move to strike out "two" and insert "six;" so as to read:

And he may appoint a clerk to any such board at a compensation not exceeding $1,600 a year to each person so appointed.

The amendment was agreed to.

Mr. FRYE. There are no further amendments.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

DIVISION OF NEBRASKA JUDICIAL DISTRICTS.

Mr. BURKETT. I ask unanimous consent for the present consideration of the bill (S. 2769) to divide Nebraska into two judicial districts.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes that all that portion of the State of Nebraska which includes the counties of Cass, Otoe, Johnson, Nemaha, Pawnee, Richardson, Gage, Lancaster, Saunders, Butler, Seward, Saline, Jefferson, Thayer, Fillmore, York, Polk, Hamilton, Clay, Nuckolls, Webster, Adams, Kearney, Franklin, Harlan, Phelps, Gosper, Furnas, Redwillow, Frontier, Hayes, Hitchcock, Dundy, Chase, and Perkins, with the waters thereof, shall be detached from the judicial district of Nebraska, and made a separate judicial district and shall be called the southern judicial district of Nebraska; and the residue of the State of Nebraska, with the waters thereof, shall hereafter be the northern judicial district of Nebraska, etc.

Mr. BURKETT. I will state that the bill is in the regular form provided in such cases.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. KEAN. I wish to say to the Senator from Nebraska that I hope he will have more fortune with his bill than the Senator from Texas and the Senator from Florida had with similar bills in which they were interested.

CONDUITS AND PIPES ACROSS SEVENTH STREET WEST.

Mr. GALLINGER. I ask unanimous consent for the present consideration of the bill (S. 4833) to amend an act entitled "An act permitting the Washington Market Company to lay a conduit and pipes across Seventh street west," approved February 27, 1905.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported by the Committee on the District of Columbia with an amendment, to add as a new section the following:

SEC. 2. That said Washington Market Company shall make affidavit to the board of personal tax appraisers on or before the 1st day of August each year as to the amount of its gross earnings for the preceding year ending the 30th day of June from the conduit or conduits herein authorized to be laid, and shall pay to the collector of taxes of the District of Columbia the sum of 4 per cent per annum on such gross earnings.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

MISSOURI RIVER BRIDGE IN SOUTH DAKOTA.

Mr. FRYE. Out of order, I desire to submit some reports from the Committee on Commerce at this time.

The VICE-PRESIDENT. In the absence of objection, the reports will be received.

Mr. FRYE. I am directed by the Committee on Commerce, to whom was referred the bill (S. 5184) to authorize the construction of a bridge across the Missouri River between Walworth and Dewey counties, in the State of South Dakota, to report it with an amendment.

Mr. KITTREDGE. I ask unanimous consent for the present consideration of the bill.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. The amendment reported by the Committee on Commerce was, in section 3, on page 2,

line 20, after the words "plan and," to strike out the word "map" and insert "location."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

SNAKE RIVER BRIDGES IN IDAHO AND WASHINGTON.

Mr. FRYE. I am directed by the Committee on Commerce, to whom was referred the bill (S. 5211) to authorize the construction of a bridge across the Snake River, at or near Lewiston, Idaho, to report it with an amendment.

Mr. KITTREDGE. I ask for the present consideration of the bill.

There being no objection, the Senate, as in Committee of the Whole, proceeded to the consideration of the bill. The amendment reported by the Committee on Commerce was, in section 2, on page 2, line 8, after the words "plan and," to strike out "map" and insert "location."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. FRYE. I am also directed by the Committee on Commerce, to whom was referred the bill (S. 5181) to authorize the construction of a bridge across the Snake River between Whitman and Columbia counties, in the State of Washington, to report it with an amendment.

Mr. KITTREDGE. I ask unanimous consent for the immediate consideration of that bill.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. The amendment reported by the Committee on Commerce was, in section 2, page 2, line 10, after the words "plan and," to strike out "map" and insert "location."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

YELLOWSTONE RIVER BRIDGE IN MONTANA.

Mr. FRYE. I am also directed by the Committee on Commerce, to whom was referred the bill (S. 5204) to authorize the construction of a bridge or bridges across the Yellowstone River in Montana, to report it with an amendment.

Mr. CARTER. I ask unanimous consent for the consideration of that bill at this time.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. The amendment reported by the Committee on Commerce was, in section 2, on page 2, line 9, after the words "plan and," to strike out "map" and insert "location."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

COLUMBIA RIVER BRIDGES IN WASHINGTON.

Mr. FRYE. I am also instructed by the Committee on Commerce, to whom was referred the bill (S. 5183) to authorize the construction of a bridge across the Columbia River between Douglas and Kittitas counties, in the State of Washington, to report it with an amendment.

Mr. KITTREDGE. I ask unanimous consent for the present consideration of that bill.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. The amendment reported by the Committee on Commerce was, in section 2, on page 2, line 10, after the words "plan and," to strike out "map" and insert "location."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. FRYE. From the Committee on Commerce, to whom was referred the bill (S. 5182) to authorize the construction of a bridge across the Columbia River between Franklin and Benton counties, in the State of Washington, I am directed to report it with an amendment.

Mr. KITTREDGE. I ask unanimous consent for the consideration of that bill at this time.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. The amendment reported by the Committee on Commerce was, in section 2, page 2, line 10, after the words "plan and," to strike out "map" and insert "location."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

NAVAL STATION AT HONOLULU.

Mr. FLINT. I ask unanimous consent for the present consideration of the bill (S. 1916) to provide for filling in that portion of the naval station at Honolulu, Hawaii, known as the "Reef."

There being no objection, the Senate, as in Committee of the Whole, proceeded to the consideration of the bill, which had been reported from the Committee on Pacific Islands and Porto Rico with an amendment, to strike out all after the enacting clause and insert:

That the sum of $35,000, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the reclamation of that portion of the naval station at Honolulu, Hawaii, known as the Reef, from material now being dredged from the harbor at Honolulu, and for the necessary dikes or retaining walls, to be expended under the direction of the Secretary of War and the supervision of the Chief of Engineers, such portion thereof as may be agreed upon between the Secretary of War and the Secretary of the Navy as necessary for fortification purposes to be transferred to the War Department.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

SELECTION OF LAND BY WYOMING.

Mr. WARREN. I ask unanimous consent for the consideration at this time of the bill (S. 4628) providing that the State of Wyoming be permitted to relinquish to the United States certain lands heretofore selected and to select other lands from the public domain in lieu thereof.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Public Lands with amendments.

The first amendment was, in section 1, on page 2, line 12, before the word "quarter," to strike out "southwest" and insert "southeast;" in line 22, after the word "hospital," to insert "and grant of 30,000 acres for the benefit of penal, reform, and educational institutions in Carbon County;" in line 24, after the word "said," to strike out "selection" and insert "selections;" and after the date "1894," at the end of line 1, on page 3, to insert "and February 16, 1894;' so as to read:

That upon the delivery to the Secretary of the Interior by the State of Wyoming of its properly executed and duly recorded deed or deeds reconveying to the United States of America, in fee simple, certain lands heretofore selected by and certified to said State under the provisions of an act entitled "An act to provide for the admission of the State of Wyoming into the Union, and for other purposes," approved July 10, 1890, to wit: South half of section 7, and all of sections 17, 18, 19, 20, 29, 30, 32, 33, and 34, in township 23 north, range 110 west; north half and north half of south half of section 3, north half and north half of south half and southwest quarter of southwest quarter of section 5, and all of sections 2, 4, 6, 8, 10, 12, 14, 18, 20, 22, 24, 26, 28, 30, 32, and 34, in township 22 north, range 110 west; section 2, and the east half, northwest quarter, and north half of southwest quarter of section 10, in township 21 north, range 110 west; west half and southeast quarter of section 18, and all of sections 4, 6, 8, 20, 30, and 32, in township 22 north, range 109 west; west half of section 8, south half of section 22, and all of sections 6, 18, 20, and 26, in township 21 north, range 109 west; and all of sections 8, 22, and 26, in township 20 north, range 109 west; the land so described having been selected under the grant of 30,000 acres for the benefit of the miner's hospital, and grant of 30,000 acres for the benefit of penal, reform, and educational institutions in Carbon County, said selections being approved by the honorable Secretary of the Interior on March 6, 1894, and February 16, 1894.

The amendment was agreed to.

The next amendment was, in section 1, on page 3, to strike out the clause from line 3 to line 13, inclusive, as follows:

Sections 16 and 36, in township 23 north, range 110 west; section 36, in township 23 north, range 111 west; sections 16 and 36, in township 22 north, range 110 west; sections 16 and 36, in township 21 north, range 110 west, and sections 16 and 36, in township 20 north, range 109 west; the lands so described having been selected under the grant of sections 16 and 36 for the support of the common schools of the State of Wyoming.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. KEAN. I desire to have the report accompanying that bill printed in the RECORD.

The VICE-PRESIDENT. Without objection, the report will be printed.

The report is as follows:

The Committee on Public Lands, to whom was referred the bill (S. 4628) providing that the State of Wyoming be permitted to relinquish to the United States certain lands heretofore selected and to select other lands from the public domain in lieu thereof, having had the same under consideration, beg leave to report it back with the recommendation that it do pass with the following amendments:

In line 11, page 2, strike out the word "southwest" and insert in lieu thereof "southeast."

In line 20, page 2, after the word "hospital," add the words "and grant of 30,000 acres for the benefit of penal, reform, and educational institutions in Carbon County."

In lines 20-21, page 2, change the word "selection" to "selections."

In line 22, page 2, after the word "ninety-four," change the period to a comma and add the words "and February 16, 1894."

Strike out lines 23, 24, and 25, page 2, and lines 1 to 8 inclusive, page 3.

So that the bill as amended will read:

"A bill providing that the State of Wyoming be permitted to relinquish to the United States certain lands heretofore selected and to select other lands from the public domain in lieu thereof.

"*Be it enacted, etc.*, That upon the delivery to the Secretary of the Interior by the State of Wyoming of its properly executed and duly recorded deed or deeds reconveying to the United States of America, in fee simple, certain lands heretofore selected by and certified to said State under the provisions of an act entitled 'An act to provide for the admission of the State of Wyoming into the Union, and for other purposes,' approved July 10, 1890, to wit: South half of section 7, and all of sections 17, 18, 19, 20, 29, 30, 32, 33, and 34, in township 23 north, range 110 west; north half and north half of south half of section 3, north half and north half of south half and southwest quarter of southwest quarter of section 5, and all of sections 2, 4, 6, 8, 10, 12, 14, 18, 20, 22, 24, 26, 28, 30, 32, and 34, in township 22 north, range 110 west; section 2, and the east half, northeast quarter, and north half of southwest quarter of section 10, in township 21 north, range 110 west; west half and southeast quarter of section 18, and all of sections 4, 6, 8, 20, 30, and 32, in township 22 north, range 109 west; west half of section 8, south half of section 22, and all of sections 6, 18, 20, and 26, in township 21 north, range 109 west; and all of sections 8, 22, and 26, in township 20 north, range 109 west; the land so described having been selected under the grant of 30,000 acres for the benefit of the miner's hospital, and grant of 30,000 acres for the benefit of penal, reform, and educational institutions in Carbon County, said selections being approved by the honorable Secretary of the Interior on March 6, 1894, and February 16, 1894.

"The said State shall be authorized and permitted to select an equal number of acres from the unappropriated public lands of the United States in said State in the same manner, for the same purposes, and subject to the same conditions and limitations under which the lands so reconveyed were selected and held.

"SEC. 2. That the lands so reconveyed shall be restored to and become a part of the public domain and be subject to disposal by the Government in the same manner in which other public lands of a like character are disposed of."

This bill authorizes the State of Wyoming, upon the delivery to the Secretary of the Interior by the State of its properly executed deed to certain lands heretofore selected by the State from the public lands of the United States under certain acts of Congress, to select in lieu of the lands thus reconveyed the same area of other lands from the public lands of the United States within said State.

The reasons why the State of Wyoming desires to make the reconveyance and select other lands in lieu of those reconveyed are set forth in the following communications from the State board of land commissioners of Wyoming, and from the governor, State engineer, and commissioner of public lands, viz:

THE STATE OF WYOMING, EXECUTIVE DEPARTMENT,
Cheyenne, March 12, 1906.

DEAR SIR: When the State of Wyoming made selection of Government land for the benefit of the various charitable, penal, and educational institutions, as granted to it by the act of Congress July 10, 1890, the officers in charge of the selection, not desiring to select lands that would be in immediate demand by homeseekers, selected some tracts of land which would ultimately be irrigated in connection with sections 16 and 36 granted by the State for school purposes. While this policy was one fair to the prospective settler, the Government, and the State, it, however, has been found that the minimum price of $10 per acre, fixed by the act of admission, prohibits the sale of any considerable areas.

In case of certain lands selected for the aid of the Miners' Hospital along Green River, it has been found impossible to construct an irrigation system covering the State and other lands, on account of the price of $10 per acre for State lands, amounting to more than any profit which could be derived from the construction of a canal. If the State and school lands along Green River can be relinquished to the Government and equal areas of grazing and agricultural lands selected in other parts of the State, capital can be interested to undertake the reclamation of some 60,000 acres of land now desert in character and fit only for grazing purposes.

The supply of water in Green River is ample for the reclamation of all lands which can be brought under irrigation.

Practically all the lands desired to be relinquished are leased, but the leases are subject to cancellation at the option of the board. While these lands which the State desires to relinquish will no doubt in time be as valuable as any which may be secured by the State in exchange, yet the interests of the State are toward the early settlement of all lands susceptible of irrigation, and therefore we ask that we be allowed to relinquish the State and school lands contiguous to Green River, lists of which have already been furnished you, and select equal areas of lands in other parts of the State which will not obstruct development. The State board of land commissioners having considered this matter at its meeting of December 30, 1905, and authorized the president and secretary of the board, under authority of section 11, chapter 78, laws 1903, to relinquish the lands heretofore granted for the miners' hospital to the United States, if the State could be allowed to select other unoccupied public lands in lieu thereof, we respectfully ask that you use every effort to obtain such legislation as will enable us to make such transfer, as same will be for the public good.

THE STATE BOARD OF LAND COMMISSIONERS,
By BRYANT B. BROOKS, *President.*
R. T. FULLER, *Secretary.*

Hon. F. E. WARREN,
United States Senate, Washington, D. C.

THE STATE OF WYOMING, EXECUTIVE DEPARTMENT,
Cheyenne, March 12, 1906.

DEAR SIR: A large tract of land lying along the western slopes of Green River Valley can be reclaimed from its desert condition when certain complications regarding the control of the area are removed. When the State made selections of Government land for the benefit of various charitable, penal, and educational institutions, it was the aim of the officers in charge of this work to obtain tracts which would ultimately be irrigated. This has been shown to have been a wise policy generally, but there is a considerable area of State lands along Green River lying under the line of a proposed canal which, unless it can be eliminated, will prevent the reclamation of at least 60,000 acres of land which is now desert in character and fit only for grazing purposes.

The waters of Green River have up to this time scarcely been used to an extent that measurements would indicate any diminution of the volume afforded by the stream. No diversions are practicable after the stream leaves the boundaries of Wyoming. It therefore seems necessary that steps be taken to bring about the largest use of the water in this State. Owing to the fact that the State lands can be disposed of only under the constitutional provisions, fixing the minimum price at $10 per acre, the irrigation project is not feasible until the State has relinquished its holdings thereunder and secured lands elsewhere in exchange. These State lands are desert in character, yet susceptible of reclamation, but neither the Government or private enterprise could be prevailed upon to pay $10 per acre for them in addition to the cost of reclamation.

If the entire tract can be taken together as a part of the public domain capital can be induced to take up this project, which will mean much to western Wyoming. Unless the State lands can be exchanged at this time, the entire area lying under this project must await reclamation until the demand for irrigated farms will warrant the payment of a fee to the State of $10 per acre.

We have already furnished you with a list of the land which the State desires to exchange for Government lands elsewhere. Lands can be selected in other localities which will bring an equal revenue in rentals and will not obstruct irrigation development.

Respectfully,

BRYANT B. BROOKS,
Governor.
C. SOMERSET JOHNSTON,
State Engineer.
ROBERT P. FULLER,
Commissioner of Public Lands.

Hon. F. E. WARREN,
United States Senate, Washington, D. C.

The Commissioner of the General Land Office reports that the reasons assigned for the desired legislation appear to be good and sufficient, and approves the bill with the amendments heretofore noted; and the Secretary of the Interior concurs in the Commissioner's recommendation.

The report of the Secretary of the Interior and recommendation of the Commissioner of the General Land Office are as follows:

DEPARTMENT OF THE INTERIOR,
Washington, March 10, 1906.

SIR: I am in receipt, by reference from your committee requesting facts and information touching the subject-matter of the proposed legislation, of S. 4628, entitled "A bill providing that the State of Wyoming be permitted to relinquish to the United States certain lands heretofore selected and to select other lands from the public domain in lieu thereof."

Said bill was referred to the Commissioner of the General Land Office, and on the 6th instant he submitted a report thereon, a copy of which I have the honor to inclose for your full information in the premises.

The Commissioner entertains no objections to the bill so far as selected lands are concerned, but thinks the right to relinquish granted school sections in place with the privilege of selecting other lands in lieu thereof should be denied, and recommends certain amendments in the event that Congress sees fit to permit any relinquishment of the lands described in the bill.

I concur in the report.

Very respectfully,

E. A. HITCHCOCK,
Secretary.

The CHAIRMAN OF THE COMMITTEE ON PUBLIC LANDS,
United States Senate.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., March 6, 1906.

SIR: I am in receipt by departmental reference, for report in duplicate, with recommendation and return of papers, of Senate bill No. 4628, "Providing that the State of Wyoming be permitted to relinquish to the United States certain lands heretofore selected and to select other lands from the public domain in lieu thereof."

The lands are described by legal subdivisions, and it is recited were "selected under the grant of 30,000 acres for the benefit of the miners' hospital, said selection being approved by the honorable Secretary of the Interior on March 6, 1894;" and the described sections 16 and 36 as "having been selected under the grant of sections 16 and 36 for the support of common schools."

The lands described in the bill comprise selections for the miners' hospital, approved March 6, 1894, amounting to 14,453.84 acres; and selections for penal reform and educational institutions in Carbon County, approved February 16, 1894, amounting to 8,952.47 acres, and the school sections 16 and 36, amounting to 5,760 acres, passed to the State upon its admission, no selection thereof being necessary to complete the grant. Attention is called to a misdescription in line 11, page 2, of the bill: The "southwest quarter of section 18" should be the "southeast quarter," as the description "west half" immediately preceding in line 10 embraces the southwest quarter.

By act of July 10, 1890 (26 Stat., 222), there was granted to the State of Wyoming, for common schools, sections 16 and 36 in every township, or indemnity therefor, where same had been sold or otherwise disposed of; also grants of land in quantity for various purposes, including 30,000 acres for a miners' hospital and 30,000 acres for penal, reform, and educational institutions, in Carbon County. The last-named grant has been satisfied by the approval of selections and has been closed since February 7, 1898. The grant for miners' hospital has been satisfied by approvals to the extent of 28,771.23 acres and selections aggregating 1,400.63 acres are pending, which is more than sufficient to complete the grant.

A measure similar to this bill is found in the act of April 23, 1900 (31 Stat., 139), "An act providing that the State of Wyoming be permitted to relinquish to the United States certain lands heretofore selected and to select other lands from the public domain in lieu

thereof," and in reporting that measure before its enactment it was stated (letter "G" of January 18, 1900):

"It has been the policy of the Department to accept, prior to approval and certification, the relinquishment of the States of lands selected and permit other lands to be selected in lieu thereof, on good cause shown, accompanied with evidence that none of the land so relinquished has been disposed of or encumbered by the State, but where the lands selected have been certified to the State 'there is no authority in the Department to accept a reconveyance of said lands with a view to allowing the State to make other selections in lieu thereof.' (State of Montana, 27 L. D., 474.)

"It has been represented to this Office that the described lands, which the State desires to relinquish, are desert in character but susceptible of irrigation, and are in a thickly populated region; that as the State of Wyoming, under its constitution, can sell none of its lands for less than $10 per acre, and as these lands without irrigation will not command such a price, the holding of them by the State retards the development of that region, as they would all be speedily settled upon and reclaimed if they could be entered under the laws of the United States.

"This Office has in similar cases accepted the State's relinquishment of unapproved selections, and I therefore recommend the passage of the bill * * *."

In the present case it is represented that the State is unable to sell these lands at the price fixed by the State constitution, namely, $10 per acre; that said lands may be reclaimed, in connection with other lands, under the provisions of the act of August 18, 1894 (28 Stat., 372, 422), and it is the desire of the State to reselect the tracts under the provisions of the act cited, commonly known as the "Carey Act." Thus the State will be enabled to carry out the intended system of reclamation, and be reasonably assured of a revenue sufficient to defray the expenses of construction of such a system and obtain a reasonable price for the lands.

While the policy of permitting States to relinquish approved selections is one that should not be sanctioned as a general proposition, I am of the opinion that where satisfactory reasons are shown for such a course, and no injury will result to the Government, no objection should be made thereto.

The reasons assigned in this case appear to be good and sufficient, and I therefore see no reason why the bill should not become a law, so far as the selected lands are concerned.

As to the sections 16 and 36, these sections are granted to the States in place, and the title vests in the States upon identification by survey, where the survey is subsequent to the act making the grant, or at the date of admission of the State where the survey is prior thereto, provided the lands are nonmineral in character. No other consideration as to the character of the land can affect the grant. The State takes sections 16 and 36 for school purposes, if not previously sold or disposed of whether good, bad, or indifferent, and indemnity or lieu lands can only be taken therefor where said sections have been disposed of, or are mineral lands, or embraced in a reservation, or subject to some claim that prevents the State's title from attaching.

This provision for indemnity or the selection of lands in lieu of granted lands in place is general, and, so far as I know, no special privilege has heretofore been granted to any State in the matter of surrendering its granted school lands in place after the State's title had become vested and taking other lands in lieu thereof, and an exception in this case is more than apt to invite requests for like exceptions in others. The right to relinquish these granted school sections in place with the privilege of selecting other lands in lieu thereof should be denied.

Should Congress see fit to permit any relinquishment of the described lands, I recommend the following amendments:

In line 11, page 2, strike out the word "southwest" and insert in lieu thereof "southeast."

In line 20, after the word "hospital," add the words "and grant of 20,000 acres for the benefit of penal, reform, and educational institutions in Carbon County."

In lines 20–21, page 2, the word "selection" changed to "selections."

In line 22, page 2, after the word "ninety-four," add "and February 16, 1894."

Strike out lines 23, 24, and 25, page 2, and lines 1 to 8, inclusive, page 3.

The said bill is returned herewith.

Very respectfully,

W. A. RICHARDS,
Commissioner.

The SECRETARY OF THE INTERIOR.

MEMORIAL ADDRESSES ON THE LATE SENATOR O. H. PLATT.

Mr. BULKELEY. Mr. President, some time ago I gave notice that on April 7 I would ask the Senate to consider resolutions commemorative of the life and services of my late colleague, Hon. ORVILLE H. PLATT. On account of engagements of several Senators who desire to speak on that occasion, and of other public exercises that are to take place on that day, I desire to change the date to Saturday, April 14, one week later.

The VICE-PRESIDENT. Notice will be entered.

EXECUTIVE SESSION.

Mr. PENROSE. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were reopened, and (at 5 o'clock and 25 minutes p. m.) the Senate adjourned until Monday, March 26, 1906, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate March 23, 1906.

PROMOTIONS IN THE ARMY—ARTILLERY CORPS.

To be lieutenant-colonels.

Maj. Henry M. Andrews, Artillery Corps, from March 3, 1906, vice Duvall, appointed brigadier-general.

Maj. Charles D. Parkhurst, Artillery Corps, from March 16, 1906, vice McClellan, promoted.

To be major.

Capt. George W. Van Deusen, Artillery Corps, from March 3, 1906, vice Andrews, promoted.

To be captains.

First Lieut. Frank E. Hopkins, Artillery Corps, from February 24, 1906, vice Foote, promoted.

First Lieut. Ernest R. Tilton, Artillery Corps, from March 3, 1906, vice Van Deusen, promoted.

First Lieut. Homer B. Grant, Artillery Corps, from March 3, 1906, vice Curtis, resigned.

First Lieut. Leonard T. Waldron, Artillery Corps, from March 9, 1906, vice Black, detailed in Signal Corps.

PROMOTIONS IN THE NAVY.

Boatswain Daniel Moriarty to be a chief boatswain in the Navy from the 1st day of March, 1906, upon the completion of six years' service, in accordance with the provisions of the act of Congress approved March 3, 1899, as amended by the act of April 27, 1904.

Carpenter Jacob Jacobson to be a chief carpenter in the Navy from the 9th day of February, 1906, upon the completion of six years' service, in accordance with the provisions of the act of Congress approved March 3, 1899, as amended by the act of April 27, 1904.

Carpenter William H. Squire to be a chief carpenter in the Navy from the 20th day of February, 1906, upon the completion of six years' service, in accordance with the provisions of the act of Congress approved March 3, 1899, as amended by the act of April 27, 1904.

The nominations of Carpenters Jacobson and Squire are submitted to correct errors in the dates of their promotion as confirmed on March 19, 1906.

RECEIVERS OF PUBLIC MONEYS.

E. D. R. Thompson, of Salt Lake City, Utah, to be receiver of public moneys at Salt Lake City, vice George A. Smith, term expired.

Alfred H. Taylor, of California, to be receiver of public moneys at Susanville, Cal., to take effect April 16, 1906, at the expiration of his present term. (Reappointment.)

REGISTERS OF LAND OFFICES.

Frank D. Hobbs, of Salt Lake City, Utah, to be register of the land office at Salt Lake City, to take effect April 21, 1906, at the expiration of his present term. (Reappointment.)

Thomas A. Roseberry, of California, to be register of the land office at Susanville, Cal., to take effect April 16, 1906, at the expiration of his present term. (Reappointment.)

CONFIRMATIONS.

Executive nominations confirmed by the Senate March 23, 1906.

PROMOTIONS IN THE ARMY.

Maj. Allen Allensworth, chaplain Twenty-fourth Infantry, to be placed on the retired list of the Army with the rank of lieutenant-colonel from the date on which he shall be retired from active service.

Lieut. Col. Edward B. Moseley, deputy surgeon-general, to be assistant surgeon-general with the rank of colonel from March 17, 1906.

Maj. Louis A. La Garde, surgeon, to be deputy surgeon-general with the rank of lieutenant-colonel from March 17, 1906.

Capt. Paul F. Straub, assistant surgeon, to be surgeon with the rank of major from March 17, 1906.

Lieut. Col. John McClelland, Artillery Corps, to be colonel from March 16, 1906.

PROMOTION IN THE NAVY.

Lieut. (Junior Grade) Joseph K. Taussig to be a lieutenant in the Navy from the 3d day of October, 1904.

POSTMASTERS.

ARKANSAS.

Benjamin F. Campbell to be postmaster at Fayetteville, in the county of Washington and State of Arkansas.

Fred C. Furth to be postmaster at Pine Bluff, in the county of Jefferson and State of Arkansas.

CALIFORNIA.

Samuel S. Johnston to be postmaster at National City, in the county of San Diego and State of California.

COLORADO.

Edward E. Eversole to be postmaster at Monte Vista, in the county of Rio Grande and State of Colorado.

ILLINOIS.

Henry W. Lynch to be postmaster at Peoria, in the county of Peoria and State of Illinois.

Jacob G. Reul to be postmaster at Mendota, in the county of La Salle and State of Illinois.

IOWA.

John G. Bardsley to be postmaster at Neola, in the county of Pottawattamie and State of Iowa.

John R. Small, jr., to be postmaster at Stuart, in the county of Guthrie and State of Iowa.

KANSAS.

Harvey G. Lowrance to be postmaster at Thayer, in the county of Neosho and State of Kansas.

William T. McElroy to be postmaster at Humboldt, in the county of Allen and State of Kansas.

Edwin R. Smith to be postmaster at Mound City, in the county of Linn and State of Kansas.

MASSACHUSETTS.

George A. Coolidge to be postmaster at Hudson, in the county of Middlesex and State of Massachusetts.

John F. Freese to be postmaster at East Walpole, in the county of Norfolk and State of Massachusetts.

Edwin M. Wheelock to be postmaster at Hopedale, in the county of Worcester and State of Massachusetts.

Arthur P. Wright to be postmaster at East Pepperell, in the county of Middlesex and State of Massachusetts.

MICHIGAN.

Charles W. Browne to be postmaster at Mason, in the county of Ingham and State of Michigan.

Frederick Kruger to be postmaster at St. Ignace, in the county of Mackinac and State of Michigan.

Daniel P. McMullen to be postmaster at Cheboygan, in the county of Cheboygan and State of Michigan.

Josiah C. Richardson to be postmaster at Jackson, in the county of Jackson and State of Michigan.

MINNESOTA.

Samuel Y. Gordon, jr, to be postmaster at Brown Valley, in the county of Traverse and State of Minnesota.

Ziba C. Goss to be postmaster at Wabasha, in the county of Wabasha and State of Minnesota.

John A. Henry to be postmaster at Janesville, in the county of Waseca and State of Minnesota.

Bennie H. Holte to be postmaster at Starbuck, in the county of Pope and State of Minnesota.

William H. Nichols to be postmaster at Belleplaine, in the county of Scott and State of Minnesota.

Edmund W. Thayer to be postmaster at Spring Valley, in the county of Fillmore and State of Minnesota.

MISSOURI.

Judson M. Boyd to be postmaster at Tipton, in the county of Moniteau and State of Missouri.

I. D. Elliot to be postmaster at Humansville, in the county of Polk and State of Missouri.

George C. Greenup to be postmaster at Pleasant Hill, in the county of Cass and State of Missouri.

Hugh E. McCune to be postmaster at New London, in the county of Ralls and State of Missouri.

George W. Reed to be postmaster at Albany, in the county of Gentry and State of Missouri.

Robert T. Stickney to be postmaster at Carthage, in the county of Jasper and State of Missouri.

Henry F. Wolters to be postmaster at St. James, in the county of Phelps and State of Missouri.

NEBRASKA.

Theodore C. Hacker to be postmaster at Red Cloud, in the county of Webster and State of Nebraska.

NEW HAMPSHIRE.

Luther H. Morrill to be postmaster at Tilton, in the county of Belknap and State of New Hampshire.

Forrest W. Peavey to be postmaster at Wolfboro, in the county of Carroll and State of New Hampshire.

Osmon B. Warren to be postmaster at Rochester, in the county of Strafford and State of New Hampshire.

NEW YORK.

Harry H. Nichols to be postmaster at Elizabethtown, in the county of Essex and State of New York.

Fred E. Payne to be postmaster at Clinton, in the county of Oneida and State of New York.

Alvin T. Smith to be postmaster at Worcester, in the county of Otsego and State of New York.

NORTH DAKOTA.

Andrew S. Ellingson to be postmaster at Northwood, in the county of Grand Forks and State of North Dakota.

OKLAHOMA.

Aloise Hopkins to be postmaster at Cement, in the county of Caddo and Territory of Oklahoma.

PENNSYLVANIA.

Robert Carns to be postmaster at Ridley Park, in the county of Delaware and State of Pennsylvania.

Frank R. Cyphers to be postmaster at East Pittsburg, in the county of Allegheny and State of Pennsylvania.

Addison Eppehimer to be postmaster at Royersford, in the county of Montgomery and State of Pennsylvania.

Isaac P. Garrett to be postmaster at Lansdowne, in the county of Delaware and State of Pennsylvania.

RHODE ISLAND.

John W. Cass to be postmaster at Woonsocket, in the county of Providence and State of Rhode Island.

SOUTH CAROLINA.

Maggie M. Moore to be postmaster at Yorkville, in the county of York and State of South Carolina.

VIRGINIA.

Stith Bolling to be postmaster at Petersburg, in the county of Dinwiddie and State of Virginia.

Charles T. Holtzman to be postmaster at Luray, in the county of Page and State of Virginia.

John O. Jackson to be postmaster at Blackstone, in the county of Nottoway and State of Virginia.

WEST VIRGINIA.

Samuel E. Stafford to be postmaster at Elkhorn, in the county of McDowell and State of West Virginia.

WISCONSIN.

William J. Guetzloe to be postmaster at Kiel, in the county of Manitowoc and State of Wisconsin.

HOUSE OF REPRESENTATIVES.

FRIDAY, *March 23, 1906.*

The House met at 12 o'clock m.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of yesterday's proceedings was read.

THE JOURNAL.

Mr. WILLIAMS. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. WILLIAMS. I desire before the Journal is approved to suggest a correction in the Journal.

The SPEAKER. The gentleman will state it.

Mr. WILLIAMS. I was informed that the Journal reads that the gentleman from Mississippi moved, after the conferees were appointed, the resolution which was sent up to the Clerk's desk on yesterday.

The SPEAKER. The Clerk will read that part of the Journal.

The Clerk read as follows:

Thereupon the Speaker announced the appointment of Mr. HAMILTON, Mr. BURK, and Mr. MOON of Tennessee as managers on the part of the House at said conference. Mr. WILLIAMS of Mississippi, while the names of the conferees were being announced, had sought the floor to move to instruct the conferees on the part of the House of Representatives to agree to the amendment of the Senate striking the provision admitting Arizona and New Mexico out of the bill as it passed the House. This motion Mr. WILLIAMS made after the conferees were announced.

Mr. WILLIAMS. Now, Mr. Speaker, the Journal recites that Mr. WILLIAMS of Mississippi "had sought" to make the motion while the conferees were being announced. The gentleman from Mississippi was recognized after the conferees were announced, but the gentleman from Mississippi, Mr. Speaker, "sought" to be recognized before the conferees were announced and not while the conferees "were being announced." That is a plain matter of fact. The gentleman from Mississippi was upon his feet howling—literally howling—from the very moment that the Chair announced that the resolution had been adopted, and while he was not "recognized" by the Chair until later, his howling, or seeking for recognition, Mr. Speaker, began before the Chair had even handed to the Clerk the paper upon which the conferees' names were entered.

I ask that the Journal be corrected, and instead of saying that the gentleman from Mississippi had "sought to be recognized while the conferees were being announced," that he "sought to be recognized before the conferees were announced." He was not actually recognized until afterwards, but he "sought" to be recognized before the conferees were announced. Now, Mr. Speaker, to let the Journal go in its present shape puts me in the absurd attitude of having sought to make a motion at a time when a hundred precedents in the House were

against me as to its being in order. It was in order, and claimed by me to be in order, only between the adoption of the resolution and the announcement of the names of the conferees.

Mr. PAYNE. I want to make a single suggestion right here, Mr. Speaker.

The SPEAKER. The gentleman from New York.

Mr. PAYNE. It is this: That the rule provided that the Speaker should immediately appoint the conferees; and nothing else was in order.

Mr. WILLIAMS. I am not arguing that.

Mr. PAYNE. What the gentleman said was disorder and out of order and should not be recognized in the Journal.

Mr. WILLIAMS. I am not arguing the point of order. I am seeking to correct this statement of facts in the Journal. There is no man in the sound of my voice, not even the gentleman from New York, who does not know that I was on my feet seeking recognition before the conferees were announced and all the while they were in process of being announced. I am not arguing the legal effect of the rule; I am not arguing a parliamentary question. I am stating a fact.

Mr. PAYNE. I do not propose to have any controversy with the gentleman as to that, but I proceeded to make a statement just now that was in order, and before I could finish the statement the gentleman again took the floor in disorder and tried to make another statement.

The SPEAKER. The Chair may be indulged for a moment. The Chair is presumed to examine the Journal, and it is his duty to do so before it is submitted to the House. In practice, in fact, the Journal clerk and the clerk to the Speaker's table, from necessity, perform this duty. Now, if the Chair's attention had been called to this Journal, the Chair would have made it state what parliamentarily is the fact. The Chair will read:

So the resolution was agreed to. Thereupon the Speaker announced the appointment of Mr. HAMILTON, Mr. BRICK, and Mr. MOON of Tennessee as managers on the part of the House of said conference. Mr. WILLIAMS—

Now comes the interlineation—

Mr. WILLIAMS, while the names of the conferees were being announced, had sought the floor to move to instruct the conferees on the part of the House to agree to the amendment of the Senate to strike the provision admitting Arizona and New Mexico out of the bill as it passed the House. This motion—

Now again the interlineation—

This motion Mr. WILLIAMS made after the conferees were announced.

Now, to tell the truth exactly as it is from the parliamentary standpoint, and as the Journal, in the opinion of the Chair, ought to tell it, would read as follows:

"Thereupon the Speaker announced the appointment of Mr. HAMILTON, Mr. BRICK, and Mr. MOON of Tennessee as managers on the part of the House at said conference."

Now, the following:

"Mr. WILLIAMS moved to instruct the conferees," and so forth.

"Mr. DALZELL made the point of order that the motion was not in order.

"The Speaker sustained the point of order."

Now, the gentleman from Mississippi, in his efforts, as he [illegible] and as the Chair is aware, to attain the floor, failed to obtain the floor, and no gentleman can obtain the floor without recognition from the Speaker——

Mr. WILLIAMS. There is no dispute about that, Mr. Speaker.

The SPEAKER. Very well. Now, the RECORD——

Mr. WILLIAMS. What I object to is that following—that the gentleman from Mississippi, "while" the announcement of the conferees was being made, "had sought."

The SPEAKER. One moment.

Mr. WILLIAMS. If you are going to put in anything about "sought," put it at the time I "sought."

The SPEAKER. The interlineation that the Chair has called attention to, the Chair is informed that the Journal clerk had it as it occurred. The interlineations were suggested by the clerk to the Speaker's table, and in the opinion of the Chair the interlineation ought to be stricken from the Journal, and it should read as follows:

"Thereupon the Speaker announced the appointment of Mr. HAMILTON, Mr. BRICK, and Mr. MOON of Tennessee as managers on part of the House at said conference.

"Mr. WILLIAMS, of Mississippi, moved to instruct the conferees on the part of the House of Representatives to agree to the amendment of the Senate striking the provision admitting Arizona and New Mexico out of the bill as it passed the House.

"Mr. DALZELL made the point of order that the motion was not in order.

"The Speaker sustained the point of order."

Mr. WILLIAMS. That will be perfectly satisfactory to me, Mr. Speaker. Striking out these interlinections will leave the Journal in a condition perfectly satisfactory to me. Of course I could not, in a parliamentary sense, make a motion until "recognized," and was not, as a matter of fact, "recognized" until after the announcement. But if the Journal was going to enter into a statement as to the time at which I sought recognition, I wanted it to be stated correctly.

The SPEAKER. If there be no objection, the Journal will be corrected as indicated.

Mr. UNDERWOOD. Mr. Speaker, I think this is an important precedent and ruling of the House. In other words, the precedent that is now before the House is that where a rule provides for the appointment of conferees no intervening motion can take place. I do not wish to argue the point of order. The Chair and the House have decided that. But I do not think the condition of the Journal shows the real point and precedent. As the Journal will now read, with the indicated portion stricken out, it will simply leave the Speaker, sustained by a hundred points of order, holding that a motion can not be made to instruct conferees after they have been appointed. Now, I take it—and I am sure it is so—that the Speaker of this House would not by mere force, in view of the fact that he is in the chair and can refuse to hear, prevent a gentleman from making a proper motion. Now, the gentleman from Mississippi [Mr. WILLIAMS] was on his feet yesterday when the vote was announced and before the Speaker handed to the Clerk the names of the conferees. The Speaker did not recognize him.

The SPEAKER. Precisely.

Mr. UNDERWOOD. And I take it that the Speaker did not recognize him because he ruled that under the rule pending before the House he was not entitled to recognition. It was not because he would not hear him——

The SPEAKER. The gentleman is correct in that.

Mr. UNDERWOOD. But because he did not think the gentleman from Mississippi was entitled to recognition. Now, that is a precedent that has not been established before in this House, and one that I think the Journal ought clearly to show for the future reference and guidance of the House.

The SPEAKER. If there be no objection, the interlineation, indicated by the Chair, will be stricken from the Journal. The Chair hears no objection.

PRIVATE PENSION BILLS.

Mr. UNDERWOOD. Mr. Speaker——

Mr. SULLOWAY. Mr. Speaker——

The SPEAKER. The gentleman from New Hampshire.

Mr. SULLOWAY. Mr. Speaker, I ask unanimous consent that to-morrow be substituted instead of to-day for the consideration of the business on the Private Calendar which would be in order to-day.

The SPEAKER. The gentleman asks unanimous consent that to-morrow be substituted for to-day.

Mr. SULLOWAY. Yes.

The SPEAKER. For the consideration of business under the order referred to. Is there objection?

There was no objection.

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

Mr. LITTAUER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 16172—the legislative, executive, and judicial appropriation bill.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the legislative, executive, and judicial appropriation bill, with Mr. OLMSTED in the chair.

The CHAIRMAN. The Clerk will proceed with the reading of the bill.

The Clerk read as follows:

For contingent expenses of the Executive Office, including stationery therefor, as well as record books, telegrams, telephones, books for library, furniture and carpets for offices, care of office carriages, horses, and harness, and miscellaneous items, to be expended in the discretion of the President, $20,000.

Mr. GAINES of Tennessee. Mr. Chairman, I offer the paragraph which I send to the Clerk's desk, to be inserted immediately after the language just read.

Mr. LITTAUER. I reserve points of order on this amendment.

The CHAIRMAN. The gentleman from New York reserves the point of order. The Clerk will read.

The Clerk read as follows:

On page 34, in line 3, after the word "dollars," insert: "For the purchase of a proper car or cars and equipments for the use and benefit of the President of the United States, who is given full power to purchase the same and report his action to Congress, $100,000, or so much thereof as is necessary."

Mr. LITTAUER. I reserve the point of order.

Mr. GAINES of Tennessee. Mr. Chairman, we have just passed the usual appropriations for the benefit of the President of the United States, and we have done so, I want to say, regardless of whether he is a Republican or a Democrat. Amongst other things we include "carriages, horses, harness," and so forth—everything to make the President comfortable in getting about this city in the transaction of his official business. It is necessary, Mr. Chairman, for the President (like the Supreme Court judges, who, in the main, are elderly men) to have carriages and horses not only for the actual transaction of purely local "executive" business, but also for the "official diplomatic visits" that, as I understand it, he is compelled to make out of official respect and duty to representatives of various foreign governments, and other official courtesies which he extends. In other words, these visits are just as official and necessary as any other official acts of the President.

Now, then, it is also necessary for the President of the United States to make, and he does make, I presume—certainly he should make—official visits to West Point, to Annapolis, to see our men-of-war and ports, and to our various barracks and public Federal institutions. He is, under the Constitution, Commander in Chief of the Army and Navy. Official visits are necessary for him to personally, as he should, inspect our various naval and military establishments. The President has, at his official call, a small vessel for carrying him to our various naval precincts that he may overlook and look after our Navy and men, but we do not provide, Mr. Chairman, any conveyance for carrying him to a single inland public place or to the shore—not one. When he goes, it is announced a week or two weeks ahead of time that he is going on an official visit; then he must go down and some car must be improvised for him and his necessary official and clerical party. This is a great inconvenience to him, and I dare say causes loss of valuable time. It is a great inconvenience to the railroad to make him comfortable, not as an individual (President Roosevelt or any other President is an individual in one sense), but as President. He is President wherever and whenever he goes within the jurisdiction of the Republic, State, or Territory.

He can not shut the gates behind him and say, "that no business shall follow him." He can not strip himself of his official functions. He can not shut business from his office on land or sea. It will follow him, it must follow him, whether he would have it or not. This is because of his great and far-reaching official functions and duties.

There are international matters that come up while the President of the United States is absent from the White House. He must, away from his office, attend to these.

The people expect him to make these official visits; a healthy public policy requires him to make personal inspections and to mix with the people and see and learn their local condition and wants, and hear what they want from their own lips. If we purchase a car, I do not know exactly what it will cost, but I understand "private cars" cost all the way from $50,000 to $90,000. That is the mere "private car." Of course this amendment contemplates that there should be the proper adjuncts in the nature of baggage and express cars, etc. My amendment calls for "$100,000, or so much thereof as is necessary" to accomplish this object.

Now, then, as he can not shut business off, the business will follow him, both domestic and international. If he must carry his officers with him, he must carry his papers with him; they are valuable papers, vital to him, and some of them on secret subjects, or they collect while he is away from the White House. They may be on secret subjects and should be secret. And yet he must go in an ordinary car that has ordinary appurtenances and conveniences where nothing can be kept safely or in absolute secrecy.

Certainly, we ought to make it not only convenient but absolutely safe for the President at any time to make these official visits, make him comfortable, and make his papers and all his necessary paraphernalia absolutely safe.

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

Mr. GAINES of Tennessee. Mr. Chairman, I beg the indulgence of the House for ten minutes.

The CHAIRMAN. The gentleman asks that his time be extended ten minutes. Is there objection? The Chair hears none.

Mr. GAINES of Tennessee. Mr. Chairman, I am glad for the purpose of my argument that the President is a Republican. If a Democrat, you would say that I was trying to make this Democratic President have an easier, pleasanter time than I would if he was a Republican. You can not say that here. There are no politics in it. I am looking at the situation from a healthy public point of view. A healthy public policy demands that this be done, or something along this line.

The President of the United States is liable to be taken sick at or away from the White House. Whether taken ill at home, or in the White House, or at any place, this private car might be much needed. I believe, in the case of General Grant, he was taken up to some cool place, some mount, where I think he died. They improvised some sort of an arrangement after much delay—as I remember it, there was much delay (for want of a proper car) in carrying that victim of disease to the place where he could stay and try and save his life. I believe at that time General Grant was an ex-President, but I state the other facts substantially correctly.

Mr. PRINCE. Will the gentleman allow me a question?

Mr. GAINES of Tennessee. Certainly.

Mr. PRINCE. Is it your purpose to have this train subject not only to the acting President, but to ex-Presidents?

Mr. GAINES of Tennessee. No; no "ex" about it—absolutely for the acting President of the United States.

Mr. PRINCE. Then what has the sickness and trouble of General Grant as an ex-President to do with this matter?

Mr. GAINES of Tennessee. I referred to his case as a noted illustration, merely to show what might happen to an acting President. If General Grant had been President it would have been all the same. Delay would have occurred, just as it would to-day if the President was taken ill and had to go to some place to try and save his life.

Now, when Garfield was assassinated, my recollection is, although it has been a long time, he was at the Union Depot. He was going away, and he had to wait for ten days or more after the doctors wanted to move him, in order that the railroads might improvise a car to carry him somewhere—I believe to Long Branch. I remember distinctly that while a houseful of doctors were hovering over him, trying to save him, we were waiting for the railroads, who acted promptly and patriotically, to improvise some sort of a car to haul him. Indeed, they had to make a car to carry him—to carry him in such a temperature, in such a position, and at a certain velocity without shaking him, and so forth and so on. Now, suppose the President to-day had to be treated in that way. Suppose the doctors would hold a council to-day and say that the President, ill unto death almost, should be moved to Atlantic City in order that his life might be saved. Would not the very heart of the nation rise up and say, "Take him; take him at an expense of $50,000 or $100,000; take him at any expense?" And how? Take him in a rattling car—rough, stuffy car that we ride in? Why, of course, under the circumstances, we would have to take him in that kind of a car. In the case of President Garfield, I think I am entirely correct in saying that we had to build a special car to carry him, so dreadful was his condition.

Again, the railroads, under the law—the commerce act of 1887—have no right to give, free of charge, to the President of the United States, or anyone, a train in which he may go around the country on social or official trips. The law is specific. I think it ought to be more specific, but it is specific as it is construed, and not enforced, I may add. Such "courtesies" are unlawful discriminations, and prohibited. Only railroad officials and their employees and a few others, not including any Federal officer, have the right under the existing law to ride free of charge over interstate railroads of this country. So that if the railroads tendered a car or train to the President on an official journey or on a bear hunt, if you please, to accept it would be against the law, and, by the way, in hunting bears he is still President of the United States, and he still may have to transact at night in some little insecure place, in some insufficient place, some ill-equipped and unsafe car, official business, domestic or foreign, which goes to the very vitals of the American Republic. If we give him this car—and I do not mean a regular train with an engine, I do not mean an engine at all, but I mean a car or cars, nothing but something that is proper, as the resolution provides, to protect and care for the President and his papers when he is obliged to leave the White House on a trip——

Mr. LIVINGSTON. Well, how is he going to get it pulled?

Mr. GAINES of Tennessee. Oh, get an engine that we know is all right and employ an engineer that we know is all right and get a fireman that we know is all right and a good conductor. We do not want them sitting around here for weeks waiting to haul the President. We will employ them when we need them.

Mr. JAMES. What are you going to do when he is hunting bear?

Mr. GAINES of Tennessee. When he is hunting bear let him pay his own expenses, but when he is hunting up his duty,

when he is looking after the business of this Government, why, we ought to pay the expenses.

Now, Mr. Chairman, I think I have shown that under the law the railroads can not haul the President free of a legal charge, and that if they do, they use cars insufficient and unsafe, and in case of sickness we have nothing, absolutely nothing. Suppose, when President McKinley was assassinated at Buffalo, it had been necessary to take him instantly to Florida or to take him to some cool place—I happened to be in the Philippine Islands at the time of his death; I do not know exactly the condition of the temperature here. Now, suppose it had been necessary to carry him somewhere in a certain way, we would have had no instrument with which to carry him properly; whereas, if he had had a President's car, he could have been carried swiftly, promptly, easily, with all the necessary equipments to add to and prolong his life.

Mr. Chairman, another proposition. The President of the United States has to treat with the railroads of this country, and should do so and with all other Federal carriers; and if he accepts "courtesies" from these railroads, which I repeat is against the law, it makes him a lawbreaker and makes the railroads lawbreakers, whereas, if we give him a car, it puts him above that and makes him independent of our railroads. To accept the "courtesies" I have referred to may embarrass the President in his heroic and patriotic action in legislating about railroads and in seeing the laws faithfully enforced against railroads, and enforcing the law, I may add, in behalf of the railroads, for they have legal rights that ought to be protected, and so have the people, that should be protected. If the President accepts these courtesies you will find that the American people will criticise him, as they do the Members of Congress and the Federal judges, I may add, who accept these favors; and thus their influence is lessened and the officer and the law are brought into disrepute. I say, put the President above the possibility of such criticism. Make him free and absolutely independent. Do this and I believe the American people, as they should, will indorse it. Whether you adopt this proposition here to-day or not, there will come a time when this great Committee on Appropriations or the great lawmaking committee of this House will pass a law along the lines I have suggested and for the reasons and the purposes that I have outlined. I say that a healthy public policy, fair dealing with the President, and the public welfare, requires such a provision as this, and hence I offer the amendment.

Mr. LITTAUER. Mr. Chairman, I must insist upon the point of order. This is new legislation heretofore unauthorized, and while I am quite convinced of its necessity, as depicted by the gentleman from Tennessee, yet I feel that a matter of so great importance ought to have the consideration of a committee like the great Committee on Interstate and Foreign Commerce, so well equipped to determine what the equipment of this train ought to be, before we undertake to legislate upon it.

Mr. BABCOCK. Will the gentleman yield to a question?

Mr. LITTAUER. Certainly.

Mr. BABCOCK. Does he believe that the railroad companies should furnish the President a private car when he travels?

Mr. GAINES of Tennessee. I was just going to ask that. They do, and it is against the law—the commerce act of 1887.

Mr. LITTAUER. Well, there is no reason why I should express an opinion on this matter. I do not see how it is connected with anything in this bill.

Mr. BABCOCK. Does not the gentleman from New York think it is wise and does he not think it is the duty of this Congress to provide a proper car for the Chief Executive to travel in?

Mr. LITTAUER. That may be, but not to provide it in this appropriation bill.

Mr. GAINES of Tennessee. Now, will the gentleman yield for a moment? In going to West Point—and the President ought to go there we will all admit—how does he go; how are his expenses paid? Now, you are a member of the committee that is the debt-paying committee of this House. How are those expenses paid?

Mr. LITTAUER. I take it for granted they are paid out of his own pocket.

Mr. GAINES of Tennessee. If not, then how are they paid?

Mr. LITTAUER. I could not tell, because no item of appropriation has ever been submitted here to take care of any such expense.

Mr. GAINES of Tennessee. The gentleman will pardon me for a moment. Here is information I get from the press, to which I think the President is entitled, and I am glad to praise it—that he pays now his own way, and began to do so about ten months ago on his recent trip out West—on that bear-hunting trip—and on all of the other trips since then he has paid his expenses, and I am told by the press that he cut short the length of the train, too. He cut short the immense party that usually goes when the railroads give free a train to the President or when the Government pays the expense. Now, should not the President visit Annapolis or our military camps; and if so, who pays the expenses?

Mr. LITTAUER. I take it for granted the President pays them.

Mr. GAINES of Tennessee. If not, who, then, does pay them?

Mr. LITTAUER. I could not tell you. I have no information regarding these matters. There never has been any item of appropriation that would lead us to investigate this subject.

Mr. GAINES of Tennessee. Now, has the gentleman or his committee investigated this subject?

Mr. LITTAUER. We have not. It is not indicated here that there is any expenditure for any such purpose.

Mr. GAINES of Tennessee. Do you not think the Government should provide something of this sort?

Mr. LITTAUER. If you are going to ask my personal opinion, I believe, perhaps, it would be well that we might have a train and provide in many other ways for the President, but I do not believe this bill is the place for us to consider it.

Mr. GAINES of Tennessee. Does not the gentleman bring in matters changing legislation on this bill?

Mr. LITTAUER. Not of that kind or character.

Mr. GAINES of Tennessee. What about clerks and employees?

Mr. LITTAUER. That is another condition—it is a continuing service, practically going on now.

Mr. GAINES of Tennessee. Now, as a matter of fact, you have certain things in this bill now changing existing law.

Mr. LITTAUER. There are changes of existing law.

Mr. GAINES of Tennessee. That means making law for the time being?

Mr. LITTAUER. Yes.

Mr. HARDWICK. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. HARDWICK. I move to strike out——

The CHAIRMAN. The Chair will pass upon the point of order. The second clause of Rule XXI declares that—

> No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriation for such public works and objects as are already in progress.

The Chair does not understand that there is, but on the other hand understands that there is not at present any authority of law for an expenditure for the purposes covered by this amendment. It is an entirely new proposition, and therefore not in continuation of any public work already in progress. The Chair must, therefore, sustain the point of order.

Mr. GAINES of Tennessee. I want to ask the gentleman in charge of this bill what mileage is paid when the President goes on his official trips?

Mr. LITTAUER. I would answer the gentleman from Tennessee that I have no knowledge that any mileage is paid.

Mr. GAINES of Tennessee. The legal presumption is that it is paid.

Mr. LITTAUER. It may be paid, but there is nothing in this bill or in any appropriation bill brought to my attention where there is any such provision.

Mr. GAINES of Tennessee. If by this amendment or under any other system it was paid, the Government ought to pay for it while on the train, of course.

Mr. LITTAUER. Naturally.

Mr. GAINES of Tennessee. And furnish him room to live in while on the train.

The CHAIRMAN. The gentleman from Georgia moves to strike out the last word.

Mr. HARDWICK. I just want to say that we congratulate the committee that the gentleman from New York in charge of this bill has at last joined the force that is seeking to prevent any new legislation from being carried in this bill. But independent of that proposition I want to correct one statement made by the gentleman from Tennessee. He states the usual amount is appropriated for the contingent fund of the Executive Office, as I understand him. I wish to call attention to the fact that the contingent fund is increased by this appropriation. If I did not believe that it was not subject to the point of order, I would raise the point of order against it. Not because, Mr. Chairman, I am opposed to the President of the United States having as much of a contingent fund as may be necessary. I agree with gentlemen who say that he is, perhaps, underpaid, and I might be willing, if the proposition was submitted to the House, to vote directly with them to increase his pay. But I want to say this: If I have not got my history wrong, the contingent fund was about $500 in Jefferson's time and $1,000 in

the time of Lincoln, even when we had the greatest war the world has ever seen, and it has gradually grown until now, in times of peace, it is raised from $18,000 last year to $20,000 this year. Why is it raised? There is no member of the committee who can tell, because, forsooth, the President, nor even a clerk in his office, has come and told the committee why they wanted a little more money. It may be that my bump of irreverance is too well developed, but I think that when it comes to appropriating money there ought to be no distinction made by the committee whenever anybody asks that the money should be taken out of the Treasury, whether it is by the lowly or the mighty. It seems that the President's clerk or somebody else sends up a letter to the committee saying that we had a contingent fund of $18,000 last year and we want $20,000 this year. The committee says that this is the President's clerk and we will not even question him why he wants the money and for what purpose he needs it. Now, I do not believe that the President himself would approve that. I do not believe his public utterances or private record would permit him to take such a position. There ought to be some explanation of this expense, just as there is an inquiry into the salary of the humblest clerk on the Government rolls, and if I stand alone I shall enter my protest against such a practice. If this statement provokes any assault on me from the self-constituted defenders of the White House, I am ready to stand here and defend my position. I say that it is wrong for anybody to get an appropriation of public money out of the Treasury without being required to give an explanation why that increase should be made. I do not make a motion to reduce it, because the committee will be able to beat the motion, but I do protest against it. I object to an increase being made without any statement being given by anybody on earth to anybody on earth as to why it is needed.

I think everybody ought to be treated alike and fed out of the same spoon, from the President of the United States down.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

CIVIL SERVICE COMMISSION.

For three Commissioners, at $3,500 each; chief examiner, $3,000; secretary, $2,500; assistant chief examiner, $2,250; two chiefs of division, at $2,000 each; three examiners, at $2,000 each; six clerks of class 4; thirteen clerks of class 3; twenty-two clerks of class 2; twenty-six clerks of class 1; twenty clerks, at $1,000 each; ten clerks, at $900 each; five clerks, at $840 each; one messenger; engineer, $840; two firemen; two watchmen; one elevator conductor, $720; three laborers; and three messenger boys, at $360 each; in all, $163,390.

Mr. PRINCE. Mr. Chairman, I want to make several points of order on this paragraph. I will begin with the first one, page 34, beginning in line 9, with the words "three examiners, at $2,000 each." That is new legislation, not authorized by law, and in violation of the second section of Rule XXI of the House. I reserve the other points in their order as we come at them.

The CHAIRMAN. Does the gentleman from New York desire to be heard?

Mr. LITTAUER (to Mr. PRINCE). Do you reserve the point of order?

Mr. PRINCE. On every one of them.

Mr. LITTAUER. You reserve the points of order?

Mr. PRINCE. Yes; I make the point of order on this one, and I will make the points of order as they follow. I will take them up as we come to them. If the Chairman desires that I make them all at one time, I will do so.

The CHAIRMAN. The Chair thinks it will be the more orderly procedure to do so.

Mr. PRINCE. Then I will make them on the same page—34—beginning on line 11, with the words "twenty-two clerks of class 2." These employees are new, unauthorized by law, and in violation of Rule XXI of the House. That is all, as read thus far.

Mr. LITTAUER. Mr. Chairman, I must recognize the right of the gentleman from Illinois to make the points of order that he has just stated. The positions referred to are not authorized by law, but very full and ample reason was given why the force of the Civil Service Commission should to a certain extent be reorganized, with a view of making it better applicable to the work now in hand, and as that work has developed.

Mr. TAWNEY. And reducing expenditures.

Mr. LITTAUER. And, moreover, reducing the expenditure from the Treasury of the United States.

Mr. TAWNEY. These changes reduce it.

Mr. LITTAUER. Yes.

Mr. CRUMPACKER. Will the gentleman allow me?

Mr. LITTAUER. Yes.

Mr. CRUMPACKER. It seems to me that the rules permit appropriations for additional clerks in the classified service in the Departments at Washington, when the service enlarges so as to justify them.

Mr. LITTAUER. The gentleman must bear in mind though that the Civil Service Commission is not a Department.

Mr. CRUMPACKER. It is in a Department.

Mr. LITTAUER. It is an independent bureau, as I understand it.

Mr. CRUMPACKER. The question was settled when the Army bill was before the House. A point of order was made against the employment of additional clerks, and the point of order was sustained, because they were employed in the field and not in the service at Washington. Now, I think within the meaning of that law the Civil Service Commission, even if it is not under the general control of any particular Department, is a Department in and of itself. Certainly it is within the spirit and purpose of the law, because everybody recognizes that if the business of the country and of the several Departments grows so as to make an occasional addition to the clerical force necessary, it certainly can not be that every time a new clerk is to be appointed to the force in the Departments here, it is necessary to secure an independent act of Congress in order that the Committee on Appropriations may provide for that clerk.

Now, does not the gentleman believe that the Civil Service Commission is a Department within the meaning of the statute?

Mr. LITTAUER. I believe that the intent ought to cover it, but I also know that it has ever been considered, not as a Department, but as an independent bureau, and even if it were a Department, the provisions of the statute the gentleman has reference to only apply, as I understand it, to clerks in the various classes, 1, 2, 3, and 4, and messengers and laborers, while the point of order that the gentleman from Illinois first made was to three examiners at $2,000 each, and services of that class would clearly be subject to the point of order, even if the Civil Service Commission were a part of the Department of the Interior.

Mr. CRUMPACKER. Are not those three examiners within the classified service?

Mr. LITTAUER. No. It seems to me that in order to be not subject to the point of order a direct provision of law would have to be made for such service.

Mr. CRUMPACKER. The other point the gentleman from Illinois makes is against the provision of law which provides for twenty-two clerks of class 2. He says that is an increase of six clerks. Those clerks are in the classified service, and as this question is one of some importance and is liable to come up frequently, I suggest that the statute be referred to, so that we may know exactly what it does provide.

Mr. TAWNEY. Mr. Chairman, in reply to the gentleman from Indiana, I will say that the Revised Statutes provide for clerks by classes. The provision is for clerks of classes 1, 2, 3, and 4; and section 169 of the Revised Statutes authorizes Congress to appropriate for these clerks, including messengers and laborers, in the Executive Departments in Washington. Now, the Attorney-General has decided that the term "Executive Departments in Washington," as used in this statute, applies only to the Departments presided over by Cabinet officers, and the Civil Service Commission is an independent bureau. The only jurisdiction the Department of the Interior has over it is to provide for a home for it by renting buildings that the Commission occupies. That is practically all the control it has over it.

Mr. HARDWICK. Will the gentleman yield?

Mr. TAWNEY. No; I decline to yield. Therefore the only clerks that can be provided for in an appropriation bill under the rules of this House are clerks in the Executive Departments, presided over by Cabinet officers, in classes 1, 2, 3, and 4, and laborers and messengers. The law fixes the compensation of these clerks, beginning at $1,200 in class 1, up to $1,800 in class 4; so that there is no question in my mind, Mr. Chairman, that this is not a Department within the interpretation of that law as given by the Attorney-General; and even if these examiners were to be employed in one of the Departments they would not be in accordance with the provisions of that law, because it provides only for clerks of these four classes and laborers and messengers.

Now, Mr. Chairman, I want to put in the RECORD at this point, in connection with the point of order made by the gentleman from Illinois, a letter from the Civil Service Commissioner showing the necessity for this reorganization of the force in that Bureau, as provided in this bill. This does not increase the appropriation, but diminishes the appropriation in the current law for this identical service.

Mr. PRINCE. A parliamentary inquiry, Mr. Chairman.

Mr. TAWNEY. I can not yield.

Mr. PRINCE. A parliamentary inquiry and a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. PRINCE. If I recollect correctly, I made the point of

and I insist on the point of order. I did not reserve it, and if I did the gentleman is not discussing the point of order.

Mr. TAWNEY. The gentleman reserved the point of order and asked for an explanation.

Mr. PRINCE. I made the point of order, and I insist on it.

The CHAIRMAN. The Chair thinks the gentleman from Minnesota is discussing the point of order, and is in order.

Mr. TAWNEY. I am, Mr. Chairman. Now, the Commission, on page 58 of the committee print of the bill, states specifically the necessity for this reorganization and just what the effect of it will be, both as to the aggregate amount appropriated for the service and as to the question of improving the administration of that particular Bureau of the Government. It is as follows:

In the last appropriation act provision was made for transfer to the force of the Commission of the employees constituting its field force, but who were detailed from other branches of the service, and for the transfer of the employees constituting the rural carrier examining board. These two forces, however, were appropriated for separately. In the present estimates the employees constituting the field force and rural carrier examining board are consolidated with the regular force of the Commission. This will be advantageous in the matter of transfers and promotions. In the interest of good administration it is frequently necessary to transfer an employee from the office force to the field force or to the rural carrier examining board, or to transfer an employee from the field force to the office of the Commission. There is no extra expense attached to this consolidation, and if the estimates as submitted are approved the force of the Commission will have more mobility and may be used to the best advantage of the service.

Attention is invited to the following changes in the present estimates as compared with the appropriation for the present fiscal year: (1) The position of "chief of board of examiners of rural carriers" is dropped; (2) the designation of "rural agent for rural carrier examining board," at $2,000 per annum, is changed to "chief of division," at the same salary (the rural carrier examining board is a division of the Commission, now occupying rooms in its building); (3) the designation of "law clerk," at $2,000 per annum, is dropped, and in lieu thereof estimate is made for an additional clerk, at $1,800 per annum (the law clerk is a chief of division with a large force under his supervision; it is proposed to call him "chief of division" and to reduce one of the present chiefs of division to clerk, at $1,800 per annum); (4) a clerk, at $1,400 per annum, is dropped, and in lieu thereof estimate is made for an additional clerk, at $1,600 per annum; (5) six clerks, at $1,200 per annum, are dropped, and in lieu thereof estimate is made for six additional clerks, at $1,400 per annum; (6) estimate is made for one additional clerk, at $1,000 per annum; (7) one clerk, at $900 per annum, is dropped, and in lieu thereof estimate is made for one additional messenger, at $840 per annum; (8) two clerks, at $800 per annum, are dropped, and in lieu thereof estimate is made for two additional clerks, at $840 per annum, and (9) two clerks, at $600 per annum, are dropped, and in lieu thereof estimate is made for two additional clerks, at $720 per annum.

The increases asked for in clerical salaries are for the purpose of giving more stability to the force. The Commission has experienced great difficulty during the last year in retaining its clerks on account of the many low-salaried positions and the consequent slow promotions. There were twenty-nine separations from the force since the last estimates were submitted.

The number of employees estimated for is the same as the number provided for in the current appropriation, but the rearrangement of salaries results in a slight decrease as compared with the salaries for the current fiscal year. The following table is a summary of the changes in appropriations for salaries, traveling expenses, text-books, stationery, printing and binding, and contingent expenses. The last three items are appropriated for under the Interior Department:

Summary of changes in appropriations.

	1906.	1907.	Increase.	Decrease.
Salaries	$231,090	$230,910	.....	$90
Traveling expenses	10,000	8,500	.....	1,500
Text-books	250	250	.....	.....
Stationery	5,000	5,000	.....	.....
Printing and binding	25,000	22,500	.....	2,500
Contingent expenses	5,000	6,500	$1,500	.....

Decrease in estimates, $2,590.

There is, in my judgment, authority of law for all the increase provided for in the paragraph which the gentleman has made a point of order against so far as the number of clerks is concerned.

I will withdraw that, Mr. Chairman. I was proceeding on the basis that it was a department of the Government. Inasmuch as it is not a department of the Government, it is unquestionably true that this House can not on an appropriation bill increase the number of clerks, no matter how great the necessity may be, and although the Commission in its letter to Congress shows the necessity for this, shows that it reduces the expenditure, shows that it will result in improvement of the administration of that Bureau, nevertheless, under the strict enforcement of the rule upon the point of order being made by the distinguished gentleman from Illinois, this reform, this economy, can not be accomplished by this House.

Mr. CRUMPACKER and Mr. LIVINGSTON rose.

The CHAIRMAN. The Chair will hear the gentleman from Georgia.

Mr. LIVINGSTON. Mr. Chairman, this is not the usual case that comes under the rule referred to where salaries are increased, where expenses are increased. This is a reorganization of the Civil Service Bureau, and in the reorganization we have absolutely reduced the expenses of that bureau. The reorganization was authorized by the last appropriation act. It takes it entirely out of that category covered by the rule. Is it possible that your Appropriations Committee can not reduce expenses without a point of order being made on them? It is just the reverse; if expenses are reduced it is not covered by the rule. The authorization to do this is contained in the last appropriation act. There is the authorization for it, and we have reduced the expenses and bettered the service; and I contend that neither the spirit nor the language of the rule will cover the point of order made by the gentleman from Illinois. [Applause.]

Mr. CRUMPACKER. Mr. Chairman, it seems that the gentleman from Illinois [Mr. PRINCE] insists upon his point of order, and that he is reenforced by the entire Committee on Appropriations. [Laughter.] There is nobody on this floor to defend the right of the Civil Service Commission to employ help in the line of its service unless I shall undertake that task.

I want to call the attention of the Chair to the law on this subject. The statute provides for the classification of the executive civil service, or its division into certain classes, and fixes salaries for all of the classified service of the country. Then it provides that each head of a Department is authorized to employ in his Department such number of clerks of the several classes recognized by law, and such messengers and assistant messengers, etc., respectively, as may be appropriated for by Congress from year to year.

Now, take that in the connection that it must be taken in this statute and it clearly contemplates that the chief officer of any Department or branch of the public service that is within the classified service of the Government has the right to employ additional clerks if Congress makes the necessary appropriation therefor. Can it be said now, for instance, that the Civil Service Commission is not within any of the regular Departments of the Government? It is an independent branch of administration. The head of that branch is the Civil Service Commission itself. Its clerical force is within the classified service. This entire statute, of which I have read only section 169, applies to the Civil Service Commission as well as it does to the other Departments. The meaning of the statute is that the chief officer in any of the Departments—the head appointing officer in any of the Departments that the classified service applies to—shall have the power to make appointments of additional clerks in the classified service when Congress makes the appropriation. It seems to me like a very technical interpretation of a statute, the absolute overlooking of its spirit, a sticking in the bark theory, to say that because popularly the Civil Service Commission is not given the rank and dignity of a Department in the Government Congress did not intend in the enactment of this statute that the Civil Service Commission should have the same right to employ additional clerks in the classified service that is conferred upon all those Departments that are specifically authorized to employ clerks in the classified service. It is clearly within the spirit of the law, and it seems to me for the purpose of making appropriations it must have been the intention of Congress that the Civil Service Commission should be included. There is no reason why it should be excluded, and the Commission is a Department in the sense of this statute, because there is no officer above it who has the power to make appointments for it. The Commission itself, therefore, has the power to make those appointments. I believe in any court in this country the Civil Service Commission would be held to be a Department within the meaning of this statute, and the Commission would be authorized to employ additional clerks as its business expanded and made that employment necessary.

The CHAIRMAN. The rule which has been invoked against the specified items in this paragraph is found in the second paragraph of Rule XXI, which provides that—

No appropriation shall be reported in any general appropriation bill or be in order as an amendment thereto for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress, nor shall any provision changing existing law be in order in any general appropriation bill or in any amendment thereto.

Now, it is urged that there is no authority of law for the appointment of so many clerks of certain classes as are specified in the paragraph. On the other hand, it has been suggested that authority may be found in section 169 of the Revised Statutes, which provides that—

Each head of a Department is authorized to employ in his Department such number of clerks of the several classes recognized by law and such messengers, assistant messengers, copyists, watchmen, laborers, and other employees, and at such rates of compensation, respectively, as may be appropriated for by Congress from year to year.

There is no doubt that as to any branch of the Government which is properly a "Department" within the meaning of that act, Congress may, from year to year, appropriate for an increasing number of clerks, but the question arises, Is the Civil Service Commission a "Department" within the meaning of the statute? It may be that there is very good reason why, as the gentleman from Indiana [Mr. CRUMPACKER] suggests, it ought to be treated as a Department, but has it been? Is it one within the terms of the statute?

By reference to section 158 we find that the Departments to which the act was applied are specifically enumerated; they are those governmental branches or executive divisions at the head of each of which there is a Cabinet officer. They are distinctly specified and set forth by name in section 158. Section 159 expressly declares that when the word "department" is used in that statute, it shall be held to mean "one of the Executive Departments enumerated in the preceding section." The Civil Service Commission is not one of the Executive Departments specified in section 158, and it can not therefore be construed as a Department, nor any member of it as the "head of a Department" within the meaning of section 169. Whether the Civil Service Commission is a governmental agency of such value and importance that it ought to be treated as a Department is not a matter for the Chair to decide. As it is not one within the terms and intendment of section 169 of the Revised Statutes, the Chair must rule that that section is not authority for the appropriation so as to relieve it from the operation of Rule XXI. Now, whether the second clause of Rule XXI is unduly restrictive upon the Committee on Appropriations, or upon the House itself, is not for the Chair to determine. The Chair must construe the rule as he finds it. In fact, the same question appears to have been decided in the last session of the Fifty-eighth Congress by the gentleman from Pennsylvania, Mr. DALZELL, who sustained a similar point of order. For the reasons stated, the Chair sustains the point, or rather the two points of order which have been submitted for his decision.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. TAWNEY having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had insisted upon its amendments to the bill (H. R. 12707) to enable the people of Oklahoma and of the Indian Territory to form a constitution and State government and be admitted into the Union on an equal footing with the original States; and to enable the people of New Mexico and of Arizona to form a constitution and State government and be admitted into the Union on an equal footing with the original States, disagreed to by the House of Representatives, had agreed to the conference asked by the House on the disagreeing votes of the two houses thereon, and had appointed Mr. BEVERIDGE, Mr. DILLINGHAM, and Mr. PATTERSON as the conferees on the part of the Senate.

The message also announced that the Senate had passed without amendment joint resolution and bill of the following titles:

H. J. Res. 117. Joint resolution extending the time for opening to public entry the unallotted lands on the ceded portion of the Shoshone or Wind River Reservation, in Wyoming; and

H. R. 15848. An act authorizing the sale of timber on the Jicarilla Apache Indian Reservation for the benefit of the Indians belonging thereto.

The message also announced that the Senate had passed the following resolution; in which the concurrence of the House of Representatives was requested:

Senate concurrent resolution No. 19.

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, authorized and directed to cause to be made a survey and examination of the Ohio River at or near Cincinnati, Ohio, for the purpose of establishing a suitable ice harbor.

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

The committee resumed its session.

Mr. FINLEY rose.

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. FINLEY. Mr. Chairman, I move to amend by striking out the paragraph from line 5 down to and including line 20, on page 34. I believe that is all that has been read up to this time.

Mr. LITTAUER. Mr. Chairman, is a motion of that kind now in order? The paragraph has been read and debate has been had.

The CHAIRMAN. The Chair will state that debate was had upon a point of order. The point of order had to be disposed of before an amendment could be heard. The Chair thinks the amendment is in time.

Mr. FINLEY. Mr. Chairman, for a great many years I have studied the civil-service law as it is on the statute books, and I have also looked into its operations as a practical question, as one that was intended to give to this country a better civil-service administration, and I want to say that, in my judgment, it has produced, it has brought about, more in the way of extravagance, more in the way of abuse in matters of government, than any other law that has ever been placed upon the statute books of this nation.

I might go further and say that the reforms attempted by the Appropriations Committee, and about which there has been so much debate here in the consideration of this bill, are made primarily and are intended to correct just such abuses as have grown out of the operation of the civil-service law. I want to say, and say most emphatically, I do not believe in the wisdom or efficiency of the civil-service law. [Applause.] I believe it is contrary to the institutions of this country as a matter of principle, and in its operation it can not be made to carry out the views of those theorists who intended and who believed and who brought the American Congress to act on the proposition that a great good might be accomplished. In its practical operation, when the Democratic party is in power the civil service of this country is a Democratic civil service, and when the Republican party is in power the civil service of this country is a Republican civil service [applause], so that I am opposed to the law and wish to express my dissent here and now by moving to strike out this proposition.

The CHAIRMAN. The question is upon the amendment offered by the gentleman from South Carolina to strike out the paragraph.

The question was taken; and the Chairman announced that the noes appeared to have it.

On a division, demanded by Mr. FINLEY, there were—ayes 24, noes 41.

Mr. FINLEY. Mr. Chairman, I think we ought to have tellers on this.

Tellers were ordered.

The CHAIRMAN. The gentleman from South Carolina [Mr. FINLEY] and the gentleman from New York [Mr. LITTAUER] will take their places as tellers.

The committee again divided; and the tellers reported—ayes 26, noes 48.

So the amendment was rejected.

Mr. COOPER of Wisconsin. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. COOPER of Wisconsin. I move to strike out the last word.

The CHAIRMAN. The gentleman from Wisconsin moves to strike out the last word.

Mr. COOPER of Wisconsin. Mr. Chairman, members of the committee have doubtless seen in the newspapers reports of what Mr. Wallace, late the chief engineer at Panama, had to say about the inefficiency of the Civil Service Commission in furnishing him good employees. Now, his charges are just like the charges which have been made by the gentleman who last spoke and who moved to strike out this paragraph. I will read just what Chief Engineer Wallace testified before the Senate committee:

Senator SIMMONS. I want to ask you what you meant a little while ago when you said that you had a great deal of trouble in keeping incompetent men away.

Mr. WALLACE. Well, the class of men that sought positions there was the class that could not find anything to do here. The class of men that we wanted there was the class of men that was already employed here.

Senator SIMMONS. Do you have reference to men that went down there after having stood the civil service examination?

Mr. WALLACE. Yes, sir; I do, most emphatically. What I am about to say may not be strictly accurate. It is simply my recollection of the circumstance, as I did not keep any record of it. It came up in the course of business. I asked for twenty-five track foremen, in order that I might lay the necessary tracks in the dry season to enable the work to be done during this last wet season. When those men came on the Isthmus out of the whole twenty-five I do not think there were two of them that could drive a railroad spike.

Senator SIMMONS. Those were men sent down by the Civil Service Commission?

Mr. WALLACE. Yes, sir.

Senator MORGAN. On civil-service examinations?

Mr. WALLACE. On civil-service examinations; yes, sir.

Now, upon inquiry of the Civil Service Commission I have learned just how accurate this distinguished gentleman was in the information which he imparted to the Senate committee and the country, and how careful he was to fortify himself concerning the facts before making his charges against the Civil Service Commission, now doing such magnificent work for the public service of the United States. He said that these twenty-five men all came to the Isthmus after having passed the civil-service examination as to their fitness, and yet the fact is that of the whole twenty-five only two took civil-service examina-

tions, the other twenty-three having been selected by representatives of the Isthmian Canal Commission itself in the United States, and of these two who passed examinations before the Civil Service Commission one of them had worked from June, 1897, to April, 1905, almost eight years, practically continuously, as a track laborer and assistant foreman and section foreman with the Union Pacific Railroad, and the other had worked continuously for fifteen years as a bridge carpenter, trackman, and section foreman on railroads of the United States and Mexico.

It is very evident that these two men must have known how to drive railroad spikes. Mr. Chairman, Engineer Wallace said that these twenty-five men had come down there, all incompetent, not two of them knowing how to drive a railroad spike, and that they all had passed the civil-service examination here; and yet the truth is that only two out of twenty-five passed the civil-service examination, and they had been for years employed by railroad companies in the United States.

Mr. WACHTER. Does the gentleman maintain that the two that were mentioned by Mr. Wallace are the same two that took the examination?

Mr. COOPER of Wisconsin. I do not know as to that.

Mr. WACHTER. Well, that is what you want to find out. [Laughter.]

Mr. COOPER of Wisconsin. Undoubtedly, as the two examined had each worked for years on railroads here, they must have known how to drive railroad spikes, so that there is no point in the statement of the gentleman from Maryland.

Mr. WACHTER. There is no point in the gentleman's argument in the talk made here.

Mr. COOPER of Wisconsin. Mr. Chairman, I ask for two minutes more to elucidate for the benefit of the gentleman.

The CHAIRMAN. The gentleman asks unanimous consent that his time be extended five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. WACHTER. I will not object, provided that the gentleman proves that the two that passed the civil service are the same two that Mr. Wallace referred to.

Mr. COOPER of Wisconsin. Mr. Chairman, I can not prove that.

Mr. WACHTER. Well, then, your argument has no point.

Mr. COOPER of Wisconsin. But I can prove that the gentleman is in an intellectual fog, perhaps. The gentleman is like a ship in a fog, which hears nothing but its own toot. [Laughter.] Now, I want to call attention to the irrelevancy of the gentleman's comment. Engineer Wallace did not say that two of these twenty-five men could drive spikes. On the contrary, he testified that he did not think there were two of them who could drive spikes. He declared that twenty-five men came to the Isthmus, not even two of whom, in his judgment, could drive a railroad spike, and that they had all passed the civil-service examination. I established by the record of the Civil-Service Commission that this statement was entirely inaccurate, because these two examined were men who had worked for years as laborers and track foremen on railroads in the United States, and therefore must have known how to drive railroad spikes.

Mr. WACHTER. I want to say to the gentleman that as I understand——

Mr. COOPER of Wisconsin. You misunderstood; that is all.

Mr. WACHTER (continuing). That only two had taken the examination, and twenty-three had reported without examination?

Mr. COOPER of Wisconsin. Mr. Wallace testified that there were twenty-five who had been taken down there, all of whom had passed the examination.

Mr. WACHTER. I misunderstood the gentleman.

Mr. COOPER of Wisconsin. I thought so. The last three minutes have been profitably employed.

Mr. Chairman, there is another statement which was made in the House the other day, "That none resign who get into the civil service after having passed an examination." This is frequently said. Here is a little bit of fact which is rather instructive. In the past five years, in the force of the Civil Service Commission itself, 75 were appointed from the registers after examination, 23 by transfer and 3 by reinstatement. Of this number 35 have resigned, 11 of them for the purpose of accepting appointments in other branches of the service. This makes 24 out of 101, almost 23 per cent of the Civil Service Commission employees, who have voluntarily resigned; and the Civil Service Commission say that the trouble is not that men stay too long, but that they do not stay long enough in the service of the Commission. Energetic men, many of them, resign. The Civil Service Commission report that about 10 per cent of the employees who go into the employment of the Government as a result of examination voluntarily resign.

We hear men denounce the civil-service law because, as they assert, it creates a "favored class." How is there any "favored class?" No man can well be more inaccurate in the use of language than when, in this connection, he talks about a "favored class." Any young man in my district—a Dane, an Irishman, an Englishman—whatever the nationality of his parents may have been, wherever he himself may have been born, can, without any regard to the services he may have rendered to me, or to any other man in public office, go before the Civil Service Board, and if he can pass a satisfactory examination may obtain a position in the service of the Government. That opportunity exists for rich or poor, without regard to nationality. There are several employees in the service in this city from my Congressional district whom I had never personally known until they came and introduced themselves to me.

They came in under the civil-service law. They are entitled to come, without regard to whether or not I want them to come, and without regard to politics, religion, or nationality. It is a contradiction in terms to talk about a "favored class" under that sort of a law. Nobody in this country inherits a right to hold office. In some countries of Europe there is a titled nobility to whom the right to hold public office and often the right to make laws comes by inheritance. That is a "favored class." But in this Republic there is no "class" entitled to hold office under the civil-service law. [Applause.]

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Field force: For three examiners, at $2,200 each; four examiners, at $2,000 each; two examiners, at $1,800 each; one clerk, $1,800; one clerk, $1,600; one clerk, $1,200; seven clerks, at $1,000 each; six clerks, at $900 each; one messenger; five clerks, at $840 each; two clerks, at $720 each; one messenger boy, $480; in all, $42,160.

Mr. PRINCE. Mr. Chairman, I desire to make points of order against the following provisions:

First, on page 35, beginning at about the center of line 1, the words "seven clerks, at $1,000 each." Heretofore there have been six. I make a point of order against the one additional.

Again, in line 3, page 35, "five clerks, at $840 each." I make a point of order against five. There is an addition of three. Two should remain.

In line 4, "two clerks, at $720 each." I make a point of order against those two, and all for the usual reason, under clause 2 of Rule XXI. I make the point of order against each and every one of those provisions.

Mr. LITTAUER. Mr. Chairman, under the rulings and the rule, I must admit that the point of order bears upon all these officers. At the same time I want to emphasize the statement just made by the gentleman from Wisconsin [Mr. COOPER], wherein he gave the facts, showing how large a proportion of the clerical force of the Civil Service Commission had resigned from office. I would supplement that by stating that they resigned because the salaries attached to this force are, as a rule, lower than prevail in other Departments of the Government, and so low that the Commissioner who appeared before our subcommittee stated—

It is almost imperative that that should be cleared up—

Meaning the inequality of compensation—

if we are going to carry on our work. It is almost impossible to keep these people at the salaries we now pay them.

The gentleman from Illinois, in his right, brings a point of order to bear upon the provisions which your committee believe to be the small necessary increases of force at higher compensation and which, in the end, by the elimination of other clerical force, would make the total expenditures in connection with the Civil Service Commission less than under current law.

Mr. PRINCE. Mr. Chairman, a word in reply. It is quite likely that the chairman in charge of the bill has stated what is the truth with reference to the Civil Service Commission. There is a committee of this House known as the "Committee on Reform in the Civil Service," to which a proper bill could be referred, properly considered by that committee, and brought into this House for consideration.

As the Chairman has properly held, this is not a Department. It is one of the subordinate divisions operating under the executive branch of the Government, and if there is a necessity for additional clerks let a bill be introduced into this House, properly considered by the committee to which it is referred, and brought into this House, and I am frank to say to you that I will not oppose any measure which has for its purpose the betterment of the service of the United States in any of its branches; but under the rules of this House this is no way to legislate. No man in this House can tell how these rolls may be padded. There is no means of getting at it. We may be criticised by some for doing what we are doing, but we want to know how these men are placed on the rolls; we want to know by what authority of law they are placed there, and some of us

have stood here under the rules making objection; and in every instance practically where we have made objection under the rules, Chairman after Chairman occupying the position that you now occupy, Mr. Chairman, has held in accordance with the rules of the House. Why criticise us for doing our duty?

I am not here criticising gentlemen of the committee, but I am only asking them to live under the rules that they want us to live under. The rules of this House are invoked time and again, and when the time comes it is a rare instance for me to oppose the rules. More than ten years have I been in this House, and at no time when a rule has been brought in along the lines of party policy have I ever refused to stand by it. I have stood for the rules of this House and stand by the rules to-day, and I am insisting upon the rule; and the gentleman very properly says that these provisions are subject to the rule, and he makes no objection to the point of order. Then what is his answer for bringing them in here when he knows that they are contrary to the rules of this House?

Mr. TAWNEY. Mr. Chairman, I wish to make an observation in reply to the gentleman from Illinois [Mr. PRINCE], who attempts to justify his course and the course of his colleague from Georgia [Mr. HARDWICK] in their opposition to certain provisions in this bill upon the ground that under the rules of the House the House can not consider a provision in an appropriation bill providing for the salaries of the clerks that are engaged in carrying on the public service. Now, if you will follow to its logical conclusion the position of the gentleman from Illinois, this House for the next five years would have no time to do anything else than to take up in the several Departments the necessity for legislation, for the purpose of increasing one clerk in one bureau and a number of clerks in another bureau, and in another division, and it would absolutely make the House of Representatives ridiculous.

The course which the Committee on Appropriations has followed in this bill has been the practice ever since I have been a Member of this House, which has been fourteen years. When the departmental officers submit their estimates to Congress they submit an estimate not only for the clerical force they then have on the rolls, but if the growth of the service in their respective Departments has been such as to necessitate an increase in that force that increase is included in the estimate, and the demand for it is investigated by whom? Investigated by the committee that reports the appropriation for carrying on that service, and if, in the judgment of that committee, the additional clerical force is necessary, the committee invariably reports in its legislative, executive, and judicial appropriation bill the necessary increase in positions and the necessary increase in salaries.

There is no other way to provide for the increasing demands of the Departments except by introducing bills for the increase of specific salaries and then have these bills go to the respective legislative committees; these committees consider the necessity, and then bring in a bill providing for an increase, say, of one clerk in the Post-Office Department, and perhaps one or two clerks in the Civil Service Commission, or an increase in the salaries or an increase in the number of chief clerks, etc.

I say the enforcement of this rule as interpreted makes the House absolutely ridiculous. I am not finding any fault with the rulings of the Chair, but when these gentlemen make their points of order and explanations are made for the necessity for the changes in current law or the reasonableness of the increase in salaries that have been reported, even though these changes result in an aggregate decrease in the expenditure of the public money, they nevertheless are not satisfied.

It is not to enforce the rules of the House, it is not to protect the House against any violation of its rules, that this policy has been inaugurated by these gentlemen; that is not their motive. If it were they would accept the statements made here on the floor as to the necessity for these changes in the interest of better administration and in the interest of economy.

Mr. Chairman, we may as well face this situation now as any time. If this rule is to be enforced, then more than one-half of the provisions of this bill will have to go out. More than one-half of the provisions of any legislative bill that has been reported to this House for the last ten years could not have been considered. We have certain provisions in this bill where clerks were employed under a lump-sum appropriation, a practice that has been criticised by this House, and the Committee on Appropriations has been the particular object of that criticism for not bringing in specific appropriations defining these places and salaries to be allowed to each one of them.

As the result of the investigation made by the Committee on Appropriations, in three or four instances were found lump-sum appropriations, in almost every instance we find that where the head of a Department is employing clerks under a lump-sum appropriation the salaries are a great deal higher than when the salaries are provided for specifically in appropriation bills. As the result of the changes we have reported to the House in three bureaus a reduction, a saving to the Government, of $12,511 is accomplished. But under the policy of the gentleman from Illinois [Mr. PRINCE] and his colleague from Georgia [Mr. HARDWICK], if their policy of making points of order is pursued by them, it is absolutely impossible for this House to effect any reform or any reduction in the salary or any improvement in the public administration by reclassification or otherwise, for the reason that to do so would be obnoxious to the rule. Similar provisions have heretofore been reported from the Committee on Appropriations in this same bill, but they remained in the bill notwithstanding they were obnoxious to the rules. They remained in the bill because in the interest of good administration and in the interest of economy there was no man on this floor who objected to the enactment of provisions of that kind. Now, no matter how great the economy may be, no matter how beneficial these reclassifications may be in the administration of public affairs, these two Members say they can not be considered. They even refuse to allow this House to consider any one of these proposed changes. If they were acting in good faith they would at least permit the House to consider propositions of that kind when they are informed that as a result of this legislation we are saving the people's money and improving the public administration of our public affairs.

Now, if these provisions did not suit the House, or any Member of the House, that Member has a perfect right, under the rules of the House, to amend, if he desires to do so. If the salaries which have been reported here are in excess or greater than what they think they ought to be, they have the right to offer an amendment if they see fit to do so. I speak of this, Mr. Chairman, merely for the purpose of emphasizing the fact that if we are to go on here day after day under the technical policy of these gentlemen I want the country to know who is responsible for it and why they are pursuing the course that they are. I do not want them to give it out to the country that they are actuated by motives of economy when they refuse to allow this House to consider a proposition which results, if enacted into law, in saving money to the public or improving the public service. Now, they have a perfect right—any Member has a right, if he sees fit to exercise it—to make points of order against these provisions, but this House ought to remember and the country ought to know that a point of order deprives the House of an opportunity to consider whether or not the provisions are wise or unwise—whether or not they would result beneficially to the Government or not. And when, contrary to the uniform practice of this House of considering provisions of this kind by unanimous consent, the country will know that these men set themselves up as censors, not in the interest of good administration or in the interest of economy—when the country knows that they are depriving the House of an opportunity of considering provisions in the interest of economy—I imagine that their course will not meet with that popular approval which it is evident they hope or anticipate it will by their claiming that they are doing this for that purpose. Why, just a few minutes ago, as a result of their policy, they have made it necessary to increase the public expenditures. They have by their policy made it impossible for us to improve the efficiency of one of the branches of the Government. Now, Mr. Chairman, I submit, in all candor, that if this policy is to be followed out we may as well proceed with the reading of this bill, have everything stricken out, whether it reduces or does not reduce public expenditure, and then rewrite the bill in the language of the current legislative bill and let it go to the other branch of Congress, where these proposed reforms and changes may be considered. I will not say that there is any purpose or intention on the part of the Committee on Appropriations to do this, because it is not necessary. Those things can be corrected under the parliamentary procedure of the House, and they will be, but it will involve simply going over this bill again. It will simply involve the time necessary for reconsidering every one of these provisions which, by the policy of these gentlemen, the House is now deprived of the opportunity of considering. The House is competent to determine whether these changes should be made or not. The plan proposed by the gentleman from Illinois [Mr. PRINCE] is absolutely impractical. If these changes are not right, or if these provisions should not be enacted into law, if we should not cut down the forces in the Executive Departments as we have done in this bill, if we should not change around and reclassify as we propose in this bill, it is a matter that the House can by a majority vote determine. But the attitude and the policy of these gentlemen is to deprive the House of the opportunity of accomplishing anything of this kind.

Mr. PRINCE. Mr. Chairman, I ask unanimous consent to address the House in a brief time upon the speech of the gentleman from Minnesota, the chairman of the Committee on Appropriations.

The CHAIRMAN. The Chair is ready to rule on the point of order and will do so, and then submit the gentleman's request. The Chair sustains the point of order. The gentleman from Illinois asks unanimous consent to proceed for five minutes. Is there objection. [After a pause.] The Chair hears none.

Mr. PRINCE. Mr. Chairman and gentlemen of the House, the chairman of the Committee on Appropriations, the gentleman from Minnesota [Mr. TAWNEY], says that if we persist in asking for the rules of the House to be observed, we are obstructionists; that we are not acting in the interests of economy; that this bill and many of its provisions will fail, and, in fact, half of the bill, as he stated before, would go out on a point of order. Now, Mr. Chairman, in the first place, speaking for myself only, I have not made a point of order against any reduction of expenses in this bill.

Mr. TAWNEY. I beg the gentleman's pardon, he did.

Mr. PRINCE. Wherein, sir?

Mr. TAWNEY. In respect to the Civil Service Commission.

Mr. PRINCE. You have brought in a bill which, you say, reduces it, have you not?

Mr. TAWNEY. Yes, sir; $2,590.

Mr. PRINCE. Very well. In the first instance, let us see what it means. On page 34 I have asked two chiefs of divisions, at $2,000 each, be stricken out. That can not be an addition. I have asked twenty-two clerks be reduced to six clerks. That can not be an addition. I have not changed any provision of the law. Can that be an addition? That is subtracting, not an addition. On page 35 I have asked that seven clerks be reduced to six. Is that an addition?

Mr. LITTAUER. But you know the force as you have emasculated it can not remain so, that it has to be put back one way or another, else the work of this bureau be given up.

Mr. PRINCE. Is it possible that one clerk at $1,000 can disarrange the entire bureau?

Mr. LITTAUER. Your statement covered more than one clerk.

Mr. PRINCE. Can it be possible that two examiners who heretofore have never existed can disarrange the entire bureau?

Mr. LITTAUER. The work that these examiners are detailed to perform has been going on, and they are now in this service.

Mr. PRINCE. In the old bill there were none of them there, and this Commission has existed ever since when? Will the gentleman from Ohio tell me when the first civil-service bill was passed.

Mr. GROSVENOR. It was passed in 1883.

Mr. PRINCE. And it is the only one that has been passed, has never been modified or amended?

Mr. GROSVENOR. Never.

Mr. PRINCE. So the machinery is there as it is and in running order, and now I say and deny I have reduced it. Very well, what else?

Mr. LITTAUER. How many clerks do you reduce in that paragraph?

Mr. PRINCE. I mean I have not increased it; I have reduced it.

Mr. LITTAUER. Nine clerks in one paragraph.

Mr. PRINCE. Six clerks in one paragraph. Can that be an addition?

Mr. LITTAUER. No; but you render it incompetent to do the work.

Mr. PRINCE. I will answer any question you put to me.

Mr. LITTAUER. We might be able to get along without the whole force, but we can not get along without a well-ordered force.

Mr. PRINCE. You gentlemen representing the Committee on Appropriations have declined to restore the old law. I have offered an amendment on the floor of this House to restore the old law, and you decline to do it. You stand here and cripple the service, not I.

Mr. TAWNEY. Will the gentleman yield?

Mr. PRINCE. I will.

Mr. TAWNEY. As a result of your point of order you have made this readjustment of the service of the Civil Service Commission proposed in this act absolutely impossible, thereby necessitating a new provision restoring the service as it is at the present time, the result of which will be to increase the number of clerks to the extent of three and the aggregate appropriation by $2,590.

Mr. PRINCE. Very well. Suppose you leave the law as you have proposed it and reduce these clerks, do you mean to say that the business of that bureau can not be discharged at all?

Mr. LITTAUER. Certainly.

Mr. PRINCE. You mean its efficiency is entirely destroyed by the absence of one or two clerks?

Mr. LITTAUER. No; it is curtailed.

Mr. PRINCE. A good many believe the tail should be cut entirely off.

Mr. TAWNEY. It necessitates going back to the old arrangement, that is all.

Mr. PRINCE. Let us go a little further. What is all this discussion about? It is about a mere bureau. What points of order have heretofore been made upon this bill, padding the rolls of the House, increasing numbers of employees connected with the House of Representatives? Has there been a move on the part of anybody here to cripple the great Departments of this Government? Not a word of it. Wisely has the distinction been made between the Departments of the Government in giving clerks in sufficient number to carry on the business of this country. You are arguing along the line of fly specks more than giving a broad consideration to the great Departments of this Government of ours with more than 300,000 clerks. Now, what is the law? The Revised Statutes of the United States, section 158, page 26, Title 4, says:

> The provisions of this title shall apply to the following Executive Departments:
> First, the Department of State; second, the Department of War; third, the Department of the Treasury; fourth, the Department of Justice; fifth, the Post-Office Department; sixth, the Department of the Navy; seventh, the Department of the Interior.

And while it does not name the Department of Commerce and Labor, I would not raise the point against that Department. While it does not name in the old law the name of a Cabinet officer—that of the Secretary of Agriculture—I would not make a point of order against that Department. That was in this title, 5, 6, 7, 8, 9, 10, and 11, where the Executive Departments are enumerated in the preceding section, and the decision has been "one presided over by a Cabinet officer." Now, what is the other section, page 27, section 160, for the benefit of the Committee on Appropriations?

> Each head of a Department is authorized to employ in his Department such number of clerks of the several classes recognized by law, and such messengers and assistant messengers, copyists, laborers, and other employees at such rates of compensation, respectively, as may be appropriated for by Congress from year to year.

There are the great branches of the Government.

The CHAIRMAN. The time of the gentleman has expired.

Mr. PRINCE. Just a moment, with the indulgence of the House, because part of my time was taken up by interruptions.

Now, there is ample provision under the law. Decision after decision has been made along that line, and why is a great deal of criticism inveighed against men in the House because they are asking that the rules of the House be observed, and because they believe as well that there are many provisions in this bill that have heretofore been objected to that ought to have been objected to on broader grounds?

Mr. HAUGEN. Will the gentleman allow me to ask him a question?

Mr. PRINCE. Certainly.

Mr. HAUGEN. Is it not the object of this bill to reduce the salaries of the underpaid clerks and to increase the salaries of the higher-priced clerks and the favored ones from beginning to end?

Mr. PRINCE. Well, I would rather have the chairman of the committee answer that, and I will give him time for that purpose.

Mr. TAWNEY. What is the statement of the gentleman?

Mr. HAUGEN. I asked the question, Is it not the object of this bill to reduce the salary of every underpaid clerk and to increase the salary of the higher-priced clerk, the favored ones, from beginning to end?

Mr. TAWNEY. What clerks does the gentleman refer to? The clerks in the Departments?

Mr. HAUGEN. From beginning to end. You fix the salaries of the messengers now. They are fixed at $1,100. These men are here on duty about four or five months in the year, while you have others here who have to face the storm night and day and who perform their services for twelve months, and they are reduced in pay.

Mr. TAWNEY. That was done by action of the House, fixing the salaries at $1,100.

Mr. LITTAUER. Are you willing to take the position that these salaries are not properly fixed in the amount?

Mr. HAUGEN. Certainly; that is known to all men of experience.

Mr. LITTAUER. Do you say that they are not equal to those paid throughout the United States?

Mr. HAUGEN. Certainly.

Mr. LITTAUER. The gentleman is surely mistaken in his

contention. They are paid 50 per cent more than the men in your own home.

Mr. HAUGEN. What are they paid here in the city, if you please? You now propose to pay them $1,020. You propose to pay the messengers $1,100, who report here for three or four months in the year. These men are here every day, not including Sundays. They work over eight hours a day without a single day of leave of absence, except the fifty-two days, and these people, who are not required to go into the highways, are now to receive $80 a year more than those who are out day and night.

The CHAIRMAN. The time of the gentleman has expired.

Mr. PRINCE. I want to get an answer.

The CHAIRMAN. Without objection, the gentleman will be recognized for further time.

Mr. PRINCE. The main contention, as I gather, is this: The gentlemen in charge of the bill charge that we are invoking the rule when we ought not to invoke the rule. What are the rules for? If it should appear to the country that here is a great body of 386 Members who have rules that they can not do business under, it may be suggested in the country that the rules ought to be modified in a way so that the expressions of the American people through their representatives can have a voice upon the floor of this House. [Applause.]

And I trust and hope that, aside from the discussion of this bill, it will rivet the attention of the country upon the rules of this House. Tell us what they can do, and what they can not do. And in the coming Congress, which, in my judgment, will be overwhelmingly Republican, we will adjust the rules in a way that things will be carried on and policies carried out in accordance with the wishes of the people; and as one of their representatives I am perfectly willing to stand before my people, as I expect to this fall, and give an account of what I am doing here on the floor of the House to-day. I have no question what the result will be. Now, if you want to bring in a proposition here which will make these various propositions in order, bring it in and let us vote on it. [Applause.]

The CHAIRMAN. The Clerk will read.

Mr. TAWNEY. Before the Clerk proceeds I want to ask the gentleman from Illinois one question. He has stood here upon the floor of this House and said that what he is doing here is in deference to the rules of the House; and now, as he is expressing such a high regard for the rules of the House, I will ask the gentleman if it is not a fact that he received the appointment of a janitor under a rule of this House a short time ago?

Mr. PRINCE. I did.

Mr. TAWNEY. I want to ask the gentleman if that janitor was not assigned to service for two committee rooms in this House?

Mr. PRINCE. Three.

Mr. TAWNEY. Is that janitor here in accordance with the rules of the House——

Mr. PRINCE. No.

Mr. TAWNEY. Or is he drawing his salary at home?

Mr. PRINCE. I will answer the gentleman's question frankly. I am chairman of the Committee on Levees and Improvements of the Mississippi River. A resolution was introduced by me asking for the appointment of a janitor. That resolution was referred to the Committee on Accounts. An omnibus resolution came out of the Committee on Accounts, assigning to me the privilege of naming a janitor for the Committee on Levees and Improvements of the Mississippi River, that janitor to do the work of the index committee room and of the room of the Committee on Reform in the Civil Service. I wrote a letter at once, when I had the privilege to make the appointment, to a constituent of mine living in Galva, Henry County, Ill., named C. A. Bradford, asking him to come here and take that position. He came here, appeared before the proper person, and took the oath of office to enter upon the discharge of his duty. He entered upon the discharge of his duty. He took sick. I called at his room here and found him, as I supposed, almost dying. It was a question in my mind whether to send him to a hospital or to send him by sleeping car to his home. I thought it was better to do the latter. He is at home recovering from his sickness. I have a letter in my pocket, just received only day before yesterday, stating that he hopes he will be here in a little while. In the meantime I went before the chairman of the Committee on Reform in the Civil Service, told him the condition of my sick white man from my district, asked him to name a person to do the service, and told him I would be personally responsible for the payment for the janitor's services until he was well enough to return.

I went to the index office and made a similar request. The clerk of the gentleman from Massachusetts [Mr. GILLETT] is Mr. Gibbs. He employed a man and paid out the money, and I asked him how much it was, and he told me, and I paid it.

Mr. LITTAUER. What is the sum that is being paid for the care of this room?

Mr. PRINCE. Two dollars and a half, as I recollect.

Mr. LITTAUER. A month?

Mr. PRINCE. Two dollars and a half a month for the work in the room of the Committee on Reform in the Civil Service.

Mr. LITTAUER. How much in the index room?

Mr. PRINCE. Three dollars a month.

Mr. LITTAUER. And what for the services of the janitor work in the room of the Committee on Levees and Improvements of the Mississippi River?

Mr. PRINCE. That, I suppose, will be in the neighborhood of $3.

Mr. LITTAUER. So that the total amount paid is $8 per month, paid to a man to do the work of another man, to whom the Government pays $60 a month.

Mr. PRINCE. Yes; that is true, but the man is now sick at home.

He was here to do the work, but he took suddenly sick, and you and I are liable to be sick. I brought the man in good faith from my district. That man took the oath here in Washington, D. C., and entered upon the discharge of his duty. He is sick at home, through no fault of mine nor of his. Do you fault me for that, my colleague?

Mr. LITTAUER. I certainly do, for you are responsible for the appointment of this man, who receives $60 a month for his services from the Treasury of the United States. You brought him here. How long was he here?

Mr. PRINCE. He was here perhaps a week or more, but took sick suddenly.

Mr. LITTAUER. Then he went home and remained there, but continues to draw the $60 a month. Instead of providing proper services for the care of these rooms, as the law allows you to control the work, you arrange for that work at a compensation of $8 per month, a difference of $52 per month.

Mr. PRINCE. I told the chairman of the committee to employ any man he saw fit and bring in a bill and I would see that it was paid. I got a receipt running to the janitor, and that receipt was given by the different men in charge of the room, and that receipt has been returned to the janitor, and not one cent kept by me. It has all gone back to him, and that man will be here in the discharge of his duty. Go and ask Mr. GILLETT, the chairman of the committee, and ask him if his room has not been well taken care of. If not, I will hire another one. Go and ask the man in charge of the index room; if that room has not been well taken care of, I will hire another one. Here is a sick man that you are trying to put me on the grill about.

Mr. BATES. Will the gentleman allow me to ask him a question?

Mr. PRINCE. Certainly.

Mr. BATES. Is the gentleman bearing in mind the fact that the resolution that authorized the employment of this janitor empowers him to perform the duties of messenger as well as janitor? Is the eight-dollar man performing any duty as messenger?

Mr. PRINCE. As to that I do not think he would have to do any in the index room. As to the other room, I don't know.

Mr. BATES. It is the common duty of the janitors to spend a portion of the time in running errands.

Mr. PRINCE. Yes; and the man will be here to do it. I am perfectly willing for the country to know the whole facts. If I had left the man at home and was drawing $60 for him I would hide my head in shame before my colleagues and the country, but when I brought a man from my district—a white man—who took an oath, entered upon the discharge of his duty, a supporter of mine, who is taken suddenly sick and has to go home to be doctored, I think it is scarcely fair for gentlemen to charge me with violating the rules of the House when I am living up to the rules of this House. If it is a violation, I will meet my constituents and the country. [Applause.]

Have the gentlemen of the committee anything else to hurl at me because I see fit to insist on the rules of the House not being violated as against your Appropriations Committee in this House?

Mr. LITTAUER. No; we think the gentleman's own comment is enough, and also the comment contained in his statement that the Committee on Appropriations is padding the rolls of this House.

Mr. PRINCE. The Committee on Accounts passed a resolution allowing me, as a chairman, to appoint this janitor; brought it into the House; it was voted upon in open session by this House under the rules of the House. It was not

smuggled in, as the committee is trying to do through this appropriation bill, violating the rules of the House, with items that are subject to points of order and which are going out on points of order.

Mr. UNDERWOOD. Mr. Chairman, I move to strike out the last word. I listened a while ago to a speech by the chairman of the Committee on Appropriations in reference to the rules of the House. I served at one time on the Appropriations Committee, and I certainly have a kindly feeling for the committee, and I am sure in violating the rules of the House the general Appropriations Committee of this House have often passed meritorious, economic, and good legislation.

I do not think there is any doubt about the fact that the law that was written on the statute book in the last session of Congress which prohibited Department officers from creating deficiencies was a good law, an economic remedy; but notwithstanding that it is a fact that this committee has written good law on the statute book in violation of the rules of this House, I do not think it lies within the mouth of the great Committee on Appropriations, or any other committee, to come into the House of Representatives and attempt to justify themselves in the violation of the rules of the House. We all violate the rules of the House every now and then, and ask unanimous consent to do so, but when we do it it ought to be understood that we do it with the unanimous consent of every Member of this House.

Mr. Chairman, the object of the rules of this House is not simply to prevent the House of Representatives from being an unorganized mob of men. The object of the rules of this House more than anything else is to protect the rights of every individual man upon the floor of the House, and more than all, Mr. Chairman, the object of our having a set of rules in this House is to protect the rights of the minority of this House. It is to see that the minority here has justice, and to regulate the majority so that they shall not trample on the rights of the minority and the rights of the individual Members of this House.

I therefore say that no man has the right to complain that an objection is being made to what he is doing if his course of action is beyond and outside of the rules of the House. Now, the gentleman said that we could not legislate. A great deal of legislation that goes on appropriation bills belongs to other committees in this House. If the Appropriations Committee of this House did not legislate in appropriation bills that legislation would be enacted after coming from other committees in the House; and if it came from other committees it often would receive a more careful consideration, and a better consideration, than when it comes in here to be enacted on an appropriation bill.

I do not think there is any rule in this House that is wiser, that is better, that is safer for the good government of this House, than Rule XXI, which prohibits the enactment of new legislation on appropriation bills, and I think the Members of the House will recognize that fact when they realize that if you put new legislation on an appropriation bill and bring it into this House you go into the Committee of the Whole, you have no chance to call the roll, you have no chance to put the membership of this House on a record vote on that direct question. If you allow this to be done, to enact new legislation on a general appropriation bill, you can put law through this House without complying with the constitutional requirement that one-fifth of the membership of this House shall be entitled to have a record vote, because you can only have the record vote on the adoption of the bill itself.

The CHAIRMAN. The time of the gentleman has expired.

Mr. DRISCOLL. Mr. Chairman, I rise simply to express my entire approval of the action of the gentleman from Illinois [Mr. PRINCE] and the gentleman from Georgia [Mr. HARDWICK] in sitting here day after day and insisting that the rules shall be observed. I say this because the gentleman from Minnesota [Mr. TAWNEY], the chairman of this great committee, in quite a long and severe speech attempted to develop sentiment in this House against those two gentlemen for doing their duty, and also attempted to arouse public sentiment throughout the country against them if possible, and the gentleman from New York [Mr. LITTAUER] attempted to impute to one of them an improper motive by reference to a janitorship. Now, these gentlemen, who are running this great committee, are sticking for rules when they want to accomplish their purposes by the rules; but when they bring in new proposed legislation which they know is not proper they are disposed to bulldoze or browbeat other men who are here insisting that the rules be observed. [Laughter and applause.] If a rule is a good rule, it ought to be kept. If it is a bad rule, it ought to be revoked. And the only way, certainly the best way, to determine whether a rule is a good rule or a bad rule is to enforce it. That is what these gentlemen are doing. If it is a bad rule, improve it, correct it, or repeal it, and if it is a good rule, carry it out to the letter. Do not attempt to threaten, terrorize, or ridicule other Members who insist that you shall conduct this piece of legislation in an orderly and legal manner and according to the well-recognized rules of this body.

Mr. HEPBURN. Mr. Chairman, I don't know whether it would be proper to allow these paragraphs to pass without some observations from one of the Members from Iowa. For some unaccountable reasons my venerable friend on my right, the gentleman from Ohio [Mr. GROSVENOR], although he is fully equipped for making a speech—you will observe that he is decorated with flowers and is wearing a Prince Albert coat—has flown the coop. [Laughter.] And he seems unwilling to make his annual contribution to the civil-service reform subject. I confess that for myself I propose to change somewhat my lines. I have heretofore, in a feeble way, tried to express my condemnation of the new-fangled civil service that we now are agonizing under, and it is true I have heretofore found but little in the performance of either Commissioners or their subordinates or in the operation of the system itself that challenges my commendation. But, looking over some of the older statutes, I have discovered something that I can say in commendation of the civil service. This is a great country of ours, Mr. Chairman. Expansion is the rule. Growth and progress mark every footstep of the Republic's course. We are getting to be a great people, and all of our institutions to be harmonious with the general purposes of the Republic must be great; they must be growing. I find that twenty-three years ago the first appropriation that was made to carry on the expense of that new departure of ours, devoted to civil-service reform, aggregated $20,000. Ten persons or less were provided for by that expenditure. The second appropriation was about the same amount, and the same number of people. I find that this appropriation bill, only twenty-three years after those that I have spoken of, carries $237,000 and provides for one hundred and eighty-odd people. Think of the wonderful growth of this institution! One thousand eight hundred per cent in its personality; 1,100 per cent in its expenditure! It is keeping pace with the wonderful progress of the Republic. [Applause and laughter.] Ah, Mr. Chairman, it is outstripping all that we have ever done in any other of the avenues of growth or in any of the evidences of prosperity that we are able to furnish to a wondering world. We boast about the growth of our foreign commerce. It is a bagatelle in its percentage with the growth of this institution. We boast about the wonderful production of wealth that this nation is capable of in a single year. Twenty-one billions is the record for last year, and yet if you compare that with what we were able to do in this institution since it was an infant, how small is the growth in production in its percentage. And so it is with everything else. The civil service is outstripping all the other evidences of prosperity and growth in this country, and therefore I am able to commend it in showing that in twenty-three years it has increased the number of those that are able to carry it on at the ratio of 1,800 per cent and in the cost to the people a percentage nearly as great. Wonderful is the civil-service reform of the country! [Applause.]

The Clerk read as follows:

Rural carrier examining board: For one chief of division, $2,000.

Mr. PRINCE rose.

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. PRINCE. To make a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. PRINCE. Beginning at lines 7 and 8, on page 35, I make the point of order to the provision "for one chief of division, $2,000." That is new legislation, and it is in contravention of the second paragraph of Rule XXI of the House.

The CHAIRMAN. Does the gentleman from New York care to be heard on the point of order?

Mr. LITTAUER. No.

The CHAIRMAN. The Chair sustains the point of order.

Mr. LITTAUER. I would just like to call the attention of the House, however, to the fact that this provision takes the place of a man now employed at $2,250, so that the economy achieved is on the wrong side of the ledger, amounting to $250 in this instance.

Mr. PRINCE. Mr. Chairman, in answer to that I wish to say that the old law shows that the amount expended for this purpose was $20,690.14, and this economical bill that reduces it carries in it $23,440—an addition, not a subtraction.

Mr. LITTAUER. The gentleman is not well advised, for the appropriation for the rural carrier examining board last year was $25,690 and this bill carries $23,440, making a reduction of $2,250.

Mr. SHACKLEFORD. A point of order, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. SHACKLEFORD. The gentlemen are not speaking to anything before the House.

The CHAIRMAN. The point is well taken.

Mr. SMITH of Iowa. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. SMITH of Iowa. For the purpose of moving to strike out the last word.

The CHAIRMAN. The gentleman from Iowa moves to strike out the last word.

Mr. SMITH of Iowa. Mr. Chairman, during the consideration of this bill there has apparently arisen something of bitterness as between Members of the House sitting in the committee which, it seems to me, we might well avoid, if possible. The growth of appropriations for the support of the Federal Government has been so great that under the most favorable circumstances it is almost impossible for the House to consider properly the separate items of expenditure. Hampered as we are by the difficulties incident to the appropriation of money for the public service, we ought, at least so far as possible, to approach the consideration of these questions free from excitement and free from anger. I do not mean by this remark to criticise at all the gentlemen who have seen fit to raise points of order during the consideration of this bill. I was myself engaged in a greater or less degree in presenting points of order during the consideration of the Army bill. Some of my colleagues upon the Appropriations Committee were also engaged in that, and I am not here to criticise in others those things I practice myself. Of course, there has sometimes arisen the question as to whether the points of order made against this bill are in memory of the points of order made against the Army bill.

Mr. SHACKLEFORD. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state the point of order.

Mr. SHACKLEFORD. The gentleman is not speaking to anything before the House.

Mr. SMITH of Iowa. I am speaking to an amendment under the invariable practice of the House which I had a right to propose. The question has arisen in my mind whether the fate that overtook the bill to abolish the grade of Lieutenant-General in the Army may have had anything to do with arousing the feeling that is displayed now upon the floor of this House, but whatever may have been the provocation upon our part and whatever may have been the direct cause that induced our distinguished friends to raise these points of order, I am not seeking to criticise them nor in any sense to rebuke them. I assume no right or authority to rebuke them, but it does seem to me that misapprehension exists here as to the purposes of the rules of the House. The rules of the House are not like the criminal laws of the land. The criminal laws of the land should be enforced or repealed, but the rules of the House contemplate their being set aside by numerous methods. We set apart special days on which to suspend the rules and for the time being set them aside. We pass more measures here by unanimous consent, perhaps, than by all other methods combined, and not in accordance with the rules—the bills not being entitled to consideration under the rules.

Mr. PRINCE. May I ask the gentleman a question?

Mr. SMITH of Iowa. Oh, most certainly.

Mr. PRINCE. You say we pass many bills by unanimous consent.

Mr. SMITH of Iowa. I do.

Mr. PRINCE. Is it not the invariable rule of the Speaker of the House when, for instance, the gentleman from Iowa rises and asks unanimous consent for the present consideration of a bill, that the bill is sent to the Clerk's desk and read, and the Speaker asks if there is objection, and pauses for an objection?

Mr. SMITH of Iowa. The gentleman is certainly correct as to the practice of the House.

Mr. PRINCE. And unanimous consent can be objected to if we desire to do so.

Mr. SMITH of Iowa. I am simply seeking to point out, Mr. Chairman, that while we have rules that we are entitled to insist upon, they are not, under the practice of the House, insisted upon in season and out of season as though they were statutes, but that most of the legislation of the House is done either by motion to suspend the rules or by unanimous consent, and bills are taken up which could not come up under the rules, save by unanimous consent. So that most of our legislation is legislation enacted not in obedience to the rules laid down, but by either unanimous or through two-thirds approval by a departure from the ordinary rules. So it has been the practice from the early time to make such changes on appropriation bills as are made upon the bill now before the Committee of the Whole House on the state of the Union. That does not deny to anyone the right to raise a point of order or object, and what I am seeking to get at is this: That the rules are made that they may be insisted upon by any Member, in the exercise of his best judgment, for the advancement of good legislation, but that the objection ought not to be raised unless the proposed matter is objectionable.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SMITH of Iowa. I ask unanimous consent to proceed for ten minutes.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. SMITH of Iowa. I want to say this to those who have objected: That it is their strict legal right; but if a meritorious measure is brought in here to reduce expenditures, that it is not a wise time, in my judgment, that they should seek to control the judgment of others by insisting upon a rigid enforcement of the rules. These rules are not enforced as to the greater number of bills that pass the House. Here is a proposition to reduce public expenditures. It is a laudable enterprise; a commendable effort; and yet these rules that strike down alike meritorious propositions and those lacking in merit are cited for the purpose of preventing the reduction of public expenditures. No criticism will be heard from me upon my distinguished friend from Illinois. Between us there have always existed most pleasant personal relations, and I trust they will always so continue. But I ask the question here: Passing over, free from anger and free from offense, whatever may have been given by any man in the past, should these rules be resorted to for the purpose of preventing a reduction in public expenditures? If we are to come here to discharge our duty dispassionately to the whole country, we should insist upon the rules when their violation would be detrimental to the public service, and waive these rules whenever we can thereby promote the public welfare. So I hope that whether the offense originally emanated from one side or the other in this matter, that the rules will be enforced whenever asserted, as they will be by the Chair; but that no Member will feel that it is his duty to raise a point of order against any portion of any bill when the enactment of that provision would be beneficial to the public welfare.

Mr. SHERLEY. Will the gentleman allow me to ask him a question?

Mr. SMITH of Iowa. Certainly.

Mr. SHERLEY. I will ask the gentleman if he does not think the rule that he is speaking in favor of, that should actuate Members not on the committee, ought to also actuate the Members on the committee?

Mr. SMITH of Iowa. I do.

Mr. SHERLEY. Does not the gentleman think they ought to consider amendments offered in good faith by Members not on their committee with regard to whether the amendment is for a good purpose or not, and not simply make the point of order, irrespective of the merits of the proposition?

Mr. SMITH of Iowa. I will answer that question with great pleasure. The committee, at least the subcommittee, has given a most patient and careful investigation to the items of this bill. It could have given no consideration to an amendment here proposed from the floor. An amendment, therefore, proposed by the committee after full consideration should not, in my judgment, be put upon an equality with a proposition made on the floor that had never been submitted to the committee.

Mr. SHERLEY. There is something in that; but does not the gentleman realize the practice of the committees having in charge these various appropriation bills has been to make the point of order universally, without regard to the matter, whether wise or unwise; and is not the gentleman now in a rather peculiar position when he appeals to the House to accept the wisdom of the committee, that never has accepted the wisdom of the Members of the House?

Mr. SMITH of Iowa. I can not agree that it has been the practice universally to raise the point of order, but the general practice has arisen because the great body of amendments offered from the floor have not been considered by the committee; and it is a matter of common knowledge that wise and orderly legislation ordinarily can not be prepared here upon the floor of the House, but ought to be prepared in the committee room.

I am simply appealing, wherever the fault may have originated, to gentlemen to lay aside every particle of feeling at least upon this subject. If gentlemen see fit to continue to make points of order it shall arouse no bitterness on my part. That is their right. But I appeal to them that the point of order ought not to be made if, upon full consideration of the

proposition the committee has made, it is found public expenditures can be reduced by changing the law and the committee has so reported to the House. With that, Mr. Chairman, I have nothing further to say.

Mr. SMITH of Kentucky. I want to ask the gentleman a question, if he will yield to me.

The CHAIRMAN. Does the gentleman from Iowa yield to the gentleman from Kentucky?

Mr. SMITH of Iowa. Certainly.

Mr. SMITH of Kentucky. Now, in case a Member of this House has what he believes to be a meritorious amendment that he wishes to propose to one of these appropriation bills, what chance has he to have a hearing before the membership of this House on the proposition if under the rules he may be cut off by some member of the committee making the point of order that it is new legislation?

Mr. SMITH of Iowa. I would answer that if any Member of this House has an amendment which he thinks important to have added it would be better for him to present it to the proper committee and attempt to get it incorporated in the bill with the consent of the committee.

Mr. SMITH of Kentucky. Yes; but suppose he has failed in the committee and he wants to be heard on the floor? How can he hope to be heard under the rules which forbid a Member from offering a new proposition?

Mr. LITTAUER. On his request to reserve the point of order, which has always been granted by the committee.

Mr. SMITH of Kentucky. Only by unanimous consent.

Mr. LITTAUER. But it has always been granted by the committee at least.

Mr. SMITH of Kentucky. But he never gets a vote on it. It is simply reserved, so that he can say something for the CONGRESSIONAL RECORD, but the membership does not vote on it at all.

Mr. SMITH of Iowa. If I may be permitted to answer the gentleman, if the committee has upon consideration rejected his amendments, of course the committee, having fully considered the matter, would be opposed to its being put in upon the floor of the House, where it could not be considered in its due relation to other parts of the bill. I am not criticising anyone, and I want that understood.

Mr. SMITH of Kentucky. I understand that.

Mr. SMITH of Iowa. I am simply making an appeal that, where a provision is for the good of the public service, Members should not object to that any more than they invoke the rule against every meritorious bill for which unanimous consent is asked, or any more than they insist upon the rules against a bill when a motion is made to suspend the rules.

Mr. SMITH of Kentucky. My criticism is that the committee takes to itself the exclusive privilege of passing upon the question whether a proposition is meritorious or not. A Member of this House is entitled to have a hearing before the membership of this House upon a proposition that he thinks is meritorious.

Mr. FITZGERALD. I do not think the distinguished committee of which I happen to be a member should beseech Members of this House not to insist upon the enforcement of its rules. I do not believe that either the committee or its members are possessed of any superior wisdom or virtue above that possessed by other Members of the House.

In the investigations connected with the preparation of this bill certain conditions were disclosed which, in the opinion of the committee, should be remedied, and in order to correct abuses that exist, or to call the attention of the House to the abuses, certain provisions have been inserted in this bill which, if adopted, would in some instances benefit the service and in other instances, in my judgment, would not benefit the service. I am under some obligation to the gentleman from Illinois [Mr. PRINCE] and the gentleman from Georgia [Mr. HARDWICK], because, apparently, they are going to save me some trouble later on of interjecting points of order to some provisions in the bill. But the members of the committee should not object or be chagrined if Members insist upon their rights. The committee does its work and performs its duty when it presents to the House a view of the abuses that exist. In doing that the committee is compelled to violate the rules of the House, because, as I wish to call attention, the rule expressly provides that—

> No appropriation shall be reported in any general appropriation bill * * * for any expenditure not being authorized by law, unless in continuation of appropriations—

And so forth. Now, in these rules, which have been named after the great parliamentary leader of the Republican party, Mr. Reed, there is one provision—and it is the only time, I believe, that the Republicans of this country have paid a tribute to that great genius, Thomas Jefferson—in which they not only approve of certain of his writings, but adopt the rules framed by him as the rules of procedure in this House. One of the rules of the House provides that—

> The rules of parliamentary practice comprised in Jefferson's Manual shall govern the House in all cases to which they are applicable and in which they are not inconsistent with the existing rules and orders of the House and the joint rules of the Senate and House of Representatives.

In the first section of Jefferson's Manual, which is printed under an order of the House for the information and guidance of the Members in the conduct of their business, Mr. Jefferson quotes Mr. Onslow, one of the oldest Speakers of the House of Commons, in this language:

> Mr. Onslow, the ablest among the Speakers of the House of Commons, used to say, "It was a maxim he had often heard when he was a young man, from old and experienced members, that nothing tended more to throw power into the hands of administration, and those who acted with the majority of the House of Commons, than a neglect of, or departure from, the rules of proceeding; that these forms, as instituted by our ancestors, operated as a check and control on the actions of the majority, and that they were, in many instances, a shelter and protection to the minority against the attempts of power."

And then Mr. Jefferson continues:

> So far the maxim is certainly true, and is founded in good sense, that as it is always in the power of the majority, by their numbers, to stop any improper measures proposed on the part of their opponents, the only weapons by which the minority can defend themselves against similar attempts from those in power are the forms and rules of proceeding which have been adopted as they were found necessary, from time to time, and are become the law of the House; by a strict adherence to which the weaker party can only be protected from those irregularities and abuses which these forms were intended to check, and which the wantonness of power is but too often apt to suggest to large and successful majorities. (2 Hats., 171, 172.)
>
> And whether these forms be in all cases the most rational or not is really not of so great importance. It is much more material that there should be a rule to go by than what that rule is; that there may be a uniformity of proceeding in business not subject to the caprice of the Speaker or captiousness of the members. It is very material that order, decency, and regularity be preserved in a dignified public body. (2 Hats., 149.)

Now, the rule which forbids the items complained of on this bill originated as far back as 1837, when it was found imperative to protect the House against itself and to prevent the enactment of vicious legislation upon the great supply bills necessary for the support of the Government. It may be that some change should be made in the rules of the House. It has often been asserted that a change should be made in these rules. My colleague from Iowa [Mr. SMITH] suggests that the committee has fully investigated these matters and that the Members of the House should be largely guided by their judgment. There is another body which has some jurisdiction of matters of Federal legislation which has another set of rules, and one rule in force in that body might perhaps properly be adopted by this body, and that is that after a committee having jurisdiction of certain matters reports favorably upon those matters to the House it would then be in order to incorporate such matters upon an appropriation bill.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. FITZGERALD. Mr. Chairman, I ask that my time be extended five minutes.

The CHAIRMAN. The gentleman from New York asks that his time be extended five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. FITZGERALD. The rules of the House were adopted in a manner that prevented any Member of the House attempting to effectuate a change. As soon as the House was organized a motion was made that the rules be adopted which were in force in a previous Congress, the previous question was demanded and ordered, and no Member of the House practically had any voice whatever in the make-up of the rules under which the House operates.

So that when some Member of the House now insists on exercising the rights that are conferred upon him under those rules, it comes with poor grace from those who have shackled the House with the rules to complain of their enforcement.

It may be—and I have no doubt it is the fact—that some of the points of order that have been interjected during the course of this bill have prevented reforms and economies, but the House must realize that in giving gentlemen the power to prevent the consideration of legislation the House itself is responsible for that action and not the gentlemen who undertake to exercise their rights.

Even, Mr. Chairman, though a member of the committee reporting the bill should rise to interpose a point of order, gentlemen are inclined to seriously criticise him for that action. I am not at all in sympathy with that prevalent feeling in this House, that committees are so impeccable, that they are so virtuous, that they are so wise, that when they have determined by a majority vote that certain things should be reported to the House it is high treason for any Member to exercise his

right under the rules to prevent, if he desires, the consideration of those matters in violation of the rule. [Applause.]

I am not going to criticise my own committee. I believe that the committee has done its full duty in calling the attention of the House to abuses that exist, and I am indifferent to what happens to any provision in this bill. I will vote for each provision or against it, as my judgment dictates that I should. I am perfectly willing that every other Member of this House shall exercise freely all the rights that he has under the rules in the consideration of this bill, and let each Member do as the committee is compelled to do, assume the responsibility for his own action. When that is done, Mr. Chairman, if it prevents reforms being made on this bill, it may result in vitalizing some of the dead committees of the House. It may result in effecting a reform by accomplishing it through the proper machinery of the House, and there may no longer be the spectacle of seventeen or eighteen committees organized for the purpose of working, but existing merely to give places of refuge to the gentlemen fortunate enough to be appointed as chairmen of these committees.

So I would say to my colleagues on the committee, in the best of good nature, whatever be the course followed by these gentlemen or any other gentlemen, and whatever may be the fate of any provision in the bill, that we rest content in the knowledge that we have performed our duty, and satisfied that everybody else is endeavoring to perform his according to his best judgment and according to his rights.

Mr. SMITH of Arizona. Mr. Chairman, it seems to me that they have gotten into a difficulty here that could be very easily and peacefully and properly settled. Why does not this committee rise and report to the House their inability to handle an appropriation bill, refer it to the Committee on Territories of this House, get a rule passed by the Speaker and pass this bill, and don't let anybody read it? [Laughter.] What is the use of talking about it and wasting time in this way? Two millions of people can be disposed of in twenty minutes' debate, and here you are quibbling over what a clerk gets in some Department. I am ashamed to see my friends forgetting how to attend to public business. [Laughter.] They have got no business to consider this bill, anyway. It has come to a point in the consideration of public business in this House that consideration of a bill is folly. Why, you can not even send it over to the Senate in a shape to suit you. This skeleton is going over there, and the gentlemen who have been trying so hard to maintain the dignity of this body will be crawling on their stomachs to the Senate to get these items put back in the bill. Abuse it with the lips and serve it with your hearts every minute when you want something done. [Applause.] That is what will become of this bill.

Mr. LITTAUER. How does the gentleman get such assurance?

Mr. SMITH of Arizona. I have seen it for twenty years.

Mr. LITTAUER. You may not see it again.

Mr. SMITH of Arizona. I hope I never may; but I am glad of one thing. I want to see these rules enforced. My long service here would permit me, with even my known modesty, to suggest to my own side of the House that these rules are so good that if I had my way, speaking for myself, we would not step an inch out of their divine and sacred presence from now until this Congress closed. [Applause.]

Mr. SHACKLEFORD. Mr. Chairman, I would ask the gentleman if he were to pursue that course whether he might not lose a public building some place in his district?

Mr. SMITH of Arizona. Oh, it is possible that I might lose a postmaster at Bull Gulch or Frog City, or some beautiful city like that. I might not get a postmaster that I particularly wanted, but I would forego even that to see these rules worked out fairly, honestly, and correctly. Gentlemen, let us try. Let us see about your "unanimous consents." They passed my statehood bill by unanimous consent. [Laughter.] Absolutely unanimous consent! Of course we could kick, but that was all. One man unanimously brings in the bill, and one man whips in the balance, and the bill is passed. Why don't we do the appropriation bills in that way? The Senate will consider them, give due and reasonable time, and give them fair and proper consideration; and I would to God if this thing keeps up that the whole legislative business were put in the hands of men who at least with reason and common sense and fair debate would look at the matters that so closely concern the interests of the people of this country. Pass everything here as you passed the statehood bill, or else pass them under a fair and open debate, where one man on the floor would have as much right as any other to the expression of his opinion. [Applause.]

Mr. PAYNE. Mr. Chairman, I am reluctant to take any of the time of the committee, because I think this bill would have made much more progress if there had been less debate upon the method of procedure of some of the gentlemen in the House. Now, the House is amply able to take care of itself, even without the aid of the Delegate from Arizona [Mr. SMITH], and to pass such legislation as the majority of the House shall deem best to have passed and to defeat such legislation as the majority shall deem best to defeat. Of course, it is in the province of any Member of the House in Committee of the Whole to raise a point of order, and if the point of order is well taken the Chairman will promptly rule. These rules are in the interest of economy, so far as they relate to appropriation bills, in order that the Committee on Appropriations or anyone else shall not come in here and create new offices unless it is considered by the appropriate committee, the committee having that legislation in charge. They are purposely framed so that any Member can defeat any such attempt on the part of the Committee on Appropriations by raising the point of order, and it does not disturb me in the least to see two gentlemen sitting here and raising points of order. It has generally been the custom of the House, Mr. Chairman, in such cases, for a gentleman to reserve the point of order on a provision in the bill which he thought was out of order and which he could not see the merit of until the item was explained, and if it was explained satisfactorily to him, to waive the point of order and let it go in the bill; but gentlemen have the right to insist upon the point of order. Now, I hope they will insist to their hearts' content, and I hope that when similar points of order are raised upon these items which must go out, that the matter will be left speedily to the Chair to rule upon and to rule whether they are in order or not, and with less debate upon each proposition we can get through with the consideration of this bill in the Committee of the Whole, each Member finding out what he thinks ought to be in and what he thinks ought to be out. Afterwards the House can very easily pass the bill, and pass such a bill as the majority of the House is in favor of, and no two Members or any number of Members less than a majority of the House can prevent it; we can do it with fair consideration, and we can send a bill over to the Senate which does not need to be deliberated upon by making a speech, when three or four Members are present, of three or four hours in length; we can have here when necessary the five-minute debate, when the Members can be brought into contact with all the reasons for or against a single item in the bill, and we can proceed in an orderly manner.

Gentlemen declaim against the rules of the House and they want a sort of town meeting, where every one of 386 Members, clamoring for recognition of the Speaker, shall each receive recognition at the same time to make his motion or to make his speech. They want pandemonium. The rules of the House, the Speaker, are not the result of any one man's work. They are the result of the experience of many more years than most of us have ever seen either in the House or out of it. They are the result of the best thought of the best men who have adorned the halls of Congress in the past on both sides of the House. They were made for the protection of the minority as well as for the advantage of the majority in having its will preferably in this House. And no such exhibition as has been made here to-day and no such declarations as we have just heard from the gentleman from Arizona will change the rules of the House. The rules of the House will remain after we have left it and they will remain substantially as they are to-day, and the House will transact its business under these rules in an orderly and proper manner. I want to say that gentlemen who are opposing this bill will finally see the bill pass in the shape that the majority of the House desire it passed and it will go over to the Senate, and they will perform their functions upon it by way of amendment.

The Clerk read as follows:

For necessary traveling expenses, including those of examiners acting under the direction of the Commission, and for expenses of examinations and investigations held elsewhere than at Washington, $8,500.

Mr. JOHNSON. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from South Carolina moves to strike out the last word.

Mr. JOHNSON. I wish to get some information from the Committee on Appropriations. I see in the Book of Estimates the Civil Service Commission have asked for $4,500 for the rent of a building. This bill does not carry that item, and I wish to inquire what bill does carry it.

Mr. LITTAUER. It will be found in this bill, under the Interior Department.

Mr. JOHNSON. Then, if it is found in this bill, I would like to ask the gentleman another question. Has the gentleman's committee made any investigation as to the rent of buildings

used by the Government as compared with the value of those buildings?

Mr. LITTAUER. We did it quite thoroughly. In fact, the matter became of such importance that two members of the committee were requested to visit the various different buildings and endeavor to find whether the rentals paid were fair and equitable in order that we might recommend them or not in this bill.

Mr. JOHNSON. Then I suppose that——

Mr. LITTAUER. This very building to which the gentleman refers was at one time paid for by the Government at the rate of $8,000, but for another purpose, however.

Mr. JOHNSON. I am not questioning that particular building or, indeed, any other building, but what I want is to know whether or not the rentals of the various buildings in this District are reasonable and anywhere in the neighborhood of what private individuals would pay for the same property.

Mr. LITTAUER. We believed so, with all the information we had before us.

Mr. JOHNSON. Then, Mr. Chairman, if it is true that the rents the Government is now paying for the various buildings in the District of Columbia are reasonable rentals, the sooner this House passes bills to erect its own buildings the better for the Government.

Mr. LITTAUER. Your committee came to that conclusion long since.

The Clerk read as follows:

DEPARTMENT OF STATE.

For compensation of the Secretary of State, $8,000; Assistant Secretary, $4,500; Second and Third Assistant Secretaries, at $4,500 each; chief clerk, $3,000; Assistant Solicitor of the Department of State, to be appointed by the Secretary of State, $3,000; law clerk, and assistant, to be selected and appointed by the Secretary of State, to edit the laws of Congress and perform such other duties as may be required of them, at $2,500 and $1,500, respectively; eight chiefs of bureaus, at $2,100 each; two translators, at $2,100 each; additional to chief of bureau of accounts as disbursing clerk, $200; private secretary to the Secretary, $2,500; clerk to the Secretary of State, $2,250; thirteen clerks of class 4; nine clerks of class 3; nineteen clerks of class 2; thirty-two clerks of class 1, one of whom is to be a telegraph operator; seven clerks, at $1,000 each; fifteen clerks, at $900 each; chief messenger, $1,000; three messengers; twenty-two assistant messengers; messenger boy, $420; packer, $720; four laborers, at $600 each; one telephone switch-board operator; in all, $204,370: *Provided*, That hereafter there shall not be employed in the Department of State or in connection with said Department in the District of Columbia any personal services other than those which shall be specifically authorized or appropriated for.

Mr. HARDWICK. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. HARDWICK. To make several points of order. In lines 19 and 20, page 36——

Mr. LITTAUER. Mr. Chairman, I make the point of order that we can not hear.

The CHAIRMAN. The gentleman from Georgia will please speak a little louder.

Mr. HARDWICK. I see in lines 19 and 20, page 36, the office of clerk to the Secretary of State is provided in this bill. Now, there is a section of the Revised Statutes, read by the Chair a moment ago, which reads as follows:

Each head of a Department is authorized to employ such number——

Mr. LITTAUER. I will agree that the point of order lies.

The CHAIRMAN. The Chair sustains the point of order.

Mr. HARDWICK. All right. The next point of order is, on page 37, line 4, "one telephone switch-board operator." I make the same point of order on that.

Mr. TAWNEY. Mr. Chairman, I just wish to say, in connection with the point of order, that we have also in this bill provided for telephone switch-board operators, fixing a uniform salary for all of them and reducing their salary in nearly every case—not in every case, but in some cases where they are now getting a salary of $1,200 a year we reduce it to $720. If the gentleman now takes this out on a point of order it will necessitate the restoration of the old salaries, ranging all the way from $600 to $1,200 a year for identically the same service we have provided for at an annual compensation of $720. I want that explanation to go in connection with the gentleman's point of order.

Mr. HARDWICK. In answer to that, Mr. Chairman, instead of the thing being as the gentleman has stated it——

The CHAIRMAN. The Chair is unable to hear the statement of the gentleman.

Mr. HARDWICK. I am replying to the gentleman. I make the express point of order that this is a new office that has been created. If this is not additional office, then I do not insist upon the point of order.

Mr. LIVINGSTON. I wish to say to the gentleman from Georgia that this is not a new office. In the former bill they are designated "telephone operators" and here they are called "switch-board operators." Their salaries have been made uniform at $60 a month, as the chairman has just stated, ranging all the way from $1,200 down to $600, and this makes them not to exceed $720.

The CHAIRMAN. This is an appropriation for a telephone-switchboard operator in the Department of State, which is an Executive Department. Section 169 of the Revised Statutes provides that—

Each head of a Department is authorized to employ in his Department such number of clerks of the several classes recognized by law, and such messengers, assistant messengers, copyists, watchmen, laborers, and other employees, and at such rates of compensation, respectively, as may be appropriated for by Congress from year to year.

A telephone-switchboard operator may fairly be classed as a sort of laborer—skilled laborer—within the spirit and intendment of the statute.

The Chair is of opinion that this case is covered and the appropriation authorized by section 169, and overrules the point of order.

Mr. PERKINS. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. PERKINS. I rise to move to strike out the last word of the section, for the purpose of asking the committee a question for information, because I am unable to ascertain what the committee means by the proviso that is added at the close of this section, in which it is said "there shall not be employed in the Department any personal services." What does that mean? It certainly is not English. If the gentleman can tell me what is meant by prohibiting the employment of personal services I would be glad. I do not think we ought to pass bills that are meaningless.

Mr. LITTAUER. The intent of this proviso is to prevent clerical services being employed in the Department of State and paid for out of appropriations not specifically authorized for clerical services. We found this condition, that a number of clerks—twenty-five, I believe, in all—were being employed by the Department and paid for out of an appropriation for emergencies arising in the diplomatic service.

Mr. PERKINS. If that is the intent of the committee, it certainly has been very unfortunate in the choice of the language it employs, because I submit with confidence that it means nothing.

Mr. LITTAUER. I believe the same terms are continually used in appropriation bills. I hardly think anyone would have any doubt as to what the meaning is.

Mr. PERKINS. To prevent the employment of personal service—I do not know whether it may be appropriation-bill English, but it certainly is no other sort of English.

Mr. BEALL of Texas. I move to strike out the last word for the purpose of asking the chairman of the committee a question, if I can get his attention.

What is meant in here by these clerks of class 1, 2, 3, and 4? That has probably been explained; the older Members probably understand what these designations mean, but I would be obliged if he would indicate what they are.

Mr. LITTAUER. Clerks of class 4 receive a compensation of $1,800.

Mr. BEALL of Texas. Clerks of class 4 get $1,800?

Mr. LITTAUER. Yes. The clerks of class 3 get $1,600, the clerks of class 2 get $1,400, and the clerks of class 1 get $1,200. Their compensation is fixed by statute.

Mr. BURLESON. And other classes run down to $720.

The Clerk read as follows:

TREASURY DEPARTMENT.

Office of the Secretary: For compensation of the Secretary of the Treasury, $8,000; three Assistant Secretaries of the Treasury, at $4,500 each; clerk to the Secretary, $2,500; stenographer, $1,800; three private secretaries, one to each Assistant Secretary, at $1,800 each; Government actuary, under control of the Treasury, $2,250; one clerk of class 4; two clerks of class 2; one clerk of class 1; one clerk, $1,000; four messengers; three assistant messengers, and one laborer; in all, $46,430.

Mr. JOHNSON. Mr. Chairman, I move to strike out the last word. I wish to know of the chairman of the committee if the periodical clerk, if he can be called by that name, is included in the paragraph just read?

Mr. LITTAUER. I do not understand what you mean by "periodical clerk." Do you mean the clerk who makes clippings?

Mr. JOHNSON. Yes; I notice in the hearings that it was stated they had a man up there getting a salary of $1,800 a year, with one assistant. I do not know whether he had a bookkeeper and a messenger and a janitor or not, but he had some help, and his business, according to the testimony, was to read the newspapers and clip such things as he thought would be interesting to somebody else and send them up to him.

Mr. LITTAUER. The Secretary of the Treasury does use two clerks, as we are advised, for such purposes, and finds it necessary, in order to keep current with matters connected with his Department.

Mr. JOHNSON. I would like to know the designation of that clerk, and I would like to know in what paragraph he is provided for. He ought to be stricken out.

Mr. LITTAUER. As far as we were advised, we were told that one such clerk is in class 4, and the other was a messenger.

Mr. JOHNSON. A clerk in class 4 would be a clerk at $1,800. Mr. Chairman, I move to strike out from the paragraph just read one of the clerks in class 4. I do not know how many are provided for, but I move to make the number one less.

Mr. TAWNEY. This is in the Secretary's office. You do not want to take it out of this item, do you?

Mr. JOHNSON. I move to strike out one of those clerks in class 4.

The CHAIRMAN. Will the gentleman indicate the line and page where he desires to amend?

Mr. JOHNSON. Mr. Chairman, the trouble is that I do not know. But I move to strike out one clerk of class 4, in line 7, page 38.

Mr. LITTAUER. The gentleman's purpose, then, is to strike out these two clerks that we have referred to?

Mr. JOHNSON. My purpose is to strike out the periodical clerk.

Mr. LITTAUER. But does not the gentleman realize that there are in this bill, in the clerical service in connection with the Treasury Department, 3,371 individuals, and that if you strike out this clerk, under the system of detail the Secretary will have the right to appoint another clerk of class 4 whom he may choose, or another messenger, for this service?

Mr. JOHNSON. Well——

The CHAIRMAN. Does the gentleman from South Carolina insist on his amendment?

Mr. JOHNSON. Mr. Chairman, I want to say this: I have examined this testimony with a great deal of care. I know that this is a great Government and that it needs a great force to carry it on, but I do not believe there is or can be any necessity for any Department of this Government employing at the public expense men to read and clip the newspapers for the benefit of some official. Every other Secretary and Assistant Secretary and every Member of the Senate and House of Representatives might, with equal reason, come here and ask for the same thing. This is a country of newspapers and periodicals. No man can read them all, but every intelligent man is expected to read the current news of the day, and any man who is capable of presiding over one of the great Departments of this Government can read such newspapers as he ought to read.

Mr. LITTAUER. Does not the gentleman realize that these men are presumably employed in work that ought to be carried on? The Treasury Department has its officers throughout every State in the Union. It must keep current information regarding whatever may transpire in the customs service, in the internal-revenue service, in connection with the mints and assay offices, and other matters of that character.

It may be true that some other purposes are added to these, but it would seem almost indispensable that the head of one of our great Departments, with his many duties, should be advised of matters appertaining to his Department that appear in the press throughout the United States.

Mr. JOHNSON. Mr. Chairman, in reply to the gentleman from New York, let me say that that is not the purpose of this clerk, to gather from the newspapers what may be taking place in the customs service; but the testimony is that he examines the daily papers for political editorials and all such things as that.

Mr. LITTAUER. I beg the gentleman's pardon. Can he point to that in the testimony?

Mr. JOHNSON. No.

Mr. LITTAUER. I can point to a statement here made by the chief clerk of the Treasury Department where he says:

> They read the newspapers and make clippings that are of interest to the Secretary and the Assistant Secretaries and the Department, so that we can keep abreast of the times.

Mr. BURLESON. Yes; and it says further that "these men advise themselves on all questions affecting great financial matters connected with the Department."

That indicates the character of the clippings made or a limitation on the clippings they make. It indicates that the clippings made do not relate to political matters, they do not relate to personal matters pertaining to the Secretary or the Assistant Secretary, but they relate to great financial matters with which they deal. We probed this matter as best we could to determine whether it was necessary to have a clerk do this work which seems necessary or whether it was more economical to have the Treasury Department subscribe to a clipping bureau, and it was determined that the best thing to do—the most economical action to take—was to leave the matter as we found it, and I still believe our action was wise.

Mr. LITTAUER. I want to say to the gentleman from South Carolina that this is a pure matter of administration. We do not provide clerks for this specific purpose; we provide a certain number of clerks for the administration of the great office of the Secretary of the Treasury, and he determines that each and such clerical force shall be devoted to this purpose pertaining to his Department.

Mr. JOHNSON. The gentleman from New York is very happy in his argument, but let me ask him some questions. Does not the gentleman from New York think that if anything happened in Boston, or any other part of the United States, in connection with the collection of the customs, it would be the duty of the subordinate officers to report to the Treasury Department?

Mr. LITTAUER. Yes; from their standpoint; but those opposed to the action of the collector might publish their side of the case in the newspapers, and in that way the Secretary would get the other side of the question.

Mr. JOHNSON. Let me ask the gentleman another question. The gentleman from Texas has stated that one of the purposes of the clipping bureau was to get financial matters in order that these people might be kept abreast of the times. Now, I want to ask the gentleman if he has not a provision in this bill somewhere providing an appropriation to buy additional works on financial subjects, and if they do not keep a library in the Treasury Department with all these works on finance, for which they get two to five thousand dollars every year to purchase additional volumes? Isn't there another distinct and separate force in charge of that library?

Mr. LITTAUER. That may be, but what has that got to do with this question? The gentleman must recognize that there are financial movements that take place more quickly than their publication in books.

Mr. JOHNSON. It has got this to do with it; the gentleman from Texas intimated that the purpose of this clerk was to keep the Treasurer abreast of the times on great financial matters.

Mr. LITTAUER. Daily matters.

Mr. JOHNSON. Now, I say there is another place in the bill where there is a provision for an increase of this library.

Mr. LITTAUER. But the gentleman must realize that the Secretary of the Treasury must move a little quicker than he would if he had to stop to collect information from these published works on finance.

Mr. JOHNSON. The man fitted to be Secretary of the Treasury ought to be pretty well equipped anyhow.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from South Carolina.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

> Office of chief clerk and superintendent: For chief clerk, including $300 as superintendent of Treasury building, $3,000; assistant superintendent of Treasury building, $2,500; inspector of electric-light plants, gas, and fixtures for all public buildings under control of the Treasury Department, $2,250; assistant inspector of electric-light plants and draftsman, $1,800; five clerks of class 4; additional to one clerk of class 4, as bookkeeper, $100; four clerks of class 3; three clerks of class 2; four clerks of class 1 (one as librarian); one clerk, $1,000; one messenger; two assistant messengers; storekeeper, $1,200; telegraph operator, $1,200; telephone operator and assistant telegraph operator, $1,200; chief engineer, $1,400; three assistant engineers, at $1,000 each; six elevator conductors, at $720 each; three firemen, at $660 each; coal passer, $500; locksmith and electrician, $1,400; captain of the watch, $1,400; two lieutenants of the watch, at $900 each; sixty-four watchmen; foreman of laborers, $1,000; skilled laborer, male, $840; wireman, $1,000; two skilled laborers, male, at $720 each; twenty-six laborers; ten laborers, at $500 each; laborer, $480; two laborers, at $480 each; eighty-seven charwomen; foreman of cabinet shop, $1,500; draftsman, $1,200; ten cabinetmakers, at $1,000 each; cabinet maker, $720; carpenter, $1,000; carpenter's helper, $660. For the Winder Building: Engineer, $1,000; three firemen; conductor of elevator, $720; four watchmen; three laborers, one of whom, when necessary, shall assist and relieve the conductor of the elevator; laborer, $480, and six charwomen. For the Cox Building, 1709 New York avenue: Three watchmen-firemen, at $720 each, and one laborer; in all, $184,810.

Mr. PRINCE. Mr. Chairman, I rise to a point of order. On page 39, beginning with the last word on line 12, "wireman," and ending with the word "dollars," in line 13—"wireman, $1,000." Under section 169 of the Revised Statutes—

> Each head of a Department is authorized to employ in his Department such number of clerks of the several classes recognized by law, and such messengers, assistant messengers, copyists, watchmen, laborers, and other employees at such rates of compensation, respectively, as may be appropriated for by Congress from year to year.

Now, I do not know under what provision or under what enumeration in that section this wireman comes. It can not be

classified, because it is not in the classified service. The salary that this person had, as we suppose, was $900, and that has been increased to $1,000, and we object to the increase of the salary without some provision of law.

Mr. CRUMPACKER. Would not the "wireman" come under the designation "other employees?" It seems to me the general designation of "other employees" clearly covers it.

The CHAIRMAN. The Chair is ready to rule. As the Chair understands it, the point of order consists of two branches; first, that the employment of a wireman is not authorized, and second, that the paragraph increases his pay above what he has heretofore received. Is that correct?

Mr. PRINCE. Yes.

The CHAIRMAN. The Chair is of opinion that under section 169 of the Revised Statutes, which allows each head of a Department to employ "such clerks, messengers, assistant messengers, copyists, watchmen, laborers, and other employees as may be appropriated for by Congress from year to year," this wireman may properly be classed as a laborer or other employee within the designation there given. A "wireman" is understood to be a laborer who looks after telegraph, telephone, or other wires. And he is an employee in the office of the Treasury Department which is one of the Executive Departments clearly covered by that statute. Now, as to the compensation, section 169 specifically provides that the employment may be "at such rates of compensation, respectively, as may be appropriated for by Congress from year to year." It seems, therefore, that the Department is authorized to employ at such compensation as the House in each successive year shall provide. The House is not bound by the appropriation for any previous year but has authority under the statute to fix in this bill the compensation for the year it covers. The Chair, therefore, overrules the point of order.

The Clerk read as follows:

For the following, now authorized and paid from appropriations for construction of public buildings, namely: For assistant to Supervising Architect, $3,250; superintendent of drafting and constructing division, $2,500; two superintendents of technical divisions, at $2,750 each; chief of law records division, $2,000; chief of accounts division, $2,000; chief mechanical and electrical engineer, $2,750; five clerks of class 4; six clerks of class 3; three clerks of class 2; two clerks of class 1; contract clerk, $2,000; foreman duplicating gallery, $1,800; four technical clerks, who shall also be skilled stenographers and typewriters, at $1,800 each; four inspectors, at $2,190 each; one inspector, $1,800; seven messengers; two laborers; in all, $72,460.

Mr. CRUMPACKER. Mr. Chairman, I move to strike out the last word, for the purpose of getting information in relation to this appropriation. The paragraph starts out with the provision:

For the following, now authorized and paid from appropriations, for construction of public buildings.

I would like to know how that appropriation is paid, how it is distributed. Is it paid out of the several appropriations for public buildings here and there around over the country?

Mr. LITTAUER. The paragraph which follows declares that the services of skilled draftsmen, civil engineers, computers, and such other services as the Secretary of the Treasury may deem necessary and specially order, may be employed only in the office of the Supervising Architect—we put in the word "only" this year—exclusively to carry into effect the various appropriations for the construction of public buildings, to be paid for from and equitably charged against such appropriation. Now, the custom has been that this large force employed in the office of the Supervising Architect, for which provision specifically is made for only two salaries, the salary of the Supervising Architect and one assistant—that the entire force is paid for by what might be termed an assessment on the total amount appropriated for each public building erected, which has averaged somewhere in the neighborhood of about 5 per cent.

Mr. CRUMPACKER. Now, suppose a public-building bill shall be enacted this year, and there shall be no other appropriation for public buildings for six or eight or ten years, how is it possible to provide a fund for the payment of this branch of the service? It aggregates this year $72,460, it seems.

Mr. LITTAUER. Mr. Chairman, we believed that we were taking up here specifically only such service in connection with the Supervising Architect's office as would be required positively year after year, whether or not public buildings were authorized or otherwise. I would like to call the gentleman's attention to the fact that the general appropriations in the Treasury Department for the year 1906 were: For repairs and preservation of public buildings, $450,000; heating apparatus, $200,000; vaults, safes, and locks, $40,000; plans for public buildings, $4,000; making a total of $744,000. This work in fact comes under the organization that we attempt to add to the Supervising Architect's office.

Mr. CRUMPACKER. This work is covered by the appropriations you have just mentioned.

Mr. LITTAUER. In part. In other words, the force could be permanently maintained, but it would be necessary to carry out these regular annual appropriations for maintenance and repair.

Mr. CRUMPACKER. I never understood before having read the paragraph in this bill this year that it is the practice to charge this sum against the appropriations made for public buildings.

Mr. LITTAUER. Let me call the gentleman's attention to the words of the Secretary in transmitting to us the statement in regard to this cost:

At the above cost, $78,260—

Which we have reduced to $72,460 by the elimination of some of the higher salaries, salaries paid out of the old lump-sum appropriations which we believed to be higher than would have been allowed had they been taken up one by one in the appropriation bill. He says:

At the above cost, $78,260, it is believed that a skeleton organization can be maintained, which could be expended according to the varying number of public buildings under construction from year to year, and at the same time not to be unduly disproportionate to the permanent demands for handling the annual appropriations for repairs, preservation, etc.

Mr. CRUMPACKER. That is not a new feature of the service, is it?

Mr. LITTAUER. Oh, no.

Mr. JOHNSON. I would like to ask the gentleman a question. In every public building that is provided for by Congress about 5 per cent of the amount appropriated is taken out at the Treasury Department for the Architect's force. Now, since this force has been specifically named in this bill and their salaries have been specifically fixed and the money appropriated to pay them, will this 5 per cent continue to be taken out of the appropriation for each public building?

Mr. LITTAUER. No; it will be positively diminished, and if the gentleman will notice the figures in connection with this paragraph he will find that while the estimate for carrying on the Supervising Architect's office for the next year was $225,000, all we appropriate here is $125,000 for the purpose, adding to that the $72,000 for specific force, making in round numbers $200,000, which means we have cut down the total appropriation $25,000; but without considering the reduction of the total amount the Supervising Architect will have to call on the fund for the construction of buildings for a much smaller per cent than he formerly did.

Mr. JOHNSON. I am not questioning the amount of the appropriation at all. I just simply wanted to find out if this provision, which I think is wise, will hereafter cause less money than is appropriated for the various buildings to be absorbed in the Treasury Department and more to go into the buildings themselves.

Mr. LITTAUER. Unquestionably, at least to the extent of $72,000.

Mr. JOHNSON. I think the committee has made a wise change.

The Clerk read as follows:

Office of Auditor for State and other Departments: For Auditor, $4,000; Deputy Auditor, $2,500; law clerk, $2,000; three chiefs of division, at $2,000 each; sixteen clerks of class 4; one clerk of class 4 (expert examiner); fifteen clerks of class 3; thirteen clerks of class 2; twelve clerks of class 1; five clerks, at $1,000 each; six clerks, at $900 each; one messenger; one assistant messenger; and three laborers; in all, $115,640.

Mr. LITTAUER. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The gentleman from New York offers an amendment, which the Clerk will report.

The Clerk read as follows:

On page 47, in line 17, strike out "ten" and insert "eleven." In the same line strike out "one clerk, class 4, expert examiner." In lines 20 and 21 strike out "one assistant messenger" and insert "two assistant messengers." In lines 23 and 24 strike out "$64,860" and insert "$69,700."

The question was taken; and the amendments were agreed to.

The Clerk read as follows:

Office of Auditor for Post Office Department: For Auditor, $4,000; two deputy auditors, at $2,500 each; chief clerk, $2,000; law clerk, $2,000; 8 chiefs of division, at $2,000 each; 36 clerks of class 4; additional to 1 clerk as disbursing clerk, $450; 69 clerks of class 3; 91 clerks of class 2; 119 clerks of class 1; 104 clerks, at $1,000 each; skilled laborer, $1,000; 81 clerks, at $900 each; 70 skilled laborers, at $720 each; 65 skilled laborers, at $660 each; 8 messengers; 15 assistant messengers; 6 watchmen; 25 male laborers, at $660 each; 3 female laborers, at $660 each; and 21 charwomen; in all, $791,410.

Mr. CONNER. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. CONNER. The reading of the paragraph was not concluded before the interruption.

The CHAIRMAN. The Chair is unable to hear the gentleman.

Mr. CONNER. I say the reading of the paragraph was hardly completed when the committee rose informally. I wish to reserve a point of order against a part of the paragraph. I would like to inquire of the gentleman if there is not an increase of chiefs of divisions from seven to eight in lines 15 and 16?

Mr. LITTAUER. Certainly there is.

Mr. CONNER. I would like also to——

Mr. LITTAUER. And a decrease of clerks of class 4 from 37 to 36.

Mr. CONNER. I would like to inquire if the designation of skilled laborer has been applied to the class now in lines 22 and 23?

Mr. LITTAUER. The designation is that of skilled laborers.

Mr. CONNER. You leave them out by designating them as skilled laborers.

Mr. LITTAUER. There is no change made in the current law. I do not know for how many years back they have been called skilled laborers.

Mr. CONNER. Is it not true, as claimed by some, that there is no chance for these people to secure any promotion, classed as they are?

Mr. LITTAUER. Well, it is a question whether or not it is a class of service that needs great promotion. There are skilled laborers in this office at $660 and others at $720. Of course those who are now receiving the lower compensation could be advanced to the higher.

Mr. CONNER. Should not they have some opportunity for promotion as these higher classes have?

Mr. LITTAUER. I believe that $720 is a sufficient compensation for work of the character that these people do.

Mr. CONNER. Are there not some clerks receiving $1,200 and $1,400 who are doing the same class of work as these skilled laborers?

Mr. LITTAUER. I am not advised that there are.

Mr. CONNER. Have you investigated that phase of the question?

Mr. LITTAUER. I believe our attention was not called to it.

Mr. CONNER. Have they not taken the civil-service examination?

Mr. LITTAUER. If they are on the rolls, they have taken the regular civil-service examination.

Mr. CONNER. Were they not formerly designated as money-order sorters?

Mr. LITTAUER. Not within my experience. I do not know what it may have been many years ago.

Mr. CONNER. And while so designated did they not have an opportunity for promotion?

Mr. LITTAUER. I do not know.

Mr. CONNER. Have you investigated this question?

Mr. LITTAUER. I have not. We simply find here a sum provided for a certain force carried along as it has been for a number of years past. What may have happened five, eight, or ten years ago I do not know.

Mr. TAWNEY. With the permission of my colleague, the matter was not called to the attention of the committee at all with reference to the promotion of the skilled laborer to the position of clerk or that skilled laborers were doing the work of clerks.

Mr. CRUMPACKER. It has been the practice of this office to promote from the position of skilled laborer to that of a clerical position in years past, but they do not do it now.

Mr. LITTAUER. About how many years ago?

Mr. CRUMPACKER. About four years ago. Now it requires an examination.

Mr. LITTAUER. It seems to me these people would have to take a different civil-service examination. There is an examination for the work of a skilled laborer.

Mr. CRUMPACKER. Of course a skilled laborer in the service is classed as such, and if he had certain clerical character of service they would be promoted regularly.

Mr. PAYNE. If they take an examination they go on the rolls or eligible list according to their standing.

Mr. LITTAUER. Their work is assorting and counting money orders, which is not a high character of work.

Mr. CONNER. If they had the title of money assorters they would be in a class where they could be promoted. Why not permit the change to be made?

Mr. LITTAUER. I do not believe it would answer a good purpose in the service. What is the necessity of it? Surely anyone who receives this compensation for that character of work is well paid.

Mr. CONNER. If they had the star of hope to inspire them it would enable them to furnish better service. They are put there without any possibility of promotion.

Mr. TAWNEY. Do you mean promotion to the position of clerk?

Mr. CONNER. Yes.

Mr. TAWNEY. They can get that now by taking a clerical examination.

Mr. CONNER. I desire to reserve a point of order against this paragraph.

Mr. LITTAUER. It is too late for a point of order.

Mr. CONNER. I said I reserved the point of order.

Mr. LITTAUER. I beg your pardon.

Mr. CONNER. The point of order I desire to make is, in lines 15 and 16——

The CHAIRMAN. What page?

Mr. CONNER. Page 48—increasing chiefs of divisions from seven to eight.

Mr. LITTAUER. Under the rules I can not believe that that point of order will properly lie. We have here the service and the Secretary of the Treasury recommends these changes, and particularly recommends them because they would involve no increase in the total amount of the estimates, and will provide a better organization of the force of said office. And it is authorized by section 169, as ruled upon this afternoon.

The CHAIRMAN. Does the Chair understand the gentleman from New York to concede that there is no authority of law for the additional chief of division?

Mr. LITTAUER. Oh, I do not concede that. I believe that in section 169 there is ample authority for this increase of chiefs of division. It is a part of the necessary service not specifically mentioned there, but among the other employees.

Mr. CONNER. I do not think section 169 would apply to a chief of division.

Mr. LITTAUER. "And other employees, at such rates of compensation"——

The CHAIRMAN. This is an appropriation for the Treasury Department, which is one of the Departments contemplated by the act of Congress of which section 169 of the Revised Statutes is part. It is there provided that—

> Each head of a Department is authorized to employ in his Department such number of clerks of the several classes recognized by law, and such messengers, assistant messengers, copyists, watchmen, and laborers, and other employees, and at such rates of compensation, respectively, as may be appropriated for by Congress from year to year.

Mr. LIVINGSTON. The purpose of that statute is to provide for the administration of the Department. A chief of division is absolutely as necessary for that administration as a clerk or messenger, and the words "other employees" unquestionably cover it, because they show the intention of the statute to cover the administration of the Departments, and no man on this floor would dare say that without chiefs of division you could administer any Department under the Government.

The CHAIRMAN. The language specifically includes "such number of clerks of the several classes recognized by law," and those classes are defined in section 167 as clerks of the fourth class, third class, second class, and first class, and in addition to those clerks such "messengers, assistant messengers, copyists, watchmen, laborers, and other employees," etc. The question is whether——

Mr. LIVINGSTON. A great many of the chiefs are simply fourth-class clerks—$1,800 clerks.

Mr. TAWNEY. On the point of order I will say that it seems to me very clear that the language "and other employees" includes any employee in an Executive Department who is not mentioned in the statutory classification or included in classes 1, 2, 3, and 4, or who is not otherwise specifically mentioned.

The CHAIRMAN. The Chair would ask the gentleman from Minnesota if he thinks it would include an Assistant Secretary of the Treasury?

Mr. TAWNEY. I think it would include any employee. An Assistant Secretary is not an employee. He is an official in the Department. He is appointed by the President under a different law entirely. Now, if you will read the section:

> Each head of a Department is authorized to employ in his Department such number of clerks * * * and other employees, and at such rates of compensation, respectively, as may be appropriated for by Congress from year to year.

It would seem to be clear that that includes all the employees that are necessary in the administration of the Department, in addition to those who are specifically enumerated. The general language "all other employees" is intended to include all who are not specifically enumerated. The other employees are not excluded because of the specific enumeration of clerks of classes 1, 2, 3, and 4.

Mr. LIVINGSTON. As an example of that, Mr. Chairman,

I want to bring to your attention the fact that the Treasury Department, under that very statute, employs special agents. They are called special agents. They are not enumerated there, but they are absolutely necessary for the administration of the Department, and I want to bring to your attention that that statute is intended to cover those that were necessary for the administration of the Department, and therefore they used the expression "other employees."

Mr. TAWNEY. Mr. Chairman, one word further with regard to this statute. The Chair will observe that this statute was enacted away back in 1850. I presume at that time there were no chiefs of divisions. At least we did not have the same organization that we have now in the Departments.

We did not have the same designation of employees, except the specific classes were from 1 to 4, inclusive, and the laborers and messengers that we have always had. Now, the term "other employees" includes all employees that are necessary by reason of the growth of the service. Although not specifically designated or provided for, they are included in the general term "other employees."

Mr. LITTAUER. Mr. Chairman, I would simply like to add that at that time chiefs of divisions were not known specifically to the law, and consequently they must be included in the words "other employees."

The CHAIRMAN. The Chair would be inclined to give very great weight to the arguments that have been advanced were it not for the fact that the question has apparently been clearly ruled upon in the first session of the Fifty-seventh Congress. The question raised was under this same section 169 of the Revised Statutes, and the ruling seems to have been that in the use of the phrase "clerks and such messengers, assistant messengers, copyists, laborers, and other employees" the term "other employees" was used at the end of a diminishing scale and would not authorize any employee above the grade of clerk of the fourth class.

Mr. LITTAUER. Mr. Chairman, may I interrupt the Chair a moment in order to state that I have found a statute which specifically authorizes these eight chiefs of divisions? I find that under the act reorganizing the Treasury Department in 1875, in section 2 of the legislative appropriation act, under the head of "Offices of the Auditor of the Treasury for the Post-Office Department," provision is made for eight chiefs of divisions, at $2,100 each. The section reads as follows:

On and after July 1, 1875, the organization of the Treasury Department, and the several offices thereof, and the annual salaries paid persons therein, shall be as follows, to wit.

The CHAIRMAN. The point of order urged by the gentleman from Iowa [Mr. CONNER] is against "eight chiefs of division at $2,000 each," which, he insists, is an increase of one beyond the amount authorized by law. It is unnecessary to consider section 169 of the Revised Statutes in this connection, for the attention of the Chair has been called to the act of Congress of March 3, 1875, which was itself an appropriation bill, but contains this item of permanent legislation. Section 2, page 396, volume 18, of the Statutes at Large, says:

On and after July 1, 1875, the organization of the Treasury Department, and the several offices therein, and the annual salaries paid to persons thereof, shall be as follows, to wit.

Then, following a number of items on the following page in the same, is this:

The Auditor of the Treasury for the Post-Office Department, $4,000; Deputy Auditor, $2,500; eight chiefs of division, at $2,100 each.

So there is authority of law. Although that was in an appropriation bill it was in a permanent form, not for that year only, but for all time until changed, after July 1, 1875. It clearly authorizes eight chiefs of divisions. There is, therefore, authority of law for the appropriation, and the point of order is overruled.

The Clerk read as follows:

Office of the Comptroller of the Currency: For Comptroller of the Currency, $5,000; Deputy Comptroller, $3,500; chief clerk, $2,500; five chiefs of division, at $2,200 each; eight clerks of class 4; additional to bond clerk, $200; stenographer, $1,600; thirteen clerks of class 3; fifteen clerks of class 2; eleven clerks of class 1; fourteen clerks at $1,000 each; engineer, $1,000; thirteen clerks, at $900 each; one messenger, four assistant messengers; one fireman; three laborers; in all, $121,920.

Mr. BARTLETT. Mr. Chairman, I make the point of order against the provision on page 51, line 16, as to the increase of the salary of the Deputy Comptroller of the Currency. I make this point of order simply against the words "five hundred." The salary of the Deputy Comptroller of the Currency was fixed by the act of 1864, to be found in section 327 of the Revised Statutes, at $2,500. Later, by the act of March 3, 1875, to be found in the Supplement, volume 1, Revised Statutes, page 76, it was fixed at $3,000. The provision in this bill fixes it at thirty-five hundred dollars. Now, it is true that in the legislative, executive, and judicial appropriation bill of last year, when it came back from the Senate, it was carried at $3,500. Before that, in the House, a point of order was made against the $500, and it was stricken out. It came back from the Senate with thirty-five hundred dollars, and was left in by the conferees. I make the point of order that the increase of $500 is contrary to existing law.

If the Chair has the Statutes before him, I will repeat it. I say by the act of 1864.

Mr. LITTAUER. The statute fixes the salary, Mr. Chairman. We appreciate that.

Mr. BARTLETT. Mr. Chairman, I do not make the point of order against the $3,000, but simply against the $500. That is all I desire to have go out. I want to say that I propose to follow it up if it comes back from the Senate increased, and I shall try to keep it from going in the bill. The point of order, I understand, is admitted to be good. Mr. Chairman, I have no criticisms to make of the Committee on Appropriations, but it seems to me that an increase in salary ought not to be made in this way. It is admitted to be a fact, and now there is no excuse, and there is no construction to be put upon any statute except that the statute fixes it at $3,000, and it has stood there for over thirty years. There is no reason given in the report by the Committee on Appropriations why this increase should be made, and there is none presented upon the floor of the House.

Mr. LITTAUER. Why, the gentleman must realize that this official, the Deputy Comptroller, acts in the place of the Comptroller of the Currency during his absence.

Mr. BARTLETT. Yes.

Mr. LITTAUER. And that it has been many times recommended by the Comptroller of the Currency that the salary be raised and also concurred in by the Secretary of the Treasury. He is a bonded officer, a man performing very valued services.

Mr. BARTLETT. I understand all that, and also that the Comptroller of the Currency is a gentleman of great wealth and of considerable leisure. Now, if the Deputy Comptroller of the Currency is called on, as he may be, to perform the duty of the Comptroller of the Currency while the latter is visiting in Europe, then the Deputy Comptroller ought to be given the place of the Comptroller; but so long as the statute stands unaltered, fixing the salary of the Deputy Comptroller, and has stood since 1875, at $3,000, I do not think that the Committee on Appropriations ought to undertake to increase it, without any reference to it, on an appropriation bill. There is no mention of the increase in the report by the committee.

The CHAIRMAN. Does the gentleman from New York desire to be heard?

Mr. LITTAUER. I do not on the point of order, but only to state that I know not whether the Comptroller of the Currency is rich or not, but I do know that he is a hard-working, able officer, as is his deputy.

The CHAIRMAN. The Chair finds that section 2 of the act of March 3, 1875, provides that the annual salary to be paid to the Deputy Comptroller shall be $3,000. If the point of order is insisted upon, the Chair will be compelled to sustain it.

Mr. BARTLETT. I understand that the point of order is sustained with reference to the five hundred only. I do not want the three thousand to go out. I want that to remain in the bill. I desire to inquire of the Chair the effect of the ruling?

The CHAIRMAN. The Chair has sustained the point of order made by the gentleman from Georgia.

Mr. BARTLETT. May I inquire, Mr. Chairman, whether or not the five hundred alone is excluded?

The CHAIRMAN. Inasmuch as those words verbally and separately appear, five hundred, and the point of order is addressed to them only, the Chair has sustained the point of order precisely as it was made by the gentleman from Georgia.

Mr. BARTLETT. The words "five hundred" only. Not the word "dollars?"

The CHAIRMAN. The Chair has sustained the point of order precisely as it was made by the gentleman from Georgia.

The Clerk read as follows:

Office of the Commissioner of Internal Revenue: For Commissioner of Internal Revenue, $6,000; deputy commissioner, $4,000; deputy commissioner, $3,000; chemist, $2,500; two boards of divisions, at $2,500 each; six boards of divisions, at $2,250 each; superintendent of stamp vault, $2,000; private secretary, $1,800; twenty-seven clerks of class 4; twenty-five clerks of class 3; thirty-six clerks of class 2; thirty-seven clerks of class 1; thirty clerks, at $1,000 each; forty-seven clerks, at $900 each; two messengers; nineteen assistant messengers; and twenty laborers; in all, $322,660.

Mr. LITTAUER. Mr. Chairman, I offer the following amendment which I send to the desk and ask to have read.

The Clerk read as follows:

Page 53, lines 1 and 2, strike out the word "twenty-seven" and insert the word "twenty-eight;" and in line 7 strike out the word "six"

and insert in lieu thereof the word "eight;" so that it will read: "Three hundred and twenty-two thousand eight hundred and sixty dollars."

Mr. LITTAUER. Mr. Chairman, I would state that this merely corrects a total.

The CHAIRMAN. Without objection, the amendments will be considered together. [After a pause.] The Chair hears none. The question is on agreeing to the amendment.

The question was taken; and the amendments were agreed to.

The Clerk read as follows:

For the following, now authorized and being paid from appropriations for engraving and printing in the Bureau of Engraving and Printing, namely: For disbursing agent, $2,400; storekeeper, $1,600; assistant storekeeper, $1,000; clerk in charge of purchases and supplies, $2,000; two clerks of class 3; nine clerks of class 2; five clerks of class 1; six clerks, at $1,000 each; ten clerks, at $900 each; four clerks, at $840 each; five clerks, at $780 each; nine attendants, at $600 each; one helper, $900; three helpers, at $720 each; two helpers, at $600 each; three messengers, four assistant messengers; captain of the watch, $1,400; two lieutenants of the watch, at $900 each; forty watchmen; two forewomen of charwomen, at $540 each; nineteen day charwomen, at $400 each; forty-seven morning and evening charwomen, at $300 each; foremen of laborers, $900; four laborers; fifty-seven laborers, at $540 each; in all, $155,220; and no other fund appropriated by this or any other act shall be used for services, in the Bureau of Engraving and Printing, of the character specified in this and the foregoing paragraph.

Mr. PRINCE. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. PRINCE. For the purpose of reserving the point of order as against that portion of the bill just read, beginning on line 10, page 54, and ending with line 10, page 55, on the ground that it is new legislation. I would like to hear the reason for that legislation.

Mr. LITTAUER. Mr. Chairman, this paragraph is for services now authorized and being paid from appropriations for the Bureau of Engraving and Printing. It is not a new service. We simply seek here to draw out of the lump-sum appropriation granted this Bureau the forces which are entirely executive or administrative and separate them from the forces devoted to the work of the Bureau, and in doing so we have brought about a few economies, in all $2,051. It is one of the large forces that we found formerly appropriated for in a lump sum, but which we have sought to specifically provide for. Hereafter Congress will control the salaries and the additions to this force.

Mr. PRINCE. I would ask the gentleman a question. Has the force been enlarged?

Mr. LITTAUER. Not at all; it has been diminished.

Mr. PRINCE. Then you have only segregated——

Mr. LITTAUER. We have segregated those devoted to the administrative or the executive end of this Bureau.

Mr. PRINCE. Where have those provisions been carried heretofore?

Mr. LITTAUER. In the sundry civil bill.

Mr. PRINCE. And never have appeared in the House before in this shape?

Mr. LITTAUER. No; except for the salaries of the Director and a few clerks. I think a total force of about ten.

Mr. PRINCE. Inasmuch as it has never been before Congress, except in the sundry civil appropriation bill, and it seems to be a wise segregation of items of apropriations, I withdraw the objection I made.

Mr. JOHNSON. I would like to ask the gentleman from New York one question.

Mr. LITTAUER. Certainly.

Mr. JOHNSON. Is it true these people have heretofore been paid out of a lump sum?

Mr. LITTAUER. They have been paid out of the appropriation for carrying on the work of engraving and printing.

Mr. JOHNSON. And the appropriation was made in a lump sum?

Mr. LITTAUER. The appropriation was made in one total sum and amounted to over $2,000,000.

Mr. JOHNSON. I would like to ask the gentleman another question. I notice the young women over there in the department have been working for very low wages. Has any provision been made to give them higher compensation for their work?

Mr. LITTAUER. There has not been. Moreover, the service to which the gentleman refers is the working service. We simply provide for what is known as the "clerical service," what is called the "administrative service," which includes the watch force, charwomen, etc., but the girls who work in the operating force and who are paid low wages are not controlled by the provisions of this bill at all.

Mr. JOHNSON. I notice a very great number of very bright-looking girls there are paid these wages, and it seems to be very responsible work, and I understand they are paid only a dollar and a half or two dollars a day.

Mr. LITTAUER. They are workers; they are not part of the executive force, and we only provide for the executive force.

The Clerk read as follows:

Secret-service division: For one chief, $4,000; chief clerk, $2,500; one clerk of class 4; one clerk of class 3; two clerks of class 2; one clerk of class 1; one clerk, $1,000; one clerk, $900; and one attendant, $720; in all, $16,520.

Mr. HAY. Mr. Chairman, I move to strike out the last word. I want to ask the gentleman from New York how many secret-service men are employed under this provision, and where are they?

Mr. LITTAUER. I will say this is the clerical force of the secret-service office.

Mr. HAY. I understand that, but I want to find out where in the bill the secret-service men are carried.

Mr. LITTAUER. They are not provided for in this bill at all, but are provided for in the sundry civil bill.

Mr. HAY. All right.

The CHAIRMAN. Without objection, the pro forma amendment will be withdrawn, and the Clerk will read.

The Clerk read as follows:

Office of Surgeon-General of Public Health and Marine-Hospital Service: For Surgeon-General, $5,000; chief clerk, $2,000; three clerks of class 4; three clerks of class 3; private secretary to the Surgeon-General, $1,800; six clerks of class 2, one of whom shall be translator; five clerks of class 1; clerk and translator, $1,200; three clerks, at $900 each; one messenger; three assistant messengers; and two laborers, at $540 each; in all, $41,380.

Mr. SLAYDEN. Mr. Chairman, I move to strike out the last word. I want to ask a question of the chairman having in charge the bill. I want to ask the gentleman from New York if the Marine-Hospital Service does not collect a large sum of money each year in the way of fees?

Mr. LITTAUER. Not at all, so far as I am advised.

Mr. SLAYDEN. Well, I see in the report of the chief of the Marine-Hospital Service that the tonnage tax collected was $858,000.

Mr. LITTAUER. Well, the tonnage tax is collected just the same as customs taxes are collected, and this Service is supported out of taxes so collected.

Mr. SLAYDEN. Is it not true that the Marine-Hospital Service is collecting annually a large amount of money in the way of fees which are not covered into the Treasury directly and an appropriation made for the support of the Service?

Mr. LITTAUER. I do not know of any fees being collected. Heretofore they have been turning over the tonnage fees for the support of the Marine-Hospital Service, but that law was repealed last year.

Mr. SLAYDEN. That law has been repealed? Then the taxes hereafter collected——

Mr. LITTAUER. Will be covered into the Treasury.

Mr. SLAYDEN. Are covered into the Treasury.

Mr. LITTAUER. And a direct appropriation made for every expenditure connected with the Service?

Mr. SLAYDEN. That has not been the case heretofore, though?

Mr. LITTAUER. Not until last year.

Mr. SLAYDEN. Then I congratulate the gentleman in having made that reformation.

The Clerk read as follows:

COLLECTING INTERNAL REVENUE.

For salaries and expenses of collectors of internal revenue, and deputy collectors, and surveyors, and clerks in internal-revenue offices, $2,000,000.

Mr. HUMPHREYS of Mississippi. Mr. Chairman, I have an amendment I desire to offer there.

The Clerk read as follows:

Insert after "dollars," in line 24, page 60, the following: "*Provided*, That each collector of internal revenue shall, under regulations of the Commissioner of Internal Revenue, place and keep conspicuously in his office, for public inspection, an alphabetical list of the names of all persons who shall have paid special taxes within his district, and shall state thereon the time, place, and business for which such special taxes have been paid, and upon application of any person he shall furnish a certified copy of such alphabetical list, or a copy of the tax receipt or receipts issued to any person, company, or corporation, as of a public record, for which a fee of $1 for each 100 words or fraction thereof in the copy or copies so requested may be charged."

Mr. LITTAUER. Mr. Chairman, I shall have to make the point of order against that, or I will reserve it.

Mr. HUMPHREYS of Mississippi. What is the point of order?

Mr. LITTAUER. It is a change of existing law.

The CHAIRMAN. This proposed amendment is a change of

existing law, and violative of the second clause of Rule XXI. The Chair therefore sustains the point of order.

Mr. PERKINS. I move to strike out the last word. I would like to ask the gentleman in charge of the bill how the expenses of collecting the revenue compare with former years? I see you provide here for an expenditure of $2,000,000 and also $2,200,000 for collecting the internal revenue. How does that compare with the allowance to the Internal Revenue office last year?

Mr. LITTAUER. They are exactly the same amounts as we make to the Internal Revenue office last year. In other words, there are three appropriations made here. One of $2,000,000, the other of $2,500,000; and then we have added a new paragraph of $85,000, which is the only addition to the expense of the Internal Revenue Service carried here. We made this particular amount because we found that we were asked for an additional appropriation of $100,000.

Mr. PERKINS. Then there is an increased appropriation?

Mr. LITTAUER. Of $85,000.

Mr. PERKINS. Eighty-five thousand dollars over last year, and the method of putting these items all in one lump sum is one that has been pursued before?

Mr. LITTAUER. Well, in part. The amounts paid out in these sums are in nearly all cases statutory, and it depends a great deal upon the amount of work carried on at the various distilleries as to how much is expended. We therefore have this year a considerable deficiency. It happens because the Commissioner of Internal Revenue is never able to determine beforehand what force he may require. Our object in separating the item of $85,000 from the other two items was because it was paying rent and miscellaneous expenditure. We want to separate rent and other incidental expenses outside of the District of Columbia, because under our new law they must be apportioned so as to avoid a deficiency.

Mr. JOHNSON. I want to ask the gentleman from New York, has it always been the custom to appropriate the money for collecting internal revenue in a lump sum?

Mr. LITTAUER. Yes; it has been the practice at least for more than ten years.

Mr. JOHNSON. Does the gentleman not think that the time has come when it should be classified?

Mr. LITTAUER. It is already classified and the compensation provided by law; but the number of employees has not been specified.

Mr. JOHNSON. Because the number varies the appropriation is made in a lump sum?

Mr. LITTAUER. Yes; for that reason it is made in a lump sum, but the details are all specified by statute.

Mr. CRUMPACKER. There is no discretion in the Commissioner in the expenditure of this money at all. Now, recently I read the statement of the Commissioner of Internal Revenue to your committee, and it seemed to me he made a very strong case for an increase in the appropriation.

Mr. LITTAUER. We felt so, decidedly. The second item of appropriation, of $2,200,000 "for salaries and expenses of forty revenue agents provided for by law, and fees and expenses of gaugers, salaries and expenses of storekeepers, and storekeeper-gaugers," why, we might just as well appropriate $3,000,000 as $2,200,000, because the Commission can only spend an amount for the force needed to carry on the work.

Mr. CRUMPACKER. Now, you increase his appropriation to the amount of this rent?

Mr. LITTAUER. Yes.

Mr. CRUMPACKER. And he has been taking that out of another item under his control?

Mr. LITTAUER. Yes.

The Clerk read as follows:

INDEPENDENT TREASURY.

Office of assistant treasurer at Baltimore: For assistant treasurer, $3,500; cashier, $2,500; three clerks, at $1,800 each; two clerks, at $1,600 each; four clerks, at $1,400 each; bookkeeper and three clerks, at $1,200 each; three clerks, at $1,000 each; messenger, $840; three watchmen, at $720 each; in all, $32,000.

Mr. WACHTER. Mr. Chairman, I offer the amendment which I send to the Clerk's desk.

The Clerk read as follows:

Amend by striking out the word "three," in line 15, on page 61, and inserting in lieu thereof the word "five;" and in line 18, on the same page strike out "two" and insert "four."

Mr. WACHTER. The object of this amendment is to increase the number of clerks asked for and given by the committee from two to three. There are reasons why this force should be augmented, and in order that the committee may thoroughly understand it I will ask the Clerk to read the request from the subtreasurer at Baltimore to the Secretary of the Treasury in Washington as to the number of clerks required.

The Clerk read as follows:

OFFICE OF THE ASSISTANT TREASURER OF THE UNITED STATES,
Baltimore, Md., January 30, 1906.

The honorable the SECRETARY OF THE TREASURY,
Washington, D. C.

SIR: At the time of making up the estimate for salaries of this office for the fiscal year ending June 30, 1907, I find that I should have estimated for a considerable increase in the force of this office. I was so desirous, however, not to ask for more than was absolutely necessary that, after several conferences with the cashier on the subject, it was thought that by sacrificing a portion of the annual leave allowed the clerks under the law, the business might be carried on for another year with the present force.

Since the estimate was sent in the work of the office has already grown far beyond what was anticipated at the time, and promises to expand to such an extent that I am now compelled, for the good of the service, to present the urgent necessity for an immediate increase in the working force.

In this connection, and to give some idea of the present situation experienced here, I invite attention to the increase in the business, as shown by a comparison of the receipts and disbursements for the fiscal years ending June 30, 1903, 1904, and 1905, respectively, to wit:

1903	$108,450,949
1904	121,493,621
1905	161,316,652

During my incumbency the business has increased by over $50,000,000. The volume of business in 1904 was entirely sufficient to fully employ the present force of this office. In the fiscal year of 1905 the handling of an increase of nearly $40,000,000 was accomplished only by requiring the force to work longer hours and under greater strain than is compatible with the health of the men and the safe and satisfactory conduct of the public business.

The work of redeeming coin and currency is increasing all the time. For example, the currency unfit for circulation received here during the current month, counted, assorted, and shipped to the Department for redemption, has been over $2,000,000. More than two-thirds of this amount was received in notes of the denominations of ones, twos, and fives. The coin receipts have also greatly increased, since the first of the current month aggregating in silver coin nearly $400,000, and in minor coin (nickels and pennies) over $70,000.

Since the annual estimate was sent in, the account of the United States pension agency at Washington has been increased from less than 15,000 to 50,000 checks per quarter, over 40,000 having been paid on this account during the last month alone. The pension agent has advised that all his checks, amounting to some 65,000 per quarter, which have hitherto been drawn upon and paid at the New York and Washington offices, will hereafter be drawn on this office, aggregating a disbursement of some $9,000,000 per annum to be paid here, for the most part in checks of small amounts, viz: $12, $18, $24, and $36. The work of examining indorsements, paying, entering on the cash book and ledger, canceling, arranging in numerical order, listing, and reporting to the pension agent the regular monthly statements of his account and balances, etc., is employment in itself for at least four efficient clerks and tellers working constantly.

The account for the service of the Post-Office Department has been growing for several years, so that where about 4,000 warrants were paid annually nearly as many are now paid monthly. The increase in this item alone is sufficient to occupy the entire time of at least one experienced clerk.

To handle with promptness and safety this greatly increased and increasing business, this office should have, really, an addition of five experienced and competent tellers. I would hesitate to attempt it with less than this number, added to those already employed here, were it not for the exceptional zeal and efficiency—the outgrowth of years of experience—of the cashier and the paying teller. Although their manifold duties and responsibilities have been multiplied many times, and are still multiplying, the salaries are the same as when this office was first established, and when the aggregate of receipts and disbursements was less than one-fourth of the present volume. Their compensation is much below that commanded by similar qualifications in the banks and trust companies of this city and elsewhere. The business of this office requires now, more than ever before, the services of such trained and competent officials. Therefore, as a matter of justice and recognition of merit, I have the honor to recommend that the compensation of the cashier be increased from $2,500 to $3,000 per annum, and that of the paying teller from $1,800 to $2,500 per annum; and, for the good of the service, the increase of the force of this office as follows, viz: Three clerks, each competent to perform the duties of teller, with compensation of $1,600 per annum for two and $1,400 per annum for one.

Respectfully,

A. LINCOLN DAYDEN,
Assistant Treasurer United States.

The CHAIRMAN. The time of the gentleman has expired.

Mr. LITTAUER. Mr. Chairman, the reading of this statement brings before the committee and brings to the attention of the House the same character of appeals that the Committee on Appropriations have been listening to for many weeks. Any one of these gentlemen will give very complete reasons for an increase of force and increased salaries and then call to our attention certain large figures descriptive of the work performed. When the annual estimates came to us, we found that the Secretary of the Treasury recommended the same appropriation as for the current year, $31,000. Last year we added to this force two clerks at $1,600. Two years previously we had added two clerks at $1,400 and one clerk at $1,200; but after the estimates had been received the Assistant Secretary of the Treasury, Mr. Keep, called to our attention the new service that the assistant treasurer was performing in connection with pension disbursements, and told us that it was proper to allow him an additional clerk at $1,000, to handle this extra amount of vouchers sent to this office, and now without any departmental recommendation we are asked to add two more clerks.

I trust that the committee will not take it upon itself to in-

crease this force without at least proper investigation and the recommendation of the Department having it in charge.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Maryland [Mr. WACHTER].

The question being taken, on a division (demanded by Mr. WACHTER) there were—ayes 44, noes 33.

Accordingly, the amendment was agreed to.

The Clerk read as follows:

Office of assistant treasurer at Chicago: For assistant treasurer, $5,000; cashier, $2,500; vault clerk, $1,800; paying teller, $1,800; assorting teller, $1,800; silver and redemption teller, and change teller, at $1,800 each; receiving teller, $1,700; clerk, $1,600; one bookkeeper, $1,800; two bookkeepers, at $1,500 each; assistant paying teller, $1,500; four coin, coupon, and currency clerks, at $1,500 each; twenty-six clerks, at $1,200 each; one detective and hall man, $1,100; messenger, $840; stenographer, $900; janitor, $600; and three watchmen, at $720 each; in all, $68,900.

Mr. HARDWICK. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. HARDWICK. To make two points of order. First, in line 18, page 62, I see there is a change teller added at $1,800. I make the point of order that that is a new office, not carried by the previous bill or created by existing law. In line 21 there is an additional bookkeeper not authorized by existing law, and I make the same point of order against that.

Mr. LITTAUER. Mr. Chairman, this is the office of the assistant treasurer at Chicago and is a service provided for by law. The place of change teller and bookkeeper is a service known to the law. It is a continuation of a work in progress, and I can not believe that a point of order will properly lie against these provisions. The statute establishes the Treasury and its work.

The CHAIRMAN. It is difficult at all times for the Chair to hear, but if the Chair correctly understands the gentleman from Georgia, his point of order is against the words "change teller." Is that correct?

Mr. HARDWICK. Yes; only one of them—the change teller.

The CHAIRMAN. What law does the gentleman contend that changes?

Mr. HARDWICK. There is no law at all for it. That is the point I make. This is not a class below the grade of a clerk of the fourth class, and it does not come under the statute so often cited by the Chair, being an office higher than clerk of class 4. There is no authority of law for it, and it is not carried in any previous appropriation bill.

Mr. LITTAUER. In what way is there no authority of law?

Mr. MADDEN. Mr. Chairman, this is simply a clerk in the classified service, and there is no question about the right of the House to appropriate for it in this bill. The fundamental law under which the Treasury Department is organized distinctly gives Congress the right to appropriate for such clerks as are needed, and the simple designation of "change clerk" does not make him different from any other clerk.

Mr. HARDWICK. I call the attention of the Chair to the report of the committee, in which they say that it is an increase. I take their word for it.

The CHAIRMAN. The Chair will ask the gentleman from New York what authority of law there is for these change tellers?

Mr. LITTAUER. The Revised Statutes, section 3595, establishes this subtreasury office at Chicago. It says:

There shall be an assistant treasurer of the United States appointed from time to time by the President to serve for the term of four years, one at Chicago.

The salary of the assistant treasurer is then specified at $5,000, and this section goes on at length to detail the work and functions of these assistant treasurers and the work that they are to perform under the law. By law they are authorized to act as depositaries, disburse public moneys, and perform other duties. It seems to me the establishment of the office is an enactment under the law for the performance of the duties necessary to carry out these authorized services, and must necessarily be included in it.

Moreover, if this is subject to a point of order, then every other clerk in connection with this office not specifically authorized in the statute might be thrown out of the bill on a point of order. There is as much provision for these new offices as for the tellers.

Mr. CRUMPACKER. If the gentleman will turn to section 3611 he will find the force specified there is very meager for the Chicago subtreasury. Pretty nearly all the force that is provided in the bill would have to go out.

Mr. LITTAUER. Except four or five clerks specified in the statute.

The CHAIRMAN. The Chair finds in section 3611 of the Revised Statutes this provision:

There shall be employed in the office of the assistant treasurer at Chicago one cashier, at $2,500 a year; one clerk, at $1,800 a year; two clerks, at $1,500 a year; one clerk, at $1,200 a year; one messenger, at $840, and one watchman, at $720.

Unless there is some additional legislation to which the attention of the Chair has not been called, it would appear that——

Mr. LITTAUER. Mr. Chairman, it seems to me that this is a public work in progress. The law specifies for a certain amount of aid to carry on this work, and there has been from time to time additional service allowed for. It seems to me the authorization to continue the work must carry with it a right to have sufficient force to carry out that work. This section the Chair is referring to was passed in 1873, over thirty years ago. This public work has been carried on and extended from time to time. The revenues are probably many times greater than they were then. How can a public work be carried out if we have not the means for doing so? It seems to me it is an authorized work in progress.

Mr. MADDEN. Mr. Chairman, there is no more important office in the country than the subtreasurer's office at Chicago. It seems to me that that ought to be taken into consideration in the ruling that is to be made on this point. If these clerks are to be stricken from the bill, it would embarrass the business of the office and of the country. When the subtreasury was created it was intended that such help should be employed in the office as was needed. Large additions to the force have been made from time to time, and no question has been raised as to the validity of such action. The business of the office is continually growing; its importance is becoming more and more manifest. There can be no doubt of the great need of the men who are specified in this bill, and if the Chair is about to rule against it, I appeal to the gentleman from Georgia [Mr. HARDWICK] not to insist on his point of order, but to withdraw it in order that he may not embarrass the people who have to conduct business through the office about which this controversy has just arisen.

Mr. HARDWICK. I am ready for the gentleman to have his relief in the proper way, like everybody else, but I decline to withdraw the point of order.

The CHAIRMAN. Section 3611 of the Revised Statutes expressly declares the officers and employees that shall be employed in the office of the assistant treasurer at Chicago and fixes their salaries. That statute does not appear to include the two offices against which these points of order are directed, and the Chair has not been pointed to any subsequent legislation authorizing them.

The suggestion is made that the appropriation may be considered as in continuation of appropriations for a Government work already in progress, and as such within the exception found in clause 2 of Rule XXI. A similar point was raised and decided in the first session of the Fifty-first Congress upon a paragraph in an appropriation bill increasing the number of members of the Board of Pension Appeals. Mr. Payson, of Illinois, an experienced parliamentarian, then in the chair, having heard exhaustive debate and considered the question overnight, rendered an exhaustive ruling, found in section 502 of Hinds's Parliamentary Precedents, in the course of which he held that the phrase "public works" contemplates only tangible matters, such as buildings, roads, and the like, and not the ordinary duties of an executive or administrative office. The Chair thinks that the duties of a teller or clerk in receiving or disbursing money or keeping Treasury accounts do not fall within the legislative description of "public works already in progress." It may well be that the great increase of business since the designation of clerks and officers by the act of 1873 justifies or requires an increased number in the office of the assistant treasurer at Chicago, but in order to sustain an appropriation for them under the rules of this House there must first be legislation authorizing such increase. Without such previous authority for the expenditure the appropriation can not remain in the bill if the rule is invoked against it. There being no authority of law for the specific appropriations to which the point of order is urged, the Chair must sustain the point.

Mr. LITTAUER. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. OLMSTED, Chairman of the committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 16472—the legislative, executive, and judicial appropriation bill—and had come to no resolution thereon.

TAXATION OF DISTILLED SPIRITS.

Mr. DALZELL, by direction of the Committee on Ways and Means, reported the bill (H. R. 16226) to amend the internal-revenue laws and to prevent the double taxation of certain

distilled spirits; which was referred to the Committee of the Whole House on the state of the Union.

KIOWA, COMANCHE, AND APACHE INDIAN RESERVATIONS.

Mr. STEPHENS of Texas. Mr. Speaker, I ask unanimous consent for the present consideration of the following House concurrent resolution, which I send to the desk and ask to have read.

The Clerk read as follows:

Be it resolved by the House of Representatives (the Senate concurring), That the President be, and hereby is, requested to return to the House the bill (H. R. 431) to open for settlement 505,000 acres of land in the Kiowa, Comanche, and Apache Indian Reservations in Oklahoma Territory.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The question is on agreeing to the concurrent resolution.

The question was taken, and the resolution was agreed to.

ENROLLED BILLS SIGNED.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

H. R. 13194. An act to authorize the Secretary of the Interior to reclassify the public lands of Alabama;

H. R. 16381. An act leasing and demising certain lands in La Plata County, Colo., to the P. F. U. Rubber Company; and

H. J. Res. 117. Joint resolution extending the time for opening to public entry the unallotted lands on the ceded portion of the Shoshone or Wind River Indian Reservation in Wyoming.

SOUTH M'ALESTER, IND. T.

The SPEAKER laid before the House the bill (H. R. 12845) to consolidate the city of South McAlester and the town of McAlester, in the Indian Territory, with a Senate amendment thereto.

The Senate amendment was read.

Mr. MILLER. Mr. Speaker, I move to concur in the Senate amendment.

The SPEAKER. The question is on the motion of the gentleman from Kansas to concur in the Senate amendment.

The question was taken, and the motion was agreed to.

SENATE CONCURRENT RESOLUTION REFERRED.

Under clause 2 of Rule XXIV, Senate concurrent resolution of the following title was taken from the Speaker's table and referred to its appropriate committee as indicated below:

Senate concurrent resolution No. 19.

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, authorized and directed to cause to be made a survey and examination of the Ohio River at or near Cincinnati, Ohio, for the purpose of establishing a suitable ice harbor—

to the Committee on Rivers and Harbors.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. SMITH of Illinois, indefinitely, on account of important business.

ADJOURNMENT.

Then, on motion of Mr. LITTAUER (at 5 o'clock and 11 minutes p. m.), the House adjourned until to-morrow, at 12 o'clock m.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred as follows:

A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Mobile Harbor, Alabama—to the Committee on Rivers and Harbors, and ordered to be printed, with accompanying illustrations.

A letter from the Acting Secretary of the Treasury, recommending an appropriation for rent of quarters for temporary purposes at Los Angeles, Cal.—to the Committee on Appropriations, and ordered to be printed.

A letter from the Secretary of War, recommending legislation for completing the necessary improvements at the Military Academy at West Point—to the Committee on Military Affairs, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. TOWNSEND, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the House (H. R. 16671) permitting the building of a dam across the St. Joseph River near the village of Berrien Springs, Berrien County, Mich., reported the same with amendment, accompanied by a report (No. 2486); which said bill and report were referred to the House Calendar.

Mr. MONDELL, from the Committee on the Public Lands, to which was referred the bill of the House (H. R. 16344) providing that the State of Wyoming be permitted to relinquish to the United States certain lands heretofore selected and to select other lands from the public domain in lieu thereof, reported the same with amendment, accompanied by a report (No. 2487); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. WILEY of New Jersey, from the Committee on the District of Columbia, to which was referred the bill of the Senate (S. 3292) to incorporate the Great Council of the United States of the Improved Order of Red Men, reported the same without amendment, accompanied by a report (No. 2488); which said bill and report were referred to the House Calendar.

Mr. VREELAND, from the Committee on Naval Affairs, to which was referred to the bill of the Senate (S. 3890) granting authority to the Secretary of the Navy, in his discretion, to dismiss midshipmen from the United States Naval Academy and regulating the procedure and punishment in trials for hazing at the said academy, reported the same with amendment, accompanied by a report (No. 2489); which said bill and report were referred to the House Calendar.

Mr. JENKINS, from the Committee on the Judiciary, to which was referred a part of the President's message, submitted a report (No. 2491) relative to the regulation of the corporations other than railroads; which was referred to the House Calendar.

Mr. ADAMSON, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the House (H. R. 16140) to authorize the maintaining and operating for toll an existing structure across Tugaloo River, known as Knox's bridge, at a point where said river is the boundary between the States of South Carolina and Georgia, reported the same with amendment, accompanied by a report (No. 2492); which said bill and report were referred to the House Calendar.

Mr. STEVENS of Minnesota, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the House (H. R. 14508) permitting the building of dams across any or all of the branches of Rock River, also a dam across the cut-off between Vandruffs Island and Carrs Island at, near, or upon the lower rapids of Rock River in Rock Island County, Ill., reported the same with amendment, accompanied by a report (No. 2493); which said bill and report were referred to the House Calendar.

Mr. HENRY of Connecticut, from the Committee on Agriculture, to which was referred the bill of the House (H. R. 7019) for the protection of animals, birds, and fish in the forest reserves, and for other purposes, reported the same without amendment, accompanied by a report (No. 2494); which said bill and report were referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. DAWSON, from the Committee on Naval Affairs, to which was referred the bill of the Senate (S. 4593) for the relief of Francis J. Cleary, a midshipman of the United States Navy, reported the same without amendment, accompanied by a report (No. 2490); which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. SULZER: A bill (H. R. 17211) to provide for the erection of a bronze statue to the memory of the late Samuel J. Tilden at Washington, D. C.—to the Committee on the Library.

By Mr. WATSON: A bill (H. R. 17212) to amend an act to incorporate the Supreme Lodge of the Knights of Pythias—to the Committee on the District of Columbia.

By Mr. SULZER: A bill (H. R. 17213) to provide for the erection of a public building at the city of Juneau, in the district of Alaska—to the Committee on Public Buildings and Grounds.

By Mr. FLETCHER: A bill (H. R. 17214) to authorize the establishment and construction of an armory and arsenal at Fort Snelling, Minn.—to the Committee on Military Affairs.

By Mr. ROBERTSON of Louisiana: A bill (H. R. 17215) for the erection of a public building at Plaquemine, La.—to the Committee on Public Buildings and Grounds.

By Mr. MILLER: A bill (H. R. 17216) to establish a United States court and a recording district in the town of Wetumka, Ind. T.—to the Committee on the Judiciary.

By Mr. OLCOTT: A bill (H. R. 17217) to amend an act entitled "An act to establish a code of law for the District of Columbia," regulating proceedings for condemnation of land for streets—to the Committee on the District of Columbia.

By Mr. RIXEY: A bill (H. R. 17218) to regulate the procedure and punishment for hazing at the United States Naval Academy—to the Committee on Naval Affairs.

By Mr. THOMAS of North Carolina: A bill (H. R. 17219) to authorize a survey of the thoroughfare connecting the waters of Core Sound with the waters of Neuse River—to the Committee on Rivers and Harbors.

By Mr. CURTIS: A bill (H. R. 17220) providing for a recorder of deeds, and so forth, in the Osage Indian Reservation, in Oklahoma Territory—to the Committee on Indian Affairs.

By Mr. HUMPHREY of Washington: A bill (H. R. 17221) providing for the establishment of three life-saving stations on the coast of Washington, between Cape Flattery and Grays Harbor—to the Committee on Interstate and Foreign Commerce.

By Mr. ACHESON: A bill (H. R. 17222) to establish a fish-hatching and fish station in the State of Pennsylvania—to the Committee on the Merchant Marine and Fisheries.

By Mr. MONDELL: A bill (H. R. 17223) providing for the administration of the operations of the act of Congress approved June 17, 1902, known as the reclamation act—to the Committee on Irrigation of Arid Lands.

By Mr. GILLETT of California (by request): A bill (H. R. 17224) allowing an additional homestead entry to be made on public land—to the Committee on the Public Lands.

By Mr. BENNET of New York: A bill (H. R. 17225) making an appropriation to enable the Government to take official part in the Milan Exposition—to the Committee on Industrial Arts and Expositions.

By Mr. GARDNER of New Jersey: A bill (H. R. 17226) to determine and increase the efficiency of submarine boats for the Navy—to the Committee on Naval Affairs.

By Mr. ACHESON: A joint resolution (H. J. Res. 125) authorizing the rebuilding of Dam and Lock No. 5 in the Monongahela River, Pennsylvania—to the Committee on Rivers and Harbors.

By Mr. FOSS: A concurrent resolution (H. C. Res. 26) providing for the printing of 5,000 copies of the report of the Committee on Naval Affairs on investigation of hazing at Annapolis—to the Committee on Printing.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. BARCHFELD: A bill (H. R. 17227) removing the charge of desertion against the name of William Ross—to the Committee on Military Affairs.

By Mr. BEALL of Texas: A bill (H. R. 17228) for the relief of William C. Short, of Hill County, Tex.—to the Committee on Claims.

Also, a bill (H. R. 17229) granting an increase of pension to J. T. Jean, sr.—to the Committee on Pensions.

By Mr. BISHOP: A bill (H. R. 17230) granting a pension to Elizabeth Hicks—to the Committee on Invalid Pensions.

By Mr. BOWIE: A bill (H. R. 17231) granting an increase of pension to Rachel Allen—to the Committee on Pensions.

By Mr. BURKE of Pennsylvania: A bill (H. R. 17232) for the relief of John J. Wright—to the Committee on War Claims.

Also, a bill (H. R. 17233) granting an increase of pension to Mathew Hyle—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17234) authorizing the issuance of an honorable discharge to John McLaughlin—to the Committee on Naval Affairs.

By Mr. BUTLER of Tennessee: A bill (H. R. 17235) granting an increase of pension to Martha Howard—to the Committee on Invalid Pensions.

By Mr. CAMPBELL of Kansas: A bill (H. R. 17236) for the relief of George Beadnell—to the Committee on Military Affairs.

By Mr. CONNER: A bill (H. R. 17237) granting an increase of pension to James F. Rees—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17238) granting an increase of pension to John G. Vassar—to the Committee on Invalid Pensions.

By Mr. DAVIS of Minnesota: A bill (H. R. 17239) granting an increase of pension to Henry L. Pengilly—to the Committee on Invalid Pensions.

By Mr. DE ARMOND: A bill (H. R. 17240) granting an increase of pension to George N. Requa—to the Committee on Invalid Pensions.

By Mr. DOVENER: A bill (H. R. 17241) granting an increase of pension to William H. White—to the Committee on Invalid Pensions.

By Mr. GAINES of Tennessee: A bill (H. R. 17242) for the relief of Paul E. Huettner—to the Committee on Claims.

By Mr. GARDNER of New Jersey: A bill (H. R. 17243) granting an increase of pension to Berdsall Cornell—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17244) granting an increase of pension to James Crandol—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17245) granting an increase of pension to Joseph Bateman—to the Committee on Invalid Pensions.

By Mr. GILL: A bill (H. R. 17246) for the relief of F. Weston Hyde—to the Committee on Claims.

Also, a bill (H. R. 17247) granting an increase of pension to Rodwell Turner—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17248) granting an increase of pension to William Phipps—to the Committee on Invalid Pensions.

By Mr. HERMANN: A bill (H. R. 17249) granting a pension to Sarah Harr—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17250) granting a pension to Mary Brantner—to the Committee on Invalid Pensions.

By Mr. HOAR: A bill (H. R. 17251) granting an increase of pension to John J. Higgins—to the Committee on Invalid Pensions.

By Mr. HOUSTON: A bill (H. R. 17252) to remove the charge of desertion from the record of William F. Stewart—to the Committee on Military Affairs.

By Mr. HOWELL of New Jersey: A bill (H. R. 17253) granting a pension to Mary D. McChesney—to the Committee on Invalid Pensions.

By Mr. KLINE: A bill (H. R. 17254) granting a pension to Sarah N. Benade—to the Committee on Invalid Pensions.

By Mr. LAW: A bill (H. R. 17255) granting an increase of pension to Henry C. Vedder—to the Committee on Invalid Pensions.

By Mr. LITTLEFIELD: A bill (H. R. 17256) granting an increase of pension to Jacob N. Farrington—to the Committee on Invalid Pensions.

By Mr. McGUIRE: A bill (H. R. 17257) for the relief of M. C. Wright—to the Committee on War Claims.

Also, a bill (H. R. 17258) for the relief of Mrs. Margaret Tucker, of Gilmore, Ind. T., for depredations committeed by Indians—to the Committee on War Claims.

Also, a bill (H. R. 17259) granting a pension to Elizabeth A. Gayer—to the Committee on Pensions.

Also, a bill (H. R. 17260) granting a pension to Josephine Stewart—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17261) granting an increase of pension to James W. Hamilton—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17262) granting certain lands to the town of Clinton, Okla., for cemetery purposes—to the Committee on the Public Lands.

By Mr. MAHON: A bill (H. R. 17263) granting an increase of pension to Adam Franklin—to the Committee on Invalid Pensions.

By Mr. MOUSER: A bill (H. R. 17264) granting an increase of pension to John K. McKeen—to the Committee on Invalid Pensions.

By Mr. OLMSTED: A bill (H. R. 17265) granting an increase of pension to John C. Saltzer—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17266) granting an increase of pension to Henry W. Alspach—to the Committee on Invalid Pensions.

By Mr. PEARRE: A bill (H. R. 17267) to provide for the sale of lot 4, square 1113, in the city of Washington, D. C.—to the Committee on the District of Columbia.

By Mr. PERKINS: A bill (H. R. 17268) granting a pension to Charles L. Westfall—to the Committee on Invalid Pensions.

By Mr. SHACKLEFORD: A bill (H. R. 17269) for the relief of heirs of George W. Son, deceased—to the Committee on War Claims.

Also, a bill (H. R. 17270) granting a pension to Mary Jane Pitts—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17271) granting an increase of pension to James D. Taylor—to the Committee on Invalid Pensions.

Mr. SHERLEY: A bill (H. R. 17272) to carry out the findings of the Court of Claims in the case of Peter Bitzer—to the Committee on Claims.

By Mr. SIMS: A bill (H. R. 17273) granting a pension to Mary B. Watson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17274) granting an increase of pension to Andrew J. Mesier—to the Committee on Invalid Pensions.

By Mr. SAMUEL W. SMITH: A bill (H. R. 17275) granting an increase of pension to A. C. Washburn—to the Committee on Invalid Pensions.

By Mr. SMITH of Maryland: A bill (H. R. 17276) to correct the military record of Andrew Airey—to the Committee on Military Affairs.

By Mr. TYNDALL: A bill (H. R. 17277) granting an increase of pension to Peter T. Murphy—to the Committee on Invalid Pensions.

By Mr. UNDERWOOD: A bill (H. R. 17278) granting an increase of pension to Mary E. Patterson—to the Committee on Pensions.

By Mr. VAN WINKLE: A bill (H. R. 17279) to correct the naval record of Charles Smith—to the Committee on Naval Affairs.

By Mr. WATSON: A bill (H. R. 17280) granting an increase of pension to William Hare—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17281) granting an increase of pension to John P. Brown—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17282) granting an increase of pension to William L. Thomas—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17283) granting an increase of pension to George W. Riggs—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17284) granting an increase of pension to Sarah J. Appleton—to the Committee on Invalid Pensions.

By Mr. WOOD of New Jersey: A bill (H. R. 17285) for the relief of Second Lieut. Gouverneur V. Packer, Twenty-fourth United States Infantry—to the Committee on Military Affairs.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of bills of the following titles; which were thereupon referred as follows:

A bill (H. R. 16339) granting an increase of pension to Mack Harris—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 17160) to remove the charge of desertion from the record of Herman Kneoffler—Committee on War Claims discharged, and referred to the Committee on Military Affairs.

A bill (H. R. 15473) granting a pension to Thomas C. Hughes—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER: Petition of citizens of Oklahoma and Indian Territory, for statehood—to the Committee on the Territories.

Also, petition of the Los Angeles Chamber of Commerce, for reorganization of the consular service—to the Committee on Foreign Affairs.

By Mr. ACHESON: Petition of the State Federation of Pennsylvania Women, against repeal of the Morris law for a forest reservation in Minnesota—to the Committee on Agriculture.

Also, petition of the State Federation of Pennsylvania Women, for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

Also, petition of the Champion Saw and Machine Company, of Beaver Falls, Pa., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of Rev. Grant E. Fish, of West Alexander, Pa., for the Littlefield bill—to the Committee on Alcoholic Liquor Traffic.

By Mr. ADAMS of Pennsylvania: Petition of Liberty Bell Council, No. 76, Daughters of Liberty, of Pennsylvania, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, paper to accompany bill for relief of William Taylor—to the Committee on Invalid Pensions.

Also, petition of the Allied Board of Trade of Brooklyn, for battle-ship construction at the Brooklyn Navy-Yard—to the Committee on Naval Affairs.

By Mr. AIKEN: Paper to accompany bill for relief of heirs of Alexander Campbell—to the Committee on War Claims.

By Mr. ANDREWS: Petition of the International Association of Master House Painters and Decorators, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. BARCHFELD: Petition of the Commercial Club of Comanche, Ind. T., for the Senate amendment to the statehood bill—to the Committee on the Territories.

Also, paper to accompany bill for relief of G. McLaughlin—to the Committee on Invalid Pensions.

By Mr. BEALL of Texas: Paper to accompany bill for relief of Jesse Wiley—to the Committee on Pensions.

By Mr. BELL of Georgia: Paper to accompany bill for relief of Caroline Corn—to the Committee on Pensions.

By Mr. BISHOP: Petition of citizens of Mason County, Mich., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of citizens of Mason County, Mich., for the Grange good-roads bill—to the Committee on Agriculture.

Also, petition of citizens of Mason County, Mich., for an experimental parcels post—to the Committee on the Post-Office and Post-Roads.

Also, petition of citizens of Mason County, Mich., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of citizens of Mason County, Mich., against repeal of the oleomargarine law—to the Committee on Agriculture.

Also, petition of citizens of Manton and Mason, Mich., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of the Michigan State Democrat, against the tariff on linotype machines—to the Committee on Ways and Means.

Also, petition of citizens of Onaway, Mich., against a law to prevent Sunday banking—to the Committee on the Post-Office and Post-Roads.

Also, petition of citizens of Ludington, Mich., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of citizens of Mears, Mich., against repeal of the oleomargarine law—to the Committee on Agriculture.

Also, petition of George H. Beckman, for the Grange good-roads bill—to the Committee on Agriculture.

Also, petition of citizens of Shelby, Mich., for the pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of citizens of Mason County, Mich., for larger powers for the Interstate Commerce Commission in railway rates—to the Committee on Interstate and Foreign Commerce.

Also, petition of citizens of Hesperia, Mich., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of citizens of Shelby, Mich., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of citizens of Wexford County, Mich., against repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. BROWN: Petition of citizens of Bethel, Wis., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. BURKE of Pennsylvania: Petition of the Monongahela Tube Company, against the anti-injunction bills—to the Committee on the Judiciary.

Also, paper to accompany bill for relief of James Boon—to the Committee on Invalid Pensions.

Also, petition of the Pennsylvania State Sabbath Association, for Sunday closing of the Jamestown Exposition—to the Committee on Industrial Arts and Expositions.

By Mr. BURLEIGH: Paper to accompany bill for relief of Robert W. Cook—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of Richard M. Daniels—to the Committee on Invalid Pensions.

By Mr. BUTLER of Tennessee: Paper to accompany bill for relief of Martha Howard—to the Committee on Invalid Pensions.

By Mr. CASSEL: Petition of the International Association of House Painters and Decorators, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of the American Free Art League, for repeal of the tariff on works of art—to the Committee on Ways and Means.

Also, petition of citizens of Oklahoma and Indian Territory, for statehood—to the Committee on the Territories.

Also, petition of vessel owners of Philadelphia, for bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

Also, petition of Council No. 77, Daughters of Liberty, of Marietta, Pa., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of the Northern National Bank, of Lancaster,

Pa., for bill H. R. 8973 and opposing bill H. R. 48—to the Committee on Banking and Currency.

Also, petition of the Iris Club, of Lancaster, Pa., against repeal of the Morris law—to the Committee on Agriculture.

Also, petition of St. John's Lutheran Church, of Lancaster, Pa., against conditions in the Kongo Free State—to the Committee on Foreign Affairs.

Also, petition of the Lake Carriers' Oil Company, against discrimination in rates on petroleum—to the Committee on Interstate and Foreign Commerce.

Also, petition of the H. K. Mulford Company, of Philadelphia, Pa., for bill S. 88—to the Committee on Interstate and Foreign Commerce.

Also, petition of citizens of Pennsylvania, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of the Iris Club, of Lancaster, Pa., for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

Also, petition of the Iris Club, for a forest reservation (Morris law)—to the Committee on Agriculture.

Also, petition of the faculty of Bryn Mawr College, for bill H. R. 15268—to the Committee on Ways and Means.

Also, petition of the Japanese and Korean Exclusion League, for the Chinese law as it is—to the Committee on Foreign Affairs.

Also, petition of Lancaster Council, No. 912, Junior Order United American Mechanics, for bill H. R. 15442—to the Committee on Immigration and Naturalization.

By Mr. CHANEY: Petition of D. O. Hazleton et al., for the Senate amendment to the statehood bill—to the Committee on the Territories.

By Mr. CLARK of Florida: Petitions of the St. Augustine Evening Record, the Telegraph, and the Farmer and Trucker, against the tariff on linotype machines—to the Committee on Ways and Means.

By Mr. COLE: Petition of Washington Grange, No. 576, of Ohio, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. COOPER of Pennsylvania: Petition of officers of Bryn Mawr College, for removal of the duty on works of art—to the Committee on Ways and Means.

Also, petition of Charles T. Meger & Co., Thomas Winsmore, the Vessel Owners and Captains' Association, and Hon. CHARLES E. LITTLEFIELD'S letter to the Hon. ALLEN F. COOPER, for bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the State Federation of Pennsylvania Women, for the Morris law for forest reserves in Minnesota—to the Committee on Agriculture.

Also, petition of the H. K. Mulford Company, of Philadelphia, for bill S. 88—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Retail Merchants' Association of Pennsylvania, for bill S. 88—to the Committee on Interstate and Foreign Commerce.

Also, petition of Holdt & Cummings, against bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

By Mr. COOPER of Wisconsin: Petition of Rock County District, No. 2, Independent Order of Good Templars, for an amendment of the interstate-commerce law to prevent sending cigarettes, etc., into Wisconsin—to the Committee on Interstate and Foreign Commerce.

Also, petition of citizens of Racine, Wis., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. DALE: Petition of the Association of Mexican War Veterans, for an increase of pension—to the Committee on Pensions.

Also, petition of South Side Bank, of Scranton, Pa., against bill H. R. 48—to the Committee on Banking and Currency.

Also, petition of the Republican central committee of Lincoln County, Okla., for the statehood bill—to the Committee on the Territories.

Also, petition of the International Association of Master House Painters and Decorators, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of William J. Chalmers, of Chicago, for the Mondell bill (H. R. 7066)—to the Committee on Mines and Mining.

Also, petition of the Merchants' Protective Association of Scranton, Pa., for the pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of the California Fruit Growers' Exchange, for Federal control of railway rates—to the Committee on Interstate and Foreign Commerce.

Also, petition of United States of America Council, No. 344, Order United American Mechanics, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of the Illinois Manufacturers' Association, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of the Woman's Christian Temperance Union of Lackawana County, against the sale of liquor in Government buildings—to the Committee on Alcoholic Liquor Traffic.

Also, petition of G. L. Morrill, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of the Union Ex-Prisoners of War Association of Friendship, N. Y., for bill H. R. 9—to the Committee on Invalid Pensions.

Also, petition of the American Wine Growers' Association, for the pure-wine bill (H. R. 12868)—to the Committee on Interstate and Foreign Commerce.

Also, petition of George C. Henry and M. D. Lathrop, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of citizens of Lackawana County, Pa., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of the State Sabbath Association, against Sunday opening of the Jamestown Exposition—to the Select Committee on Industrial Arts and Expositions.

Also, petition of the Scranton Bolt and Nut Company, against the metric system—to the Committee on Coinage, Weights, and Measures.

Also, petition of the Buffalo Chamber of Commerce, for the Gallinger bill—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the Central Labor Union of Newport News, Va., for the Gallinger bill—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the Retail Merchants' Association of Scranton, against a parcels-post law—to the Committee on the Post-Office and Post-Roads.

Also, petition of W. H. Hagen, Mary L. Peck, Charles Kimmick, jr., Joseph H. Mears, Charles P. Matthews, John Whitmore, and Thomas J. Davis, all of Scranton, Pa., for the pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of William D. Moore and John Buck, of Scranton, Pa., for $8 per month for inmates of Soldiers' Homes on furlough—to the Committee on Invalid Pensions.

Also, petition of the Musicians' Association of Scranton, Pa., for bill H. R. 8748—to the Committee on Naval Affairs.

By Mr. DALZELL: Petition of Wampum Camp, Sons of Veterans, against bill H. R. 8131—to the Committee on Military Affairs.

By Mr. DAVIS of Minnesota: Petition of citizens of Carver County, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. DAWSON: Petition of the Progressive Women's Clubs of Folletts, Iowa, to investigate the industrial condition of women in the United States—to the Committee on Appropriations.

Also, petition of the Progressive Women's Clubs of Folletts, Iowa—to the Committee on Appropriations.

By Mr. DRAPER: Petition of the Allied Building Trades, for construction of battle ships at the Brooklyn Navy-Yard—to the Committee on Naval Affairs.

By Mr. DRISCOLL: Petition of citizens of New York, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of the faculty of Syracuse University, for adoption of the metric system—to the Committee on Coinage, Weights, and Measures.

By Mr. DUNWELL: Petition of U. S. Grant Post, No. 327, for a battlefield park around Petersburg, Va.—to the Committee on Military Affairs.

Also, petition of the Allied Building Trades, for battle-ship construction at the Brooklyn Navy-Yard—to the Committee on Naval Affairs.

Also, petition of the Caddo Statehood Club, for statehood for Oklahoma and Indian Territory—to the Committee on the Territories.

Also, petition of Robert S. Waddell, against the Du Pont powder monopoly—to the Committee on Military Affairs.

Also, petition of H. C. Benwold, for the railway rate bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Congress Club of Kings County, indorsing recommendation of the Postmaster-General relative to postage on small packages—to the Committee on the Post-Office and Post-Roads.

Also, petition of citizens of New York, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. ELLIS: Paper to accompany bill for relief of William C. Friese—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of John W. Richardson—to the Committee on Pensions.

Also, petition of citizens of Missouri, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. ESCH: Petition of the Allied Boards of Trade, for battleship construction in the Brooklyn Navy-Yard—to the Committee on Naval Affairs.

By Mr. FLOYD: Paper to accompany bill for relief of Elizabeth W. Sparks—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of Zeno F. Davis—to the Committee on Invalid Pensions.

By Mr. GAINES of Tennessee: Paper to accompany bill for relief of P. E. Huettner—to the Committee on Claims.

By Mr. GRAHAM: Paper to accompany bill for relief of Samuel Hough—to the Committee on Invalid Pensions.

Also, petition of officers of Bryn Mawr College, for bill H. R. 15208 (removal of duty on art works)—to the Committee on Ways and Means.

Also, petition of Pennsylvania State Sabbath Association, against opening the Jamestown Exposition on Sunday—to the Committee on Industrial Arts and Expositions.

Also, petition of many citizens of New York and vicinity, for relief for heirs of victims of *General Slocum* disaster—to the Committee on Claims.

Also, petition of S. H. A. Wise, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. HASKINS: Petition of Green Mountain Grange, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. HAYES: Petition of the German Catholic organizations of San Jose, Cal., against bill H. R. 7067—to the Committee on Indian Affairs.

By Mr. HEPBURN: Petition of citizens of Taylor County, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. HINSHAW: Petition of the Nebraska Cement Users' Association, for appropriation for experiments in the value of structural material by the Geological Survey—to the Committee on Appropriations.

Also, petition of citizens of McPherson, Sicily, and Seward, Nebr., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. HOWELL of Utah: Petition of many citizens of New York and vicinity, for relief for heirs of victims of *General Slocum* disaster—to the Committee on Claims.

By Mr. HUBBARD: Petition for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. KENNEDY: Paper to accompany bill for relief of A. H. Nichols—to the Committee on Claims.

By Mr. WILLIAM W. KITCHIN: Petition of Daughters of Liberty of Spray, N. C., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of Alamance Council, No. 10, Daughters of Liberty, of Haw River, N. C., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. LACEY: Petition of citizens of Clinton, Iowa, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of citizens of Oklahoma, for statehood—to the Committee on the Territories.

By Mr. LAWRENCE: Petition of the Berkshire Automobile Club, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. LINDSAY: Petition of the Allied Boards of Trade, for battle-ship construction in the Brooklyn Navy-Yard—to the Committee on Naval Affairs.

By Mr. LOUD: Petition of citizens of Michigan, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of Isaac King et al., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. MAHON: Paper to accompany bill for relief of Adam Franklin—to the Committee on Invalid Pensions.

By Mr. MAYNARD: Petition of Phoenix Council, No. 162, Junior Order United American Mechanics, and citizens of Portsmouth, Va., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of Riverview Council, No. 148, of Newport News, Va., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. MOON of Tennessee: Paper to accompany bill for relief of W. L. Tyler—to the Committee on Invalid Pensions.

By Mr. MOUSER: Petition of many citizens of New York and vicinity, for relief for heirs of victims of *General Slocum* disaster—to the Committee on Claims.

By Mr. NORRIS: Petition of the Japanese and Korean Exclusion League, for the Chinese law as it is—to the Committee on Foreign Affairs.

Also, petition of the Nebraska Cement Users' Association, for United States Geological Survey investigation of structural materials—to the Committee on Appropriations.

By Mr. OVERSTREET: Petition of the American Free Art League, against a duty on art works—to the Committee on Ways and Means.

By Mr. PAGE: Paper to accompany bill for relief of L. G. Smith—to the Committee on War Claims.

By Mr. PAYNE: Petition of the National Grange, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. POLLARD: Petition of citizens of Bookwalter and Avoca, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. RIVES: Paper to accompany bill for relief of Richard Isaacs—to the Committee on Invalid Pensions.

By Mr. ROBERTS: Petition of citizens of Chelsea, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. ROBINSON of Arkansas: Paper to accompany bill for relief of Albert I. Merrill—to the Committee on Military Affairs.

Also, paper to accompany bill for relief of John Nutt—to the Committee on War Claims.

By Mr. RYAN: Petition of a mass meeting in Brooklyn, N. Y., for construction of battle ships in the Brooklyn Navy-Yard—to the Committee on Naval Affairs.

By Mr. SAMUEL: Petition of the Wednesday Club of Bloomsbury, Pa., for a forest reservation in the White Mountains and for continuance of the Morris law (forestry reservation in Minnesota)—to the Committee on Agriculture.

Also, paper to accompany bill extending a patent to J. H. Norwich—to the Committee on Patents.

By Mr. SCROGGY: Petition of Peter Henderson, against free seed distribution—to the Committee on Agriculture.

Also, petition of Belfast Lodge, No. 572, Independent Order of Odd Fellows, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. SHACKLEFORD: Petition of 350 citizens of Oklahoma, for statehood—to the Committee on the Territories.

By Mr. SHERMAN: Petition of the Chamber of Commerce of Buffalo, N. Y., for the Gallinger bill—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the East Buffalo Live Stock Association, for bill H. R. 12615—to the Committee on Interstate and Foreign Commerce.

By Mr. SAMUEL W. SMITH: Petition of citizens of Grove, Ind. T., for admission as a State—to the Committee on the Territories.

By Mr. SOUTHARD: Petition of the Master House Painters and Decorators' Association, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of citizens of St. Louis, for revocation of the post-office fraud order—to the Committee on Rules.

Also, petitions of William Feaga, O. N. Tindall, Jeremiah Bard, Charles Jones, I. N. Brown, Henry Fuches, David Lusk, Robert H. Householder, Thomas A. Graham, Morris Rees, John W. Stone, George S. Wille, Lysander Ames, John Jints, James B. Menhennick, August F. Burde, Henry C. Van Fleet, Hiram W. Willmer, Henry Weitzel, Leonard Burkhart, Benjamin Hopper, John S. Ashbrook, J. L. Henry, John E. Albring, J. G. Greek, Ignatius Saunders, John C. Wickham, C. M. Keller, W. H. Raynor, Noyes S. Lee, Henry Shufelt, James E. Lenhart, James M. English, and Albert R. Wickham, for the Dolliver bill (H. R. 9)—to the Committee on Invalid Pensions.

By Mr. STEENERSON: Petition of citizens of Minnesota, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. STEPHENS of Texas: Petition of citizens of Oklahoma, for statehood—to the Committee on the Territories.

By Mr. SULZER: Petition of J. L. Riker Post, No. 62, Grand Army of the Republic, for a Government battlefield park at Petersburg, Va.—to the Committee on Military Affairs.

By Mr. THOMAS of North Carolina: Petition for an appropriation to dredge the thoroughfare of waters between Core Sound and the Neuse River—to the Committee on Rivers and Harbors.

By Mr. WACHTER: Petition of the Second Presbyterian Christian Endeavor Society, against selling liquor in Soldiers' Homes and Government buildings—to the Committee on Military Affairs.

By Mr. WANGER: Petition of Hand-in-Hand Council, No. 50, Daughters of Liberty, of Quakertown, Pa., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. WEBB: Paper to accompany bill for relief of James Grooms—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of James D. Bradley—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of Ambrose Y. League—to the Committee on Pensions.

HOUSE OF REPRESENTATIVES.

SATURDAY, *March 24, 1906.*

The House met at 12 o'clock m.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of yesterday's proceedings was read and approved.

LIABILITY OF EMPLOYERS.

Mr. STERLING. Mr. Speaker, I ask unanimous consent for a reprint of the report from the Committee on Judiciary on the bill H. R. 239, the employers' liability bill.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

HAZING AT NAVAL ACADEMY.

Mr. DALZELL. Mr. Speaker, I submit the following privileged report.

The SPEAKER. The gentleman from Pennsylvania submits a privileged report, which the Clerk will report.

The Clerk read as follows:

The Committee on Rules, to whom was referred the resolution of the House No. 154, have had the same under consideration, and respectfully report, in lieu thereof, the following:

Resolved, That at or before 2 o'clock to-day the House shall consider in the House as in Committee of the Whole, under the five-minute rule, the bill (S. 3899) granting authority to the Secretary of the Navy, in his discretion, to dismiss midshipmen from the United States Naval Academy and regulate the procedure and punishment in trials for hazing at the said academy, and at the hour of 4.30 p. m., this day, the previous question shall be considered as ordered on such amendments as may be pending and on the bill to its final passage.

Mr. DALZELL. Mr. Speaker, I think the House is familiar with the necessity for some legislation looking toward relief of the academy at Annapolis, and the purpose of this rule is to afford the House an opportunity to consider the bill to that end reported by the Committee on Naval Affairs. The plan, however, is to allow the Pensions Committee to occupy the time until they have exhausted their Calendar, which we understand will not take much more than an hour, and then proceed with the consideration of this bill under the five-minute rule, the previous question to be considered as ordered at half past 4 o'clock on the bill and amendments.

Mr. WILLIAMS. Mr. Speaker, the minority members of the Committee on Rules do not desire any division of the House upon the question of the adoption of the rule, nor do they desire to consume the usual twenty minutes in the discussion of the rule, with this understanding, however, that later on, under the five-minute rule, the gentleman from North Carolina, Hon. W. W. KITCHIN, may have twenty minutes in which to give his views in opposition to the pending legislation.

Mr. RIXEY. I would like to ask the gentleman from Pennsylvania if under the rule a substitute would be in order?

Mr. DALZELL. Everything is in order that would be in considering the bill in Committee of the Whole.

Mr. FITZGERALD. I wish to inquire of the gentleman from Pennsylvania—suppose at 4.30 the bill has not been completely read. Will it then be in order to offer amendments?

Mr. DALZELL. Under the rule the previous question is ordered at 4.30 o'clock.

Mr. FITZGERALD. Suppose some portion of the bill has not been read, how will it be possible to offer an amendment to that portion of the bill?

Mr. DALZELL. Well, I think that would be unfortunate and that was not contemplated at all. The possibility of such a thing was not contemplated, and I will say to the gentleman it is a very short bill.

Mr. FITZGERALD. I have not seen the bill, and I wished to inquire if that contingency could arise and make it impossible to offer an amendment to a portion of the bill over which there might be the greatest controversy.

Mr. DALZELL. There did not seem to be any difference of opinion in the Committee on Rules as to the time being sufficient to consider the bill and every amendment. It is a short bill.

Mr. RIXEY. I understand the gentleman from Pennsylvania to state a substitute would be in order, but under the rule is a substitute in order until you have read the bill through and perfected it?

Mr. DALZELL. I should think the substitute might be considered as pending, and so a vote could be had on it when the vote is taken at 4.30.

The question was taken, and the resolution was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had passed bills of the following titles; in which the concurrence of the House of Representatives was requested:

S. 5211. An act to authorize the construction of a bridge across the Snake River at or near Lewiston, Idaho;

S. 5204. An act to authorize the construction of a bridge across the Yellowstone River in Montana;

S. 5184. An act to authorize the construction of a bridge across the Missouri River between Walworth and Dewey counties, in the State of South Dakota;

S. 5183. An act to authorize the construction of a bridge across the Columbia River between Douglas and Kittitas counties, in the State of Washington;

S. 5182. An act to authorize the construction of a bridge across the Columbia River between Franklin and Benton counties, in the State of Washington;

S. 5181. An act to authorize the construction of a bridge across the Snake River between Whitman and Columbia counties, in the State of Washington;

S. 4833. An act to amend an act entitled "An act permitting the Washington Market Company to lay a conduit and pipes across Seventh street west," approved February 23, 1905;

S. 4628. An act providing that the State of Wyoming be permitted to relinquish to the United States certain lands heretofore selected and to select other lands from the public domain in lieu thereof;

S. 4300. An act to amend section 4414 of the Revised Statutes of the United States, inspectors of hulls and boilers of steam vessels;

S. 2769. An act to divide Nebraska into two judicial districts; and

S. 1916. An act to provide for filling in that portion of the naval station at Honolulu, Hawaii, known as the "Reef."

The message also announced that the Senate had passed with amendments bill of the following title:

H. R. 14171. An act making appropriations for fortifications and other works of defense, for the armament thereof, for the procurement of heavy ordnance for trial service, and for other purposes.

PENSION BILLS.

Mr. SULLOWAY. Mr. Speaker, I ask unanimous consent that matters on the Private Calendar in order for to-day may be considered in the House as in Committee of the Whole.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The gentleman from Rhode Island [Mr. CAPRON] will take the chair.

DAVID LINDSEY.

The first pension business was the bill (H. R. 16274) granting an increase of pension to David Lindsay.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of David Lindsay, late of Company A, Loyal Eastern Virginia Volunteers, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the word "Lindsay" and insert in lieu thereof the word "Lindsey."

In same line, before the word "Loyal," insert the words "First Regiment."

In line 7 strike out the word "Volunteers" and insert in lieu thereof the words "Volunteer Infantry."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

The title was amended so as to read: "A bill granting an increase of pension to David Lindsey."

MICHAEL MANAHAN.

The next pension business was the bill (H. R. 14782) granting an increase of pension to Michael Manahan.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Michael

sician, late musician, Sixty-fifth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the word "musician" and insert in lieu thereof the words "of band."

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

ADA COLLINS.

The next pension business was the bill (H. R. 1982) granting a pension to Ada Collins.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Ada Collins, the blind daughter of John W. Collins, deceased, late of Twenty-sixth Battery, New York Volunteer Light Artillery, and pay her such pension as is by law granted to the helpless dependent child of an honorably discharged soldier.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the words "the blind" and insert in lieu thereof the words "helpless and dependent."

In same line and in line 7 strike out the word "deceased."

In line 8 strike out the words "such pension as is by law," and all of lines 9 and 10, and insert in lieu thereof the words "a pension at the rate of $12 per month."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

ABBIE B. GOULD.

The next pension business was the bill (H. R. 6897) granting an increase of pension to Abbie B. Gould.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Abbie B. Gould, widow of John H. Gould, late captain of Company G, Third Regiment Rhode Island Volunteer Heavy Artillery, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6, after the word "captain," strike out the word "of."

In line 8 strike out the word "twenty" and insert in lieu thereof the word "sixteen."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

BRIDGET REIDY.

The next pension business was the bill (H. R. 6118) granting an increase of pension to Bridget Reidy.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Bridget Reidy, widow of John Reidy, late of the United States Military Academy, Detachment of Artillery, and pay her a pension at the rate of $12 per month in lieu of that she is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the words "the United."

In line 7 strike out the words "States Military Academy" and insert in lieu thereof the word "Artillery."

In same line strike out the words "of Artillery" and insert in lieu thereof the words "United States Army."

In line 8 strike out the word "twelve" and insert in lieu thereof the word "sixteen."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

CHRISTOPHER BOHN.

The next pension business was the bill (H. R. 5511) granting an increase of pension to Christopher Bohn.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Christopher Bohn, late a member of Company B, Eleventh Regiment Wisconsin Volunteers, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the words "a member."

In line 7 strike out the word "Volunteers" and insert in lieu thereof the words "Volunteer Infantry."

In line 8 strike out the word "fifty" and insert in lieu thereof the word "thirty."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

SIMILDE E. FORBES.

The next pension business was the bill (H. R. 8138) granting an increase of pension to Similde E. Forbes.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Similde E. Forbes, widow of S. D. Forbes, late of Company I, First Regiment Wisconsin Heavy Artillery, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the letter "S" and insert in lieu thereof the word "Seloftus."

In same line, before the word "Company," strike out the word "of" and insert in lieu thereof the words "second lieutenant."

In line 8 strike out the word "twenty-four" and insert in lieu thereof the word "fifteen."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

JOHN M'CANDLESS.

The next pension business was the bill (H. R. 7500) granting an increase of pension to John McCandless.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John McCandless, late of Company C, Tenth Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

JOHN HOBART.

The next pension business was the bill (H. R. 8191) granting a pension to John Hobart.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John Hobart, late of Company H, One hundred and nineteenth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "twenty-four" and insert in lieu thereof the word "twelve."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

MALEK A. SOUTHWORTH.

The next pension business was the bill (H. R. 8892) granting an increase of pension to Malek A. Southworth.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Malek A. Southworth, late surgeon Second and then First Regiments Texas Volunteer Cavalry, and medical director Second Division Cavalry, Department of the Gulf, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the word "then."

In line 7 strike out the words "and medical director."

In line 8 strike out the words "Second Division Cavalry, Department of the Gulf."

In line 9 strike out the word "fifty" and insert in lieu thereof the word "twenty-four."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

S. AMANDA MANSFIELD.

The next pension business was the bill (H. R. 9234) granting an increase of pension to S. Amanda Mansfield.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of S. Amanda Mansfield, widow of Henry O. Mansfield, late captain Company E, Fifty-second Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "twenty" and insert in lieu thereof the word "sixteen."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

ELIZA DAVIDSON.

The next pension business was the bill (H. R. 14498) granting an increase of pension to Eliza Davidson.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Eliza Davidson, widow of Maxwell Davidson, late of Company M, Fifteenth Regiment New York Volunteer Cavalry, and pay her a pension at the rate of $30 per month in lieu of that she is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

FREDERICK M. WOOD.

The next pension business was the bill (H. R. 9451) granting an increase of pension to Frederick N. Wood.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Frederick N. Wood, late of Company E, Fifteenth Regiment Connecticut Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the letter "N." and insert in lieu thereof the letter "M."

In line 8 strike out the word "fifty" and insert in lieu thereof the word "thirty."

Amend the title so as to read: "A bill granting an increase of pension to Frederick M. Wood."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

ALEXANDER D. POLSTON.

The next pension business was the bill (H. R. 9832) granting an increase of pension to Alexander D. Polston.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Alexander D. Polston, late of Company G, Third Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

AUGUST DANIELDSON.

The next pension business was the bill (H. R. 11907) granting an increase of pension to August Danieldson.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of August Danieldson, late of Company H, First Regiment Illinois Volunteer Artillery, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 7, before the word "Artillery," insert the word "Light."

In line 8 strike out the word "thirty-six" and insert in lieu thereof the word "twenty-four."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

GEORGE W. CREASEY.

The next pension business was the bill (H. R. 10818) granting a pension to George W. Creasey.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of George W. Creasey, late first lieutenant Company B, Thirty-fifth Regiment Massachusetts Volunteer Infantry, and pay him a pension at the rate of —— dollars per month.

The amendments recommended by the committee were read, as follows:

In line 8, before the word "dollars," insert the word "forty."

In same line, after the word "month," insert the words "in lieu of that he is now receiving."

Amend the title so as to read: "A bill granting an increase of pension to George W. Creasey."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

JOHN P. KLECKNER.

The next pension business was the bill (H. R. 10864) granting an increase of pension to J. P. Kleckner.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of J. P. Kleckner, late captain Company D, Eighty-third Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the letter "J." and insert in lieu thereof the word "John."

In same line strike out the word "captain" and insert in lieu thereof the words "second lieutenant."

In same line strike out the letter "D" and insert in lieu thereof the letter "F."

In line 8 strike out the word "forty" and insert in lieu thereof the word "thirty."

Amend the title so as to read: "A bill granting an increase of pension to John P. Kleckner."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

VALENTINE GUNSELMAN.

The next pension business was the bill (H. R. 15380) granting an increase of pension to Valentine Gunselman.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Valentine Gunselman, late of Company D, Powell's battalion Missouri Mounted Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In lines 6 and 7 strike out the words "D, Powell's battalion Missouri Mounted" and insert in lieu thereof the words "B, Fifty-first Regiment Missouri Volunteer."

In line 8 strike out the word "forty" and insert in lieu thereof the word "twenty-four."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

ELI DUVALL.

The next pension business was the bill (H. R. 11538) granting an increase of pension to Eli Duvall.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Eli Duvall, late of Company K, Twenty-ninth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving, and the said Eli Duvall being a person of unsound mind, said pension shall be payable to his legally appointed guardian.

The amendment recommended by the committee was read, as follows:

Strike out all of lines 9 and 10 and insert in lieu thereof the words "said pension to be paid to his legally constituted guardian."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

WILLIAM F. LIMPUS.

The next pension business was the bill (H. R. 1938) granting an increase of pension to William F. Limpus.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of William F. Limpus, late captain Company H, Thirty-sixth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6, after the word "late," insert the words "second lieutenant and."

In line 8 strike out the word "fifty" and insert in lieu thereof the word "thirty."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

JOHN BURNS.

The next pension business was the bill (H. R. 10819) granting an increase of pension to John Burns.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John Burns, late of Company B, Forty-fourth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 7, after the word "Infantry," insert the words "Company A, Third Regiment Veteran Reserve Corps, and Company E, Eighth Regiment United States Veteran Volunteer Infantry."

In line 8 strike out the word "twenty-four" and insert in lieu thereof the word "thirty."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

SARAH A. SCOTT.

The next pension business was the bill (H. R. 10591) granting an increase of pension to Mable E. Scott.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Mable E. Scott, a weak-minded daughter of Hosea P. Scott, late of Company A, One hundred and forty-second Regiment New York Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the words "Mable E." and insert in lieu thereof the words "Sarah A."

In same line strike out the words "a weak-minded daughter" and insert in lieu thereof the word "widow."

In line 9 strike out the word "twelve" and insert in lieu thereof the word "twenty-four."

In same line, after the word "month," insert the words "in lieu of that she is now receiving: *Provided*, That in the event of the death of Mabel E. Scott, helpless and dependent child of said Hosea P. Scott, the additional pension herein granted shall cease and determine: *And provided further*, That in the event of the death of Sarah A. Scott the name of said Mabel E. Scott shall be placed on the pension roll, subject to the provisions and limitations of the pension laws, at the rate of $12 per month from and after the date of death of said Sarah A. Scott."

Amend the title so as to read: "A bill granting an increase of pension to Sarah A. Scott."

The amendments were agreed to.

The bill as amended was ordered to be engrosed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

LORENZO D. LIBBY.

The next pension business was the bill (H. R. 10884) granting an increase of pension to Lorenzo D. Libby.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Lorenzo D. Libby, late of Company A, Second Regiment Maine Volunteer Cavalry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "twenty" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be engrosed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

JENNIE P. STARKINS.

The next pension business was the bill (H. R. 11824) granting an increase of pension to Jennie P. Starkins.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Jennie P. Starkins, widow of Joseph Starkins, late landsman, United States Navy, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6, after the word "late," strike out the word "landsman" and insert in lieu thereof the words "of the U. S. S. North Carolina, Mohawk, and Mary Sanford."

In line 8 strike out the word "twenty" and insert in lieu thereof the word "sixteen."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

THOMAS BROWN.

The next pension business was the bill (H. R. 15683) granting an increase of pension to Thomas Brown.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Thomas Brown, late acting ensign, United States Navy, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 7 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

CHARLES KLEIN.

The next pension business was the bill (H. R. 15200) granting an increase of pension to Charles Klein.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Charles Klein, late of Company D, Ninth Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "fifty" and insert in lieu thereof the word "thirty-six."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

HARRY D. M'FARLAND.

The next pension business was the bill (H. R. 15895) granting a pension to Harry Donald McFarland.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Harry Donald McFarland, the totally blind son of James McFarland, late of Company F, Second Regiment New Jersey Volunteer Infantry, and pay him a pension at the rate of $20 per month.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the word "Donald" and insert in lieu thereof the letter "D."

In same line strike out the words "the totally blind son" and insert in lieu thereof the words "helpless and dependent child."

In line 9 strike out the word "twenty" and insert in lieu thereof the word "twelve."

Amend the title so as to read: "A bill granting a pension to Harry D. McFarland."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

TRUMAN C. STEVENS.

The next pension business was the bill (H. R. 15216) granting an increase of pension to Truman C. Stevens.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Truman C. Stevens, late of Company B, Eleventh Regiment Missouri Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

WILLIAM DELANEY.

The next pension business was the bill (H. R. 13871) granting an increase of pension to William Delaney.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to

the provisions and limitations of the pension laws, the name of William Delaney, late of Company E, Twenty-fourth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the word "Delaney" and insert in lieu thereof the word "Delany."

In line 8 strike out the word "fifty" and insert in lieu thereof the word "thirty."

Amend the title so as to read: "A bill granting an increase of pension to William Delany."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

WILLIAM H. NEAR.

The next pension business was the bill (H. R. 15050) granting an increase of pension to William H. Near.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of William H. Near, late of Company I, Sixth Regiment Ohio Volunteer Cavalry, and pay him a pension at the rate of $60 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 7 strike out the word "sixty" and insert in lieu thereof the word "thirty."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

HENRY DAVEY.

The next pension business was the bill (H. R. 14552) granting an increase of pension to Henry Davey.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Henry Davey, late Company E, Sixty-eighth Regiment Illinois Volunteer Infantry, and also a survivor of the Mexican war, Company K, First Virginia Regiment, and was formerly a pensioner under the act of January 29, 1887, at $8 per month, which pension was terminated by reason of allowance under the act of June 27, 1890, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6, before the word "Company," strike out the word "of" and insert in lieu thereof the word "captain."

In line 7 strike out the words "and also a survivor of the" and all of lines 8, 9, 10, 11, and 12.

In line 13 strike out the word "fifty" and insert in lieu thereof the word "twenty-four."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

CHARLES SKADEN, JR.

The next pension business was the bill (H. R. 15321) granting a pension to Charles Skaden, jr.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Charles Skaden, jr., invalid son of ——— ———, late of Company C, One hundred and ninety-seventh Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $40 per month.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the words "invalid son of" and insert in lieu thereof the words "helpless and dependent son of Charles Skaden."

In line 8 strike out the word "forty" and insert in lieu thereof the word "twelve."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

KATIE B. MEISTER.

The next pension business was the bill (H. R. 16024) granting an increase of pension to Katie B. Meister.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Katie B. Meister, widow of Albert Meister, late of the Third Independent Battery, New York Volunteer Light Artillery, and pay her a pension at the rate of $30 per month in lieu of that she is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "thirty" and insert in lieu thereof the word "sixteen."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

ELIZABETH GORTON.

The next pension business was the bill (H. R. 10523) granting an increase of pension to Elizabeth Gorton.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Elizabeth Gorton, widow of James D. Gorton, late of Company C, One hundred and forty-third Regiment New York Volunteer Infantry, and pay her a pension at the rate of $12 per month in lieu of that she is now receiving.

The amendment recommended by the committee was read, as follows:

In line 9 strike out the word "twelve" and insert in lieu thereof the word "sixteen."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

ANNA C. BASSFORD.

The next pension business was the bill (H. R. 14227) granting an increase of pension to Anna C. Bassford.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Anna C. Bassford, widow of Stephen A. Bassford, late colonel Ninety-fourth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $30 per month in lieu of that she is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

CATHARINE ANN LEONARD.

The next pension business was the bill (H. R. 8141) granting a pension to Catharine Leonard.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Catharine Leonard, widow of Thomas Leonard, late of Company A, Eighty-third Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The amendments recommended by the committee were read, as follows:

In line 6, after the word "Catharine," insert the word "Ann."

In same line, before the word "widow," insert the word "former."

In line 8 strike out the word "twelve" and insert in lieu thereof the word "eight."

Amend the title so as to read: "A bill granting a pension to Catharine Ann Leonard."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

DANIEL BRITTON.

The next pension business was the bill (H. R. 1069) granting an increase of pension to Daniel Britton.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Daniel Britton, late of Company F, Seventh New Jersey Regiment, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6, after the word "Seventh," insert the word "Regiment."

In line 7 strike out the word "Regiment" and insert in lieu thereof the words "Volunteer Infantry."

In same line strike out the word "fifty" and insert in lieu thereof the word "twenty-four."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

ABRAM H. HICKS.

The next pension business was the bill (H. R. 1667) granting an increase of pension to Abram H. Hicks.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of

Abram H. Hicks, late acting master's mate and ensign of United States Navy, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 6, after the word "ensign," strike out the word "of" and insert in lieu thereof the words "U. S. S. Lockwood."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

JOHN E. OYLER.

The next pension business was the bill (H. R. 10432) granting an increase of pension to John E. Oyler.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John E. Oyler, late of Company G, Twenty-sixth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

HENRY HAHN.

The next pension business was the bill (H. R. 13738) granting an increase of pension to Henry Hahn.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Henry Hahn, late of Company I, One hundred and eleventh Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

ABSALOM SHELL.

The next pension business was the bill (H. R. 13840) granting an increase of pension to Absalom Shell.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Absalom Shell, late of Company F, Seventy-second Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

JOHN P. RAINS.

The next pension business was the bill (H. R. 14116) granting an increase of pension to John P. Rains.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John P. Rains, late of Company B, Fourth Regiment California Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read as follows:

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

JULIUS BUXBAUM.

The next pension business was the bill (H. R. 13961) granting an increase of pension to Julius Buxbaum.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Julius Buxbaum, late of Company D, Ninety-first Regiment New York Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "fifty" and insert in lieu thereof the word "twenty."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

LUTHER S. HOLLY.

The next pension business was the bill (H. R. 13862) granting an increase of pension to Luther S. Holly.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Luther S. Holly, late of Company K, Ninth Regiment Michigan Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "fifty" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

LUCIUS D. WHALEY.

The next pension business was the bill (H. R. 14990) granting an increase of pension to Lucius D. Whaley.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Lucius D. Whaley, late of Company E, One hundred and third Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $60 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "sixty" and insert in lieu thereof the word "forty."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

HELEN C. SANDERSON.

The next pension business was the bill (H. R. 14853) granting an increase of pension to Helen C. Sanderson.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Helen C. Sanderson, widow of Robert B. Sanderson, late of Company G, Second Regiment New Jersey Volunteer Infantry, and pay her a pension at the rate of $12 per month in lieu of that she is now receiving.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

FREDERICK FENZ.

The next pension business was the bill (H. R. 16098) granting an increase of pension to Frederick Fenz.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Frederick Fenz, late of Twelfth Battery, Wisconsin Volunteer Light Artillery, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

JOSEPH MUNCHER.

The next pension business was the bill (H. R. 16376) granting an increase of pension to Joseph Muncher.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Joseph Muncher, late of Company A, One hundred and thirty-second Regiment New York Volunteer Infantry, and pay him a pension at the rate $40 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "forty" and insert in lieu thereof the word "thirty."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

ETHAN ALLEN.

The next pension business was the bill (H. R. 15061) granting an increase of pension to Ethan Allen.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Ethan Allen, late of Company A, Thirty-fifth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "fifty" and insert in lieu thereof the word "thirty."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

EDWARD GILLESPIE.

The next pension business was the bill (H. R. 15397) granting an increase of pension to Edward Gillespie.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Edward Gillespie, late of Company I, Eighteenth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

EDGAR B. HUGHSON.

The next pension business was the bill (H. R. 15840) granting an increase of pension to Edgar B. Hughson.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Edgar B. Hughson, late of Company D, Ninth Regiment Michigan Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

GEORGE M. THOMPSON.

The next pension business was the bill (H. R. 15835) granting an increase of pension to George M. Thompson.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of George M. Thompson, late of Company I, Sixth Regiment New Hampshire Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

PETER COLE.

The next pension business was the bill (H. R. 15780) granting an increase of pension to Peter Cole.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Peter Cole, late of Company I, Forty second Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 6 strike out the letter "I" and insert in lieu thereof the letter "D."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

ANNA E. MIDDLETON.

The next pension business was the bill (H. R. 10408) granting a pension to Anna E. Middleton.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Anna E. Middleton, daughter of James Middleton, late of Company H, Eighteenth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $24 per month.

The amendments recommended by the committee were read, as follows:

In line 6, before the word "daughter," insert the words "helpless and dependent."

In line 8 strike out the word "twenty-four" and insert in lieu thereof the word "twelve."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

WILLIAM M. EWING.

The next pension business was the bill (H. R. 11256) granting an increase of pension to William M. Ewing.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of William M. Ewing, late of Company E, Tenth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $100 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the words "one hundred dollars" and insert in lieu thereof the words "forty dollars."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

ISAIAH B. M'DONALD.

The next pension business was the bill (H. R. 12389) granting an increase of pension to Isaiah B. McDonald.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Isaiah B. McDonald, late captain and commissary of subsistence, United States Volunteers, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "fifty" and insert in lieu thereof the word "twenty four."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

JOHN P. WISHART.

The next pension business was the bill (H. R. 11692) granting an increase of pension to John P. Wishart.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John P. Wishart, late of Company I, Ninety-sixth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "fifty" and insert in lieu thereof the word "thirty."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

ROLLAND HAVENS.

The next pension business was the bill (H. R. 12049) granting an increase of pension to Rolland Havens.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Rolland Havens, late of Company G, Thirteenth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

JAMES B. SIMKINS.

The next pension business was the bill (H. R. 12017) granting an increase of pension to James B. Simkins.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of James B. Simkins, late of Company H, One hundred and second Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "fifty" and insert in lieu thereof the word "thirty."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

THOMAS T. BLANCHARD.

The next pension business was the bill (H. R. 13445) granting an increase of pension to Thomas L. Blanchard.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Thomas L. Blanchard, late of Company G, Thirty-first Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 6 strike out the letter "L." and insert in lieu thereof the letter "T."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

The title was amended so as to read: "A bill granting an increase of pension to Thomas T. Blanchard.

FREDERICK FRIEBELE.

The next pension business was the bill (H. R. 12663) granting an increase of pension to Frederick Friebele.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Frederick Friebele, late of Company G, One hundred and second Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

SAMUEL R. LOWRY.

The next pension business was the bill (H. R. 13437) granting an increase of pension to Samuel R. Lowry.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Samuel R. Lowry, late of Company D, Fourth Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "fifty" and insert in lieu thereof the word "forty."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

SOLOMON JOHNSON.

The next pension business was the bill (H. R. 12526) granting an increase of pension to Solomon Johnson.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Solomon Johnson, late of Company C, Thirty-ninth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

CYNTHIA CORDIAL, NOW VERNON.

The next pension business was the bill (H. R. 11348) granting an increase of pension to Cynthia Vernon.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Cynthia Vernon, widow of William Cordial, late of Company B, Sixty-eighth Regiment Kentucky Enrolled Volunteer Militia, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6, after the word "Cynthia," insert the words "Cordial, now."
In same line, before the word "widow," insert the word "former."
In lines 7 and 8 strike out the word "Volunteer."
In line 9 strike out the word "four."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

The title was amended so as to read: "A bill granting an increase of pension to Cynthia Cordial, now Vernon.

LAURENCE V. WHITCRAFT.

The next pension business was the bill (H. R. 7483) granting an increase of pension to Lawrence V. Whitcraft.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Lawrence V. Whitcraft, late of Company B, Thirty-first Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 6 strike out the word "Lawrence" and insert in lieu thereof the word "Laurence."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

The title was amended so as to read: "A bill granting an increase of pension to Laurence V. Whitcraft."

JOHN M'COY.

The next pension business was the bill (H. R. 9910) granting an increase of pension to John McCoy.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John McCoy, late surgeon, One hundred and thirty-ninth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "fifty" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

OLIVER C. REDIC.

The next pension business was the bill (H. R. 10208) granting an increase of pension to Oliver C. Redic.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Oliver C. Redic, late of Company I, One hundred and fifth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6, before the word "Company," strike out the word "of" and insert in lieu thereof the words "first lieutenant."
In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty four."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

LUTELLUS COOK.

The next pension business was the bill (H. R. 8053) granting an increase of pension to Letullius Cook.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Letullius Cook, late of Company H, Thirty-sixth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 6 strike out the word "Letullius" and insert in lieu thereof the word "Lutellus."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

The title was amended so as to read: "A bill granting an increase of pension to Lutellus Cook."

WILLIAM H. BRADY.

The next pension business was the bill (H. R. 1671) granting an increase of pension to W. H. Brady.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to

the provisions and limitations of the pension laws, the name of W. H. Brady, late of Company A, One hundred and sixth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the letter "W." and insert in lieu thereof the word "William."

In same line strike out the word "Company" and insert in lieu thereof the word "Companies."

In same line, before the word "One," insert the words "and K."

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

The title was amended so as to read: "A bill granting an increase of pension to William H. Brady."

MOSES B. PAGE.

The next pension business was the bill (H. R. 7243) granting an increase of pension to Moses B. Page.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Moses B. Page, late of Company A, One hundred and sixteenth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $72 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "seventy-two" and insert in lieu thereof the word "thirty."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

CAROLINE DEHLENDORF.

The next pension business was the bill (H. R. 5712) granting an increase of pension to Caroline Dehlendorf.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Caroline Dehlendorf, widow of William Dehlendorf, late of Company B, Fifth Regiment United States Reserve Corps, Missouri Volunteer Infantry, and pay her a pension at the rate of $15 per month in lieu of that she is now receiving.

The amendment recommended by the committee was read, as follows:

In line 9 strike out the word "fifteen" and insert in lieu thereof the word "twelve."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

THOMAS BLYTH.

The next pension business was the bill (H. R. 603) granting an increase of pension to Thomas Blyth.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Thomas Blyth, late of Company E, Nineteenth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty four."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

JOHN W. RAYNOR.

The next pension business was the bill (H. R. 12390) granting an increase of pension to John W. Raynor.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John W. Raynor, late of Company K, Tenth Regiment New York Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

JOHN A. ROYER.

The next pension business was the bill (H. R. 14780) granting an increase of pension to John A. Royer.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John A. Royer, late contract surgeon, United States Army, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

PLAYFORD GREGG.

The next pension business was the bill (H. R. 1793) granting an increase of pension to Playford Gregg.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Playford Gregg, late of Company I, Seventeenth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "fifty" and insert in lieu thereof the word "thirty."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

ARCATIE E. THOMPSON.

The next pension business was the bill (H. R. 14989) granting an increase of pension to Arcatie E. Thompson.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Arcatie E. Thompson, widow of George K. Thompson, late of the United States Navy, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving.

The amendments recommended by the committee were read, as follows:

In line 7, before the word "United," insert the words "U. S. S. North Carolina, Connecticut, and Ohio."

In line 8 strike out the word "twenty-four" and insert in lieu thereof the word "sixteen."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

EDWIN A. BOTSFORD.

The next pension business was the bill (H. R. 2491) granting a pension to Edwin A. Botsford.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Edwin A. Botsford, late of Company E, Fourteenth Regiment Michigan Volunteer Infantry, and pay him a pension at the rate of $50 per month.

The amendments recommended by the committee were read, as follows:

In line 8 strike out the word "fifty" and insert in lieu thereof the word "thirty."

In same line, after the word "month," insert the words "in lieu of that he is now receiving."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

The title was amended so as to read: "A bill granting an increase of pension to Edwin A. Botsford."

EUNICE M. CARR.

The next pension business was the bill (H. R. 3318) granting a pension to Eunice M. Carr.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Eunice M. Carr, widow of William J. Carr, deceased, late of Company I, Twentieth Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the letter "J" and insert in lieu thereof the letter "I."

In same line strike out the word "deceased."

In line 7 strike out the word "of" and insert in lieu thereof the word "first lieutenant."

In line 8 strike out the word "twelve" and insert in lieu thereof the word "eight."

Mr. CRUMPACKER. Mr. Speaker, I desire to submit a few observations upon the pension bill that has just been reached on the Calendar. Members of the Committee on Invalid Pensions have expressed to me a fear that the bill will not be recommended by the Senate Committee on Pensions. A rule has been adopted by that committee providing that where a widow loses her pensionable status by remarriage the committee will not recommend a bill for her relief, but in this case Mrs. Carr never had a pensionable status. She was married in 1850 to John Card. He was a soldier in the civil war for three years and three months. He served honorably and creditably during that war and was honorably discharged from the service. The wife remained at home and looked after the household, which included three small children. When her husband was discharged from the service he returned home and they lived together until 1877, when his treatment of her became so bad that she was compelled to apply for a divorce, and a divorce was granted to her upon the grounds of extreme cruelty. Seven children were the result of their union, and the custody of the minor children was granted to her. In 1879 she married another veteran of the civil war—William I. Carr—and lived with him most of the time until 1903, when he died. He was a commissioned officer in the Twentieth Indiana Regiment, and drew a pension for a gunshot wound received in the service. After his death she applied for a pension under the law of 1890, and her application was rejected because her husband had not been honorably discharged. He was dishonorably dismissed from the service; but under the law he was entitled to a pension for injuries received in line of duty, and therefore he was able to obtain a pension, I think, of $8 a month for gunshot wound; but because of his record she was unable under the laws to obtain a pension. She had, of course, no pensionable status as the wife or widow of her first husband, because she was separated from him by a decree of divorce. Now, the Committee on Invalid Pensions recommends this bill giving to this widow, who is 72 years of age, absolutely without means of support, the small pittance of $8 a month. I would not have interposed any remarks here if the report of the committee had shown the equitable side this claim presents to the Government. My judgment is that the claim is much stronger upon the gratitude of the country because of the fact that Mrs. Carr was the wife of a soldier and the mother of small children during the progress of the civil war and remained at home, as thousands of other patriotic mothers and wives did, and underwent the awful agony of those months and years of distress and danger, fearing that every mail would bring tidings of the death of the head of the household.

I believe, Mr. Speaker, that the wives of the soldiers who were enlisted under the flag of the Union, fighting for its defense, have some individual claims of their own upon the gratitude of the country, based upon their own personal sacrifices. The strong feature of this claim is that Eunice M. Carr for three years and three months remained in her humble home in Indiana looking after the brood of small children that were left under her care, while her husband and their father was at the front fighting for the preservation of his country. She is now old and poor, and it would be an everlasting disgrace for the Government to permit her to become an inmate of a poorhouse and die and be buried as a common pauper.

I have risen, Mr. Speaker, to put these remarks in the RECORD in order that, if there should be any question about the merits of this bill when it is considered by the Committee on Pensions of the Senate or by the President, all the facts may be known. Mrs. Carr does not base her right to a pension merely upon the fact that in 1879 she married a veteran of the civil war who had been dishonorably discharged, although he was able to draw a pension himself. That is not the real basis of her claim. It is because she was the wife of a soldier while he was in the service, and the law should not have compelled her to have lived with her first husband and withstand his brutality in order that she as his widow might have any claim upon the gratitude of the country. Her first husband is dead. He left no widow. There is no pension being paid on account of his service.

Mr. Speaker, I ask unanimous consent to insert in the RECORD as a part of my remarks the military record of the first husband of this claimant.

The SPEAKER pro tempore. If there be no objection the gentleman from Indiana will be permitted to extend his remarks in the RECORD as requested. Is there objection?

There was no objection.

The document referred to is as follows:

WAR DEPARTMENT,
THE MILITARY SECRETARY'S OFFICE,
Washington, March 15, 1906.

Hon. E. D. CRUMPACKER,
House of Representatives.

SIR: Referring to your letter of yesterday, received to-day, in which you request to be furnished with the military record of John Card, late of Company H, Ninth Indiana Infantry, I have the honor to inform you as follows:

The records show that John Card was enrolled August 14, 1861, and was mustered into service September 5, 1861, as a wagoner in Company H, Ninth Indiana Infantry, to serve during the war, and that he was discharged the service as a wagoner December 20, 1862, at Indianapolis, Ind., on surgeon's certificate of disability.

The records also show that one John Card, who had prior service in the Ninth Indiana Infantry, was enrolled December 19, 1863, and was mustered into service to date January 12, 1864, as a private in Company M, Twelfth Indiana Cavalry, to serve three years, and that he was mustered out of service with the company as commissary-sergeant November 10, 1865.

Very respectfully,

F. C. AINSWORTH,
The Military Secretary.

Mr. SULLOWAY. Mr. Speaker, I have very little to say in reply to what the gentleman from Indiana has suggested. The facts are these: This lady is not the widow of the gentleman who had the service. She remarried, and under the rule of the Senate she is not entitled to any pension at all. But in view of what the gentleman has suggested, which he has said so much better than I could say it, we have allowed her $8 per month. There are more than 170,000 widows in this country who receive but $8 a month; and so far as the Senate rules are concerned, we are making an exception in behalf of my friend's beneficiary. I think the recommendation of the committee ought to stand.

Mr. CRUMPACKER. I have no criticism to make of the Committee on Invalid Pensions, and only took occasion to add these remarks to the report of the committee in order that when the case goes to the Committee on Pensions in the Senate they may have these remarks as supplementary and additional reasons why the Committee on Invalid Pensions of the House acted wisely and justly in this case.

The amendments recommended by the committee were agreed to.

The bill as amended was ordered to be engrossed and read a third time; and was accordingly read the third time, and passed.

WILLIAM H. H. FELLOWS.

The next pension business was the bill (H. R. 14117) granting an increase of pension to William H. H. Fellows.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of William H. H. Fellows, late of Company D, Seventh Regiment California Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6, before the word "Company," strike out the word "of" and insert in lieu thereof the words "second lieutenant."

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

HENRY W. HIGLEY.

The next pension business was the bill (H. R. 7630) granting an increase of pension to Henry W. Higley.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Henry W. Higley, late of Company G, Third Regiment Missouri Volunteer Cavalry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

GEORGE W. NEECE.

The next pension business was the bill (H. R. 4364) granting an increase of pension to George W. Neece.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of George W. Neece, late of Company N, Second Regiment Missouri Volunteer Mounted Infantry, war with Mexico, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 7 strike out the words "Volunteer" and "Infantry;" and in the same line, after "Mounted," insert Volunteers."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

MARGARET E. FOSTER.

The next pension business was the bill (H. R. 5488) granting a pension to Margaret E. Foster.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Margaret E. Foster, widow of Joseph D. Foster, Capt. C. H. Nelson's Company F, Col. J. S. Calhoun's battalion, Georgia Mounted Volunteers, Mexican war, and pay her a pension at the rate of $12 per month.

The amendments recommended by the committee were read, as follows:

Amend the title so as to read: "A bill granting an increase of pension to Margaret E. Foster."
In lines 6 and 7 strike out "Capt. C. H. Nelson's."
In line 6, after "Foster," insert "late of."
In line 7 strike out "Col. J. S. Calhoun's."
In line 8 strike out "Mexican;" and in the same line, after "war," insert "with Mexico."
Add to the end of the bill the words "in lieu of that she is now receiving."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

ALBA B. BEAN.

The next pension business was the bill (H. R. 7232) granting a pension to Alba B. Bean.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Alba B. Bean, late of Company C, Twentieth Regiment United States Infantry, and of the Hospital Corps, United States Army, and pay him a pension at the rate of $36 per month.

The amendment recommended by the committee was read, as follows:

Strike out of line 7 the word "the."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

JOHN GARDNER STOCKS.

The next pension business was the bill (H. R. 8319) granting an increase of pension to John Gardner Stocks.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John Gardner Stocks, late of Company E, First Regiment Alabama Volunteer Infantry, war with Mexico, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out "thirty" and insert "twenty."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

JOHN F. TATHEM.

The next pension business was the bill (H. R. 8475) granting a pension to John F. Tathem.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John F. Tathem, late of Company M, Twenty-ninth Regiment United States Volunteer Infantry, war with Spain, and pay him a pension at the rate of $12 per month.

The amendments recommended by the committee were read, as follows:

In line 6, after "Company," insert "C, First Regiment South Carolina Volunteer Infantry, and Companies K and."
In line 8 strike out "twelve" and insert "eight."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

WILLIAM I. LUSCH.

The next pension business was the bill (H. R. 8687) granting a pension to William I. Lusch.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of William I. Lusch, late of Company B, Eighth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month.

The amendments recommended by the committee were read, as follows:

In line 7, after "Infantry," insert "war with Spain."
In line 8 strike out "thirty" and insert "thirty-six."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

NATHAN COWARD.

The next pension business was the bill (H. R. 8869) granting an increase of pension to Nathan Coward.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Nathan Coward, late of Captain Kelsey's company, Sixtieth Regiment North Carolina Volunteer Infantry, Indian war, 1838, and pay him a pension at the rate of $26 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In lines 6 and 7 strike out "Sixtieth Regiment."
In line 7, after "Infantry," insert "Cherokee."
In line 8 strike out "war, 1838." In the same line, before the word "and," insert "disturbances."
In line 9 strike out "twenty-six" and insert "sixteen."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

WILEY B. JOHNSON.

The next pension business was the bill (H. R. 9270) granting an increase of pension to Wiley B. Johnson.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Wiley B. Johnson, a Mexican war veteran, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out "a Mexican war veteran;" in the same line, after "Johnson," insert "late of Captain Daniel's company, Second Regiment Mississippi Volunteers, war with Mexico."
In line 7 strike out "thirty" and insert "twenty."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

JOSEPH HENRY MARTIN.

The next pension business was the bill (H. R. 9271) granting an increase of pension to Joseph Henry Martin.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Joseph Henry Martin, late of Company C, First Texas Volunteers, war with Mexico, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out "Company C, First Texas;" and in the same line, after "late of," insert "Capt. E. M. Wilder's company, Second Regiment Texas Mounted."
In line 8 strike out "thirty" and insert "twenty."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

EMANUEL S. THOMPSON.

The next pension business was the bill (H. R. 10424) granting a pension to Smith Thompson.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Smith Thompson, late of Capt. Benjamin W. Smithson's company E, Third Regiment Missouri Volunteer Infantry, Mexican war, and pay him a pension at the rate of $20 per month.

The amendments recommended by the committee were read, as follows:

Change the Christian name "Smith" where it appears in the title and body of the bill to "Emanuel S."
In line 6, after "Captain," strike out "Benjamin W."
In line 7 strike out "E;" and in the same line change "Volunteer" to "Volunteers."
In lines 7 and 8 strike out "Infantry, Mexican war," and insert "war with Mexico."
In line 9 strike out "twenty" and insert "twelve."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

GEORGE B. D. ALEXANDER.

The next pension business was the bill (H. R. 10449) granting an increase of pension to George B. D. Alexander.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of George B. D. Alexander, late of Captain Sargent's company I, First Regiment Georgia Volunteer Infantry, war with Mexico, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 7 strike out "I."
In line 8 strike out "thirty" and insert "twenty."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

ROBERT M. WHITE.

The next pension business was the bill (H. R. 10451) granting an increase of pension to Robert M. White.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Robert M. White, late of Company A, Third Regiment Tennessee Volunteer Infantry (Cheatham's regiment), war with Mexico, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 7 strike out "(Cheatham's regiment)."
In line 8 strike out "thirty" and insert "twenty."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

RICHARD C. DALY.

The next pension business was the bill (H. R. 10452) granting an increase of pension to Richard C. Daly.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Richard C. Daly, late of Company H, First United States Infantry, war with Mexico, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6, after the word "First," insert "Regiment."
In line 8 strike out "thirty" and insert "twenty."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

DUDLEY PORTWOOD.

The next pension business was the bill (H. R. 10830) granting an increase of pension to Dudley Portwood.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Dudley Portwood, late of Company F, Second Regiment Kentucky Volunteer Infantry, war with Mexico, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out "thirty" and insert "twenty."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

LEVI C. BISHOP.

The next pension business was the bill (H. R. 10831) granting an increase of pension to Levi C. Bishop.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Levi C. Bishop, late of Company H, Fourth Regiment United States Infantry, war with Mexico, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out "thirty" and insert "twenty."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

HELEN G. HEINER.

The next pension business was the bill (H. R. 11046) granting an increase of pension to Helen G. Heiner.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Helen G. Heiner, widow of Robert G. Heiner, late captain Company A, First Regiment United States Infantry, and pay her a pension at the rate of $50 per month in lieu of that she is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out "fifty" and insert "thirty."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

THOMAS ROWAN.

The next pension business was the bill (H. R. 11331) granting an increase of pension to Thomas Rowan.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Thomas Rowan, late of Company H, Fifth Regiment Louisiana Volunteer Infantry, war with Mexico, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 7 strike out "Volunteer" and insert "Militia."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

WILLIAM F. KENNER.

The next pension business was the bill (H. R. 11332) granting an increase of pension to William F. Kenner.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of William F. Kenner, late of Company B, Powell's battalion Missouri Mounted Volunteers, war with Mexico, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

JOSEPH W. COPPAGE.

The next pension business was the bill (H. R. 12556) granting an increase of pension to Joseph W. Coppage.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Joseph W. Coppage, late of Company D, First Regiment Illinois Volunteer Infantry, war with Mexico, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out "thirty" and insert "twenty."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

MILDRED W. MITCHELL.

The next pension business was the bill (H. R. 12059) granting an increase of pension to Mildred W. Mitchell.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Mildred W. Mitchell, widow of soldier in war with Mexico, and pay her a pension at the rate of $12 per month in lieu of that she is now receiving.

The amendment recommended by the committee was read, as follows:

In line 6 strike out "soldier in" and in the same line, after "widow of," insert "James T. Mitchell, late of Company F, First Regiment North Carolina Volunteers."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

ELIZABETH THOMPSON.

The next pension business was the bill (H. R. 13504) granting an increase of pension to Elizabeth Thompson.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to

the provisions and limitations of the pension laws, the name of Elizabeth Thompson, widow of William Thompson, late of Company F, First Regiment Kentucky Volunteers, war with Mexico, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out "twenty" and insert "twelve."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

ROBERT E. M'KIERNAN.

The next pension business was the bill (H. R. 14566) granting an increase of pension to Robert E. McKiernan.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Robert E. McKiernan, late of Company I, Second Regiment Ohio Volunteer Infantry, war with Mexico, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

REUBEN R. BALLENGER.

The next pension business was the bill (H. R. 14677) granting a pension to Reuben R. Ballenger.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Reuben R. Ballenger, late of Company G, Fourth Regiment Illinois Volunteer Infantry, war with Spain, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In lines 8 and 9 strike out all after the word "month."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

ANDREW W. TRACY.

The next pension business was the bill (H. R. 14915) granting an increase of pension to Andrew W. Tracy.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Andrew W. Tracy, late of Company C, First Regiment Missouri Mounted Infantry, war with Mexico, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 7 strike out "Mounted Infantry" and insert in lieu thereof "Volunteer Cavalry."

In line 8 strike out "forty" and insert "twenty."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

WINFIELD S. BRUCE.

The next pension business was the bill (H. R. 14920) granting an increase of pension to Winfield S. Bruce.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Winfield S. Bruce, late of Company L, First Regiment Virginia Volunteers, war with Mexico, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "twenty-four" and insert the word "twenty."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

GEORGE W. PIERCE.

The next pension business was the bill (H. R. 15277) granting an increase of pension to George W. Pierce.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of George W. Pierce, late of Company G, Third Regiment Kentucky Volunteers, war with Mexico, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

ASA WALL.

The next pension business was the bill (H. R. 15306) granting an increase of pension to Asa Wall.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Asa Wall, an Indian war survivor, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out "an Indian war survivor;" and in the same line, after "Wall," insert "late assistant surgeon, United States Army, Seminole Indian war."

In line 7 strike out the word "twenty-four" and insert the word "twenty."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

ANN R. NELSON.

The next pension business was the bill (H. R. 15415) granting an increase of pension to Ann R. Nelson.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Ann R. Nelson, widow of Henry Nelson, late of Company C, United States Mounted Rifles, war with Mexico, and pay her a pension at the rate of $12 per month in lieu of that she is now receiving.

The amendment recommended by the committee was read, as follows:

In line 6 strike out "Company" and insert "Troops I and."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

CALEB M. TARTER.

The next pension business was the bill (H. R. 15621) granting an increase of pension to Caleb M. Tarter.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Caleb M. Tarter, late of Company H, Fourth Regiment Kentucky Volunteers, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 7, after "Volunteers," insert "war with Mexico."

In line 8 strike out "thirty" and insert "twenty."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

WILLIAM F. M. RICE.

The next pension business was the bill (H. R. 15687) granting an increase of pension to William F. M. Reil.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of William F. M. Reil, late of Capt. James Moran's company, Fourth Regiment Volunteer Mounted Riflemen, war with Mexico, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

Change the claimant's surname where it appears in the body of the bill to "Rice."

In line 6 strike out "Moran's" and insert "Morrow's."

In line 7 strike out "Volunteer" and insert "Tennessee."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

The title was amended so as to read: "A bill granting an increase of pension to William F. M. Rice."

WILLIAM BROWN.

The next pension business was the bill (H. R. 15701) granting an increase of pension to William Brown.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of William Brown, late of Company B, First Kentucky Regiment, Louisville Legion, war with Mexico, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In lines 6 and 7 strike out "B, First Kentucky Regiment Louisville Legion."

In line 6, after "late of," insert "Captain Saunder's." In the same line, after "company," insert "First Regiment."

In line 7, before "war," insert "Kentucky Volunteer Infantry."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

ANNIE M. STEVENS.

The next pension business was the bill (H. R. 15867) granting an increase of pension to Annie M. Stevens.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Annie M. Stevens, widow of Erastus Foote Stevens, late of the New Orleans Volunteers, war with Mexico, and pay her a pension at the rate of $12 per month in lieu of that she is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 change "Foote" to "F."

In line 7 strike out "the New Orleans Volunteers:" and in the same line, after "of," insert "Company C, Sixth Regiment Louisiana Volunteers."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

ALMA L. WELLS.

The next pension business was the bill (H. R. 15894) granting an increase of pension to Alma L. Wells.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Alma L. Wells, widow of Henry M. Wells, late surgeon, United States Navy, and pay her a pension at the rate of $50 per month in lieu of that she is now receiving.

The amendment recommended by the committee was read, as follows:

Congress has in many instances increased the pensions to the needy and disabled officers of our Army and Navy, and the passage of this bill is respectfully recommended when amended by striking out of line 8 the word "fifty" and inserting in lieu thereof the word "forty."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

LEWIS DE LAITTRE.

The next pension business was the bill (H. R. 15907) granting an increase of pension to Louis De Laittre.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Louis De Laittre, late of Company A, United States Engineers, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

Change the claimant's Christian name where it appears in the body of the bill to "Lewis."

In lines 6 and 7 strike out "Engineers."

In line 6 insert, after "Company A," "Corps of Engineers."

In line 7, before the word "and," insert "Army."

In line 7 strike out "forty" and insert "twenty."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

The title was amended so as to read: "A bill granting an increase of pension to Lewis De Laittre."

SHELDON B. FARGO.

The next pension business was the bill (H. R. 16023) granting an increase of pension to Sheldon B. Fargo.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Sheldon B. Fargo, late sergeant in Captain John K. Limerick's company, Mounted Volunteers, Rogue River Valley, Oregon Territory (Indian wars), and pay him a pension at the rate of $45 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out "late sergeant in," and in lines 6 and 7 strike out "John K. Limerick's."

In line 7 strike out "Mounted," and in lines 7 and 8 strike out "Rogue River Valley, Oregon Territory (Indian wars)."

In line 6, after "Fargo," insert "late of," and in the same line, after "Captain," insert "Lamerick's."

In line 7, after "Company," insert "Oregon," and in the same line, after "Volunteers," insert "Oregon and Washington Territory Indian war."

In line 9 strike out "forty-five" and insert "sixteen."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

SAMUEL F. WILLIAMS.

The next pension business was the bill (H. R. 16182) granting an increase of pension to S. F. Williams.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of S. F. Williams, who is now drawing a pension at the rate of $12 per month for services in the Mexican war, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

Change the initial "S." in the title and body of the bill to "Samuel."

In lines 6 and 7 strike out "who is now drawing a pension at the rate of $12 per month for services in the Mexican war."

In line 6, after "Williams," insert "late sergeant-major, First Regiment North Carolina Volunteers, war with Mexico."

In line 8 strike out "thirty" and insert "twenty."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

The title was amended so as to read: "A bill granting an increase of pension to Samuel F. Williams."

MARY DAGENFIELD.

The next pension business was the bill (H. R. 16215) granting an increase of pension to Mary Dagenfield.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Mary Dagenfield, widow of Adolph Dagenfield, late ordnance sergeant, United States Army, retired, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendments recommended by the committee were read, as follows:

In lines 6 and 7 strike out "ordnance."

In line 7 strike out "Army, retired." In the same line, after "sergeant," insert "Company C, Second Regiment," and in the same line, after "United States," insert "Artillery, war with Mexico."

In line 8 strike out "twenty" and insert "twelve."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

AUGUSTUS J. MOREY.

The next pension business was the bill (H. R. 16250) granting an increase of pension to A. J. Mowery.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of A. J. Mowery, late of Captain Hord's company, Third Regiment United States Dragoons, war with Mexico, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

Change the claimant's name where it appears in body of the bill to "Augustus J. Morey."

In line 6 strike out "of Captain Hord's company;" and in the same line, after "late," insert "recruit."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

The title was amended so as to read: "A bill granting an increase of pension to Augustus J. Morey."

EDWIN HICKS.

The next pension business was the bill (H. R. 16428) granting an increase of pension to Edwin Hicks.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Edwin Hicks, late of Company K, Third Regiment Kentucky Volunteer Infantry, war with Mexico, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out "thirty-six" and insert "twenty."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

THOMAS W. BARNUM.

The next pension business was the bill (H. R. 16504) granting an increase of pension to Thomas W. Barnum.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Thomas W. Barnum, late of Company A, First Regiment Louisiana Volunteer Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 7, after "Infantry," insert "war with Mexico."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

JOHN W. BARTON.

The next pension business was the bill (H. R. 16514) granting an increase of pension to John W. Barton.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John W. Barton, late of Company K, Fifth Regiment United States Infantry, war with Mexico, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

ELWOOD FARRELL.

The next pension business was the bill (H. R. 16520) granting an increase of pension to Edward C. Farrell.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Edward C. Farrell, late of Company C, Sixth Regiment United States Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

Strike out the initial "C." where it appears in the claimant's Christian name in the body of the bill.

In line 8 strike out "twenty-four" and insert "eight."

In lines 8 and 9 strike out "in lieu of that he is now receiving."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

The title was amended so as to read: "A bill granting a pension to Edward Farrell."

ANDREW J. LEVI.

The next pension business was the bill (H. R. 3273) granting an increase of pension to Andrew J. Levi.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Andrew J. Levi, late of Company D, First Regiment Kentucky Volunteer Cavalry, war with Mexico, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

SAMUEL H. FRAZIER.

The next pension business was the bill (H. R. 16437) granting an increase of pension to Samuel H. Frozier.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Samuel H. Frozier, late of Company A, Seventy-eighth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the word "Frozier" and insert in lieu thereof the word "Frazier."

In line 8 strike out the word "fifty" and insert in lieu thereof the word "twenty-four."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

The title was amended so as to read: "A bill granting an increase of pension to Samuel H. Frazier."

MARGARET A. RUCKER.

The next pension business was the bill (H. R. 16266) granting an increase of pension to Margaret A. Rucker.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Margaret A. Rucker, widow of the late William P. Rucker, late major Thirteenth Regiment West Virginia Volunteer Infantry, and pay her a pension at the rate of $30 per month in lieu of that she is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the words "the late."

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-five."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

ENOS DAY.

The next pension business was the bill (H. R. 16334) granting an increase of pension to Enos Day.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Enos Day, late of Twentieth Battery, Indiana Volunteer Light Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

JOHN A. POWELL.

The next pension business was the bill (H. R. 16442) granting an increase of pension to John A. Powell.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John A. Powell, late of Company I, Fourth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "forty" and insert in lieu thereof the word "thirty."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

EDWARD LILLEY.

The next pension business was the bill (H. R. 16578) granting an increase of pension to Edward Lilley.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Edward Lilley, late of Company I, Ninth Regiment Pennsylvania Volunteer Infantry, and Company C, One hundred and sixth Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 and 7 strike out the words "Company I, Ninth Regiment Pennsylvania Volunteer Infantry, and."

In line 8, after the word "Sixth," insert the word "Regiment."

In line 9 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

MARIUS S. COOLEY.

The next pension business was the bill (H. R. 16433) granting an increase of pension to Marius S. Cooley.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Marius S. Cooley, late of Company G, Second Regiment Massachusetts Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

HERBERT D. INGERSOLL.

The next pension business was the bill (H. R. 15928) granting an increase of pension to Herbert D. Ingersoll.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Herbert D. Ingersoll, late of Company D, Fifty-ninth Regiment Massachusetts Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "fifty" and insert in lieu thereof the word "forty."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

PHILLIP SCHLOESSER.

The next pension business was the bill (H. R. 15854) granting an increase of pension to Philip Schloesser.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Philip Schloesser, late of Company F, Twenty-ninth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $34 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the word "Philip" and insert in lieu thereof the word "Phillip."

In line 8 strike out the word "thirty-four" and insert in lieu thereof the word "twenty-four."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

The title was amended so as to read: "A bill granting an increase of pension to Phillip Schloesser."

THERESA CREISS.

The next pension business was the bill (H. R. 15431) granting a pension to Theresa Creiss.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Theresa Creiss, helpless child of Christian Creiss, late of Company G, Sixth Regiment New York Volunteer Infantry, and Company B, Thirty-ninth Regiment New Jersey Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The amendment recommended by the committee was read, as follows:

In line 6, after the word "helpless," insert the words "and dependent."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

JACOB FERBER.

The next pension business was the bill (H. R. 15548) granting a pension to Jacob Ferber.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Jacob Ferber, late of Company A, Third Regiment Wisconsin Volunteer Cavalry, and pay him a pension at the rate of $30 per month.

The amendment recommended by the committee was read, as follows:

In line 8, after the word "month," insert the words "in lieu of that he is now receiving."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

The title was amended so as to read: "A bill granting an increase of pension to Jacob Ferber."

GEORGE E. WOOD.

The next pension business was the bill (H. R. 15002) granting an increase of pension to George E. Wood.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of George E. Wood, late lieutenant and captain of Companies A and B, Sixth Regiment Vermont Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6, after the word "late," insert the word "second."

In same line strike out the words "and captain of Companies."

In line 7 strike out the words "A and" and insert in lieu thereof the word "Company."

In line 8 strike out the word "fifty" and insert in lieu thereof the word "forty."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

HENRY C. COFFIN.

The next pension business was the bill (H. R. 16296) granting an increase of pension to Henry C. Coffin.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Henry C. Coffin, late of Company C, Thirteenth Regiment Massachusetts Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

HARRIETT A. DUVALL.

The next pension business was the bill (H. R. 15569) granting a pension to Harriett A. Duvall.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Harriett A. Duvall, widow of Thomas S. Duvall, late captain Home Guards, attached to the Eighteenth Regiment Kentucky Volunteer Infantry, and pay her a pension at the rate of $20 per month.

The amendments recommended by the committee were read, as follows:

In line 7, before the word "Home," insert the words "Company A, Kentucky."

In same line strike out the words "attached to the Eighteenth Regiment."

In line 8 strike out the words "Kentucky Volunteer Infantry."

In line 9 strike out the word "twenty" and insert in lieu thereof the word "eight."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

BENJAMIN F. GREER.

The next pension business was the bill (H. R. 15256) granting an increase of pension to Benjamin F. Greer.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Benjamin F. Greer, late of Company A, Seventh Regiment Tennessee Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

CORNELIUS WESTMAN.

The next pension business was the bill (H. R. 15119) granting an increase of pension to Cornelius Westman.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Cornelius Westman, late commissary sergeant Fourteenth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

HARVEY FOSTER.

The next pension business was the bill (H. R. 13928) granting an increase of pension to Harvey Foster.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Harvey Foster, late of Company B, Eighth Regiment Vermont Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

ROBERT TIMMONS.

The next pension business was the bill (H. R. 14088) granting an increase of pension to Robert Timmons.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Robert Timmens, late of Company I, First Regiment Tennessee Volunteer Cavalry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "forty" and insert in lieu thereof the word "thirty."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

GEORGE R. SCOTT.

The next pension business was the bill (H. R. 13741) granting an increase of pension to George R. Scott.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of George R. Scott, late of Company F, One hundred and eleventh Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8, before the word "dollars," strike out the word "thirty" and insert the word "thirty-six."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

SARAH J. MANSON.

The next pension business was the bill (H. R. 13726) granting a pension to Sarah J. Manson.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Sarah J. Manson, widow of George W. Manson, late of Company A, Fifth Regiment Maine Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "twelve" and insert in lieu thereof the word "eight."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

SATURNINO BACA.

The next pension business was the bill (H. R. 13572) granting an increase of pension to Saturnino Baca.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Saturnino Baca, late captain Companies H, L, and E, First Regiment, and Company D, Second Regiment New Mexico Volunteer Infantry, and pay him a pension at the rate of $60 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the words "Companies H, L, and."

In line 7 strike out the words "E, First Regiment, and."

In line 8, after the word "Infantry," insert the words "and captain Companies H, L, and E, First Regiment New Mexico Volunteer Cavalry."

In line 9 strike out the word "sixty" and insert in lieu thereof the word "twenty-four."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

GEORGE WHITMAN.

The next pension business was the bill (H. R. 13019) granting an increase of pension to George Whitman.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of George Whitman, late of Company D, Fifty-eighth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

HENRY JACOB FOX.

The next pension business was the bill (H. R. 12019) granting an increase of pension to Henry Jacob Fox.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Henry Jacob Fox, late captain of Company E, Eleventh Maryland Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the words "captain of" and insert in lieu thereof the words "first lieutenant."

In same line, after the word "Eleventh," insert the word "Regiment."

In line 8 strike out the word "fifty" and insert in lieu thereof the word "thirty."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

SARAH M. E. HINMAN.

The next pension business was the bill (H. R. 10251) granting a pension to Sarah M. E. Hinman.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Sarah M. E. Hinman, widow of Wilbur F. Hinman, late lieutenant-colonel Sixty-fifth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $25 per month.

The amendments recommended by the committee were read, as follows:

In line 7 strike out the word "lieutenant-colonel" and insert in lieu thereof the words "first lieutenant Company I and captain Company F."

In line 8 strike out the word "twenty-five" and insert in lieu thereof the word "seventeen."

In line 9, after the word "month," insert the words "in lieu of that she is now receiving."

Amend the title so as to read: "A bill granting an increase of pension to Sarah M. E. Hinman."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

ELIZABETH A. BUTLER.

The next pension business was the bill (H. R. 9277) granting an increase of pension to Elizabeth A. Butler.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Elizabeth A. Butler, widow of Michael Butler, late of Company C, United States Engineers, and pay her a pension at the rate of $15 per month in lieu of that she is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6, after the word "Michael," insert the letter "H."

In line 7, before the words "United States," insert the word "Battalion."

In line 8 strike out the word "fifteen" and insert in lieu thereof the word "twelve."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

EDWARD F. PARAMORE.

The next pension business was the bill (H. R. 8662) granting an increase of pension to E. F. Paramore.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of E. F. Paramore, late of Company H, Fourth Regiment Wisconsin Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the letter "E." and insert in lieu thereof the word "Edward."

Amend the title so as to read: "A bill granting an increase of pension to Edward F. Paramore."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

GEORGE RICHTER.

The next pension business was the bill (H. R. 7518) granting an increase of pension to George Richter.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of

Christian Richter, late of Company G, Fifty-eighth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

SAMUEL J. STANNAH.

The next pension business was the bill (H. R. 7935) granting an increase of pension to Samuel J. Stannah.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Samuel J. Stannah, late of Company I, One hundred and eighty-seventh Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

LEMUEL P. STORMS.

The next pension business was the bill (H. R. 8158) granting an increase of pension to L. P. Storms.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of L. P. Storms, late of Company A, One hundred and tenth Regiment, New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the letter "L." and insert in lieu thereof the word "Lemuel."

In same line, after the word "late," strike out the word "of" and insert in lieu thereof the words "second lieutenant."

In same line strike out the words "A, One hundred and" and insert in lieu thereof the words "F, Ninety-fifth Regiment United States Colored."

In line 7 strike out the words "tenth Regiment New York."

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

Amend the title so as to read: "A bill granting an increase of pension to Lemuel P. Storms."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

WESTON FERRIS.

The next pension business was the bill (H. R. 6773) granting an increase of pension to Weston Ferris.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Weston Ferris, late of Company B, First Regiment Connecticut Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

NAPOLEON M'DOWELL.

The next pension business was the bill (H. R. 6576) granting an increase of pension to Napoleon McDowell.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to increase the pension of Napoleon McDowell, of Larue County, Ky., late a member of Company F, Fifteenth Regiment Kentucky Volunteer Infantry, in the Army of the United States in the war of the rebellion, from $17 to $50 per month, and to issue to him a certificate granting such increase in lieu of pension certificate No. 276216, now held by said McDowell.

The amendment recommended by the committee was read, as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

"That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Napoleon McDowell, late of Company F, Fifteenth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

MILO B. MORSE.

The next pension business was the bill (H. R. 6454) granting an increase of pension to Milo B. Morse.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Milo B. Morse, late of Company H, Second Regiment New York Infantry Volunteers, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 7 strike out the words "Infantry Volunteers" and insert in lieu thereof the words "Volunteer Mounted Rifles."

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

LUCAS HAGAR.

The next pension business was the bill (H. R. 5850) granting an increase of pension to Lucas Hager.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Lucas Hager, late of Company G, Thirty-third Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the word "Hager" and insert in lieu thereof the word "Hagar."

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

Amend the title so as to read: "A bill granting an increase of pension to Lucas Hagar."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

DANIEL G. STERLING.

The next pension business was the bill (H. R. 6461) granting an increase of pension to Daniel G. Sterling.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Daniel G. Sterling, of Norfolk, Va., late of Company G, One hundred and forty-eighth Regiment, New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving, of $12 per month, for the reason that the said Daniel G. Sterling is now in the eighty-seventh year of his age, is feeble, infirm, afflicted with deafness and failing sight, and is unable to perform work of any kind.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the words "of Norfolk, Va."

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

In line 9 strike out the words "of $12" and all of lines 10, 11, 12, and 13.

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

WILLIAM M'BETH.

The next pension business was the bill (H. R. 6384) granting an increase of pension to William McBeth.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of William McBeth, late of Third Regiment Ohio Light Artillery, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the word "Regiment" and insert in lieu thereof the words "Independent Battery."

In same line, after the word "Ohio," insert the word "Volunteer."

In line 7 strike out the word "forty" and insert in lieu thereof the word "thirty."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

LOUISE W. ROUSELAUX.

The next pension business was the bill (H. R. 6096) granting a pension to Louisa Rouseloux.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Louisa Rouseloux, widow of Col. W. Y. Roberts, late of Company B, First Regiment Kansas Volunteer Infantry, and pay her a pension at the rate of $20 per month.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the words "Louisa Rouseloux" and insert in lieu thereof the words "Louise W. Rouselaux, former."

In same line strike out the word "Colonel."

In same line strike out the letter "W." and insert in lieu thereof the word "William."

In same line, after the word "late," strike out the word "of" and insert in lieu thereof the word "colonel."

In line 7 strike out the words "Company B."

In line 8 strike out the word "twenty" and insert in lieu thereof the word "twelve."

Amend the title so as to read: "A bill granting a pension to Louise W. Rouselaux."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

SAMUEL J. HARDING.

The next pension business was the bill (H. R. 5806) granting an increase of pension to Samuel J. Harding.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Samuel J. Harding, late of Second Maine Battery Maine Light Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the words "Second Maine."

In same line, after the word "Battery," insert the words "B, First Regiment."

In line 7, before the word "Light," insert the word "Volunteer."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

ELIZABETH MOORE.

The next pension business was the bill (H. R. 5210) granting an increase of pension to Mrs. R. L. Moore.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Mrs. R. L. Moore, widow of R. L. Moore, late of Company C, Seventh Regiment Wisconsin Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the words "Mrs. R. L." and insert in lieu thereof the word "Elizabeth."

In same line, after the word "widow," strike out the letter "R." and insert in lieu thereof the word "Russell."

In same line strike out the words "of Company" and insert in lieu thereof the words "first lieutenant and adjutant."

In line 7 strike out the letter "C."

In line 8 strike out the word "twenty-four" and insert in lieu thereof the word "seventeen."

Amend the title so as to read: "A bill granting an increase of pension to Elizabeth Moore."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

ALPHEUS JONES.

The next pension business was the bill (H. R. 5638) granting an increase of pension to Alpheus Jones.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Alpheus Jones, late of Company H, Thirty-second Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "fifty" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

ANDREW P. ALLEN.

The next pension business was the bill (H. R. 5555) granting an increase of pension to Andrew P. Allen.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Andrew P. Allen, late of Company K, One hundred and fiftieth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

ANGELINE WATSON.

The next pension business was the bill (H. R. 6055) granting an increase of pension to Angeline Watson.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Angeline Watson, widow of James D. Watson, late of Company F, Tenth Missouri Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendments recommended by the committee were read, as follows:

In line 7, after the word "Tenth," insert the word "Regiment."

In same line, before the word "Infantry," insert the word "Volunteer."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

THOMAS C. CRAIG.

The next pension business was the bill (H. R. 5639) granting an increase of pension to Thomas C. Craig.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Thomas C. Craig, late of Company G, Fifth Regiment Illinois Volunteer Cavalry, and pay him a pension at the rate of $72 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "seventy-two" and insert in lieu thereof the word "thirty."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

THOMAS WATT.

The next pension business was the bill (H. R. 3423) granting a pension to Thomas Watt.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Thomas Watt, late of Company —, Fourth Regiment Ohio Volunteer Cavalry, and pay him a pension at the rate of $50 per month.

The amendments recommended by the committee were read, as follows:

In line 6, after the word "Company," insert the letter "F."

In line 7 strike out the word "fifty" and insert in lieu thereof the word "thirty."

In line 8, after the word "month," insert the words "in lieu of that he is now receiving."

Amend the title so as to read: "A bill granting an increase of pension to Thomas Watt."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

NATHAN HINKLE.

The next pension business was the bill (H. R. 1218) granting a pension to Nathan H. Hinkle.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Nathan H. Hinkle, late of Company I, Ninety-seventh Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the letter "H."

In line 8, after the word "month," insert the words "in lieu of that he is now receiving."

Amend the title so as to read: "A bill granting an increase of pension to Nathan Hinkle."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third

reading; and being engrossed, it was accordingly read the third time, and passed.

CHRISTIAN PETERSON.

The next pension business was the bill (H. R. 1969) granting an increase of pension to Christian Petersen.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Christian Petersen, late of Company C, One hundred and thirty-first Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the word "Petersen" and insert in lieu thereof the word "Peterson."

In line 8 strike out the word "fifty" and insert in lieu thereof the word "thirty."

Amend the title so as to read: "A bill granting an increase of pension to Christian Peterson."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

JOHN N. MOORE.

The next pension business was the bill (H. R. 2377) granting an increase of pension to J. N. Moore.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of J. N. Moore, late of Company A, Twelfth Regiment Tennessee Volunteer Cavalry, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the letter "J." and insert in lieu thereof the word "John."

In line 8 strike out the word "sixteen" and insert in lieu thereof the word "twenty-four."

Amend the title so as to read: "A bill granting an increase of pension to John N. Moore."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

PARMER STEWART.

The next pension business was the bill (H. R. 2120) granting an increase of pension to Parmer Stewart.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Parmer Stewart, late of Company C, First Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

SAMUEL S. THOMPSON.

The next pension business was the bill (H. R. 9587) granting an increase of pension to Samuel S. Thompson.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Samuel S. Thompson, late of Company B, Third Regiment Maryland Veteran Volunteers, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6, before the word "Third," insert the words "and second lieutenant Company D."

In line 7 strike out the words "Veteran Volunteers" and insert in lieu thereof the words "Volunteer Infantry."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

EDWARD KEATING.

The next pension business was the bill (H. R. 2263) granting an increase of pension to Edward Keating.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Edward Keating, late of Company E, Second Regiment United States Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the word "Company" and insert in lieu thereof the word "Battery."

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

JOHN C. ANDERSON.

The next pension business was the bill (H. R. 9765) granting an increase of pension to J. C. Anderson.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of J. C. Anderson, late of Company M, Sixth Regiment Kansas Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the letter "J." and insert in lieu thereof the word "John."

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

Amend the title so as to read: "A bill granting an increase of pension to John C. Anderson."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

FRANCIS M. BALLEW.

The next pension business was the bill (H. R. 13573) granting an increase of pension to Francis M. Ballew.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Francis M. Ballew, late of Company C, Ninth Regiment Kentucky Volunteer Infantry, also Company A, One hundred and eighteenth Regiment, and Company F, One hundred and thirty-seventh Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $72 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the words "Company C, Ninth Regiment," and all of line 7.

In line 8 strike out the words "and Eighteenth Regiment, and."

In line 10 strike out the word "seventy-two" and insert in lieu thereof the word "thirty."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

DAVID W. WEST.

The next pension business was the bill (H. R. 14657) granting an increase of pension to D. W. West.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of D. W. West, late of Company D, Thirty-sixth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6, before the letter "W.," strike out the letter "D." and insert in lieu thereof the word "David."

In same line, after the word "Company," strike out the letter "D" and insert in lieu thereof the letter "B."

In line 7 strike out the word "Illinois" and insert in lieu thereof the word "Ohio."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

The title was amended so as to read: "A bill granting an increase of pension to David W. West."

HENRY C. VINCENT.

The next pension business was the bill (H. R. 6182) for the relief of Henry C. Vincent.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of War be, and he is hereby, authorized and directed to issue to Henry C. Vincent the suitable certificate of honorable service in the military telegraph corps of the United States Army provided for in the act of Congress approved January 26, 1897, relative thereto.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

JONATHAN LENGLE.

The next pension business was the bill (H. R. 10747) granting an increase of pension to Jonathan Lengle.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Jonathan Lengle, late of Company F, Fourteenth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

ROBERT BIVANS.

The next pension business was the bill (H. R. 12407) granting an increase of pension to Robert Bivans.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Robert Bivans, late of Company E, One hundred and fifteenth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "thirty" and insert in lieu thereof the word "forty-six."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

LAURA M'NULTA.

The next pension business was the bill (H. R. 11703) granting a pension to Laura McNulta.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Laura McNulta, widow of Col. John McNulta, late colonel Ninety-fourth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $50 per month.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the word "Colonel."

In line 8 strike out the word "fifty" and insert in lieu thereof the word "thirty."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

JEREMIAH LUNSFORD.

The next pension business was the bill (H. R. 11635) granting an increase of pension to Jeremiah Lunsford.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Jeremiah Lunsford, late of Company C, Second Regiment North Carolina Volunteer Mounted Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

EDMUND W. BIXBY.

The next pension business was the bill (H. R. 11606) granting an increase of pension to Edward W. Bixby.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Edward W. Bixby, late of Company —, Twenty-eighth Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the word "Edward" and insert in lieu thereof the word "Edmund."

In same line, after the word "Company," insert the letter "F."

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

The title was amended so as to read: "A bill granting an increase of pension to Edmund W. Bixby."

JOHN SPHAR.

The next pension business was the bill (H. R. 10148) granting an increase of pension to John Spahr.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John Spahr, late of Company H, Third Regiment Kentucky Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the word "Spahr" and insert in lieu thereof the word "Sphar."

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

The title was amended so as to read: "A bill granting an increase of pension to John Sphar."

BURGOYNE KNIGHT.

The next pension business was the bill (H. R. 9033) granting an increase of pension to Burgoyne Knight.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Burgoyne Knight, late of Company E, One hundred and twentieth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "twenty-four" and insert in lieu thereof the word "thirty."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

JOHN GEMMILL.

The next pension business was the bill (H. R. 7759) granting an increase of pension to John Gemmill.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John Gemmill, late of Company E, One hundred and eighteenth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "thirty-six" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

JACOB D. PETERSON.

The next pension business was the bill (H. R. 7718) granting an increase of pension to Jacob D. Peterson.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Jacob D. Peterson, late of Company M, Sixth Regiment Ohio Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

JAMES R. HALES.

The next pension business was the bill (H. R. 9039) granting an increase of pension to James R. Hales.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of James R. Hales, late of Company H, Ninth Regiment Kentucky Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The bill was ordered to be engrossed for a third reading; and

being engrossed, it was accordingly read the third time, and passed.

GEORGE STEWART.

The next pension business was the bill (H. R. 6563) granting an increase of pension to George Stewart.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of George Stewart, late of Company D, Second Regiment Kentucky Volunteer Cavalry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "fifty" and insert in lieu thereof the word "thirty."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

CHARLES H. WEAVER.

The next pension business was the bill (H. R. 6912) granting an increase of pension to Charles H. Weaver.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Charles H. Weaver, late a medical cadet, United States Army, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 6 strike out the word "a."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

ELLEN C. LEWIS.

The next pension business was the bill (H. R. 6969) granting a pension to Ellen C. Lewis.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Ellen C. Lewis, daughter of John F. Lewis, late lieutenant, Twenty-first Regiment Massachusetts Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The amendments recommended by the committee were read, as follows:

In line 6, before the word "daughter," insert the words "helpless and dependent."

In same line, after the word "late," insert the word "second."

In line 7, before the word "Twenty-first," insert the words "Company F."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

THOMAS FUREY.

The next pension business was the bill (H. R. 6937) granting an increase of pension to Thomas Furey.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Thomas Furey, late captain Company B, Sixty-ninth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $20 per month.

The amendments recommended by the committee were read, as follows:

In line 8, before the word "dollars," strike out the word "twenty" and insert the word "twenty-four."

In same line, after the word "month," insert the words "in lieu of that he is now receiving."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

The title was amended so as to read: "A bill granting an increase of pension to Thomas Furey."

ALICE W. POWERS.

The next pension business was the bill (H. R. 6949) granting a pension to Alice W. Powers.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Alice W. Powers, dependent daughter of Neville J. Powers, late of Company A, Tenth Regiment Massachusetts Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The amendment recommended by the committee was read, as follows:

In line 6, before the word "dependent," insert the words "helpless and."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

JESSE BUCEY.

The next pension business was the bill (H. R. 6500) granting an increase of pension to Jesse Bucey.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Jesse Bucey, late of Company C, First Regiment Virginia Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 6, before the word "Virginia," insert the word "West."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

ROBERT L. NARROW.

The next pension business was the bill (H. R. 5931) granting an increase of pension to Robert L. Narrow.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Robert L. Narrow, late of Company E, Forty-fifth Regiment Missouri Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "fifty" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

JULIA G. ALDRICH.

The next pension business was the bill (H. R. 6094) granting a pension to Julia G. Aldrich.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Julia G. Aldrich, widow of Samuel F. Aldrich, late of Owen's company, District of Columbia Militia, and pay her a pension at the rate of $30 per month.

The amendments recommended by the committee were read, as follows:

In line 7, before the word "company," insert the word "independent."

In same line, after the word "Militia," insert the word "Cavalry."

In line 8 strike out the word "thirty" and insert in lieu thereof the word "eight."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

JOHN L. SMITH.

The next pension business was the bill (H. R. 5373) granting an increase of pension to John L. Smith.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John L. Smith, late of Company C, Sixth Regiment West Virginia Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 6, before the word "Company," insert the words "Company E, Third Regiment West Virginia Volunteer Infantry, and."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

CATHERINE SPIER.

The next pension business was the bill (H. R. 5840) granting a pension to Catherine Spier.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Cath-

ertine Spier, widow of Frederick Spier, late unassigned private, One hundred and seventh Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The amendments recommended by the committee were read, as follows:

In line 7 strike out the word "private."
In line 8 strike out the word "twelve" and insert in lieu thereof the word "eight."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

ADA N. HUBBARD.

The next pension business was the bill (H. R. 3569) granting a pension to Ada A. Hubbard.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Ada A. Hubbard, daughter of George W. Hubbard, late of Company E, One hundred and fifty-third Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the letter "A" and insert in lieu thereof the letter "N."
In the same line, before the word "daughter," insert the words "helpless and dependent."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

The title was amended so as to read: "A bill granting a pension to Ada N. Hubbard."

HIRAM N. GOODELL.

The next pension business was the bill (H. R. 4743) granting an increase of pension to Hiram N. Goodell.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Hiram N. Goodell, late of Company A, Third Regiment Michigan Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

GEORGE W. DARBY.

The next pension business was the bill (H. R. 3434) granting an increase of pension to George W. Darby.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of George W. Darby, late of Company G, One hundred and ninety-first Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6, before the word "Company," insert the words "Company G, Eighth Regiment Pennsylvania Reserve Volunteer Infantry, and."
In line 8 strike out the word "forty" and insert in lieu thereof the word "twenty-four."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

JONATHAN E. FLOYD.

The next pension business was the bill (H. R. 2757) granting an increase of pension to Johnathan E. Floyd.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Johnathan E. Floyd, late of Company E, First Regiment United States Volunteer Sharpshooters, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 6 strike out the word "Johnathan" and insert in lieu thereof the word "Jonathan."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

The title was amended so as to read: "A bill granting an increase of pension to Jonathan E. Floyd."

JOHN BROAD.

The next pension business was the bill (H. R. 2468) granting a pension to John Broad.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John Broad, late of Company G, Third Regiment Volunteer Infantry, and pay him a pension at the rate of $50 per month.

The amendments recommended by the committee were read, as follows:

In line 6, after the word "Regiment," insert the word "Michigan."
In line 7 strike out the word "fifty" and insert in lieu thereof the word "forty."
In line 8, after the word "month," insert the words "in lieu of that he is now receiving."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

The title was amended so as to read: "A bill granting an increase of pension to John Broad."

GEORGE W. BURTON.

The next pension business was the bill (H. R. 1357) granting an increase of pension to George W. Burton.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of George W. Burton, late of Company E, Fifth Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "fifty" and insert in lieu thereof the word "forty."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

LUKE WALDRON.

The next pension business was the bill (H. R. 517) granting an increase of pension to Luke A. Waldron.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Luke A. Waldron, late of the Seventeenth Independent Battery, New York Volunteer Light Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the letter "A."
In same line strike out the word "the."
In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

The title was amended so as to read: "A bill granting an increase of pension to Luke Waldron."

LOUIS LEPINE.

The next pension business was the bill (H. R. 10632) granting an increase of pension to Lewis Lapine.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Lewis Lapine, late of Company G, Second Regiment Wisconsin Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 6 strike out the words "Lewis Lapine" and insert in lieu thereof the words "Louis Lepine."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

The title was amended so as to read: "A bill granting an increase of pension to Louis Lepine."

MARY A. KING.

The next pension business was the bill (H. R. 9397) granting an increase of pension to Mary A. King.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Mary A. King, widow of William King, late of Company E, Sixty-third Regiment New York Volunteer Infantry, and pay her a pension at the rate of $12 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of Clarence King, helpless and dependent child of said William King, the additional pension herein granted shall cease and determine: *And provided further*, That in the event of the death of Mary A. King the name of said Clarence King shall be placed on the pension roll, subject to the provisions and limitations of the pension laws, at the rate of $12 per month from and after the date of death of said Mary A. King.

The amendments recommended by the committee were read, as follows:

In line 6, after the word "William" insert the letter "H."

In line 8 strike out the word "twenty" and insert in lieu thereof the word "sixteen."

In line 9 strike out the words "*Provided*, That in the event" and all of lines 10, 11, 12, 13, and 14, and lines 1, 2, and 3 on page 2 of said bill.

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

ELLEN T. SIVELS.

The next pension business was the bill (H. R. 16582) granting an increase of pension to Ellen T. Sivels.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Ellen T. Sivels, widow of Thomas Sivels, late of Company C, Ninety-ninth Regiment New York Militia Infantry, and pay her a pension at the rate of $8 per month.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

WILLIAM N. J. BURNS.

The next pension business was the bill (H. R. 16179) granting an increase of pension to William N. J. Burns.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of William N. J. Burns, late hospital steward, Fifth Regiment Minnesota Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

ERWIN G. DUDLEY.

The next pension business was the bill (H. R. 16519) granting an increase of pension to Erwin G. Dudley.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Erwin G. Dudley, late captain Company F, Ninety-second Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 6 strike out the letter "F." and insert in lieu thereof the letter "E."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

CHARLES P. HOPKINS.

The next pension business was the bill (H. R. 16523) granting an increase of pension to Charles P. Hopkins.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Charles P. Hopkins, late of Company M, Seventh Regiment Indiana Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

ABRAHAM G. LONG.

The next pension business was the bill (H. R. 16210) granting an increase of pension to Abraham G. Long.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Abraham G. Long, late of Company F, Fifth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $72 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "seventy-two" and insert in lieu thereof the word "forty."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

ROBERT B. WILLIBY.

The next pension business was the bill (H. R. 16650) granting an increase of pension to Robert B. Williby.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Robert B. Williby, late of Companies K and A, Thirty-fourth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

CHARLES MEYER.

The next pension business was the bill (H. R. 16522) granting an increase of pension to Charles Meyer.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Charles Meyer, late of Company ——, Twenty-seventh Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 6 strike out the words "of Company ——" and insert in lieu thereof the words "first lieutenant and adjutant."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

WALTER F. BEAN.

The next pension business was the bill (H. R. 15956) granting an increase of pension to Walter F. Bean.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Walter F. Bean, late of Company D, Second Regiment Massachusetts Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "forty" and insert in lieu thereof the word "thirty."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

WILLIAM LOUTHER.

The next pension business was the bill (H. R. 15863) granting an increase of pension to William Louther.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of William Louther, late of Company A, Sixth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "forty" and insert in lieu thereof the word "thirty."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

MARTIN C. KING.

The next pension business was the bill (H. R. 15971) granting an increase of pension to Martin C. King.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Martin C. King, late of Company B, Fourth Regiment Missouri State Militia Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

DANIEL E. DURGIN.

The next pension business was the bill (H. R. 15670) granting an increase of pension to Daniel E. Durgin.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Daniel E. Durgin, late of Company I, Sixteenth Regiment Massachusetts Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In lines 6 and 7 strike out the words "I, Sixtieth Regiment Massachusetts" and insert in lieu thereof the words "F, Coast Guards Maine."

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

ROBERT DICK.

The next pension business was the bill (H. R. 15484) granting an increase of pension to Robert Dick.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Robert Dick, late of Eighty-fourth Regiment New York Volunteer Infantry and Fifth Regiment New York Veteran Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In lines 6 and 7 strike out the words "Eighty-fourth Regiment New York Volunteer Infantry and" and insert in lieu thereof the words "Company H."

In line 9 strike out the word "forty" and insert in lieu thereof the word "thirty."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

PLEASANT CALOR.

The next pension business was the bill (H. R. 15616) granting an increase of pension to Pleasant Calor.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Pleasant Calor, late of Company D, Thirtieth Regiment Kentucky Volunteer Mounted Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 7 strike out the word "Mounted."

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

TRUMAN ALDRICH.

The next pension business was the bill (H. R. 15487) granting an increase of pension to Truman Aldrich.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Truman Aldrich, late of Company F, One hundred and forty-first Regiment New York Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "forty" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

SAMUEL PEPPER.

The next pension business was the bill (H. R. 15794) granting an increase of pension to Samuel Pepper.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Samuel Pepper, late of Company G, Ninety-fifth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

JAMES W. FOWLER.

The next pension business was the bill (H. R. 15240) granting an increase of pension to James W. Fowler.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of James W. Fowler, late first lieutenant Company F, Thirty-fourth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

JOHN T. JACOBS.

The next pension business was the bill (H. R. 15396) granting an increase of pension to John T. Jacobs.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John T. Jacobs, late of Company A, Twenty-seventh Regiment Connecticut Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

EBENEZER A. RICE.

The next pension business was the bill (H. R. 15717) granting an increase of pension to Ebenezer A. Rice.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Ebenezer A. Rice, late of Company F, Fifth Regiment Minnesota Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6, after the word "late," strike out the word "of" and insert in lieu thereof the word "captain."

In line 7, before the word "and," insert the words "and major, Second Regiment Minnesota Volunteer Cavalry."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

NATHAN S. RUDDOCK.

The next pension business was the bill (H. R. 14001) granting an increase of pension to Nathan S. Ruddock.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Nathan S. Ruddock, late of Company B, Seventy-sixth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "fifty" and insert in lieu thereof the word "thirty."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

JASPER N. HARRELSON.

The next pension business was the bill (H. R. 14534) granting an increase of pension to Jasper Harrelson.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Jasper

Harrelson, late of Company E, Eighty-seventh Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6, after the word "Jasper," insert the letter "N."

Amend the title so as to read: "A bill granting an increase of pension to Jasper N. Harrelson."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

JESSE LIENALLEN.

The next pension business was the bill (H. R. 14553) granting an increase of pension to Jesse Liewallen.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Jesse Liewallen, late of Company E, Twelfth Regiment Kansas Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the word "Liewallen" and insert in lieu thereof the word "Lienallen."

In same line, before the word "Company," insert the words "Company B, Phelps Regiment Missouri Volunteer Infantry, and."

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

Amend the title so as to read: "A bill granting an increase of pension to Jesse Lienallen."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

FRANK CLENDENIN.

The next pension business was the bill (H. R. 13345) granting an increase of pension to Frank Clendenin.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Frank Clendenin, late major One hundred and forty-seventh Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

JACOB SANNER.

The next pension business was the bill (H. R. 12888) granting an increase of pension to Jacob Sanner.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Jacob Sanner, late of Company I, One hundred and twenty-sixth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

WILLIAM WALROD.

The next pension business was the bill (H. R. 13139) granting an increase of pension to William Walrod.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of William Walrod, late of Company G, Ninety-first Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

EUGENE B. M'DONALD.

The next pension business was the bill (H. R. 12996) granting a pension to Eugene B. McDonald.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the pprovisions and limitations of the pension laws, the name of Eugene B. McDonald, late of Company H, Ninth Regiment Illinois Volunteer Cavalry, and pay him a pension at the rate of $24 per month.

The amendments recommended by the committee were read, as follows:

In line 8, after the word "month," insert the words "In lieu of that he is now receiving."

Amend the title so as to read: "A bill granting an increase of pension to Eugene B. McDonald."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

ELIZABETH BODKIN.

The next pension business was the bill (H. R. 12415) granting an increase of pension to Elizabeth Bodkin.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Elizabeth Bodkin, widow of William A. Bodkin, late captain Company A, Fifty-second Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $30 per month in lieu of that she is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6, after the word "late," insert the words "first lieutenant and."

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

JOHN M. STEEL.

The next pension business was the bill (H. R. 11334) granting an increase of pension to John M. Steel.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John M. Steel, late of Company A, One hundred and forty-fifth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "thirty-six" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

RICHARD REYNOLDS.

The next pension business was the bill (H. R. 12534) granting an increase of pension to Richard Reynolds.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Richard Reynolds, late of Company A, First Regiment Eastern Shore Virginia Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In lines 6 and 7 strike out the words "First Regiment Eastern Shore" and insert in lieu thereof the words "Loyal East."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

WILLIAM H. BROWN.

The next pension business was the bill (H. R. 7760) granting an increase of pension to William H. Brown.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of William H. Brown, late of Company I, First West Virginia Volunteer Cavalry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6, after the word "First," insert the word "Regiment."

In line 8 strike out the word "thirty-six" and insert in lieu thereof the word "twenty-four."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

LEVI A. MEACHAM.

The next pension business was the bill (H. R. 6067) to change the records of the War Department relative to Levi A. Meacham.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of War be, and he is hereby, authorized and directed to change the records of the War Department wherein they pertain to the military record of Levi A. Meacham, late of Company G, Sixty-seventh Regiment Ohio Volunteer Infantry, so that the records will read Levi E. Meacham; also that the Secretary of War be, and he is hereby, authorized and directed to issue to said Levi E. Meacham a corrected certificate of honorable discharge in lieu of the certificate of honorable discharge heretofore issued to said soldier of the late war of the rebellion.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

RILEY M. SMILEY.

The next pension business was the bill (H. R. 14993) granting an increase of pension to Riley M. Smiley.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Riley M. Smiley, late of Company A, Twenty-third Regiment Missouri Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

JAMES T. CASKEY.

The next pension business was the bill (H. R. 16190) granting an increase of pension to J. T. Caskey.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of J. T. Caskey, late of Company E, Fortieth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the letter "J." and insert in lieu thereof the word "James."

Amend the title so as to read: "A bill granting an increase of pension to James T. Caskey."

The amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

On motion of Mr. SCULLOWAY, a motion to reconsider the several votes by which the bills were passed was, upon his motion, laid upon the table.

HAZING AT ANNAPOLIS.

Mr. DALZELL. Mr. Speaker, I suppose under the rule which was adopted the hazing bill is now in order.

The SPEAKER pro tempore (Mr. CAPRON). The hazing bill is in order, and the Clerk will report the title to the bill.

The Clerk read as follows:

An act (S. 3899) granting authority to the Secretary of the Navy, in his discretion, to dismiss midshipmen from the United States Naval Academy, and regulating the procedure and punishment in trials for hazing at the said academy.

The SPEAKER. Without objection, the Clerk will report the substitute for the Senate bill. Is it the pleasure of the House that the bill be read section by section or would the House prefer to have the whole bill read at this time?

Mr. RIXEY. Mr. Speaker, I desire to offer the substitute for the bill reported from the Committee on Naval Affairs, and it seems to me that we had better have the bill read as reported by the Naval Committee, and then I will ask to have the substitute read.

The SPEAKER. The bill will have to be read, unless by unanimous consent.

Mr. PAYNE. Mr. Speaker, I was going to suggest that this might be the only opportunity to have the whole bill read.

The SPEAKER. The Clerk will proceed with the reading of the substitute.

The Clerk read as follows:

Be it enacted, etc., That it shall be the duty of the Superintendent of the United States Naval Academy, whenever he shall believe the continued presence of any midshipman at the said academy to be contrary to the best interests of the service, to report in writing such fact, with a full statement of his reasons for such belief, to the Secretary of the Navy, who, if after due consideration of the said report he shall deem the Superintendent's said belief reasonable and well founded, shall cause a copy of the said report to be served upon the said midshipman and require the said midshipman to show cause, in writing and within such time as the said Secretary shall deem reasonable, why he should not be dismissed from the said academy; and after due consideration of any cause so shown the said Secretary may, in his discretion, but with the written approval of the President, dismiss such midshipman from the said academy.

SEC. 2. That so much of the acts approved June 23, 1874, and March 3, 1903, as requires the Superintendent of the United States Naval Academy to convene a court-martial in all cases when it shall come to the knowledge of the said Superintendent that any midshipman has been guilty of the offense commonly known as "hazing," and declares the finding of a court-martial so convened, when approved by the said Superintendent, final, and directs that any midshipman found guilty by such court-martial shall be summarily dismissed from the said academy, and also all other acts or parts of acts inconsistent with the present act are hereby repealed, and that the offense known as "hazing" may hereafter be proceeded against, dealt with, and punished as offenses against good order and discipline and for violation and breaches of the rules of said academy. But no midshipman shall be dismissed for a single act of hazing except under the provisions of section 3 of this act.

SEC. 3. That the Superintendent of the United States Naval Academy may, in his discretion and with the approval of the Secretary of the Navy, cause any midshipman in the said academy to be tried by court-martial for the offense of hazing, as provided by the act approved June 23, 1874, and such court-martial, upon conviction, may sentence such midshipman to any punishment authorized by the said act or by the act approved March 3, 1903, or authorized for any violation or breach of the rules of the said academy by the said rules, or, in cases of brutal or cruel hazing may, in addition to dismissal, sentence such midshipman to imprisonment for a period not exceeding one year: *Provided*, That such midshipman shall not be confined in a military or naval prison or elsewhere with men who have been convicted of crimes or misdemeanors; and such finding and sentence shall be subject to review by the convening authority and by the Secretary of the Navy, as in the cases of other courts-martial.

SEC. 4. That the offense of "hazing," as mentioned in this act, shall consist of any unauthorized assumption of authority by one midshipman over another midshipman whereby the last-mentioned midshipman shall or may suffer or be exposed to suffer any cruelty, indignity, humiliation, hardship, or oppression, or the deprivation or abridgment of any right, privilege, or advantage to which he shall be legally entitled.

SEC. 5. That it shall be the duty of every professor, assistant professor, academic officer, or instructor, as well as every other officer stationed at the United States Naval Academy, to promptly report to the Superintendent therof any fact which comes to his attention tending to indicate any violation by a midshipman or midshipmen of any of the provisions of this act or any violation of the regulations of the said academy. Any naval officer attached to the academy who shall fail to make such report as provided in this section shall be tried by court-martial for neglect of duty, and if convicted he shall be dismissed from the service. Any civilian instructor attached to the academy who shall fail to make such report as provided in this section shall be dismissed by the Superintendent of the academy upon the approval of the Secretary of the Navy.

SEC. 6. That this act shall take effect from the date of its approval, but no midshipman now connected with the United States Naval Academy shall, by reason of its enactment, be punished for any offense heretofore committed otherwise than in pursuance of the sentence of a court-martial (if, by existing law, such sentence would be now necessary for such punishment) or punished more severely than is now by law allowed for any offense heretofore committed: *Provided*, That any midshipman now in said Naval Academy may waive his right to trial by court-martial under existing law for any offense of hazing heretofore committed and may accept punishment under the provisions of section 2 of this act.

Mr. DALZELL. Mr. Speaker, at the time that the rule was introduced the gentleman from Mississippi [Mr. WILLIAMS] and myself agreed to waive any debate at that time, with the understanding that the forty minutes should fall into general debate. I ask unanimous consent that the gentleman from New York [Mr. VREELAND] in charge of the bill may proceed for twenty minutes.

Mr. WILLIAMS. Mr. Speaker, I wish to couple with that the request that immediately after the remarks of the gentleman from New York [Mr. VREELAND] the gentleman from North Carolina [Mr. WILLIAM W. KITCHIN] may be recognized for twenty minutes in opposition to the bill.

The SPEAKER. Is there objection to the request granting twenty minutes to the gentleman from New York and twenty minutes to the gentleman from North Carolina?

Mr. RIXEY. Mr. Speaker, I do not desire to object, but I gave notice a few moments ago that I desired to offer a substitute for the committee bill, and I simply wanted to offer that substitute now and let it be pending, and I would like to have it read. It is very short.

The SPEAKER. The Chair will state to the gentleman that the bill as reported is a substitute for the Senate bill. It seems to the Chair that the gentleman's proposition would be an amendment to the substitute.

Mr. RIXEY. Mr. Speaker, I propose to amend the bill as reported by striking out the whole bill and inserting this substitute which I offer.

The SPEAKER. An amendment to the amendment would be in order. The bill under consideration is a substitute in the nature of an amendment.

Mr. RIXEY. Mr. Speaker, I will ask that this substitute be considered as pending, and I will ask, further, unanimous consent that it may now be read, because under the rule we may not get through with the consideration of the bill.

The SPEAKER. Without objection, the amendment to the substitute will be read at this time.

There was no objection.

The Clerk read as follows:

Page 4, line 12, after the word "That," strike out all the remainder of the committee amendment and insert in lieu thereof the following:

"That offense known as 'hazing' may hereafter be proceeded against, dealt with, and punished as offenses against good order and discipline and the violation and breaches of the rules of said academy: *Provided*, That no midshipman shall be dismissed from the Naval Academy for hazing except upon conviction by court-martial, the finding and sentence of which shall be subject to review by the convening authority and by the Secretary of the Navy, as in the case of other courts-martial: *Provided further*, That the foregoing proviso shall not apply in any case where by reason of an accumulation of demerits the midshipman, under the rules of the academy, is subject to dismissal.

"SEC. 2. That the sentence, upon conviction by court-martial, in such cases may be dismissal from the academy or such lesser penalty as may be deemed proper and adequate for the punishment of the offender and the enforcement of discipline. Such sentence and finding shall be subject to review as now provided by law in the case of trials by court-martial.

"SEC. 3. That it shall be the duty of every officer and instructor on duty at said academy to promptly report to the Superintendent of said academy all acts of hazing which may come to their knowledge or of which they have information of any kind, and for a failure to so report shall be subject to dismissal from the service of the Government.

"SEC. 4. That no midshipman dismissed upon conviction for hazing shall be eligible for reappointment to the said academy.

"SEC. 5. That all acts and parts of acts inconsistent with this act are hereby repealed."

The SPEAKER. The Chair understands that the gentleman offers his amendment to the House substitute for the Senate bill; that it is in the nature of a motion to strike out the House substitute and insert the proposition of the gentleman. Is there objection to the request made as to twenty minutes' time to be given to the gentleman from New York [Mr. VREELAND] and twenty minutes to the gentleman from North Carolina [Mr. WILLIAM W. KITCHIN]? [After a pause.] The Chair hears none. The Chair recognizes the gentleman from New York.

Mr. VREELAND. Mr. Speaker, there was appointed a subcommittee of the Naval Committee of the House—five members of which I had the honor to be the chairman, consisting of Mr. LOUD of Michigan, Mr. DAWSON of Iowa, Mr. GREGG of Texas, Mr. PADGETT of Tennessee, and myself. We went to Annapolis. We brought back, after as thorough an investigation as we could make, a unanimous report as to the finding of facts upon conditions which existed there, and as to the recommendations which we wished to make to meet those conditions. This same subcommittee, Mr. Speaker, that went to Annapolis was designated by the Naval Committee of the House to prepare and present to the committee a hazing bill which should endeavor to correct the conditions which we found at Annapolis. The subcommittee was again unanimous in reporting the bill which is now before the House, to the Naval Committee of the House, as a substitute for the Senate bill which came over to us. The action of the Naval Committee of the House upon our report was not quite unanimous. One member objected to it because, in his judgment, it was too severe. Another member objected to it because, in his judgment, it was too mild.

We therefore hope, Mr. Speaker, that we have reached a conservative ground between those who desire to have extreme laws passed in either direction in regard to hazing, that we have reached a conservative and sane ground upon which this House can stand. Last November, Mr. Speaker, the country was thrown into a condition of some excitement over reports that came from Annapolis. We all admit the importance of the naval school at Annapolis. We have believed all these years that it is the best naval school in the world. We have believed all through our history that the naval officers that we have turned out of that school to take command of our ships were the best naval officers turned out to command any ships that float the ocean. We have believed all these years, and our experience whenever we have come to test it has seemed to confirm our belief in the character of the officers who graduate from that institution. It was with a good deal of concern then, Mr. Speaker, that the reports of the disturbances, the seeming lack of discipline, the outbreaks of hazing, the reports of class fighting were received by the country. Last November there was a fight which took place there called the "Branch-Meriwether fight." As an unfortunate and deplorable result of that encounter between those two young men, one of the—Branch—died. Meriwether was tried by court-martial, convicted, and sentenced to one year's imprisonment, which he is now serving out. Immediately the country became excited over it. Newspapers took it up and some of them exaggerated it. The people were led to believe that they had prize fights at Annapolis every morning before breakfast and every night after supper.

But our investigation disclosed the fact, Mr. Speaker, that only one class fight, and that was this Branch-Meriwether fight, had taken place during the present school year; that only seven fights of all kinds—that is, the ordinary encounters between these young men—have taken place during the last eighteen months. Now, Mr. Speaker, wherever a large number of boys are associated together you can not prevent personal encounters. Wherever a large number of men are gathered together you can not prevent personal encounters, and I think there are gentlemen on the floor who have seen even in this great Chamber, with our constituents looking down upon us, that personal encounters have not been unknown in the history of this House. Great indignation was felt as to the Branch-Meriwether fight, and I wish to state to the gentlemen the facts we brought out there for the first time in our investigation as to the cause of that fight. Mr. Meriwether is now serving a year's imprisonment for gross violation of regulations because, as a result of a fight with Mr. Branch, young Branch lost his life, presumably by striking his head against the wall in falling. I want to state to this House the reason for that personal encounter which took place between these young men, and I want you to pass your opinion upon that fight and I want you to pass your opinion as to whether that young man who is now serving imprisonment should not receive a full and free pardon from the President of the United States. [Applause.] There had been personal feeling between these two upper-class men, Mr. Branch and Mr. Meriwether. One evening Branch, the older of the two, went into the room of Mr. Meriwether; he saw there lying upon the table a letter which Meriwether had received from his old grandmother down in New Orleans. He saw there also a photograph that she had inclosed to her grandson. Mr. Branch came from New York City, belonged to an aristocratic social circle, a circle of wealth. The other boy belonged to a different status of life, coming up from some State in the South. Mr. Branch picked up the letter which this boy had received from his grandmother, which was written upon coarse paper, and commenced to criticise the spelling and the writing and the paper upon which it was written. He picked up the photograph, which was of dark complexion, and commenced making insinuations, referring to the color of his grandmother as disclosed in that photograph. As a result of that Mr. Meriwether asked him to fight it out man to man there between themselves, with nobody else present. Branch refused, and said he would accept a challenge in the ordinary way. The challenge was given, and the fight in which Branch lost his life was the result of that provocation given to Meriwether that evening in his room, and I say to you, gentlemen, I do not know how you may feel about it, but as for me, I say that the boy is not fit to carry his country's commission, to sail the ships of the Navy of our country, who would not resent the insult given to him on that occasion. [Applause.]

Mr. PEARRE. Will the gentleman allow an interruption?

Mr. VREELAND. Yes.

Mr. PEARRE. From whom did this come; who states these facts?

Mr. VREELAND. They were stated to us by the commandant while upon the stand, the commandant of midshipmen.

Mr. PADGETT. Captain Colvocoresses.

Mr. PEARRE. But was it stated by any eyewitness? Was anybody present at the time?

Mr. VREELAND. There was nobody present.

Mr. PEARRE. From whom did he get the facts?

Mr. VREELAND. The facts were given to us, as stated, by the commandant of midshipmen; and I will say I do not care to go into a cross-examination upon the subject. I present the statement as given to us by witnesses upon the stand, and the gentleman in his own time and in such place as he may desire can take it up further.

Mr. PEARRE. If the gentleman refuses to answer questions upon the subject, very well.

Mr. SLAYDEN. You are entirely convinced the Superintendent believes that fact?

Mr. VREELAND. Oh, there is no question about that, and the fight resulted from it. And it is understood by the boys there that those were the facts.

Mr. HOAR. Did this evidence appear at the court-martial upon which the man who was sentenced was tried?

Mr. VREELAND. It did so. The feeling throughout the country was very intense about this affair. About the 10th of December following occurred the Kimbrough case. This was a case where a young man named Kimbrough was hazed by the upper classmen for making disclosures to the board of investigation. He was compelled by these upper classmen to stand upon his head until he became unconscious, when water was dashed in his face, restoring him to his senses, and then again he was put through physical exercises until again he became unconscious and was left upon a bed. The surgeon told us that they had grave fears for his life, but they succeeded in bringing him through.

Now, Mr. Speaker, these were a few——

Mr. MAHON. Will the gentleman allow me to ask him a question?

Mr. VREELAND. Certainly.

Mr. MAHON. What excuse did the surgeon give for not reporting this to the Superintendent? They never told this to anybody until the investigation.

Mr. VREELAND. This case, I will say to my friend, was reported by the surgeon; because of its severity it had to be reported.

Mr. MAHON. When?

Mr. VREELAND. It was reported when discovered.

Mr. MAHON. To the Superintendent?

Mr. VREELAND. And this was the case that led to the discovery of the fact that hazing in large extent was practiced there. The discovery of the brutal hazing in this case created excitement throughout the country. Parents with boys at Annapolis became anxious; the papers, some of them, exaggerated it, and the country was of the opinion that the academy was full of these Kimbrough cases, in which boys were stood upon their heads until they were unconscious.

We found that 281 of the upper-class men are implicated in hazing in that school; but I am glad to say to you that in a great majority of those cases—in all except a few of those cases—the hazing was of a mild character, not injurious to the recipient of it. I will say, further, that in a large majority of all of these cases the hazing was trivial in its character and seemed to be the mere outbreak of boyish mischief and boyish spirit. Hence the impression throughout the country as to the character of hazing done there—the impression which existed in this House as to its character—is for the most part incorrect. The hazing in this one Kimbrough case is the only one where its severity was shown to have gone to the point of danger to the recipient of the hazing. Who is to blame for this state of affairs——

Mr. HEPBURN. Will the gentleman allow me to ask him a question?

Mr. VREELAND. Yes, sir.

Mr. HEPBURN. I was going to ask the gentleman, before he passes from this part of his subject, as to the probable age of these upper-class men that you have spoken of. You have spoken of them as boys.

Mr. VREELAND. Of course the gentleman from Iowa will understand that the fourth class that is being hazed this year becomes the third class next year.

Mr. HEPBURN. I am not asking about the hazing, but about their ages.

Mr. VREELAND. And they become the most energetic hazers in the academy. The average ages will run from 17, 18, 19, to 20 years.

Mr. HEPBURN. But the upper-class men are usually men—21 years of age?

Mr. VREELAND. First-class men are about that age.

Mr. HEPBURN. Educated men?

Mr. VREELAND. Yes, sir; in the process of being educated.

We asked the question, Who is to blame for this state of affairs? We sent to all the Members of the House a copy of the report which was made and the conclusions which we found, hoping that many of you would have time to read it and at least learn the findings of facts upon which we based our conclusions. I could not put my hand on any one man or two men or any three men, Mr. Speaker, and say that they are to blame for the state of affairs that existed at Annapolis. In my judgment, while some of the officers now connected with the institution and who have been connected with it during the last few years have been in some degree censurable for things which we have stated in our report, yet I think, on the whole, Mr. Speaker, that the changes which have been going on in that school during the past three years, without corresponding change in the methods of discipline, are mainly responsible for the conditions at Annapolis. What are those changes? During the last three or four years we have been spending $10,000,000 in putting up new buildings. That means an enormous amount of work. It means that during a part of that time these midshipmen have been quartered in different parts of the grounds. During that time also the number of midshipmen in that institution has increased from 300 to nearly 900 midshipmen, without any corresponding increase in the number of disciplinary officers. Again, in the commencement of the present school year a new Superintendent and new disciplinary officers, who knew nothing about this school from experience, came in and took charge of that institution. So I think it is plain that these changes, to which the rules of the academy have not yet been adjusted, are more than any other one thing responsible for the condition which we found there.

How could 281 boys be implicated in hazing any number of individual cases without the naval authorities of the academy finding it out? That is a fair question. That is the question which we had upon our lips when this subcommittee went to Annapolis. We were of the opinion that the officers must be to blame at least for not finding out that this hazing occurred. And yet, Mr. Speaker, by the force of the facts as represented to us we were compelled to change our minds.

Mr. PALMER. Did it appear that the Superintendent was cognizant of the fact that hazing had been carried on and that he not only knew it, but that he encouraged it as being a part of the necessary discipline of the school?

Mr. VREELAND. The former Superintendent called the boys in and got their word of honor, under some compulsion, that they would not haze. The boys construed it to mean physical hazing, and that stopped during his stay there, but other forms of hazing, fully as objectionable, or more so, prevailed to a great extent during his administration. Now, when Admiral Brownson left the school he called in the representatives of the upper-class men and said that he absolved them from their promise not to haze. We consider that an unfortunate occurrence, because the boys construed it as removing every constraint over their power to haze the under-class men.

Mr. DRISCOLL. I wish the gentleman would state, if he can, in a very few words, what form of hazing was indulged in, what we may call "moral" hazing, in view of the fact that they could not enforce their hazing with any physical penalty. How did they haze? I have been anxious to learn how it was done.

Mr. VREELAND. If the gentleman will pardon me, I will first answer the question as to how this hazing could go on and not necessarily be discovered by the naval officers of that institution. Nearly 900 boys are quartered in Bancroft Hall. There are 500 rooms there where these cadets are quartered. The corridors upon which these rooms open are more than a mile and a quarter in length. On account of the dormer windows in the upper stories of that building, access from one room to another is easy. To look after these 840 or 850 boys in that great building, with its mile and a quarter of corridors, was stationed one naval officer. It is evident, then, that thousands of cases, or an unlimited number of cases, of hazing could go on there daily and, unless a boy was severely injured, as in the Kimbrough case, making it necessary to take him to the hospital and report, unless that should occur the naval officer in charge never would find it out.

That brings us, gentlemen, to describe the system of discipline that prevails at Annapolis.

The theory of the Naval Academy is that these cadets shall be a self-governing body. We are educating them to be officers in the Navy. We are sending them out to take charge of ships and of the lives of our men. We feel that there they must learn the lessons of self-control; that they must learn there the lessons of putting duty first, the lesson of carrying out their duty, lead them where it may. It is evident, then, Mr. Speaker, that if we adopt a system of prison discipline at Annapolis; if we station officers there who shall actually keep these boys under their surveillance, their actual observation, and prevent hazing by standing over them, we can not graduate out of that institution men that we wish to send out to take charge of our ships and our sailors.

Mr. MORRELL. Mr. Speaker, may I ask the gentleman a question?

Mr. VREELAND. I will yield to the gentleman.

Mr. MORRELL. I want to ask the gentleman how important a part he thinks discipline plays in the education of the young men in the Naval Academy?

Mr. VREELAND. I would answer my friend from Pennsylvania that, as a civilian, my opinion is that discipline is the whole basis of a military education.

Mr. MORRELL. Is it a fact that this number of boys engaged in hazing shows that there is not the kind of discipline there that is desirable?

Mr. VREELAND. It shows a lack of it. I have endeavored to describe that, in my judgment, the theory which prevails there of making the boys a self-governing body and making officers of the company responsible for the breaches of regulations is the right one.

The SPEAKER. The time of the gentleman has expired.

Mr. SIBLEY. Mr. Speaker, I ask unanimous consent that the gentleman may have time to present his statement of facts to the House.

Mr. RIXEY. Let me call the attention of the gentleman from Pennsylvania to the fact that, under the rule adopted, we only have so much time.

Mr. SIBLEY. Then I ask, Mr. Speaker, that the gentleman's time be extended ten minutes.

The SPEAKER. The gentleman from Pennsylvania asks that

the time of the gentleman from New York be extended for ten minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. VREELAND. Let me proceed, then, and describe the discipline. Out of the upper-class men—that is, the oldest class in the academy—the disciplinary officers are appointed, who are supposed to govern the midshipmen under the direction of the naval officers. There are two in charge of each company of these midshipmen. Wherever they are, whether they are in Bancroft Hall for the night or whether they are in the mess hall at meals, wherever they are the cadet officers are supposed to be in charge of the company and report breaches of regulation and discipline to the naval authorities.

Mr. ADAMS of Pennsylvania. May I interrupt the gentleman?

Mr. VREELAND. I will yield to the gentleman in one moment. There must be enough supervision over the boys by the naval officers to know that the cadet officers are carrying out their duty. After the changes that have taken place with the addition of 300 per cent of the numbers at the Naval Academy, this supervision has been lacking. I may say, Mr. Speaker, that the authorities at the academy have already taken what, in my judgment, are the necessary steps for enforcing the discipline in the academy in that respect. Now I will yield to the gentleman from Pennsylvania.

Mr. ADAMS of Pennsylvania. I want to ask the gentleman if the committee found that these officers of the upper classes, who are the officers of the corps, and who are supposed to maintain this discipline, as a matter of fact, did not report these breaches of discipline when they came under their knowledge?

Mr. VREELAND. That is absolutely true.

Mr. ADAMS of Pennsylvania. Then I would like to ask how the proposed discipline of the cadets is to be carried out if the officers who are intrusted with military duty will not report the breaches of discipline that come under their observation?

Mr. VREELAND. While the cadet officers are officers, we must still remember that they are boys getting their education. We must have over them sufficient observation by the naval officers to see that they are held up to their duty, and that they do make the reports that they ought to make.

Now, I will say to the House that the admiral who is in charge of the institution at present proposes to determine in the future whether they are carrying out their duty or whether they are not. I may say in behalf of Admiral Sands what I believe to be true, and what is concurred in by every member of the committee, that he is absolutely with Congress and with the country in the disposition to suppress hazing in that institution. I never met a man who is more opposed to hazing than is Admiral Sands. I may say that upon the first discovery that hazing existed there, when the Kimbrough case came up, that no one could have been more energetic in taking up and enforcing the law than he did in this case. He immediately convened a board of investigation, as he is authorized to do under the law. He called the fourth-class men before him and asked what had been going on and who had hazed them. The boys declined to answer. He dissolved the board and sent to the Navy Department and got the necessary orders and reconvened the board of investigation. He again called the boys before him and said to them, "We are asking you these questions under oath in the line of your duty, and if you refuse to answer you will be tried for insubordination and expelled from the academy."

One hundred and twenty-nine of these boys did answer. He found the complete history in their answers as to what had been going on in that institution. Now, I may say, Mr. Speaker, that it is proposed in the future at Annapolis, as has been the case at West Point for the last five years, to keep that board of investigation constantly in existence; that at irregular periods—once a month, once in two months, whenever it becomes necessary—that board will call before them these under-class men and they will put them under oath and they will find out whether the cadet officers in the institution are doing their duty.

Mr. DICKSON of Illinois. Mr. Speaker, the gentleman from New York [Mr. VREELAND] has just advised us that a number of these midshipmen under oath answered questions regarding hazing that had been going on.

Mr. VREELAND. Yes.

Mr. DICKSON of Illinois. My advice from the academy is that those boys who answered those questions have ever since been ostracized by the other members of their class for having answered the questions of this investigation. Is that true?

Mr. VREELAND. I will say to my friend from Illinois that Mr. Kimbrough, whose hazing I have described to the House, was ostracized because he was the boy who went in and gave the first answers, but I did not find that the statement is true as a general proposition. On the contrary, during the stay of the committee at Annapolis, the senior class in that institution, out of which the cadet officers for the next year will be appointed, voluntarily got together and adopted a resolution that they would use their offices and influence against the practice of hazing in that academy.

Mr. WATSON. Mr. Speaker, I would like to ask the gentleman a question, and that is as to whether the conditions he has described are the fault of the law or of the administration at the academy.

Mr. VREELAND. Mr. Speaker, I have been trying for the last thirty minutes to answer that question to the House.

Mr. WATSON. Well, I have not been in, and that was why I asked the question.

Mr. VREELAND. We found, as a matter of fact, that it was more due, if we name one thing that is to blame, to the changes and enlargement of the academy that have been going on and the increase from 300 to 900 boys, although some fault and some censure, as we have pointed out in our report, is due to some of the officers connected with the academy now and in the past.

Mr. WATSON. And in the opinion of the gentleman the change of the law that he suggests in this bill will largely tend to remedy the existing evil?

Mr. VREELAND. I will say this: It is the opinion of the President of the United States, of the Secretary of the Navy, of the Superintendent of the academy, of everyone connected with schools, as far as I know, that the present law on the statute books is an absurd law. It is a law which in its effect Congress never contemplated. I am unwilling to believe that the Congress of the United States ever intended to pass a hazing law which would call up a boy and try him by court-martial and dismiss him from the academy for some petty offense for which he ought to receive five or ten demerits. Yet under the definitions given by the law officers of the Government of hazing, as the law stands to-day, the Superintendent of the academy has no discretion. If we do not change the law he must start again the courts-martial, and he must try these 250 or 300 boys and expel them from that institution for these, the majority of them, trivial offenses, the result of an outbreak of boyish spirit.

Mr. CHARLES B. LANDIS. Mr. Speaker, I would like to ask the gentleman what has been done with these young men who have already been tried?

Mr. VREELAND. Mr. Speaker, I am glad the gentleman has asked that question. We have endeavored to provide for this larger number who have not been tried by court-martial in this bill.

Mr. CHARLES B. LANDIS. But how about the young men who have been tried?

Mr. VREELAND. We find some constitutional point there which we have to get around. We do not undertake to change the law providing that these boys may be punished without their consent except by court-martial, as the law provided. But we have said in this law that the Superintendent may, in his discretion, with the consent and acceptance of these cadets who have committed offenses heretofore, give them punishment, under section 2 of this act, less than court-martial and dismissal. It means, in my judgment, that if this bill we have before the House becomes a law, within one week after its passage all of those cases of hazing will be disposed of and a reasonable and just amount of punishment will be inflicted, if any is deserved, in each case, each case being treated upon its merits, and that the school may then settle back to its work.

Mr. GRAFF. May I ask the gentleman a question?

Mr. VREELAND. Yes.

Mr. GRAFF. The gentleman from Indiana asked a question about those cases where there had been courts-martial——

Mr. VREELAND. Yes; I am glad to answer it. In the cases that have been court-martialed we found it impossible to deal with in this general law, because there are so many different conditions. Some of them have been expelled by court-martial. We believe they ought to have been expelled, and we believe they should have received punishment beyond being sent away from that school. Others have been dismissed by court-martial; and I may mention Decatur, a family famous for generations in the Navy of our country, who was expelled for hazing, of such character as, in my judgment, after reading the testimony, does not entitle him to dismissal from that institution. Others are in the same situation. Others have been tried and convicted, and sentence has been suspended by the President. So that the gentlemen will see the difficulty of dealing in a general way with these cases. [Applause.]

The SPEAKER. The time of the gentleman has expired.

The SPEAKER. The gentleman from North Carolina [Mr. KITCHIN] is recognized for twenty minutes.

Mr. WILLIAM W. KITCHIN. Mr. Speaker, I have filed a very short statement of my views upon the substitute for and the pending bill itself. There are two essential questions involved in this matter. First, whether court-martials shall be had for trial of offenses against discipline at the academy. Second, the character of punishment which ought to be meted out to those violating the laws and committing serious offenses. I agree with the gentleman from New York who has just taken his seat upon the importance of permitting the officers at the academy to exercise ample disciplinary powers. I believe the boys at the Naval Academy should be altogether under the control of its authorities, subject to review by the Secretary of the Navy and the approval of the President. I do not believe that a boy at the Naval Academy, who grossly violates the laws of that academy ought to be any more entitled before he is dismissed to a trial under court-martial than I would believe that a student at any of the great universities of this land ought to be entitled to a trial by a jury in the courts of the country before being dismissed by the authorities of that university. Under the present law the authorities can not dismiss for hazing, but in every case when the authorities desire dismissal for hazing a court-martial must be held and the boys must be tried and convicted before dismissal. I agree with the majority of the committee that that is cumbersome, expensive, demoralizing, and unnecessary. I have been unable to see the wisdom of the proposed bill, which will prevent the authorities, with the approval of the Secretary of the Navy and the President, from dismissing a midshipman for a single act of cruel and barbarous hazing except after a court-martial trial.

My theory is that the authorities there ought to have complete power over dismissals from the academy, subject to approval of the Secretary of the Navy, and if when they exercise that power of dismissal they deem the offense so severe that a court-martial ought to be held for further punishment, then in addition to dismissal permit the authorities to have a court-martial for the purpose of inflicting a further punishment, and not for the purpose of ascertaining whether the boy ought to be dismissed or not. Now, let us consider the punishment. As the law now stands the cadet who is adjudged guilty of hazing of any degree must be dismissed. I am frank to say I believe dismissal is too severe a punishment for all cases of hazing, because there may be cases of hazing where there is no injury and no brutality, cruelty, or tyranny exercised, for which demerits would be sufficient punishment; therefore I am not insisting that the cadet should be dismissed for every offense of hazing. But since the law now dismisses for every offense of hazing, I believe we should go no further in modifying that law than to say that midshipmen for trifling offenses may be subject to punishment by demerits; but I believe we ought to retain in the law the mandatory provision that every case of cruel or barbarous hazing should still be punished by dismissal. Now, that is the main difference between the major [illegible] of the committee and myself, as I understand it. In other words, the bill they propose permits the Superintendent of the Naval Academy, with approval of the Secretary of the Navy, to expel a boy whenever for other reasons than hazing his continued presence there is contrary to the good of the service.

It goes further: for repeated offense of hazing, whether cruel or not, as I understand it, the Superintendent of the academy would have this power of dismissal. But though he deems it wise for a boy to be dismissed for a single offense of hazing, however cruel or brutal, he can not dismiss him, but can only call for a court-martial, and, Mr. Speaker, it is not mandatory upon the court-martial in case they find the man guilty of cruel or barbarous hazing to dismiss him. But the bill leaves it to the discretion of the court-martial to inflict demerits upon him, or expel him or fix a severer punishment. Now, this court-martial may be composed of gentleman who have attended the academy, and who may have themselves been guilty of hazing in their early days, and their sympathies may be with the practices which still prevail. Would you expect a court-martial in sympathy with the practice to expel a man for a single offense of hazing, when maybe they have been themselves guilty of the same offense in their training days, and were not expelled and were not punished?

I believe that Congress ought to say that in every case of cruel, barbarous, or brutal hazing, the penalty shall be dismissal. When you say that, then there comes the question whether you will leave it to the authorities of the academy to dismiss or whether you make a law requiring a court-martial in such case. I believe the academy authorities, with the approval of the Secretary and the President, ought to have that power. It does not occur to me that this would apply to personal encounters as distinguished from class fighting.

Although a personal encounter might result in cruelty, I would not designate that as hazing, while class fighting is usually hazing. The excellent report filed upon hazing by the gentleman from New York [Mr. VREELAND] and his subcommittee of the Committee on Naval Affairs goes into this question. The country, I presume, and all people who have read his report, certainly understand what hazing is. Under the amendment which I shall propose, if two midshipmen should suddenly become provoked and engage in a fist fight they would not be subject to dismissal on account of hazing.

As long as boys grow into men these personal difficulties will occur. It is a very different thing from the class fight that occurs as the result of hazing at the academy. Why, as it stands now, if one of these fourth-class men should refuse to obey a superior classman and then refuse to be hazed for it, what follows? A class fight. And with whom shall he fight? Why, they select an athlete in the class to beat him. They select a man, not such as will give him a fair fight with equal show of victory, but in order to beat that lower-class man and thus compel other lower-class men to submit to them they select one they think can whip him. If by chance that young man whips the old one in that fight, the young man must still fight another old man, and they pursue him in that manner until some old man is found who can whip him. For such as that, expulsion, in my judgment, should be the lowest punishment. [Loud applause.] Right here permit me to say that I do not share the views entertained by Admiral Sands and incorporated in the report of the gentleman from New York, to which I have just now referred, that a man who submits to the hazing is a coward. I do not believe it. I do not believe it is a badge of cowardice when a young man knows that under the prevailing custom he will be whipped, perhaps unmercifully whipped, being compelled to fight with older men, for him to use that discretion which is the better part of valor and submit to hazing. You might as well say that a band of a thousand men, though they might be as brave as the Greeks at Thermopylæ or the Texans at the Alamo, when they come into contact with a superior force of ten thousand as brave as they, are cowards unless they rush to deliberate death unnecessarily. To court certain defeat is not essential to courage. Our civilization and common sense recognize no such test of courage. It is not always cowardice for one who has no chance of success to refuse to fight upon unequal terms, knowing that it must result in his humiliation. I enter my dissent from the views expressed by Admiral Sands upon the man who submits to hazing.

And now, Mr. Speaker, I believe that this House should meet its duty and let the cadets and the country know that it is the sense of Congress that when a midshipman engages in brutal and cruel hazing he shall be dismissed. I believe that if this bill is properly amended it will be a vast improvement over the present law; but, in my judgment, if this bill is passed as it is presented in this body without the amendments, it will be a great encouragement to hazing as compared with the present law. I believe it will tend, as I say in my views, to diminish the discouragement which the present law presents.

I suggest that in the first section of the substitute, after the word "service," we should add this:

Or shall believe him guilty of cruel or brutal hazing.

So that when the Superintendent of the academy believes that a midshipman should leave there on account of conduct generally, or shall believe him guilty of cruel or brutal hazing, he shall proceed as the balance of the section provides, to state the facts and his reasons to the Secretary of the Navy, and the Secretary of the Navy shall call upon that midshipman to answer in writing or otherwise, and that with the approval of the Secretary of the Navy the Superintendent may dismiss him. I believe it is essential to the proper discouragement of hazing at that academy that some such expression as is intended by this amendment shall be incorporated into this bill.

Second, I shall move to strike out the last sentence of section 2. The last sentence is this:

But no midshipman shall be dismissed for a single act of hazing, except under section 3—

Which provides for a court-martial. I do not believe that the Superintendent should be required, before dismissing a man for a single act of cruel and barbarous treatment of another, to resort to the cumbersome, expensive, and demoralizing methods of a court-martial for a boy who in his youth is being trained for the duties of life.

The other two amendments that I suggest are really to perfect those that I have already mentioned, and need not be discussed here.

Now, Mr. Speaker, in my opinion, these boys who attend the United States Naval Academy, with fair compensation while they are there, receiving their training at public expense, and who have before them the great opportunities which graduation holds out to them, should be impressed every day and in every instance with their duty to obey the regulations of that academy and the laws of their country, and I believe they should be impressed with their duty to abstain from cruel and tyrannous treatment toward every man, whether he is at the academy now or shall be under them in after life, who is of less fortunate station than they. And, Mr. Speaker, while those of us who have midshipmen there that may be involved in this hazing, and who may receive communications from the kins people and friends of the midshipmen, may wish to look with leniency upon hazing and may wish to let it prevail without serious effect upon the individuals who perpetrate it, yet, in my opinion, the great people of the country, who support that institution and who are no friends of cruel tyranny, but who believe in humanity and justice, and who believe that when the sons of other people go to that institution they should receive fair treatment, not only at the hands of the Government and of the faculty, but at the hands of other midshipmen, would, I believe, favor continuing the present law on the statute book rather than so greatly mollify the punishment now provided by law, as is proposed in the pending bill if unamended.

Having expressed my views concerning the amendments which I think ought to be added to this bill, I shall now yield the floor. [Applause.]

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent to proceed for five minutes.

The SPEAKER. It does not require unanimous consent, if the gentleman will propose an amendment.

Mr. SMITH of Iowa. The reading of the bill has not commenced. That is the reason I have asked unanimous consent. I move to strike out the last word.

The SPEAKER. The gentleman is correct. The reading has not commenced. The Clerk will read the first section.

Mr. WILLIAM W. KITCHIN. I ask unanimous consent to offer the amendments to which I have referred, and to have them considered as pending.

The SPEAKER. The Clerk will read the first section.

The Clerk read as follows:

That it shall be the duty of the Superintendent of the United States Naval Academy, whenever he shall believe the continued presence of any midshipman at the said academy to be contrary to the best interests of the service, to report in writing such fact, with a full statement of his reasons for such belief, to the Secretary of the Navy, who, if after due consideration of the said report he shall deem the superintendent's said belief reasonable and well founded, shall cause a copy of the said report to be served upon the said midshipman and require the said midshipman to show cause, in writing and within such time as the said Secretary shall deem reasonable, why he should not be dismissed from the said academy; and after due consideration of any cause so shown the said Secretary may, in his discretion, but with the written approval of the President, dismiss such midshipman from the said academy.

Mr. WILLIAM W. KITCHIN. Mr. Speaker, I offer the amendment which I send to the Clerk's desk.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Page 4, line 15, after the word "service," insert "or shall believe him to be guilty of cruel or brutal hazing."

Mr. MAHON. Mr. Speaker, I move to amend by striking out the whole section.

The SPEAKER. The Chair will say to the gentleman from Pennsylvania that the amendment now is in the second degree.

Mr. DAWSON. Would it not be better for the gentleman from North Carolina to wait and offer his amendment when the section is reached to which it applies?

Mr. WILLIAM W. KITCHIN. The section has been read.

Mr. RIXEY. Mr. Speaker, I desire to be heard on the amendment.

The SPEAKER. The gentleman from Virginia is a member of the Committee on Naval Affairs. There has been twenty minutes' debate on a side for and against the bill. Without objection, the Chair will recognize the gentleman from Virginia at this time and then will recognize the gentleman from Iowa, Mr. SMITH, after that.

Mr. VREELAND. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. VREELAND. We are now reading the bill by sections and proceeding to debate it under the five-minute rule.

The SPEAKER. Under the five-minute rule. The first section of the substitute has been read.

Mr. VREELAND. And at the conclusion of the discussion the amendment offered by the gentleman from North Carolina will be voted upon.

The SPEAKER. That is correct.

Mr. RIXEY. Mr. Speaker, I desired under the general debate to say a word or two in regard to the substitute which I offered. I did not have that opportunity. I will take this occasion to explain it briefly. As I understand the condition at the Naval Academy, it is that about 300 young men are guilty of hazing; that it is the opinion of the authorities that a very small minority ought to be dismissed and the balance of them, instead of going scot-free, ought to be punished with demerits. I believe that any law brought in here ought to recognize that condition, and ought to recognize that the same condition will probably prevail in the future, and make provision for punishing the minor cases, so that they can be dealt with by the Superintendent. But whenever it is the purpose to dismiss any cadet because he has been guilty of brutal hazing or any other conduct for which he ought not to remain at the academy, then the midshipman ought to have an opportunity to be confronted by his accusers, that he ought to have a right to see the witnesses, that he ought to have a right to have his witnesses, and that can only be done by a court-martial.

This ought to be given him because he has chosen a military career for his life work, and if it is to be cut short, if he is to be dismissed in disgrace from the academy, it is as little as this Government can do to afford to him a fair opportunity to be heard, that he may not be unjustly dismissed without a hearing. That is one object, I think, which ought to be accomplished.

The bill that I introduced provides in the first section that all cases of hazing may be proceeded against and dealt with and punished as offenses against good order and discipline, except when the midshipman is to be dismissed, when he is entitled to a court-martial. The second section provides for court-martial where he is to be dismissed.

The third provides that the officer at the academy who has been cognizant of the hazing and fails to report it shall be dismissed from the academy, and I believe that every Member of the House will think that that is right and proper. If you are going to punish the cadets by dismissal for an offense of hazing, certainly the man who, if he had not actually encouraged it, has known of it and failed to report it and rebuke it should be punished by dismissal. The fourth section provides that wherever a cadet, after a fair trial by court-martial, has been adjudged guilty of brutal act of hazing and dismissed from the academy he shall not be eligible to reappointment.

This is the whole bill I have introduced. It deals in nothing except hazing. It provides, in brief, that all hazing shall be dealt with by the authorities at the academy without a court-martial except in the case where the conduct of the midshipman merits dismissal, and in that case the midshipman is entitled to a trial by court-martial.

Now, Mr. Speaker, one word in regard to the amendment offered by the gentleman from North Carolina. The amendment, it seems to me, is entirely out of place in regard to section 1. I will support the amendment offered by the gentleman from Pennsylvania [Mr. MAHON], which is to strike out of this bill the whole of section 1. That section was not intended to refer to hazing at all, but more especially to cases now dealt with under other regulations. The amendment of the gentleman from North Carolina ought not to be adopted.

But I would support the motion made by the gentleman from Pennsylvania [Mr. MAHON] to strike out this section, and for the reasons given. It does not concern hazing or treat with it. Hazing is provided for by the second section of the bill.

The SPEAKER. The time of the gentleman from Virginia has expired.

Mr. RIXEY. Mr. Speaker, I ask unanimous consent that I may be permitted to proceed for three minutes more.

The SPEAKER. The gentleman from Virginia asks unanimous consent to proceed for three minutes. Is there objection?

There was no objection.

Mr. RIXEY. Mr. Speaker, the first section of this bill provides as follows:

That it shall be the duty of the Superintendent of the United States Naval Academy, whenever he shall believe the continued presence of any midshipman at the said academy to be contrary to the best interests of the service, to report in writing such fact, with a full statement of his reasons for such belief, to the Secretary of the Navy, who, if after due consideration of the said report he shall deem the superintendent's said belief reasonable and well founded, shall cause a copy of the said report to be served upon the said midshipman and require the said midshipman to show cause, in writing and within such time as the said Secretary shall deem reasonable, why he should not be dismissed from the said academy; and after due consideration of any cause so shown the said Secretary may, in his discretion, but with the written approval of the President, dismiss such midshipman from the said academy.

Now, this section, which has no special application to hazing, provides that in any case wherever the Superintendent of the Academy is of opinion that the continued presence of a mid-

shipman is not for the best interests of the service he shall report that fact, with his reasons, to the Secretary of the Navy, who shall forward a copy of these charges to the midshipman, who is to reply in writing. No opportunity is given to the midshipman to furnish his witnesses; no opportunity is given to him to be present before the Secretary of the Navy; no opportunity is given him to be heard except in a written communication, which he may file from Annapolis. No opportunity is given to be represented by counsel. I say that a more arbitrary mode of procedure, it seems to me, could not be invented. It is one absolutely unjust to the midshipman that he should be disposed of in this summary way, and what will be the effect of it? Why, when he is reported here to the Secretary of the Navy, the midshipman who has powerful political influence will have it brought to bear upon the Secretary of the Navy, but if there is a midshipman there without much influence he may perhaps be condemned, tried, dismissed, where the man who had committed a greater offense would be retained. It does seem to me that this power of the Secretary of the Navy is an unusual power. It is unjust. The Secretary of the Navy is to decide whether to dismiss the boy. The only man who has access to the Secretary of the Navy is the Superintendent at the academy. He can prosecute before the Secretary the case against the midshipman, but the boy can not be heard in person to present his own defense, or be confronted with the witnesses against him.

The SPEAKER. The time of the gentleman has expired.

Mr. SMITH of Iowa. Mr. Speaker, I concur that there should be amendment to the existing law with reference to hazing at both the military and the naval academies. But I am not able to reach the conclusion that the amendment, which has been prepared with great care and every effort to do the proper thing by the committee, would be a benefit; and while I can not hope that this bill will be defeated, I do wish to enter my protest against its passage and state my reasons briefly therefor. Five years ago it was my privilege to serve on the special committee of this House that investigated hazing at the West Point Military Academy. We discovered there were more than 100 separate forms of hazing used there, extending from the most brutal to the most trivial. That committee recommended to this House a law which put a distinction between the serious and the trivial and inferior offenses. It proposed to this House that class fighting and physical exercising should be punished by expulsion, and that all other forms of hazing should be suppressed at the academy under such regulations as might be prescribed.

That provision was put upon the bill making appropriations for the expenses of the Military Academy in conference, but voted down in the Senate, and there was imposed upon the country a law which made no distinction between the most heinous and the most trifling offenses. That law was against my judgment then, and it is against my judgment now. But while I thus fully concur with the Committee on Naval Affairs upon this subject, I desire to call attention to the fact that during that investigation it developed that the discipline at the academy was destroyed because the Superintendent of the academy had to transmit his recommendation to the Secretary of War, and immediately Members of Congress and Senators commenced to besiege the Secretary of War not to impose so severe a penalty as that recommended by the Superintendent of the academy.

The Secretary of War would finally write that he thought the recommendation was too severe and direct the Superintendent to recommend a lighter punishment, and the Superintendent had to do that, and all discipline at the academy was destroyed by this political intermeddling. There seemed to be but two ways in which we could avoid that difficulty. One was to make the punishment absolute; to put it beyond the control of any political official. The other was to make the action of the Superintendent of the academy absolutely final, without approval by the Secretary of War or by the President. I know of no way that this abuse can be avoided except these two.

Mr. STANLEY. Mr. Speaker, will the gentleman permit an interruption?

The SPEAKER. Does the gentleman yield?

Mr. SMITH of Iowa. Most certainly.

Mr. STANLEY. What I want is light. As a practical instructor of young men for several years, this question has presented itself to me in these discussions here: Why is it that with hundreds of institutions of learning—thousands of them, all over the country—where from five hundred to three or four thousand young men are matriculated, and where they have no authority of law except such authority as is given to the officers of the institution—purely civil authority—that you have no trouble about hazing—none to mention—and that in this little academy, with a few hundred very young boys and with absolute authority given to old Army officers to control them, it takes the whole United States and Congress combined to run that little school?

Mr. SMITH of Iowa. I will answer the gentleman that, in my judgment, if the authorities at the academy, like the authorities at colleges and universities, had the right to run these academies uninterfered with by political influence, by Congressmen, Senators, and Departments at Washington, discipline could and would be maintained there. [Applause.]

Mr. STANLEY. I agree with you.

Mr. SMITH of Iowa. And whenever you leave this thing so that first the punishment shall be discretionary and then that discretion be vested in political officials you will have no discipline at West Point and you will have no discipline at Annapolis.

The SPEAKER. The time of the gentleman has expired.

Mr. DAWSON. I ask unanimous consent that the gentleman's time be extended five minutes.

The SPEAKER. Unanimous consent is asked for an extension of time for five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. SMITH of Iowa. My objection to this bill is that in every practical respect it restores the law exactly to the condition that existed prior to the investigation at West Point five years ago. There is no material change from the then-existing law if this bill be enacted.

Mr. LACEY. Was not the law at Annapolis changed in 1903?

Mr. SMITH of Iowa. The law in 1903 was changed at Annapolis, making it identical with the law enacted in 1901 in reference to West Point, and that is the only change.

Mr. MAHON. May I ask the gentleman a question?

Mr. SMITH of Iowa. Yes.

Mr. MAHON. Was there any serious trouble at Annapolis until three cadets were court-martialed some years ago and turned out of the service and a bill was introduced in this House and persisted in session after session and finally passed authorizing the President to restore these cadets and breaking down the discipline of that school?

Mr. SMITH of Iowa. I think the action of Congress in that respect was ill advised and against the discipline of that academy. That is not all. This bill proposes to restore the political interference through the Secretary of the Navy and the President of the United States. I quite understand the ability of the present President or the present Secretary of the Navy to withstand that pressure, but I do insist that you are going to restore the very system under which hazing grew to be a great abuse at both the Military Academy and the Naval Academy, and that while we ought to amend the law passed in 1901 for the Military Academy and in 1903 for the Naval Academy making a distinction between a heinous and a trifling offense, the time has not arrived to go back to that identical system under which this evil grew to its worst height in both academies.

Mr. SLAYDEN. Will the gentleman yield for a question?

Mr. SMITH of Iowa. Certainly.

Mr. SLAYDEN. I want to ask the gentleman if in his judgment a violation of the oath to obey the laws and the regulations is not a very heinous offense?

Mr. SMITH of Iowa. It is a very heinous offense.

Mr. SLAYDEN. And is it not true any hazing involves the violation of the oath?

Mr. SMITH of Iowa. I think it does. It has not been so interpreted at the academies. I want to say further that any law that does not say that absolute and specific punishment to be meted out shall be binding upon political officials should leave the discipline in the hands of the Superintendent of the academy, and if it does not will be destructive of every effort for the suppression of hazing at these two great national institutions.

Mr. STANLEY. Will the gentleman yield to another question?

Mr. SMITH of Iowa. Certainly.

Mr. STANLEY. I want to ask the gentleman if he knows of any tribunal in the world that is more absolutely incompetent to judge this question correctly than the Federal Congress? We have had no experience in the teaching of schools, and if these men at the academies are competent, it strikes me they ought to have the right to judge, and if they are not competent then we should get men who are. We ourselves here do not know anything about it.

Mr. SMITH of Iowa. I have but one further suggestion to make, Mr. Speaker, and that is I think our whole mistake lies in assuming that hazing should be treated as a criminal offense in place of treating it as a breach of school discipline. These academies are schools. That rule of the common law that the master of a school is in loco parentis should be regarded here. The discipline of the academy should be within the con-

trol of the academy and not within the control of any political cabinet officer in the city of Washington, and when you say that you will not let these superintendents control these academies you are doing the same thing to the discipline of these academies that you would do in your public schools if you should say we will entertain appeals from the teacher to the principal and from the principal to the superintendent and from the superintendent to a political school board, and everywhere you do that your discipline breaks down.

The SPEAKER. The time of the gentleman has expired.

Mr. SMITH of Iowa. Just a moment more, if you please. General Sheridan said, in speaking on this subject, that while at West Point in the Military Academy he was subjected to the usual course of hazing there, and "while I do not know that it has inflicted upon me any permanent injury, it is a brutal custom which it is to be hoped advancing civilization will eradicate." I only ask that while amending the existing law you do not restore the condition that prevailed in 1901 at West Point and Annapolis, but pass such a law as will suppress this brutal practice. [Loud applause.]

The SPEAKER. The gentleman from Iowa, who is for the bill and is a member of the committee—of the subcommittee—is recognized.

Mr. DAWSON. Mr. Speaker, the House has listened with a great deal of interest to my distinguished colleague from Iowa [Mr. SMITH], and what he says is entitled to great consideration here not only because of his service on the hazing committee at West Point five years ago, but perhaps for another reason, because he is a member of the great Committee on Appropriations, which has had considerable experience in the matter of hazing in this House for the last two days. [Laughter.] I think the gentleman, my distinguished colleague from Iowa, has not done our committee the honor to digest the bill which is before the House at the present time. If he will direct his attention to the second section of the bill, he will find that "Hazing may hereafter be proceeded against, dealt with, and punished as offenses against good order and discipline, and for violation and breaches of the rules of the academy." That section places it distinctly and absolutely in the hands of the Superintendent to deal with hazing up to a certain point. How would he exercise the power conveyed by that section—by applying demerits? He can apply for a mild case of hazing 10 demerits, or 20 demerits, or 50 demerits, or 100 demerits. Under the regulation a certain number of demerits subjects the boy to the liability of dismissal. With the demerit system in his hands, there is no reason on earth why he can not deal with the question of hazing on the demerit system, and when a midshipman has exceeded the number of demerits to which he is entitled under the regulations he is liable to go out of the academy on acount of deficiency in conduct.

But this bill provides that for a single instance of hazing a court-martial shall be invoked. Why is that so? That should be taken into consideration along with that which follows in section 3 of the bill. If one single instance of hazing is brutal enough and cruel enough to warrant dismissal, may it not also be brutal enough and cruel enough to warrant additional punishment beyond dismissal? In my judgment, Mr. Speaker, the midshipman who hazed Midshipman Kimbrough almost to death was not sufficiently punished by being dismissed from the academy. Take the single instance of hazing to which my friend from North Carolina [Mr. WILLIAM W. KITCHEN] objects. Let the midshipman be summoned before a court-martial, and if that is an instance which merits dismissal, or if it is an instance which merits more than dismissal, this bill carries with it the right of a court-martial not only to dismiss, but to inflict such additional and further punishment as, in its judgment, will fit the case.

My colleague from Iowa [Mr. SMITH] objects to any discretion being lodged with the Secretary of the Navy in these matters. This committee, after considering this subject for many weeks, has brought in this bill. It has gone as far as it thought it could go in leaving the discipline of the academy in the hands of the Superintendent; and all of us must recognize that the Superintendent of the academy is an inferior officer in rank to the Secretary of the Navy; that whatever he may do under existing law the Secretary of the Navy has the right to review. Then I say why not place the responsibility along with the power? Whether that power rests with the Superintendent, whether it rests with the Secretary of the Navy, or whether it rests with the President of the United States, the responsibility in the last instance falls upon the Secretary of the Navy, because he can supervise the action of the Superintendent, and, on the other hand, if the matter goes to the President, it is customary for him to take the advice of the Secretary of the Navy.

So it seems to me, Mr. Speaker, that in the preparation of this bill we have placed the responsibility along with the power.

Now, one word about the amendments proposed by the gentleman from North Carolina [Mr. WILLIAM W. KITCHIN] and the gentleman from Virginia [Mr. RIXEY]. It is only fair to this House to say that these amendments were offered in the committee, carefully considered not only by the subcommittee, but by the full Committee on Naval Affairs, and in the wisdom of that committee the bill was reported in its present form. [Loud applause.]

The urgent need for corrective legislation on the subject of hazing is clearly set forth in a letter written by President Roosevelt to the chairman of the Committee on Naval Affairs of the House. He outlines the present situation, and calls attention to the dangers of a continuance of the laws on this subject as they now stand. His letter states the case so succinctly as to leave no doubt as to the need of legislation, and this bill, which the committee presents to the House after weeks of patient examination and study, will, we believe, fully meet the situation.

The President's letter is as follows:

WHITE HOUSE, *Washington, February 1, 1906.*

SIR: I have directed that a pardon be issued to John Paul Miller, a midshipman at the United States Naval Academy, recently convicted of "hazing" and sentenced to dismissal from the academy. In the discussion of this case my attention has been called forcibly to the unsatisfactory condition of the law on this subject. A midshipman accused of hazing, whether the extent of his offense be great or small, must be tried by court-martial. The findings of such a court, if approved by the Superintendent of the academy, are declared final and can not be reviewed by the Secretary of the Navy or even by me, and neither the court itself nor the Superintendent nor the Secretary of the Navy has any discretion as to the punishment to be imposed. It is declared that in all cases of conviction the offender shall be dismissed and be ineligible for appointment as a commisioned officer of the Army, Navy, or Marine Corps during a specified time. These provisions of law seem to me neither just nor judicious, and I am seriously concerned at the injury which I fear may be done to the discipline of the academy and even to the future efficiency of the Navy if they are permitted to remain in force without amendment. I heartily disapprove of the practice of hazing, and, in common with all those interested in the welfare of the academy, wish to see this practice thoroughly eradicated there. But the punishment of dismissal is altogether disproportionate to the culpability involved in some forms of hazing. In many cases these amount to nothing more than exhibitions of boyish mischief, attended with no consequence of any moment to those hazed, and indicating on the part of the hazers only some exuberance of animal spirits. Unquestionably they ought to be punished, for under any circumstances hazing constitutes a breach of the rules, and the future officers of our Navy must be taught, first of all and as a foundation for all other merits, strict and unquestioning obedience. But to punish these faults of youth by depriving the young man concerned of his career in life is to commit a glaring injustice. Moreover, it frequently defeats the object of the law itself by causing the offender's fault to be forgotten in the sympathy felt for his misfortune, so that it becomes hard to get a conviction, and when one is obtained the pressure is very great on Congress to pass a law restoring the offender. In addition, this disproportionate punishment of what may be a trivial offense may result in depriving the Government of a promising officer on whose education it has already expended several thousands of dollars. I do not mean that dismissal is too severe a penalty for any form of hazing; on the contrary, when hazing is a mere pretext for brutality and involves cruel and ignominious treatment of the less experienced and therefore more helpless midshipman, I should be glad to see it punished even more severely. But it seems clear to me that to impose dismissal as the one invariable penalty for the offense, without any regard to the attendant circumstances, is altogether indefensible. In the case of Midshipman Miller, the Navy Department, in recommending his pardon, expressed the opinion that he ought to be punished, but that to punish him with dismissal would be a greater injustice, under the circumstances of his case, than to let him go unpunished altogether. I share this opinion, and it has dictated my course in this instance.

I think, further, that it is an error to try midshipmen accused of hazing by court-martial. There should be a discretionary power lodged in some administrative officer or body to deal summarily with such offenses. In none of our colleges or universities is it considered necessary that a student, whose conduct is unsatisfactory and who is believed to be an injury to other students, should be found guilty beyond a reasonable doubt by judicial tribunal of an offense stated and established with technical accuracy before he can be separated from the institution. Such a requirement would be disastrous to the good order and discipline of a college or university, and there is even greater likelihood of its producing these unfortunate results at our academy. Whether this discretionary authority should be intrusted to the Secretary of the Navy or to the Superintendent, subject to the Secretary's approval, or to the academic council, with the like proviso, is of altogether subordinate importance. What seems to me of real moment and no less real urgency is that it should be lodged somewhere, and that the present cumbrous, uncertain, and otherwise highly objectionable method of enforcing the law against this particular offense should be done away with. I see no objection, however, to the Department's being allowed, in its discretion, to try midshipmen at the academy by court-martial for hazing or other offenses, if by reason of peculiar circumstances the Secretary of the Navy should think this course proper to attain the ends of justice.

I have written to you thus fully and frankly because I learn that there is under consideration by your committee a bill, or perhaps several bills, intended to remedy the present very unsatisfactory condition of the law. I express no opinion as to any matters of detail connected with this suggested legislation, but I would see with much regret the present session of Congress end without some remedy being found for a situation full of embarrassment for the Navy Department and of danger for the best interests of the Navy.

Very truly, yours, THEODORE ROOSEVELT.

The SPEAKER. Debate is exhausted upon this amendment. A formal amendment can be offered. A motion to strike out the last word is in order.

Mr. UNDERWOOD. Mr. Speaker, a parliamentary inquiry.

When will it be in order to offer an additional section to the present one, to come in as section 1½?

The SPEAKER. There is an amendment pending to this section.

Mr. UNDERWOOD. Will it be in order before the amendments to this section are disposed of?

The SPEAKER. It will not. When the section is finished an additional section might be offered.

Mr. GREGG. Mr. Speaker, the matter before the House is the amendment offered by the gentleman from North Carolina [Mr. WILLIAM W. KITCHIN] to the first section of the bill. Now, the gentleman from Virginia [Mr. RIXEY], who is a member of the Committee on Naval Affairs, objects to this bill because it is too severe. The gentleman from North Carolina [Mr. WILLIAM W. KITCHIN], who is also a member of the Committee on Naval Affairs, objects to the bill because it is not severe enough; and notwithstanding the position of the gentleman from North Carolina, that the bill is not drastic enough, the effect of the very first amendment which he offers will be to make it less drastic. He objects to the law because it modifies too much the existing law, and he then offers an amendment the effect of which will be to further modify existing law.

I think I can demonstrate that. Under the first section the only penalty that can be inflicted is dismissal, and even the ineligibility to reappointment is not attached to that. Now the first section provides that whenever the Superintendent of the Naval Academy shall believe the continued presence of any midshipman at said academy to be contrary to the best interests of the service, he shall be dismissed.

Now the gentleman wants to add, after the word "service," the following:

Or shall believe him guilty of cruel or brutal hazing.

Under that amendment he may be dismissed for the most cruel and brutal hazing and be reappointed by the Congressman who appointed him the next day after his dismissal. This bill provides that when guilty of brutal and cruel hazing the midshipman shall be dismissed, and shall be ineligible for reappointment, and may, by the sentence of the court-martial, be imprisoned for not more than one year.

Mr. WILLIAM W. KITCHIN. May I interrupt the gentleman from Texas?

Mr. GREGG. Yes.

Mr. WILLIAM W. KITCHIN. The gentleman from Texas has evidently overlooked my further amendment—No. 3—in which I say that in addition to the provisions of section 1, everything that is provided by section 3 shall apply in the case of cruel and brutal hazing. That is an additional remedy.

Mr. GREGG. Which amendment is that?

Mr. WILLIAM W. KITCHIN. You have overlooked my amendment No. 3, in which, under the bill as I propose to amend it, every clause amended, every clause of section 3 will apply in the case of cruel and brutal hazing, although he may be dismissed for it under my proposition.

Mr. GREGG. I will get to that in a moment. Now, in line 8, on page 6, this bill provides that in cases of brutal and cruel hazing, in addition to dismissal, such midshipmen shall be sentenced to imprisonment for a period not exceeding one year. Now, as the bill in other sections provides the machinery and the punishment to be inflicted under the machinery for cruel and brutal hazing, why put this amendment in section 1 that has no special reference to hazing?

Mr. WILLIAM W. KITCHIN. Will the gentleman permit another interruption?

Mr. GREGG. Yes.

Mr. WILLIAM W. KITCHIN. Under your section as it now stands that court-martial might punish cruel and brutal hazing with demerits. Your bill does not require a dismissal. My amendment would require dismissal for cruel and brutal hazing, and in addition to that, if the Superintendent, in his discretion, thought it wise to have a court-martial for the further punishment, he could do so.

[The time of Mr. GREGG having expired, by unanimous consent it was extended five minutes.]

Mr. GREGG. The trouble with the gentleman's amendment is that it is to section 1, which has no special reference to dismissal for hazing.

Now, I will explain why that section was made necessary at all in this bill. It is because there exists a question to-day whether the Secretary of the Navy has the right to expel a midshipman for any cause without a court-martial. That question is before the courts. A midshipman was discharged from the academy. He employed counsel, and his counsel takes the position in his case in court that the Secretary can not discharge for any cause without a court-martial.

Now, while we believed that the Government's contention will be upheld in that case, still we thought it wise and best to put it beyond all cavil and all possibility of doubt. Therefore we provided clearly that he should have the authority, so that there will be hereafter no question about it. That is all that section undertakes to deal with. It does not deal especially with hazing, it only meets the outside conditions, which apply to all questions of discipline at the academy. As that section deals with that phase of the case and not with the question of hazing, it occurs to me that it is unnecessary to encumber it with any provision like this amendment which is offered.

The SPEAKER. The question is on agreeing to the amendment.

Mr. HEPBURN. Mr. Speaker——

The SPEAKER. The gentleman from Iowa is recognized in opposition to the amendment.

Mr. HEPBURN. Mr. Speaker, it seems to me that certain gentlemen do not properly consider the gravity of the subject under consideration. I have heard gentlemen in conversation say, in discussing this matter, that "boys would be boys;" that you could not "make old men out of boys." I have heard others express the opinion that the same rules, the same procedure, the same consideration for boys' pranks that are authorized and permitted in the colleges ought to obtain in this national institution. I regard the instruction and the lesson in the way of self-control, obedience, discipline, preparation for the control and discipline of the men who may be under them at a later time as the most important feature of all the educational features connected with this institution.

Let me call your attention to the statute:

The commanders of all fleets, squadrons, naval stations, and vessels belonging to the Navy are required to show in themselves a good example of virtue, honor, patriotism, and subordination; to be vigilant in inspecting the conduct of all persons who are under their command; to aid in the suppression of dissolute and immoral practices, and to correct, according to the laws and regulations of the Navy, all persons who are guilty of them; and any commander who offends against this article shall be punished as a court-martial may direct.

The officers of the Navy are charged with the discipline of the Navy, and everyone who has given any thought to the subject knows that the efficiency of our Navy is not to be found alone in the caliber of our guns or in the impregnable character of their armor, but it is in the men who man these ships, who have control over these guns. It is the discipline that is maintained in the Navy that makes it efficient, or the lack of discipline that makes it a thing to be sneered at.

Now, we send these young men to the academy, not simply for the purpose of learning how to handle a ship, how to direct the guns, to familiarize themselves with the use of projectiles, but we send them there for another and more important purpose, namely, that of being so educated, so formed mentally and morally, that they can exercise the proper influence over those who in later periods of life they will command, recognizing that their efficiency is in this latter direction rather than in any other. How can you expect men to be fitted to discipline others, to secure proper subordination, to secure proper obedience to commands, when they themselves during their whole academic life are in rebellion against the laws of the country. [Applause.] Instead of its being a proper school it is the worst possible one for them.

Mr. Speaker, I see that the hammer is about to descend, and I ask for five minutes more.

The SPEAKER. The gentleman from Iowa asks that his time be extended five minutes. Is there objection?

There was no objection.

Mr. HEPBURN. Now, Mr. Speaker, for thirty-two years this Congress has been striving to secure obedience upon the part of those young gentlemen at the Naval Academy with reference to the matter of hazing. Thirty-two years ago a law was enacted with regard to this offense, and let me here say that the punishment was just what certain gentlemen now are demanding. Expulsion was not compulsory upon conviction, because the courts-martial have a right to fix another punishment or to make another recommendation than that of dismissal.

Mr. LACEY. Under what statute was that?

Mr. HEPBURN. Under the act of 1874.

Mr. LACEY. My friend is mistaken about that.

Mr. HEPBURN. I have read it. I have it before me.

Mr. LACEY. The act of 1874 provided that a man dismissed should never be restored.

Mr. HEPBURN. I said nothing about that.

Mr. LACEY. The trouble is that my friend was not reading the correct statute. He was not reading the statute against hazing. There is a separate statute against hazing which provides a punishment of dismissal and no other, and in that case perpetual ineligibility to restoration to Annapolis.

Mr. HEPBURN. That is the act of 1903.

Mr. LACEY. Oh, no; the act of 1903 limits the disability to two years. My friend has got hold of the wrong statute. His argument is admirable in everything if it were based on the right statute. But it has no application.

Mr. HEPBURN. I read:

That in all cases when it shall come to the knowledge of the Superintendent of the Naval Academy, at Annapolis, that any cadet midshipman or cadet engineer has been guilty of the offense commonly known as "hazing," it shall be the duty of said Superintendent to order a court-martial, composed of not less than three commissioned officers, who shall minutely examine into all the facts and circumstances of the case and make a finding thereon; and any cadet midshipman or cadet engineer found guilty of said offense by said court shall, upon recommendation of said court, be dismissed.

That is the statute of 1874.

Mr. LACEY. But my friend has not read all of it.

Mr. HEPBURN. Mr. Speaker, I am not content to take my friend as an authority upon this subject. I followed him once, and I believe that the lamentable condition—the condition of mutiny—that now exists in that academy is largely due to the mistaken clemency that the persistent efforts of my colleague induced this House to indulge in. [Applause.]

Mr. Speaker, we tried again in 1903——

Mr. LITTLEFIELD rose.

The SPEAKER. Does the gentleman yield?

Mr. HEPBURN. Yes; but I have only a moment or two.

Mr. LITTLEFIELD. Then, Mr. Speaker, I would ask that the gentleman's time be extended for five minutes longer, because the gentleman is making a very interesting and able speech.

The SPEAKER. The gentleman from Iowa has two minutes remaining, and the gentleman from Maine asks unanimous consent that his time be extended five minutes. Is there objection?

There was no objection.

Mr. LITTLEFIELD. Mr. Speaker, I have not had time to examine the subject very much, but I have an idea that the difficulty, or one of the difficulties, involved is the indefiniteness of the offenses covered by the term "hazing," and I would like to have the gentleman from Iowa give, if he can, what has been held upon that subject.

Mr. HEPBURN. Mr. Speaker, I am not able to give anything more than the statute. The definition that is found in the bill that we are now considering would certainly meet my approval as a proper definition of this offense.

Mr. Speaker, we tried again in 1903 and passed another statute, a portion of which I shall read:

And provided further, That the Superintendent of the Naval Academy shall make such rules, to be approved by the Secretary of the Navy, as will effectually prevent the practice of hazing; and any cadet found guilty of participating in or encouraging or countenancing such practice shall be summarily expelled from the academy and shall not thereafter be reappointed to the corps of cadets or be eligible for appointment as a commissioned officer in the Army or Navy or Marine Corps until two years after the graduation of the class of which he was a member.

What is the result of that? Why, we are told that these same young men have contemptuously, in the face of that statute, without the slightest regard to it, indulged in the practice far more, so far as I am advised, than ever before, and the chairman of the subcommittee tells us that there are more than 200 of these men who are guilty of this offense.

Mr. WEEKS rose.

Mr. HEPBURN. Oh, I would rather not be interrupted, if the gentleman will allow me to proceed. Let me further suggest, Mr. Speaker, that these are not boys; they are men. These offenses are committed by the highest class men; they are not committed by the younger class; they are persons whose ages are from twenty to twenty-two and three and four. They are men who have had three years of tutelage there. They are men who have had every opportunity to know something about the real spirit that ought to animate them. They ought to know something by this time of the higher duties that are imposed upon them—the duty of maintaining discipline. That is the chief object, the most important thing that comes within the limits of their duties and authority, so that I have none of this mawkish sympathy that is indulged in by certain gentlemen here for the "boys" and for the "pranks of boys." It is not a mere prank of a boy to indulge in hazing. It is a violation of the law of the land, a law that he is familiar with, for if there is any statute of this nation that is known to all these young men it is this statute reprobating that conduct, and so it is not to be considered as a mere prank, a matter of wanton playfulness. It is a considered, deliberate defiance of authority. It is a refusal to be obedient. It is a refusal to recognize discipline. It is a refusal to fit themselves for the discharge of the higher duties that are to be incumbent upon them. Gentlemen say that it is a hardship to dismiss these men. Is it not better to dismiss them now than to allow them by their laxity and by their unfitness to corrupt the men who may be under their command later on, and to make inefficient a ship? What is it that made inefficient the navy of the Russians in their late war? Every newspaper told us it was because of the want of discipline upon those vessels, the refusal to obey lawful authority, that the men in charge were incapable of this higher duty that was imposed upon them. Therefore I think that instead of its being a calamity to dismiss all of these men it will be a future blessing to the service and of incalculable benefit to the country at large if it does serve the purpose of impressing upon those who remain the primary duty for which the Government is expending thousands of dollars that are necessary to convert mere boys into proper naval commanders, charged with the grave responsibility of the honor and supremacy of their country. Mr. Speaker, there is need of discipline in the Navy. I read a list some five years ago to this House of twenty-six vessels that had been cast away or substantially ruined since the close of the rebellion. In twenty-five years twenty-six vessels had been destroyed!

Look at the list of casualties to our vessels now. A squadron going out of the harbor of New York, with which the naval officers ought to be familiar; what a calamitous result that effort to take them out of New York Harbor was! Two of them in collision and two of them landed in the mud. You scarcely ever see—I will not say that—but almost every month you read of some mark of inefficiency upon the part of those who are charged with the conduct and management of the Navy. Why is it—why should it be so? We pay enough to create our Navy; we pay enough to give scholastic information to these cadets of ours. I take it it is because of something else, something of the higher grade of qualification in the naval officers that is lacking. We do not punish naval officers. Of the twenty-six instances that I have referred to, the severest punishment inflicted upon any officer was the decision of a court-martial that he should be put upon shore pay for three years, and that was cut down by the clemency of the Executive to two years. That was the severest penalty. There is no punishment inflicted upon naval officers except in most extraordinary cases by a system of courts-martial selected from among the friends and associates and old classmates of the man who is to be tried. It is a mockery, a mockery, and it results in, I believe, this condition of inefficiency. [Applause.]

Mr. PADGETT. Mr. Speaker, I will ask that I may have ten minutes.

The SPEAKER. The gentleman from Tennessee asks unanimous consent that he may have ten minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. PADGETT. Mr. Speaker, I desire at the outset to confess that I have not entirely forgotten when I was a boy. I fear that some, judging by what they say, have forgotten the exuberance and the spirit of their boyhood. I spent nearly two weeks with the committee at our Naval Academy investigating, as we thought, very thoroughly the conditions there, and I stand here at the very outset of what I have to say to speak a kind word for those boys at Annapolis. I say that you can not find 900 superior boys in the United States. [Applause.] There may be here and there something done which should not have been done, but when one stands here upon this floor and elsewhere and pronounces a sweeping denunciation upon the cadets at the academy I rise in my seat and speak a word of commendation of their honor and their integrity. [Applause.] We are not here dealing with villains and outcasts. We are dealing with young men who have been selected by representatives of the American people in their official capacity because of their worth and their merit and their standing and their representative character in their local districts and have congregated them at that academy for a high and a noble and honorable career. I say to you that if you take it as a class they give assurance of success——

Mr. SHACKLEFORD. May I ask the gentleman a question?

Mr. PADGETT. Yes, sir.

Mr. SHACKLEFORD. Did you find a spirit among these boys and a desire to hold in contempt and set at naught the laws enacted by Congress to prevent hazing?

Mr. PADGETT. No, sir; we did not. There were a few instances where the boys did what they ought not to have done, but the great bulk of these cases of hazing were immaterial things, which I dare say are taking place in the schools all over this country to-day and are unnoticed. They took place in the school that I attended, and I dare say in nine-tenths of the schools which nine-tenths of the Members of this body attended.

Mr. GAINES of Tennessee. Will my colleague yield for a moment?

Mr. PADGETT. Yes, sir.

Mr. GAINES of Tennessee. I see, on page 11 of the report of the hazing committee, and you are one of the members——

Mr. PADGETT. Yes, sir.

Mr. GAINES of Tennessee. This language (page 11 of your committee report), and I ask you to explain what is meant by it and what you think of the situation.

Your committee is of opinion, however, that action by this class was discouraged by four or five members of the class who are strong in influence, if not in scholarship. Several of these young men appeared before the committee and defended hazing, declaring, of course, in favor of moderate hazing only. Their attention was called to the fact that every outbreak of hazing, both at Annapolis and West Point, has ended in the death or serious injury of one or more men; that they were attending a Government school to graduate into Government service, and that therefore the ideas of the Government should prevail; that Congress and the country were strongly against hazing. These facts did not seem to shake their faith. This class should receive close attention from the disciplinary authorities during their stay in the school, and any attempts at hazing should be put down with the strong hand.

Now, in that connection, I read this on page 8:

The regulations of the academy require that all officers attached to the academy having knowledge of violation of regulations or of improper conduct by midshipmen shall report the facts to the commandant of midshipmen. Our impression is that the officers and instructors construe this rule to mean cases of breach of discipline occurring in their presence. They should be required to report knowledge or information coming to them tending to show that violations of order have taken place.

Now, how many boys defended hazing, and what is your idea about this law suppressing and controlling these boys who stood there before your committee and defended hazing?

Mr. PADGETT. I will be very glad to answer the gentleman. I can not give the exact number of them, but there were two or three boys——

Mr. BEALL of Texas. Let me ask the gentleman a question in that connection, and then he can answer both together. Is it not a fact one class at the academy wholly failed or refused to make your committee any pledge they would hereafter abstain from hazing?

Mr. GAINES of Tennessee. That is in this report.

Mr. BEALL of Texas. Is it?

Mr. PADGETT. Only one class passed that resolution. There were two boys, I believe, maybe three, who said that this practice of hazing had been the custom and tradition of the school from time out of mind. But they themselves said they did not justify anything that was cruel or that was brutal, but the question of having their sport and their fun, one boy with another, and customs of that kind have been indulged in. Yet they were not defending; but they themselves disclaimed and disavowed cruelty and brutality.

Mr. BOWERS. Just on that point, I want to ask the distinguished gentleman a question. Who are to decide what was brutal and what was not brutal, what was mild or severe, what was proper or improper?

Mr. PADGETT. The authorities.

Mr. BOWERS. In the view of these young gentlemen about what was mild and proper and not severe, who was to determine what was proper and what was wrong?

Mr. PADGETT. Why, of course the boy would have to determine, just as every citizen has to determine the right or wrong of his conduct, the propriety or impropriety of his actions.

Mr. BOWERS. Does the gentleman think that these young men who persisted in that course are good judges of what was mild and not brutal?

Mr. PADGETT. That is not the question. The case that I was presenting to this House was the wholesale denunciation of the cadets at Annapolis because of this practice.

Mr. BOWERS. Will the gentleman permit me to ask him one more question?

Mr. PADGETT. Certainly.

Mr. BOWERS. Does he complain against the existing law dealing with this, on the ground that this law is inefficacious?

Mr. PADGETT. I complain because of its inefficiency for some reasons that I will now proceed to give.

Mr. BOWERS. Does the gentleman deny the proposition that it is because of its resulting in the punishment and dismissal of young men, that it is because of that very fact, that the demand for this legislation arises, and not because of the inefficiency of the law?

Mr. PADGETT. I will answer that by asking the gentleman a question for illustration.

Mr. BOWERS. I will be very glad to answer.

Mr. PADGETT. Does the gentleman believe that every case of homicide should be punished by hanging?

Mr. BOWERS. I am not sure that I do.

Mr. PADGETT. You know you do not.

Mr. BOWERS. But I believe every criminal homicide ought to be punished by the law of the land as it existed at the time, subject to the pardoning power of the executive, just as I believe that every offense of hazing ought to be punished by dismissal as the law now stands, leaving it to the Executive to deal out clemency, in any case where that clemency is warranted and ought to be exercised.

Mr. PADGETT. I do not believe that every case of hazing ought to be punished by dismissal; and that I want to show. For instance, under the law as defined by the Attorney-General and as now executed by the authorities, if a first-class man at the academy says to a fourth-class man, "Bring an apple to my room," and he brings it, that is hazing, and subjects him to a trial by court-martial and dismissal from the academy in disgrace.

Mr. BOWERS. What is to prevent the first-class man from abstaining from directing the fourth-class man to bring an apple to his room, and thereby escape dismissal?

Mr. PADGETT. Now I will say in answer to that question——

Mr. RUCKER. Is it not a fact that many times the man who is thus compelled to do the thing which is humiliating is equal to the man who compels him to do it?

Mr. PADGETT. I do not know that there is anything very humiliating about that. I am not defending hazing; I am saying that there should be a graduated punishment, and that that punishment should be according to the character and the degree of the offense. There is a great deal of hazing. This bill provides for it. It provides for a court-martial, provides for dismissal, and even for imprisonment after dismissal. But there are cases that are mild, that are simply exuberance, and though they may be improper, do not deserve any such punishment as dismissal, and this bill authorizes them to be dealt with by the authorities as matters of discipline and to give demerits and certain other lesser punishments, graduated according to the character and the degree of the offending.

Gentlemen, we might as well stand before the country and say that every thief shall be imprisoned for life; we might as well declare that every homicide shall be punished by hanging, as to say that every case of hazing shall be punished by dismissal. It is not the severity of punishment, but it is the certainty, the celerity, and the reasonableness of punishment that makes it efficacious in serving its purpose. Let us adopt this principle in the legislation that is before us.

[The time of Mr. PADGETT having expired, by unanimous consent it was extended five minutes.]

Mr. SIMS. I would like to ask my colleague a question.

Mr. PADGETT. If the gentleman will be expeditious.

Mr. SIMS. My colleague has stated in substance that hazing exists throughout the country in the colleges and universities. I am correct in my understanding of his statement, am I not?

Mr. PADGETT. I said it did exist very generally when I was in school. I do not know whether it does now or not.

Mr. SIMS. Does the gentleman know of any hazing anywhere in schools or colleges that resulted in the death of the individuals hazed?

Mr. PADGETT. I could not give you any cases now. I have heard of instances of severity. I talked with a very distinguished Member of this House, who was relating his experiences to me, and he told one that was worse than anything that has developed at Annapolis.

Mr. SIMS. He is not dead, is he?

Mr. PADGETT. No; he is not.

Mr. SIMS. He might have been, though, if he had been at the academy.

Mr. PADGETT. Well, I do not know.

Mr. RUCKER. Will the gentleman yield for a question?

Mr. PADGETT. I will yield to this one, but I will not yield to questions by any other gentleman.

Mr. RUCKER. There are 900 students there?

Mr. PADGETT. Yes.

Mr. RUCKER. And 300 of them have violated the law?

Mr. PADGETT. To a greater or a less extent.

Mr. RUCKER. Do you not think that justifies the most severe condemnation?

Mr. PADGETT. I do not believe that any good is to be accomplished by expelling 300 boys, when perhaps only ten or fifteen of them have been guilty of offenses that would justify such punishment in the eyes of any man who had justice in his heart or in his mind.

Mr. RUCKER. I agree with the gentleman, but those ten or fifteen ought to be expelled forever and beyond any possibility of reinstatement.

Mr. PADGETT. Certainly, and the bill that is now before this House specifically provides for it. Now, what is the con-

dition, and what is the legislation that is offered? We have a law providing for a court-martial, and that court-martial must either convict or acquit. If it convicts, the only punishment is dismissal, regardless of the seriousness of the offense—however serious or trivial it may be. No man can justify that. Now, what do we provide? We provide in this bill that hazing may be dealt with by the authorities as a matter of discipline and may be punished according to its merits. But it provides that for a single case of hazing he shall not be dismissed except upon a trial by court-martial. That was a saving clause that was put in the bill to meet a difference of views. Some insisted upon extreme measures. Others thought that the bill was too extreme, and in order to be conservative and moderate we provided these two remedies; but we provided further than existing law that in cases of cruel and brutal hazing the offender may not only be dismissed, but may be imprisoned not exceeding twelve months. So the punishment for the offense is graduated according to the degree of the offending. In other words, we have tried to make the punishment fit the crime.

Now, there is another phase of it. If this bill becomes a law, it will provide that the young men who are guilty of past offenses may waive the right of court-martial and submit to the authorities and receive punishment under the disciplinary procedure of the school; not to be dismissed, but to receive punishment for past offenses, according to the seriousness of the offense. Can any man object to that? I say in answer to the question that was asked, that it is far better to have an offender punished under a just law and receive a proper punishment than to impose an unjust punishment under the forms of law, perhaps to be followed by an Executive pardon, thereby bringing the law into disrepute before the country. [Applause.]

Mr. JAMES. Will the gentleman yield for a question?

The SPEAKER. The time of the gentleman has expired.

Mr. LACEY. Mr. Speaker, I renew the pro forma amendment. A great deal of talk has been indulged in here about the act of Congress in the Fifty-eighth Congress relieving three boys from the punishment for hazing. I shall not go into the details of these cases at the present time, but during the debate upon that bill I took occasion to say that the law ought to be remodeled along the lines of this bill. I have not changed my views upon that subject, but they have been accentuated and strengthened by subsequent observations in regard to this question.

Now, there is a very simple proposition before the House, and that is to make the punishment fit the crime. Now, let me illustrate. A boy is hazed with tobasco sauce and dies. The perpetrator of that offense can be punished by dismissal and forever debarred from reentering the Naval Academy, and he ought to be. Under the act of 1874, which was the only act applying to the Naval Academy prior to the act of 1903, the only punishment for hazing was dismissal, and my colleague, the gentleman from Iowa [Mr. HEPBURN], neglected to read the whole of the act, that dismissal not only is final, but that there can be no restoration at any time to the academy—that is, no reappointment.

Let me give an illustration. When General Sheridan's boy went to West Point he was a good boy and came from good fighting stock. He was naturally proud of his ancestry. That boy came there as the son of the General of the Army. The boys from all the districts in the United States took that boy, put him on a clotheshorse, made him read "Sheridan's Ride," by Buchanan Read, and before he got through he was sorry that his father had ever taken that historic ride down the valley of Virginia. [Laughter.]

That was simply a boyish prank. He laughed about it after it was all over, and so they all did. Yet it was hazing, and every one of these boys, under the strict letter of the law, could have been court-martialed, and under the act of 1874, had it been in the Navy, dismissed and forever ineligible to go back into the service.

The committee report shows that one of the favorite methods is to make a boy sit down on the edge of a chair, occupying about 2 inches of the chair, and leaving the balance between him and the back of the seat open. That is at the table; it is said to teach him table manners. Yet that is hazing, and every time a boy does that he must be tried by court-martial, dismissed, and rendered forever ineligible to reappointment to the Naval Academy or to the Navy or Marine Corps. That has been modified by the act of 1903 making the ineligibility for only two years.

My colleague [Mr. HEPBURN] calls attention to the fact that there have been twenty-six shipwrecks caused by carelessness and inefficiency since the civil war, and the most that could be done to the naval officers who were responsible was to put them on shore half pay three years, which was afterwards reduced to two years. And yet my colleague says that he is in favor of punishing the boy that makes another boy sit on 2 inches of chair—proposes to punish him worse than he could the captain of a ship who has carelessly lost his ship at sea. The utter absurdity of such a law ought to appear to this Congress, and they ought to modify it and put some good sense into it. It is like the Draconian law. Draco enacted a law and provided that death should be the penalty for all offenses. The smallest offense he said deserved death, and there could not be anything worse for murder, and so he made a uniform scale. This Congress in 1874 passed a law with a uniform punishment. At Annapolis the dismissal and perpetual disbarment of a cadet for the offense of hazing was not different for requiring a boy to go near the wall in passing through the corridors, or to sit on 2 inches of chair at table, or any other trivial boyish prank that you gentlemen of this House would be glad to have the young life in you now to commit. [Laughter.]

[Here the hammer fell.]

Mr. LACEY. Mr. Speaker, I ask unanimous consent for five minutes more.

The SPEAKER. The gentleman from Iowa asks unanimous consent that his time be extended five minutes.

Mr. LACEY. What Member of this House is there that would not be glad to-day to have that condition of circulation of young blood which would enable him to do such things? [Laughter.]

Mr. WILLIAM W. KITCHIN. Mr. Speaker, I wish to give notice that the time is rapidly passing and we have only read one section of the bill, and I shall, after this five minutes, ask to close debate.

Mr. GAINES of Tennessee. I hope the gentleman will not do that. I want to say something.

Mr. WILLIAM W. KITCHIN. Then I will withhold it for ten minutes.

Mr. LACEY. Now, I say, what would not the Members of this House, those who have reached the Osler period of 60 years, give to feel like those boys did down at Annapolis who invited some of the other members of the class to sit 2 inches only on the chair when they had been accustomed to sitting on 6 inches at home? How glad you would be to have such lifeblood coursing through your veins to-day. We have 900 boys down there and 281 of them are reported to have indulged in this foolishness. Some of it was foolishness and some of it was wickedness. It is classed all alike by the present statutes. You make absolutely every offense, the most trivial and the most wicked, subject to precisely the same punishment.

Mr. RUCKER. I would like to ask the gentleman a question, Mr. Speaker, what would those high-class men do with the low-class men if they did not comply with these demands to sit on 2 inches of the chair, and one thing and another? How much graver offense would they commit?

Mr. LACEY. Mr. Speaker, I am not discussing what they might have done if something else had happened.

Mr. RUCKER. What have they done in a great many cases?

Mr. LACEY. They might have followed that up by doing something that would justify their dismissal and their being barred from the association of gentlemen, but they have not done anything of that kind in the trivial offenses I have named. These trifling and insignificant offenses, such as are described by this committee, which they say have been committed by 281 boys out of 900, involve, the most of them, small offenses such as are committed in every high school and in every public school or college or academy in the United States.

Mr. LITTLEFIELD. And every offense, small or large, is punished with the same punishment?

Mr. LACEY. With exactly the same size of punishment. It can not be made worse, it can not be made any less, and here we find gentlemen—I think a bachelor without any children was the one that opposed this bill the most in the last Congress; and I am sorry that my friend from the Eighth Iowa district [Mr. HEPBURN] has allowed himself to forget his youth. He is still young, young in everything except years. Anno Domini is all that is the matter with him, and that is one of the things from which we can never escape. It is well and truly said that a woman is never any older than she looks and a man is never any older than he feels; and a boy at Annapolis feels young—he is young; and we should treat them as boys and make a graduated scale of punishment, one that will fit trivial offenses on the one hand and will punish aggravated offenses on the other. That is all that this committee has endeavored to do in bringing in this bill.

Mr. HINSHAW. Does not the severity of the punishment prevent its detection?

Mr. LACEY. Absolutely. An officer will wink at an offense rather than subject a boy to punishment that exceeds that which is right and which shocks human nature, and the officers of the

academy will ignore it rather than attempt to punish him when they know they must give excessive punishment, and that is the wise purpose of this bill and I believe that it ought to pass. [Applause.]

Mr. DRISCOLL. Mr. Speaker, I rise to speak a word for this bill and a couple of words for the boys. I wish to thank this committee for the very excellent work they have done, and to congratulate them on being able to present to this House this moderate yet comprehensive and admirable bill. They are especially entitled to the thanks of this House and the whole country because, under the present circumstances and the prevailing sentiment on the question of hazing, they have resisted the influences of the press and people who have been demanding severe and drastic treatment of the midshipmen at the Naval Academy, and have reported this fair, reasonable, and workable bill. It is very gratifying to many of us, who feared that a much more relentless law would be presented.

A few years ago an accident happened at the West Point Military Academy, by which a cadet lost his life. The papers exploited it and the country went into hysteria over it. Congress took the matter up, and an investigation of that academy was ordered. The students and faculty were examined at length. A bill for the reorganization of that institution and the abolishment of hazing was presented. Several of the gentlemen who are here now were on the floor of this House at that time, vehemently scolding those young men and insisting that a harsh, hard law for the punishment of hazing be adopted, and they accomplished their purpose. Soon thereafter the same, or a very similar law, was adopted and applied to the Naval Academy at Annapolis. What is the result? Has it accomplished the purpose claimed for it? Has it eliminated hazing from that institution? The report accompanying this bill states that at present there are at least 250 midshipmen guilty of hazing, that the great majority of those cases are mild offenses and many of them trivial in character; and yet, under the existing law, they must all be dismissed from the academy. Under this unreasonable and inexorable law all those young men must be visited with the same penalty, whether their offenses were grave or trifling. Very few Members of this House and very few reasonable people throughout the country would wish to have this law executed, and, in order to escape its results, it must be repealed.

After some experience as a teacher of unruly boys in my early days, and with such information as may be gathered by observation and experience in the ordinary college course, I do not hesitate to say that I have considerable sympathy for the boys. A little judicious hazing is not, in my judgment, the worst thing that can happen to some young fellows in their freshman year in college. Take a boy who is brought up at his mother's apron strings; who is petted, coddled, and flattered until he arrives at the age of 16 or 18 years, and thinks he is about the only thing that ever happened—full of conceit, with a swelled head. It is really a blessing to such a young man to have the vanity and conceit taken out of him and the rough corners smoothed down. He really needs a little discipline, not exactly such as the faculty can administer, which will cause him to see himself as others see him. That kind of discipline can come only in the form of hazing—not violent or brutal hazing, of course, but mild, moderate, judicious hazing—such as the upper-class men can give from their own experience. It may teach him a lesson which will last through life, and do him more good in the long run than all the Latin, Greek, and mathematics of his college course. [Applause.]

This may not sound very well to the good mothers throughout the country whose fair-haired boys are preparing for college. But there is no occasion for anxiety. The boys will take care of themselves, and after graduation will not condemn the institution or the unwritten law which administered to them some of the most useful lessons of their course. Boys will be boys, and there must be some escape for their playfulness and effervescent energies. There are many habits which may be contracted at college more vicious than hazing. Lying and swearing are worse. Telling obscene stories and reading vile literature are worse; and there are other vices more demoralizing to character and dangerous to health than a little harmless hazing during the freshman year. Accidents will happen even in the most innocent sport. Occasionally a man is killed at baseball, frequently at football, and infrequently in the graceful art of self-defense. Yet these exercises are not condemned. They are very popular with the masses and also with the classes. Multitudes of high and low degree congregate to witness them. It is believed that the benefit derived in physical development, in the training of the body and mind, more than counterbalance the danger and risk.

The death of Midshipman Branch was an accident—a very deplorable accident—but not due to the custom of hazing in the academy, but to a personal feud between him and young Meriwether. Fist fights have always occurred in this country, and will not be stopped by legislation. The result in this case was unfortunate. But it does not follow that because of the convulsion developed by that accident, 250 midshipmen should be expelled from the academy and dismissed from the service of the country.

This bill repeals the uncompromising, relentless, and automatic law which requires their expulsion. It will relieve these 250 young men from the strain, and let them settle down to their regular work and prepare themselves for the service of the nation. And I really think it will relieve our President from the embarrassing necessity of avoiding the force of that law by Executive clemency. Under this bill the Superintendent of the academy, the Secretary of the Navy, and the courts-martial will be vested with sufficient discretion to treat each case of misconduct according to its merits, and to make each punishment commensurate with the offense. It is not so inflexible and severe as to become a dead letter because of the practical impossibility of its strict administration. Those midshipmen are not thugs or ruffians who rejoice in crime. They are picked young men, full of hope and ambition and amenable to reasonable regulations and wholesome discipline. And I have faith to believe that, under the operation of this proposed law, they will be more honest, more studious, more manly, and more patriotic than under the present statute, which they must hate on account of its severity and inflexibility. This is the reason why I want to thank the gentlemen of this committee who, notwithstanding the present public sentiment, are sensible enough, big enough, and strong enough to stand up before the country and advocate this splendid, practical bill. [Applause.]

Mr. GAINES of Tennessee. I secured a few minutes ago the report of the Congressional committee on the Annapolis hazing and its causes. I have read, hurriedly, parts of it. The report is unanimous. I will read certain pertinent parts as I come to them for the edification of the House.

I want now to say I am not here to condemn all these cadets or officers, *but only the guilty ones*, irrespective of who they are. Our duty demands this be done, looking, as we should, to the future of this school and the welfare of the Navy, not forgetting the parents of the victims of this hazing and the victims themselves.

Mr. Speaker, my colleague from Tennessee was not exactly consistent in his sweeping commendation of all the cadets at this school, in view of this report he signed without dissent. I want to read a page or two of this record, but I am afraid I will not have time to do it. Let me read, however, about four or five lines.

On page 5 of this report I read:

> The cadet *officers*, with whom the discipline of the academy rests, betrayed the trust reposed in them and violated their *oaths* by failing to report these gross violations of the law, of discipline, and of decency.
>
> Any disobedience by fourth-class men to upper-class men meant that the fourth-class man must fight a man selected from the upper class on account of his skill and courage as a fighter. It rarely happened that the under-class man would win. *He was usually younger and had little training in athletic exercises.* If he should happen to win, he must fight another and still another upper-class man until he was *beaten*. If he refused, his own class would send him to coventry in disgrace.

Mr. Speaker, I would not give a snap of my finger for a boy who would not fight for himself at the proper place and time, but hazing is not a fair fight, as you can plainly see. It is not like one boy standing in front of another in an old-fashioned fist-and-skull fight, with which we are all familiar. Hazing is conceived in a mean, overbearing brain.

With such a report as this, with more in point I can not stop to read, I can not agree with my colleague in his sweeping commendation of each and all these cadets.

Here we find and read from page 13 that "several of these young men" came in before this great Congressional committee and defended "moderate" hazing, and yet my distinguished colleague does not condemn in his speech "moderate" hazing, although unlawful and leads to "immoderate" hazing, I must say. As to "hazing"—"heavy hazing," I will call it—page 11, this report, says:

> The opinion of the midshipmen as a body upon this subject is not wholly satisfactory. *The tendency among them is very strong to believe what are termed the "traditions of the academy."*

"Traditions of the academy" they tend to follow—to believe in hazing.

Mr. James S. Brown, a graduate of Annapolis Academy, was in the Navy ten or twelve years. He is a leading lawyer of Nashville, Tenn., and when the tocsin of war was sounded he returned to the Navy and did well his part. He wrote me during the Meriwether trouble some weeks ago that hazing had

existed for forty years at this school, that he was hazed, and that he believed in it. He is an honorable man. He also said that the officers are as much to blame for hazing as the cadets. If a cadet is taught hazing is right for a cadet, will the cadet, when he becomes an officer assigned to the academy, still believe in hazing and wink at it. Once a hazer, always a hazer or believer in hazing? If so, should we leave this law to be enforced in the "discretion" of these officers? Will it be best to leave to the "discretion" of these officers to enforce or not enforce this law, when he as a cadet respected the "traditions" of the academy—hazing?

The SPEAKER. The time of the gentleman from Tennessee has expired.

Mr. GAINES of Tennessee. Mr. Speaker, I move to strike out the last word.

Mr. WILLIAM W. KITCHIN. Mr. Speaker, I feel compelled to ask for the regular order.

Mr. GAINES of Tennessee. Wait a moment. Let me read four or five lines. I move to strike out the last two words, Mr. Speaker. Let me read this and I will quit. I do not want to yield right now.

Mr. WILLIAM W. KITCHIN. I withhold the demand for the regular order for two minutes.

Mr. GAINES of Tennessee. Well, now let us see, gentlemen, more about the officers——

The SPEAKER. One moment. The gentleman asks unanimous consent for an extension of his time for two minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. GAINES of Tennessee. Now, on page 5, what do they say in the report, which is signed by my colleague, Mr. PADGETT?

In March, 1903, Congress passed a law which required "that the Superintendent of the Naval Academy shall make such rules as shall effectually prevent the practice of hazing." *There is no record that Admiral Brownson complied with this law.* He did, however, call in the members of the first class and require a personal pledge that they would not haze. He secured the same promises from the second and third classes. He informed the president of each of these classes of what he desired, and the classes met and took the desired action. The understanding of the midshipmen, however, was that the agreement applied to *physical* hazing only. *And forms of hazing other than physical, but fully as objectionable, rapidly increased.*

These agreements were obtained under compulsion. The first class was informed that in case of refusal it would be sent on board the *Santee* and quartered there. There is no evidence to show that concessions were made in consideration for these promises; but it is a fact that some additional privileges were afterwards given. The midshipmen were hardly fair in carrying out this promise. They carried out the letter of it as defined by themselves, but such practices as requiring fourth-class men to perform menial services, sending them under the table to eat their dinners, and requiring them to tell *obscene stories* prevailed in an increasing degree.

He says that he brought the boys up and put them on their honor to do so and so, and that is all he did. The boys understood that it was to apply to physical hazing, but he says that fully as objectionable hazing as that was carried on.

Your committee finds that the *surgeons* in the sick quarters do not *understand* that it is their *duty* to make a report of fights coming to their notice, nor to make any special inquiries to determine if injuries brought in for treatment were caused by fighting, unless the injury should be of a serious nature, as in the Branch-Meriwether fight.

The midshipman before the committee testified that they felt that they could go to sick quarters for shelter from observation and to be treated for injuries received in fights without being reported. This should be corrected. We were assured by Admiral Sands that orders would be issued to make this information available to the disciplinary officers. If the boys should fail to go to sick quarters for treatment of a bruised face, for example, their appearance would be noticed in class room or drill and reported by the officers or instructors.

Now, gentlemen, shall we leave it to these officers and "cadet officers" to enforce the law or shall we make the law enforce itself? I shall not vote for any such bill as long as I live that leaves the life and limb of my boy, or yours, liable to such a practice, which may ultimately, as you know it often does, result in death. [Loud applause.]

The SPEAKER. The gentleman from Massachusetts offers a pro forma amendment.

Mr. WILLIAM W. KITCHIN. I call for the regular order, Mr. Speaker.

The SPEAKER. This is the regular order.

Mr. WEEKS. Mr. Speaker, under ordinary circumstances, when a committee of this House has given careful and intelligent attention to a matter such as has been given to this bill by the Committee on Naval Affairs, I should not presume to take any time of the House; but having entered at Annapolis, in the Naval Academy of the United States, with four years' service there, and having been a graduate of the academy twenty-five years ago, I therefore presume the House will be willing to listen to my own experience for a very few minutes, because that judgment may be worth having.

Now, there has been a vast amount of hysteria on this subject of hazing which has been going on at the Naval Academy all the time for the last thirty years, and each time there has been a violent outbreak it has been responded to by Congress by enacting some law. In 1874 a law was passed, which was referred to. It was practically the result of an outbreak of hazing in the Naval Academy, and was one of the most drastic and unjust laws, in my opinion, ever enacted by anybody, without care and without investigation, which has been given to this country. There was no distinction in hazing made, and there was no option to the court-martial which tried any man.

Now, as a matter of fact, hazing differs as widely as a West Indian hurricane does from a gentle summer zephyr. Ninety-five per cent of the hazing practiced at the Naval Academy and at West Point is simply a collection of boyish pranks. Five per cent of it may be violent. I do not know any man in the Navy or out of the Navy who is not in favor of punishing violent hazing by dismissal from the Naval Academy or by any other severe punishment. But I wish to say to you that to punish the ordinary hazing by dismissal, to permit to remain on the statute books a law which provides that in any case where a cadet is found guilty there shall be no less punishment than dismissal, is unjust and unfair. It is only in cases in the Navy of a deserter where, in case the man is found guilty, the court-martial is compelled to dismiss him from the service.

In 1903 Congress enacted another hasty law in regard to hazing; passed it so hastily that it forgot to repeal the previous legislation, with the result that the Secretary of the Navy, when this outbreak which has recently taken place at Annapolis occurred and he was looking what course he should take, referred these two laws to the Attorney-General, who decided that the law of 1874 is in force and the one which was passed in 1903 was not, and that any action that was taken must be taken under that. Now, the result has been the court-martials which we have read about in the Naval Academy.

Now, the point that I have in my mind is this: That the law prepared by the Naval Committee is an infinitely superior law to those now on the statute books. Those laws ought to be repealed and this law enacted. It is not such a law as I would offer myself exactly, because I believe in limiting the authority to one person, and if I had the drawing of this bill, I would have made it so that the Superintendent of the Naval Academy, who is the responsible discipline officer of the Naval Academy, should have had full authority to punish cadets and to dismiss them. But I expect to vote for a great many laws which are not in exactly the form that I would make them if I drew them myself. For that reason I wish to say to this House that, in my judgment, this bill, prepared after careful investigation by the Naval Committee, should be passed. [Applause.]

The SPEAKER. The question is on agreeing to the amendment offered by the gentleman from North Carolina [Mr. WILLIAM W. KITCHIN].

The question being taken, on a division (demanded by Mr. WILLIAM W. KITCHIN) there were—ayes 48, noes 127.

So the amendment was rejected.

The SPEAKER. The Clerk will read the next section.

Mr. UNDERWOOD. Mr. Speaker, before the Clerk reads the next section I wish to offer an amendment at this point, as a new section of the bill.

The SPEAKER. The gentleman will send the amendment to the Clerk's desk.

Mr. RIXEY. Mr. Speaker, the gentleman from Pennsylvania [Mr. MAHON] some time ago offered an amendment to strike out the first section.

The SPEAKER. Is that amendment pending?

Mr. RIXEY. The gentleman from Pennsylvania is not here, and I will make the motion myself.

The SPEAKER. The amendment has not been offered.

Mr. RIXEY. Mr. Speaker, I understood that the gentleman from Pennsylvania [Mr. MAHON] had offered it. I offer it myself.

The SPEAKER. That motion would not be in order unless the gentleman from Alabama yields.

Mr. UNDERWOOD. Mr. Speaker, as my motion is for a new section, I will yield to the gentleman from Virginia, as I do not desire to cut anyone off; but I would like to be recognized afterwards to offer a new section.

The SPEAKER. The gentleman yields for the present.

Mr. RIXEY. I move to strike out section 1.

The SPEAKER. The gentleman from Virginia moves to strike out section 1 of the substitute.

Mr. RIXEY. Mr. Speaker, that section does not apply especially to hazing; in fact, it does not mention the word "hazing" at all. At present midshipmen guilty of offenses other than hazing are dismissed when they have an accumulation of demerits against them. For instance, a first-class man is dismissed when there are 150 demerits against him, a second-class man when there are 200 demerits, a third-class man when there are

250, and a fourth-class man when there are 300 demerits against him. This first section provides that the Superintendent of the Naval Academy, with the concurrence of the Secretary of the Navy, after giving notice to the midshipman, without giving him an opportunity to have his witnesses heard, or to present his case in person, may be dismissed from the academy. Now, I see no reason for changing the present law in regard to the other offenses. Hazing is dealt with, and dealt with by name in the second section, and, as stated by the gentleman from Texas, the first section was not intended to apply to hazing at all, but to apply to other cases in which the present punishment and present procedure, so far as I know, are entirely satisfactory.

Mr. CHANEY. Mr. Speaker, I should like to ask the gentleman if it is not provided in this section that the midshipmen shall have opportunity to be heard?

Mr. RIXEY. Oh, no; he can reply in writing, but in no other way.

Mr. CHANEY. It says here upon a report being made it shall be served upon said midshipman and require him to show cause.

Mr. RIXEY. Read it, my friend.

Mr. CHANEY (reading)—

And require the said midshipman to show cause in writing, within such time as the said Secretary shall deem reasonable, why he shall not be dismissed.

Mr. RIXEY. He is not given a hearing, except that he may transmit his reasons in writing why he should not be dismissed. No opportunity is guaranteed him by this bill to see the Secretary. He has no opportunity to confront the witnesses against him, and if he has no political influence in his favor he has to take his punishment.

The SPEAKER. The question is on agreeing to the amendment.

The amendment was rejected.

Mr. UNDERWOOD. Mr. Speaker, I offer an amendment as a separate section.

The SPEAKER. The gentleman from Alabama offers the following amendment as a separate section:

Insert a new section after line 2, page 5, to read as follows:

"That before any applicant is appointed a midshipman to the United States Naval Academy he shall be required to file in writing with the Secretary of the Navy his personal pledge of honor that he will not engage in or countenance hazing or 'running' while he is a midshipman; that this provision shall apply to midshipmen now at the academy."

Mr. UNDERWOOD. Mr. Speaker, there have been a great many means adopted to stop hazing at the Military and Naval academies. I only know of one that has been thoroughly successful. I understand that in those classes which gave their pledge of honor to Admiral Brownson that they would not indulge in hazing or "running" those practices were entirely stopped so far as they were concerned.

Mr. PADGETT. Not "running," but hazing.

Mr. UNDERWOOD. Well, as far as hazing is concerned that was stopped entirely.

Now, I believe we want to stop this practice. I do believe that the average boy that goes to the academy is opposed to the practice, but he finds it in the institution, that it is going on there, and he wants to keep in touch with the institution, and so he joins in it. I want to say that as far as I am concerned I have always been opposed to it, and I have always exacted a pledge from the young men that I have appointed to West Point and Annapolis—to me personally—that they would not indulge in any hazing while members of the academy. I did not pledge them not to submit if the other boys hazed them, but they gave me their pledge that they would not indulge in it themselves, and I believe fully that no boy that I have sent to either of these academies has violated his word of honor.

I do not believe the American boy would, and I believe if you will adopt this section and make the young men of the country understand that as a prerequisite to going to the academy they must give their pledge; and that with this measure you will stop it better in that way than by the enactment of a penal statute.

The SPEAKER. The question is on agreeing to the amendment offered by the gentleman from Alabama.

The question was taken; and on a division (demanded by Mr. UNDERWOOD) there were—ayes 63, noes 94.

So the amendment was rejected.

The Clerk, proceeding with the reading of the bill, read as follows:

SEC. 2. That so much of the acts approved June 23, 1874, and March 3, 1903, as requires the Superintendent of the United States Naval Academy to convene a court-martial in all cases when it shall come to the knowledge of the said Superintendent that any midshipman has been guilty of the offense commonly known as "hazing," and declares the finding of a court-martial so convened, when approved by the said Superintendent, final, and directs that any midshipman found guilty by such court-martial shall be summarily dismissed from the said academy, and also all other acts or parts of acts inconsistent with the present act are hereby repealed, and that the offense known as "hazing" may hereafter be proceeded against, dealt with, and punished as offenses against good order and discipline and for violation and breaches of the rules of said academy. But no midshipman shall be dismissed for a single act of hazing except under the provisions of section 3 of this act.

Mr. WILLIAM W. KITCHIN. Mr. Speaker, I offer the following amendment:

The Clerk read as follows:

Page 5, line 18, after the word "academy," strike out the last sentence of section 2, which reads "but no midshipman shall be dismissed for a single act of hazing except under the provisions of section 3 of this act.

Mr. WILLIAM W. KITCHIN. Mr. Speaker, on that all I desire to say is that this section, when read in connection with section 3, requires a trial by court-martial before dismissing any midshipman for a single act of hazing. The sentence which I propose to strike out by the amendment is the last sentence of the section, providing that "no midshipman shall be dismissed for a single act of hazing, except under the provisions of section 3." Section 3 requires a court-martial. With this statement I leave it to the House.

The SPEAKER. The question is on agreeing to the amendment offered by the gentleman from North Carolina.

The question was taken, and the amendment was rejected.

The Clerk, proceeding with the reading of the bill, read as follows:

SEC. 3. That the Superintendent of the United States Naval Academy may, in his discretion and with the approval of the Secretary of the Navy, cause any midshipman in the said academy to be tried by court-martial for the offense of hazing, as provided by the act approved June 23, 1874, and such court-martial, upon conviction, may sentence such midshipman to any punishment authorized by the said act or by the act approved March 3, 1903, or authorized for any violation or breach of the rules of the said academy by the said rules, or, in cases of brutal or cruel hazing may, in addition to dismissal, sentence such midshipman to imprisonment for a period not exceeding one year: *Provided*, That such midshipman shall not be confined in a military or naval prison or elsewhere with men who have been convicted of crimes or misdemeanors; and such finding and sentence shall be subject to review by the convening authority and by the Secretary of the Navy, as in the cases of other courts-martial.

Mr. RIXEY. Mr. Speaker, I offer the following amendment. I desire to amend section 3 by striking out all of section 3, commencing with the line 8, and for the following reasons.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Strike out all of section 3, commencing with line 8, on page 6.

Mr. RIXEY. Mr. Speaker, this portion of the section provides, in addition to dismissal, that a cadet can be punished by twelve months' confinement, and then follows this proviso:

That such midshipman shall not be confined in a military or naval prison, or elsewhere, with men who have been convicted of crimes or misdemeanors.

Now, if you can not confine him in a military or naval prison with people who have been convicted of crimes or misdemeanors, where are you going to confine him? It means, if it means anything, solitary confinement. It certainly was not the purpose of the committee to provide that this cadet should be punished for twelve months in solitary confinement. He is not to be confined in a military or naval prison with anybody guilty of a crime or misdemeanor, and they are about the only people who are put in prison. It means, if it means anything, that the cadet must be subjected to solitary confinement.

Mr. VREELAND. Mr. Speaker, I would ask the gentleman from Virginia [Mr. RIXEY] if he was not present when the Secretary of the Navy was interrogated upon this point, and he said there was ample opportunity to imprison him as such court-martial should direct without sending him to a military or naval prison, to be there associated with enlisted men who had been convicted of crime?

Mr. RIXEY. Mr. Speaker, will the gentleman from New York tell me where the Secretary said he could confine a man, if not in the prisons referred to?

Mr. VREELAND. He could send him on board any one of our ships of war. He said to the committee, without going into it at length, that there was ample opportunity to imprison all of these cadets that were likely to be sentenced to imprisonment by a court-martial under the provisions of this bill.

Mr. RIXEY. It seems to me, then, according to the contention of the gentleman from New York, that if this cadet is not subject to solitary imprisonment he is to be given an excursion for twelve months.

Mr. LACEY. I will ask the gentleman from Virginia if it is not true that the *Santee* is a ship in which boys are imprisoned for violations?

Mr. RIXEY. I suppose the people there confined are guilty

to some extent of misdemeanors, and if so, the cadet under sentence for hazing could not be confined with them.

The SPEAKER. The question is on agreeing to the amendment.

Mr. BEALL of Texas. Mr. Speaker, a good deal has been said here to-day about the traditions of the Naval Academy being somewhat responsible for the existence of the practice of hazing, and a member of the committee has referred to the fact that the practice of hazing prevails even in the House of Representatives, because the Committee on Appropriations has been hazed by somebody upon the minority side. I think, Mr. Speaker, that tradition has something to do with that, because it seems to me that all along down the line there are illustrious examples. The President of the United States hazes the Senate, the Senate hazes the Speaker, the Speaker hazes the Committee on Rules, the Committee on Rules hazes the majority, the majority hazes the minority, the minority hazes the Committee on Appropriations, and the Committee on Appropriations hazes the poor, unfortunate Department clerks. [Laughter.]

Mr. WILLIAMS. It is an endless chain, is it not?

Mr. BEALL of Texas. Yes; an endless chain. Now, Mr. Speaker, it seems to me that it is time for Congress to haze the officers of the Naval Academy. The trouble at the Naval Academy is not altogether due to the boys over there. In the act of 1903 it was specifically provided that the Superintendent of that academy should prescribe rules for the suppression of this evil, but to this day the mandate of that law has not been obeyed. The petty officers, the higher officers, the disciplinary officers, have winked at the violation of this law, and the Superintendent of the academy to this hour has never issued any command to the cadets over there that it should be obeyed.

If those petty officers were required to do "stunt No. 16" until they got out of the academy it might have a happy effect. If the disciplinary officers were required or compelled to perform the "double hypotenuse" that is mentioned in the report of this committee, and that seems so popular at Annapolis, it might have a happy effect. If the Superintendent of the academy was required "to sit upon infinity" as these boys have been required to do at the command of the bullies of the higher classes, hazing in the Naval Academy would stop. It is supreme nonsense for intelligent Members of this House to say that the authorities at Annapolis can not suppress hazing. They can. The trouble has been that they have not wanted to suppress it. Gentlemen complain of the condtion at this time and say that the law has not been effective. It has not been effective because the authorities there have not attempted to enforce it until within recent months. What is the condition now? We have the statement of this distinguished subcommittee that made the investigation there that hazing is a thing of the past, that it has been suppressed. What suppressed it? The fact that outraged public sentiment has compelled the officials there to enforce the law. The fact that the boys recognize that there is a sword hanging over their heads is what has done it. Now it is proposed to modify the law that has destroyed the practice. This bill, instead of being entitled a bill having for its purpose the suppression of the practice ought to be entitled a bill to encourage the practice of hazing, because that will be the result. [Applause.]

Mr. HEPBURN. Mr. Speaker, I think the motion of the gentleman from Virginia, if it prevails, would destroy somewhat the harmony of this bill. Section 1 provides that it shall be the duty of the Superintendent of the United States Naval Academy whenever he shall believe the continued presence of any midshipman at said academy to be contrary to the best interests of the service to report to the Secretary. Then the Secretary is required, after careful consideration, to call upon the young gentleman who has been aspersed by the Superintendent for his views upon the subject as to whether or not he ought to be punished, and if the Secretary, after carefully considering all that the young gentleman has to offer, should conclude that he ought to be dismissed, then he may approach the President of the United States, and if he can secure in writing the assent of the President of the United States, the efforts of these three gentlemen conjointly urged may result in the dismissal of this fellow from the academy. If it was not for the respect due this presence and this distinguished committee, I would say that that provision was assinine. To pass a little further. Section 3 provides that the Superintendent of the United States Naval Academy may, in his discretion and with the approval of the Secretary of the Navy, call a court-martial before which this young gentleman may appear, and if he is convicted of a brutal assault, of cruel hazing, he can not be discharged from the academy, because that is not the second offense.

He has got to be a brute twice; he has got to be cruel twice; he has got to violate the statutes of the United States twice; he must assert his superiority over the Congress and over the law twice; he must trample upon the statute, refuse obedience, be insubordinate to discipline twice before you can get rid of him, and then after the second offense and after he has been convicted of this brutality, of this cruelty, of this double violation of the statutes, then in tenderness for somebody he must not be confined with ordinary criminals. Oh, no. Those guilty of misdemeanors, those guilty of crime, must not be with this gentleman. They might contaminate him, or is it in tenderness for the other criminal that you refuse to allow this close association in criminality? [Applause.] I do confess I do not understand exactly what it means. I remember not long ago reading something in the newspapers of the action of a military court-martial. A private had stole a pair of gauntlets and he was sentenced to a year's confinement in a military prison. Now, who are you tender about? That man who was guilty of this trifling offense or this other fellow who is guilty of this double offense, of this brutality, of this cruelty, of this assertion that he will not submit to discipline, that he will not be obedient to the law, that he will not fit himself for the future discharge of duties in disciplining other men that may later on come upon him. I would like for the gentleman to explain who it is they are so solicitous about, the man who is guilty of this double offense, who has twice been convicted by a court-martial, or this boy who may have stolen a pair of gauntlets. Now, Mr. Speaker, if you were to strike out this provision it would destroy the harmony, if I may say it again, of asininity that is to be found in the various sections of the bill. [Applause.]

The question was taken, and the amendment was rejected.

The Clerk read as follows:

SEC. 4. That the offense of "hazing," as mentioned in this act, shall consist of any unauthorized assumption of authority by one midshipman over another midshipman whereby the last-mentioned midshipman shall or may suffer or be exposed to suffer any cruelty, indignity, humiliation, hardship, or oppression, or the deprivation or abridgment of any right, privilege, or advantage to which he shall be legally entitled.

Mr. PALMER. Mr. Speaker, I move to amend by striking out the words "unauthorized assumption of authority," in the seventeenth and eighteenth lines, and inserting in the seventeenth line the word "act" and in the eighteenth line the word "toward," so as to read: "That the offense of hazing as mentioned in this act shall consist of any act by one midshipman toward another midshipman whereby the last-mentioned midshipman," etc. I should like to ask the chairman of the committee what offenses this act covers as it is drawn?

Mr. VREELAND. I do not understand the gentleman's question.

Mr. PALMER. I would like to ask the gentleman what offenses you think this act covers as it is drawn?

Mr. VREELAND. Section 4?

Mr. PALMER. Yes.

Mr. VREELAND. My understanding, Mr. Speaker, is, under the present law upon the statute books relating to the academy at Annapolis, there is ample provision for the punishment of all offenses against good order and the commission of all crimes except hazing. Hazing is an offense which does not prevail throughout the United States unless, perhaps, in the House of Representatives, as stated this afternoon. It is peculiar to the naval school, and we believe that the offense of hazing as described in this act can not be treated by the ordinary court. Take the Kimbrough case. The man who hazed Kimbrough did not threaten him, he did not lay his finger upon him, and yet the boy was hazed and nearly lost his life. Now, in answer to the question I will say that our understanding is that all of the offenses to which he refers are now already upon the statute books——

Mr. PALMER. What is the sense in making a distinction between two kinds of brutality? Under this act an offense can not be committed unless it is preceded by "an unauthorized assumption of authority." You say that the Branch and Meriwether case would not come under the act——

Mr. VREELAND. Not at all.

Mr. PALMER. Now, I want to ask this question: Suppose a number of first-class men should take an under-class man and duck him in a pond; would that come under this act?

Mr. VREELAND. Not under this act, but it could be tried under other acts, depending upon the offense for which he was tried.

Mr. PALMER. Suppose a number of first-class men should order a fourth-class man to do something—say, bring an apple to their rooms. That would be "an unauthorized assumption of authority" if it was done.

Mr. VREELAND. That would be hazing, under the definition now given.

Mr. PALMER. If the fourth-class man did not do it and was

ducked in a pond, that would be hazing under this act. In the one case the ducking in the pond would be under the act, and in the other case it would not be under the act. The point I make is this: That this act is not effective unless cruelty and degradation, or whatever you please to call it, is preceded by "an unauthorized assumption of authority." If you adopt this amendment, when one cadet interferes with another and subjects him to humiliation or cruelty, he will be under this act, and all offenses will be covered by it.

Mr. VREELAND. The trouble with the amendment of my friend from Pennsylvania is he is attempting to put in this section, which provides specifically for hazing, other offenses which are now clearly provided for in the law, and for which punishment is provided in the statute books.

Mr. PALMER. What is the difference between brutality, such as ducking a man in a pond and making him stand on his head, when it is preceded by "an unauthorized assumption of authority" and when it is not? Why should not all be put in under the act?

Mr. VREELAND. If one man falls on another and half kills him with his fist, that is assault and battery, and he can be prosecuted under the law. This case of Kimbrough is about the only one where great brutality was shown in all this hazing, and yet I doubt if the man who did that could be convicted in any court in this country.

Mr. PALMER. They are to be naval officers in the service of the Government, responsible for the nation's defense and the nation's honor. Anything that tends to brutalize or reduce their respect for the authority of the law, or to encourage lawlessness, is hurtful to their usefulness as officers and subversive of the discipline which is essential to efficient service.

I am therefore in favor of any legislation that will curb the undue manifestations of exuberant boyish spirit when exercised in directions that humiliate and disgrace their fellows, and also of severe remedies to check such exhibitions of brutality and cruelty as the evidence in the recent court-martial cases at Annapolis has disclosed. A system which tolerates such abhorrent methods is hateful to all honorable men who love justice and hate oppression.

Mr. Speaker, the method of appointing midshipmen brings together boys from every rank of life. The President, who appoints midshipmen at large, and habitually selects sons of naval officers or Army officers, may be expected to make large claims to social superiority. Some Congressmen appoint sons of friends, others open the appointment to a competitive examination and appoint the boy best qualified physicially and intellectually, without respect to station in life, religion, race, or politics. This method brings together a heterogeneous mass, possessed of the most diverse views of life and social relations. They come from the classes and the masses; but they are all the wards of the nation, being educated at the expense of the nation, and should stand on a plane of perfect equality. Nothing could be more subversive of good order and necessary discipline than to allow any claim of superiority on the part of any midshipman or any number of midshipmen over his or their fellows.

The SPEAKER. The gentleman from Iowa rises to oppose the amendment.

Mr. LACEY. Mr. Speaker, some years ago I was called upon to write on the subject of the life of Gen. Frederick Steele, who was a classmate of Gen. Ulysses S. Grant. In doing that I took occasion to look up the cases of demerit of all the same class at West Point, and I want to read for the benefit of this House the record of Ulysses S. Grant, who afterwards became a General of the Army.

Mr. PALMER. What has that to do with my amendment?

Mr. LACEY. It illustrates the subject of demerits, and shows that that system was not such a great test after all. Here is what I found on the subject of Grant's demerits. In his first year he had 59 demerits, the second year 58, the third year 74, and in the fourth year 44, aggregating 235. He was within 15 demerits of the dismissal point that was suggested here in a proposed demerit system. Fifteen more would have taken him out of the service.

Mr. WILLIAMS. Is the gentleman citing that as a precedent that should be followed?

Mr. LACEY. I was citing it as illustrating what a showing might afterwards be made by a boy who had a great many demerits at West Point. This shows that Grant had 235 demerits during his time at West Point.

Mr. JAMES. Is there any record of those who were dismissed?

Mr. LACEY. I will read you the names of those who were his classmates or who served with him in the classes above or below him during his four years at West Point.

The names of many of his associates at the academy have since been entered upon the immortal pages of history. Among the names of the young men with whom he served I found the following: William T. Sherman, Frederick Steele, Stewart Van Vliet, George H. Thomas, Horatio G. Wright, Amiel W. Whipple, T. J. Rodman, A. P. Howe, Nathaniel Lyon, George Stoneman, W. G. Peck, Alfred Pleasonton, William F. Smith, Fitz-John Porter, Henry Coppee, John W. Davidson, Delos B. Sackett, DeLancy Floyd Jones, Gordon Granger, D. A. Russell, John G. Foster, D. N. Couch, Jesse L. Reno, George H. Derby (famous as "John Phoenix"), George B. McClellan, J. P. Garesche, John F. Reynolds, Joseph J. Reynolds, Don Carlos Buell, William S. Rosecrans, John Pope, Abner Doubleday, Rufus Ingalls, Fred T. Dent, I. P. Quinby, W. B. Franklin, John Newton, J. J. Peck, J. A. Hardee, C. C. Augur, W. S. Hancock, C. S. Hamilton, George Sykes, and in this immortal list is Hiram Ulysses Grant. Some of these men preceded Grant and Steele in their entry at the academy, others entered while they were there and graduated later, but they wore all schoolmates.

Grant's name got changed on the roll as Ulysses S. Grant. His demerits did not put him out of the academy.

Mr. PALMER. I would like to inquire of the gentleman whether he is in favor of my amendment or against it?

Mr. LACEY. All this simply shows that demerits at West Point do not necessarily disqualify a boy from being efficient thereafter. You will all concede that Grant made great atonement for any of his shortcomings at the Military Academy.

The SPEAKER. The question is on agreeing to the amendment.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

SEC. 5. That it shall be the duty of every professor, assistant professor, academic officer, or instructor, as well as every other officer stationed at the United States Naval Academy, to promptly report to the Superintendent thereof any fact which comes to his attention tending to indicate any violation by a midshipman or midshipmen of any of the provisions of this act or any violation of the regulations of the said academy. Any naval officer attached to the academy who shall fail to make such report as provided in this section shall be tried by court-martial for neglect of duty and if convicted he shall be dismissed from the service. Any civilian instructor attached to the academy who shall fail to make such report as provided in this section shall be dismissed by the Superintendent of the academy upon the approval of the Secretary of the Navy.

Mr. HEPBURN. I move to amend section 5, after the word "Academy," in line 2, page 7, by inserting the words "or any class officer."

The Clerk read as follows:

Page 7, line 2, after the word "Academy," insert "or any class officer."

Mr. HEPBURN. The object of this amendment is to impose upon the class officer the burden and duty of reporting offenses. Is not the idea that the gentleman has in mind conveyed in line 24 of the preceding page, where it says:

Every professor, assistant professor, academic officer or instructor, as well as every other officer.

"As well as every other officer stationed at the United States Naval Academy."

Now, I assume that the law would be construed to mean those officers of the Navy who are thereby detailed. I want to include in this provision the officers of the various classes. I may not have the names right. Just give me the proper designation, if I have not got it right.

Mr. WEEKS. Cadet officer.

The SPEAKER. The gentleman from Iowa modifies his amendment. The Clerk will report the modification.

The Clerk read as follows:

Insert the words "or any cadet officer."

Mr. HEPBURN. I think that will be efficient.

Mr. VREELAND. You do not mean cadet officers, do you? you mean naval officers?

Mr. HEPBURN. No; not naval officers; but there are cadet officers there, are there not, known by that name?

Mr. TOWNSEND. That is right. They are the class officers.

Mr. GREGG. They are called "cadet officers" and "cadet petty officers." You had better put both expressions in.

Mr. HEPBURN. If I may be permitted I will again modify my amendment so that it will read: "or any cadet officer or cadet petty officer."

The SPEAKER. The Clerk will report the amendment as again modified by the gentleman.

The Clerk read as follows:

After the words "academic officer," insert "or any cadet officer or cadet petty officer."

Mr. NORRIS. I should like to ask the gentleman from Iowa if it would not be better to put his amendment after the word "instructor," in line 24 of page 6? That would bring his designation in with the other officers and other professors named therein.

Mr. HEPBURN. I will again ask the indulgence of the House to insert the amendment after the word "officer," in line 24 of page 6.

The SPEAKER. The gentleman again asked to withdraw his amendment and to renew it. The Clerk will report it.

The Clerk read as follows:

On page 6, in line 24, after the word "officer," insert "or any cadet officer or cadet petty officer."

Mr. GREGG. Should not the same words be inserted also on page 7, line 6, after the word "officer?"

Mr. HEPBURN. I intend to offer it there if this amendment is adopted.

Mr. MANN. Mr. Speaker, I should like to ask a question for the information of Members of the House. As I understand, the law has been changed so that the word "midshipman" has been substituted for "cadet" in the academy. I should like to know whether these officers now referred to are called "cadet officers" since the change in the law providing that cadets shall be called "midshipmen?"

Mr. VREELAND. I refer to the company officers appointed out of the first class at the Naval Academy. As I understand, they are known as "cadet officers."

Mr. MANN. Are they still known as "cadet officers" since the change of the word "cadet" to "midshipmen?"

Mr. VREELAND. I understand they are still called "cadet officers."

The amendment was agreed to.

Mr. HEPBURN. Now, Mr. Speaker, I ask to amend line 6, on page 7, by inserting, after the word "officer," the words "cadet officers or cadet petty officers."

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

After the word "officer," in line 6, page 7, insert "cadet officer or cadet petty officer."

Mr. DE ARMOND. Mr. Speaker, it seems to me that in perfecting this bill this amendment would be going entirely too far. Anyone referring to the language will find that the requirement is to report not only with reference to hazing, but any violation of this act or any regulation of the academy.

Now, the boy occupying a petty office in the academy, if he fails to report any violation of the law, any violation of any regulation of the academy, is liable upon conviction of that to dismissal. Upon conviction, according to this, if the amendment be adopted, he shall be dismissed. You provide that he shall not be dismissed necessarily for a trifling act of hazing, and then provide that he shall be dismissed for failure to report the most trifling violation of a regulation. I certainly hope the amendment will not be adopted.

The SPEAKER. The question is on the amendment offered by the gentleman from Iowa.

The question was taken, and the amendment was rejected.

Mr. PADGETT. Mr. Speaker, I move to reconsider the motion whereby the amendment just before this was agreed to. The same reasons that apply to this last amendment applies to the other one.

The SPEAKER. The gentleman from Tennessee moves to reconsider the vote by which the prior amendment offered by the gentleman from Iowa was agreed to.

Mr. HEPBURN. Mr. Speaker, the gentleman is mistaken about the effect of this. The objection raised by the gentleman from Missouri was to the punishment. The punishment in this section would apply if the second amendment had been adopted. But as it now stands, if there is a disobedience and failure upon the part of a cadet officer to report, then some other punishment under the rules would be adopted.

Mr. BONYNGE. The naval officer would be dismissed.

Mr. HEPBURN. Yes; but the other would be punished in some other way. Mr. Speaker, I withdraw the motion for reconsideration.

The SPEAKER. The hour of 4.30 o'clock having arrived, under the special order the previous question operates upon the bill and amendment to its final passage. The only amendment pending is the amendment offered by the gentleman from Virginia [Mr. RIXEY] in the nature of a substitute, which amendment has already been reported. The question is on agreeing to the amendment in the nature of a substitute.

The question was taken, and the amendment was rejected.

The SPEAKER. The question now is on agreeing to the committee amendment as amended.

The question was taken, and the amendment of the committee as amended was agreed to.

The bill was ordered to be read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken, and the Speaker announced that the ayes had it.

A division was demanded by Mr. WILLIAM W. KITCHIN.

The House was dividing when Mr. KITCHIN withdrew the demand for a division.

So the bill was passed.

On motion of Mr. VREELAND, a motion to reconsider the last vote was laid on the table.

BILLS OF LADING BY INTERSTATE CARRIERS.

Mr. TOWNSEND. Mr. Speaker, I ask unanimous consent for the reprint of the bill (H. R. 15846) relating to bills of lading issued by carriers for the interstate transportation of property and to certain obligations, duties, and rights in connection therewith.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

FORTIFICATION BILL.

The SPEAKER laid before the House the bill H. R. 14171, an act making appropriations for fortifications and other works of defense, for the armament thereof, for the procurement of heavy ordnance for trial and service, and for other purposes, with Senate amendments.

Mr. SMITH of Iowa. I move that the House nonconcur in the Senate amendments and ask for a conference.

The motion was agreed to.

The SPEAKER appointed as conferees on the part of the House Mr. SMITH of Iowa, Mr. KEIFER, and Mr. FITZGERALD.

ENROLLED BILLS SIGNED.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

H. R. 15848. An act authorizing the sale of timber on the Jicarilla Apache Indian Reservation for the benefit of the Indians belonging thereto; and

H. R. 12845. An act to consolidate the city of South McAlester and the town of McAlester, in the Indian Territory.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States, for his approval, the following bills:

H. R. 1056. An act granting a pension to Galon S. Clevenger;

H. R. 9216. An act granting an increase of pension to Catharine R. Mitchell;

H. R. 4736. An act for the relief of the county of Custer, State of Montana;

H. R. 13194. An act to authorize the Secretary of the Interior to reclassify the public lands of Alabama;

H. R. 16381. An act leasing and demising certain lands in La Plata County, Colo., to the P. F. U. Rubber Company; and

H. R. 15583. An act to authorize the Madison Bridge Company to construct a bridge across the St. Francis River in St. Francis County, Ark., at or near the town of Madison, in said county and State.

SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 5181. An act to authorize the construction of a bridge across the Snake River between Whitman and Columbia counties, in the State of Washington—to the Committee on Interstate and Foreign Commerce.

S. 5182. An act to authorize the construction of a bridge across the Columbia River between Franklin and Benton counties, in the State of Washington—to the Committee on Interstate and Foreign Commerce.

S. 5183. An act to authorize the construction of a bridge across the Columbia River between Douglas and Kittitas counties, in the State of Washington—to the Committee on Interstate and Foreign Commerce.

S. 5184. An act to authorize the construction of a bridge across the Missouri River between Walworth and Dewey counties, in the State of South Dakota—to the Committee on Interstate and Foreign Commerce.

S. 5204. An act to authorize the construction of a bridge across the Yellowstone River in Montana—to the Committee on Interstate and Foreign Commerce.

S. 5211. An act to authorize the construction of a bridge across the Snake River at or near Lewiston, Idaho—to the Committee on Interstate and Foreign Commerce.

LEAVE OF ABSENCE.

Mr. POLLARD, by unanimous consent, was given indefinite leave of absence, on account of important business.

Mr. PAYNE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

Accordingly (at 4 o'clock and 35 minutes p. m.) the House adjourned until Monday next, at 12 o'clock meridian.

EXECUTIVE COMMUNICATION.

Under clause 2 of Rule XXIV, the following executive communication was taken from the Speaker's table and referred as follows:

A letter from the chairman of the Printing Investigating Commission, transmitting a preliminary report—to the Committee on Printing, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. MORRELL, from the Committee on the District of Columbia, to which was referred the bill of the House (H. R. 9329) to amend an act approved February 28, 1903, entitled "An act to provide for a union station in the District of Columbia, and for other purposes," reported the same with amendment, accompanied by a report (No. 2563); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. CAMPBELL of Kansas, from the Committee on the District of Columbia, to which was referred the bill of the House (H. R. 14578) to provide for the establishment of a public crematorium in the District of Columbia, and for other purposes, reported the same without amendment, accompanied by a report (No. 2565); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. PEARRE, from the Committee on the Judiciary, to which was referred the bill of the House (H. R. 15910) to amend the act entitled "An act to regulate commutation for good conduct for United States prisoners," approved June 21, 1902, reported the same without amendment, accompanied by a report (No. 2566); which said bill and report were referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16390) granting a pension to Katharine Partridge, reported the same with amendment, accompanied by a report (No. 2496); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 3689) granting an increase of pension to Charles W. Lyons, reported the same without amendment, accompanied by a report (No. 2497); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 5956) granting an increase of pension to Joseph H. Wagoner, reported the same with amendment, accompanied by a report (No. 2498); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 9415) granting an increase of pension to John F. Murphy, reported the same without amendment, accompanied by a report (No. 2499); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 6452) granting an increase of pension to William H. Doherty, reported the same with amendment, accompanied by a report (No. 2500); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 6213) granting an increase of pension to Hiram Linn, reported the same with amendment, accompanied by a report (No. 2501); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 6256) granting an increase of pension to Solomon Riddell, reported the same with amendment, accompanied by a report (No. 2502); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 4230) granting an increase of pension to William H. Miles, reported the same with amendment, accompanied by a report (No. 2503); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 4679) granting an increase of pension to Franklin D. Clark, reported the same without amendment, accompanied by a report (No. 2504); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 5044) granting an increase of pension to Hiram G. Hoke, reported the same with amendment, accompanied by a report (No. 2505); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 3979) granting a pension to Paul Stang, reported the same with amendment, accompanied by a report (No. 2506); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 4135) granting an increase of pension to Napoleon B. Greathouse, reported the same with amendment, accompanied by a report (No. 2507); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 5178) granting an increase of pension to Elijah Pantall, reported the same with amendment, accompanied by a report (No. 2508); which said bill and report were referred to the Private Calendar.

Mr. WEISSE, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 4745) granting an increase of pension to Henry D. Stiehl, reported the same without amendment, accompanied by a report (No. 2509); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 3419) granting an increase of pension to John Biddle, reported the same with amendment, accompanied by a report (No. 2510); which said bill and report were referred to the Private Calendar.

Mr. WEISSE, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 3227) granting an increase of pension to Isaac Tuttle, reported the same with amendment, accompanied by a report (No. 2511); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 2731) granting an increase of pension to James Eddy, reported the same with amendment, accompanied by a report (No. 2512); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 2852) granting an increase of pension to James Dayton, reported the same without amendment, accompanied by a report (No. 2513); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 2978) granting a pension to Amanda M. Webb, reported the same with amendment, accompanied by a report (No. 2514); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 2794) granting an increase of pension to Richard E. Davis, reported the same without amendment, accompanied by a report (No. 2515); which said bill and report were referred to the Private Calendar.

Mr. LINDSAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 1940) granting a pension to Andrew H. Nichols, reported the same with amendment, accompanied by a report (No. 2516); which said bill and report were referred to the Private Calendar.

Mr. HOPKINS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 1893) granting an increase of pension to Henry C. Maxwell, reported the same with amendment, accompanied by a report (No. 2517); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 667) granting an increase of pension to George H. Gaskill, reported the same with amendment, accompanied by a report (No. 2518); which said bill and report were referred to the Private Calendar.

Mr. LINDSAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 531) granting an increase of pension to Ebenezer Rickett, reported the same with amendment, accompanied by a report (No. 2519); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 1245) granting

an increase of pension to David Rankin, reported the same with amendment, accompanied by a report (No. 2520); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 1133) granting a pension to Mary Lockard, reported the same with amendment, accompanied by a report (No. 2521); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 9601) granting an increase of pension to John B. Page, reported the same without amendment, accompanied by a report (No. 2522); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 16320) granting a pension to Esther M. North, reported the same with amendment, accompanied by a report (No. 2523); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16420) granting an increase of pension to Caroline M. Peirce, reported the same with amendment, accompanied by a report (No. 2524); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16887) granting an increase of pension to Darwin Johnson, reported the same with amendment, accompanied by a report (No. 2525); which said bill and report were referred to the Private Calendar.

Mr. WEISSE, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16220) granting an increase of pension to George C. Powell, reported the same with amendment, accompanied by a report (No. 2526); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16271) granting an increase of pension to Edwin Elliott, reported the same with amendment, accompanied by a report (No. 2527); which said bill and report were referred to the Private Calendar.

Mr. WEISSE, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16583) granting an increase of pension to David Waldon, reported the same with amendment, accompanied by a report (No. 2528); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 13923) granting an increase of pension to Martin Dayhuff, reported the same with amendment, accompanied by a report (No. 2529); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 14142) granting an increase of pension to James A. Scrutchfield, reported the same with amendment, accompanied by a report (No. 2530); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 12279) granting an increase of pension to James S. Topping, reported the same with amendment, accompanied by a report (No. 2531); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15532) granting an increase of pension to Levi H. Townsend, reported the same with amendment, accompanied by a report (No. 2532); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15925) granting an increase of pension to Abraham Walker, reported the same with amendment, accompanied by a report (No. 2533); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 13877) granting an increase of pension to Juan Canasco, reported the same with amendment, accompanied by a report (No. 2534); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 11918) granting a pension to Mary A. Weigand, reported the same with amendment, accompanied by a report (No. 2535); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 11361) granting a pension to Thomas A. Hughes, reported the same with amendment, accompanied by a report (No. 2536); which said bill and report were referred to the Private Calendar.

Mr. WEISSE, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 12331) granting an increase of pension to Daniel J. Miller, reported the same without amendment, accompanied by a report (No. 2537); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15588) granting a pension to Hester Hyatt, reported the same with amendment, accompanied by a report (No. 2538); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 14106) granting an increase of pension to John S. Melton, reported the same with amendment, accompanied by a report (No. 2539); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 13882) granting an increase of pension to John S. Melton, reported the same amendment, accompanied by a report (No. 2540); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15147) granting an increase of pension to Joseph B. Teas, reported the same with amendment, accompanied by a report (No. 2541); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15024) granting an increase of pension to Henry C. Keyser, reported the same with amendment, accompanied by a report (No. 2542); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16622) granting an increase of pension to James Webb, reported the same with amendment, accompanied by a report (No. 2543); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 16881) granting an increase of pension to Joel R. Youngkin, reported the same with amendment, accompanied by a report (No. 2544); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16372) granting an increase of pension to Andrew Dorn, reported the same with amendment, accompanied by a report (No. 2545); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 10630) granting an increase of pension to Arby Frier, reported the same with amendment, accompanied by a report (No. 2546); which said bill and report were referred to the Private Calendar.

Mr. WEISSE, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 14861) granting an increase of pension to Dennis W. Ray, reported the same with amendment, accompanied by a report (No. 2547); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 13236) granting an increase of pension to William Haines, reported the same with amendment, accompanied by a report (No. 2548); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 13060) granting an increase of pension to Henry De Graff, reported the same with amendment, accompanied by a report (No. 2549); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 12588) granting an increase of pension to Joseph B. Dickinson, reported the same without amendment, accompanied by a report (No. 2550); which said bill and report were referred to the Private Calendar.

Mr. LINDSAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 10456) granting an increase of pension to William T. Edgemon, reported the same with amendment, accompanied by a report (No. 2551); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 11591) granting an increase of pension to John B. Hall, reported the same with amendment, accompanied by a report (No. 2552); which said bill and report were referred to the Private Calendar.

Mr. LINDSAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 11424) granting an increase of pension to Stephen W. Neal, reported the same without amendment, accompanied by a report (No. 2553); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 10881) granting a pension to Jerry Edwards, reported the same with amendment, accompanied by a report (No. 2554); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 6450) granting an increase of pension to Mrs. William A. Schmitt, reported the same with amendment, accompanied by a report (No. 2555); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 6985) granting a pension to Susan C. Smith, reported the same with amendment, accompanied by a report (No. 2556); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 14072) granting an increase of pension to George W. Reeder, reported the same with amendment, accompanied by a report (No. 2557); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16335) granting an increase of pension to John A. Bryan, reported the same with amendment, accompanied by a report (No. 2558); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 14504) granting an increase of pension to Aaron P. Seeley, reported the same with amendment, accompanied by a report (No. 2559); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16427) granting an increase of pension to William W. Carter, reported the same with amendment, accompanied by a report (No. 2560); which said bill and report were referred to the Private Calendar.

Mr. YOUNG, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 4599) to remove the charge of desertion from the military record of Wakeland Heryford, reported the same without amendment, accompanied by a report (No. 2561); which said bill and report were referred to the Private Calendar.

Mr. PRINCE, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 8168) to fix the status of the Fifth and Sixth Regiments of Delaware Volunteers, reported the same without amendment, accompanied by a report (No. 2562); which said bill and report were referred to the Private Calendar.

Mr. MEYER, from the Committee on Naval Affairs, to which was referred the bill of the House (H. R. 7741) waiving the age limit for admission to the Pay Corps of the United States Navy in the case of Pay Clerk Walter Delafield Bollard, United States Navy, reported the same with amendment, accompanied by a report (No. 2561); which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. McGUIRE: A bill (H. R. 17286) to provide for a survey under the authority of the surveyor-general to reestablish the corners and township line between townships 17 and 18 north, and between range 3 east and the Indian meridian, in Payne County, Okla.—to the Committee on the Territories.

By Mr. SULZER: A bill (H. R. 17287) to consent that any State may protect its shipping trade by duties laid on the tonnage of foreign vessels until Congress shall resume the regulations of commerce for the protection of shipping in the foreign trade—to the Committee on the Merchant Marine and Fisheries.

By Mr. McGUIRE: A bill (H. R. 17288) granting a certain school section to Oklahoma City, Oklahoma Territory, for a public park—to the Committee on the Territories.

By Mr. GILLETT of Massachusetts: A bill (H. R. 17289) to improve the civil service by providing for the retirement of aged, infirm, or otherwise incapacitated employees of the classified civil service of the United States—to the Committee on Reform in the Civil Service.

Also, a bill (H. R. 17290) for the retirement of employees in the classified civil service without cost to the Government—to the Committee on Reform in the Civil Service.

By Mr. MOON of Tennessee: A bill (H. R. 17291) to grant a pension of $30 per month to United States soldiers, war with Mexico—to the Committee on Pensions.

By Mr. SIBLEY: A bill (H. R. 17292) to provide against entering into a contract by any officer of the Government of the United States of America for products of convict labor—to the Committee on the Judiciary.

By Mr. COOPER of Wisconsin: A bill (H. R. 17293) to authorize the leasing of the Batan Island Military Reservation for coal-mining purposes—to the Committee on Insular Affairs.

By Mr. BURTON of Ohio: A bill (H. R. 17294) providing a suitable steam light vessel for Martins Reef, northwestern end of Lake Huron, Michigan—to the Committee on Interstate and Foreign Commerce.

Also, a bill (H. R. 17295) establishing two range lights to mark the 20-foot channel in Lake St. Clair, Michigan—to the Committee on Interstate and Foreign Commerce.

By Mr. JENKINS: A bill (H. R. 17296) establishing range lights and a fog-signal house on the permanent concrete pier at the entrance to Superior Harbor, Wisconsin—to the Committee on Interstate and Foreign Commerce.

By Mr. WILLIAMS: A bill (H. R. 17297) providing for the establishment of a district court of the United States for China and Korea—to the Committee on the Judiciary.

By Mr. GILLETT of California: A bill (H. R. 17298) appropriating $200,000 for examinations and surveys for the location of reclamation and irrigation works, and for other purposes—to the Committee on Rivers and Harbors.

By Mr. DENBY: A bill (H. R. 17345) creating a United States district court for China and prescribing the jurisdiction thereof—to the Committee on the Judiciary.

By Mr. COCKS: A joint resolution (H. J. Res. 126) directing the Secretary of War to submit plans and estimates for the improvement of Sumpawams River, Suffolk County, Long Island, New York—to the Committee on Rivers and Harbors.

By Mr. CHARLES B. LANDIS: A joint resolution (H. J. Res. 127) to correct abuses in the public printing and to provide for the allotment of cost of certain documents and reports—to the Committee on Printing.

Also, a joint resolution (H. J. Res. 128) to prevent unnecessary printing and binding and to correct evils in the present method of distribution of public documents—to the Committee on Printing.

By Mr. SULLIVAN of Massachusetts: A resolution (H. Res. 375) requesting of the Attorney-General certain information concerning the treaty between the United States and Spain—to the Committee on the Judiciary.

Also, a resolution (H. Res. 376) requesting the Secretary of State to transmit to the House certain information concerning the treaty between the United States and Spain—to the Committee on Claims.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. ACHESON: A bill (H. R. 17299) granting an increase of pension to William Davis—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17300) granting an increase of pension to Joseph J. Lloyd—to the Committee on Invalid Pensions.

By Mr. BIRDSALL: A bill (H. R. 17301) granting an increase of pension to Morris Smith—to the Committee on Invalid Pensions.

By Mr. BONYNGE: A bill (H. R. 17302) for the relief of James Inman—to the Committee on War Claims.

By Mr. CAMPBELL of Kansas: A bill (H. R. 17303) granting a pension to William H. Hester—to the Committee on Invalid Pensions.

By Mr. CUSHMAN: A bill (H. R. 17304) granting a pension to Celeste W. Lacy—to the Committee on Pensions.

By Mr. DICKSON of Illinois: A bill (H. R. 17305) granting an increase of pension to Thomas Thompson—to the Committee on Invalid Pensions.

By Mr. DWIGHT: A bill (H. R. 17306) granting an increase of pension to Nelson L. Ireland—to the Committee on Invalid Pensions.

By Mr. FASSETT: A bill (H. R. 17307) granting an increase of pension to John A. Baker—to the Committee on Invalid Pensions.

By Mr. FLETCHER: A bill (H. R. 17308) granting a pension to Margaret E. Eveland—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17309) granting an increase of pension to John W. Chase—to the Committee on Invalid Pensions.

By Mr. GARRETT: A bill (H. R. 17310) granting an increase of pension to Francis A. Hite—to the Committee on Pensions.

By Mr. GRONNA: A bill (H. R. 17311) for the relief of Wilbur A. Joy—to the Committee on Claims.

By Mr. HIGGINS: A bill (H. R. 17312) granting an increase of pension to Bridget D. Farrell—to the Committee on Invalid Pensions.

By Mr. KENNEDY of Ohio: A bill (H. R. 17313) granting an increase of pension to William Cannon—to the Committee on Invalid Pensions.

By Mr. LITTLEFIELD: A bill (H. R. 17314) granting an increase of pension to J. M. Shackley—to the Committee on Invalid Pensions.

By Mr. LIVINGSTON: A bill (H. R. 17315) for the relief of Lucy Reese, administratrix of the estate of John N. Swift, deceased—to the Committee on War Claims.

By Mr. McCARTHY: A bill (H. R. 17316) granting an increase of pension to Eli B. Campbell—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17317) granting an increase of pension to John Belt—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17318) granting an increase of pension to Darius Sherman—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17319) granting an increase of pension to John W. Breckon—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17320) granting an increase of pension to Cyrus S. Beers—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17321) granting an increase of pension to Ira A. Church—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17322) granting an increase of pension to Samuel J. Caldwell—to the Committee on Invalid Pensions.

By Mr. McCLEARY of Minnesota: A bill (H. R. 17323) granting an increase of pension to Angus Campbell—to the Committee on Invalid Pensions.

By Mr. McGUIRE: A bill (H. R. 17324) granting an increase of pension to Joseph W. Kelley—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17325) granting an increase of pension to Mary Martell—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17326) granting an increase of pension to Thomas E. Miller—to the Committee on Invalid Pensions.

By Mr. MURDOCK: A bill (H. R. 17327) granting an increase of pension to Eliel P. Goble—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17328) granting an increase of pension to James C. Edmiston—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17329) granting an increase of pension to David Edmiston—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17330) granting an increase of pension to William Tuders—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17331) granting an increase of pension to D. V. Donnelly—to the Committee on Invalid Pensions.

By Mr. PAYNE: A bill (H. R. 17332) granting an increase of pension to Joseph H. Truax—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17333) granting an increase of pension to Enos W. Hoff—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17334) granting an increase of pension to Henry Power—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17335) granting an increase of pension to Lewis F. Belden—to the Committee on Invalid Pensions.

By Mr. RICHARDSON of Kentucky: A bill (H. R. 17336) granting an increase of pension to John J. Norris—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17337) granting an increase of pension to James Bunnell—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17338) granting an increase of pension to Selden R. Sanders—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17339) granting an increase of pension to E. D. Frogg—to the Committee on Invalid Pensions.

By Mr. SHACKLEFORD: A bill (H. R. 17340) granting a pension to Julia Walz—to the Committee on Invalid Pensions.

By Mr. WELBORN: A bill (H. R. 17341) granting an increase of pension to Reuben S. Weldon—to the Committee on Invalid Pensions.

By Mr. WILEY of Alabama: A bill (H. R. 17342) granting an increase of pension to Wesley G. Cox—to the Committee on Pensions.

By Mr. WOOD of New Jersey: A bill (H. R. 17343) granting an increase of pension to George W. Pierce—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17344) granting an increase of pension to John L. Fuhrman—to the Committee on Invalid Pensions.

By Mr. HOGG: A bill (H. R. 17346) granting an increase of pension to Newton S. Davis—to the Committee on Invalid Pensions.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of bills of the following titles; which were thereupon referred as follows:

A bill (H. R. 15366) granting a pension to Elvia Lane—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 16258) granting a pension to James J. Shipley—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 16265) granting a pension to Amanda McGaha—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ADAMS of Pennsylvania: Petition of Council No. 66, Daughters of Liberty, Broad street, Philadelphia, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. AMES: Petition of North Reading Grange, No. 220, and Tyngsboro Grange, No. 222, Patrons of Husbandry, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. BARCHFELD: Petition of J. M. Carson, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of James Reid, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of the Retail Merchants' Association of Pennsylvania, for bill S. 88 (the pure-food bill)—to the Committee on Interstate and Foreign Commerce.

Also, petition of Peter Henderson, of New York City, against free-seed distribution—to the Committee on Agriculture.

By Mr. BELL of Georgia: Paper to accompany bill for relief of Henry A. Jones—to the Committee on Invalid Pensions.

By Mr. BIRDSALL: Petition of citizens of Oklahoma and Indian Territory, for statehood—to the Committee on the Territories.

Also, petition of citizens of Iowa, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. BOWERSOCK: Petition of citizens of Oklahoma and Indian Territory, for statehood—to the Committee on the Territories.

By Mr. BROWNLOW: Paper to accompany bill for relief of J. A. Galbreith—to the Committee on Claims.

By Mr. BURKE of Pennsylvania: Petition of Peter Henderson, of New York City, against free seed distribution—to the Committee on Agriculture.

Also, petition of the Retail Merchants' Association of Pennsylvania, for bill S. 88 (the pure-food bill)—to the Committee on Interstate and Foreign Commerce.

Also, petition of J. M. Carson, of A. G. Curtin Council, No. 67, Junior Order United American Mechanics, of McKees Rocks, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. BURLEIGH: Petition of citizens of Maine, for retention of the 10 per cent tax on imitation butter—to the Committee on Agriculture.

By Mr. CAPRON: Paper to accompany bill for relief of Horace B. Tanner—to the Committee on Invalid Pensions.

By Mr. DE ARMOND: Paper to accompany bill for relief of William K. Trabue—to the Committee on Invalid Pensions.

By Mr. DENBY: Petition of the Amalgamated Association of Street and Railway Employees of Detroit, Mich., for enforcement of the Chinese-exclusion laws—to the Committee on Foreign Affairs.

By Mr. DICKSON of Illinois: Petition of the Clio Club, of Olney, Ill., for investigation of the industrial condition of women—to the Committee on Appropriations.

Also, petition of M. H. Carr and 82 other citizens, for a change in the pension laws—to the Committee on Invalid Pensions.

By Mr. DOVENER: Paper to accompany bill for relief of Eliza Peel—to the Committee on Invalid Pensions.

By Mr. DRAPER: Petition of Robert S. Waddell, against the Du Pont powder monopoly—to the Committee on Military Affairs.

By Mr. FLOOD: Petition of Basic City Council, No. 44, for the Penrose bill (S. 4357) favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. GARDNER of Massachusetts: Petition of Laurel

Grange, No. 161, of West Newbury, and Society of Master House Painters and Decorators, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of the Massachusetts State Board of Trade, for removal of the duty on hides—to the Committee on Ways and Means.

Also, petition of the Buffalo Chamber of Commerce, for Gallinger ship-subsidy bill—to the Committee on the Merchant Marine and Fisheries.

By Mr. GARRETT: Paper to accompany bill for relief of Francis H. Hite—to the Committee on Invalid Pensions.

By Mr. GRAHAM: Petition of the Retail Merchants' Association of Pennsylvania, for bill S. 88—to the Committee on Interstate and Foreign Commerce.

Also, petition of Peter Henderson & Co., of New York City, against free-seed distribution—to the Committee on Agriculture.

Also, paper to accompany bill for relief of David H. Parker—to the Committee on Invalid Pensions.

By Mr. GRONNA: Petition of Mrs. W. L. Stockwell, Mrs. R. S. Adams, and Mrs. L. Berdie, of North Dakota, and the General Federation of Women's Clubs, for investigation of the industrial condition of women—to the Committee on Appropriations.

Also, petition of the Japanese and Korean Exclusion League, for the Chinese law as it is—to the Committee on Foreign Affairs.

By Mr. HERMANN: Petition of the Japanese and Korean Exclusion League, for the Chinese law as it is—to the Committee on Foreign Affairs.

By Mr. HOUSTON: Paper to accompany bill for relief of Joseph H. Thompson—to the Committee on Claims.

By Mr. HOWELL of New Jersey: Paper to accompany bill for relief of Mary D. McChesney—to the Committee on Invalid Pensions.

Also, petition of the American Association of Masters and Pilots, for the Littlefield pilot bill—to the Committee on the Merchant Marine and Fisheries.

By Mr. McCARTHY: Petition of citizens of Nebraska, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. MANN: Petition of the Japanese and Korean Exclusion League, for the Chinese law as it is—to the Committee on Foreign Affairs.

Also, petition of the Chicago Historical Society, for preservation of U. S. frigate *Constitution*—to the Committee on Naval Affairs.

Also, petition of citizens of Chicago, Ill., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. MURDOCK: Petition of citizens of Harper County, Kans., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. NORRIS: Petition of the Nebraska Cement Users' Association, for an appropriation to continue experiments with structural material by the Geological Survey—to the Committee on Appropriations.

Also, petition of citizens of Oklahoma and Indian Territory, for statehood—to the Committee on the Territories.

Also, petition of the Nebraska Cement Users' Association, for continued investigation of structural material by the Geological Survey—to the Committee on Appropriations.

By Mr. OVERSTREET: Petition of Indiana Grain Dealers' Association, for bill H. R. 15846—to the Committee on Interstate and Foreign Commerce.

By Mr. PUJO: Petition of the National Consumers' League, for the Hepburn pure-food bill—to the Committee on Interstate and Foreign Commerce.

By Mr. REYNOLDS: Petition of citizens of Blair County, Pa., against a parcels-post law—to the Committee on the Post-Office and Post-Roads.

Also, paper to accompany bill for relief of Ambrose Lindsay—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of William G. Mellott—to the Committee on Invalid Pensions.

Also, petition of the State Federation of Pennsylvania Women, for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

Also, petition of the State Federation of Pennsylvania Women, for a national forest reservation in the White Mountains—to the Committee on Agriculture.

By Mr. ROBERTS: Petition of H. A. Hall, of Lynn, Mass., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. SHERMAN: Paper to accompany bill for relief of Nettie A. Hill—to the Committee on Invalid Pensions.

By Mr. SPERRY: Petition of the Organized Charities Association of New Haven, Conn., for bills relative to the sanitary condition of the District of Columbia—to the Committee on the District of Columbia.

By Mr. SULZER: Petition of Peter Henderson, against free distribution of garden seeds—to the Committee on Agriculture.

Also, petition of the National Board of Trade, for forest preservation in the White Mountains and the Appalachian Mountains—to the Committee on Agriculture.

Also, petition of the Commercial Travelers' Mutual Accident Association, for an amendment to the bankruptcy law—to the Committee on the Judiciary.

Also, petition of C. A. Auffmordt & Co., for quarantine regulation of the Gulf ports—to the Committee on the Merchant Marine and Fisheries.

By Mr. VAN WINKLE: Paper to accompany bill for relief of Anna E. Smith—to the Committee on Naval Affairs.

Also, petition of N. L. Cullen, president of the American Association of Masters and Pilots, for the Littlefield bill—to the Committee on the Merchant Marine and Fisheries.

By Mr. WOOD of New Jersey: Paper to accompany bill for relief of John L. Fuhrman—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of George W. Pierce—to the Committee on Invalid Pensions.

By Mr. WOODYARD: Petition of citizens of West Virginia, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

SENATE.

MONDAY, *March 26, 1906.*

Prayer by the Chaplain, Rev. EDWARD E. HALE.

The Secretary proceeded to read the Journal of the proceedings of Friday last, when, on request of Mr. GALLINGER, and by unanimous consent, the further reading was dispensed with.

The VICE-PRESIDENT. The Journal stands approved.

ENGAGEMENT AT MOUNT DAJO, ISLAND OF JOLO.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting, in response to a resolution of the 22d instant, complete copies of all communications that have been received in or sent from the War Department pertaining to the action at Mount Dajo; which, with the accompanying papers, was referred to the Committee on Military Affairs, and ordered to be printed.

FINDINGS OF COURT OF CLAIMS.

The VICE-PRESIDENT laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of The Trustees of the Broad Run Baptist Church of Fauquier County, Va., *v.* The United States; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

He also laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of The Trustees of the Zoar Baptist Church, of Bristersburg, Va., *v.* The United States; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

FRENCH SPOLIATION CLAIMS.

The VICE-PRESIDENT laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting the conclusions of fact and of law filed under the act of January 20, 1885, in the French spoliation claims set out in the findings by the court relating to the vessel sloop *Flora*, Francis Bourn, master; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

He also laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting the conclusions of fact and of law filed under the act of January 20, 1885, in the French spoliation claims set out in the findings by the court relating to the vessel schooner *Brothers*, James Vincent, master; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

He also laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting the conclusions of fact and of law filed under the act of January 20, 1885, in the French spoliation claims set out in the findings by the

relating to the vessel brig *Eleanor*, George Price, master; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had agreed to the amendment of the Senate to the bill (H. R. 12845) to consolidate the city of South McAlester and the town of McAlester, in the Indian Territory.

The message also announced that the House had passed the bill (S. 3809) granting authority to the Secretary of the Navy, in his discretion, to dismiss midshipmen from the United States Naval Academy, and regulating the procedure and punishment in trials for hazing at the said academy, with an amendment; in which it requested the concurrence of the Senate.

The message further announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 14171) making appropriations for fortifications and other works of defense, for the armament thereof, for the procurement of heavy ordnance for trial and service, and for other purposes, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. SMITH, Mr. KEIFER, and Mr. FITZGERALD managers at the conference on the part of the House.

The message also announced that the House had passed a concurrent resolution requesting the President to return to the House the bill (H. R. 431) to open for settlement 505,000 acres of land in the Kiowa, Comanche, and Apache Indian Reservation in Oklahoma Territory; in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

H. R. 517. An act granting an increase of pension to Luke Waldron;

H. R. 663. An act granting an increase of pension to Thomas Blyth;

H. R. 1069. An act granting an increase of pension to Daniel Burton;

H. R. 1218. An act granting an increase of pension to Nathan Hinkle;

H. R. 1357. An act granting an increase of pension to George W. Burton;

H. R. 1667. An act granting an increase of pension to Abram H. Hicks;

H. R. 1793. An act granting an increase of pension to Playford Gregg;

H. R. 1939. An act granting an increase of pension to William F. Lingnis;

H. R. 1969. An act granting an increase of pension to Christian Peterson;

H. R. 1982. An act granting a pension to Ada Collins;

H. R. 2120. An act granting an increase of pension to Parmer Stewart;

H. R. 2263. An act granting an increase of pension to Edward Keeling;

H. R. 2377. An act granting an increase of pension to John N. Moore;

H. R. 2468. An act granting an increase of pension to John Reed;

H. R. 2491. An act granting an increase of pension to Edwin A. Botsford;

H. R. 2757. An act granting an increase of pension to Jonathan R. Floyd;

H. R. 3273. An act granting an increase of pension to Andrew J. Levi;

H. R. 3318. An act granting a pension to Eunice M. Carr;

H. R. 3423. An act granting an increase of pension to Thomas Ward;

H. R. 3434. An act granting an increase of pension to George W. Derby;

H. R. 3569. An act granting a pepsion to Ada N. Hubbard;

H. R. 4364. An act granting an increase of pension to George W. Neece;

H. R. 4671. An act granting an increase of pension to William H. Brady;

H. R. 4743. An act granting an increase of pension to Hiram N. Goodell;

H. R. 5210. An act granting an increase of pension to Elizabeth Moore;

H. R. 5373. An act granting an increase of pension to John L. Smith;

H. R. 5488. An act granting an increase of pension to Margaret E. Foster;

H. R. 5511. An act granting an increase of pension to Christopher Bohn;

H. R. 5555. An act granting an increase of pension to Andrew P. Allen;

H. R. 5638. An act granting an increase of pension to Alpheus Jones;

H. R. 5639. An act granting an increase of pension to Thomas C. Craig;

H. R. 5712. An act granting an increase of pension to Caroline Dehlendorf;

H. R. 5806. An act granting an increase of pension to Samuel J. Harding;

H. R. 5840. An act granting a pension to Catherine Spier;

H. R. 5850. An act granting an increase of pension to Lucas Hagar;

H. R. 5931. An act granting an increase of pension to Robert L. Narrow;

H. R. 6055. An act granting an increase of pension to Angeline Watson;

H. R. 6067. An act to change the records of the War Department relative to Levi A. Meacham;

H. R. 6094. An act granting a pension to Julia G. Aldrich;

H. R. 6096. An act granting a pension to Louisa W. Rousselaux;

H. R. 6118. An act granting an increase of pension to Bridget Reidy;

H. R. 6182. An act for the relief of Henry C. Vincent;

H. R. 6384. An act granting an increase of pension to William McBeth;

H. R. 6454. An act granting an increase of pension to Milo B. Morse;

H. R. 6461. An act granting an increase of pension to Daniel G. Sterling;

H. R. 6500. An act granting an increase of pension to Jesse Bucey;

H. R. 6563. An act granting an increase of pension to George Stewart;

H. R. 6576. An act granting an increase of pension to Napoleon McDowell;

H. R. 6773. An act granting an increase of pension to Weston Ferris;

H. R. 6897. An act granting an increase of pension to Abbie B. Gould;

H. R. 6912. An act granting an increase of pension to Charles H. Weaver;

H. R. 6937. An act granting an increase of pension to Thomas Furey;

H. R. 6949. An act granting a pension to Alice W. Powers;

H. R. 6969. An act granting a pension to Ellen C. Lewis;

H. R. 7232. An act granting a pension to Alba B. Bean;

H. R. 7243. An act granting an increase of pension to Moses B. Page;

H. R. 7483. An act granting an increase of pension to Laurence V. Whitcraft;

H. R. 7500. An act granting an increase of pension to John McCandless;

H. R. 7518. An act granting an increase of pension to George Richter;

H. R. 7630. An act granting an increase of pension to Henry W. Higley;

H. R. 7718. An act granting an increase of pension to Jacob D. Peterson;

H. R. 7759. An act granting an increase of pension to John Gemmill;

H. R. 7760. An act granting an increase of pension to William H. Brown;

H. R. 7965. An act granting an increase of pension to Samuel J. Stannah;

H. R. 8138. An act granting an increase of pension to Sinilde E. Forbes;

H. R. 8141. An act granting a pension to Catharine Ann Leonard;

H. R. 8158. An act granting an increase of pension to Lemuel P. Storms;

H. R. 8191. An act granting a pension to John Hobart;

H. R. 8319. An act granting an increase of pension to John Gardner Stocks;

H. R. 8475. An act granting a pension to John F. Tatlem;

H. R. 8662. An act granting an increase of pension to Edward F. Paramore;

H. R. 8687. An act granting a pension to William L. Lusch;

H. R. 8869. An act granting an increase of pension to Nathan Coward;

H. R. 8892. An act granting an increase of pension to Malek A. Southworth;

H. R. 8953. An act granting an increase of pension to Lutellus Cook;

H. R. 9033. An act granting an increase of pension to Burgoyne Knight;

H. R. 9039. An act granting an increase of pension to James R. Hales;

H. R. 9270. An act granting an increase of pension to Wiley B. Johnson;

H. R. 9271. An act granting an increase of pension to Joseph Henry Martin;

H. R. 9277. An act granting an increase of pension to Elizabeth A. Butler;

H. R. 9294. An act granting an increase of pension to S. Amanda Mansfield;

H. R. 9397. An act granting an increase of pension to Mary A. King;

H. R. 9451. An act granting an increase of pension to Frederick N. Wood;

H. R. 9587. An act granting an increase of pension to Samuel S. Thompson;

H. R. 9765. An act granting an increase of pension to John C. Anderson;

H. R. 9832. An act granting an increase of pension to Alexander D. Polston;

H. R. 9910. An act granting an increase of pension to John McCoy;

H. R. 10148. An act granting an increase of pension to John Sphar;

H. R. 10251. An act granting an increase of pension to Sarah M. E. Hinman;

H. R. 10298. An act granting an increase of pension to Oliver C. Redic;

H. R. 10408. An act granting a pension to Anna E. Middleton;

H. R. 10424. An act granting a pension to Emanuel S. Thompson;

H. R. 10432. An act granting an increase of pension to John E. Oyler;

H. R. 10449. An act granting an increase of pension to George B. D. Alexander;

H. R. 10451. An act granting an increase of pension to Robert M. White;

H. R. 10452. An act granting an increase of pension to Richard C. Daly;

H. R. 10523. An act granting an increase of pension to Elizabeth Gorton;

H. R. 10591. An act granting an increase of pension to Sarah A. Scott;

H. R. 10747. An act granting an increase of pension to Jonathan Lengle;

H. R. 10818. An act granting an increase of pension to George W. Creasey;

H. R. 10819. An act granting an increase of pension to John Burns;

H. R. 10830. An act granting an increase of pension to Dudley Portwood;

H. R. 10831. An act granting an increase of pension to Levi C. Bishop;

H. R. 10864. An act granting an increase of pension to John P. Kleckner;

H. R. 10884. An act granting an increase of pension to Lorenzo D. Libby;

H. R. 11046. An act granting an increase of pension to Helen G. Heiner;

H. R. 11256. An act granting an increase of pension to William M. Ewing;

H. R. 11331. An act granting an increase of pension to Thomas Rowan;

H. R. 11332. An act granting an increase of pension to William F. Kenner;

H. R. 11334. An act granting an increase of pension to John M. Steel;

H. R. 11348. An act granting an increase of pension to Cynthia Cordial, now Vernon;

H. R. 11538. An act granting an increase of pension to Eli Duvall;

H. R. 11606. An act granting an increase of pension to Edmund W. Bixby;

H. R. 11635. An act granting an increase of pension to Jeremiah Lunsford;

H. R. 11692. An act granting an increase of pension to John P. Wishart;

H. R. 11703. An act granting a pension to Laura McNulta;

H. R. 11824. An act granting an increase of pension to Jennie P. Starkins;

H. R. 11907. An act granting an increase of pension to August Danielsdson;

H. R. 12017. An act granting an increase of pension to James B. Simkins;

H. R. 12019. An act granting an increase of pension to Henry Jacob Fox;

H. R. 12049. An act granting an increase of pension to Rolland Havens;

H. R. 12059. An act granting an increase of pension to Mildred W. Mitchell;

H. R. 12389. An act granting an increase of pension to Isaiah B. McDonald;

H. R. 12390. An act granting an increase of pension to John W. Raynor;

H. R. 12407. An act granting an increase of pension to Robert Bivans;

H. R. 12415. An act granting an increase of pension to Elizabeth Bodkin;

H. R. 12526. An act granting an increase of pension to Solomon Johnson;

H. R. 12534. An act granting an increase of pension to Richard Reynolds;

H. R. 12556. An act granting an increase of pension to Joseph W. Coppage;

H. R. 12663. An act granting an increase of pension to Frederick Friebele;

H. R. 12888. An act granting an increase of pension to Jacob Sanner;

H. R. 12996. An act granting an increase of pension to Eugene B. McDonald;

H. R. 13019. An act granting an increase of pension to George Whitman;

H. R. 13139. An act granting an increase of pension to William Walrod;

H. R. 13345. An act granting an increase of pension to Frank Clendenin;

H. R. 13437. An act granting an increase of pension to Samuel R. Lowry;

H. R. 13445. An act granting an increase of pension to Thomas T. Blanchard;

H. R. 13504. An act granting an increase of pension to Elizabeth Thompson;

H. R. 13572. An act granting an increase of pension to Saturnino Baca;

H. R. 13573. An act granting an increase of pension to Francis M. Ballew;

H. R. 13726. An act granting a pension to Sarah J. Manson;

H. R. 13738. An act granting an increase of pension to Henry Hahn;

H. R. 13741. An act granting an increase of pension to George R. Scott;

H. R. 13840. An act granting an increase of pension to Absalom Shell;

H. R. 13862. An act granting an increase of pension to Luther S. Holly;

H. R. 13871. An act granting an increase of pension to William Delaney;

H. R. 13928. An act granting an increase of pension to Harvey Foster;

H. R. 13961. An act granting an increase of pension to Julius Buxbaum;

H. R. 14061. An act granting an increase of pension to Nathan S. Ruddock;

H. R. 14116. An act granting an increase of pension to John P. Rains;

H. R. 14117. An act granting an increase of peasion to William H. H. Fellows;

H. R. 14227. An act granting an increase of pension to Anna C. Bassford;

H. R. 14498. An act granting an increase of pension to Eliza Davidson;

H. R. 14534. An act granting an increase of pension to Jasper N. Harrelson;

H. R. 14552. An act granting an increase of pension to Henry Davey;

H. R. 14553. An act granting an increase of pension to Jesse Liemallen;

H. R. 14566. An act granting an increase of pension to Robert E. McKiernan;

H. R. 14657. An act granting an increase of pension to David W. West;

H. R. 14677. An act granting a pension to Reuben R. Ballenger;

H. R. 14688. An act granting an increase of pension to Robert Timmons;

H. R. 14780. An act granting an increase of pension to John A. Hover;
H. R. 14782. An act granting an increase of pension to Michael Manahan;
H. R. 14853. An act granting an increase of pension to Helen C. Sanderson;
H. R. 14915. An act granting an increase of pension to Andrew W. Tracy;
H. R. 14920. An act granting an increase of pension to Winfield S. Bruce;
H. R. 14989. An act granting an increase of pension to Arcatie E. Thompson;
H. R. 14990. An act granting an increase of pension to Lucius D. Wimley;
H. R. 14993. An act granting an increase of pension to Riley M. Smiley;
H. R. 15002. An act granting an increase of pension to George E. Wood;
H. R. 15050. An act granting an increase of pension to William H. Near;
H. R. 15061. An act granting an increase of pension to Ethan Allen;
H. R. 15119. An act granting an increase of pension to Cornelius Westman;
H. R. 15200. An act granting an increase of pension to Charles Klein;
H. R. 15216. An act granting an increase of pension to Truman C. Stevens;
H. R. 15240. An act granting an increase of pension to James W. Fowler;
H. R. 15256. An act granting an increase of pension to Benjamin F. Greer;
H. R. 15277. An act granting an increase of pension to George W. Pierce;
H. R. 15306. An act granting an increase of pension to Asa Wall;
H. R. 15321. An act granting a pension to Charles Skaden, jr.;
H. R. 15380. An act granting an increase of pension to Valentine Gunselman;
H. R. 15396. An act granting an increase of pension to John T. Jacobs;
H. R. 15397. An act granting an increase of pension to Edward Gillespie;
H. R. 15415. An act granting an increase of pension to Ann R. Nelson;
H. R. 15431. An act granting a pension to Theresa Creiss;
H. R. 15484. An act granting an increase of pension to Robert Dick;
H. R. 15487. An act granting an increase of pension to Truman Aldrich;
H. R. 15548. An act granting an increase of pension to Jacob Ferber;
H. R. 15569. An act granting a pension to Harriett A. Duvall;
H. R. 15616. An act granting an increase of pension to Pleasant Calor;
H. R. 15621. An act granting an increase of pension to Caleb M. Tarter;
H. R. 15670. An act granting an increase of pension to Daniel E. Durgin;
H. R. 15683. An act granting an increase of pension to Thomas Brown;
H. R. 15687. An act granting an increase of pension to William F. M. Rice;
H. R. 15701. An act granting an increase of pension to William Brown;
H. R. 15717. An act granting an increase of pension to Ebenezer A. Rice;
H. R. 15780. An act granting an increase of pension to Peter Cole;
H. R. 15794. An act granting an increase of pension to Samuel Pepper;
H. R. 15835. An act granting an increase of pension to George M. Thompson;
H. R. 15840. An act granting an increase of pension Edgar B. Hughson;
H. R. 15854. An act granting an increase of pension to Phillip Schlosser;
H. R. 15863. An act granting an increase of pension to William Louther;
H. R. 15867. An act granting an increase of pension to Annie M. Stevens;
H. R. 15894. An act granting an increase of pension to Alma L. Wells;
H. R. 15895. An act granting a pension to Henry D. McFarland;
H. R. 15907. An act granting an increase of pension to Lewis De Laittre;
H. R. 15928. An act granting an increase of pension to Herbert D. Ingersoll;
H. R. 15956. An act granting an increase of pension to Walter F. Bean;
H. R. 15974. An act granting an increase of pension to Martin C. King;
H. R. 16023. An act granting an increase of pension to Sheldon B. Fargo;
H. R. 16024. An act granting an increase of pension to Katie B. Meister;
H. R. 16098. An act granting an increase of pension to Frederick Fenz;
H. R. 16179. An act granting an increase of pension to William N. J. Burns;
H. R. 16182. An act granting an increase of pension to Samuel F. Williams;
H. R. 16190. An act granting an increase of pension to James T. Caskey;
H. R. 16210. An act granting an increase of pension to Abraham G. Long;
H. R. 16215. An act granting an increase of pension to Mary Dagenfield;
H. R. 16250. An act granting an increase of pension to Augustus J. Morey;
H. R. 16266. An act granting an increase of pension to Margaret A. Rucker;
H. R. 16274. An act granting an increase of pension to David Lindsey;
H. R. 16296. An act granting an increase of pension to Henry C. Coffin;
H. R. 16334. An act granting an increase of pension to Enos Day;
H. R. 16376. An act granting an increase of pension to Joseph Muncher;
H. R. 16428. An act granting an increase of pension to Edwin Hicks;
H. R. 16433. An act granting an increase of pension to Marius S. Cooley;
H. R. 16437. An act granting an increase of pension to Samuel H. Frazier;
H. R. 16442. An act granting an increase of pension to John A. Powell;
H. R. 16504. An act granting an increase of pension to Thomas W. Barnum;
H. R. 16514. An act granting an increase of pension to John W. Barton;
H. R. 16519. An act granting an increase of pension to Erwin G. Dudley;
H. R. 16520. An act granting a pension to Edward Farrell;
H. R. 16522. An act granting an increase of pension to Charles Meyer;
H. R. 16523. An act granting an increase of pension to Charles P. Hopkins;
H. R. 16578. An act granting an increase of pension to Edward Lilley;
H. R. 16582. An act granting a pension to Ellen T. Sivels;
H. R. 16632. An act granting an increase of pension to Louis Lepine; and
H. R. 16650. An act granting an increase of pension to Robert B. Willihy.

Subsequently the foregoing pension bills were severally read twice by their titles, and referred to the Committee on Pensions.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills and joint resolution; and they were thereupon signed by the Vice-President:

H. R. 12845. An act to consolidate the city of South McAlester and the town of McAlester, in the Indian Territory;

H. R. 15848. An act authorizing the sale of timber on the Jicarilla Apache Indian Reservation for the benefit of the Indians belonging thereto; and

H. J. Res. 117. Joint resolution extending the time for opening to public entry the unallotted lands on the ceded portion of the Shoshone or Wind River Indian Reservation in Wyoming.

KIOWA, COMANCHE, AND APACHE INDIAN LANDS.

Mr. CLAPP. I ask unanimous consent for the present consideration of the concurrent resolution which has just come from the House, for the purpose of recalling a bill which has gone to the Executive.

The VICE-PRESIDENT. The Chair lays before the Senate a concurrent resolution from the House of Representatives.

The concurrent resolution was read, considered by unanimous consent, and agreed to, as follows:

Resolved by the House of Representatives (the Senate concurring), That the President be, and hereby is, requested to return to the House the bill (H. R. 431) to open for settlement 505,000 acres of land in the Kiowa, Comanche, and Apache Indian Reservations in Oklahoma Territory.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented a petition of the Commercial Club of Medford, Okla., praying for the speedy passage of the bill conferring statehood on Oklahoma and the Indian Territory, etc.; which was ordered to lie on the table.

He also presented a memorial of Mrs. Ellen Spencer Mussey Tent, No. 1, Daughters of Veterans, of Washington, D. C., remonstrating against the enactment of legislation to reduce the salaries of Government employees; which was referred to the Committee on Appropriations.

Mr. CULLOM presented a petition of the General Federation of Women's Clubs, of Chicago, Ill., praying for an investigation into the industrial condition of the women of the country; which was referred to the Committee on Education and Labor.

He also presented a memorial of the Manufacturers' Association of Belleville, Ill., remonstrating against the passage of the so-called "anti-injunction bill;" which was referred to the Committee on the Judiciary.

Mr. GALLINGER presented a petition of the Littleton National Bank, of Littleton, N. H., praying that an appropriation be made for the free transportation of silver; which was referred to the Committee on Appropriations.

He also presented the petition of Henry T. Satterlee, bishop of the Diocese of Washington, D. C., praying for the enactment of legislation to create a board of condemnation of insanitary buildings in the District of Columbia; which was referred to the Committee on the District of Columbia.

He also presented a petition of the Woman's Club of Franklin, N. H., praying that an appropriation be made for a scientific investigation into the industrial conditions of women in the United States; which was referred to the Committee on Education and Labor.

He also presented sundry memorials of citizens of Alva, Okla., remonstrating against the repeal of the present anticanteen law; which were referred to the Committee on Military Affairs.

Mr. PROCTOR presented a petition of the Woman's Christian Temperance Union of Danville, Vt., praying for the removal of the internal-revenue tax on denaturized alcohol; which was referred to the Committee on Finance.

He also presented petitions of the Woman's Club of White River Junction, the Clover Club of Barre, the Progressive Club of Rutland, the Review Club of Chester, the Monday Club of Rochester, the Woman's Club of Morrisville, the Unity Club of Rutland, the Woman's Club of Brattleboro, and the Lyndon Woman's Club, of Lyndonville, all of the General Federation of Women's Clubs, in the State of Vermont, praying for an investigation into the industrial condition of the women of the country; which were referred to the Committee on Education and Labor.

Mr. PLATT presented a petition of sundry citizens of New York City, N. Y., praying for the enactment of legislation for the protection of animals, birds, and fish in the forest reserves; which was referred to the Committee on Forest Reservations and the Protection of Game.

Mr. BURNHAM presented petitions of the Froebel Club of Keene, the Woman's Club of Berlin, the New Century Club of Manchester, the Woman's Club of Franklin, and the Vega Club of Lebanon, all of the General Federation of Women's Clubs, in the State of New Hampshire, praying for an investigation into the industrial condition of the women of the country; which were referred to the Committee on Education and Labor.

He also presented a petition of the F. M. Hoyt Shoe Company, of Manchester, N. H., praying for the passage of the so-called "Philippine tariff bill;" which was referred to the Committee on the Philippines.

Mr. PILES presented a petition of Mount Pleasant Grange, No. 197, Patrons of Husbandry, of Washougal, Wash., praying for the removal of the internal-revenue tax on denaturized alcohol; which was referred to the Committee on Finance.

Mr. KEAN presented the petition of Ephriam S. Acker, of Watchung, N. J., and the petition of W. J. B. Sharp, of Bridgetown, N. J., praying for the removal of the internal-revenue tax on denaturized alcohol; which were referred to the Committee on Finance.

He also presented the petition of R. E. Rhoads, of Moorestown, N. J., praying that an appropriation be made for the establishment of public playgrounds in the District of Columbia; which was referred to the Committee on Appropriations.

He also presented petitions of the Haddon Fortnightly Club, of Haddonville; the Woman's Reading Club of Rutherford, and the Woman's Club of Newark, all in the State of New Jersey, praying for an investigation into the industrial conditions of the women of the country; which were referred to the Committee on Education and Labor.

Mr. KITTREDGE presented petitions of the Federation of Women's Clubs of Huron, of the Federation of Women's Clubs of Milbank, and of the Federation of Women's Clubs of Brookings, all in the State of South Dakota, praying for an investigation into the industrial conditions of the women of the country; which were referred to the Committee on Education and Labor.

Mr. HEYBURN presented a memorial of 514 citizens of Washington County, Idaho, remonstrating against any extension of or addition to the timber reserve in that county and the creation of any new reserve therein; which was referred to the Committee on Agriculture and Forestry.

Mr. BACON presented a petition of sundry citizens of Georgia, praying for an investigation into the charges made and filed against the Hon. REED SMOOT, a Senator from the State of Utah; which was referred to the Committee on Privileges and Elections.

Mr. GAMBLE presented sundry papers to accompany the bill (S. 5163) granting an increase of pension to John Moran; which were referred to the Committee on Pensions.

Mr. BURKETT presented a petition of sundry citizens of Nehawka, Avoca, and Weeping, all in the State of Nebraska, praying for the removal of the internal-revenue tax on denaturized alcohol; which was referred to the Committee on Finance.

Mr. ANKENY presented a petition of the Clearing House Association of Tacoma, Wash., praying for the enactment of legislation relative to bills of lading issued by interstate carriers; which was referred to the Committee on Interstate Commerce.

Mr. KNOX presented petitions of the Juniata Valley National Bank, of Mifflintown; Fayette City National Bank, of Fayette City; the First National Bank, of Smithfield, and the Beaver Trust Company, of Beaver, all in the State of Pennsylvania, praying for the enactment of legislation providing that national banks be allowed to loan 10 per cent of their capital and surplus; which were referred to the Committee on Finance.

He also presented memorials of Camp No. 148, Sons of Veterans, United States of America, of Irvins; Camp No. 60, Sons of Veterans, United States of America, of New Oxford; Camp No. 249, Sons of Veterans, United States of America, of New Castle; Camp No. 32, Sons of Veterans, United States of America, of Carnegie, all in the State of Pennsylvania, remonstrating against the enactment of legislation prohibiting the wearing of the uniform of the Army, Navy, Marine Corps, or Revenue Service; which were referred to the Committee on Military Affairs.

He also presented petitions of sundry citizens of Pittsburg, of sundry citizens of Oakmont, and of W. G. Ewing, of Mount Union, all in the State of Pennsylvania, praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah; which were referred to the Committee on Privileges and Elections.

He also presented petitions of Flinchbaugh Manufacturing Company, of York; Grange No. 1246, of Patrons of Husbandry, of Roulette; sundry citizens of Saylersburg; Sarah J. Trainer, of Kelton; H. N. Lindsay, of Homestead; G. L. Morrell, of Moosie; E. M. Marsh, of Philadelphia; M. D. Lothrope, of Carbondale; Rev. W. Haupt, of Blairsville; H. B. Arrison, of Philadelphia; Cecil Pierce, of Kelton; George C. Henry, of Shippensburg; J. E. Fleming, of Pittston; D. K. Artman, of Connellsville; Local Grange No. 133, Patrons of Husbandry, all in the State of Pennsylvania, praying for the enactment of legislation to remove the duty on alcohol used for industrial purposes; which were referred to the Committee on Finance.

He also presented petitions of the Tuesday Club, of Chambersburg; John S. Seefever, of Philadelphia; the Woman's Club of Sewickley; the Woman's Suffrage Society, of Philadelphia County; Village Improvement Association, of Doylestown; New Century Club, of Philadelphia; Woman's Club of Allegheny; Betterment Association of the Civic Club of Philadelphia; the Iris Club, of Lancaster; New Century, Club, of Chester, and E. B. Engle, of Waynesboro, all in the State of Pennsylvania, praying for the enactment of legislation to prevent the impending destruction of Niagara Falls on the American side by the diversion of the waters for manufacturing purposes; which were ordered to lie on the table.

He also presented petitions of the Iris Club, of Lancaster; Tuesday Club, of Chambersburg; Woman's Club of Sewickley; Village Improvement Association, of Doylestown; the Woman's Suffrage Society of Philadelphia County; New Century Club, of

Philadelphia; W. N. Millar, of Pittsburg; the Civic Club, of Philadelphia, all in the State of Pennsylvania, praying for the passage of the bill providing for the establishment of forest reservations in the White Mountains and in the southern Appalachian Mountains; which were ordered to lie on the table.

He also presented memorials of the Iris Club, of Lancaster; sundry citizens of Philadelphia; Tuesday Club, of Chambersburg; the Woman's Club of Sewickley; the Woman's Suffrage Society of Philadelphia County; Village Improvement Association, of Doylestown; New Century Club, of Philadelphia; the Civic Club, of Philadelphia, all in the State of Pennsylvania, remonstrating against the repeal of the so-called "Morris law," relative to the preservation and protection of the forests of the United States; which were referred to the Committee on Forest Reservations and the Protection of Game.

He also presented petitions of the Woman's Missionary Society of the Bellefield Church, of Pittsburg; C. D. Kirby, of Philadelphia; Frank D. P. Hickman, of Berwyn; S. W. K. Bradford, of Philadelphia; Dr. F. H. Richards, of Philadelphia; Rev. William W. West, of Greensburg; sundry citizens of Pittsburg; sundry citizens of Philadelphia, all in the State of Pennsylvania, praying that an investigation be made of the existing conditions in the Kongo Free State; which were referred to the Committee on Foreign Relations.

He also presented petitions of 22 citizens of McKees Rocks; Annie Wolf, of Schuylkill Haven; E. M. Bates, of Pittsburg; Chester A. Burg, of East Prospect; Emma B. Bittle, of Schuylkill Haven; Harry A. Haines, of East Prospect; W. C. McCoy, of Pittsburg; sundry citizens of Mahanoy City; Waldo Cross, of Brackenridge; H. R. Haas, of Allentown; Thomas Grove, of Royer; James Dieter, of Royer; John Pierce, of Brackenridge; Rev. Isaiah Revennaugh, of Shustown; R. M. Zundel, of Greensburg; John L. Marsch, jr., of Pittsburg; Local Council No. 169, Daughters of Liberty, of Schuylkill Haven; Local Union No. 242, Amalgamated Sheet Metal Workers' International Alliance, of Shamokin; Council No. 689, Junior Order United American Mechanics, of Tippecanoe; Council No. 965, Junior Order United American Mechanics, of Flatwoods; of Camp No. 514, Patriotic Sons of America, of Troy; Council No. 311, Junior Order United American Mechanics, of Greensburg, all in the State of Pennsylvania, praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

He also presented memorials of the First National Bank of Hoagston; Juniata Valley National Bank, of Mifflintown; Johnstown Trust Company, of Johnstown; Beaver Trust Company of Beaver, all in the State of Pennsylvania, remonstrating against the enactment of legislation establishing a postal savings bank system; which were referred to the Committee on Post Offices and Post Roads.

He also presented petitions of Brotherhood of Railroad Trainmen, of Hallstead; Lodge No. 323, Brotherhood of Railroad Trainmen, of Rochester; Division No. 326, Order of Railroad Conductors, of New Castle; Division No. 75, Brotherhood of Locomotive Engineers, of Reading; Division No. 298, Brotherhood of Locomotive Engineers, of Erie; Lodge No. 541, Brotherhood of Railroad Trainmen, of Shamokin, all in the State of Pennsylvania, praying for the passage of the so-called "employers' liability bill;" which were referred to the Committee on Interstate Commerce.

Mr. WARREN presented a petition of the Woman's Christian Temperance Union of Sheridan, Wyo., praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah; which was referred to the Committee on Privileges and Elections.

Mr. DRYDEN presented a petition of the Board of Trade of Newark, N. J., praying for the passage of the so-called "Hepburn railroad rate bill;" which was ordered to lie on the table.

He also presented a petition of the Political Study Club, of Orange, N. J., praying for the passage of the so-called "statehood bill;" which was ordered to lie on the table.

He also presented a petition of the American Medical Association, of Lakewood, N. J., praying for the passage of the so-called "pure-food bill;" which was ordered to lie on the table.

He also presented a petition of the Society of Organized Charity, of Salem, N. J., praying for the enactment of legislation to regulate the employment of child labor in the District of Columbia; which was ordered to lie on the table.

He also presented a petition of the Moorestown Improvement Association, of Moorestown, N. J., praying that an appropriation be made for the purchase and maintenance of public playgrounds in the District of Columbia; which was referred to the Committee on Appropriations.

He also presented a memorial of District Assembly No. 197, Knights of Labor, of Jersey City, N. J., remonstrating against the passage of the so-called "Littlefield antipilotage bill;" which was referred to the Committee on Commerce.

He also presented a petition of the Stowell Manufacturing Company, of Jersey City, N. J., praying for the passage of the so-called "Philippine tariff bill;" which was referred to the Committee on the Philippines.

He also presented a petition of Local Lodge No. 38, Brotherhood of Railroad Trainmen, of Trenton, N. J., praying for the enactment of legislation to restrict immigration; which was referred to the Committee on Immigration.

He also presented the petition of Peter Henderson & Co., of New York City, N. Y., praying for the enactment of legislation to prohibit the free distribution of seeds; which was referred to the Committee on Agriculture and Forestry.

He also presented petitions of the Woman's Club of Newark; of the Haddon Fortnightly Club, of Haddonfield, and of the Woman's Reading Club of Rutherford, all in the State of New Jersey, praying that an appropriation be made for a scientific investigation into the industrial conditions of women in the United States; which were referred to the Committee on Education and Labor.

He also presented petitions of sundry citizens of Newton, Watchung, Caldwell, and Bridgeton, all in the State of New Jersey, praying for the enactment of legislation to remove the duty on denaturized alcohol; which were referred to the Committee on Finance.

Mr. BRANDEGEE presented petitions of the Travelers' Club of Danbury, the Woman's Club of Norwalk, the Woman's Club of Enfield, and the Friday Afternoon Club of South Norwalk, all in the State of Connecticut, praying for an investigation into the industrial condition of the women of the country; which were referred to the Committee on Education and Labor.

He also presented a petition of the Organized Charities Association of New Haven, Conn., praying for the enactment of legislation to create a board of condemnation of insanitary buildings in the District of Columbia; which was referred to the Committee on the District of Columbia.

RAILROAD RATES IN WEST VIRGINIA.

Mr. TILLMAN. Mr. President, I present to the Senate and desire to have read a communication addressed to me personally, but as it relates to the great subject with which we are dealing and the abuses of railroad rates, I wish it to be given to the Senate, largely in response to the suggestion of the Senator from West Virginia [Mr. SCOTT], who remarked Friday that he would like to have me give the country something of this sort every morning. I intend to gratify him. This is the first installment.

The VICE-PRESIDENT. Without objection, the Secretary will read the communication sent to the desk.

The communication was read, and ordered to lie on the table, as follows:

CLARKSBURG, W. VA., *March 17, 1906.*

Hon. BENJAMIN R. TILLMAN,
United States Senator, Washington, D. C.

DEAR SENATOR: On account of your able and fearless advocacy of the rights of the people of West Virginia as against the railroad combination in this State, West Virginians look upon you as a greater friend to them than either of their Senators. I have read excerpts from your report on the Hepburn railroad rate bill concerning West Virginia with great interest, and having heretofore made investigation as to the laws and legislation in West Virginia with respect to relief for individual operators, I shall attempt to give you partial results of my investigation, in hopes that it may aid you in your work in trying to get better railroad facilities for the farmers and individual operators who desire to mine and ship their coal from this State.

This question is not new to me. Living in the section that I do, I have had application after application of individual operators for relief against discrimination as to the shipment of coal by the Baltimore and Ohio Railroad Company. And I have found the situation to be almost hopeless, under our present laws, to coal shippers that do not stand in with the railroad company.

The constitution of West Virginia, I think, is broad and comprehensive enough to permit legislation adequate to the needs of our people. Here are its provisions:

"ARTICLE XI.

"SEC. 9. Railroads heretofore constructed, or that may hereafter be constructed, in this State are hereby declared public highways and shall be free to all persons for the transportation of their property thereon under such regulations as shall be prescribed by law; and the legislature shall, from time to time, pass laws applicable to all railroad corporations in the State, establishing reasonable maximum rates of charges for the transportation of passengers and freights and providing for the correction of abuses, the prevention of unjust discriminations between through and local or way freight and passenger tariffs, and for the protection of the just rights of the public, and shall enforce such laws by adequate penalties.

"SEC. 11. No railroad corporation shall consolidate its stock, property, or franchise with any other railroad owning a parallel or competing line, or obtain the possession or control of such parallel or competing line, by lease or other contract, without the permission of the legislature."

But for some reason our State legislature has enacted no laws sufficient to have these constitutional provisions carried into force and effect. As to section 11 above quoted, there is not a line of legislation enacted in this State that I have been able to find. In the north eas-

tral part of West Virginia new lines of railroad have been built purporting to compete with the Baltimore and Ohio Railroad Company and the Parkersburg branch of the Baltimore and Ohio—at least that was the claim when the rights of way were obtained and the roads were being built—such as the West Virginia and Pittsburg, the M. & R., the West Virginia Short Line, in the immediate section of Clarksburg, and the Ohio River Railroad along the Ohio River. Rights of way were obtained for almost nothing, and the people assisted in every way to get the roads for the purpose of competition only to have them swallowed up by or turned over to the same system and used, so far as the coal trade is concerned in this section, almost exclusively for the Fairmont Coal Company and its interest, the Fairmont Coal Company being controlled by the same people that control the railroads, whether it be called the Baltimore and Ohio system or the Pennsylvania system, or the two combined.

Why the legislature has never taken up this constitutional provision and given to the governor or some other tribunal created for the purpose authority to prohibit the Baltimore and Ohio Railroad Company from owning or operating competing lines, such as above mentioned, I am unable to tell, but no such legislation has been enacted nor authority vested in anyone to enforce this constitutional provision.

Now, if we look to see what relief, if any, the legislature of West Virginia has given to the people, under section 9 of Article XI of the constitution, above quoted, all that we find is in chapter 54, section 66b, of the code of 1899, acts of the legislature, 1895, chapter 16, which is as follows:

"I. It shall be unlawful for any railroad corporation to engage, directly or indirectly, in the business of buying and selling coal or coke, or to promise, pledge, or lend its credit, money, or other property or thing of value to another, either natural or corporate, engaged in such business, but nothing herein shall prevent such corporation from purchasing such articles for its own consumption, or, when it is the owner of any such commodities, from selling and shipping the same: *Provided*, In doing so such corporation shall not discriminate in rates, distribution of cars, or otherwise against other shippers of like commodities on its lines: *And provided further*, That when such company has the right to sell either of such commodities and is unable from any cause to fill any bona fide contracts it may have made to supply such commodities, or either of them, it may purchase them to enable it to fill such contracts.

"II. Every railroad corporation along whose line of railroad the industries of mining coal or manufacturing coke is carried on shall without discrimination between or amongst shippers, and without unnecessary delay, make a reasonable provision for the transportation of all such coal and coke offered for transportation over its railroad, and no such railroad corporation shall discriminate in rates, distribution of cars, or otherwise against or amongst shippers of coal or coke offered for shipment on its line or lines.

"III. The circuit and criminal courts of every county through or into which the railroad of any such railroad corporation violating any or either of the provisions of this act may pass shall have concurrent jurisdiction of all the offenses under and violations of the provisions of this act.

"IV. Any railroad corporation or officer or agent thereof who shall knowingly and willfully violate any of the provisions of this act shall for each and every such offense be deemed guilty of misdemeanor, and upon indictment and conviction thereof shall be fined not less than $50 nor more than $500."

To my mind, if the railroad presidents, with their eminent legal counsel surrounding them, should be allowed to draft a bill for the legislature—and perhaps they drafted this one or had control of those who did—they never could have drafted a measure that would better "seem to have had that which it hath not" than this act. The "but" and "provided" clauses in subsection 1 takes every bit of the force out of that section except as to rate discrimination and distribution of cars, which is provided for in subsection 2. The provision in subsection 4 as to indictments and conviction are such that the railroad company can almost laugh at the prosecution in trying to convict any railroad official under that provision. The railroad official must "knowingly and willfully violate the provisions;" then, when he is convicted, the fine is not less than $50 nor more than $500. What does a railroad company care for such fine as that? And, besides, the case can be carried to the Supreme Court and dallied with until the remedy is absolutely futile.

Now, when we turn for relief, under subsection 2, for individual operators or shippers, we find that there is no remedy provided, and the mode of procedure that we have in this State would be by mandatory injunction on behalf of the individual operator to compel the railroad company to cease discrimination as to cars or rates and make reasonable provisions for the transportation of coal. When we tell our clients the remedy, they throw up their hands and say that they can not afford to combat the railroad company in a proceeding of that kind; that it would be fought to a bitter end, the railroad company using every means that it could to prevent a conclusion or final hearing of the cause, and in the meantime would entirely ruin them. The railroad company, being interested in the production of coal itself, refuses to furnish cars when an individual operator has miners or men to dig the coal, and watches when the miners leave, and then furnishes a supply of cars. The operator can not load them, as his men are gone, and by the time he gets his miners back the cars are removed, because not filled. Spotters are out for the railroad company to ascertain the condition of the individual operator, and every means used that can be studied up and devised to prohibit him from operating his mines. If he should furnish his own cars, when they are shipped to market loaded with coal the empties would be used by the railroad company and all the delay possible made in their return. When coal is shipped to a foreign market, instead of the loaded cars being properly delivered the tip is given to drop them off here and there and scatter them around, so that the coal does not get to market at the time that it should, and the individual shipper loses his sale by not being able to deliver his coal. These are only a few of the ways in which the railroad companies harass the individual shipper.

Last fall I thought I would apply to the attorney-general of this State, asking him to take the matter up in relation to the individual shippers, but upon examination I found that his powers were so limited that it would be useless to apply to him. At page 838 of the Code of 1899 will be found his duties, which are as follows:

"1. The attorney-general shall give his opinion and advice in writing whenever required to do so by the governor or other officers at the seat of government or by the board of public works.

"2. He shall appear as counsel for the State in all cases in which the State is interested depending in the supreme court of appeals or in the circuit court of the county in which the seat of government may be.

"3. He shall annually, on or before the 1st day of November, deliver to the governor a report of the state and condition of the several causes, in which the State is a party, pending in the said courts.

"4. On the final determination of any cause in either of the courts mentioned in the second section in which the attorney-general appeared for the State, the clerk thereof shall certify to the auditor the fee of the attorney-general which was taxed in the bill of costs against the defendant, and in case the said fee shall be paid into the treasury the auditor shall issue his warrant on the treasury in favor of the attorney-general for the amount thereof.

"5. It shall be the duty of the attorney-general of this State to appear and protect the interests of the citizens of this State in all actions, suits, and other proceedings that are now, or shall hereafter be, instituted in any court of record in this State in favor of or against any railroad company whose road passes through any portion of the territory of this State whenever such action, suit, or proceeding involves the right to assess or collect taxes upon the property, real or personal, of said railroad by any authority in this State authorized to levy taxes, whenever said attorney-general shall be requested by said authority to do so; for which appearance and services he shall receive a reasonable fee, to be paid by the authority requesting his appearance as aforesaid. But no compensation shall be paid him therefor by the State, except his salary and actual traveling expenses incurred."

It can be readily seen that there is no authority given the attorney-general to take the initiative or institute any proceeding against the railroad company for discrimination in cars or rates. And the only place that he is authorized to appear is when indictments are found against the companies for such discrimination. If there were vigorous prosecution in every county in the State through which the railroads run, wherein the discrimination law has been violated, it might have some effect upon the railroad companies, but the individual operators would have to be the prosecutors and the railroad companies would still be inclined to treat them worse on account of the prosecutions.

After finding that it would be useless to apply to the Attorney-General, I then thought of the governor of the State, and upon investigation I found that it was as equally hopeless, on account of there being no legislation for the purpose, to ask the governor to do anything until the legislature acted. The authority of the governor in this particular is found in the State constitutional provision, section 5 of Article VII:

"The chief executive power shall be vested in the governor, who shall take care that the laws be faithfully executed."

This constitutional provision has been construed by our supreme court, in the case of Shield & Preston v. Bennett, Auditor (8 W. Va., p. 74), at point 13 of the syllabus, as follows:

"This provision does not generally, if ever, make it the duty of the governor himself to execute the laws; but, as the language implies, it makes it his duty carefully to observe the manner in which the different officers of the government exercise their proper functions and execute the laws committed to their charge, or their failure to perform such duties, and when they fail, if he has the power to remove them from office, in a proper case to remove them, or to bring the subject to the cognizance of that department of the government which has the power to remove or punish the delinquents."

So that it will be seen that the governor is not required to take the initiative or institute the proceedings in behalf of individual operators, but is only required to see that the prosecuting attorneys and other officials do their duty in respect to carrying out these laws.

This leaves us with some legislation, but inadequate to afford anything like relief under our present situation. The only hope we have is to look now to the United States Government, through Congress and the Interstate Commerce Commission. When the next State legislature meets (and Governor Dawson is contemplating calling an extra session for the purpose) we may be able to get some legislation on the subject. We may never expect, however, to get anything like proper railroad legislation so long as the stupefic pass influence is given to officials either in whole or broken doses.

I hope that the time will soon come when the moral sense of the people in this country will be so quickened that every official—United States, State, county, and district—who rides upon a free railroad pass will be looked upon and stamped as a bribe taker and a villain, and given no more credit than a ballot-box stuffer, a ravisher, a thief, or a robber.

The United States should take upon itself the burden and expense, as it is now trying to do, to compel common carriers of interstate commerce to cease discrimination. And the State of West Virginia should enact such laws, and use its power to enforce them, that will compel common carriers to do equal justice with all shippers and not leave this burden upon the individual operator or shipper. Every corporation that is granted the right of public domain should be by the power of the State and at the expense of the State compelled to deal fair with every citizen of the State. We have reached a point in the history of this country, by allowing the corporations to encroach on us to such an extent, that we shall be compelled to enact legislation that will seem drastic to those who have encroached upon the rights of the people to such an extent that it has become unbearable. The railroad companies should be compelled to sell their coal, if not, it should be taken by the State or the United States Government.

Mr. Bond, one of the vice presidents of the Baltimore and Ohio Railroad, in his report to the United States Senate, admits that the Baltimore and Ohio Railroad Company owns the majority of the stock of the Consolidated Coal Company of Maryland, and the Consolidated Coal Company of Maryland owns a majority of the stock of the Fairmont Coal Company. Some years ago the Fairmont Coal Company bought out nearly all the operating mines in this valley between Morgantown and Weston, and undertook to squeeze out all the individual operators who would not sell out to them or who afterwards opened up mines. I submit that the Consolidated Coal Company of Maryland and the Fairmont Coal Company are both unlawful combinations in restraint of trade, and both should be compelled to disband. The Fairmont Coal Company pays its leading officers enormous and outrageous salaries, such as the men to whom such salaries are paid could never hope to get in the open market and from individuals or corporations in which they were not in control. And the manner in which the company is otherwise managed is such that if individual operators were given an equitable chance as to transportation the Fairmont Coal Company could not begin to compete with them.

Your efforts have already done us much good, and I sincerely hope, yes, I know, that your future work will still add to your usefulness as a United States Senator and work a great benefit not only to our section, but to the whole United States.

Sincerely, yours,

MILLARD F. SNIDER.

P. S.—If you will send me a copy of the Hepburn bill and your report thereon I shall be very much obliged.

M. F. S.

PUBLIC PRINTING AND THE DISTRIBUTION OF DOCUMENTS.

Mr. PLATT. I am directed by the Commission appointed during the last Congress to investigate public printing to submit a preliminary report. I ask that it be printed and referred to the Committee on Printing.

Mr. LODGE. I should like to ask the Senator from New York in this connection if there are not two joint resolutions to accompany the report?

Mr. PLATT. There are. I shall present them.

Mr. GALLINGER. Mr. President, this is a very important matter, and I will ask that the report just submitted be read for the information of the Senate.

The VICE-PRESIDENT. The Senator from New Hampshire asks that the report just made by the Senator from New York be read for the information of the Senate. The Secretary will read it.

The Secretary proceeded to read the report.

Mr. GALLINGER. My purpose in asking for the reading of the report was to have it brought to the attention of Senators, because I feel sure that it is one of the most important reports which has been presented to Congress for many years. Having accomplished that purpose by a partial reading of the report, I ask that the remainder of it be printed in the RECORD.

There being no objection, the entire report was ordered to be printed in the RECORD, as follows:

The Printing Investigation Commission, after entering actively upon the duties imposed upon it by Congress in the act making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1905, soon discovered, as other similar commissions have previously discovered, the subject of reform in the public printing and binding to be one of such magnitude and complexity as to require almost scientific treatment, and to involve many months of investigation and research. Yet, the necessity for reform in the public printing and binding and the distribution of public documents is so pressing that the Commission has deemed it in the public interest to present to Congress, at this time, a preliminary report dealing with some of the more glaring inequalities and abuses which call for immediate correction, and, at the same time, to embody in the form of joint resolutions a remedy therefor.

DISTRIBUTION.

The investigations of the Commission have disclosed one of the chief inequalities of the existing printing laws to consist of faults in the distribution of public documents. This grows out of two glaring defects in the law; first, the fact that all publications are printed to the full limit authorized by law; second, that so far as the Congressional distribution is concerned, documents are distributed through the Senators and Representatives on a pro rata basis without regard to the demands there may be from their respective constituencies.

As many copies of a report on the beet-sugar industry will be placed at the disposal of a Member of Congress representing a district in the heart of the city of New York as are placed to the credit of a Member representing a beet-sugar district in California; a Member representing an agricultural district in Kansas is called upon to distribute as many copies of a report on the marble industry of Vermont as a Representative of the latter-named State; a Member representing a constituency in North Dakota is called upon to distribute as many copies of a report on citrus fruits as a Member from Florida, and a Member representing the Long Island (New York) district has placed to his credit the same number of copies of a report on irrigation of arid lands as the Member from Nevada.

This system operates practically in the following way: The Representative of the district in the heart of the city of New York distributes but a small fraction of his documents relating to beet sugar; the Representative from Kansas distributes but a small fraction of his documents relating to the marble industry; the Member representing a district in North Dakota distributes but a small fraction of his documents relating to the culture of citrus fruits, and the Member from the Long Island district likewise disposes of but a small fraction of the documents to which he is entitled in relation to the irrigation of arid lands.

In the meantime, the Member from California, the Member from Vermont, the Member from Florida, and the Member from Nevada have exhausted their quotas of these reports, and, while their constituents express to them an urgent need for copies of these publications, they can not gracefully ask Congress for a reprint while tons upon tons of undistributed copies, to which they have no access, lie molding in the document rooms and warehouses of the Government. Hence there are piled up in the folding rooms and other auxiliary warehouses vast quantities of public literature for which no use can be found under present methods of distribution, and under said methods of distribution there is no possible relief that can be afforded without a too radical change of system.

In many instances Senators and Members, seeing upon the list of documents placed to their credit many which would be of little or no interest to their constituents, send them out with no incentive to or opportunity for discrimination rather than permit them to rot or become obsolete. The Kansas farmer who receives a report on the marble industry of Vermont charges his Senator or Member with ill judgment and Congress with extravagance, thereby bringing the entire question of the public printing into disrepute.

The New York dry goods merchant likewise who receives a report on the Devonia paleontology perchance throws the document into the waste basket and stands ready to indorse any proposition looking to the abolishment of the Government Printing Office. The alternative of this would be that the document would fail to be sent out and would rest in the cellar of the Capitol, for it would require a force of many clerks to effect an intelligent distribution of all the documents placed to the credit of any single Senator or Representative, as there is no State and no district in which there exists legitimate demand for all the documents placed to the credit of their Representatives.

If a method can be devised whereby a Senator or Member may supply to his constituents the documents in which they are interested to the full extent contemplated by Congress in the printing of such documents, and yet avoid the unnecessary printing of documents for which his constituents have no use, no hardship will be visited upon anyone, and, at the same time, a real saving in the cost of printing can be effected.

A private publisher, anticipating a maximum demand for 100,000 copies of a book to be printed, and a minimum demand of 10,000 copies, would confine the first edition to the requirements of the minimum rather than the possible maximum demand, fully aware that if his fondest anticipations were to be realized he could meet the larger demand by the printing of subsequent editions. For this reason books printed at private expense often run through many editions.

There is no valid reason why Congress can not pursue the same policy, especially in view of the costly experience through which Congress has already passed and the exhibition it has witnessed of waste and extravagance, having few parallels in the administration of public affairs. It is not extravagant to state, since it is practically true, that there are now stored in the Government warehouses 9,538 tons of public documents, most of which are obsolete, and this regardless of hundreds of tons that have been sold in past years to dealers in junk.

Under the present system, if 150,000 copies of a document are ordered to be printed, they are delivered to the folding rooms of the Senate and House in bulk, and allotted under prevailing custom in the proportion of 50,000 to the Senate and 100,000 to the House. These are prorated among the Senators and Members and placed to their credit accordingly on the books of the folding rooms. When a Member from California orders a copy it is taken from the same pile from which a copy would be delivered to a Member from Maine. It should be distinctly borne in mind that the allotment to the individual Member is simply a book record, and the pile is diminished only to the extent that individual Members draw therefrom. If, now, the pile can be originally made smaller and replenished as the necessities of the folding room may require, and the production of printed matter, in other words, kept more nearly on a parity with the demand, a solution of the problem will be reached.

An analogy would be found in a bank holding $5,000,000 on deposit received from 5,000 different depositors. The bank, of course, would not divide its $5,000,000 into 5,000 parts and hold the whole sum intact to be drawn upon by its depositors, but would simply retain such proportion of the whole, based upon past experience, as would satisfy the checks of depositors as presented for collection. The book records of the depositors would show $5,000,000 as being due them, while the bank actually would retain but a fraction for their depositors' immediate use.

The plan of the Commission would contemplate the delivery to the folding rooms of any given document in a number sufficient to meet the calls of Senators and Members, based upon the experience of the said folding rooms in meeting similar demands in the past. If the demands exceed the expectations of the folding rooms a means is provided under the plan of the Commission whereby the supply could be made to approach these demands, and at the same time that the supply should cease when the demand ceases. The policy would be to meet the actual, rather than the possible, demand, and would be always subject to the limitations now fixed, unless Congress, by subsequent legislation, should see fit to provide otherwise.

The Joint Committee on Printing, with the assistance and cooperation of those officers of Congress charged with the duty of making the distribution, would aim to ascertain in advance of the publication of any document what the probable requirements in its distribution would be, and to supply, if deemed expedient, only a limited edition of the whole number authorized by law, to be followed by a subsequent edition, if necessary, to maintain a supply equal to the legitimate demand.

If the plan recommended by the Commission should be adopted, the Joint Committee on Printing could place upon the officers charged with distribution the responsibility for excessive accumulation of documents in the folding rooms, as the committee would naturally rely for its estimates upon the judgment and experience of those charged with the distribution.

For instance, the superintendent of the folding room of the House, under date of December 5, 1905, reports on hand 2,598 copies of Commercial Relations, 1901, showing a manifest oversupply of this document, although many Members have drawn their full quota. It would be a simple matter for the superintendent of the folding room, in advance of the printing of the next issue, to take into account the number of undistributed copies of previous reports and to estimate therefrom the probable demands upon his office for the proposed issue, in order that the Joint Committee on Printing may limit the first edition of such subsequent publication to the probable demand, and thereby save the enormous cost of printing copies which, in the light of past experience, will probably never be distributed. The theory is just as susceptible to practical application as the law of averages applied to the great commercial interests of the world, and to the entire scope of appropriations based upon estimated receipts which underlie all governmental operations.

One of the serious problems that has confronted Congress has been a suitable provision for the storing of public documents. The superintendent of the folding room of the House, the Sergeant-at-Arms of the Senate, and the superintendent of documents of the Government Printing Office have all complained of their lack of storage capacity. Such complaints would cease if the proposed plan were adopted, since the unnecessary accumulation would be obviated by permitting these officers in advance of printing to express the actual needs of the two Houses of Congress.

While the printing of a document in more than one edition would necessarily involve a slight additional expense, the estimates furnished to the Commission by the Public Printer show this additional cost to be so trivial compared with the great economy following the proposed reduction in the volume of printing as to be unworthy of consideration. For instance, there were printed of the annual report of the Commissioner of Education for 1902, 38,689 copies, at a cost of $63,248.96. There are now in the folding rooms of the Senate and House 9,483 sets, or 19,136 volumes, undistributed, and for which there will be in the future little, if any, demand. These undistributed copies cost the Government, aside from the cost of plates (typesetting, stereotyping, etc.), $11,758.92. The estimated cost of printing this report in two editions instead of one would have been only $150 additional, showing a net saving on this one report of $11,608.92.

There were printed of the Annual Report of the Geological Survey, 1902-3, 13,680 copies, at a total cost of $12,032.98. There are now undistributed in the Senate and House folding rooms 4,121 copies, which cost the Government, aside from the making of the plates, $3,393.19. The cost incident to printing this report in two editions instead of one would have been only $125, a net saving of $3,178.19.

There were printed of the Special Report on Diseases of the Horse 200,642 copies, at a cost of $100,862.75. There are now in the folding

rooms of the Senate and House 70,094 copies, costing, exclusive of cost of plates, etc., $33,645.12. The cost of printing in two editions instead of one would have been only $600, showing a net saving of $33,045.12.

There were printed of the proceedings in the Senate incident to the Impeachment of Judge Swayne 10,642 copies, at a total cost of $5,729.90. There are now on hand in the folding rooms of the Senate and House 7,100 copies, for which there will probably be no future demand. The cost of these undistributed copies, exclusive of typesetting, etc., was $2,769. The additional cost incident to the printing in two editions instead of one would have been only $85, showing a saving of $2,684.

To illustrate this principle by application to a proposal now before Congress, quite parallel to the publication of the Swayne impeachment proceedings, a resolution is pending which provides for the printing of 10,000 copies of the hearings before the Senate Committee on Interstate Commerce and a digest of said testimony. Each set comprises seven volumes, making a total of 70,000 volumes. The estimated cost of this publication is $26,922. It is quite probable that the demand for these hearings, after the existing wave of public interest has receded, will cease as surely as the interest in the Swayne impeachment proceedings subsided, and, in the judgment of the Commission, the printing of 5,000, or even 4,000, copies will meet all the requirements. If the plan proposed by the Commission were now operative, a very large saving could be effected and, at the same time, the quota of no Senator or Member who might require his full quota would be disturbed in the slightest degree.

The bound edition of the CONGRESSIONAL RECORD for the second session of the Fifty-eighth Congress aggregated 13,300 sets, or 93,100 volumes, costing $122,323.69. There remain in the folding rooms of the Senate and House 8,795 sets, or 61,565 volumes, costing the Government $76,340.60. The additional cost of printing the bound edition of the CONGRESSIONAL RECORD for the aforesaid session in two editions instead of one would have been only $1,225, showing a net saving of $75,115.60.

This does not take into account the large number of copies sent out by the Superintendent of Documents and by many Senators and Members without assurance that they were either desired or appreciated.

The slight additional expense incident to printing in two or more editions instead of one, to which allusion has been made, would, in the judgment of the Commission, be completely offset by the facility afforded the Public Printer in economically arranging and distributing his work.

Under the plan proposed by the Commission no Senator or Member will receive any smaller number than now of any document whatever, if he desires them for distribution. The plan simply prevents the surplus printing which follows a uniform and arbitrary supply to all Senators and Members of all documents, regardless of their demands or requirements.

It is not contemplated by the Commission that the policy of printing in two or more editions, instead of one, shall apply to all publications. In fact, many reports printed as mere leaflets can be printed to the full number authorized at but small expense; but with reference to all important and expensive publications there should be careful regard for the probable demand.

ALLOTMENT OF APPROPRIATIONS.

In the general annual and deficiency appropriations for printing and binding for Congress and the Executive Departments for the last fiscal year there was carried $6,081,395.82. Of this amount, $2,745,750 was allotted to the Departments and $3,335,645.82 was allotted for the printing and binding for Congress.

Upon this showing Congress stands charged with spending more money for printing than is expended by all the Departments and Independent offices of the Government combined. This showing is not only erroneous, but conceals one of the chief sources of extravagance. Under the system in vogue, all reports to Congress from the various Executive Departments, bureaus, and independent offices of the Government are printed as Congressional documents and charged to the allotment for printing and binding for Congress.

This constitutes by far the largest part of the public printing aside from blank books and stationery. The appropriations for printing and binding for the Executive Departments, bureaus, etc., are not drawn upon in the printing of these reports and documents which are now charged to the Congressional allotment for printing and binding. It follows, as a matter of course, that in the compilation of these documents and reports there is an absence of the restraint which would exist if the Department from which the publication emanated were required to draw from an appropriation definitely made for the printing of that Department.

Over the appropriation or allotment to a Department stands the head of that Department, with power and authority to protect the allotment against encroachment by any of its bureaus at the expense of others, and to check any tendency toward extravagance. There is no officer of the Government who stands in this relation to the Congressional allotment with power of veto upon extravagant tendency. But under the plan of the Commission the necessity which now exists of appropriating blindly will be changed in the respect that the Departments will include in their estimates the probable cost of all their publications. The very necessity for scrutiny by Congress over the estimates of the Departments and the coequal necessity of scrutiny by the Departments themselves in estimating will impel a curtailment of unnecessary appropriation. The difference will be tantamount to that between a guess and a practical certainty.

As it stands, the Congressional allotment for printing and binding constitutes a common fund from which all Departments and independent offices reporting to Congress may draw. The Congressional allotment must needs be sufficiently large to-day to meet the capacity of all without discrimination or limitation. This system affords no incentive to brevity, condensation, elimination, or economy in illustration. For example, in one of the Departments during the last fiscal year the reports charged to the Congressional allotment amounted to $139,764.63; in another it amounted to $451,605; in another it amounted to $256,678, and in another it amounted to $49,982.

In the preparation of the reports and documents involving these and other enormous expenditures, amounting in all to $1,206,088.44, Congress per se had no voice whatever. In the examination of witnesses this Commission made particular inquiry of the officials of Executive Departments charged with the responsibility of the preparation of these documents and reports as to their knowledge of and familiarity with the cost of publication of these documents; and while they appeared to be entirely familiar with the cost of publication of documents printed under their own allotments they, in many instances, displayed a complete lack of knowledge of the cost of that portion of their printing which was charged to the Congressional allotment in the preparation of which they were immediately concerned.

In one case a bureau chief was asked to state the cost of printing the publications of his bureau for the last fiscal year, for the preparation of which he was personally and directly responsible. After some hesitation he was finally induced to attempt to guess at the amount. His guess was 40 per cent of the actual expenditure, the actual expenditure being about $190,000. The bulk of this expenditure was drawn from the Congressional allotment. In the various reports submitted to the Commission, in response to an inquiry addressed to the Executive Departments under date of March 10, 1905, some of the Departments were unable from their own data to supply the Commission with information covering the cost of their own publications, aggregating millions of dollars, but paid for out of the appropriation for printing and binding for Congress.

On the face of the record the printing of documents for a certain Executive Department in the last fiscal year amounted to $236,214.75 only, while the actual cost of the publications of this Department amounted to $492,889.45. The cost of printing of documents for another Department, on the face of the record, was only $207,963.71, whereas the actual cost was $654,914.71, the difference being the amount paid for the printing of the documents of those departments out of the appropriation for Congressional printing.

The Commission believes that in many instances expensive printing has been embodied in reports to Congress without serving any useful end and for no other purpose than to escape the cost of typesetting, etc., and illustration, which would have otherwise been charged against the allotment to the Department or bureau from which such matter emanated. This belief is strengthened by the fact that the total number of reprinted pages obtained from these plates in the last fiscal year exceeded the total number of pages in the original editions, some parts of the originals being used in more than one subsequent departmental publication.

The total number of pages in the original editions of departmental documents charged to Congress in the last fiscal year amounted to 89,482. The number of pages reprinted from the said plates, as nearly as can be determined, amounted to 93,874, the reprints exceeding the originals by 4,392 pages, which shows that the departmental allotments were protected at the expense of the Congressional allotment to the extent of the enormous expense involved in the typesetting, etc., of this number of pages, the burden of the cost thereby falling upon Congress.

To correct these conditions and to check this tendency to extravagance in the public printing, the Commission proposes that the Congressional allotment of appropriations for public printing shall be charged only with its pro rata share of the expense of these publications, based upon the number of copies actually furnished to Congress for distribution, regardless of the cost of typesetting, stereotyping, and illustration, and that the Executive Departments, bureaus, and independent offices from which the reports and documents emanate shall be charged with the cost of plates and illustrations plus their proportionate share of the cost of printing, based upon the number of copies distributed by them.

For the information of Congress and the guidance of the Committees on Appropriations there is submitted with this report a detailed statement showing, by Departments and bureaus thereof and independent offices of the Government, the cost of all departmental publications paid for out of the Congressional allotment during the past fiscal year, from which a readjustment of the appropriations for printing, to meet the conditions proposed, may be readily arrived at.

It is the confident belief of the Commission that the adoption of this policy will result in a closer scrutiny by the responsible heads of the Departments and bureaus of the matter presented to Congress to be printed and will place responsibility for extravagance upon those who possess the power to correct that condition.

The general annual and deficiency appropriations for printing and binding for Congress and the Executive Departments for the last fiscal year, as has been said, amounted to $6,081,395.82. The general opinion prevails that this covers the entire cost of public printing for that period. The Commission has found, however, that $1,051,860 in addition to this sum was specifically appropriated for printing in connection with other items of legislation. The Commission would recommend that, in so far as practicable, all appropriations for printing and binding shall hereafter be made collectively.

The Commission is further of the opinion that the Public Printer should be placed in the same relation to Congress and the Executive Departments that a private printing establishment bears to its customers. The Public Printer should be required to keep an accurate account of the actual, rather than the theoretical, cost of all work performed in his Office, charging to Congress or the Executive Departments, who are virtually his customers, an amount only sufficient to cover such cost. Congress and the Departments, on the one hand, watchful of their appropriations, would naturally scrutinize the items of cost involved in their printing, while the Public Printer, on the other hand, would be subject at all times to the necessity of verifying, with business precision, the accuracy of his charges. To effect this reform it would be necessary to place at the disposal of the Public Printer a fund sufficiently large to maintain his Office and meet its operating expenses as any printing establishment would require, pending the receipt of returns for work actually performed.

This system would involve, in the selection of a Public Printer, careful consideration of those qualities of executive and administrative ability which insure successful management of similar institutions in the field of private enterprise. It would operate conservatively in limiting the Public Printer to the application of the funds placed at his disposal to the specific purposes for which they were intended by Congress, rather than, as under the present system, making available for his use without restraint or supervision, other than a belated public sentiment, all unexpended balances of appropriations made under current methods, a power which, in the hands of an unscrupulous or incompetent official, would tend to extravagance, if it did not lead to censurable results.

T. C. PLATT.
S. B. ELKINS.
C. B. LANDIS.
J. B. PERKINS.
J. M. GRIGGS.

The VICE-PRESIDENT. The report, in the absence of objection, will be printed, as requested by the Senator from New York, and referred to the Committee on Printing.

Mr. PLATT. From the Committee on Printing I report a joint resolution to prevent unnecessary printing and binding

and to correct evils in the present method of the distribution of public documents, and I ask unanimous consent for its present consideration.

Mr. HALE. Let the joint resolution be read, and then, with the consent of the Senator from New York, I would be glad to have the matter go over until to-morrow. It is a very important subject; a great deal of money is being spent uselessly, and I for one should like to be able to examine the report in full. I ask that the joint resolution may go over after having been read.

The VICE-PRESIDENT. The joint resolution will be read for the information of the Senate.

The joint resolution (S. R. 43) to prevent unnecessary printing and binding and to correct evils in the present method of distribution of public documents was read the first time by its title, and the second time at length, as follows:

Joint resolution (S. R. 43) to prevent unnecessary printing and binding and to correct evils in the present method of distribution of public documents.

Resolved, etc., That the Joint Committee on Printing is hereby authorized and directed to establish rules and regulations, from time to time, which shall be observed by the Public Printer, whereby public documents and reports printed for Congress or either House thereof may be printed in two or more editions, instead of one, to meet the public requirements: *Provided*, That in no case shall the aggregate of said editions exceed the number of copies now authorized or which may hereafter be authorized: *And provided further*, That the number of copies of any public document or report now authorized to be printed or which may hereafter be authorized to be printed for any of the Executive Departments, or bureaus or branches thereof, or independent offices of the Government may be supplied in two or more editions, instead of one, upon a requisition on the Public Printer by the official head of such Department or independent office, but in no case shall the aggregate of said editions exceed the number of copies now authorized or which may hereafter be authorized: *Provided further*, That nothing herein shall operate to obstruct the printing of the full number of any document or report, or the allotment of the full quota to Senators and Representatives, as now authorized or which may hereafter be authorized, when a legitimate demand for the full complement is known to exist.

Mr. PLATT. I am directed by the Committee on Printing to report a joint resolution to correct abuses in the public printing and to provide for the allotment of cost of certain documents and reports.

The joint resolution (S. R. 44) to correct abuses in the public printing and to provide for the allotment of cost of certain documents and reports was read the first time by its title, and the second time at length, as follows:

Joint resolution (S. R. 44) to correct abuses in the public printing and to provide for the allotment of cost of certain documents and reports.

Resolved, etc., That hereafter, in the printing and binding of documents or reports emanating from the Executive Departments, bureaus, and independent offices of the Government, the cost of which is now charged to the allotment for printing and binding for Congress, or to appropriations or allotments of appropriations other than those made to the Executive Departments, bureaus, or independent offices of the Government, the cost of illustrations, composition, stereotyping, and other work involved in the actual preparation for printing, apart from the creation of manuscript, shall be charged to the appropriation or allotment of appropriation for the printing and binding of the Department, bureau, or independent office of the Government in which such documents or reports originate; the balance of cost shall be charged to the allotment for printing and binding for Congress, and to the appropriation or allotment of appropriation of the Executive Department, bureau, or independent office of the Government, in proportion to the number delivered to each; the cost of any copies of such documents or reports distributed otherwise than through Congress or the Executive Departments, bureaus, and independent offices of the Government, if such there be, shall be charged as heretofore: *Provided*, That on or before the 1st day of December in each fiscal year each Executive Department, bureau, or independent office of the Government to which an appropriation or allotment of appropriation for printing and binding is made shall obtain from the Public Printer an estimate of the probable cost of all publications of such Department, bureau, or independent office now required by law to be printed, and so much thereof as would, under the terms of this resolution, be charged to the appropriation or allotment of appropriation of the Department, bureau, or independent office of the Government in which such publications originate shall thereupon be set aside to be applied only to the printing and binding of such documents and reports, and shall not be available for any other purpose until all of such allotment of cost on account of such documents and reports shall have been fully paid.

This resolution shall be effective on and after July 1, 1906.

Mr. LODGE. Mr. President, I merely desire to reenforce the request of the Senator from Maine [Mr. HALE] that the two joint resolutions may go over until to-morrow and then be taken up on the request of the Senator from New York, for present consideration. I should like to express the hope that Senators will take the trouble to read the very able report which accompanies the joint resolutions, and which has been ordered printed in the RECORD. I think if any Senator will take the trouble to read that report he will see the necessity of the immediate passage of the joint resolutions.

Mr. ALLISON. Mr. President, I agree with the Senator from Massachusetts that this matter ought to be thoroughly and carefully looked into. But that Senators may have time enough to examine his question with care, I hope it will not be called up to-morrow. I for one desire to do so, because I regard it as a very important matter, and it ought to be early considered.

Mr. LODGE. If the Senator from Iowa, after reading the report is not satisfied, I certainly hope it will be carried forward further, but I do not think that after he has read the report he will have any doubt that the joint resolutions should be passed.

Mr. ALLISON. The only thing I suggest is that we shall have an opportunity to examine this matter, which may be done by to-morrow. I desire time enough, and of course to-morrow may give time enough to read the report.

Mr. LODGE. It is only half a dozen pages long.

Mr. ALLISON. There are also extracts from the testimony. This matter has been gone into very thoroughly elsewhere, and I should like to see what has been done there.

Mr. LODGE. The Commission has been engaged on this work for about six months.

Mr. ALLISON. I understand that perfectly.

Mr. LODGE. I was not on the Commission.

Mr. ALLISON. I know the Senator was not. Neither was I. But I want time enough to have the matter thoroughly understood by Senators who are interested in it.

Mr. HALE. Let the matter, as it is understood, go over until to-morrow, and then if the Senator from Iowa desires more time to examine it that can be readily acceded to.

Mr. GALLINGER. Or any other Senator.

Mr. HALE. Or any other Senator. Everyone will see when he reads the report that we ought to act pretty soon upon it. We can settle all that to-morrow morning. The report will appear in to-morrow morning's RECORD, and we can settle it to-morrow.

Mr. TELLER. I have not been able to hear exactly what the understanding is.

The VICE-PRESIDENT. The request was that the joint resolutions just reported by the Senator from New York from the Committee on Printing should lie over until to-morrow. The joint resolutions will go to the Calendar.

Mr. TELLER. That is the proper course.

REPORTS OF COMMITTEES.

Mr. McCUMBER, from the Committee on Pensions, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 1398) granting an increase of pension to Edmund Morgan;

A bill (S. 450) granting an increase of pension to James Flynn;

A bill (S. 3843) granting an increase of pension to Rollin T. Waller;

A bill (S. 1376) granting a pension to Adam Werner;

A bill (S. 1377) granting an increase of pension to John R. Brown;

A bill (S. 674) granting an increase of pension to Thomas A. Agur;

A bill (S. 2795) granting an increase of pension to John Albert;

A bill (S. 3298) granting an increase of pension to John B. Ashelman;

A bill (S. 1953) granting an increase of pension to Charles M. Benson;

A bill (S. 1162) granting an increase of pension to Nelson Cook; and

A bill (S. 657) granting an increase of pension to Mary J. Reynolds.

Mr. McCUMBER, from the Committee on Pensions, to whom were referred the following bills, reported them severally with amendments, and submitted reports thereon:

A bill (S. 1962) granting an increase of pension to Julia Baldwin; and

A bill (S. 2050) granting an increase of pension to J. Tibbey Moulton.

Mr. McCUMBER, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 2670) granting an increase of pension to Marie J. Spicely;

A bill (S. 3508) granting an increase of pension to Charles D. Brown;

A bill (S. 3834) granting an increase of pension to Robert McCalvy; and

A bill (S. 5323) granting an increase of pension to Newton G. Cook.

Mr. SCOTT, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 12656) granting a pension to Louise Ackley;

A bill (H. R. 6147) granting a pension to Maud O. Worth;

A bill (H. R. 11873) granting a pension to Joseph B. Fonner, alias John Havens;

A bill (H. R. 3197) granting an increase of pension to Milo G. Gibson;

A bill (H. R. 3007) granting an increase of pension to Thomas Carder;

A bill (H. R. 7515) granting an increase of pension to Firman F. Kirk;

A bill (H. R. 7681) granting an increase of pension to James M. Miller;

A bill (H. R. 7738) granting an increase of pension to Franklin J. Keck;

A bill (H. R. 8578) granting an increase of pension to Franklin G. Mattern;

A bill (H. R. 9093) granting an increase of pension to Farrie M. Allis;

A bill (H. R. 10326) granting an increase of pension to Edmund Chapman;

A bill (H. R. 10404) granting an increase of pension to John Moules;

A bill (H. R. 10622) granting an increase of pension to James H. Ward; and

A bill (S. 2568) granting an increase of pension to Noah C. Fowler.

Mr. SCOTT, from the Committee on Pensions, to whom was referred the bill (H. R. 9924) granting an increase of pension to Carrie A. Conley, reported it with an amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 2115) granting a pension to Carrie E. Costinett, reported it with amendments, and submitted a report thereon.

Mr. BURNHAM, from the Committee on Pensions, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 2772) granting an increase of pension to Charles H. Niles;

A bill (S. 835) granting an increase of pension to John W. Scott;

A bill (S. 4557) granting an increase of pension to John R. McCrillis;

A bill (S. 4834) granting an increase of pension to Octave Counter; and

A bill (S. 1352) granting an increase of pension to Michael Scannell.

Mr. BURNHAM, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 1165) granting an increase of pension to James Moss;

A bill (H. R. 2202) granting a pension to Ellen Harriman;

A bill (H. R. 14761) granting an increase of pension to John L. Decker;

A bill (H. R. 2780) granting an increase of pension to Mary E. Fifield;

A bill (H. R. 2765) granting an increase of pension to Andrew J. Benson;

A bill (H. R. 2195) granting an increase of pension to Hannah A. Sawyer;

A bill (H. R. 533) granting an increase of pension to Sumner F. Hunnewell;

A bill (H. R. 1655) granting an increase of pension to Henry A. Wheeler;

A bill (H. R. 3484) granting an increase of pension to Edson J. Harrison;

A bill (H. R. 2984) granting an increase of pension to William H. Gildersleeve;

A bill (H. R. 6775) granting an increase of pension to William A. Lincoln;

A bill (H. R. 6142) granting an increase of pension to David Davis;

A bill (H. R. 4261) granting a pension to A. Louisa S. McWhinnie;

A bill (H. R. 1913) granting an increase of pension to Charles H. Conley;

A bill (H. R. 1322) granting an increase of pension to Katherine F. Wainwright;

A bill (H. R. 3281) granting an increase of pension to Thomas F. Underwood;

A bill (H. R. 3344) granting an increase of pension to Henry Sanborn;

A bill (H. R. 8725) granting an increase of pension to Moses B. Davis; and

A bill (H. R. 10252) granting an increase of pension to Joseph J. Vincent.

Mr. BURNHAM, from the Committee on Pensions, to whom were referred the following bills, reported them severally with amendments, and submitted reports thereon:

A bill (S. 914) granting an increase of pension to Edwin R. Hardy; and

A bill (S. 4986) granting an increase of pension to Alfred Beham.

Mr. ALGER, from the Committee on Pensions, to whom were referred the following bills, reported them severally with amendments, and submitted reports thereon:

A bill (S. 3303) granting a pension to Harriet Summers; and

A bill (S. 1884) granting an increase of pension to Frederick W. Swift.

Mr. ALGER, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 2396) granting an increase of pension to Charles Hull;

A bill (H. R. 1468) granting an increase of pension to Morris B. Drake;

A bill (H. R. 552) granting an increase of pension to William H. Nortrip;

A bill (H. R. 2640) granting an increase of pension to Decatur Harmon;

A bill (H. R. 4717) granting an increase of pension to Marshall U. Gage;

A bill (H. R. 4766) granting an increase of pension to John Deardourff;

A bill (H. R. 8565) granting an increase of pension to Andrew La Forge;

A bill (H. R. 8665) granting an increase of pension to Hiram Long;

A bill (H. R. 9839) granting an increase of pension to Jesse Siler;

A bill (H. R. 10019) granting an increase of pension to Jonathan Shook; and

A bill (H. R. 10490) granting an increase of pension to Lucius A. West.

Mr. SMOOT, from the Committee on Pensions, to whom was referred the bill (S. 518) granting an increase of pension to William T. Godwin, reported it with an amendment, and submitted a report thereon.

He also, from the same committee, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 12880) granting an increase of pension to Lorenzo D. Mason;

A bill (H. R. 11509) granting an increase of pension to Josephine Hoornbeck;

A bill (H. R. 15276) granting an increase of pension to Wesley Smith;

A bill (H. R. 6888) granting an increase of pension to John W. Hannah;

A bill (H. R. 5252) granting an increase of pension to Thomas Howard;

A bill (H. R. 6110) granting an increase of pension to Abram W. Davenport;

A bill (H. R. 8062) granting an increase of pension to John K. Miller;

A bill (H. R. 7951) granting an increase of pension to William H. Pitchford;

A bill (H. R. 8042) granting an increase of pension to Bottel Larsen; and

A bill (H. R. 10900) granting an increase of pension to Arthur R. Dreppard.

Mr. BURKETT, from the Committee on Peasions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 14655) granting an increase of pension to Henry Gilham;

A bill (H. R. 10879) granting an increase of pension to Thomas E. Myers;

A bill (H. R. 3233) granting an increase of pension to Lucius R. Simons;

A bill (H. R. 6465) granting an increase of pension to Augustus Joyeux;

A bill (H. R. 7225) granting an increase of pension to Mary O. Arnold;

A bill (H. R. 7609) granting an increase of pension to Charles W. Henderson;

A bill (H. R. 7806) granting an increase of pension to Johanna Walgwist;

A bill (H. R. 4946) granting an increase of pension to William H. Lewis;

A bill (H. R. 8328) granting an increase of pension to Ira Grabill;

A bill (H. R. 9053) granting an increase of pension to John M. Jones; and

A bill (H. R. 9126) granting an increase of pension to Nathan Parish.

Mr. PILES, from the Committee on Pensions, to whom was referred the bill (S. 5074) granting an increase of pension to James I. Mettler, reported it with an amendment, and submitted a report thereon.

He also, from the same committee, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 5324) granting an increase of pension to Peter Shuggy;

A bill (S. 5244) granting an increase of pension to Horace A. Gregory;

A bill (H. R. 6058) granting an increase of pension to Emilie Schuldt;

A bill (H. R. 2267) granting an increase of pension to Joseph Rupert;

A bill (H. R. 3978) granting an increase of pension to Samuel Greenlee;

A bill (H. R. 4209) granting an increase of pension to Martin Callahan;

A bill (H. R. 8315) granting an increase of pension to Martin V. Cannedy;

A bill (H. R. 8266) granting an increase of pension to Carner C. Welch;

A bill (H. R. 1027) granting an increase of pension to Charles H. Friend;

A bill (H. R. 10562) granting an increase of pension to Alphenis M. Beall; and

A bill (H. R. 10785) granting a pension to Thomas J. Chambers.

Mr. TALIAFERRO, from the Committee on Pensions, to whom was referred the bill (S. 3819) granting an increase of pension to William H. Houston, reported it with amendments, and submitted a report thereon.

He also, from the same committee, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 3112) granting an increase of pension to James H. Gardner; and

A bill (S. 1733) granting an increase of pension to George W. Trice.

Mr. TALIAFERRO, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 5486) granting a pension to Margarett Carroll;

A bill (H. R. 15249) granting an increase of pension to Isaac N. Seal;

A bill (H. R. 3541) granting a pension to Dora A. Weathersby;

A bill (H. R. 6407) granting an increase of pension to William Blair;

A bill (H. R. 8316) granting an increase of pension to William Smith;

A bill (H. R. 8930) granting an increase of pension to Margaret Becker; and

A bill (H. R. 9406) granting an increase of pension to Francis W. Preston.

Mr. OVERMAN, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 5079) granting an increase of pension to Andrew J. Hunter;

A bill (S. 3182) granting an increase of pension to Walter Lynn;

A bill (S. 5287) granting an increase of pension to John M. Prentiss;

A bill (H. R. 2341) granting an increase of pension to Helen H. Hulbert;

A bill (H. R. 3660) granting an increase of pension to James H. Hill;

A bill (H. R. 5725) granting an increase of pension to John G. Davis;

A bill (H. R. 5726) granting an increase of pension to Cate E. Cobb;

A bill (H. R. 7823) granting an increase of pension to Annie E. Peters;

A bill (H. R. 10816) granting an increase of pension to August Bauer;

A bill (H. R. 10907) granting an increase of pension to John N. Boyd; and

A bill (H. R. 14878) granting an increase of pension to Charles Rattray.

Mr. OVERMAN, from the Committee on Pensions, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 3996) granting an increase of pension to David Morehart; and

A bill (S. 1308) granting an increase of pension to Emilie Wood Reich.

Mr. GEARIN (for Mr. CARMACK), from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 1897) granting an increase of pension to William R. Duncan;

A bill (H. R. 10293) granting an increase of pension to Sarah F. Galbraith; and

A bill (H. R. 14113) granting an increase of pension to Isaac N. Perry.

Mr. GEARIN, from the Committee on Pensions, to whom was referred the bill (H. R. 14840) granting an increase of pension to Nathaniel H. Rone, reported it without amendment, and submitted a report thereon.

Mr. PATTERSON, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 2952) granting an increase of pension to William A. Gipson;

A bill (H. R. 2697) granting an increase of pension to Rufus G. Childress;

A bill (H. R. 4352) granting an increase of pension to Thomas Wolcott;

A bill (H. R. 8530) granting an increase of pension to Benjamin Q. Ward;

A bill (H. R. 4593) granting a pension to William C. Short;

A bill (H. R. 4598) granting an increase of pension to James B. Barry;

A bill (H. R. 10396) granting an increase of pension to John A. Malone;

A bill (H. R. 10448) granting an increase of pension to George M. Frazier; and

A bill (H. R. 10450) granting an increase of pension to Silas H. Ballard.

Mr. PATTERSON, from the Committee on Pensions, to whom were referred the following bills, reported them severally with amendments, and submitted reports thereon:

A bill (S. 3252) granting an increase of pension to David F. Crampton; and

A bill (S. 5172) granting an increase of pension to John M. Du Puy.

Mr. PATTERSON, from the Committee on Pensions, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 4520) granting an increase of pension to Albert L. Callaway; and

A bill (S. 2507) granting an increase of pension to William Wheeler.

Mr. WARREN, from the Committee on Military Affairs, to whom was referred the bill (H. R. 7444) for the relief of Aaron Everly, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 3166) for the relief of Aaron Everly, reported adversely thereon, and the bill was postponed indefinitely.

Mr. HANSBROUGH, from the Committee on Public Lands, to whom the subject was referred, reported a bill (S. 5327) to provide for the disposal of timber on public lands chiefly valuable for timber, and for other purposes; which was read twice by its title.

He also, from the same committee, to whom was referred the bill (S. 2454) to provide for the disposal of timber on public lands chiefly valuable for timber, and for other purposes, reported adversely thereon, and the bill was postponed indefinitely.

Mr. CARTER, from the Committee on Public Lands, to whom was referred the bill (S. 5222) to provide for the entry of agricultural lands within forest reserves, reported it with amendments.

FORT KEOGH MILITARY RESERVATION.

Mr. WARREN. By direction of the Committee on Military Affairs, to whom was referred the bill (S. 5263) granting to the Chicago, Milwaukee and St. Paul Railway Company, of Montana, a right of way through the Fort Keogh Military Reservation in Montana, and for other purposes, I report it favorably without amendment, and submit a report thereon.

Mr. CARTER. Mr. President, that bill is of rather pressing importance, and I therefore ask unanimous consent for its present consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

SANITARIUM TREATMENT FOR CONSUMPTIVES IN MINNESOTA.

Mr. NELSON. I am directed by the Committee on Public Lands, to whom was referred the bill (S. 4976) to grant certain land to the State of Minnesota to be used as a site for the construction of a sanitarium for the treatment of consumptives, to report it favorably, without amendment. I ask unanimous consent for its present consideration.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

Mr. GALLINGER. Let that bill go over, Mr. President.

The VICE PRESIDENT. Objection being made, the bill will be placed on the Calendar.

Mr. GALLINGER subsequently said: Mr. President, the Senator from Minnesota [Mr. NELSON] asked for the consideration of a bill a few moments ago to which I objected in order that I might have an opportunity to examine it. The Senator from Minnesota has since explained the bill to me, and I am pleased to withdraw my objection to it, and trust it may pass.

The VICE PRESIDENT. Objection being withdrawn, the bill will be read for the information of the Senate.

The bill was read; and by unanimous consent, the Senate, as in Committee of the Whole, proceeded to its consideration. It proposes to grant to the State of Minnesota, to be used for the purposes of a sanitarium for the treatment of consumptives, lot 6, section 2, township 141 north, range 31 west of the fifth principal meridian, in the State of Minnesota; but in case the State ceases to use the land for the purposes aforesaid the title to the same shall revert to the United States; and the land shall forever be and remain subject to the right of the United States to overflow the same, or any part thereof, by such reservoirs as now exist or may hereafter be constructed upon the headwaters of the Mississippi River.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

M. E. THOMAS.

Mr. KEAN, from the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred the resolution submitted by Mr. LODGE, on the 22d instant, reported it without amendment, and the resolution was considered by unanimous consent, and agreed to, as follows:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay to M. E. Thomas the sum of $100 (for indexing hearings had before the Committee on Philippines on H. R. 3) from the appropriation for the expenses of special and select committees of the contingent fund of the Senate.

BILLS INTRODUCED.

Mr. PILES introduced a bill (S. 5328) authorizing the Attorney-General to appoint a special commissioner whose duty it shall be to hear evidence in the matter of the alleged embezzlement of certain gold dust from the United States assay office in Seattle, and to determine the extent and amount of such and the names of depositors to whom the gold dust embezzled belonged; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. McENERY introduced a bill (S. 5329) for the erection of a public building at Donaldsonville, La.; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

Mr. FRYE introduced a bill (S. 5330) granting an increase of pension to Frederick Thornton; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. ALLEE introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 5331) granting a pension to William H. Jester;

A bill (S. 5332) granting a pension to Daniel Clower;

A bill (S. 5333) granting an increase of pension to Joseph H. Chambers;

A bill (S. 5334) granting a pension to Solomon O'Day; and

A bill (S. 5335) granting a pension to David Todd.

Mr. PERKINS introduced a bill (S. 5336) for the relief of A. Boschke, civil engineer; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

Mr. OVERMAN introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 5337) granting an increase of pension to Samuel M. Tow;

A bill (S. 5338) granting an increase of pension to David Buckner;

A bill (S. 5339) granting an increase of pension to Levi Taylor;

A bill (S. 5340) granting an increase of pension to Laura Hentig;

A bill (S. 5341) granting an increase of pension to Joseph Lewis;

A bill (S. 5342) granting an increase of pension to Mary E. Johnson;

A bill (S. 5343) granting an increase of pension to Ernest H. Wardwell; and

A bill (S. 5344) granting an increase of pension to Sophronia Roberts.

Mr. CULLOM introduced a bill (S. 5345) for the relief of L. Biertempfel; which was read twice by its title, and referred to the Committee on Foreign Relations.

He also introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 5346) granting an increase of pension to Thomas M. Meritt;

A bill (S. 5347) granting an increase of pension to James Henry;

A bill (S. 5348) granting a pension to Lillie Waterman; and

A bill (S. 5349) granting an increase of pension to William H. H. Robinson.

Mr. CULLOM introduced a bill (S. 5350) for the purchase of the oil portrait of Stephen A. Douglas; which was read twice by its title, and referred to the Committee on the Library.

Mr. RAYNER introduced a bill (S. 5351) providing for improvements of the post-office building and grounds at Annapolis, Md.; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

He also introduced a bill (S. 5352) for the relief of William H. Osenburg; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Commerce.

Mr. ALLISON introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 5353) granting an increase of pension to Thomas W. Carter; and

A bill (S. 5354) granting a pension to Esther M. Noah.

Mr. PLATT introduced a bill (S. 5355) granting an increase of pension to Annie M. Walker; which was read twice by its title, and referred to the Committee on Pensions.

Mr. BEVERIDGE introduced a bill (S. 5356) to provide for the enlargement and improvement of the public building at Lafayette, Ind.; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

Mr. NELSON introduced a bill (S. 5357) permitting the building of a dam across the Mississippi River above the village of Monticello, Wright County, Minn.; which was read twice by its title, and referred to the Committee on Commerce.

AMENDMENTS TO INDIAN APPROPRIATION BILL.

Mr. ANKENY submitted an amendment removing the restriction upon alienation in the trust patent heretofore granted to Lizzie Peone for land in the Colville Indian Reservation, in the State of Washington, intended to be proposed by him to the Indian appropriation bill; which was referred to the Committee on Indian Affairs, and ordered to be printed.

Mr. BURROWS submitted an amendment conferring jurisdiction upon the Court of Claims to hear and determine the just rights of all citizens of the United States holding town lots at or near the village of Sulphur, in the Chickasaw Nation, Indian Territory, etc., intended to be proposed by him to the Indian appropriation bill; which was referred to the Committee on Indian Affairs, and ordered to be printed.

ROCK CREEK PARK.

Mr. GALLINGER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Commissioners of the District of Columbia are hereby directed to inform the Senate as to the ownership of the several tracts of land that it is proposed to add to Rock Creek Park by the terms of Senate bill No. 5201, giving the area of each individual tract in acres and fractions of acres, the assessed valuation of each tract, and the amount of taxes paid in each case.

SURVEY OF PASSAIC RIVER, NEW JERSEY.

Mr. KEAN submitted the following concurrent resolution; which, with the accompanying paper, was referred to the Committee on Commerce:

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, authorized and directed

to cause to be made a survey and examination of the Passaic River, New Jersey, beginning at the Montclair and Greenwood Lake Railroad bridge to the present head of navigation at the city of Passaic, with a view to providing suitable navigation facilities for the needs of the city of Passaic.

PUBLIC HEALTH AND MARINE-HOSPITAL SERVICE.

The VICE-PRESIDENT. If there be no further concurrent or other resolutions, the morning business is closed.

Mr. MALLORY. I ask unanimous consent for the present consideration of the bill (S. 4250) to further enlarge the powers and authority of the Public Health and Marine-Hospital Service, and to impose further duties thereon.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Public Health and National Quarantine with amendments.

The first amendment was, in section 1, on page 1, line 8, after the words "points on," to strike out "the seacoast" and insert "or near the coast lines;" on page 2, line 3, after the word "thereof," to insert "not used by the Government for other purposes designated by law;" and on page 3, line 2, after the words "delivered to the," to strike out "Surgeon-General" and insert "Secretary of the Treasury for the use;" so as to make the section read:

That as soon as practicable after the approval of this act the Surgeon-General of the Public Health and Marine-Hospital Service of the United States, with the approval of the Secretary of the Treasury, shall select and designate suitable places for quarantine grounds and anchorages for vessels, at such points on or near the coast lines of the United States as, in his judgment, are best suited for quarantine grounds and anchorages and necessary to prevent the introduction of yellow fever into the United States. That in cases in which the title to the land and water so selected and designated is in the United States it shall be the duty of the Department, bureau, or official of the United States having custody or possession of such land and water, or any part thereof, not used by the Government for other purposes designated by law, on demand of the Secretary of the Treasury, to deliver the same into his custody and possession for the use of the Public Health and Marine-Hospital Service, evidencing such delivery by a suitable instrument in writing to be delivered to the Secretary of the Treasury. That in cases in which the title to such land and water, or any part thereof, is in any other owner than the United States it shall be the duty of the Secretary of the Treasury to secure the title and possession of the same to the United States for the use of the Public Health and Marine-Hospital Service of the United States, by purchase at a reasonable price, if possible; but if in his judgment the price demanded for such property be excessive, he is hereby authorized to apply to the Attorney-General of the United States to cause to be instituted, in the proper tribunal, condemnation proceedings in the name of the United States for the purpose of acquiring for the United States the title and possession of such land and water, and said Attorney-General shall, as soon as possible after such application by the Secretary of the Treasury, cause such proceedings to be instituted and conducted to a conclusion, and the custody and possession of such land and water, when duly acquired in accordance with the award made in such condemnation proceedings, shall be delivered to the Secretary of the Treasury for the use of the Public Health and Marine-Hospital Service.

The amendment was agreed to.

The next amendment was, in section 2, on page 3, line 17, after the words "United States," to strike out "*Provided*, That in cases in which the Public Health and Marine-Hospital Service is already in possession of and is operating and conducting a quarantine ground and anchorage the notice required by this section shall not be necessary" and insert "and upon plans and estimates of cost to be first approved by the Secretary of the Treasury;" so as to make the section read:

SEC. 2. That on acquiring possession of any land and water selected and designated by him as quarantine ground and anchorage it shall be the duty of the Surgeon-General of the Public Health and Marine-Hospital Service, with the approval of the Secretary of the Treasury, to cause to be published at least once a week for four consecutive weeks, in a newspaper published in the port nearest such proposed quarantine ground and anchorage, a notice of such selection and designation, with a description of the boundaries of such quarantine ground and anchorage, and shall forthwith establish within such boundaries a quarantine ground and anchorage, with such appliances and facilities as he may deem necessary to prevent the introduction of yellow fever into the United States, and upon plans and estimates of cost to be first approved by the Secretary of the Treasury.

The amendment was agreed to.

The next amendment was, to strike out section 3, as follows:

SEC. 3. That whenever, in his judgment, it is necessary for the security of any portion of the seacoast of the United States on the Gulf coast that includes more than four ports of entry against the introduction of yellow fever, a quarantine station and anchorage of refuge shall be established whereto infected vessels, or vessels having on board any person with yellow fever bound for any such ports, may be sent, and whereat such vessels may be detained for the purpose of being disinfected, having their cargoes disinfected and discharged if necessary, and their sick treated in hospital until all danger of infection or contagion from such vessels, their cargoes, passengers, or crews has been removed, it shall be the duty of the Surgeon-General of the Public Health and Marine-Hospital Service, with the approval of the Secretary of the Treasury, to select and designate a suitable location for such a quarantine station and anchorage of refuge at a point reasonably accessible to vessels destined to that part of the seacoast of the United States for the greater protection of which it is deemed necessary to establish such quarantine station and anchorage of refuge. That such quarantine station and anchorage of refuge shall have a safe anchorage for vessels of 25 feet draft of water, and shall be distant not less than 35 miles from any port or subport of entry of the United States. And if it shall be necessary, in the judgment of said Surgeon-General, for the protection of any other port or ports on the coast of the United States that additional quarantine stations and anchorages of refuge shall be established he shall, with the approval of the Secretary of the Treasury, designate such quarantine stations and anchorages of refuge at such places as shall comply as nearly as practicable with the requirements as to depth of water, distance from ports or subports of entry, and safety of anchorage as prescribed in the foregoing provisions. That the Secretary of the Treasury is hereby authorized and directed to acquire title and possession, for the use of the Public Health and Marine-Hospital Service, of any quarantine station and anchorage of refuge duly selected and designated, in the manner and by the proceedings authorized and required in section 1 of this act for acquiring title to and possession of quarantine grounds and anchorages. That, on acquiring possession of any land and water selected and designated by him as a quarantine station and anchorage of refuge, the Surgeon-General of the Public Health and Marine-Hospital Service shall, with the approval of the Secretary of the Treasury, cause to be published in four such newspapers as he may think proper, once a week for three months, a notice of such selection and designation, together with such rules and regulations as with the approval of the Secretary of the Treasury he shall adopt and promulgate, requiring vessels with yellow fever among their passengers or crew to go to such quarantine station and anchorage of refuge, to be dealt with there, before visiting any port of the United States; and he shall immediately proceed to establish at such point a quarantine station and anchorage of refuge with facilities for disinfecting vessels and their cargoes, treating in hospital the sick among their passengers and crews, providing for the separation of those among their passengers and crews who are well from those who are suffering from yellow fever, and for doing all things necessary to eradicate such disease from such vessels, their cargoes, passengers, and crews.

And in lieu thereof to insert:

SEC. 3. That it shall be the duty of the Surgeon-General of the Public Health and Marine-Hospital Service of the United States, with the approval of the Secretary of the Treasury, as soon as practicable after the approval of this act, to establish on one of the islands of the group known as the Dry Tortugas, at the western end of the Florida Reef, a quarantine station and anchorage of refuge, whereto infected vessels having on board any person with yellow fever and bound for any port of the United States may be sent for the purpose of being disinfected, having their cargoes disinfected and discharged if necessary, and their sick treated in hospital until all danger of infection or contagion from such vessels, their cargoes, passengers, or crews has been removed. And it shall be the duty of the Department, bureau, or official having the custody or possession of said Tortugas Islands, on demand of the Secretary of the Treasury, to deliver the possession of said islands to the Department of the Treasury, for the use of the Public Health and Marine-Hospital Service as provided in this act. And if it shall be necessary, in the judgment of said Surgeon-General, for the protection of any other port or ports on the coast of the United States that additional quarantine stations and anchorages of refuge shall be established, he shall, with the approval of the Secretary of the Treasury, designate such quarantine stations and anchorages of refuge at such points as will afford safe anchorages for vessels detained thereat and as will be sufficiently distant from ports or subports of entry of the United States to render danger of infection impossible. That on acquiring possession of said Dry Tortugas or any other locality, in accordance with the provisions of this act, for the purpose of establishing thereat a quarantine station and anchorage of refuge, the Surgeon-General of the Public Health and Marine-Hospital Service shall, with the approval of the Secretary of the Treasury, cause to be published in four such newspapers as he may think proper, once a week for three months, a notice of the selection and designation of such places for quarantine stations and anchorages of refuge, together with such rules and regulations, in conformity with the requirements of this act, as with the approval of the Secretary of the Treasury he shall adopt and promulgate, requiring vessels with yellow fever among their passengers or crews to go to such quarantine stations and anchorages of refuge, to be dealt with there before visiting any port of the United States. He shall establish at such quarantine stations and anchorages of refuge all necessary instrumentalities for disinfecting vessels and their cargoes, shall erect the necessary hospital buildings, and install the necessary furniture and fittings for receiving and treating the sick among the passengers and crews of vessels going to such quarantine stations and anchorages of refuge, and provide for the separation of those among their passengers and crews who are suffering from yellow fever from those who are in good health, and shall further provide for doing all things necessary to eradicate such disease from such vessels, their cargoes, passengers, and crews.

The amendment was agreed to.

The next amendment was, in section 4, on page 8, line 20, after the words "United States," to strike out:

But nothing in this act shall be construed to authorize any vessel or any person released from quarantine detention by authority of said Surgeon-General to enter any State or Territory of the United States, or the District of Columbia, against the expressed objection of the lawful health authorities of such State, Territory, or District: *Provided*, That no vessel released from quarantine detention by authority of said Surgeon-General shall be liable for any quarantine fees or charges by any State or municipal authority.

So as to make the section read:

SEC. 4. That the Surgeon-General of the Public Health and Marine-Hospital Service, subject to the approval of the Secretary of the Treasury, shall have the control, direction, and management of all quarantine grounds and anchorages and of all quarantine stations and anchorages of refuge established by authority of the United States.

The amendment was agreed to.

The next amendment was, in section 5, page 9, after the word "officers," to strike out "trespassing or otherwise;" so as to read:

SEC. 5. That any vessel, or any officer of any vessel, or other person other than State health or quarantine officers, entering within the limits of any quarantine grounds and anchorages, or any quarantine station and anchorage of refuge, or departing therefrom, in disregard of the quarantine rules and regulations, or without the permission of the officer in charge of such quarantine ground and anchorage, or of such quarantine station and anchorage of refuge, shall be deemed

guilty of a misdemeanor and subject to arrest, and upon conviction thereof shall be punished by a fine of not more than $300 or by imprisonment for not more than one year, or both, in the discretion of the court.

The amendment was agreed to.

The next amendment was, in section 7, on page 11, line 3, after the words "five hundred thousand dollars," to insert "in addition to any sum now available for the purpose;" so as to make the section read:

SEC. 7. That from and after the approval of this act the salary of the Surgeon-General of the Public Health and Marine-Hospital Service shall be $7,000 per annum, payable monthly. That the sum of $500,000 in addition to any sum now available for the purpose is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, to be paid on the requisition of the Surgeon-General of the Public Health and Marine-Hospital Service, approved by the Secretary of the Treasury, for the purpose of carrying into effect the provisions of this act, as well as for the purpose generally of preventing the importation of yellow fever into the United States, and for the further purposes, in cooperation with the State health authorities, of eradicating it should it be imported, of preventing its spread from one State into another State, and of destroying its cause wherever the same may be found.

The amendment was agreed to.

Mr. BACON. I now ask that the bill may go over, in order that it may be printed so that we may see how it stands as it has been amended.

The VICE-PRESIDENT. Objection to the further consideration of the bill is made, and it will lie over.

Mr. BACON. I based my request upon the desire, as I have stated, that the bill may be printed as amended before we are called upon to act upon it.

The VICE-PRESIDENT. The bill has been printed as amended.

Mr. MORGAN. Yes; it has been printed as amended.

Mr. BACON. I did not know that fact. I have not had an opportunity to examine the bill, and I should like to see it as it has been amended.

Mr. SPOONER. I desire to say to the Senator from Georgia that the bill has had very careful examination in committee.

Mr. BACON. I have not urged any objection to it. I simply stated that I have not had an opportunity to examine it.

Mr. SPOONER. Then let the bill go over, without losing its place.

Mr. BACON. I do not desire it to lose its place at all.

The VICE-PRESIDENT. The bill will go over without prejudice, retaining its place on the Calendar.

LIFE-SAVING STATION NEAR NEAH BAY, WASHINGTON.

Mr. PILES. I ask unanimous consent to call up for present consideration the bill (S. 5026) providing for the construction and equipment of a first-class life-saving ocean-going tug, also a launch tender to be used in connection therewith, for service on the north Pacific coast of the United States.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Commerce with an amendment, to strike out all after the enacting clause and insert:

That the Secretary of the Treasury be, and is hereby, authorized to establish a life-saving station at or near Neah Bay, in the State of Washington, at such a point as the General Superintendent of the Life-Saving Service may recommend, said station, in addition to the usual equipment, to be supplied with two self-righting and self-bailing lifeboats.

SEC. 2. That for use in connection with said life-saving station there shall be constructed a first-class ocean-going tug, for service in saving life and property in the vicinity of the north Pacific coast of the United States, which said tug shall be equipped with wireless-telegraph apparatus, surfboats, and such other modern life and property saving appliances as may be deemed useful in assisting vessels and rescuing persons and property from the perils of the sea.

SEC. 3. That for the operation of said tug the Secretary of the Treasury is hereby authorized to employ a proper crew, including the necessary officers, engineers, firemen, etc., and the vessel shall be under the control and direction of the keeper of the life-saving station hereby authorized to be established.

SEC. 4. That to carry into effect the provisions of sections 1 and 2 of this act, there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $200,000, or so much thereof as may be necessary.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill providing for the establishment of a life-saving station at or near Neah Bay, in the State of Washington, and for the construction of a first-class ocean-going tug to be used in connection therewith, for life-saving purposes in the vicinity of the north Pacific coast of the United States, etc."

FORTIFICATIONS APPROPRIATION BILL.

The VICE-PRESIDENT laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 14171) making appropriations for fortifications and other works of defense, for the armament thereof, for the procurement of heavy ordnance for trial and service, and for other purposes, and asking a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. PERKINS. I move that the Senate insist upon its amendments and agree to the conference asked for by the House.

The motion was agreed to.

By unanimous consent, the Vice-President was authorized to appoint the conferees on the part of the Senate, and Mr. PERKINS, Mr. WARREN, and Mr. DANIEL were appointed.

PUNISHMENT FOR HAZING AT NAVAL ACADEMY.

The VICE-PRESIDENT laid before the Senate the amendment of the House of Representatives to the bill (S. 3899) granting authority to the Secretary of the Navy, in his discretion, to dismiss midshipmen from the United States Naval Academy and regulating the procedure and punishment in trials for hazing at the said academy, which was to strike out all after the enacting clause and insert in lieu thereof a substitute.

Mr. HALE. I move that the Senate disagree to the amendment of the House of Representatives and ask for a conference on the disagreeing votes of the two Houses thereon.

The motion was agreed to.

By unanimous consent, the Vice-President was authorized to appoint the conferees on the part of the Senate, and Mr. HALE, Mr. DICK, and Mr. TILLMAN were appointed.

ESTATE OF GOTLOB GROEZINGER.

Mr. GALLINGER. Let us have the regular order.

Mr. LODGE. The regular order.

The VICE-PRESIDENT. The regular order is demanded. The Calendar under Rule VIII is in order, and the first bill will be stated.

The bill (S. 1668) for the relief of the administrator of the estate of Gotlob Groezinger was announced as the first bill in order on the Calendar, and the Senate as in Committee of the Whole proceeded to its consideration.

The bill had been reported from the Committee on Finance with an amendment, in line 4, after the word "back," to insert "out of any money in the Treasury not otherwise appropriated;" so as to read:

That the Secretary of the Treasury be, and he is hereby, authorized and directed to refund and pay back, out of any money in the Treasury not otherwise appropriated, to E. A. Groezinger, administrator of the estate of the late Gotlob Groezinger, the sum of $1,047.60, taxes collected upon 1,164 gallons of grape brandy which had been destroyed by fire in the distillery of said Gotlob Groezinger.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

LEASES IN THE YELLOWSTONE NATIONAL PARK.

The bill (S. 4433) to amend an act approved August 3, 1894, entitled "An act concerning leases in the Yellowstone National Park" was announced as the next business in order on the Calendar, and was read.

Mr. HALE. Mr. President, the great Yellowstone National Park is an immense domain, separated, kept distinct for the benefit of all the people and for generations to come. I look with some apprehension upon every encroachment on that national domain in the way of selling or leasing parts of it. There seems to be no limitation in this bill as to the extent to which this process shall go on. The lease is confined to 20 acres, while my impression is that heretofore the limitation in each case has been, if not up to the present time, it was at one time, 10 acres. The experience the Government has had in allowing special sites to be selected has not been very satisfactory. If power is given to pick out, without limit as to the number of sites—and there is no limit here—20 acres, a very considerable tract, in any part or all parts of this great national park, the traveler, the tourist, the visitor is likely to find in a few years the very best parts of the park taken up under these leases and taken up in places which will affect the comfort and pleasure of the visitors who go there, as they will hereafter, by tens and hundreds of thousands. I do not see any reason why the limit in each case should be extended beyond 10 acres. In order to erect an inn, a place of public entertainment, a resort, 10 acres is ample, and I see no reason why it should be expanded.

Then if the bill is to be considered to-day for action I shall move——

Mr. HANSBROUGH. Mr. President——

The VICE-PRESIDENT. Does the Senator from Maine yield to the Senator from North Dakota?

Mr. HALE. Yes.

Mr. HANSBROUGH. I suggest to the Senator that this bill relates to a portion of Montana embraced in the national park. The Senator from Montana [Mr. CARTER] is absent from the Chamber, and as he is thoroughly familiar with this question, I suggest that the bill go over.

Mr. HALE. I think that is right. He ought to be here when the bill is considered.

Mr. LODGE. It should go over without prejudice.

Mr. HANSBROUGH. It should be allowed to retain its place.

The VICE-PRESIDENT. The bill will go over without prejudice, retaining its place on the Calendar.

THE CALENDAR.

Mr. HALE. The bill relating to the Yellowstone Park, which was under discussion, has gone over without prejudice, retaining its place on the Calendar. Let me understand what that implies. If the bill goes over without prejudice, it ought to remain on this Calendar.

Mr. GALLINGER. That is right.

Mr. HALE. If you segregate, as I see somebody has done, all bills that go over without prejudice, you constitute another class of bills, and they do not go over without prejudice. If a bill goes over without prejudice, it ought to retain its place right in the Calendar, with its old number, and should not go on a new list. I see somebody has got a list here of bills "passed over without prejudice under Rule VIII." They are prejudiced, because they are put in another class.

Mr. SPOONER. They ought not to be.

Mr. HALE. They ought not to be.

Mr. SPOONER. That is with prejudice.

Mr. HALE. That is with prejudice.

Mr. LODGE. Yes.

Mr. HALE. That puts it in another class. I do not know who did it. Nobody in the Senate ever directed that it should be done.

Mr. SPOONER. A bill ought to keep relatively the same position.

Mr. HALE. The same place. I suggest that hereafter, when a bill goes over without prejudice, it keep its place on the Calendar with its number, and that the bills which some one has put in another list be restored to the old list. Otherwise, instead of a bill going over without prejudice, it goes over, as the Senator says, with prejudice. I hope the clerks will make that correction.

Mr. LODGE. There ought to be only two classes——

Mr. HALE. Two subdivisions.

Mr. LODGE. One under Rule VIII and one under Rule IX.

Mr. KEAN. I think most of these bills did go over with prejudice.

Mr. LODGE. Then it ought to be so stated.

Mr. HALE. Yes.

Mr. WARREN. As I have understood, it is merely the insertion of the words "Point reached under Rule VIII when last under consideration." I had not understood that the bills under that head were in any different position on the Calendar, but that that particular phrase was used to indicate the point last reached.

Mr. HALE. But when we go back to the Calendar, as was proved this morning, we do not take up that other list. We go on and complete this list, and those bills which have been passed over without prejudice are prejudiced, because we never reach them.

Mr. LODGE. They are never announced, and you have to make a special motion to get them off the list.

Mr. HALE. Yes. The old-fashioned method is good enough.

Mr. LODGE. They can be kept under Rule VIII and marked "Passed over."

Mr. HALE. Yes; let the clerks see to it; and I suggest that hereafter take liberty with the Senate list of Calendars. The old way is pretty good, and I suggest that the old method be restored.

Mr. GALLINGER. Let the next bill be announced.

The VICE-PRESIDENT. The bill has gone over without prejudice, which the Chair understands is equivalent to retaining its place on the Calendar. The next case on the Calendar will be stated.

SEALERS OF WEIGHTS AND MEASURES IN THE DISTRICT.

The bill (H. R. 4463) to amend section 2 of an act entitled "An act to provide for the appointment of a sealer and assistant sealer of weights and measures in the District of Columbia, and for other purposes," was considered as in Committee of the Whole. It proposes to amend section 2, so as to read as follows:

SEC. 2. That the sealer of weights and measures shall give bond to the District of Columbia in the penalty of $5,000, with two sureties or with the guaranty of a bonding company, to be approved by the Commissioners, conditioned on the faithful discharge of the duties of his office, and shall take and subscribe an oath or affirmation before the Commissioners that he will faithfully and impartially discharge the duties of his office, which bond or guaranty and oath shall be deposited with the Commissioners of the District of Columbia.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

RIGHTS OF WAY THROUGH PUBLIC LANDS.

The bill (S. 3743) to amend an act entitled "An act granting to railroads the right of way through the public lands of the United States," approved March 3, 1875, was announced as the next bill in order on the Calendar.

Mr. TELLER. I do not see present the Senator who reported the bill. I do not know just what the effect of the bill is, except that it is an amendment of the act of 1875. I should like to have it go over.

The VICE-PRESIDENT. The bill will lie over.

Mr. LODGE. Without prejudice.

The VICE-PRESIDENT. Without prejudice.

SARAH E. BAXTER.

The bill (S. 4623) for the relief of Sarah E. Baxter, executrix of the last will and testament of Warren S. Baxter, was considered as in Committee of the Whole. It proposes to pay to Sarah E. Baxter, executrix of the last will and testament of Warren S. Baxter, deceased, late of Lewis and Clarke County, Mont., $200, being the amount paid by him in his lifetime to the United States for the south half of the southwest quarter of section No. 5, township No. 10 north, range 3 west, Montana meridian, which was erroneously sold to him by the Government.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MOVEMENTS OF VESSELS IN VIRGINIA WATERS.

The bill (S. 4774) relating to the movements and anchorage of vessels in Hampton Roads, the harbors of Norfolk and Newport News, and adjacent waters, in the State of Virginia, was announced as the next business in order on the Calendar.

Mr. FRYE. At the request of the Senator from Virginia [Mr. DANIEL], who is absent, let the bill go over, retaining its place on the Calendar.

The VICE-PRESIDENT. Without objection, it is so ordered.

MESA VERDE NATIONAL PARK.

The bill (S. 3245) creating the Mesa Verde National Park was announced as the next business in order on the Calendar, and was read.

Mr. TELLER. Let the bill go over.

The VICE-PRESIDENT. Under objection, the bill will go over, retaining its place on the Calendar.

EASTERN STAR HOME FOR THE DISTRICT OF COLUMBIA.

The bill (H. R. 13842) to amend an act entitled "An act to incorporate The Eastern Star Home for the District of Columbia," approved March 10, 1902, was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

LORENZO A. BAILEY.

The bill (S. 3139) for the relief of Lorenzo A. Bailey was announced as next in order on the Calendar.

Mr. LODGE. Let the bill go over.

The VICE-PRESIDENT. Under objection the bill will go over, retaining its place on the Calendar.

SALE OF COAL IN THE DISTRICT OF COLUMBIA.

The bill (H. R. 4470) to amend an act entitled "An act to provide for the appointment of a sealer and assistant sealer of weights and measures in the District of Columbia, and for other purposes," approved March 2, 1895, was considered as in Committee of the Whole. It proposes to amend section 12 of the act so as to read:

SEC. 12. That no person shall sell or deliver any coal or coke within the limits of the District of Columbia unless at the time of the delivery thereof to the person in charge of the wagon, cart, or other vehicle or conveyance used for and in the delivery thereof a written or printed certificate duly signed by or for the seller, showing separately the actual weight of said coal or coke and the name of the purchaser thereof, and the weight of the said wagon, cart, or other vehicle or conveyance, and showing the total weight of said coal, coke, wagon, cart, other vehicle, or conveyance. And any person who shall violate or neglect or refuse to comply with the provisions of this section shall be punished by a fine of not more than $40: *Provided*, That all prosecutions under this act shall be brought in the police court of the District of Columbia on information filed by the corporation counsel or one of his assistants.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

DEPENDENT MOTHERS OF DECEASED POLICEMEN AND FIREMEN.

The bill (H. R. 14813) to amend an act approved March 1, 1905, entitled "An act to amend section 4 of an act entitled 'An act relating to the Metropolitan police of the District of Columbia,' approved February 28, 1901," was considered as in Committee of the Whole. It directs that the provision of the act for the relief, during widowhood, of dependent mothers of unmarried deceased members of the Metropolitan police force and of unmarried deceased members of the fire department of the District of Columbia shall include such mothers of any such deceased members of the police force and of the fire department who have died from injury or disease prior to March 1, 1905.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

FLATHEAD INDIAN RESERVATION LANDS.

The bill (H. R. 8461) to amend chapter 1495, Revised Statutes of the United States, entitled "An act for the survey and allotment of lands now embraced within the limits of the Flathead Indian Reservation, in the State of Montana, and the sale and disposal of all surplus lands after allotment," as amended by section 9 of chapter 1179, Revised Statutes of the United States, was announced as next in order.

Mr. KEAN. That is a long bill. Let it go over without prejudice.

The VICE-PRESIDENT. Under objection made by the Senator from New Jersey, the bill will go over without prejudice.

Mr. CARTER subsequently said: I understand the Senator from New Jersey does not desire to pursue his objection to the consideration of House bill 8461.

Mr. KEAN. I have no objection to the bill whatever. I did not see the Senator present at the time.

There being no objection, the bill was considered as in Committee of the Whole.

Mr. ALDRICH. What is the bill?

Mr. CARTER. The bill, briefly stated, is intended to cover an omission in the original act to open to settlement the Flathead Indian Reservation, Mont., passed at the first session of the Fifty-eighth Congress.

It provides for the platting of certain town sites by the Secretary of the Interior at the places where settlements are already in existence on the reservation and the sale of the town lots, the money realized from such sales to go to the benefit of the Indians.

It also provides for the permanent reservation of the hot springs on the reservation, the same to be held permanently under the control of the Secretary of the Interior, and any revenue derived from the same to inure to the benefit of the Indians. The springs are reported to be of great medicinal value, and the purpose of the bill is to secure their free use to all the Indians and to prevent them falling into the hands of speculators.

The bill confirms to the appropriators of water the water heretofore appropriated by them for farming and domestic use. There is an amendment to the bill, reported by my colleague from the Committee on Indian Affairs.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. On page 4, line 3, after the word "act," insert:

There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, $10,000, or so much thereof as may be necessary, to carry out the provisions of this act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

ESTATE OF CHARLES F. WINTON, DECEASED.

The bill (S. 3994) to authorize the Court of Claims to consider the claims of Charles F. Winton, deceased, and others, against the Mississippi Choctaws, for services rendered and expenses incurred, was announced as next in order.

Mr. GALLINGER. Let the bill go over.

The VICE-PRESIDENT. Under objection made by the Senator from New Hampshire, the bill will go over without prejudice.

FORT CLINCH RESERVATION, FLA.

Mr. TALIAFERRO. I ask unanimous consent for the present consideration of the bill (S. 1697) confirming to certain claimants thereto portions of lands known as Fort Clinch Reservation, in the State of Florida.

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported from the Committee on Military Affairs with an amendment, to strike out all after the enacting clause and insert:

That all of the right, title, claim, and interest of the United States in and to the several lots of land in the old town of Fernandina, Nassau County, Fla., located on lot 2 of section 14, in township 3 north of range 28 east of Tallahassee principal meridian, which were granted by Spain to certain persons prior to the cession of Florida to the United States, and afterwards confirmed by the United States to such persons, their heirs, representatives, and assigns, prior to the issuance of the order creating the Fort Clinch Military Reservation, shall be, and the same are hereby, confirmed, granted, released, and relinquished to the said several persons to whom said lots were so granted by Spain and confirmed by the United States, respectively, and their respective heirs, representatives, and assigns; and that all the right, title, claim, and interest of the United States in and to lots 1 and 2 of section 14, in township 3 north of range 28 east of said meridian, except the said lots granted by Spain to certain persons and confirmed by the United States as above mentioned, and except the block of the old town of Fernandina known as the Plaza, and the military road from said town to Fort Clinch, be, and the same are hereby, confirmed, granted, released, and relinquished to the several persons and corporations, respectively, now claiming or holding the same under a patent issued by the United States to David L. Yulee, dated the 5th day of September, 1853, to said lot 2, and under an approval and certification by the Secretary of the Interior of the United States to the State of Florida of said lot 1, as swamp and overflowed lands, under an act of Congress dated the 28th day of September, 1850: *Provided, however*, That titles to that portion of said lands which are now held by said town of Fernandina for public purposes, whether claimed under the act of Congress of June 15, 1844 (5 Stat., p. 667), or otherwise, shall be, and hereby are, confirmed, granted, released, and relinquished to said town of Fernandina: *And provided further*, That the said military road shall be kept open and maintained by the county or municipal authorities or by the beneficiaries under this act without expense to the United States.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ESTATE OF WILLIAM A. HAMMOND.

Mr. LODGE. I ask the Senate to take from the Calendar the bill (S. 290) to amend the act approved March 15, 1878, entitled "An act for the relief of William A. Hammond, late Surgeon-General of the Army."

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported from the Committee on Military Affairs with an amendment, on page 1, line 10, after the word "from," to strike out the words "the date of his appointment and retirement under said act on August 27, A. D. 1879," and to insert "February 17, 1899;" so as to make the bill read:

Be it enacted, etc., That so much of section 2 of the act entitled "An act for the relief of William A. Hammond, late Surgeon-General of the Army," approved March 15, 1878, as provides that said Hammond shall not be entitled to pay while on the retired list of the Army be, and the same is hereby, repealed, and the said Hammond shall be entitled to the pay of a brigadier-general of the Army on the retired list from February 17, 1899, up to the date of his death, January 5, 1900, the same to be paid to Esther D. Hammond, his widow.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

VESSELS IN ST. MARYS RIVER.

Mr. FRYE. I ask for the present consideration of the bill (S. 4925) to amend the act approved March 6, 1896, relating to the anchorage and movements of vessels in St. Marys River.

There being no objection, the bill was considered as in Committee of the Whole. It proposes to amend section 1 of the act so as to read:

That the Secretary of Commerce and Labor be, and he hereby is, authorized and directed to adopt and prescribe suitable rules and regulations governing the movements and anchorage of vessels and rafts in St. Marys River from Point Iriquois, on Lake Superior, to Point Detour, on Lake Huron, and for the purpose of enforcing the observance of such regulations the Secretary of the Treasury is hereby authorized to detail one or more revenue cutters for duty under the direction of the Secretary of Commerce and Labor on said river.

And to amend section 3 of the act, so as to read:

SEC. 3. That in the event of violation of any such regulations or rules of the Secretary of Commerce and Labor, by the owners, masters, or person in charge of such vessel, such owner, master, or person in charge shall be liable to a penalty of $200: *Provided*, That the Secretary of Commerce and Labor may remit said fine on such terms as he may prescribe: *Provided also*, That nothing in this act shall be construed to amend or repeal the act entitled "An act to regulate navigation on the Great Lakes and their connecting and tributary waters as far east as Montreal," approved February 8, 1895.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

HOUSE BILLS REFERRED.

The following bills were severally read twice by their titles, and referred to the Committee on Military Affairs:

H. R. 6067. An act to change the records of the War Department relative to Levi A. Meacham; and

H. R. 6182. An act for the relief of Henry C. Vincent.

REGULATION OF RAILROAD RATES.

The VICE-PRESIDENT. The Chair lays before the Senate the unfinished business.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission.

Mr. OVERMAN. Mr. President, this great question of rate making, perhaps one of the greatest which has ever come before the Congress to solve, is soon to be settled. So far as my vote is concerned it shall be settled in favor of all the people, and this will include the railroads, for they, as well as the people, in the end will be benefited. I shall give my hearty support to the pending bill, which is known as the "Hepburn-Dolliver bill," as it come from the House of Representatives, with some amendments which, in my judgment, are necessary and which will strengthen it and render it less open to constitutional objections. This question, I admit, Mr. President, is bristling with many serious, intricate, and important legal propositions; but, so far as I am concerned, I am willing to pass it up to the Supreme Court and let that high tribunal settle these questions, if it has not already done so. I am not one of those who believe or have even the remotest suspicion that any railroad lawyer had anything whatever to do with framing this bill, but I am convinced and have no doubt in my mind that it was framed by brave, high-minded men, with the purest and most patriotic motives, and who were moved only with an eye single to the happiness of the people and the welfare of the country. The principles of law arising out of the question have been most ably and exhaustively discussed by some of the ablest lawyers in this body, and it is a most remarkable fact and worthy of mention that no two lawyers seem to agree on all of the legal points involved. But this is not passing strange when we consider that the Supreme Court of the United States itself, in many of the cases cited as authority upon these questions, is divided upon some one or more of the great legal propositions. I believe in the Minnesota case (134 U. S., p. 418) Justices Bradley, Lamar, and Gray dissent from the opinion of the court, and Justice Miller in his concurring opinion does not hesitate to tell the profession that he does so with many misgivings.

We are gravely told that we have no power to establish a standard and delegate to a commission, or some other tribunal, as an administrative body, the authority, when complaint is made, to fix a just and reasonable rate in accordance with this standard, and thus carry out the will of Congress. Is it possible that this can be so, Mr. President? If so, there is coming soon, and is bound to come, an irrepressible conflict between the rights of the people and the railroads which will not down and will not likely be terminated until we shall have a constitutional amendment or, what is worse, the government ownership of all the railroads. Forbid that this day will ever come. Pass this bill and enforce the law as it is written, and I predict there will be no need of any drastic legislation, no demand for government ownership. With us the rights of the people are sacred, sacred as Holy Writ, and even so are sacred the just rights of the corporations. All must have the equal protection of the law. The people of this country believe in fair play. They do not desire, Mr. President, the services of the railroads without giving just compensation for the service performed. Neither do they desire that the courts be denied to any; but they will insist that the courts shall be opened at all times to pass upon the rights of everybody alike, to the humblest and the greatest, to the rich and the poor, to the shipper and the great corporations, without sale, denial, or delay.

> In a free government almost all other rights would become utterly worthless if the government possessed an uncontrolled power over the private fortunes of every citizen. One of the fundamental objects of liberty and government must be a due administration of justice, and how vain it would be to speak of such an administration when all property was subject to the will or caprice of the legislature and the ruling. (Story on the Constitution.)

The people do not desire in any respect to cripple the railroads, but they do demand that the rates be just and reasonable. They do demand that the small shipper shall not be discriminated against in favor of the large shipper. They demand that one community shall not be pulled down and destroyed for the upbuilding of another. They do demand that no special privileges in the way of rebates or preferentials shall be granted to the favored few to the detriment and injury of the many, to the destruction and wiping out of all competition.

We are told there is no demand for this law. The President in two annual messages has recommended and urged it in the strongest terms. In his last annual message he says:

> The immediate and most pressing need, so far as legislation is concerned, is the enactment into law of some scheme to secure to the agents of the Government such supervision and regulation of the rates charged by the railroads of the country engaged in interstate traffic as shall summarily and effectively prevent the imposition of unjust or unreasonable rates. It must include putting a complete stop to rebates in every shape and form. * * *
>
> The first consideration to be kept in mind is that the power should be affirmative, and should be given to some administrative body created by Congress. * * *
>
> In my judgment the most important provision which such law should contain is that conferring upon some competent administrative body the power to decide, upon the case being brought before it, whether a given rate prescribed by a railroad is reasonable and just, and if it be found to be unreasonable and unjust, then, after full investigation of the complaint, to prescribe the limit of rate beyond which it shall not be lawful to go—the maximum reasonable rate, as it is commonly called—this decision to go into effect within a reasonable time and to remain from thence onward, subject to review by the courts. * * *

Three times the great Democratic party in convention assembled has in its platform declared for it. The House of Representatives, fresh from the people, has passed the bill by an almost unanimous vote. State legislatures, chambers of commerce, business organizations, and the press have urged its passage. Nay, the demand is universal. The whole country is aroused upon this subject, and aroused as it has seldom been before. The time has come, Mr. President, when there must be wise legislation along this line, legislation which shall accomplish the result sought for, legislation which is conservative, yet such legislation as will speak out in the most positive, the strongest, and most unequivocal terms.

Mr. President, during the eighties, and perhaps as far back as 1878 to 1889, from one end of the country to the other, there was great agitation upon the subject of rate regulation. It was then said and believed that the railroads were charging excessive and exorbitant rates, that they were discriminating against localities and giving rebates. A commission of Congress found this as a fact, and in response to this demand many of the States established railroad commissions, and in 1887 Congress enacted what is known as the "interstate-commerce law," which this bill proposes to amend. In 1883, being a member of the State legislature, I introduced a bill for the creation of a railroad commission for North Carolina. It failed to pass, but in 1889 a law was enacted in that State creating a commission which has administered the law in a satisfactory manner both to the railroads and to the people. It was then claimed, as it is claimed to-day, that such legislation would bring disaster, would cause the shrinkage of securities; that it would stop the wheels of progress, retard the building of railroads, and that dire calamity would follow. Then, too, it was denied that the legislature could delegate its power to an administrative body or to any other tribunal to fix rates.

Mr. President, none of these predictions came true. Other States have had the same experience. In many of them the commissions were enjoined by the courts and much litigation was had growing out of this legislation. And it was then finally held by the highest courts in the States, without, perhaps, a single exception, that in the absence of special constitutional restraint it was competent for the legislature of the State, in the exercise of its police power, to regulate the tolls and charges of the railroad companies, all quasi public corporations, and could even regulate the business of individuals who were carrying on any enterprise affecting the public interest. Many of these decisions, upon a writ of error, were carried to the Supreme Court of the United States and affirmed. In the Granger cases (116 U. S.) and in a long line of cases since that time it has been so held, until it can no longer be a question of any doubt that the States have this power. In one of these cases, Munn *v.* Illinois (94 U. S., 113), Mr. Chief Justice Waite, delivering the opinion of the Court, says:

> Under these powers (the police power) the Government regulates the conduct of its citizens one toward another and the manner in which each shall use his own property, when such regulations become necessary for the public good. In their exercise it has been customary in England from time immemorial, and in this country from its colonization, to regulate ferries, common carriers, inns, hackmen, bakers, etc., and in so doing to fix a maximum of charge to be made for services rendered, accommodations furnished, and articles sold.

In 1887 Congress, in response to this great demand, established the Interstate Commerce Commission, investing it with certain powers, and among these powers so granted it was construed by this Commission, presided over by Judge Cooley, one of the greatest lawyers in this land, that there was in the act the implied power to fix rates, and they proceeded to exercise it. For ten years they acted upon this construction, until it was held in the Cincinnati case, Commerce Commission *v.* R. R. Co., U. S., 479), that they had no such power. During these ten years, notwithstanding the many predictions that dire calamity would follow such legislation, this country prospered as it never had be-

fore. Thousands of miles of railroads have been built, until now several great trunk lines cross and recross the continent, binding ocean to ocean with bars of steel, and bringing the people of the different sections of the country and communities widely separated into the closest business relations.

But, Mr. President, while it is conceded that the States undoubtedly have this power, it is seriously doubted and most strenuously contended upon this floor, and it has been most ably argued, that Congress can not delegate to any other body than itself the power to fix rates. When I was a young lawyer, twenty years ago, I brought suit for a client to recover a penalty denounced by the statute of my State against a railroad for charging more for a shorter distance over the same line to a point in another State. I lost the suit, it being held by the court of last resort that the statute was void as to shipments made outside of the State, and that this was a matter wholly within the power of Congress under the commerce clause of the Constitution. And ever since that time I have bowed to the decisions of the court and had no doubt that Congress had the right to regulate interstate commerce, to control it fully, even to the extent of appointing a commission to fix rates.

The very purpose for which railroads are incorporated and operated is to carry on commerce, both domestic and interstate, to serve the public by the transportation of freight and passengers in and through the States; and while, as I have said, under the police power of the States, there is an inherent power to regulate commerce, there is no police power in the Federal Government to regulate commerce between the States. This is one thing which caused trouble among the colonies, the most serious trouble, and was one of the first reasons and the moving cause for the adoption of the Constitution. The States surrendered to the General Government, as it is written in the Constitution itself, and specifically granted in so many words, the power to regulate interstate commerce between the States and foreign nations. In the case of The Wabash Railroad *v.* Illinois (118 U. S., p. 557) Justice Miller uses this language:

> It can not be too strongly insisted upon that the right of continuous transportation from one end of the country to the other is essential in modern times to that freedom of commerce from the restraints which the States might choose to impose upon it—that the clause was intended to secure. This clause, giving to Congress the power to regulate commerce among the States and with foreign nations, as this court said before, was among the most important of the subjects which prompted the formation of the Constitution.

In this case the facts were these: The railroad charged for transporting a carload of goods from Peoria, Ill., to New York $39, when, on the same day, it charged for shipping a carload of the same class of freight from Gilman, Ill., to New York the sum of $65—the carload from Peoria being carried 86 miles farther in the State of Illinois than the other carload. It was a suit for a penalty for unjust discrimination, and the court says, in reversing the judgment of the State court for the penalty:

> Of the justice and propriety of the principle which lies at the foundation of the Illinois statute it is not the province of this court to speak. * * * As restricted to a transportation which begins and ends within the limits of the State, it may be very just and equitable, and it is certainly the province of the State legislature to determine that question. * * * That this species of regulation is one which must be, if established at all, of a general and national character and can not be safely and wisely remitted to local rules and local regulations we think is clear. * * * And if it be a regulation of commerce, as we have demonstrated it is, and as the Illinois case concedes it to be, it must be of that national character, and the regulation can only appropriately exist by general rules and principles which demand that it should be done by the Congress of the United States under the commerce clause of the Constitution.

This general doctrine is established by a long line of cases, and nothing is more clearly established than that the transportation by common carriers of freight and passengers between the States is interstate commerce, which the Congress undoubtedly has the right to regulate without any limitation, except that no man's property can be taken without due process of law and without just compensation.

It has never been seriously contended that Congress itself could from a practicable standpoint actually fix rates. It is not only impracticable but impossible. It can fix the standard that the rates shall be just and reasonable, and then remit to an administrative body authority to fix a rate upon that basis. While we have no direct decision of any court upon this subject predicated upon the same state of facts, this is the common sense of it; and, reasoning by analogy, it is just what the court has intimated, if it has not definitely decided. No court, in my opinion, will decide otherwise. In Field *v.* Clark (143 U. S., p. 649), while not directly in point as to the facts, the following language used by the court is in point and there can be nothing plainer. The language is taken from Lock's appeal (72 Pa. State, 491), and is quoted by the Supreme Court, by Justice Harlan, with approval:

> The legislature can not delegate its power to make a law, but it can make a law and delegate a power to determine some fact or state of things upon which the law makes or intends to make its own action depend. To deny this would be to stop the wheels of government. There are many things upon which wise and useful legislation must depend which can not be known to the lawmaking power, and must therefore be a subject of inquiry and determination outside of the halls of legislation.

Also, in Butterfield *v.* Stranahan (192 U. S., 496), wherein was involved the construction of the law of Congress appointing a board of seven members, who were to prepare and submit to the Secretary of the Treasury samples of tea, and upon their recommendation the Secretary of the Treasury was authorized to fix and establish a uniform standard of purity, quality, and fitness for consumption of all kinds of tea, the court says:

> This case is within the principles of Field against Clark, where it was decided that the third section of the tariff act of October 1, 1890, was not repugnant to the Constitution as conferring legislative and treaty-making power on the President, because it authorizes him to suspend the provisions of the act relating to the free introduction of sugar, etc. We may say of the legislation in this case that it does not in any real sense invest the administrative officials with the power of legislation. Congress legislated on the subject as far as was reasonably practicable, and from the necessities of the case was compelled to leave to executive officials the duty of bringing about the results pointed out by the statute. To deny the power of Congress to delegate such a duty would in effect amount but to declaring that the plenary power vested in Congress to regulate foreign commerce could not be efficaciously exerted.

Messrs. Prentice and Eagan, in their valuable work on the commerce clause of the Federal Constitution, on page 31, also say, in summing up the whole matter:

> The test determining the validity of a delegation of discretionary power therefore appears to be that, if a controlling rule is fixed by the legislature and the power delegated is to apply this general rule to specific facts, or to determine some fact upon which the legislature makes its action depend, then the law is valid.

Fixing the standard, and then upon that basis fixing the rate, is purely a legislative function. It only becomes a judicial question when the rate is fixed which enables the court then to enjoin the enforcement of these rates so fixed, which may be confiscatory, and hence repugnant to the fourteenth amendment of the Constitution. I think this is what really is decided in the Reagan case, supra.

A commission invested by Congress with this authority is just as competent—vastly more competent—to make a rate than a rate-making board employed by the railroads. Both are to adjust rates. One is a partisan board acting for the railroads. The other is nonpartisan, free from bias, with a great public duty to perform, sworn to do their duty, acting for the people as well as for the railroads, sworn to do what is right and just between man and man, unmoved by any desire for pecuniary gain. One acting from a selfish motive, will, as a matter of course, make the rates which will be most advantageous to the railroads, with a view to making large dividends for their employers. The other will act only when a complaint is made that the rates are excessive and unreasonable; and not till then will make such a rate, after a full hearing is had upon the whole matter, as is just and reasonable, moved only by a sense of high public duty. The partisan board makes all the rates. The nonpartisan or Congressional board adjusts the rate already in execution which, in their judgment, is inflicting a wrong upon the people. The one is paid by the railroads. The other is paid by the Government. The railroads employ only such experts for this purpose as can make the best rates in the interest and for the benefit of the railroads. It is not probable that the President would appoint or that the Senate would confirm any person on this board who is not a man not only of experience and ability, but who is conservative, patriotic, broad minded, liberal, and just.

Under present conditions, if the rates are excessive and exorbitant, where can the shipper go for the redress of his wrongs? I have a letter from a citizen in my State, in which he says that he paid $40.34 on a carload of corn from Cincinnati, Ohio, to Kelley, Va., about 1,500 miles, and from Kelley to Rich Square, N. C., a distance of 47 miles, he had to pay $52.44. Think of it, $40 for 1,500 miles and $50 for 47 miles. This is only one of a thousand such instances. Is it right that this man, or these men, shall have no relief? Wherever there is a wrong the remedy should be provided. But in such a case there is no practical and effective redress provided. Shall they be required to bring suit in the Federal court? This is preposterous. To do so would mean bankruptcy and ruin to them. They simply have to grin and bear it. Why, Mr. President, I ask, if the rates are reasonable and not excessive, should the railroads complain? Why all this clamor and these predictions of ruin? If they are carrying on their business in such a way as not to injure the public the Commission can not affect them, but if they are not the people have a right to complain, and it is the duty of Congress to redress their wrongs, to appoint a tribunal to whom they can make their complaints and be heard. The railroads come in touch with more people and

more people have business with the railroads than any other person or corporation in the world. They are a great convenience to our people. I would neither deprive them of their rights in the courts nor anywhere else. But the truth is, Mr. President, and we might as well speak it out, the railroads, acting under their chartered rights, are levying a tariff upon the people in the way of tolls and charges that we are told are not just; that do not bear fairly and equally on all alike. It is charged that they, by way of rebates and otherwise, make the rates easy for the rich and at the same time make them high for the poor and small shipper, the small manufacturer, and the great mass of producers and consumers in our country, driving many of them out of business.

Mr. President, I have introduced a proposed amendment to the bill, after the word "jurisdiction," in line 9, page 10 of the bill, which provides that no writ of injunction or interlocutory order shall be granted by any district or circuit court without first giving five days' notice to the adverse party or his attorney of the time and place of moving for the same, and not until petition and answer are filed and hearing thereon is had. To adopt an amendment something like this, I think, Mr. President, will not only aid in removing the constitutional objection, which has been raised to this section of the bill, but it is intended to prevent much of the trouble which it is predicted will come, and which will undoubtedly come if the railroads, simply upon an ex parte petition, could go into the courts and obtain an interlocutory decree or injunction against the rate going into effect upon constitutional grounds. This would mean practically to nullify the order of the Commission and practically to nullify the very will of Congress, thereby bringing the whole thing into ridicule and contempt. "Justice delayed is justice denied."

It seems from the decisions of the Supreme Court that Congress can absolutely take away from the courts, except the Supreme Court, their equity jurisdiction. The Supreme Court derives its equity jurisdiction from the Constitution itself, but the subordinate courts are purely creations of statute and derive their power and jurisdiction from Congress. The third article of the Constitution declares that "the judicial power of the United States shall be vested in one Supreme Court, and such inferior courts as the Congress shall from time to time ordain and establish." Inferior courts have been established from time to time, and some by the statute have been given equity jurisdiction, as the circuit courts; and also some have not, but have been denied this jurisdiction, as, for example, the Court of Claims.

No one will contend that Congress can not, if it so desired, abolish every inferior court of the United States, and I want to say here that I agree with the Senator from Wisconsin [Mr. SPOONER], that if we did abolish them, it would be our sworn duty to reestablish them. If Congress can create these courts and abolish them at will, it would seem that they could limit their jurisdiction and take from them some of the jurisdictional powers they now have. In Sheldon *v.* Sill (8 Howard, p. 449) Justice Grier, in delivering the opinion of the court, says:

> Congress may withhold from any court of its creation jurisdiction of any of the enumerated controversies. Courts created by statutes can have no jurisdiction but such as the statute confers. No one of them can assert a just claim to jurisdiction exclusively conferred on another or withheld from all.

Again, in Turner *v.* The Bank (4 Dall., p. 1):

> The notion has frequently been entertained that the Federal courts derive their judicial power immediately from the Constitution, but the political truth is that the disposal of the judicial power (except in a few specified instances) belongs to Congress. If Congress has given the power to the court, we possess it; not otherwise; and if Congress has not given the power, * * * it still remains at the legislative disposal.

There is much force in the suggestion, I admit, Mr. President, that the court, being created and given jurisdiction of the subject matter, it might be held, in order to administer justice or to decide upon any constitutional rights that the suitor would have, and in order to administer his right and preserve his property from irreparable damage, and to hold it in statu quo during the determination of these rights, that the court could by the natural right of equity assume this equity jurisdiction. But, after investigation, I am of the opinion that we could limit the equity jurisdiction of the court in this case. I am certain that we could limit its practices and procedures. Congress has done so by statute twice in the past, and can do so again. Section 720 of the Revised Statutes of the United States is as follows:

> The writ of injunction shall not be granted by any court of the United States to stay proceedings in any court of a State, except in cases where such injunction may be authorized by any law relating to proceedings in bankruptcy.

Will anyone contend that this is not a limitation upon the equity courts by Congress? My friend the distinguished Senator from Wisconsin, in his great speech—and I measure my words when I say "a great speech and a great argument"—cited as an authority the case in 193 United States, The Central Trust Company *v.* Julian, with which I was acquainted, having been an attorney in the case. I mention this case to show what a partisan judge can do, unless he is restrained by Congress, and while that case is an authority for the Senator from Wisconsin, it is also authority for me.

This is a remarkable case, Mr. President. There was a suit brought against a railroad in North Carolina and a judgment was rendered for $26,000 against a railroad company that had been sold out under a second mortgage to the Southern Railway Company. We contended that that railroad was still a domestic corporation, inasmuch as it had only been sold under a second mortgage; that the first mortgage being still outstanding, the State had never lost its visitorial power over that corporation, and inasmuch as the State when it grants a charter parts with a portion of its sovereignty, a foreign corporation could not come into a State and take away the visitorial power of the State over that domestic corporation. It was fought out in the State courts, and finally went to the court of last resort, which said that this road was liable for this money under execution. Then the parties went into court and asked for a receiver in order to collect their money. Then comes the iron hand of the Federal court, without giving any notice whatever to the parties, and enjoins not only the plaintiff, but enjoins every lawyer in the case, and not only every lawyer in the case, but enjoins the court itself. Then, Mr. President, we fought it out in the Federal court; and the circuit court of appeals dissolved the injunction as to these parties and said they could proceed as they were advised. They then caused execution to issue in the State court and put it into the hands of the sheriff. The property was advertised for sale in thirty days, and the matter waited until the night before the sale, when here comes another injunction enjoining the sheriff, enjoining the lawyers, and enjoining everybody from selling that property. The costs in this case were over $900, and I mention this to show that in many cases, if not all, the poor man can not afford to litigate in the Federal courts.

Mr. TILLMAN. Will the Senator state what judge that was?

Mr. OVERMAN. It was a South Carolina and a North Carolina judge—one a circuit and one a district judge. I do not care to mention the names.

Mr. TILLMAN. They were Federal judges, of course?

Mr. OVERMAN. They were Federal judges, of course.

Mr. TILLMAN. I do not see why the Senator should object to giving the names. I am responsible for asking for it.

Mr. OVERMAN. I say one was a North Carolina judge.

Mr. TILLMAN. District or circuit?

Mr. OVERMAN. The circuit judge was a South Carolina judge. He is dead, and I do not desire to mention his name. The Senator knows to whom I refer.

Mr. TILLMAN. I had the misfortune, I suppose it was, to criticise the judiciary here the other day, and to make—I will not say a charge, but an assertion of my belief—that the reason why this particular point is being fought out so bitterly on the part of some of us is because the people have lost faith in the honesty and integrity of some of the Federal judges, and two Senators took issue with me in regard to the high character, ability, and honesty of purpose of the judges with whom they had had to deal, and another jumped in with the proposition that I must allude to some particular judge. I want to get a catalogue of the fellows who have been doing that kind of work.

Mr. OVERMAN. The Senator will see that it is a delicate matter. The Senator knows to whom I refer, and I do not care to mention names and have them put into the public records of the Senate.

The Senator from Wisconsin [Mr. SPOONER] argued the question of the power that is vested in the court by the Constitution. Well, what is the judicial power? All legislative power is vested in Congress, all executive power is vested in the Executive, and all judicial power is vested in the judiciary.

Right here in passing I want to say for the benefit of the Senator from South Carolina that the reporter mentions a very interesting fact in this case from which I am about to quote—Osborn *v.* Bank of the United States (9 Wheaton, 738). It seems that Webster and Clay both appeared in that case and that Andrew Jackson was then President. President Jackson contended that in legislating Congress was not bound to obey the will of the Supreme Court even when an act had been declared unconstitutional, because Congress and the judiciary act independently of each other; that each member of the Senate or the House of Representatives is bound by his own construction of the Constitution; and because the Supreme Court is a coordinate branch of the Government that Congress is no more bound by the opinion of the judges of the Supreme

Court than Congress and the Supreme Court would be bound by his actions or the opinion of a Senator.

Now, Mr. President, I call the attention of the Senator from Wisconsin to the question of judicial power. What does it mean? The Senator, as I understand, contends that whenever a court is established under this judicial power the court so established has the right, when the subject-matter is given to the court, to invoke all the ancient remedies—not the common-law remedies, but the ancient remedies in equity—in order to save the property of the litigant from irreparable damage and keep it in statu quo until his rights can be finally determined.

What is judicial power? I have looked through the dictionaries, but I find that Justice Marshall, in this very case, has given the very best definition of it. If his definition is correct and also his reasoning, it seems to me that Congress has the right to limit the jurisdiction of any court that it establishes. In this case the great Chief Justice said as follows:

> Judicial power, as contradistinguished from the power of the laws, has no existence. Courts are the mere instruments of the law and can will nothing. When they are said to exercise a discretion it is a mere legal discretion, a discretion to be exercised in discerning the course prescribed by law; and when that is discerned it is the duty of the court to follow it. Judicial power is never exercised for the purpose of giving effect to the will of the judge; always for the purpose of giving effect to the will of the legislature, or, in other words, to the will of the law.

Along this line I will read the great case of Chisholm *v.* Georgia—the case that produced almost a revolution in this country, and caused the adoption of the eleventh amendment to the Constitution. The opinion in that case was delivered by Judge Iredell of my State, one of the greatest judges that ever sat upon the Supreme Court of the United States.

In that case, Mr. Randolph, the attorney-general, was arguing along the line of the Senator from Wisconsin's idea of the judicial power, that when the court was created, that minute it had in it power to invoke all these remedies of which we have been talking. Let us see what he says:

> The attorney-general has indeed suggested another construction, a construction, I confess, that I never heard of before, nor can I now consider it grounded on any solid foundation, though it appeared to me to be the basis of the attorney-general's argument. His construction I take to be this: "That the moment a supreme court is formed it is to exercise all the judicial power vested in it by the Constitution, by its own authority, whether the legislature has prescribed methods of doing so or not." My conception of the Constitution is entirely different. I conceive that all the courts of the United States must receive not merely their organization as to the number of judges of which they are to consist, but all their authority as to the manner of their proceeding from the legislature only. This appears to me to be one of those cases, with many others, in which an article of the Constitution can not be effectuated without the intervention of the legislative authority. There being many such, at the end of the special enumeration of the powers of Congress in the Constitution is this general one:
>
> This is the power of Congress—
>
> "To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof." None will deny that an act of legislation is necessary to say at least of what number the judges are to consist. The President, with the consent of the Senate, could not nominate a number at his discretion. The Constitution intended this article so far, at least, to be the subject of a legislative act. Having a right thus to establish the court, and it being capable of being established in no other manner, I conceive it necessarily follows that they are also to direct the manner of its proceedings.
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> * * * * * * *
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> Upon this authority there is, that I know, but one limit—that is, "that they shall not exceed their authority." If they do, I have no hesitation to say that any act to that effect would be utterly void, because it would be inconsistent with the Constitution, which is a fundamental law, paramount to all others, which we are not only bound to consult, but sworn to observe; and therefore where there is an interference, being superior in obligation to the other, we must unquestionably obey that in preference. Subject to this restriction, the whole business of organizing the courts and directing the methods of their proceeding, where necessary, I conceive to be in the discretion of Congress. If it shall be found, on this occasion or on any other, that the remedies now in being are defective for any purpose it is their duty to provide for, they no doubt will provide others. It is their duty to legislate so far as is necessary to carry the Constitution into effect. It is ours only to judge. We have no reason nor any more right to distrust their doing their duty than they have to distrust that we all do ours. There is no part of the Constitution that I know of that authorizes this court to take up any business where they left it, and in order that the powers given in the Constitution may be in full activity supply their omission by making new laws for new cases, or, which I take to be the same thing, applying old principles to new cases materially different from those to which they were applied before.
>
> With regard to the Attorney-General's doctrine of incidents, that was founded entirely on the supposition of the other I have been considering. The authority contended for is certainly not one of those necessarily incident to all courts merely as such.
>
> If, therefore, this court is to be, as I consider it, the organ of the Constitution and the law, not of the Constitution only, in respect to the manner of its proceeding, we must receive our directions from the legislature in this particular, and have no right to constitute ourselves an officina brevium, or take any other short method of doing what the Constitution has chosen, and, in my opinion, with the most perfect propriety, should be done in another manner.

Mr. BACON. Will the Senator please state what was the direct point at issue upon which that ruling was made?

Mr. OVERMAN. One State suing another.

Mr. BACON. Of course that is the foundation of the suit; but what was the particular question to which that language was applied?

Mr. FULTON. Mr. President——

The VICE-PRESIDENT. Does the Senator from North Carolina yield to the Senator from Oregon?

Mr. OVERMAN. Certainly.

Mr. FULTON. My recollection, if the Senator will permit me, is that it was not a question of one State suing another, but of an individual suing a State.

Mr. BACON. It was the case of an individual suing a State.

Mr. OVERMAN. Of an individual suing a State; that is right.

Mr. FULTON. I will say, while I am on my feet, that it is my recollection that the majority of the court was against the doctrine announced by the justice from whose opinion the Senator has read.

Mr. OVERMAN. I did not so read it. Justice Jay, I believe, and all the judges wrote opinions in the case on account of its great importance.

Mr. FULTON. Each of the judges in that case, as I recall, delivered an opinion, and the majority were against the conclusion reached by the justice from whose opinion the Senator has read.

Mr. OVERMAN. I do not so construe it; and I think the judge is right. All the other decisions I have cited and from which I have quoted clearly sustain him in this conclusion.

Mr. FULTON. I would not say that the other opinions are based on doctrines differing necessarily from the particular portion quoted by the Senator; but now I would ask the Senator if he does not make a distinction between the power of Congress to vest jurisdiction in a court in a particular case, and, on the other hand, the power of Congress to state how that case shall be decided?

Mr. OVERMAN. What is judicial power? I have shown what Judge Marshall says it is. It really means, as against legislative power, nothing. But, another thing: What is this power when the court is established? It is such a power as is given to it by the Constitution and the law.

Mr. FULTON. Let me ask the Senator, then, if judicial power that is spoken of in the Constitution, where the Constitution says that the judicial power is vested in a Supreme Court, does not include jurisdiction? Jurisdiction is only one element of that judicial power. Judicial power is more than jurisdiction in a cause.

Mr. OVERMAN. Power to enforce its orders.

Mr. FULTON. When the legislature gives a court jurisdiction of a certain cause——

Mr. OVERMAN. In answer to the Senator I want to read——

Mr. FULTON. Judicial power vests in the court to determine that cause, and becomes constitutional.

Mr. OVERMAN. In answer to the Senator from Oregon, I read again from Marshall's Complete Constitutional Decisions in the case of Ex parte Swartout, who, as a basis for his decision, lays down this proposition in the very beginning of his opinion:

> As preliminary to any investigation of the merits of this motion, this court deems it proper to declare that it disclaims all jurisdiction not given by the Constitution or by the laws of the United States.
>
> Courts which originate in the common law possess a jurisdiction which must be regulated by their common law until some statute shall change their established principles——

Then, if we limit it, there is a statute limiting the old common-law remedy, or the remedy in equity——

> but courts which are created by written law, and whose jurisdiction is defined by written law, can not transcend that jurisdiction.

That is what the great Marshall says. Can anything be plainer than that?

Mr. FULTON. Will the Senator, then, tell us what is jurisdiction?

Mr. OVERMAN. I have no legal definition. I wish I did know. I should like the Senator to give me the legal definition.

Mr. FULTON. I was asking a question; I was not proposing to answer it.

Mr. OVERMAN. Jurisdiction is the right of a court, legal authority, either conferred by the Constitution or by the laws to do some particular thing, or to invoke to its aid some ancient remedy, in passing upon the rights or wrongs of the people. I should say that is a horseback definition. That is about what I think it is. I doubt whether anybody could define it properly; but I know the court says you can limit the jurisdiction.

In chapter 22, section 5, United States Statutes at Large, there is a special prohibition that writs of injunction shall not be granted without reasonable notice to the adverse party or his attorney. And in the case of New York *v.* Connecticut (4 Dall., p. 1) the Supreme Court held that this prohibition extends not

only to the circuit court, but to the Supreme Court itself, whose equity jurisdiction is given by the Constitution.

Then if we can impair it for one day or two days or three days, we can impair it forever. It is certainly decided in this case that you can impair it. Jurisdiction does not attach—the court is deprived of it unless notice is given. Then if we can prohibit it for a day by the required notice to be given, why not prohibit it forever? Has time anything to do with it?

That is the point I make. I am in favor of allowing these corporations to have their day in court just the same as an individual. I am in favor of giving them the same rights that the individual has. This amendment which I have proposed is constitutional. The court has so decided it, and from all the cases I have cited here, after we decide what "judicial power" means, in the language of Judge Marshall, if we are satisfied on that point there is nothing clearer to my mind than that we can limit the entire jurisdiction of the court as to the equity practice, and we certainly can limit it as to the time when the notice shall be given and the complaint filed.

To repeat, in chapter 22, section 5, United States Statutes at Large, there is a special prohibition that writs of injunction shall not be granted without reasonable notice to the adverse party or his attorney. And in the case of New York *v.* Connecticut (4 Dall., p. 1) the Supreme Court held that this prohibition extends not only to the circuit court, but to the Supreme Court itself, whose equity jurisdiction is given by the Constitution.

Here are two precedents of Congress, one where there is a limitation upon the equity jurisdiction of the courts, and the other a limitation upon the practice and procedure of issuing interlocutory decrees. But I want to say right here, let the courts of the land be open at all times to the rich and poor alike, to the individual and corporation, and let justice be administered freely, completely, and without delay; but the point I make is this, that the amendment suggested will in no wise abridge or limit the right of the railroad, the shipper, or anyone else. It is only a limitation upon the procedure and practice of the courts when injunctive relief is sought in this particular case. Limit as to the time when, the place where, and the notice to be given is no limitation upon the constitutional or any other right the petitioner or complainant might have.

Mr. President, I have heard it said during this debate that the law must bear equally upon all alike, and not to make this limitation apply in all cases would be class legislation, and therefore unconstitutional. I contend that it is not special legislation as to a particular class. It does not apply to one railroad, but to all railroads. Taxation by the State upon the gross incomes of the railroads, the fellow-servant act, the mechanics' lien law, and many laws of this special character have been upheld by the Supreme Court of the United States. This court says in Missouri Railroad Company *v.* Mackay (127 U. S., p. 209):

> The objection that the law of 1874 deprives the railroad companies of equal protection of the laws is even less tenable than the one considered. It seems to rest upon the theory that legislation which is special in its character is necessarily within the constitutional inhibition; but nothing can be further from the fact. The greater part of all legislation is special, either in the objects sought to be attained by it or in regard to its application. * * * And when legislation applies to particular bodies or associations, imposing upon them additional liabilities, it is not open to the objection that it denies to them the equal protection of the laws, if all persons brought under its influence are treated alike under the same conditions. A law giving to mechanics a lien on buildings constructed or repaired by them for the amount of their work, and a law requiring railroad corporations to erect and maintain fences along their roads, separating them from lands of adjoining proprietors, so as to keep cattle off their track, are instances of this kind. Such legislation is not obnoxious to the last clause of the fourteenth amendment, if all persons subject to it are treated alike under similar circumstances and conditions in respect both of the privileges conferred and the liabilities imposed. It is conceded that corporations are persons within the meaning of the amendment.

This, of course, refers to legislation in the States as applied to the fourteenth amendment. I only cite this by way of illustration.

But Mr. President, it is clear to my mind that this amendment is constitutional upon the common-sense view of it and the sound reasoning of this opinion. This amendment, taken in connection with the other provisions of the bill, if not in express words, certainly by implication will give the court of review, which has been so earnestly contended for. The rate is fixed by one administrative body carrying out the will of Congress. If it is confiscatory and if this rate will take away the property of the railroads without just compensation, or if it is claimed their property is taken without due process of law, the way to the courts for injunctive relief is open. Notice is given to the adverse party, the petition is filed, the answer is filed, full hearing by both sides is had, and decree is made suspending the rate or the petition is dismissed and an appeal is allowed.

Furthermore, Mr. President, is it fair to the people or the Commission, which is to be composed of seven men—some learned in the law, and men of unusual ability and business experience, who have heard the case and given a patient and careful hearing before fixing the rate, have heard all the testimony, have heard the attorneys on both sides, and made their order after deliberation and consideration—I repeat, is it fair to them to have their action arbitrarily set aside by a partisan judge by injunction, when the adverse party had no opportunity to be heard? Why should a judge who is unfamiliar with these intricate problems, who may know the law, but who is not expected to be acquainted with the business of fixing rates, and without hearing the testimony for the complainant, why should he be permitted simply upon an ex parte affidavit of the petitioner to order the injunction to issue? The Commission in a judicial sense is not a court, but it has all the procedure given it that a court exercises. There is the notice served, the complaint made, the answer filed, the testimony taken on both sides, and the order, which is the same thing as the judgment, is made. This looks very much like due process of law. The only thing absent is the judge holding his office for life created by Congress. That is the only difference. I know in the Reagan case they held it was not a court and that it was not due process of law.

I confess, Mr. President, I do not like some of the verbiage of the bill. I do not like the words "fairly remunerative," and these words added to the words "just and reasonable." The language of the bill is, "shall prescribe what will be a just, reasonable, and fairly remunerative rate or rates." Why use so many adjectives to describe the rates to be fixed? Why not use the plain words of the Constitution, "just compensation?" To say that it would be fairly remunerative would, in my judgment, involve the question unnecessarily. What would be a fairly remunerative rate for the amount invested coupled with the direction to fix a just and reasonable rate, according to the rule laid down in the Nebraska case, would present a very troublesome question to the Commission. The man from Texas, where the legal rate of interest is 10 per cent; from South Carolina, where it is 8 per cent; from North Carolina, where it is 6 per cent, and in some other States, where it is 4 per cent, all would have a very different idea as to what constitutes a fair and remunerative rate. What is just compensation for services performed is easily understood and easily arrived at, or to use the words "just and reasonable" would be equally satisfactory.

Mr. President, when, in 1887, there was a demand for this kind of legislation there were hundreds of competing lines of railroads in this land. Since that time there has been a most wonderful evolution in the railroad world. Competition has, to a great extent, been eliminated and practically destroyed. Consolidation has gone on and on in the face of all opposition, even in the face of legislative and judicial opposition. It has gone so far that we will never see again the old discarded method of small competing lines. This consolidation has continued until we see 95 per cent—practically all the railroads of the entire country—organized and consolidated into six great groups: First, the Vanderbilt group, speaking in round numbers, with its 22,000 miles and with a capitalization of more than a billion dollars; second, the Pennsylvania group, with its 20,000 miles and its capitalization of $2,000,000,000; third, the Morgan-Hill group, with its 47,000 miles and its capitalization of $2,000,000,000; fourth, the Gould-Rockefeller group, with its 28,000 miles and its capitalization of $1,200,000,000; fifth, the Harriman group, with its 23,000 miles and its capitalization of $1,300,000,000; sixth, the Moore group, with its 25,000 miles and its capitalization of $1,000,000,000. I ask that I be permitted to add in the RECORD a statement showing the mileage and capitalization of these groups.

But, Mr. President, not only is this enormous percentage of railway property controlled by these six groups, but there exists a community of interests between them, and the groups themselves are linked together, and the interests which control one overlaps the other. They are banded and bound together by the closest commercial and industrial ties for the purpose of mutual advantage. It is in effect one gigantic entity, collecting more than $2,000,000,000 annually out of the people in tolls and charges. Some of them have gone out beyond their legitimate business, have violated their charters and the law of the land, have monopolized the coal mines, and have invested their money in other business outside of the legitimate business for which they were chartered, until the Supreme Court has lately denounced this unlawful departure and said they were acting beyond the scope of their charter rights. Legislation to prevent it is now pending in this body. If it was necessary for the welfare of the country to enact legislation for the regulation of rates in 1887, how much more important is it to do so

now. It is not only imperative, but it is suicidal not to do so, and the party most to suffer will be the railroads themselves. You may amend this bill so as to destroy its efficiency, you may emasculate its provisions, it may be decided by the courts to be unconstitutional, but the demand for government regulation will not down; it will come again, and when it does come the demand will be louder, stronger than ever before, and, like a mountain torrent, it will come with such force that it can not be resisted; it will sweep away and engulf all opposition.

The cotton crop, Mr. President, last year was in the neighborhood of 11,000,000 bales. The high-salaried rate-making experts for these six groups of railroads, acting only for the master and with a selfish purpose, could have met in the early fall and, by putting on an additional 10 cents freight on each bale of cotton, have added to their annual receipts more than a million dollars, and at the same time have taken that much from the pockets of the people. And by the same process, by making an additional 10 cents per hundredweight freight over the old rate on the agricultural products of the entire country, their illegitimate gains would have mounted into the hundreds of millions. Shall this power remain in this gigantic, centralized, powerful, and uncontrolled organization? Who is it that would pay this enormous sum? It is not the shipper nor the middleman, but it is always paid by the producer and consumer. These are they who, after all, suffer from unreasonable and discriminating charges. They pay the freight, but they can not recover the unjust excess. They are helpless, and it is this great mass of our people which will be mostly benefited by this legislation. For fifty years the common carriers have been regulating the tolls and charges to suit themselves without let or hindrance. Now let the people have a place where they can go and be heard and be protected from unjust, discriminating, and unequal rates. These paid experts are human; they want all they can get; they are paid by the master. A little here and a little there added to the present rate, a classification here and a reclassification there, may make a difference of many hundred thousands of dollars. This difference is not likely to be made in favor of the shipper. The people have no unjust demand to make; they are always on the side of justice, equality, and truth. Pass this law, and if it shall stand the test of the courts, as I believe it will, all bitterness will pass away; prejudice will give place to confidence; the people will know that they have a forum where they can make their complaints and be heard. The railroads will also be heard; the courts will be opened to all. Railroad building will not cease, calamity will not come, the wages of the employees will not be lowered, progress will go on, even-handed justice will be meted out to all alike, and the cause of the people will be triumphant.

APPENDIX.

The important statistical facts regarding the six great groups of railroads are as follows:

1. THE VANDERBILT GROUP.

The detailed figures of the various lines embraced in the group are as follows:

	Capitalization.
New York Central system proper	$210,276,410
Leased lines	171,753,595
Lake Shore and Michigan Southern system	101,265,000
New York, Chicago and St. Louis Railroad	49,425,000
Michigan Central Railway system	40,013,000
Lake Erie and Western Railway	34,555,000
Indiana, Illinois and Iowa Railroad	9,850,000
Cleveland, Cincinnati, Chicago and St. Louis system	96,602,037
Cincinnati Northern Railway	4,000,000
Chicago and Northwestern Railway system	303,226,542
Chesapeake and Ohio Railway system	138,228,579
Smaller systems and branches (about)	10,000,000
Total capitalization afloat of all lines embraced in the Vanderbilt group	1,169,196,132
The total mileage of these same systems is ..... miles	21,888

2. THE PENNSYLVANIA GROUP.

Pennsylvania Railroad system proper, lines both east and west of Pittsburg and Erie	$873,398,368
Baltimore and Ohio Railroad system	392,846,225
Norfolk and Western Railway system	142,097,500
Reading system	394,060,142
Total capitalization	1,822,402,235
Total mileage ..... miles	10,709

3. THE MORGAN-HILL GROUP.

Northern Securities Company (stock)	$264,867,849
Chicago, Burlington and Quincy system (bonds)	152,972,400
Northern Pacific Railway system (bonds)	286,798,433
Great Northern Railway system (bonds)	205,679,148
Southern Railway system proper	365,755,265
Alabama Great Southern, affiliated and miscellaneous lines	18,800,000
Central of Georgia Railway system	54,146,000
Atlantic Coast Line system (including Louisville and Nashville, etc.)	297,097,650
Hocking Valley system	54,187,214
Erie Railroad system	$972,321,100
Lehigh Valley system	93,400,000
Total capitalization	2,265,116,559
Total mileage ..... miles	47,206

4. THE GOULD-ROCKEFELLER GROUP.

Missouri Pacific system	$233,606,875
Texas and Pacific system	85,900,125
Wabash Railroad system	102,000,000
St. Louis Southwestern system	36,187,250
Denver and Rio Grande system	127,500,100
Missouri, Kansas and Texas Railway system	149,072,500
International Great Northern system	34,691,052
Wheeling and Lake Erie system	53,728,350
Western Maryland system	118,654,500
Colorado Southern system	77,197,378
Delaware, Lackawanna and Western system	119,124,310
Chicago, Milwaukee and St. Paul system	230,567,500
Total capitalization	1,368,877,540
Total mileage ..... miles	28,137

5. THE HARRIMAN GROUP.

Union Pacific system, proper	$451,762,955
Southern Pacific system	460,939,256
Illinois Central Railroad system	226,560,000
Chicago and Alton Railway system	100,980,800
Kansas City Southern Railway	81,000,000
Total capitalization	1,321,243,711
Total mileage ..... miles	22,343

6. THE MOORE GROUP.

Rock Island Company (embracing all controlled properties)	$490,771,800
Seaboard Air Line system	110,207,600
Atchison, Topeka and Santa Fe system	458,271,530
Total capitalization	1,059,250,930
Total mileage ..... miles	25,092
Total capitalization of the six groups	9,017,016,907
Total mileage of the six groups ..... miles	164,586

Mr. TILLMAN. Mr. President, it seems that Senators are rather indifferent about getting ready their speeches on this matter. I recognize its great importance, and that it takes time for anyone to prepare himself to discuss it with any profit to the Senate. But it seems to me there ought to be a little more industry on the part of those who want to participate in this debate, unless they are willing to agree upon some time when we may get a vote.

I am ready to make a suggestion along that line, if it is agreeable to those who are in charge of the opposition. I do not know exactly where the opposition is; this is a kind of nondescript arrangement anyhow, but there must be an opposition here, else Senators would be ready to talk or at least be in a humor to determine when they will be ready to vote on the bill. I have had notice that several Senators want to discuss the bill later on in the week, and I have heard that there are one or two who will not be ready until next week. I am in no great hurry to have a day fixed for a vote, provided I can get some information from the opposition or from those who want to change the bill as to when we shall have a vote. Can the Senator from New Jersey [Mr. KEAN] inform me as to when we may arrive at a time for voting?

Mr. KEAN. I do not think there is any disposition on this side of the Chamber unnecessarily to delay a vote, but I do not think the Senator has got quite as far along with the bill as fixing a date for a vote. I will aid the Senator all I can in getting a vote at an early day.

Mr. TILLMAN. In what way will the Senator aid me?

Mr. KEAN. By trying to urge Senators to deliver their speeches.

Mr. TILLMAN. People who will not talk ought to be willing to vote.

Mr. KEAN. I am willing to vote, I will say to the Senator from South Carolina.

Mr. FORAKER. Mr. President——

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Ohio?

Mr. TILLMAN. I do.

Mr. FORAKER. There are quite a number of amendments which have been introduced, printed, and are lying on the table. Some of them I introduced myself. I send to the desk and ask to have read an amendment, and I will ask the Senator from South Carolina whether he can not accept it.

The VICE-PRESIDENT. The Senator from Ohio proposes an amendment, which will be stated.

The SECRETARY. It is proposed to insert as a new section the following:

SEC. —. That no carrier engaged in interstate commerce shall, directly or indirectly, by any special rate, rebate, drawback, or other device, charge, demand, collect, or receive from any person a greater or

less compensation for interstate transportation of passengers than it collects, demands, collects, or receives from any other person for a like and equally good service. And any carrier violating this provision shall be deemed guilty of unjust discrimination and shall for each offense pay to the United States a penalty of not less than one hundred nor more than two thousand dollars: *Provided*, That nothing herein shall prevent the free carriage of destitute or indigent persons, or the issuance of mileage or excursion passenger tickets, or prevent such carriers from giving free or reduced transportation to ministers of religion, or to the inmates of hospitals, eleemosynary and charitable institutions, or to prevent any such carrier from giving free transportation over its own lines to any of its officers, agents, employees, attorneys, stockholders, or directors, or to the families of its employees.

Mr. TILLMAN. It is a little hard to get the exact meaning, in a legal way, of an amendment like that from merely hearing it read, but, as I catch it, it is designed to stop the issuing of free passes, is it not?

Mr. FORAKER. Yes; it is.

Mr. TILLMAN. If I were permitted, if I had a committee with which I could consult, I would be perfectly willing to accept the amendment, and I hope that I will get from those who are supposed to be the opponents of this bill some help in incorporating this provision in it, anyway.

Mr. FORAKER. This is the amendment I offered in the committee, and that is the reason why I asked the Senator if he would not be willing to accept it here on the floor of the Senate. It is a provision with which every member of the Committee on Interstate Commerce is entirely familiar. It is designed to break up the practice of giving free passes over common carriers, and it is designed also to break up the practice of common carriers giving passes to their officers and their employees, except only over their own lines. Hereafter, if this provision should be enacted, no common carrier can give a pass for a private car to officers of some other road to travel over its road and around all over the country wherever the occupants of the car may see fit to go.

Mr. DOLLIVER. Mr. President——

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Iowa?

Mr. TILLMAN. Certainly.

Mr. DOLLIVER. I would be very glad if the Senator from Ohio would state to the Senate in what respect the provision he has offered enlarges the prohibitions of the existing law. I did not hear the word "pass" mentioned in the amendment. We have already in the law provisions against discriminations. We have exceptions in favor of the poor and the good and persons in distress in various forms; and if we are going to put in an amendment to prohibit the issuing of free transportation in the form of free tickets or passes it strikes me that in order to avoid an ambiguity which grew up in respect of the existing law it might be well to more perfectly define what we are driving at.

Mr. FORAKER. I have not any objection to its being made more specific than it is if the Senator thinks it is not specific enough.

But answering his question, I can tell him that the amendment contains penalties for the violation of its provisions. The existing law does not. This also provides, as I have already indicated, that passes can not be given by officials of common-carrier companies to railroad officers and employees or their families except over their own lines. I think one of the greatest nuisances in the country is the practice of officers of railroads having their private cars and traveling all over the country, to the detriment of the transportation of other passengers in trains to which the private cars may be attached. If they want to do that, let them travel as other people do. When they get off their own line, let them get accommodations for compensation just as other people do.

In these particulars the amendment differs from the existing law. I do not care how much more specific the Senator makes it, but I do want certain things in it. I want the provisions that I have referred to, and I want also another provision which is not in the existing law, and that is that for the same compensation there shall be equal service to all who pay the same compensation.

Mr. DOLLIVER. I will say to the Senator from Ohio that I am in perfect sympathy with the object he has in view, but knowing the intention of Congress in 1887 to prohibit free transportation and knowing how completely the law has failed in practical operation to accomplish that result, I would deem it wise, if the Senator desires to enlarge the provisions of the existing law, to do it in a way so distinct that hereafter there will be neither ambiguity nor doubt about the application of the provisions.

Mr. FORAKER. I am sure the Senator can not find in this provision any ambiguity or any room for doubt. Certainly we will have the benefit, with reference to the enforcement of this provision, of the penalties which the amendment enumerates.

Mr. DOLLIVER. There are amendments or bills pending here which use the word "pass," and they have a tendency to identify the transaction with a great deal more distinctness than any language I find in the honorable Senator's amendment.

Mr. FORAKER. In the committee there was no objection made to this amendment on the ground that it was not sufficiently specific. But in the committee I could not get this provision or any other kind of a provision prohibiting the granting of passes incorporated in the bill, and I propose to find out whether or not we can put such a provision in the bill on the floor of the Senate, I do not care whether it is this provision or not.

I offered the amendment because it is a provision which was embodied in the bill I introduced in the Senate. It is the same provision that I offered in the committee, and I offer it now simply to bring the question before the Senate. I do not care whether it is voted on now or not. I knew that the Senator from South Carolina was not opposed to legislation prohibiting the granting of passes.

Mr. TILLMAN. Certainly not.

Mr. FORAKER. He so stated in committee and in the Senate.

Mr. TELLER. I ask that the amendment be again read.

Mr. TILLMAN. I want to say this offhand. I do not feel willing to accept any amendment. I want to be able to examine it; and then I am compelled to go around and get at least seven of my colleagues on the committee, however they may have been aligned heretofore on other subjects, to agree to it before I have any authority to accept anything for the committee. If the Senate will give me permission to accept amendments individually, I will begin to study them up and get ready, but I do not imagine that privilege is going to be accorded to me. But I want to say here and now that I am informed by my friend the Senator from Wisconsin [Mr. LA FOLLETTE], who has had a great deal of experience and who has given this particular phase of railroad rate regulation a great deal of study, that he has a bill or an amendment which he is incubating, which is far more comprehensive and sweeping than this one; and I assure the Senator from Ohio that before this bill is voted on we will have something, either his own amendment or that of the Senator from Iowa or the Senator from Wisconsin, which I hope will stop this great abuse.

Mr. CULBERSON. Mr. President——

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Texas?

Mr. TILLMAN. Certainly.

Mr. CULBERSON. I move to add, after the word "indirectly," on page 1, line 2 of the amendment of the Senator from Ohio, the words "issue any free pass, or shall directly or indirectly;" so that it will read in this respect:

That no carrier engaged in interstate commerce shall directly or indirectly issue any free pass, or shall directly or indirectly, by any special rate, rebate, drawback, or other device, etc.

Mr. FORAKER. I accept the amendment. I am perfectly satisfied to have those words go in.

Mr. TELLER. I should like to suggest to the Senator from Texas that he had better include the words "free ticket," because certainly at one time that has been a very common method of issuing passes.

Mr. CULBERSON. I will accept the amendment of the Senator from Colorado.

Mr. FORAKER. I will accept it, also.

Mr. FULTON. If I may be allowed to make a suggestion, I suggest that the term "free transportation" be used. I think that it covers more than "ticket" or "pass."

Mr. TELLER. How is that?

Mr. FULTON. "Free transportation."

Mr. TELLER. That would cover it.

Mr. CULBERSON. As we are in an accommodating disposition, I think the suggestion of the Senator from Oregon is a good one, and so far as I am concerned I am willing to accept it, so that it will read:

That no carrier engaged in interstate commerce shall, directly or indirectly, issue any free transportation, or by any special rate, rebate, drawback, or other device, etc.

Mr. FORAKER. Allow me to suggest to the Senator, why not use the words "issue any free pass or ticket or transportation?" That certainly will cover it.

Mr. DOLLIVER. We have defined "transportation" in the first section, so as to include a ticket. I think the words "pass or ticket" had better be left in.

Mr. TILLMAN. I want to suggest to the Senator from Ohio that this might be much better: Suppose he and the Senator from Texas and the Senator from Iowa and the Senator from Wisconsin should get together and draft a separate bill, and we

will pass it by unanimous consent, and let it go on its way rejoicing to the other end of the Capitol, because I am afraid there may be some trouble with the provision surviving in the mêlée that I foresee in regard to the various propositions to amend the Hepburn bill.

Mr. FORAKER. Mr. President——

Mr. TILLMAN. Some Senators suggest that it might weigh the bill down. I want to see who will fight this proposition in the open.

Mr. FORAKER. There need not be any trouble on that account. This is a very simple proposition, and it certainly ought to be in the bill. The statement made by the Senator from Iowa that the present provision has been ineffective is excuse enough for putting in this better provision. If in the way I have framed it it is not sufficiently drastic, let the Senator from Wisconsin or the Senator from Texas, or anybody else, aim to make it more so. I have no pride of authorship about it.

Mr. TILLMAN. I suggest to the Senator to allow the amendment to go over until to-morrow and have it printed with the amendments which have been suggested by Senators, and then we will have the eagle eye of the Senator from Wisconsin upon it, and when he gets through with it I will warrant it will shoot.

Mr. FORAKER. Just one word. I brought up this amendment not with the idea of unduly crowding it upon the attention of the Senate, but there seemed to be a lack of interest just for the moment in the consideration of the bill; the Senator from South Carolina was calling for those who had something to say about it to come forward, and I thought I would call attention to this amendment, and I give notice that I am going to press it. I am not going to wait for any other bill or any other amendment. It is to go on this bill unless it is voted down. That is a sure thing if I live.

Mr. TILLMAN. I welcome the assistance of the Senator in making it effective in this one particular. I hope he will be equally zealous in helping us along other lines other people are clamoring for.

Mr. FORAKER. I am going to help all I can. I pressed this amendment in committee, but there we were short one vote, and I could not get it on.

Mr. ALLISON. May I interrupt the Senator from Ohio for a question?

Mr. FORAKER. Certainly.

Mr. ALLISON. Do I understand the Senator from Ohio to state that in committee only a majority of one was in favor of this great amendment of his?

Mr. KEAN. We lacked one.

Mr. ALLISON. One vote, which would mean only a bare majority in committee for this amendment?

Mr. FORAKER. What I said was that I pressed it in the committee, but it was impossible in the committee to amend the bill in any particular.

Mr. ALLISON. Oh, I see.

Mr. FORAKER. It was not because the committee were all opposed to it. As I stated, the Senator from South Carolina voted against any amendment in the committee, but he was in favor of this particular amendment; and we reported the bill out of the committee, with the understanding all around the table that every Senator should feel free to offer such amendments as he chose.

Mr. TILLMAN. I am glad the Senator from Ohio corrected his first statement——

Mr. ALLISON. Mr. President——

The VICE PRESIDENT. Does the Senator from Ohio yield?

Mr. FORAKER. Certainly.

Mr. ALLISON. I want to say just one word.

Mr. TILLMAN. I was going to remark that I am glad the Senator from Ohio has corrected the first statement he made, which would have led to the impression that the committee, or some members of it, at least, were opposed to this particular amendment. I did not hear a solitary member say a word in opposition to it, but owing to the deadlock which had come about there, we voted down every and all amendments or propositions to change the Hepburn bill, because we found that we could not do anything in any effective way, and brought the bill into the Senate so that we could get discussion and the consideration here which may be necessary, I suppose, to lick it into shape.

Mr. FORAKER. That is true. Perhaps I was not as careful in my words as I should have been. That is the exact truth about it, and that is the way I intended to state it.

Mr. ALLISON. If the Senator will allow me one moment more, I understood the fact in the committee to be as now stated by the Senator from Ohio and the Senator from South Carolina, in charge of the bill. I understand it to be the rule of the committee not to explain on the floor of the Senate the details of the action of the committee.

Mr. FORAKER. Certainly——

Mr. ALLISON. If the Senator will indulge me one moment more, I think this amendment may not reach precisely what the Senators have in view. I say this for the reason that when the original act of 1887 was passed it was generally understood at that time that the exceptions which are now embodied in the amendment and were substantially embodied in the original act precluded the idea of any other transportation except equal transportation being issued by railroads. I think that was the understanding for some years after that act was passed. For some reason that provision of the act never in any way was brought before the courts. I do not know that there is any adverse decision upon that subject. I do not know that the courts ever had an opportunity of deciding upon that form of discrimination. I think if they ever had they probably would have decided that the original law embraced that idea.

I know we have a similar law on the statute books in my own State, and for two or three years after its passage free transportation was not issued by the railroads, but afterwards that lapsed into desuetude, or whatever would be the proper word to explain it, and now our legislature in Iowa are endeavoring to correct its phraseology so as to make it certain. I think it ought to be made certain, and perhaps there should be a penalty—indeed, I think there ought to be—beyond the railroad as it affects the transportation.

Mr. FORAKER. There is not any doubt but that it was intended to prohibit the granting of passes by the provision found in the act of 1887, neither is there any doubt but that that provision proved ineffecive simply because there was no penalty imposed. Now, if the railroad grants a pass it will be subject to a penalty of from $100 to $2,000, and that will break up the business.

Mr. SCOTT. Mr. President——

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from West Virginia?

Mr. FORAKER. Certainly.

Mr. SCOTT. I should like to ask the Senator from South Carolina in charge of the bill if he will not accept the amendment I have offered, and which I now send to the desk to have read.

Mr. McLAURIN. Mr. President, before passing from the amendment that is offered by the Senator from Ohio——

Mr. SCOTT. I ask for the reading of my amendment, if the Senator will excuse me, just to have the amendment read.

The VICE-PRESIDENT. The Senator from West Virginia declines to yield.

Mr. SCOTT. Let the amendment be read.

The VICE-PRESIDENT. The amendment will be read.

The SECRETARY. Amend the bill by adding a new section, as follows:

SEC. —. That all common carriers subject to the provision of this act shall provide at all points of connection, crossings, or intersections at grade, where it is practicable and necessary for interstate traffic, ample facilities by track connection for transferring any cars loaded in the regular business of their respective lines of road from their lines or tracks to those of any other common carrier whose lines or tracks may connect with, cross, or intersect their own, and shall provide equal and reasonable facilities for the interchange of cars and traffic between their respective lines, and for the receiving, forwarding and delivery of passengers, property, and cars to and from their several lines and those of other common carriers connected therewith, and shall permit switch or short-road connections to mines and other industrial plants to connect with its line where it is practicable and necessary, for the movement of interstate traffic, and shall not discriminate in their rates or charges or in the supply of cars between such connecting lines, switches, or short roads, or on freight coming over such lines, switches, or short roads; but this shall not be construed as requiring any common carrier to furnish for another common carrier or for switch or short roads herein authorized its tracks, equipment, or terminal facilities without reasonable compensation; that each of said connecting lines shall pay its proportionate share for the building and maintenance of such tracks and switches as may be necessary to furnish the transfer facilities required by this act, except switch and short-road connections to mines or other industrial plants shall be built and maintained at the cost of the party or parties interested in making such connections, and in case they can not agree on the amount which each line shall pay, or the right to connect said switch or short line as hereinbefore provided, then said amount and the right to connect with the line of said common carrier shall, upon application of either party, be determined and adjusted by the Interstate Commerce Commission, and any party shall have the right to review the order of said Commission determining the right of a switch or short road to make connection as hereinbefore provided or in fixing the proportionate amount to be paid by each carrier as herein provided, by filing a petition in the circuit court for the district where such transfer facilities are furnished or authorized, by serving notice in writing on the adverse party within ten days after the making and filing of such order by said Commission, and upon the service of such notice there shall be regarded as pending in said circuit court a civil action for the adjustment and determination of the amount to be paid by each carrier for the expense of the building and maintaining of the said transfer facilities or the right under this act to make connections of said switch or short road. Pleadings shall be made and filed in said action in conformity with those required by law and rules of the practice in said court.

Mr. SCOTT. I hope the Senator from South Carolina will accept that amendment. I understand the Supreme Court has decided very recently that a similar law in Minnesota is constitutional. Consequently there could be no objection to this amendment to the Hepburn bill. It would certainly be of a great deal of advantage to my State. I am sure the Senator from South Carolina is very much interested in our State. I hope, therefore, he will accept this as an amendment to the bill.

Mr. McLAURIN. Mr. President——

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Mississippi?

Mr. TILLMAN. Certainly; I was going to make a remark and then give the floor up in a minute, and the Senator can occupy it in his own right.

Mr. McLAURIN. Before we pass from the amendment offered by the Senator from Ohio——

Mr. TILLMAN. I can wait. The Senator can have the floor.

Mr. McLAURIN. I wish to call the attention of the Senator from Ohio and of the Senator from South Carolina to the fact that there was no vote taken by the committee on the amendment offered by the Senator from Ohio, or at least there was no vote taken while I was present. As I remember, there were a number of amendments offered to the bill in the committee by pretty well all the Senators who compose the committee. They were printed and they were to be considered at a time thereafter; but I think the Senator's memory and that of the Senator from Wisconsin and also of the Senator from South Carolina will bear me out that there was no vote taken on this amendment; and, as stated by the Senator from South Carolina, I do not think there was any objection to it manifested by any member of the committee.

Mr. FORAKER. The Senator is quite right about that. I stated a few moments ago that if my first statement was not as broad as that, it should have been. It was not intended to misrepresent what occurred. This amendment was offered in the committee and it was explained and presented to the committee, and everything was done preliminary to a vote; but before we reached the point of taking a vote on it, as well as on a number of other amendments, a motion was made which terminated the consideration entirely by reporting the bill without amendment. I did not hear any Senator say he was opposed to it, but somehow or other the bill got through the House without any prohibition against passes, and it got through the committee without any prohibition against passes, and it may get through the Senate without it.

Mr. TILLMAN. It did not get through the committee; it ran over the committee.

Mr. FORAKER. I accept that.

Mr. McLAURIN. I desire to add that I had some amendments myself which were offered in the committee and were printed with the amendments offered by the other Senators on the committee, and that not one of my amendments was voted on any more than the amendments offered by the other Senators.

Mr. TILLMAN. Mr. President, in reply to the proposal of the Senator from West Virginia [Mr. SCOTT] that I should accept the amendment which he had read a moment ago, I will say that for reasons already given I am not in a position to accept any amendment. I will join the Senator gladly in trying to get an effective provision in the bill which will remedy the condition that exists not only in West Virginia, but elsewhere, in regard to the denial by the great railways of the physical connection and opportunity to engage in interstate commerce as outlined in the Red Rock Fuel Company case, which the Senator has heard of several times from me and wants me to repeat every day. I have brought it up as an illustration of a great outrage that obtained in railroad management, and I will certainly assist him to the extent of my vote and counsel in securing a most thorough and effective remedy for it, because that is one thing that ought to be destroyed.

Mr. CULBERSON. Mr. President, as no Senator seems desirous of speaking upon the general features of the bill at this time and as we seem to be endeavoring to find some amendment to the bill upon which we all agree and which we may adopt, and therefore accomplish something to-day, and as the Senator from South Carolina is not authorized to accept any amendment, I ask unanimous consent for the present consideration and a vote on the amendment which I send to the desk.

Mr. FORAKER. If the Senator will allow me, I do not understand that the Senator in charge of the bill is without authority to accept amendments. They are always accepted, provided there be no objection on the part of Senators. He does not accept on behalf of the committee, according to my observation and according to my understanding of the rule in that particular. The Senator in charge of the bill, when an amendment is offered, can state to the Senate that without objection he accepts the same.

Mr. TILLMAN. Just let me understand——

Mr. FORAKER. I do not want to press it. I only want to have an understanding.

Mr. TILLMAN. Will the Senator from Texas yield to me for a moment?

Mr. CULBERSON. Certainly.

Mr. TILLMAN. I should like to know the parliamentary status, or, rather, the privileges of the man in charge of the bill. This is the first baby I have ever had to nurse and guide through this labyrinth of Senatorial legislation, and therefore I am green. I have noticed that in the ordinary course of work a Senator in charge of a bill from a committee which has authorized him by a majority vote to bring the bill into the Senate and conduct it has felt willing and able to declare, when an amendment was offered, that he accepted it, which he did, of course, supposing that the committee would sustain him. Am I right? I should like the Senator from Iowa, the Nestor of the Senate, to tell me.

Mr. ALLISON. I thank the Senator for the compliment. That is not the usual form. The usual form is to ask the Senator in charge of the bill if this amendment or that amendment can not be adopted by unanimous consent. The person in charge of the bill usually says there is no objection to it, and if nobody else objects then it perhaps goes into the bill, as a rule.

Mr. BEVERIDGE. By unanimous consent.

Mr. ALLISON. It is done by the unanimous consent of the Senate. I do not understand that the rule permits any Senator to accept an amendment.

Mr. TILLMAN. Not even the chairman of a committee who is in charge of a bill?

Mr. ALLISON. Certainly, I think, neither the chairman nor anyone in the Senate can accept an amendment. I think it can only be done by the chairman or Senator in charge asking unanimous consent that it may be accepted. The Senator from Texas has endeavored to conform to what is the usual custom by asking unanimous consent now. He will pardon me for illustrating it by his proposal. He has asked unanimous consent that an amendment, whatever it is—I suppose it is an important one—shall be taken up and considered at this time. He does not ask for its present adoption at this time, but that the consideration shall continue until it is adopted or rejected. That is the rule.

Mr. TILLMAN. That is perfectly agreeable to me. If we can transfer the debate on the general subject to some particular branch of the subject, it may be that we shall get the debaters at work.

Mr. ALLISON. If the Senator will indulge me one moment, I have welcomed the amendment suggested by the Senator from Ohio [Mr. FORAKER] and the amendment suggested by the Senator from West Virginia [Mr. SCOTT], because it gives the body of the Senate an opportunity to know what amendments are pending and what is the purpose of those amendments. So, I think, in the absence of arguments as respects the contested portions of the bill, it is a wise thing that the time of the Senate shall be expended in the discussion and consideration of amendments brought forward by different Senators. I hope the Senate will adopt that rule.

Mr. TILLMAN. If the Senator from Texas will indulge me a little further, I was going to remark that I have noticed, when we have had bills here, like the statehood bill, for instance, all the amendments which were offered were all held in abeyance; they might be discussed or considered by individual Senators, but they were never voted on until the day when the whole thing was to be decided. I have felt that that is a very unwise course. It is not according to my ideas of deliberation and of proper consideration of amendments.

For instance, I saw the other day, on the statehood bill, the amendment offered by the Senator from Colorado [Mr. TELLER] in regard to the capital voted down just because most Senators said, "Well, we do not know what it is, and we do not want to be voting in the dark." As soon as we had an opportunity to explain it, the amendment went through.

But I was going to suggest that, if the Senate will permit me, whenever we reach a day when we are to vote, I am going to ask the Senate for two or three days preceding to take up all proposed amendments in some order which may be agreed on, and let the Senator who introduced an amendment get up and explain the purpose and object of it, and let us discuss it pro and con, back and forth, under the five or ten minute rule, or something like that. Then we will be enlightened and know what we are doing; and we should do that rather than undertake to dispose of the whole batch, fifteen or twenty or thirty amendments in a lump, shooting them like you shoot birds.

Mr. LODGE. The practice in regard to amendments of which the Senator speaks I think only prevails after we have come to a unanimous agreement to fix the time for taking the vote. Until we have agreed to fix a time for taking the final vote, which carries the bill and all amendments forward, we can vote on any amendment at any time.

Mr. TILLMAN. I wish to make only one suggestion. I am perfectly willing for that course to be pursued. I would be willing and glad to make progress along any line looking to the perfecting of this measure; but unless the Senate is notified to that effect, Senators who might want to oppose any amendment will not have an opportunity to do so. For instance, this evening I notice that there are possibly twenty-five or thirty of our Senators who are missing. They are engaged on other matters, probably of importance, and are not here. Before we undertake to vote on any amendment, however unanimous we may be in regard to it, I should think it would be nothing more than fair play to give everyone an opportunity, and to notify Senators if they want to keep amendments they object to from passing they had better be on hand and stay here.

Mr. FORAKER. What the Senator suggests is perfectly satisfactory to me. I wanted to present this amendment. As has been already remarked, no opposition was developed to it in the committee, and I thought perhaps the Senator might feel disposed to accept it. Certainly in the absence of objection I supposed he could, and there being no objection, it would be adopted and be out of the way. I have a number of other amendments which I wish to bring to the attention of the Senate hereafter, and those I can get out of the way before I come to those I want to have disposed of.

Mr. TILLMAN. I shall be more than glad to help the Senator get his amendment before the Senate, and if unanimous consent is given to vote on it I shall certainly help the Senator to nail his plank down on the floor or else throw it out of the window.

Mr. TELLER and others addressed the Chair.

The VICE-PRESIDENT. Does the Senator from Texas yield further?

Mr. CULBERSON. To whom?

The VICE-PRESIDENT. To any Senator desiring the floor. The Senator from Texas is entitled to the floor.

Mr. TELLER. Mr. President——

Mr. CULBERSON. If the Senator from Colorado will pardon a word——

Mr. TELLER. I want to find out what is the status of the amendments.

Mr. CULBERSON. I am proposing an amendment which the Secretary has in hand and is ready to read.

Mr. BEVERIDGE. May I ask the Senator from Texas what his request is?

Mr. CULBERSON. I am about to propose an amendment. As I had suggested, as there was a lull in the proceedings, no Senator desiring to speak upon the bill generally, I was endeavoring to see if we could not pass some amendment, to which I think there is no objection. Certainly none has been made to me so far. I ask now that the amendment which I have proposed may be read.

The VICE-PRESIDENT. The amendment will be read.

Mr. CULLOM. Is it an amendment which has been pending heretofore?

Mr. BEVERIDGE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Texas yield further?

Mr. CULBERSON. I yield to the Senator.

Mr. BEVERIDGE. I still ask the Senator from Texas just what his entire request is, for the reason that some Senators upon this side, myself included, were not sure that we understood the Senator's request, which we thought was to presently consider the amendment the Senator now offers and to vote upon the same. Was that the Senator's request?

Mr. CULBERSON. I do not remember the exact language I used. My request now is for unanimous consent for the present consideration of the amendment, with the hope that we may pass it immediately and promptly.

Mr. CULLOM. I will inquire of the Senator if it is a new amendment or one which has been already pending?

Mr. CULBERSON. I understood that it had been passed over.

Mr. CULLOM. May I ask the Senator if the amendment which he now proposes has been heretofore offered?

Mr. CULBERSON. Yes; it has been heretofore offered, and I ask that the Secretary may now be allowed to read it.

Mr. FRYE. Mr. President, I rise to a point of order.

The VICE-PRESIDENT. The Senator from Maine rises to a point of order, which he will state.

Mr. FRYE. The bill is in the Senate as in Committee of the Whole, and I know of nothing to prevent any Senator from offering any amendment while the bill is in Committee of the Whole which he desires to offer—not the slightest. The Senator from Texas has a right under the rule to do so.

Mr. FORAKER. Mr. President——

Mr. CULBERSON. Mr. President, I understand, in a general way, that there is a rule to which the Senator from Maine [Mr. FRYE] has referred. My purpose is to take up the amendment by general consent; in other words, I do not care to press it if anyone desires to speak upon it, but I hope it may be read at least, and that it may be passed promptly.

The VICE-PRESIDENT. The Secretary will read the amendment proposed by the Senator from Texas.

Mr. FORAKER. Before the Secretary reads the amendment I wish to say that I have made an effort as to my amendment. I do not know whether it has been disposed of or not. I understand, however, that it has not been. If my amendment has been disposed of, I should like to know what disposition was made of it.

Mr. BEVERIDGE. What was the Senator's amendment?

Mr. FORAKER. I offered an amendment to the bill, and I should like to have it acted on by the Senate. If Senators are not ready to act upon it, I am willing to let it go over; but I should like it to be out of the way before the Senator from Texas proposes his amendment.

Mr. CULBERSON. Mr. President——

The VICE-PRESIDENT. The Senator from Ohio has proposed an amendment, but the Chair understood the Senator to desire that his amendment should lie over. The Chair did not understand the Senator from Ohio desired a vote on it at present.

Mr. FORAKER. I signified my willingness to let it go over if the Senator in charge of the bill was not at this time prepared to have it acted upon.

Mr. TILLMAN. I do not feel that I would be treating absent Senators with fairness to allow any important amendment to be voted on this evening. Of course the Senate will do as it pleases, but simply as a matter of fairness to those who are absent and who have had no notice, I think it ought to be understood that the Senate is in a humor to take up these amendments, discuss them, and vote upon them. Every Senator is at liberty to be absent or to be here, as he sees fit, and take the consequences of having something go through that he does not like, or fail to get something on the bill that he does like. But I do not feel that any Senator is warranted, under existing conditions, in pressing anything to a vote this evening, and I hope no Senator will do so.

Mr. FORAKER. I do not feel warranted in doing so, but I give notice that I shall press the amendment hereafter.

Mr. CULBERSON. I desire to say, in view of the statement of the Senator from South Carolina [Mr. TILLMAN], which does not contravene anything that I have said, that I shall not press the consideration of this amendment or a vote on it this afternoon, but I certainly am entitled to have it read.

The VICE-PRESIDENT. The Senator from Texas has a right to have his amendment read and to ask for a vote upon it. The Secretary will state the amendment proposed by the Senator from Texas.

The SECRETARY. It is proposed to add as a new section the following:

SEC. —. That no corporation, joint stock company, or other association engaged in foreign or interstate commerce and subject to the provisions of this act, or of the acts of which it is amendatory, shall directly or indirectly, contribute, or promise to contribute, any money, stock, bonds, transportation, or other thing of value to any committee, or any member of a committee of any political party, or to any person for the purpose of influencing the result of any political campaign, or to any person, or committee, or organization for the purpose of influencing the result of any legislation pending before either branch of the Congress of the United States, or any committee thereof. That any violation of this section shall constitute a misdemeanor, and on conviction thereof the corporation, joint stock company, or other association shall be punished by a fine of not less than $1,000 nor more than $10,000, and a further fine in addition to the foregoing of not less than amount than double the value of the money or other thing of value contributed, or promised to be contributed, in violation of this section.

Any person who shall, acting for or on behalf of any such corporation, joint stock company, or association, directly or indirectly, contribute, or promise to contribute, any money, stock, bonds, transportation, or other thing of value to any committee, or to any member of a committee of any political party, or to any person for the purpose of influencing the result of any political campaign, or to any person or committee or organization for the purpose of influencing the result of any legislation pending before either branch of the Congress of the United States or any committee thereof, shall be guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than $500 nor more than $5,000, and in addition thereto shall be imprisoned not less than six months nor more than two years.

Mr. TELLER. Mr. President, I do not understand that the Senator from Texas proposes that a vote shall be taken on that amendment to-night.

Mr. HALE. Oh, no.

Mr. KEAN. Not until to-morrow, at any rate.

Mr. TELLER. I should hardly think it would be appropriate, although I suppose, under the rules, the Senator from Texas is entitled to have a vote if the Senate does not declare otherwise. But by the custom that has grown up here we have been in the habit of leaving all important amendments, not reported by a committee, but offered by members of the body, until practically the debate has been concluded on the main issue, and that, I presume, will be the rule now, although of course any Senator can call up an amendment offered by him on any day, as the Senator from Maine [Mr. FRYE] suggests, and have it voted on if the Senate is willing to vote on it.

Mr. President, in the case of the statehood bill we provided that a vote should be taken on a certain day at a certain hour, commencing with the vote on the amendments. That did not leave any opportunity for any Senator to discuss or explain an amendment. Ordinarily I think the rule has been that we have taken up amendments, with a brief opportunity of five or ten or fifteen minutes to discuss or explain them.

I want to say as to this bill, Mr. President, that when the time comes, when the Senator who has the bill in charge calls for it, I hope he will give us an opportunity when amendments are proposed to have a few moments, so that the Senator who has proposed a particular amendment may explain what it is, and so that we shall not be in the position we were in on the statehood bill, when we were obliged to vote for or against amendments practically without knowing what they were.

Mr. BEVERIDGE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Colorado yield to the Senator from Indiana?

Mr. TELLER. Certainly.

Mr. BEVERIDGE. May I ask the Senator a question? Is it not true that any Senator has a right to discuss an amendment offered by him or by any other Senator at any time after the bill itself is up for consideration on any day? Is it not true, that we do not have to wait to discuss the amendments until some time is fixed to discuss them under the five-minute, ten-minute, or any other kind of a rule?

The Senator from Texas [Mr. CULBERSON] did not have to ask, as I understand, unanimous consent for present consideration of his amendment. We may discuss amendments at any time, may we not?

After the bill is made unfinished business or whenever it is under discussion, any Senator may debate any amendment quite as freely as the bill itself. An order to debate amendments under the ten-minute rule for several days before a vote, is a limitation on debate and not the granting of any larger privileges of debate. The Senator from Texas need ask no one's consent to consider his amendment. It is his by right. Is not that true?

Mr. TELLER. That is true. After a bill has become the regular order before the Senate any Senator may offer an amendment to it; he may discuss his amendment and call for a vote upon it if he sees fit to do so; but of course the Senate will not vote upon it if there has not been proper discussion.

Mr. FRYE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Colorado yield to the Senator from Maine?

Mr. TELLER. I do.

Mr. FRYE. Does not the Senator from Colorado regard the proposition made by the Senator from South Carolina [Mr. TILLMAN] as a very agreeable one? That was that eventually a time shall be fixed for the final vote on the bill and all amendments that may then be pending, but that there shall be two or three days assigned for debate, under the ten-minute rule, on all amendments before a final vote is taken on the bill and the amendments.

Mr. TELLER. Mr. President, I have seen that done very often.

Mr. FRYE. Does not the Senator think that is a very wise provision?

Mr. TELLER. That would depend on how many amendments are pending. It would depend somewhat on the length of time it took to discuss each amendment, and it would depend somewhat on the condition of the business of the Senate. But what I think is a fair proposition is that when an amendment is before the Senate, before it is voted upon, some Senator may have an opportunity to say at that time what that amendment means. I have said as much as I want to say on that point. So far as I am concerned, such an arrangement as I have suggested will have to be made if we agree in this case to vote.

Now, Mr. President, I want to say a word or two about the amendments.

Mr. ALLISON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Colorado yield to the Senator from Iowa?

Mr. TELLER. I yield to the Senator from Iowa.

Mr. ALLISON. Only for a moment. I understood the suggestion of the Senator from South Carolina [Mr. TILLMAN] to extend beyond what is now suggested by the Senator from Maine [Mr. FRYE]. I agree with the Senator from South Carolina that it would be a wise thing on a bill of this character to take up the important amendments; that we have three of four days to debate those amendments separately; then that we dispose of one amendment at a time and then go on to another. I think that is a wiser and a better method of disposing of some of the questions connected with this bill. There are probably two or three crucial amendments in the bill. After the general debate has been exhausted they will require still a more limited debate as to the effect of their phraseology, and there will undoubtedly be suggestions of change, which ought also to be debated. So I think in any important bill the wise thing is to take up important amendments, debate each one of them for a limited time, then vote upon them, and then go on to the others.

Mr. TILLMAN. Will the Senator allow me?

The VICE-PRESIDENT. Does the Senator from Colorado yield to the Senator from South Carolina?

Mr. TELLER. I yield to the Senator from South Carolina.

Mr. TILLMAN. I was going to remark, Mr. President, that there seems to be a flagging in the general debate on the great subject, the whole subject, and Senators are pressing their individual amendments. The Senator from Iowa recognizes the fact that while he and I could probably agree as to what are the important amendments, every member who has introduced an amendment here thinks it important, and wants to be heard on it. I hope Senators who are not prepared or willing or ready to proceed with the discussion of the Hepburn bill as it is written, but who wants to discuss amendments, will be prepared to take the amendments up and let us vote on them when we get through discussing them. For instance, it would be a very silly thing for us to discuss the amendment just offered by the Senator from Texas [Mr. CULBERSON] for a day or a half day, or whatever other time it took to get the views of different Senators, and then let it pass off until the week after next or some time in May before we vote on it. The minds of Senators would have been absorbed with other conflicting ideas and they would not be able to vote as they might vote if the vote was taken immediately after the discussion.

Mr. McLAURIN. Mr. President——

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Mississippi?

Mr. TILLMAN. The Senator from Colorado [Mr. TELLER] has the floor, and I am only occupying it by his courtesy.

The VICE-PRESIDENT. Does the Senator from Colorado yield to the Senator from Mississippi?

Mr. TELLER. I yield, though I had just yielded to the Senator from South Carolina [Mr. TILLMAN].

Mr. TILLMAN. Let me finish, and I will then give way to the Senator from Mississippi. My idea was this——

Mr. McLAURIN. If the Senator from South Carolina will allow me, I merely want to make a suggestion right there in relation to the amendment of the Senator from Texas [Mr. CULBERSON].

Mr. TILLMAN. If the Senator from Colorado will kindly yield, I will yield.

Mr. TELLER. Certainly; I yield.

Mr. McLAURIN. I want to state to the Senator from South Carolina that, so far as I am concerned as a member of the Committee on Interstate Commerce, I am willing to accept, or authorize the Senator in charge of this bill to accept, the amendment offered by the Senator from Texas. I do not suppose that amendment will provoke any debate. I think there can be no reasonable objection to the amendment, and we might dispose of that much of the work in the consideration of the bill at this time. If the other members of the committee are willing to authorize the Senator in charge of the bill to accept the amendment, so far as the committee is concerned, the Senator might do so, and then, if there be no objection to it, the amendment might be disposed of.

Mr. TILLMAN. I would prefer not to vote on anything this evening, because there has been no notice that we proposed to do that. I think it would be nothing but fair as to absent Senators, who may feel a deep interest in these proposed amendments, to let them understand that the Senate is in a business mood, that it proposes to do business, and that they had better be around and attend to their business. Therefore I will ask Senators not to press for a vote this evening; and then to-morrow, if any Senator feels disposed after this discussion and notice to bring up an amendment, to speak on it, and to ask a vote on it, that

is his right under the rules, as we have been told by the President pro tempore [Mr. FRYE]. That would be perfectly agreeable to me, because we would be thrashing out some of this great mass of matter that is pending, and the more of it we get through with now the less there will be to handle at the wind up.

Mr. McLAURIN. Mr. President, I only desire to say to the Senator from South Carolina that I did not propose a vote on this amendment; but in the event that there was no objection to it, it might be accepted not only by the committee, but by the Senate, and that it might be adopted without objection.

Mr. TILLMAN. But does not the Senator see there is not a majority of the Committee on Interstate Commerce present, and how could I accept it?

Mr. LODGE. Acceptance by the committee——

Mr. CULLOM. It would be left in the hands of the Senate to determine whether it would accept it.

Mr. HALE. Mr. President——

Mr. TELLER. I yield to the Senator from Maine [Mr. HALE].

Mr. HALE. What I wanted of the Senator from Colorado was to give me an opportunity of making a practical suggestion——

Mr. TELLER. I shall be glad to hear it.

Mr. HALE. Or what I think is a practical suggestion to the Senator from South Carolina who is managing the bill, and who is managing it well. I will not say that is a surprise to any one; but within the observation of everybody here, this is rather an extensive subject. As we proceed in the debate and as amendments are suggested, it is found to be involving a great many important considerations. Now, I suggest to the Senator from South Carolina, in managing the details of the bill, instead of confining what will be the illuminating debate at the close of the discussion to two or three days, that he, in his own thorough and careful way prepare a suggestion, or what would be in effect a rule, by which the last, not two or three days, but the last week, or the last five or six days, shall be devoted to debate upon the amendments under the ten-minute rule.

The amendments are the vital things. Everybody sees that the decision finally of this matter must depend upon the amendments offered and the action taken upon them. Let the Senator prepare an order, such as I have suggested, providing that when an amendment is reached during those five or six days it shall occupy so much time, be debated so long, and then be voted upon; but that opportunity shall be given for Senators to make short speeches upon the critical and vital things that are in this bill.

I do not think five or six days will be too much for that; and I hope the Senator will be able to get the unanimous consent of the Senate, after he has prepared that order, that a period of five or six days be devoted to the discussion of the amendments under the ten-minute rule, and that that time shall be reached pretty soon. In that way we shall not spend too much time in what I may call the parturition of these great speeches.

Mr. TILLMAN. If the Senator from Maine will permit me, and through the courtesy of the Senator from Colorado, I may say that the Senator from Maine made a remark a moment ago in regard to what he termed the "illuminating debate." I hope he will take the responsibility for describing whose speeches would be embraced in that classification, because I should not like to do it.

Mr. HALE. I hope the Senate generally will join in that debate.

Mr. FORAKER. Mr. President——

Mr. HALE. I hope the Senate will join generally in that debate. I wish to say here that the information we have gained on this question from the elaborate speeches already made is most essential and most important. I think the general discussion by the longer speeches has been very useful. I think if we ever arrive at a conclusion and reach a vote, it will be in the limitation of those speeches and in the beginning of the actual consideration of the amendments to the bill. That is where the test will come.

The VICE-PRESIDENT. Does the Senator from Maine yield to the Senator from Ohio?

Mr. HALE. Certainly.

Mr. FORAKER. I do not wish to interrupt the Senator at this point. I did wish to interrupt him at the point he was on when I rose. I wanted to call his attention to the fact that almost every amendment offered here calls for some discussion—perhaps not a great deal, but certainly some. For instance, the amendment offered by the Senator from Texas is a very important one in some of its legal aspects. I wanted to ask the Senator, for illustration, under what power conferred on Congress by the Constitution does he offer this amendment?

Mr. HALE. Let me say right there——

Mr. TELLER. Mr. President——

Mr. HALE. The Senator has——

Mr. TELLER. I believe I have the floor, and I am not disposed to allow myself to be taken off the floor.

Mr. HALE. I am holding the floor by permission of the Senator from Colorado.

The VICE-PRESIDENT. The Senator from Colorado [Mr. TELLER] yielded to the Senator from Maine [Mr. HALE].

Mr. TELLER. But by the rule of the Senate the Senator from Maine has no right to yield to anyone else. However, I am not finding any fault now——

Mr. HALE. The Senator is entirely right about it.

Mr. TELLER. I simply want to preserve the rule.

Mr. FORAKER. And I feel I ought to be allowed to apologize to the Senator from Colorado.

Mr. TELLER. The Senator does not need to do that.

Mr. FORAKER. I was engaged in reading and studying the amendment of the Senator from Texas, and I supposed the Senator from Maine had the floor. I did not know the Senator from Colorado was entitled to it.

Mr. HALE. No; the Senator from Colorado commands the floor. I am now speaking in his time.

Without taking any more time, I will say that I had in view in my proposition just the suggestion that has been made by the Senator from Ohio, that each of these amendments is important, and if we go on in the old way the whole time will be consumed by long, good, and able speeches, and we would get no opportunity to consider each amendment. When the Senator from South Carolina has prepared his order that will settle how we shall proceed, I do not think that five or six days is too much time to be given under the ten-minute rule to debate on the amendments. The Senator can arrange his order so that when each amendment is reached it shall occupy so much time and no more, and then be voted upon.

I do not say the Senator can submit that order to-day, but it is worth while for him to think it over, to the end that pretty soon he may bring in an order which shall determine the course of the debate and the consideration of this subject, which will but give ample time to the discussion of the amendments. They are, as I have said—and I do not want to repeat myself—the important things in this bill, and it ought to be provided that what will be done in the way of amending the bill, if we amend it at all, shall be done after discussion.

Mr. CULLOM. As I understand the rule, or the common practice, we first determine the question whether we are prepared to fix a time to vote. After we fix the time, or in connection with that, an agreement is made generally to give so much time to amendments, the debate to proceed under the ten-minute rule, or something of that kind. The question now seems to me to be whether we are going to close this debate.

Mr. HALE. I suppose we can not reach that determination to-day.

Mr. CULLOM. No; but that is the first thing that ought to be reached, it seems to me.

Mr. TELLER. We can not reach that to-day.

Mr. HALE. That will be reached whenever the Senator from South Carolina in charge of the bill brings in his order as to precisely how much time shall be given to debate on the amendments. When the Senator gets such an order ready to present to the Senate, we may then agree on a time when we shall take the final vote.

Mr. CULLOM. I believe, with the Senator, that it is a very good thing to agree upon a time when the amendments shall be taken up under the ten-minute rule; but when the Senate makes that agreement, or before it does so, we have got to agree as to when we are going to close this discussion, it seems to me.

Mr. TILLMAN. Will the Senator from Colorado yield to me?

The VICE-PRESIDENT. Does the Senator from Colorado yield to the Senator from South Carolina?

Mr. TELLER. Certainly.

Mr. TILLMAN. I am very anxious to have the debate close and to get a vote on this bill. While I do not want to press things unduly or obstruct the ordinary course of discussion or of consideration of other measures, I should be glad—I know I can not get consent this evening—to ask the Senate to fix a date for a vote; but to-morrow, in the morning hour, when the Senate is full, I will ask the Senate to indicate, by unanimous consent, when it will be ready to vote, and then I will try to secure unanimous consent—which is the same as the order suggested by the Senator from Maine, of course; for whatever the unanimous consent provides, it will be an order of the Senate—by which the debate shall be controlled and conducted at the wind-up.

Mr. FORAKER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Colorado yield to the Senator from Ohio?

Mr. TELLER. I do.

Mr. FORAKER. I do not wish to interrupt the Senator from Colorado, but I want to ask a question of the Senator from Texas when the Senator from Colorado concludes.

Mr. TELLER. When I was interrupted by the senior Senator from Ohio I was about to say something in regard to the amendments. The Senator from Ohio and the Senator from Maine, lawyer, have so thoroughly disposed of the matter as to the particular character of the discussion, and so forth, that I do not care to say anything about it. But there are some other things that I do want to say, if I may be permitted to occupy the time of the Senate for a few moments.

At the last session of Congress the House sent here a bill which, it was supposed, would settle this rate question. The Senate, in the condition it then found itself, was not able to dispose of that bill, either favorably or otherwise. We have been charged ever since with having smothered the bill. At this session of Congress the House has sent another, and quite a different bill, to the Senate. I need not say here that the question is perhaps as difficult as any question we ever had before the Senate in the history of the body. I have said once before on the floor, and I repeat it, that in a body of ninety, composed mainly of lawyers—at least two-thirds of them lawyers—there is not one here who can sit down and agree with another exactly as to what the bill ought to be. One might agree to yield his judgment on some point, and, so, two men might agree; but I do not believe, if an opportunity were given every member of the Senate to draft a bill, that any two of the bills would be alike if their authors did not consult beforehand. That will indicate something about the difficulty of the bill we have before us. It is a House bill, and some Senators think it is our duty to adopt the bill as it came to us from the House. If that is the best bill that we can pass, then it is our duty to adopt it. If the original House bill is so good that we can not amend it with profit to the bill, then we ought not to amend it; but if the bill is not, in the judgment of the Senate, such a bill as we ought to pass, then it is the duty of the Senate, with time and with deliberation, to amend it. We find ourselves somewhat at sea on this subject. Those who are in favor of the principle, and who want to authorize the Commission to establish a rate and to give it effective establishment when it is made, do not know exactly how we are going to reach it.

I think perhaps the public is somewhat impatient, but we ourselves sometimes get impatient about things. There came in here to-day a joint resolution to remedy an evil that many of us have seen to exist for a long time, and that is the distribution of public documents. The distribution of public documents to-day is as it was thirty years ago—it is almost thirty years since my first connection with this body—except for some slight amendments that have been made; and yet we heard a demand for immediate action. Mr. President, there is no hurry about it. We will have the remainder of the session to dispose of that matter, and we will have the remainder of the session to dispose of this bill. I want to say that it is certain the Senate will not finally adjourn until the rate bill is disposed of, not only by the Senate, but by both Houses; and it will in some way have, I am sure, the approval of the President before the Senate adjourns.

Mr. President, the question is how to make it effective. Our friends in the House and those here who believe with them say that there is ample provision for a review by the court. Some Senators here, whose legal experience ought to entitle them to consideration, say otherwise. There ought not to be any great difficulty in a controversy of that kind. One side says the bill means this; somebody says it does not. We all want it to mean that. There is no one here who does not want, and does not know we are going to have, a review by the courts of the conduct of the Commission. Everybody knows that. I do not believe a Senator will rise here and say he does not want it. He may say, "I do not believe the bill needs any amendment, because it so provides now," but he will not say, believing otherwise, "I am opposed to any revision."

The junior Senator from Texas [Mr. BAILEY], who has been called away owing to a death in his family, a Senator whom we all recognize as a clear-headed lawyer, has put in an amendment which I believe will meet the acceptance of the Senate entirely, except as to one single provision in it, perhaps, and that is, have we the power to say that the order having been made it shall not by an interlocutory order or decree be disturbed until the final hearing. Mr. President, that is the issue which I think the Senate has to meet more than any other. When that is settled what kind of a review is to be had? My own judgment is that the less amendments offered to this bill the better it will be, unless it shall be discovered that there are some defects or deficiencies in it which endanger its existence, when, at no very distant day, it shall encounter, as it must, the scrutiny of the courts.

I do not myself want to see this bill complicated with a great many other things which may be useful. The President of the United States, as has been said to-day, has sent us two messages. In both he outlined the same thing—a rate making by the Commission whenever the Commission shall determine that the rate made by the railroad is not proper; a review by the courts; and the President says this rate is to stand until the court shall suspend it, or, in other words, declare that the Commission has made a mistake. There is the issue before the country. I do not believe the railroad people are especially controverting this question, except to insist that they shall have their day in court, and nobody, I repeat, wants to pass a law that does not give them their day in court.

Mr. President, this body has been charged with being a railroad organization, and it is alleged that there are railroad attorneys here. I have no doubt there are a large number of Senators here who have been railroad attorneys. Some of them may have been railroad presidents. In my early days, before I came to the Senate, I was president of a railroad, not a very big one, but I was president of it for five or six years and built the road. I was for years the attorney of a railroad. But when I came here I severed my connection with railroads, and I have no connections with them. But I know that the railroads have as much right to have their property defended as I have to have mine defended. I have no prejudice against railroads. I lived for years 650 miles beyond a railroad. I know what it means to reach the home of my youth by stage rides. I know how burdensome it was to us.

When the railroad came into our section of the country and charged us 10 cents a mile we paid it with satisfaction. It was cheaper than we had ever been able to travel before. It saved us time. It saved us labor. The railroads have built up that section of the country in which I live, which would be practically worthless without their aid. I do not intend that any demand from anybody shall make me do an injustice to that great interest which has done more for this country than any other single agency that can be suggested.

I do not intend, either, that the railroads shall abuse the shipper, the producer, or the consumer. I am not going to attack the railroads; I am not going to defend them, except to say that justice must be done to them in doing justice to every other man in this country. I am not impatient and I am not in a hurry to get away from here, nor I am going to be influenced by the allegation that the Senate is acting in the interests of corporations and railroads. When we get through with this bill, if we do our duty, we will have a bill that will accomplish what the people desire—that is, the regulation, not the destruction, of railroads; a regulation that shall benefit them, in my judgment, as it will benefit the producer and the consumer.

Mr. President, some time during the debate I expect to make a speech on the railroad question—that is to say, if in so doing I do not delay the measure unnecessarily. But I have my views upon this question. I should like to see this bill stripped of everything that is unnecessary. I should like to settle this question of our power to make rates and to prevent discrimination and rebates, practically disposed of in this bill, and with the other questions I will take chances when they come before the Senate and the House, that these bodies will do justice not only to the railroads, but to the people.

That clamor and exaggeration and condemnation and all that are going on I know. You can not pick up a magazine any more without seeing the Senate arraigned and sometimes abused because we have not hastened the passage of this bill, and because at the last session we did not take up the House bill and pass it. I said then that we could not do justice to the railroads and pass it then; we could not do justice to the shippers and pass it then; we could not do justice to the producer and consumer, who are to be considered, because every industry in this country depends upon the way in which we shall settle the proposition involved in the pending bill. You may affect the manufacturers, you may affect the miners, you may affect the farmers injuriously if you are unwise in your determination as to what this bill shall contain. A great question like that is too big for us to haggle over amendments of a minor character and of little consequence. Let us address ourselves to the main proposition: How shall we, in case a railroad refuses or neglects or is unable to make a proper rate, determine what is a proper rate and one that will do no injustice to the railroad or to anyone else.

Mr. President, I did not get up to make any remarks on this bill, but simply to talk about the order with which it ought to be disposed of. Probably it would have been just as well if I had not said anything beyond that. I want to say again that

I have the utmost confidence that the Senate will take this bill and try to make as good a bill as can be made. I have an idea that if there is any body in this world capable of doing it, the Senate is capable of doing its share and its part.

Mr. HEYBURN. I desire to submit an amendment to the bill under consideration.

The VICE-PRESIDENT. The Senator from Idaho proposes an amendment, which will be stated.

The SECRETARY. On page 10, line 17, after the word "or" where it first appears in said line, strike out the word "unjustly," and after the word "or" where it appears in said line for the second time, strike out the word "unduly."

The VICE-PRESIDENT. The amendment will be printed and lie on the table.

Mr. HEYBURN. I desire to offer another amendment, which I ask may be printed and lie on the table.

The VICE-PRESIDENT. The Senator from Idaho proposes another amendment, which will be stated.

The SECRETARY. After line 19, on page 3, insert:

That section 4 of the said act be amended by striking out the words "on substantially similar circumstances and conditions;" in lines 4 and 5 strike out the proviso in said section 4; so that said section will read as follows:

"SEC. 4. That it shall be unlawful for any common carrier subject to the provisions of this act to charge or receive any greater compensation for the transportation of passengers or of like kinds of property for a shorter than for a longer distance over the same line in the same direction, the shorter being included within the longer distance; but this shall not be construed as authorizing any common carrier within the terms of this act to charge or receive as great compensation for a shorter than a longer distance."

The VICE-PRESIDENT. The amendment will be printed and lie on the table.

EXECUTIVE SESSION.

Mr. HALE. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After eight minutes spent in executive session the doors were reopened, and (at 4 o'clock and 30 minutes p. m.) the Senate adjourned until to-morrow, Tuesday, March 27, 1906, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate March 26, 1906.

CONSUL.

James W. Johnson, of New York, to be consul of the United States at Puerto Cabello, Venezuela, vice Jerome B. Peterson, resigned.

POSTMASTERS.

CALIFORNIA.

David Robinson to be postmaster at Sebastopol, in the county of Sonoma and State of California, in place of David Robinson. Incumbent's commission expired January 13, 1906.

CONNECTICUT.

Delos D. Brown to be postmaster at East Hampton, in the county of Middlesex and State of Connecticut, in place of Delos D. Brown. Incumbent's commission expired January 16, 1906.

IDAHO.

Marcellus J. Gray to be postmaster at St. Anthony, in the county of Fremont and State of Idaho, in place of Marcellus J. Gray. Incumbent's commission expired January 22, 1906.

ILLINOIS.

William F. Hodson to be postmaster at Delavan, in the county of Tazewell and State of Illinois, in place of William F. Hodson. Incumbent's commission expired March 14, 1906.

Jessie Ranton to be postmaster at Sheldon, in the county of Iroquois and State of Illinois, in place of Jessie Ranton. Incumbent's commission expired March 14, 1906.

IOWA.

Charles J. Adams to be postmaster at Reinbeck, in the county of Grundy and State of Iowa, in place of Charles J. Adams. Incumbent's commission expired March 5, 1906.

KANSAS.

Michael Delaney to be postmaster at Waterville, in the county of Marshall and State of Kansas, in place of Michael Delaney. Incumbent's commission expired March 14, 1906.

Arthur F. Dunbar to be postmaster at Wellsville, in the county of Franklin and State of Kansas, in place of Arthur F. Dunbar. Incumbent's commission expired January 16, 1906.

Nathan B. Needham to be postmaster at Clifton, in the county of Washington and State of Kansas, in place of Nathan B. Needham. Incumbent's commission expired March 14, 1906.

Frank C. Scott to be postmaster at Valley Falls, in the county of Jefferson and State of Kansas, in place of Frank C. Scott. Incumbent's commission expired March 14, 1906.

MICHIGAN.

Stephen R. Allen to be postmaster at Homer, in the county of Calhoun and State of Michigan, in place of Stephen R. Allen. Incumbent's commission expired March 5, 1906.

John E. Crawford to be postmaster at Milford, in the county of Oakland and State of Michigan, in place of John E. Crawford. Incumbent's commission expires April 1, 1906.

George W. Dennis to be postmaster at Leslie, in the county of Ingham and State of Michigan, in place of George W. Dennis. Incumbent's commission expired March 19, 1906.

George E. Hilton to be postmaster at Fremont, in the county of Newaygo and State of Michigan, in place of George E. Hilton. Incumbent's commission expired March 19, 1906.

MINNESOTA.

William T. Callahan to be postmaster at Long Prairie, in the county of Todd and State of Minnesota, in place of Arthur W. Sheets, removed.

John Kolb to be postmaster at Melrose, in the county of Stearns and State of Minnesota, in place of John Kolb. Incumbent's commission expired January 20, 1906.

Edward V. Moore to be postmaster at Eagle Bend, in the county of Todd and State of Minnesota, in place of Wilber E. Hutchinson. Incumbent's commission expired February 11, 1905.

Charles E. Ward to be postmaster at Ada, in the county of Norman and State of Minnesota, in place of Charles E. Cragin. Incumbent's commission expires April 5, 1906.

MISSOURI.

Mordecai Bell to be postmaster at Golden City, in the county of Barton and State of Missouri, in place of Alden Lyle. Incumbent's commission expired March 14, 1906.

Washington D. Turrentine to be postmaster at Marionville, in the county of Lawrence and State of Missouri, in place of Ira D. McCullah. Incumbent's commission expired January 22, 1906.

NEBRASKA.

Walter H. Andrews to be postmaster at Lexington, in the county of Dawson and State of Nebraska, in place of Walter H. Andrews. Incumbent's commission expired March 1, 1906.

John C. Mitchell to be postmaster at Alma, in the county of Harlan and State of Nebraska, in place of John C. Mitchell. Incumbent's commission expired March 14, 1906.

George M. Prentice to be postmaster at Fairfield, in the county of Clay and State of Nebraska, in place of George M. Prentice. Incumbent's commission expired March 14, 1906.

C. A. South to be postmaster at Butte, in the county of Boyd and State of Nebraska, in place of Thurlow S. Armstrong. Incumbent's commission expired February 10, 1906.

NEW JERSEY.

Ogden H. Mattis to be postmaster at Riverton, in the county of Burlington and State of New Jersey, in place of Ogden H. Mattis. Incumbent's commission expires April 22, 1906.

NEW YORK.

William C. Froehley to be postmaster at Hamburg, in the county of Erie and State of New York, in place of William C. Froehley. Incumbent's commission expired March 14, 1906.

Frank E. Holmes to be postmaster at New Berlin, in the county of Chenango and State of New York, in place of Frank E. Holmes. Incumbent's commission expired March 21, 1906.

George C. Silsbee to be postmaster at Avoca, in the county of Steuben and State of New York, in place of George C. Silsbee. Incumbent's commission expired March 21, 1906.

Ralph S. Tompkins to be postmaster at Fishkill on the Hudson, in the county of Dutchess and State of New York, in place of Ralph S. Tompkins. Incumbent's commission expires April 22, 1906.

NORTH DAKOTA.

Victor A. Corbett to be postmaster at Kenmare, in the county of Ward and State of North Dakota, in place of Eli C. Tolley, resigned.

Richard Daeley to be postmaster at Devils Lake, in the county of Ramsey and State of North Dakota, in place of Richard Daeley. Incumbent's commission expires April 22, 1906.

OHIO.

Alexander Sweeney to be postmaster at Steubenville, in the county of Jefferson and State of Ohio, in place of Martin L. Miller. Incumbent's commission expires April 2, 1906.

PENNSYLVANIA.

I. Warner Arthur to be postmaster at Bryn Mawr, in the county of Montgomery and State of Pennsylvania, in place of I.

Warner Arthur. Incumbent's commission expires March 31, 1906.

Frederick H. Bartleson to be postmaster at Sharpsville, in the county of Mercer and State of Pennsylvania, in place of Frederick H. Bartleson. Incumbent's commission expires April 10, 1906.

William J. Peck to be postmaster at Pittston, in the county of Luzerne and State of Pennsylvania, in place of William J. Peck. Incumbent's commission expires April 10, 1906.

Norman K. Wiley to be postmaster at California, in the county of Washington and State of Pennsylvania, in place of Norman K. Wiley. Incumbent's commission expired March 5, 1906.

UTAH.

James P. Madsen to be postmaster at Manti, in the county of Sanpete and State of Utah, in place of James P. Madsen. Incumbent's commission expired February 28, 1906.

VIRGINIA.

Thomas H. Fox to be postmaster at Ashland, in the county of Hanover and State of Virginia, in place of James M. Taylor, deceased.

WISCONSIN.

Stephen L. Perry to be postmaster at Marion, in the county of Waupaca and State of Wisconsin. Office became Presidential January 1, 1906.

CONFIRMATIONS.

Executive nominations confirmed by the Senate March 26, 1906.

CONSUL.

Frederick I. Bright, of Ohio, to be consul of the United States at Huddersfield, England.

POSTMASTERS.

CONNECTICUT.

Delos D. Brown to be postmaster at East Hampton, in the county of Middlesex and State of Connecticut.

FLORIDA.

Joshua Mizell to be postmaster at Punta Gorda, in the county of De Soto and State of Florida.

ILLINOIS.

George S. Faxon to be postmaster at Plano, in the county of Kendall and State of Illinois.

Edward F. Ledoyt to be postmaster at Sandwich, in the county of Dekalb and State of Illinois.

William C. Roodhouse to be postmaster at Roodhouse, in the county of Greene and State of Illinois.

Michael F. Walsh to be postmaster at Harvard, in the county of McHenry and State of Illinois.

MISSISSIPPI.

Lizzie Baldwin to be postmaster at Canton, in the county of Madison and State of Mississippi.

MISSOURI.

Walter Tholburn to be postmaster at Webb City, in the county of Jasper and State of Missouri.

Clark Wix to be postmaster at Butler, in the county of Bates and State of Missouri.

NEW YORK.

Moses T. Horton to be postmaster at Southold, in the county of Suffolk and State of New York.

OHIO.

Charles R. Brent to be postmaster at McConnelsville, in the county of Morgan and State of Ohio.

Frank M. Martin to be postmaster at Woodsfield, in the county of Monroe and State of Ohio.

Orlando P. Mason to be postmaster at Bellaire, in the county of Belmont and State of Ohio.

Henry S. Mooney to be postmaster at Cardington, in the county of Morrow and State of Ohio.

Herbert Newhard to be postmaster at Carey, in the county of Wyandot and State of Ohio.

PENNSYLVANIA.

James Bickerton to be postmaster at Duquesne, in the county of Allegheny and State of Pennsylvania.

Joseph E. Enwer to be postmaster at Natrona, in the county of Allegheny and State of Pennsylvania.

Charles Koch to be postmaster at Pitcairn, in the county of Allegheny and State of Pennsylvania.

Charles Sutter to be postmaster at McKees Rocks, in the county of Allegheny and State of Pennsylvania.

I. Newton Taylor to be postmaster at Mount Union, in the county of Huntingdon and State of Pennsylvania.

HOUSE OF REPRESENTATIVES.

MONDAY, *March 26, 1906.*

The House met at 12 o'clock m.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of the proceedings of Saturday, March 24, 1906, was read and approved.

CONTESTED-ELECTION CASE—CURTIS P. IAOKEA AGAINST JONAH K. KALANIANAOLE.

Mr. DRISCOLL. Mr. Speaker, I rise to a privileged question. I am directed by the Committee on Elections No. 3 to submit to the House the report and the resolutions in the contested-election case of Curtis P. Iaokea against Jonah K. Kalaniamaole, coming from the Territory of Hawaii. This report is signed by a majority of the members, although not all of the members concur in all the arguments or statements in it. In just one paragraph or statement there is some disagreement, but all the members of this committee concur in the conclusion and in the resolutions which are herewith submitted.

Mr. Speaker, in submitting the report and resolutions in this case to the House, I beg leave to accompany it with a few remarks on the propriety, and even the necessity, of amending the election laws of the Territory of Hawaii; and wish to call the attention of the House, and especially of the Committee on the Territories to this matter.

In the consideration of this election contest, and in the preparation of the report, we have been required to examine somewhat carefully not only the laws of the Territory of Hawaii, but also the joint resolution providing for the annexation of the Hawaiian Islands to the United States and the organic act providing for the government of the Territory of Hawaii. After such study and examination several of the members of this committee have reached the conclusion that there is no law, at all events no clear or definite law or procedure, providing for the election of a Delegate from the Territory of Hawaii to the Congress of the United States. We are also of the opinion that the organic act providing for the government of the Territory of Hawaii should be so amended and supplemented as to clearly provide the ways and means for the election of such Delegate, or by an act of Congress the Territorial legislature of Hawaii should be empowered to make such amendments to its election law as may be necessary and proper to provide fully for such election.

I will briefly refer to the statutes, and cite with my remarks such portions of them as, in my judgment, establish my position, that there is now no complete law for the election of a Delegate, and that the Hawaiian legislature has no power to amend or supplement its present law, or make a new and independent law, providing for the election of such Delegate.

The joint resolution by the Congress, providing for the annexation of the Hawaiian Islands to the United States, was adopted on the 7th day of July, 1898; and the law providing for the government of the Territory of Hawaii, known as the "organic act," was not passed until April 30, 1900. This organic act is, in substance, a constitution, or a fundamental law, for the government of the islands. By it certain powers are reserved to the Congress, and certain powers are expressly given to the Hawaiian legislature, and certain limitations are imposed on the powers of such legislature; and such legislature is restricted in the scope of its enactments to the jurisdiction and powers expressly granted to it by the organic act.

Section 85 of this organic act provides:

That a Delegate to the House of Representatives of the United States, to serve during each Congress, shall be elected by the voters qualified to vote for members of the house of representatives of the legislature; such Delegate shall possess the qualifications necessary for membership of the senate of the legislature of Hawaii. The times, places, and manner of holding elections shall be as fixed by law. The person having the greatest number of votes shall be declared by the governor duly elected, and a certificate shall be given accordingly. Every such Delegate shall have a seat in the House of Representatives with the right of debate, but not of voting.

Section 6 of that act provides:

That the laws of Hawaii not inconsistent with the Constitution or laws of the United States or the provisions of this act shall continue in force, subject to repeal or amendment by the legislature of Hawaii or the Congress of the United States.

Then section 64 of said act provides:

That the rules and regulations for administering oaths and holding elections, set forth in Ballou's Compilation, Civil Laws, Appendix, and the list of registry districts and precincts appended, are continued in force with the following changes, to wit—

Then are set forth the "changes," which were made necessary by the transfer of the islands from their republican form of government to their present status as a Territory of the United States, and no provision is there made for the election of a Delegate to the Congress.

Section 55 of said act, under the head of "Legislative power," provides:

That the legislative power of the Territory shall be extended to all rightful subjects of legislation not inconsistent with the Constitution and laws of the United States locally applicable.

Then follows in this section a long enumeration of those legislative powers, which, among other things, provide for the reapportionment of the membership in the senate and house of representatives of the Hawaiian legislature among the senatorial and representative districts of the islands on the basis of population. But nowhere in this list of powers is authority given to the Hawaiian legislature to formulate an independent law for the election of Delegate, or to so amend or supplement its pending law as to accomplish the same purpose.

Then section 65 provides:

That the legislature of the Territory of Hawaii may from time to time establish and alter the boundaries of election districts and voting precincts, and apportion the senators and representatives to be elected from such districts.

It is a fair inference that the powers conferred by the organic act on the Hawaiian legislature pertaining to the election of senators and representatives to such legislature are definitely limited and circumscribed. No provision in any of the powers or limitations provides the machinery for the election of a Delegate to the Congress, and there was no provision in the election law of the republic for that purpose, for there was no such officer.

Section 85 states the qualifications of electors who are entitled to vote for Delegate to Congress and the qualifications of such Delegate, and it says: "The times, places, and manner of holding elections shall be as fixed by law." What law? It can not mean the law made by the Republic and permitted and continued in force after annexation. It can hardly be claimed to refer to law contained in the organic act, for the only provisions for the election of Delegate are contained in section 85 and in section 14, which fixes the time for holding the election. If "as fixed by law" means a law to be made in the future, that should be done. This sentence certainly is very blind and has led to much confusion, and has already been a source of contention in two election contests coming from that Territory.

In the fall of 1900, after the passage of the organic act, an election was held in the islands for Delegate to Congress. Robert A. Wilcox received the certificate of election and came to the House of Representatives. His seat was contested on three grounds, one of which was that there was no valid election for a Delegate to Congress. The point was made that, since there was no machinery of election except that provided by the laws of the republic of Hawaii and section 85 of the organic act, no election could be held. The Committee on Elections did not concur with that view, but Mr. Taylor of Ohio, who drew the report, admitted that the point had much technical force. It came up again in this case, not directly as one of the grounds urged for setting aside the election, but incidentally in the argument and decision of the case. Aside from the Delegate, senators and representatives in the Hawaiian legislature are the only officers elected in the Territorial government, and the laws and the statutes for that purpose are clear and definite. They require that two suitable ballot boxes be provided for each election precinct; that one be marked, in plain letters, "For senators," and the other "For representatives." But no box for Delegate is provided for.

Section 85 of the organic act simply states that a Delegate to Congress shall be elected by the voters qualified to vote for members of the house of representatives of the legislature. It does not say how or in what manner such election must be held. But the Hawaiian statutes provide that its senators and representatives must be elected by ballot. There should be an amendment to cover this point and make the election uniform. The Hawaiian statute requires that the ballots for senators be of blue paper and the ballots for representatives be of white paper. In order to be complete and uniform it should state the color of the ballot for Delegate. Separate sections are devoted to the description of the ballots for senators and representatives, and in order that there may be symmetry and uniformity, a separate section should be incorporated describing the ballots for Delegate. Since no definite law or procedure is provided for the election of Delegate, the secretary of state of the territory has assumed the duty and responsibility of supplementing the Hawaiian statutes to accomplish that purpose. He furnished separate boxes and marked them "For Delegate." He had the ballots for Delegate printed on pink paper, and made other necessary provisions for the election of Delegate by ballot, and made them conform as far as possible to the laws there existing for the election of senators and representatives. But in this the secretary has been really performing the functions of a legislative body rather than those of an executive officer.

The attorneys from the Hawaiian Islands, representing the parties in this case, have expressed to me the opinion that the Hawaiian legislature has no power conferred upon it by the organic act to amend its statutes in this regard; and after quite a thorough examination I am persuaded to concur with their views. It will not be a difficult matter to amend this law; and it ought to be done during the present session of Congress, so that the election of the next Delegate may be simplified, and in this respect be entirely free from doubt.

Mr. Speaker, I now ask unanimous consent for the present consideration of the resolutions.

The SPEAKER. The Clerk will report the resolutions.

The Clerk read as follows:

Resolved, That Curtis P. Iaokea, the contestant, was not elected a Delegate to the Fifty-ninth Congress from the Territory of Hawaii.

Resolved, That Jonah K. Kalanianaole, the contestee, was duly elected a Delegate to the Fifty-ninth Congress from the Territory of Hawaii, and is entitled to a seat therein.

The SPEAKER. The question is on agreeing to the resolutions.

The question was taken, and the resolutions were agreed to.

On motion of Mr. DRISCOLL, a motion to reconsider the last vote was laid on the table.

DISTRICT BUSINESS.

Mr. SAMUEL W. SMITH. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of bills on the District Calendar.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of bills on the District Calendar, with Mr. LACEY in the chair.

METROPOLITAN POLICE FORCE, DISTRICT OF COLUMBIA.

Mr. SAMUEL W. SMITH. Mr. Chairman, I call up the bill (H. R. 16484) to amend section 1 of an act entitled "An act relating to the Metropolitan police of the District of Columbia," approved February 28, 1901, which I send to the desk and ask to have read.

The Clerk read as follows:

Be it enacted etc., That section 1 of the act of Congress approved February 28, 1901, entitled "An act relating to the Metropolitan police of the District of Columbia," be, and the same is hereby, amended so as to read as follows:

"PARAGRAPH 1. The Metropolitan police district of the District of Columbia shall be coextensive with the District of Columbia, and shall be subdivided into such police districts and precincts as the Commissioners of said District may from time to time direct.

"PAR. 2. The Commissioners of said District shall appoint to office, assign to such duty or duties as they may prescribe, and promote all officers and members of said Metropolitan police force according to such rules and regulations as said Commissioners in their exclusive jurisdiction and judgment may from time to time make, alter, or amend. *Provided*, That original appointments of privates on said police force at the time this act takes effect shall be classified as follows: Class 1: Privates who have served under their present appointments less than three years shall be included in class 1, and at the expiration of three years from the date of said appointment shall be promoted to class 2, if the conduct and intelligent attention to duty of such privates shall justify such promotion. Class 2: Privates who have served under their present appointments more than three years and less than five years shall be included in class 2; and after the expiration of five years from the date of said appointment shall be promoted to class 3, if the conduct and intelligent attention to duty of such privates shall justify such promotion. Class 3: Privates who have served under their present appointment more than five years shall be included in class 3. All original appointments of privates shall be made to class 1, and promotions shall be made from class 1 to class 2 in order of appointment to the force after three years' service as privates of class 1, and from class 2 to class 3 after five years' service as privates of class 2, in all cases where the conduct and intelligent attention to duty of any private shall justify such promotion.

"PAR. 3. The said Metropolitan police force shall consist of one major and superintendent, who shall continue to be invested with such powers and charged with such duties as is provided by existing law; and also of one assistant superintendent with the rank of inspector; three surgeons for the police and fire departments; three inspectors; ten captains; twelve lieutenants, one of whom shall be harbor master; and such number of sergeants, and privates of class 3, privates of class 2, privates of class 1, mounted inspectors, captains, lieutenants, sergeants, and privates on horses and bicycles, and such others as said Commissioners may deem necessary within the appropriations made by Congress: *Provided*, That the inspectors shall perform the duties at present required of captains in the force, that the captains shall command police precincts and perform such duty or duties in connection therewith as the laws and regulations of the said Commissioners may prescribe: *And provided further*, That the said Metropolitan police force shall continue as at present constituted until the offices created hereby are filled and promotions are made by said Commissioners as provided in this act.

"PAR. 4. Said Commissioners, in addition to the powers vested in them by law, are also hereby authorized and empowered to make, modify, and enforce, under such penalties as they may deem necessary, all needful rules and regulations for the proper government, conduct, discipline, and good name of said Metropolitan police force; and said Commissioners are hereby authorized and empowered to fine, suspend with or without pay, and dismiss any officer or member of the said police force for any offense against the laws of the United States or the

laws and ordinances or regulations of the District of Columbia, whether before or after conviction thereof in any court or courts, and for misfeasance in office, or for any breaches or violation of the rules and regulations made by said Commissioners for the government, conduct, discipline and good name of said police force: *Provided*, That no person shall be removed from said police force except upon written charges preferred against him in the name of the major and superintendent of said police force to the trial board or boards hereinafter provided for and after an opportunity shall have been afforded him of being heard in his defense; but no person so removed shall be reappointed to any office in said police force: *Provided further*, That special policemen and additional privates may be removed from office by said Commissioners, or a majority of them, without cause and without trial: *Provided further*, That charges preferred against any member of said police force to the trial board or boards hereinafter provided for may be altered or amended, in the discretion of such trial board or boards, at any time before final action by such board or boards, under such regulations as the Commissioners may adopt, provided the accused have an opportunity to be heard thereon.

SEC. 5. The said Commissioners are also hereby authorized and empowered to create one or more trial board or boards, to be composed of such number of persons as said Commissioners may appoint thereto, for the trial of officers and members of said police force; and said Commissioners are hereby also authorized and empowered to make and amend rules of procedure before such trial board or boards and to change or abolish any such trial board or boards as they may deem proper; and the findings of such trial board or boards shall be final and conclusive unless appeal in writing therefrom is made within five days to the Commissioners of the District of Columbia, the hearings on appeal to be submitted either orally or in writing, and the decision of the said Commissioners thereon shall be final and conclusive: *Provided*, That said Commissioners shall not be required, in their review of the sentences and findings of such trial board or boards, to take evidence, either oral, written, or documentary, and they shall have power to reduce or modify the findings and penalty of the trial board or boards or remand any case against any officer or member of said police force to such board or boards for such further proceedings as they may deem necessary: *Provided*, That the chairman for the time being of any and every trial board be, and he is hereby, authorized to administer oaths to and take affirmations of witnesses before such board or boards: *Provided further*, That all proceedings now pending before any trial board authorized by said Commissioners shall be continued according to the practice heretofore existing until final determination thereof: *And provided further*, That the rules and regulations of said Metropolitan police force heretofore promulgated and in force are hereby ratified and shall remain in force until changed, altered, amended, or abolished by said Commissioners.

SEC. 6. The members of the said police force now designated as desk sergeants shall cease to be known as such and shall become privates of class 1 from and after the date this act is to take effect.

SEC. 7. Police surgeons shall have actually and bona fide resided in the District of Columbia for at least two years next preceding the date of their appointment and shall be duly qualified according to law for the practice of medicine and surgery in said District and shall have actively been engaged in the practice of their profession for a period of at least three years next preceding the date of their appointment. Police surgeons shall be members of the said police force and shall be subject to the laws, rules, and regulations for the government, good conduct, discipline, and removal of other officers or members of the said police force. Such police surgeons shall devote their entire time and attention to said police force, attend, without charge, all members of said police force and of the fire department of said District, examine applicants for appointment and retirement in and to said police force and said fire department, and attend such dependent sick and injured, and examine and attend such insane or alleged insane persons as may be taken in charge by said police, and shall perform such other duties as the said Commissioners may direct.

SEC. 8. The salaries of the officers and members of the Metropolitan police of the District of Columbia herein provided shall commence with the fiscal year beginning July 1, 1907, and shall continue thereafter annually, unless changed by Congress, as follows: The major and superintendent shall receive an annual salary of $4,000; the assistant superintendent shall receive an annual salary of $2,500; inspectors shall each receive an annual salary of $1,800; police surgeons shall each receive an annual salary of $1,800; captains shall each receive an annual salary of $1,500; lieutenants shall each receive an annual salary of $1,320; sergeants shall each receive an annual salary of $1,250; privates of class 3 shall each receive an annual salary of $1,200; privates of class 2 shall each receive an annual salary of $1,080; privates of class 1 shall each receive an annual salary of $900; members of said police force who may be mounted on horses shall each receive an extra compensation of $240 per annum, and members of said force who may be mounted on bicycles shall each receive an extra compensation of $50 per annum.

SEC. 9. No officer or member of the said police force, under penalty of forfeiting the salary or pay which may be due him, shall withdraw or resign, except by permission of the Commissioners of the District of Columbia, unless he shall have given the major and superintendent one month's notice in writing of such intention.

SEC. 10. Nothing contained in this act shall be held to repeal sections 2, 3, 4, 5, 6, and 7 of the act hereby amended, or the act of Congress approved May 11, 1892, entitled 'An act to punish false swearing before trial boards of the Metropolitan police force and fire department of the District of Columbia, and for other purposes,' and the act amendatory thereof, approved February 20, 1896, or any other law in force at the time this act is to take effect, except in so far as the same may be inconsistent with or replaced by some provision hereof.

SEC. 11. This act shall take effect and be in force on, from, and after July 1, 1906."

Mr. SAMUEL W. SMITH. Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

The CHAIRMAN. The question is on the motion of the gentleman from Michigan, that the bill be laid aside with a favorable recommendation.

Mr. GROSVENOR. Mr. Chairman, it seems to me that a bill of so much importance as that ought to be explained.

Mr. CRUMPACKER. Mr. Chairman, I rise also to know something about the bill.

Mr. GROSVENOR. I do not think you can revolutionize and reorganize the entire police force of this District of Columbia by that sort of a performance without some explanation from the gentleman as to the nature of the bill. I would like to know what the bill is about.

Mr. SULZER. The bill has just been read.

Mr. GROSVENOR. Does the gentleman from New York know what is it?

Mr. SULZER. I do. It is to reorganize the police force of the District of Columbia. It is a most commendable bill, and it should pass without opposition.

Mr. GROSVENOR. What changes are made?

Mr. SULZER. No very material changes from existing law. It simply graduates the salaries of the policemen and fixes their status in the department—a very good thing, in my opinion. It is in line with efficient reform that I believe in and most sincerely favor. I want to see this bill pass, and I hope it will.

The CHAIRMAN. The Chair will recognize the gentleman from Michigan.

Mr. SAMUEL W. SMITH. Mr. Chairman, I yield to the gentleman from Kansas [Mr. CAMPBELL] such time as he desires.

Mr. CAMPBELL of Kansas. Mr. Chairman, the purpose of the proposed legislation is to reorganize the Metropolitan police force of the District of Columbia. The bill has three purposes: First, the general reorganization of the force and giving legislative force to the rules and regulations that have heretofore been found to be practical and effective covering the police force in this District. The second purpose of the bill is to provide an increase in the salaries and to reclassify the members of the force. The third purpose of the bill is to change the manner in which trials of members of the police force shall be conducted. Now, in the preparation of the bill the committee has taken into account the experience of the Commissioners of the District—has, in fact, taken their rules and regulations and embodied in the bill such of these regulations as have been found to be practical in the control and operation of the force.

Among the things that have been changed is the manner in which policemen shall be tried. Heretofore when a policeman has been charged with a violation of the rules touching his duty or violation of the laws of the District or the Government he has been tried before a board of inquiry. This board sent its investigation to the District Commissioners, and the whole question was gone over by the District Commissioners, and they made their findings. We have provided in this bill that in a trial of that character the trial board shall make a finding that shall be conclusive unless appealed from by the aggrieved party. This relieves the Commissioners of a great amount of work that has heretofore gone to them from these trial boards or boards of inquiry.

In the reclassification of the force and the increase of salaries we find something like 600 members in the police force of the District. Three hundred and seventy of these are now in class 1, and receive a salary of $900 a year. Two hundred and sixty-five are in class 2, and receive a salary of $1,080 a year. We have proposed in this bill an additional class—class 3—in which we propose to make the salary $1,200 a year. Under the reclassification and the provision made for promotion there would go into the new class 3, at $1,200 a year, the 265 men who are now in class 2, now receiving $1,080 a year, and 123 out of class 1, who are receiving now $900 a year. There would go out of class 1 into class 2, 149. The proposition is to have men serve three years in class 1 from the time of their entrance upon the service. After they have served three years in class 1 they are to be advanced to class 2. After having served two additional years in class 2, then they may be advanced to class 3, provided always that the promotion is made when attention to duty and the general deportment of the officer is such as to commend him for such promotion and increase.

Mr. CRUMPACKER. A question. The promotion, then, comes regularly, according to the length of service, unless the officer has been so derelict in the performance of his duty as not to be entitled to it?

Mr. CAMPBELL of Kansas. The promotion is automatic. When he has served three years in class 1 he is then promoted to class 2.

Mr. CRUMPACKER. Now, who determines the question of the fitness or unfitness for promotion?

Mr. CAMPBELL of Kansas. That is determined by the Commissioners of the District of Columbia in consultation with the major of police.

Mr. CRUMPACKER. There is no room in this bill, is there, for the exercise of favoritism or of pulls in the way of promotion?

Mr. CAMPBELL of Kansas. We think not.

Mr. CRUMPACKER. There can be no promotions until those in class 1 have served three years in that class?

Mr. CAMPBELL of Kansas. None.

Mr. CRUMPACKER. And those in class 2 have served two additional years?

Mr. CAMPBELL of Kansas. And no promotion out of class 2 to class 3 until he shall have served five years.

Mr. TAWNEY. Will the gentleman permit a question?

Mr. CAMPBELL of Kansas. Yes.

Mr. TAWNEY. How much leave of absence is allowed to a policeman here in the city?

Mr. CAMPBELL of Kansas. Twenty days out of the year.

Mr. TAWNEY. With pay?

Mr. CAMPBELL of Kansas. With pay; yes.

Mr. GILBERT of Kentucky. What other significance is attached to these different classifications aside from the length of service?

Mr. CAMPBELL of Kansas. I did not catch the gentleman's inquiry.

Mr. GILBERT of Kentucky. What significance is attached to these different classifications aside from the length of service—anything?

Mr. CAMPBELL of Kansas. None whatever, except attention to duty and length of service. The promotion is made upon the length of service and faithful attention to duty.

Mr. CRUMPACKER. Mr. Chairman——

Mr. STEPHENS of Texas. I desire to ask the gentleman this question.

Mr. CAMPBELL of Kansas. I yield to the gentleman from Indiana.

Mr. CRUMPACKER. The gentleman from Minnesota inquired about the annual leave to which a policeman is entitled. Are they required to perform duty on holidays and Sundays?

Mr. CAMPBELL of Kansas. They are; and I will say, in that connection, that these men serve on an average of four hundred and seventy-four days in the year, giving eight hours a day. That is to say, they are on duty from fourteen to sixteen hours every day.

Mr. STEPHENS of Texas. I desire to ask the gentleman what the rule has been heretofore in reference to these promotions?

Mr. CAMPBELL of Kansas. The same rule as is proposed in this bill. After a man served three years in class 1 he was promoted to class 2.

Mr. STEPHENS of Texas. What is the necessity for the legislation, then, if that has been the rule?

Mr. CAMPBELL of Kansas. That was merely a regulation; and in the reorganization, and making the provision for class 3, we simply enacted into law the provision that had heretofore existed, as a rule, the Commissioners thinking that was the better policy.

Mr. STEPHENS of Texas. Is it not a fact that each time you grade them up after the first three years their salaries are increased?

Mr. CAMPBELL of Kansas. Their salaries are increased with every promotion.

Mr. STEPHENS of Texas. Then at the end of three years all the men in the service will have a higher grade?

Mr. CAMPBELL of Kansas. They will.

Mr. STEPHENS of Texas. And at the end of six years will probably have a change to the highest grade and salary in the service?

Mr. CAMPBELL of Kansas. At the end of five years—as a private.

Mr. STEPHENS of Texas. Is not the effect of this bill to greatly increase the sum that will be paid to the force?

Mr. CAMPBELL of Kansas. The total increase provided for in this bill is $112,250 in round numbers.

Mr. STEPHENS of Texas. Has the gentleman taken the pains to examine the statistics of other cities and ascertain whether or not this city is paying a larger amount to its police force than other cities?

Mr. CAMPBELL of Kansas. We have made considerable investigation in that direction, and we have found that upon the whole this city pays less to its police force, less to its officers, and that its police force does a greater amount of work than the police in any similar city in the United States. For instance, in the District of Columbia there are 70 square miles to police. Outside of the city of Washington there are sixty-eight municipalities, embracing a population of 65,000. The Metropolitan police of the District of Columbia police these 70 square miles and police these sixty-eight municipalities, and do all the work of that character within this radius. In Detroit, with a radius of 29 miles, and in Cincinnati, with a radius of 40 miles, and San Francisco, with a like radius, the average pay of officers and men is greater than is proposed by this bill.

Mr. STEPHENS of Texas. Does the gentleman base his estimate on the number of policemen in the force, or upon the amount of square miles, or the number of inhabitants of the city?

Mr. CAMPBELL of Kansas. We base it on both. For instance, the population of Washington is somewhat similar to that of Detroit and Cincinnati. We pay less on an average here than is paid there.

Mr. STEPHENS of Texas. If this bill becomes law, will the pay be larger than is paid in the usual city of the United States?

Mr. CAMPBELL of Kansas. It will still be a little below the average.

Mr. HOAR. I would like to ask the gentleman in charge of the bill whether they have considered the question of the advisability of providing for an examination, a second examination, of a policeman before the appointment is made transferring him from one division to another?

Mr. CAMPBELL of Kansas. I will answer the gentleman from Massachusetts that a very rigid examination is made of every applicant for membership of the Metropolitan police force before he enters. After that there is no physical examination.

Mr. HOAR. Now, I have had considerable experience with the police force for a number of years, and the great trouble in my experience is that you have a high standard of efficiency when a man is admitted to the service, but you have no provision for maintaining that standard of efficiency by an examination after he shall have once entered. Now, that is the trouble peculiarly with a permanent police force. Now do you not now have an excellent opportunity, when you are providing for the advancement of a grade, to have a subsequent examination, as they do in the Navy, and in many of the official departments of the Government, so that you can maintain the standard of efficiency in the police force with which you started when the man was first admitted?

Mr. CAMPBELL of Kansas. The committee took that matter into consideration, and I will say to the gentleman from Massachusetts that this is one of several bills we had before us, one especially providing for an examination prior to promotion, but it was thought by the Commissioners, and by those who appeared before the committee, that it was unfair to a man after he had served, say, for five years, and had his health impaired by reason of his service to eliminate him from the service and dismiss him because of the deterioration of his health, which was an incident of his service. I will say this: The policemen have created and are maintaining a pension fund. That fund is available to all members of the Metropolitan force regularly admitted into the service. After a man has paid into that fund for a period of three years, or for a period of five years, the committee thought it was unjust and unfair to him to say that he should not be permitted to serve out his allotted time of fifteen years or more before he could retire upon a pension.

Mr. HOAR. What happens with the police force practically, according to my experience and observation, is that after a little while you have a certain per cent of the men who have to be assigned to the easy jobs of the police force and you have the rest of the men who are exposed to peculiar hardships and unusual demands contrasted with the men who have the easy jobs, all getting the same pay, and the men who have to undergo the unusual demands and the peculiar hardships receiving no special compensating advantage. Now, what you need with the policemen, as you do with the firemen and all men engaged in extra hazardous business, is to maintain them at the highest standard of efficiency during their service; and with my experience with different police forces that I have had to deal with, I have thought that the way to do it was to have, just as you do in the Navy, the requirement that a man shall not have his advance unless he can pass his examination for physical efficiency as well as for intelligence.

Mr. CAMPBELL of Kansas. The testimony at the hearing that the committee held was to the effect that men serve out their time with efficiency. They must pass a rigid examination prior to their entrance upon the service; and it did not occur to us——

Mr. SULZER. They have to pass an examination before they are promoted, do they not.

Mr. CAMPBELL of Kansas. There is no physical examination prior to promotion. We thought it was unfair to a man who had served, say, for five years——

Mr. SULZER. I mean there is an examination as to their capacity, efficiency, and so forth, before an officer is promoted?

Mr. CAMPBELL of Kansas. There is a rating kept of every policeman.

Mr. SULZER. That is the point I desire to make, and to have you explain that to the Members of the House who do not understand it, in my opinion.

Mr. CAMPBELL of Kansas. Every policeman has a rating.

and that rating is taken into account when his turn comes automatically for promotion; and if his rating is such as not to justify his promotion, he is not promoted; but the physical examination, having been rigid in the first instance, is not again required.

Mr. STERLING. I should like to ask the gentleman if there is an age limit when they retire from the force?

Mr. CAMPBELL of Kansas. Only this—they may not enter after they are 35 years of age. They may retire after fifteen years of service if disqualified physically.

Mr. STERLING. Do they have a salary after they retire?

Mr. CAMPBELL of Kansas. They retire on a pension.

Mr. CRUMPACKER. How much?

Mr. CAMPBELL of Kansas. Fifty dollars a month is the maximum.

Mr. DAVIS of Minnesota. I should like to ask the gentleman in charge of the bill a question. I see that the sum of $240 per annum is allowed to each member of the mounted police. I would like to ask if that is the existing law?

Mr. CAMPBELL of Kansas. That is the existing law. They have to buy their own horses and feed them, and the testimony before the committee was that the price of suitable horses was now all the way from $250 to $350 each, and that the price of feed runs very high.

Mr. DAVIS of Minnesota. Do the provisions of this bill make any increase in existing law?

Mr. CAMPBELL of Kansas. None whatever in additional pay given to mounted policemen, either upon horseback or on bicycles.

Mr. DAVIS of Minnesota. Is this $240 per annum considered a part of the policeman's pay or simply to compensate him for the value of his horse and its keep?

Mr. CAMPBELL of Kansas. It is an additional compensation for what he is deemed to be out for buying and maintaining his horse.

Mr. DAVIS of Minnesota. Does not the gentleman think $240 a year for the use of one horse is pretty expensive?

Mr. CAMPBELL of Kansas. We thought not. In fact the testimony is to the effect that the men would rather serve on foot without this $240 than to serve on horseback with it.

Mr. DAVIS of Minnesota. I notice you have an additional sum of $50 as compensation for a policeman who is on a bicycle.

Mr. CAMPBELL of Kansas. Yes.

Mr. DAVIS of Minnesota. Is that to compensate him for the wear and tear of the bicycle?

Mr. CAMPBELL of Kansas. That is to provide him with bicycles, and to keep his bicycle in repair; and if the gentleman from Minnesota has ever kept up a bicycle, he will undoubtedly agree, as the committee did, that it was not too much. That is existing law.

Mr. DAVIS of Minnesota. Fifty dollars buys a very fair bicycle.

Mr. CAMPBELL of Kansas. Yes, but a policeman using a bicycle four hundred and seventy-four days in a year causes much wear and tear on the bicycle.

Mr. DAVIS of Minnesota. Does he wear one out every year?

Mr. CAMPBELL of Kansas. That question was not before us. Being existing law we allowed it to stand.

Mr. STAFFORD. Will the gentleman permit an interruption as to the allowence for use of bicycles.

Mr. DAVIS of Minnesota. Certainly.

Mr. STAFFORD. In the postal service only the sum of $15 to $20 per annum to letter carriers who have need of bicycles is allowed, and I must say that they have use of the bicycles as much as have the Metropolitan police. I agree with the gentleman from Minnesota, that $50 a year is an exorbitant amount.

Mr. CAMPBELL of Kansas. I will say, in answer to the gentleman from Wisconsin, that I understand the Government furnishes the bicycles, buys them for the carrier and furnishes $15 or $20 a year for keeping the bicycles in repair. In this instance the policeman must buy his bicycle and keep it in repair.

Mr. STAFFORD. I beg to challenge the statement of the gentleman from Kansas. The Post-Office Department does not purchase the bicycles for the carriers, but allots to each carrier a certain sum per annum, $15 to $20, for the purchase and care of the wheel.

Mr. DAVIS of Minnesota. That is my understanding.

Mr. CAMPBELL of Kansas. I had a different understanding of that, and if I am wrong am glad to be corrected.

Mr. DAVIS of Minnesota. Fifty dollars per annum is a high price for this object. The life of a bicycle, in my experience, is four or five years.

Mr. CRUMPACKER. Is not there more strain on a bicycle ridden by an ordinary policeman weighing 240 to 350 pounds, than there is when ridden by an ordinary letter carrier?

Mr. DRISCOLL. But not so much speed.

Mr. STAFFORD. Does the gentleman take into consideration the weight of mail the letter carrier may carry?

Mr. CAMPBELL of Kansas. I will say in addition to what I have said that these policemen are required and do provide their own bicycles and a cyclometer for registering speed and distance.

Mr. DAVIS of Minnesota. What is the expense of that? I am informed they only cost a dollar.

Mr. TAWNEY. Will the gentleman permit an interruption?

Mr. CAMPBELL of Kansas. Certainly.

Mr. TAWNEY. There was so much confusion on the floor that some gentlemen did not understand the amount appropriated for bicycle policemen. What is the amount proposed?

Mr. CAMPBELL of Kansas. Fifty dollars a year, the existing law. We have made no change in that.

Mr. TAWNEY. What is the aggregate increase in the compensation of policemen in this city under this proposed change of law?

Mr. CAMPBELL of Kansas. One hundred and twelve thousand two hundred and fifty dollars a year.

Mr. TAWNEY. That is the amount of the increase?

Mr. CAMPBELL of Kansas. That is the amount of the increased expenditure.

Mr. TAWNEY. Over and above the current appropriation?

Mr. CAMPBELL of Kansas. Over and above the current appropriation; yes.

Mr. TAWNEY. Will the gentleman permit another question?

Mr. CAMPBELL of Kansas. Certainly.

Mr. TAWNEY. What amount do these policemen receive when they are retired?

Mr. CAMPBELL of Kansas. From $20 to $50 a month; $50 is the maximum.

Mr. TAWNEY. Is that on a basis of the percentage of the salary received while in the service?

Mr. CAMPBELL of Kansas. That is paid out of the police pension fund. It is made up of a dollar a month out of the salary of each policeman, and out of rewards that policemen, from time to time, secure for making arrests, and out of fines that are paid by the policemen when they are tried for dereliction of duty.

Mr. TAWNEY. A part of it, however, is made up from deductions from their salaries.

Mr. CAMPBELL of Kansas. One dollar a month is taken out of the salary of each policeman, $12 a year.

Mr. TAWNEY. And that is now made the basis for the increase of their salaries?

Mr. CAMPBELL of Kansas. Oh, no. It is included in the items of their expenses, but is a very small part of it.

Mr. RYAN. Will the gentleman permit a question?

Mr. CAMPBELL of Kansas. Yes.

Mr. RYAN. The gentleman talks about superannuation of patrolmen. I would like to ask him if they are superannuated after fifteen years of service, and to state whether or not that is arbitrary on the part of the Commissioners or is it to take place upon disability.

Mr. CAMPBELL of Kansas. They may be retired at that time if upon examination they are found incapacitated to perform their duty.

Mr. RYAN. The gentleman says they may be retired at that time, but not necessarily.

Suppose a man joins the department at the age of 25, after fifteen years of service he is 40 years old. Then he may be superannuated and placed on a salary of $50 a month?

Mr. CAMPBELL of Kansas. No; he may not retire at any time voluntarily.

Mr. LITTAUER. The gentleman means to say he can not retire before he is 50 years of age?

Mr. CAMPBELL of Kansas. Yes; he may be retired then if found incapacitated for duty.

Mr. LITTAUER. But if he is not disabled?

Mr. CAMPBELL of Kansas. If he is not disabled he could serve until he was incompetent to perform his duties.

Mr. LITTAUER. And if he did not get in at 25 he could not retire at 50.

Mr. RYAN. Then, a man entering the police department of the District at 25 if he was in good health at 40 could retire and receive $50 a month under that regulation?

Mr. CAMPBELL of Kansas. The officer does not retire until he is unfit for duty.

Mr. DRISCOLL. Is he obliged to retire at 50 years of age?

Mr. CAMPBELL of Kansas. Oh, no; not if he is able to work. There are some over 50; there are some 60 years of age now on the police force.

Mr. MADDEN. Before I ask my question I want to read part of the bill. The bill provides there shall be one superintendent, one assistant superintendent; there shall be three surgeons, three inspectors, ten captains, twelve lieutenants, one of whom shall be harbormaster, and such number of sergeants and privates of class 3, privates of class 2, privates of class 1, etc., as said Commissioners may deem necessary within the appropriations made by Congress. Now, I would like to know what we need with an assistant superintendent for a police department containing 625 members?

Mr. CAMPBELL of Kansas. You have an assistant superintendent at Chicago, at $4,000 a year.

Mr. MADDEN. I did not ask what we paid them, but why we need one.

Mr. CAMPBELL of Kansas. We need one here for the same reason you need one in Chicago; the superintendent can not be on duty twenty-four hours in the day.

Mr. MADDEN. He has his captains. Why do they need three inspectors for 625 men, and what do you propose to pay them?

Mr. CAMPBELL of Kansas. We propose to pay them $1,800 a year.

Mr. MADDEN. What work will they be called upon to do?

Mr. CAMPBELL of Kansas. Well, the general work that devolves upon inspectors in a police force.

Mr. MADDEN. Why do you increase the number of captains by seven?

Mr. CAMPBELL of Kansas. To have a captain for each of the ten precincts. We increase them by six instead of seven.

Mr. MADDEN. Why do you provide surgeons for the department?

Mr. CAMPBELL of Kansas. Because it is necessary to have surgeons to attend the policemen and members of the fire department and to attend the insane who come within the jurisdiction of the policemen.

Mr. MADDEN. Do you know of any other city in the Union where they have surgeons for the police department?

Mr. CAMPBELL of Kansas. Yes; they have them in Cleveland and——

Mr. MADDEN. We do not have them in Chicago.

Mr. CAMPBELL of Kansas. No; but Chicago is not the only city in the United States.

Mr. MADDEN. That is true.

Mr. HOAR. Do they not have police ambulances in almost all the cities——

Mr. CAMPBELL of Kansas. I presume they do, even in the city of Chicago.

Mr. HOAR. And have medical officers to go with them?

Mr. CAMPBELL of Kansas. And you have no medical officer in Chicago?

Mr. MADDEN. No.

Mr. CAMPBELL of Kansas. Well, you ought to have.

Mr. MADDEN. You are creating an assistant superintendent, three inspectors, six additional captains, three surgeons, and an additional number of commanding officers in the bill, which seems to be unnecessary for the number of men in the rank and file. The bill then provides an unlimited number of men in the rank of the department, does it not?

Mr. CAMPBELL of Kansas. Oh, no.

Mr. MADDEN. What does it provide?

Mr. CAMPBELL of Kansas. It does not provide for a single increase.

Mr. MADDEN. It says there shall be just as many men in the department as the Commissioners may see fit to appoint in accordance with the appropriations made by Congress.

Mr. CAMPBELL of Kansas. Ah, that is it exactly—there shall be no increase in the number except by the consent of the Committee on Appropriations. The Commissioners of the District of Columbia and the superintendent of police may not increase the number without the action of Congress.

Mr. MADDEN. Does not the gentleman think that the number of commanding officers is entirely out of proportion with the number of men in the ranks?

Mr. CAMPBELL of Kansas. We do not think so. We have here, I will say, in answer to the gentleman, one of the highest class cities in the United States, and there devolves upon the police force, from year to year, very important duties. The policemen in the city of Washington—the officers and the superintendent—have often to deal with nice international questions. We have here a metropolitan city—a city that is made up of people from the whole country, indeed, from the whole world. There are foreign ministers and ambassadors here who have children. All of these relations and conditions make the work of the police force a very important and a very different work from the work of a policeman in a city where such conditions do not exist.

Mr. MADDEN. Mr. Chairman, the gentleman will not attempt to say that we have not people from every other country in every other city in the Union.

Mr. CAMPBELL of Kansas. But you do not have them in the same relations in which we have them here. I doubt if the son of a diplomat has ever been found violating the swimming laws in the lake near Chicago, whose arrest by a policeman would raise an international question.

Mr. MADDEN. Is there anything so sacred about the person of the son of a diplomat that a policeman, when this man is found violating the laws, would not have the right to arrest him?

Mr. CAMPBELL of Kansas. Well, it would raise an international question at once if it should be done.

Mr. MADDEN. And would the policemen either in the city of Washington or any other city be expected to be able to know whether he was the son of a diplomat or not?

Mr. CAMPBELL of Kansas. That is the thing he must know. That is the thing he must be careful about.

Mr. SMYSER. Do they settle these questions in the police court?

Mr. CAMPBELL of Kansas. No.

Mr. MADDEN. Is a policeman in Washington required to ask everybody who violates the law whether he is connected with some diplomatic corps before arresting him?

Mr. CAMPBELL of Kansas. He is supposed to know when and where and how to act.

Mr. MADDEN. They are required to do that everywhere.

Mr. CRUMPACKER. Mr. Chairman, there are some of us who would like to have some more information about this pension system. If a man should enter the police service at 25 years of age and voluntarily retire at 40 and be entitled to $50 a month, that is an aspect of this legislation that does not strike me as equitable. What is the pension system? How is that branch of the law administered? What is the basis of granting pensions?

Mr. CAMPBELL of Kansas. The basis of a pension is total disability, and the pension is paid out of a fund that has been created by the policemen themselves.

Mr. CRUMPACKER. Is that fund always adequate to meet the requirements of the pension law?

Mr. CAMPBELL of Kansas. Yes.

Mr. CRUMPACKER. And there never has yet been an appropriation needed to replenish the fund?

Mr. CAMPBELL of Kansas. There has never been a request made upon Congress for any contribution to the pension fund of the Metropolitan policemen, and we are simply continuing in this bill the existing law on the tenure of the service and the pension to be paid to the policemen.

Mr. CRUMPACKER. I understand the pension system is for this, that if a man in the service is disabled before he has performed fifteen years' of service he is granted a pension.

Mr. CAMPBELL of Kansas. If he is totally disabled.

Mr. CRUMPACKER. And that is graded according to the disability.

Mr. CAMPBELL of Kansas. Yes; if he is totally disabled——

Mr. CRUMPACKER. If he is totally disabled during the fifteen years' time he is granted a pension of $50 a month.

Mr. CAMPBELL of Kansas. Yes.

Mr. CRUMPACKER. That is the maximum?

Mr. CAMPBELL of Kansas. Yes.

Mr. CRUMPACKER. If he serves for the full fifteen years and retires voluntarily, he is entitled to a pension of $50 a month, whether he is disabled or not?

Mr. CAMPBELL of Kansas. If he voluntarily retires after fifteen years' of service he may be pensioned at anywhere from $20 to $50 a month, depending on his disability.

Mr. CRUMPACKER. The gentleman says he may be pensioned anywhere from $20 to $50 if he voluntarily retires. The question is, Has he the right under the law to a pension after fifteen years' of service upon voluntary retirement?

Mr. CAMPBELL of Kansas. Yes.

Mr. CRUMPACKER. Has he the right to any particular rate of pension?

Mr. CAMPBELL of Kansas. No; that rate is fixed by the Commissioners and the three examining surgeons to which reference has been made.

Mr. CRUMPACKER. That is a new phase of this question. What is the minimum rate of pension upon voluntary retirement after fifteen years of service?

Mr. CAMPBELL of Kansas. Twenty dollars a month.

Mr. CRUMPACKER. If he is disabled his pension is rated in accordance with his disability?

Mr. CAMPBELL of Kansas. Yes.

Mr. CRUMPACKER. Not above $50 a month?

Mr. CAMPBELL of Kansas. No; so far there has only been one instance where the pensioner has been allowed the maximum of $50 a month.

Mr. PAYNE. Mr. Chairman, I would like to ask the gentleman a question. I notice in the report this statement:

An examination of the salaries paid to the privates of the police force in cities other than Washington show municipalities of the population of the District of Columbia, and much less in area, treat their police officers more generously than is the case here.

And then they cite Pittsburg, Philadelphia, Boston, and Chicago, four of the largest cities of the United States, and larger than the District of Columbia by many times, each one of them. Using those I do not understand why the committee did not find time to look a little to the city of Baltimore, and find out what they were paying there. It is a city about the same size as the city of Washington. I do not find in the report any allusion to Baltimore or cities the size of Washington, unless in one instance reference is made to the city of Cincinnati.

Mr. CAMPBELL of Kansas. I will say to the gentleman from New York that a further reading of the report will disclose the fact—probably not in the report, but in the hearings—we may have been unjust to ourselves in not setting it out in the report, but we considered in reference to the salaries those paid in Detroit and Milwaukee—I think, even, in Baltimore and Cincinnati.

Mr. PAYNE. I understand a Representative from Baltimore to say that the privates there are paid at the rate of $15 to $18 a week. They have a weekly salary there, and at $18 it would amount to $936. It is fair to say that a bill is now pending before the legislature to increase it to $20 a week, which will be $1,040; that is the highest salary paid to privates in the city of Baltimore. The sergeants there, I find, get $21 a week—$1,092 a year—and under the proposed act they will receive $23, which makes $1,192. That is about equal to those in this bill. Instead of the committee taking a city substantially the same size as Washington, they have taken their criterion from Chicago, Philadelphia, and Pittsburg.

Mr. CAMPBELL of Kansas. I will ask the gentleman from New York if he really thinks that the Metropolitan police of the District of Columbia and city of Washington should be put upon the same status as the police of Baltimore?

Mr. PAYNE. Well, I do not know of any reason why they should not. I do not know why they should have any more difficult duties to perform.

Mr. CAMPBELL of Kansas. In the first place, a visit to Baltimore will disclose the fact that the policemen there are not as well dressed as they are here. It is not required of them that they shall be.

Mr. WACHTER. In that I think the gentleman is entirely mistaken.

Mr. PAYNE. I was just going to suggest that I did not know about that. If the gentleman will look at the statistics he will find that, I think, a very large percentage of the police force of the city of Washington are residents really of the city of Baltimore. If that is not the case, the Members from Maryland have failed to get in their work on this account in the District of Columbia.

Mr. CAMPBELL of Kansas. I admit that the gentleman from Maryland has been very industrious and succeeded in enlarging the population of Washington and diminishing the population of Baltimore by putting his friends on the police force here in other years, but the fact is that it costs a great deal more to live here than it does in Baltimore.

Mr. PAYNE. I do not know why.

Mr. CAMPBELL of Kansas. I do not know, either, but I know that it is the truth, nevertheless. The great cost of living is one of the arguments in support of increased pay under this bill.

Mr. PAYNE. The cost of living is one of the arguments in this report. Still the committee seems to believe that while a policeman can live on $900 a year for three years, after that he ought to have a little more. I do not think the cost of living is a fair argument in that connection. It will cost as much for a man to live when he is getting $900 as it will the man who is getting $1,200.

Mr. CAMPBELL of Kansas. In many instances men entering the service are young men without families. As they remain in the service and get settled down they get married and have families to support. A large percentage of the members of the force who are in the regular service have families to support, but many young men enter the service and have no families.

Mr. PAYNE. I would have been better pleased with the bill if the committee had only one promotion and then had retained the salaries as already in force in the District instead of increasing the pay to about $1,200 a year for privates.

Mr. CAMPBELL of Kansas. The committee took into account the question of raising the salaries and the question as to when they should be raised, and after a full hearing the committee unanimously decided that they should be raised, and that they should not only be raised, but that the increased salaries should begin on the 1st of July, 1906. The testimony showed that the average policeman pays house rent amounting to $22.50 a month; that his grocery bill for a family averaging four amounts to $35 a month; that his fuel amounts to $7.50 a month; his gas amounts to $3; his washing to $1.50; the average cost of uniform per month, $5.71, and his payment to the pension fund, $1 a month. I will say nothing about the pension fund.

Mr. MADDEN. How did you get that information?

Mr. CAMPBELL of Kansas. From members of the police force.

Mr. WACHTER. Will the gentleman allow me to ask him a question?

Mr. CAMPBELL of Kansas. Yes.

Mr. WACHTER. How many uniforms do they buy a year?

Mr. CAMPBELL of Kansas. The average cost per month of uniform to a member of the force is $5.71; and I should say that he would not have very much over enough to buy one overcoat and one uniform.

Mr. WACHTER. And they are required to dress very well, and, as a matter of fact, have a better appearance than any other police force in the country.

Mr. CAMPBELL of Kansas. They are required always to be in a presentable condition, and I submit the fact that they are a well-dressed, gentlemanly, well-appearing police force. And I cheerfully say of them, that they are far above the average in character. Last year out of a force of over 600 there were only 12 cases of intoxication in the whole year.

Mr. WACHTER. When they want to become intoxicated they go to Baltimore, and when they go there and do that, they are arrested and locked up the same as anybody else.

Mr. CAMPBELL of Kansas. That shows at least that they have a regard for the city of Washington and for their duties here.

Mr. WEEKS. I should like to ask the gentleman a question. I understand that after five years a policeman receives $1,200 a year.

Mr. CAMPBELL of Kansas. Yes.

Mr. WEEKS. Is there a single other city in the United States where privates after five years' service receive as high salaries as that?

Mr. CAMPBELL of Kansas. I will answer that San Francisco pays $162 a month.

Mr. KAHN. From the day that they are appointed.

Mr. CAMPBELL of Kansas. From the day that they are appointed. And what I said a moment ago applies always to the Metropolitan police force of the District of Columbia. They are required to police a larger area per man, and they are required to perform a more distinctive service than the members of any other police force.

There are more insane people who come to Washington, and who must be cared for and managed by the police force, than in any other city of similar size in the whole country; and in making that statement I intend no reflection whatever upon Members of this House. [Laughter.]

Mr. WEEKS. I want to suggest that the reason for the high salaries of San Francisco policemen is because the service there is extra hazardous.

Mr. KAHN. Not any more so than in the city of Boston.

Mr. CAMPBELL of Kansas. New York pays $1,200. The maximum paid in the city of Boston is $1,200, is it not?

Mr. WEEKS. The maximum is $1,200.

Mr. CAMPBELL of Kansas. Well, that is the maximum that we propose here.

Mr. WEEKS. But in Boston only a small proportion of the men receive $1,200.

Mr. CAMPBELL of Kansas. Only a small proportion will receive it here.

Mr. WEEKS. Practically every man—every man after five years of service.

Mr. CAMPBELL of Kansas. After five years' service; yes.

Mr. DRISCOLL. Can the gentleman from Kansas state how many receive that?

Mr. CAMPBELL of Kansas. I can tell you exactly. There will be 265 out of class 2 and 123 out of class 1 who will go into class 3.

Mr. WEEKS. I should like to ask the gentleman one more question while I am on my feet.

Mr. CAMPBELL of Kansas. Yes.

Mr. WEEKS. I notice in the report on page 5 it is stated that many of the men have become discouraged on account of receiving only $900 a year after their long service. I would like to ask the gentleman if there is a single instance of a resignation from the Washington police force in the past year, and how many men there are waiting to fill vacancies on the force?

Mr. CAMPBELL of Kansas. There have been resignations not only within the last year, but within the last month, and the Commissioners are having difficulty in keeping up the standard of the men because of the small pay that they receive. The men have become discouraged because they can not make ends meet on the salaries that they receive. The salaries of the policemen in this District have not been increased since 1880, and there has been a considerable increase in living expenses within that time.

Mr. PALMER. If you do not include Members of Congress among the insane persons who come here, how do you account for the surplus of lunatics in Washington? [Laughter.]

Mr. CAMPBELL of Kansas. I want, of course, to be generous to the membership of this body. That is the reason I have not included them among the people who come to Washington with wheels in their heads.

Mr. SULZER. Perhaps it is because there are so many who want to be Members of Congress. [Laughter.]

Mr. CAMPBELL of Kansas. Yes; that might be true. But it is true that people come here who have to be taken into custody by the police force, men and women having a presentable appearance, men and women who want to see the President; men and women, if you please, who want to see Members of Congress; men and women who want to run the Government, who have some panacea for all the ills that flesh is heir to.

Last year there were over 400 cases of this kind to deal with by the Washington police surgeons.

Mr. DRISCOLL. How many policemen are there of all kinds in the capital—Metropolitan police, Capitol police, and White House police?

Mr. CAMPBELL of Kansas. The White House police are Metropolitan policemen. We take no account of the Capitol police. They take exclusive charge of the Capitol grounds. In addition to the Capitol police, there are thirty-nine policemen, appointed by the War Department, who have charge of all the parks in the park system of the city.

Mr. TAWNEY. I understood the gentleman from Kansas to say a moment ago that he could, after fifteen years of service, retire as a matter of right.

Mr. CAMPBELL of Kansas. My information is that an officer can not retire without an examination, showing that he is unfitted for the service.

Mr. TAWNEY. Then is it a voluntary retirement or a compulsory retirement?

Mr. CAMPBELL of Kansas. They are never retired until they are physically unfitted for the service. There are many men on the force now who are 60 years of age.

Mr. RYAN. Then why do you have this provision as to the fifteen years' limit in it? It means nothing.

Mr. TAWNEY. Why do you put it in?

Mr. CAMPBELL of Kansas. This bill, as a matter of fact, reenacts the old law or continues the old law. We make no changes whatever in the law as it now stands with respect to that matter, either in the pensions or the retirement of the man from the service.

Mr. TAWNEY. It has some bearing, if the gentleman will pardon me, on the question of whether the salaries should be increased or not for the purpose of determining the benefits afforded them in consequence of the service, or because of the disabilities contracted while in the service. I notice another thing in the report; the gentleman includes the amount deducted for the pension fund from the salary as one of the reasons why the salary should be increased.

Mr. CAMPBELL of Kansas. Yes.

Mr. TAWNEY. If that is to be considered in determining whether or not the salaries should be increased in consequence of the retirement of the Government employees, on the amount deducted from their salary in the past, then we are up against the question of the Government maintaining a civil pension retirement fund.

Mr. CAMPBELL of Kansas. Oh, no. The fact is, the $1 a month is a small part of the pension fund out of which these pensions are paid.

Mr. STAFFORD. May I inquire whether any money is appropriated by the Government for this pension fund?

Mr. CAMPBELL of Kansas. Not a single cent.

Mr. STAFFORD. But the fines that are contributed to it would otherwise go into the Treasury of the United States?

Mr. CAMPBELL of Kansas. Yes; and the rewards and matters of that kind.

Mr. TAWNEY. The gentleman says that the item of $1 a month is inconsequential and therefore is not a matter of any serious consideration; but suppose we were to deduct from the salaries of the Government clerks $3 a month or $4 a month as some of the bills now pending before the House contemplate, then would it not be a still greater reason for their coming to Congress and asking that their salaries be increased to that extent in order to make up the difference between what they are actually paid and what their salaries should be?

Mr. CAMPBELL of Kansas. In that instance you would be creating a pension fund wholly out of the salaries of the clerks, but in this case the pension fund is largely created out of other sources.

Mr. TAWNEY. I understand that the item is small, but however that may be, if it is to be made a basis to increase the salaries in this instance, it would also be ground for demanding an increase of salary when the whole fund is made up out of deductions from salaries. I wanted to illustrate to the House the effect of the several retirement bills now pending before the committees of the House.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

Mr. SAMUEL W. SMITH. Mr. Chairman, I ask unanimous consent that the time of the gentleman may be extended for five minutes.

The CHAIRMAN. The gentleman from Michigan asks unanimous consent that the time of the gentleman from Kansas may be extended for five minutes. Is there objection?

There was no objection.

Mr. FITZGERALD. Mr. Chairman, this bill does not provide for automatic promotions at the expiration of the three and five year periods. Will the gentleman from Kansas explain that provision?

Mr. CAMPBELL of Kansas. Mr. Chairman, it provides for an automatic promotion after a service of three years in class 1 into class 2, for an automatic promotion out of class 2 into class 3 after an additional service of two years in class 2, and where the record of the officer in each case justifies promotion.

Mr. FITZGERALD. This bill does not provide that if a man serves three years he shall receive an increase of salary. It provides that he shall be promoted provided that somebody approves of his conduct in the service during the three years. I wish to say to the gentleman in charge of this bill that that is one of the most objectionable features in the bill. All systems for the increase of pay and promotion of which I have any knowledge in police departments are dependent upon the length of service, dependent alone upon the fact that the man has served the requisite time. If the provision recommended here be adopted, if some private has served three years intelligently, faithfully and effectively, but has in the meantime incurred the displeasure of some superior officer, then that private will never be able to get out of the class to which he has been appointed. My opinion is this, that after a man has served three years if he is not entitled to promotion he ought to be dropped from the force. If he is entitled to promotion he should have his increase, if he is going to get one, without the consent of any superior officer.

Mr. CAMPBELL of Kansas. The committee was of the opinion that it was not unfair to the officers who are to get this increase that their rating should be of the high character and high standard that was required, and the policemen themselves advocated this. The members of the police force who were before the committee heartily concurred in this method of promotion.

Mr. FITZGERALD. The members of the police force may have done that, but I understand something about the way members of police forces agree to some provisions in order to get other provisions. I am somewhat familiar with the way police forces are controlled and regulated in large cities, and I would say to the gentleman that this would put in the hands of some official a power that should not be lodged in the hands of any official. It is more liable to abuse than any other possible provision that could be recommended.

Take a policeman who insists on enforcing the law in his district, on his beat, in a manner in strict accordance with the regulations, and some superior officer prefers that the law should not be strictly enforced in that particular district. This man in the conscientious performance of his duty will incur the displeasure of that superior officer, and that displeasure will make it impossible for him to get out of the class to which he was originally appointed.

Mr. CAMPBELL of Kansas. I will say that no instance of the kind was called to our attention.

Mr. FITZGERALD. Human nature is no different in this district, so far as the police force is concerned, than it is in any of the great cities throughout the United States.

Mr. CAMPBELL of Kansas. I will again state to the gentleman from New York that no such instance was called to the attention of the committee.

Mr. FITZGERALD. No; I know that no policeman, if he suffered that injustice, who wished to continue in the force, would dare call any such instance to the attention of the committee.

Mr. CAMPBELL of Kansas. We gave everybody an opportunity to be heard. The policemen themselves came in and were represented in the hearings. There was no disposition whatever to deny anybody a right to say what he wanted to say in those hearings.

Mr. FITZGERALD. Oh, I am not criticising the action of the committee or the liberality displayed in giving the hearings; but I am stating some of the things that I know to be facts in connection with the administration of police departments.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SAMUEL W. SMITH. Mr. Chairman, I call for the reading of the bill under the five-minute rule.

The CHAIRMAN. If there is no other general debate, the bill will be read under the five-minute rule. The clerk will read.

The Clerk read as follows:

Be it enacted, etc., That section 1 of the act of Congress approved February 28, 1901, entitled "An act relating to the Metropolitan police of the District of Columbia," be, and the same is hereby, amended so as to read as follows:

"PARAGRAPH 1. The Metropolitan police district of the District of Columbia shall be coextensive with the District of Columbia, and shall be subdivided into such police districts and precincts as the Commissioners of said District may from time to time direct."

Mr. CRUMPACKER. Mr. Chairman, I move to strike out the last word for the purpose of getting this pension statute into the RECORD. The statute is clear enough and contains a very satisfactory adjustment of the pension question. It seems from this statute that a policeman who has incurred an injury or a disability in line of duty is entitled to a pension for that injury or disability provided it renders him unfit for further service, but if he has served for full fifteen years and is disabled from continuing longer in the service, then he is entitled to a pension. The first pension is given for an injury or disability incurred in the service during the fifteen-year period.

The other pension is given for disability from injuries coming to the policeman without regard to the question as to whether they were incurred while in line of duty, and they must be of such character as to totally disable him from the performance of his duty as a policeman, and he can only get the pension after he has been in the service for fifteen years. There is no voluntary retirement at the end of fifteen years. There is no retirement provided for anywhere, excepting on account of unfitness for the discharge of duty; and if that unfitness is the result of disabilities incurred in the line of duty in the fifteen-year period the policeman is entitled to a pension, and if it is not the result of disabilities incurred in the line of duty and the policeman has served full fifteen years he is entitled to a pension not exceeding a maximum of $50 a month. The pension fund comes from the payment of certain fines, dog tax, and this assessment of a dollar a month on the salaries of these policemen.

Mr. STERLING. Does this change the provisions of the statute?

Mr. CRUMPACKER. This bill, I understand, does not change in any respect the provision of the statute; therefore, I think the pension proposition is a fair, just, and equitable one; and I desire, Mr. Chairman, to insert this section of the statute in the RECORD as part of my remarks.

The CHAIRMAN. Without objection, the gentleman from Indiana will be allowed to insert the matter referred to as part of his remarks. [After a pause.] The Chair hears no objection.

The extract referred to is as follows:

Provided, That hereafter the Commissioners shall deduct $1 each month from the pay of each policeman, which sum so deducted shall be added to and form a part of the present police fund, to be invested in United States or District bonds by the Treasurer of the United States, and be held by him subject to the drafts of the Commissioners for expenditures made in pursuance of law, and such expenditures shall be accounted for as required by law for other expenditures of the District; and said police fund shall be used for the relief of any policeman who, by injury received or disease contracted in line of duty, or having served not less than fifteen years, shall become so permanently disabled as to be discharged from service therefor; and in case of his death from such injury or disease, leaving a widow or children under 16 years, for their relief: *Provided further*, That such relief shall not exceed for any one policeman or his family the sum of $50 per month; and a sum not exceeding $75 may be allowed from said fund to defray the funeral expenses of any policeman dying in the service of the District.

The Clerk read as follows:

PAR. 2. The Commissioners of said District shall appoint to office, assign to such duty or duties as they may prescribe, and promote all officers and members of said Metropolitan police force according to such rules and regulations as said Commissioners in their exclusive jurisdiction and judgment may from time to time make, alter, or amend: *Provided*, That original appointments of privates on said police force at the time this act takes effect shall be classified as follows: Class 1: Privates who have served under their present appointments less than three years shall be included in class 1, and at the expiration of three years from the date of said appointment shall be promoted to class 2, if the conduct and intelligent attention to duty of such privates shall justify such promotion. Class 2: Privates who have served under their present appointments more than three years and less than five years shall be included in class 2; and after the expiration of five years from the date of said appointment shall be promoted to class 3, if the conduct and intelligent attention to duty of such privates shall justify such promotion. Class 3: Privates who have served under their present appointment more than five years shall be included in class 3. All original appointments of privates shall be made to class 1, and promotions shall be made from class 1 to class 2 in order of appointment to the force after three years' service as privates of class 1, and from class 2 to class 3 after five years' service as privates of class 2, in all cases where the conduct and intelligent attention to duty of any private shall justify such promotion.

Mr. FITZGERALD. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. FITZGERALD. I wish to offer some amendments to paragraph 2.

The CHAIRMAN. Paragraph 2 has been passed.

Mr. FITZGERALD. Well, I was endeavoring to get the attention of the Chair, but the Clerk read it so quickly I could not.

The CHAIRMAN. The Chair will recognize the gentleman.

Mr. FITZGERALD. I move to strike out, on page 2, line 12, the words "if the conduct and intelligent attention to duty of such privates shall justify such promotion," and as that language appears three times in the paragraph, I make the motion so as to include the same language in lines 18 and 19 and in lines 2 and 3, on page 3. It is similar language applying to each class, and I can discuss it all at one time, and I imagine the action of the committee will be identical on the three clauses.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Page 2, lines 12, 13, and 14, strike out the words "if the conduct and intelligent attention to duty of such privates shall justify such promotion."

In lines 18 and 19 strike out the same words.

Page 3, lines 2 and 3, strike out all after the word "two."

The CHAIRMAN. Without objection, the Chair will submit the three amendments together.

Mr. CAMPBELL of Kansas. Mr. Speaker, I hope these amendments will not be adopted.

Mr. FITZGERALD. I suppose I am entitled to recognition first. The gentleman can discuss it afterwards.

Mr. JOHNSON. I would like to ask the gentleman if the effect of striking out these words will make promotion automatic?

Mr. FITZGERALD. Yes, Mr. Chairman, I wish to call the attention of the committee to the effect of this amendment. This bill, primarily, is intended to provide for certain automatic increases in salaries of the police force. As a matter of fact, it does nothing of the kind. After a private has served three years he is entitled to promotion to the second class with an increase of salary, provided "the conduct and intelligent attention to duty of such private shall justify such promotion." This paragraph provides that appointments shall be made originally by the Commissioners of the District of Columbia. At present the manner in which men are appointed to the police force is as follows: They file their application, they are examined by the Civil Service Commission at the request of the Commissioners of the District of Columbia, although it is not compulsory, and providing they attain a certain standard in their examinations and meet a standard of physical requirements they are appointed to the force.

Then a man will serve for three years at the salary fixed for class 1. In any system in which automatic promotions are recognized, at that time he should be entitled to an increase of salary and promotion to the next class. This bill makes it dependent, however, "upon his conduct and his intelligent attention to his duty." Now, this conduct and intelligent attention to duty is not something within the knowledge of the Commissioners of the District. It is entirely dependent upon the report made by the officials in the department. In the conduct and management of a police force many abuses necessarily exist, and they are not peculiar to any one police department. They are peculiar to every police department. It is claimed that the

department here is peculiarly free from abuses that affect other police departments; and that may be true. But if some conscientious private is assigned to duty in some precinct where a number of violations of law are existing, or where certain practices exist, and, if he, in the discharge of his duty, attempts to prevent those abuses and practices, and if his superior officers desire that conditions continue to exist which are prohibited under the law, if the man does his duty he will find that at the end of three years the report upon his "conduct and intelligent attention to duty" is such that it will be impossible for him to obtain any promotion. It places these men on the force, unless they attain the highest salaries possible under the law, at the absolute mercy of their superior officers. Now, it is not necessary to speak about the police force of the District of Columbia. The Members of this House have some knowledge of the existing conditions generally in police forces; and this discretionary power fixed in somebody——

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. FITZGERALD. I ask unanimous consent that my time be extended five minutes.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. FITZGERALD. To determine whether a man is entitled to this increased salary, makes it impossible for a private to be independent and to perform his work in the conscientious manner that he should. If, at the end of the three years, this man's conduct record has been such that he is not entitled to promotion, he should not continue a member of the force. A man should not be kept at the original salary, conducting himself in a manner that is improper, that does not conform to the ideal police standard, but he should be tried for his offenses and separated from the force if unfit.

Under the provisions of this bill a man can enter the police force in the lowest class, whatever it is, and remain there for fifteen years until he is entitled to retire. Now, if there should be an automatic increase of pay, dependent upon length of service, the privates should get that increase when the time has expired, or else they should be dropped from the service. In no other way, Mr. Chairman, will the force be effective, independent, and enabled to discharge its duty in a proper and conscientious manner. Speaking of this particular language in this bill, because I have some knowledge of the manner in which police forces are conducted, I know of abuses that can arise in the administration of the police department, and I know that no greater power, no power which will have a greater effect or place more tyrannical power in the head of a police force, can possibly be devised than that given in this little language—the promotions shall be made if "the conduct and attention to duty" shall entitle the privates to it.

The gentleman in charge of this bill states that the members of the force—privates—came before the committee and not a single complaint has been made of abuses under the present system, which I suppose is similar to this. Why, the gentleman must either be unfamiliar with the methods obtaining in police departments, or he has forgotten something about human nature. To imagine any private upon the police force to-day who would come to the committee and say that abuses have existed under such a law is to imagine an impossibility. I do not say they have existed here, but I do not think the gentleman from Kansas will say that it would be impossible for them ever to exist. I can only repeat now, Mr. Chairman, that if at the end of three years' service a private is not entitled by reason of his conduct to a promotion, then he should be dismissed from the force, because he is unfit to remain upon it. [Applause.]

Mr. CAMPBELL of Kansas. Mr. Chairman, I would say in reply I hope that the amendment will not be adopted. This is the way it would read if the amendment were adopted:

Provided, That after three years' service such an officer may be promoted whether his attention to duty has been intelligent and attentive or not, he shall be entitled, in any event after he has served three years, to be promoted and to have increased pay.

Mr. JOHNSON. I will ask the gentleman why if an officer has not been attentive to his duty during the first three years he ought not to be dropped?

Mr. CAMPBELL of Kansas. There may be different degrees in the service. A man may be entitled to promotion, and again he may not be. Now, I call for a vote.

Mr. FITZGERALD. I wish to ask the gentleman a question.

Mr. CAMPBELL of Kansas. Certainly.

Mr. FITZGERALD. If during the three years a private is on the force he is guilty of infractions of the rules or discipline, provision is made in this bill for his punishment, is there not?

Mr. CAMPBELL of Kansas. Oh, yes.

Mr. FITZGERALD. And if his offenses have been sufficiently grave, provision is made that he shall be dismissed?

Mr. CAMPBELL of Kansas. That is true.

Mr. FITZGERALD. Then, in addition to the punishments meted out to meet the particular offense for which he is tried, does the gentleman from Kansas also wish to inflict the additional penalty that he shall be held in this class at the discretion of somebody?

Mr. CAMPBELL of Kansas. I would apply the same rules to him that are applied to everybody in every business throughout the whole country. Unless a man in any service, I do not care what it is, shows some fitness for the service and gives attention to his duty he is not promoted or advanced. He may do just enough to keep within the rules and regulations, to keep from violating the law, and to hold on.

Mr. FITZGERALD. If a man on the police force does not in three years demonstrate his capacity for the service, he should be eliminated, because he is a hindrance and detriment to it.

Mr. CAMPBELL of Kansas. There are degrees of efficiency even among policemen, and we must have some that are very capable and to put up with others who are not so capable.

I ask for a vote, Mr. Chairman.

The CHAIRMAN. The question is on the amendment of the gentleman from New York [Mr. FITZGERALD].

The question being taken, the Chairman announced that the noes appeared to have it.

Mr. FITZGERALD. I ask for a division, Mr. Chairman.

The committee divided; and there were—ayes 11, noes 32.

Accordingly the amendment was rejected.

Mr. HOAR. Mr. Chairman, I offer the amendment which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Massachusetts offers an amendment, which will be reported by the Clerk.

The Clerk read as follows:

On page 2, line 14, after the word "promotion," insert: "*And provided further*, That said officer shall have passed anew the examination required for admission to said force."

Mr. HOAR. Mr. Chairman, if I may have the attention of the committee for a moment, it seems entirely fair that if an officer shall have served only three years on the police force he ought to maintain the same physical standard and the same standard of capacity and intelligence which was required in order to enable him to be admitted to the force. This amendment will prevent retrogression in the physical and intellectual standard required of a police officer, and it will tend to maintain the force in a better condition than if you allow him, without any examination at all, after he has been admitted to the police force, to advance along from one grade to another.

Anybody who has been familiar with the administration of the police force in any city knows that before the candidate passes his entrance examination he puts himself in perfect physical condition; but when he has once entered the force he then has no incentive to make him maintain the efficiency with which he started. The result is that at the end of five years your policeman has dropped down below the physical and mental standard that he should maintain; and I think, in order to maintain this standard of efficiency in the permanent force with which you start, you ought to provide that promotions be accompanied by a new examination.

Mr. CAMPBELL of Kansas. I hope the amendment offered by the gentleman from Massachusetts will not be adopted. That question was fully thrashed out in the hearings before the committee; and a second examination, after a man has undergone a thorough physical examination prior to entering the force, was thought to be unjust and unfair to the officer. I solicit the earnest support of my friend from New York [Mr. FITZGERALD] against this amendment.

Mr. FITZGERALD. I call the gentleman's attention to the fact that my support does not seem to be of very great weight, and I suggest that he appeal to somebody else. [Laughter.]

Mr. CAMPBELL of Kansas. Bring in your leaven and we will appreciate it.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 2, line 14, after the word "promotion," insert the words "*And provided further*, That said officer shall have passed a new examination required for admission to said force."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts.

The question was taken; and on a division (demanded by Mr. HOAR) there were—ayes 14, noes 32.

So the amendment was rejected.

The Clerk read as follows:

PAR. 3. The said Metropolitan police force shall consist of one major and superintendent, who shall continue to be invested with such

and charged with such duties as is provided by existing law; also of one assistant superintendent with the rank of inspector; surgeons for the police and fire departments; three inspectors; captains; twelve lieutenants, one of whom shall be harbor master; such number of sergeants, and privates of class 3, privates of class privates of class 1, mounted inspectors, captains, lieutenants, sergeants, and privates on horses and bicycles, and such others as said commissioners may deem necessary within the appropriations made by Congress: *Provided*, That the inspectors shall perform the duties at present required of captains in the force, that the captains shall command police precincts and perform such duty or duties in connection therewith as the laws and regulations of the said Commissioners may prescribe: *And provided further*, That the said Metropolitan police force shall continue as at present constituted until the offices created herein are filled and promotions are made by said Commissioners as provided in this act.

Mr. MADDEN. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

On page 3, line 9, strike out the words "three inspectors."

Mr. MADDEN. Mr. Chairman, in connection with that I want to say that the District of Columbia has a territorial area of 69 square miles, and its police force consists of 675 members all told. The Federal Government owns one-half of all the real estate in the District. Every park, every square, every circle is owned and controlled by the Federal Government and policed by the Federal Government. The National Capitol and Public Library are policed by the National Capitol police.

The city of Chicago consists of 199 square miles of territory, and its police force numbers about 3,400 men. To command its 3,400 men it has a chief or superintendent, assistant superintendents, four inspectors, sixteen captains, and a lieutenant for every station. We seek in this bill to create a condition which will make the District of Columbia have commanding officers for its 625 men and 69 miles of territory equal to a city of 2,000,000 people with a police force of 3,400 men.

If there is any increase to be made in the force it should be in the rank and file. The men who are already in command of the present force are sufficient in number to command it. The men who are sought to be appointed through this bill would be ornaments in the department, with no practical duties to perform, and the only thing that would be created by their appointment would be an additional expense to the taxpayers of the District of Columbia and of the nation.

It seems to me, Mr. Chairman, that there is some justice in the effort to pay the men additional compensation for their labor, but there is not only no justice but absolutely no reason for the creation of these ornamental positions to which men will be selected because of the influence which they can bring to bear through political channels upon the Commissioners of the District. There is no civil service by which appointments in this District are made. They are made through pull exclusively, particularly to the positions such as these which are sought to be created.

Mr. BEIDLER. How are they made in Chicago?

Mr. MADDEN. They make them there through the civil-service commission. No man is appointed to any place in Chicago in the service of the municipality except upon his passage of a civil-service examination, which entitles him to the place for which he passes that examination. No man is appointed to any place under this District government for any other reason except the influence that he can bring to bear upon the appointing power.

Mr. SIMS. I would like to ask the gentleman a question.

Mr. MADDEN. Very well.

Mr. SIMS. I am not contradicting what the gentleman says, but I want to ask him if he does not think that the very condition which he has described calls for some form of self-government in the District of Columbia by which these things can be avoided?

Mr. MADDEN. The only effort at self-government in this bill is that it seeks to appoint men to ornamental positions, where they will have no duties to perform except to sign the pay rolls.

Mr. SIMS. Does not the gentleman think that the same influence is used to bring about appointments of those who are filling useful positions?

Mr. MADDEN. Undoubtedly. I have no objection to the appointment of men to fill useful positions; I have no objection to the raising of the salaries sought to be increased by this bill.

Mr. CAMPBELL of Kansas. Mr. Chairman, I hope the amendment offered by the gentleman from Illinois will not be adopted. In the reorganization of the Metropolitan police force, we have, it is true, created these three new positions—three inspectors. I will say in regard to them that their position is not ornamental. The offices are not created for the purpose of giving some one a place in which to put a man, but they are to perform the duty of visiting the station houses in the District, to see that the horses and wagons, the harness, the signal system, the buildings and equipments, the uniforms, and supplies of all kinds are in proper form and good condition. They are also to preside at all courts-martial, to cover various matters of miscellaneous character that may be involved in written reports. These inspectors are to be on duty during the nighttime in detail, so that there shall be in each of the twenty-four hours one of them on duty during the whole time.

Mr. MADDEN. One of the four?

Mr. CAMPBELL of Kansas. One of the three. There are three created, not four.

Mr. MADDEN. Will the gentleman allow me to ask him a question?

Mr. CAMPBELL of Kansas. I am now referring to the inspectors.

Mr. MADDEN. The gentleman said the creation of inspectors was necessitated, because they wanted one of the three on duty every one of the twenty-four hours. In other words, I presume they would have three shifts of eight hours each. They are creating four. One of them is an assistant superintendent. What is he to do?

Mr. CAMPBELL of Kansas. I am now referring to the matter of these inspectors. The inspectors are to perform the duties I named.

Mr. MADDEN. What are the captains to do?

Mr. CAMPBELL of Kansas. The ten captains are to have charge of the ten precincts within the District of Columbia.

Mr. MADDEN. What are the lieutenants to do?

Mr. CAMPBELL of Kansas. They are to have charge at night, and the captains to have charge in the daytime.

Mr. MADDEN. Will the gentleman tell the House how many men are on duty in the daytime and how many men on duty at night, and why it requires a captain in the daytime, when only one-half the number are on duty that travel post at night, and one lieutenant at night, when twice that number are on duty?

Mr. CAMPBELL of Kansas. That is the usual practice, the usual method of dividing the force. Now, then, as to the statement made by the gentleman from Illinois [Mr. MADDEN] that the members of the police force in the District of Columbia and the city of Washington are appointed by political pull, I wish to say that if that is true I have no pull. The pull belongs to the gentlemen from Maryland and the gentlemen from Virginia evidently if that is true.

Mr. MADDEN. Well, it is true.

Mr. CAMPBELL of Kansas. But the fact is that it is not true, and that applicants for positions on the police force of the District of Columbia take a civil-service examination by the Civil Service Commission.

Mr. MADDEN. Will the gentleman tell the House whether these inspectors will be obliged to take a civil-service examination?

Mr. CAMPBELL of Kansas. These inspectors are to be appointed out of the membership of the present force.

Mr. MADDEN. Where is that stated in the bill?

Mr. BURTON of Delaware. Has the committee any knowledge of where the police force comes from—to what States they belong?

Mr. CAMPBELL of Kansas. Oh, they come from every State. It is a sort of joke to say that they come from Baltimore and from Virginia.

Mr. WACHTER. Well, they are all right if they do.

Mr. BURTON of Delaware. Is it not a matter of fact that they are appointed by influence from the different States?

Mr. CAMPBELL of Kansas. No, no; that is not true. Not a single man on the force is appointed by political influence.

Mr. BURTON of Delaware. None of them residents of different States?

Mr. CAMPBELL of Kansas. No, sir.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SULZER. Mr. Chairman, I ask unanimous consent that the gentleman's time be extended for five minutes.

The CHAIRMAN. The gentleman from New York asks unanimous consent that the time of the gentleman from Kansas be extended for five minutes. Is there objection?

There was no objection.

Mr. WACHTER. Mr. Chairman, will the gentleman from Kansas make that statement again in which he said that the gentleman from Maryland was mistaken. I did not catch it.

Mr. CAMPBELL of Kansas. I stated in answer to the gentleman from Delaware [Mr. BURTON] that he was mistaken in assuming in his question that members of the Metropolitan Police force of the District of Columbia were appointed because of political influence or to gratify some political pull. It is not

trine. They are appointed after a mental examination by the Civil Service Commission and after a physical examination under the direction of the District Commissioners.

Mr. GROSVENOR. Mr. Chairman, will the gentleman allow me to interrupt him?

The CHAIRMAN. Does the gentleman yield?

Mr. CAMPBELL of Kansas. Yes.

Mr. GROSVENOR. Mr. Chairman, I understood the gentleman to say that the statement that Maryland and Virginia filled these places was a joke, and that thereupon the gentleman from Maryland [Mr. WACHTER] arose and indignantly denied that there was no joke about it. [Laughter.] That was my understanding.

Mr. CAMPBELL of Kansas. I rather think the gentleman from Ohio is right.

Mr. WACHTER. That accounts for the splendid police force that Washington has.

Mr. SULZER. How many men has the gentleman from Maryland on the force?

Mr. WACHTER. Not one.

Mr. SULZER. Then how does it account for it?

Mr. WACHTER. I have been active enough, I guess. Mr. Chairman, Baltimore City is not a village. We have a police force there consisting of 900 members. We have eight police captains and sixteen lieutenants. We have a mounted force and we have a bicycle force. We do not know anything about inspectors in our police department. I remember, so far as the intelligence and character of our police force is concerned, that two Baltimore policemen were selected at the last inauguration to protect President Roosevelt down the Avenue.

Mr. PALMER. That was because they knew the toughs from Baltimore. [Laughter.]

Mr. WACHTER. Yes; and they knew how to take care of them. In our city policemen are drawn from all over the State. Our police force is under the jurisdiction of the State government. We have a civil-service examination, together with a physical examination. We have a marshal and a deputy marshal, and those are the only chief executive officers that we have; and I want to say in all kindness to the gentleman from Kansas that I do not think he has ever had any experience with the Baltimore police force.

Mr. CAMPBELL of Kansas. I never want to have.

Mr. WACHTER. If you will come over I will put you in touch with them. [Laughter.] If the gentleman had ever been in Baltimore and given any attention to the work of our police department, he would have to confess, as I think he will find Major Sylvester will confess, that there is no finer police force in the United States.

Mr. SULZER. Except New York.

Mr. WACHTER. We have a bipartisan commission as far as two Democrats and one Republican can make it bipartisan. [Laughter and applause.] And I am very thankful to say we have a board consisting of the leading citizens of our State, and hence our department is in good hands. I want to say this in conclusion, that if the gentleman from Kansas, by legislation, can bring the department of Washington, without three inspectors, to the standard of the department in Baltimore he will do the city of Washington and the nation a great service. Baltimore stands preeminent in her police department, as I happen to know, because I have been a member of the jail board. We have caught more thieves, burglars, and murderers than any large city in the nation.

Mr. GROSVENOR. How does it happen that they came there?

Mr. WACHTER. Well, they came from Ohio and Kansas, and if they slipped through the hands of your police departments they did not slip through ours.

Mr. GROSVENOR. The gentleman did not get my point. It is not often that a great body of thieves drifts toward a great body of efficient policemen.

Mr. WACHTER. Oh, they do sometimes. The unexpected always happens, Mr. Chairman, that is about all I want to say, and I want to commend my remarks to the gentleman from Kansas in regard to the Washington police force.

Mr. FITZGERALD. Mr. Chairman, the gentleman from Illinois has moved to strike out the provision for three inspectors. I wish to call the attention of the committee to some facts in connection with the present police force. There are to-day 635 privates. Ninety-five of those privates are detailed to special duty, so that the police force consists of 540 men available for police duty in the District of Columbia. This bill provides, to command the 540 men actively engaged in police duty, 1 major and superintendent, 1 assistant superintendent with the rank of inspector, 3 inspectors, 10 captains, 12 lieutenants, and there are now 40 sergeants, so that the 540 privates will have 67 officers to command them. There is no complaint to-day that there are not sufficient officers to do the police work in the district with the exception, perhaps, in the rank of captain. There are ten precincts in the District of Columbia and but 5 captains. One of these captains acts as assistant to the major and superintendent; the other 4 are in command of station houses. Six station houses are commanded by lieutenants, so that so far as the provision in this bill increasing the number of captains is concerned I believe it is proper. It may be necessary that the major and superintendent should have a deputy, but there has been no justification shown for the addition of the three inspectors at $1,800 a year. If they divide the District into three inspection districts, we will then have a major and deputy superintendent and inspector, and three captains in each district. The gentleman from Kansas states that the inspectors are required for two reasons: First, for inspection purposes, and, secondly, to conduct the police trials. In the last year there were 150 police trials, and that would hardly be a burden to some other official in the department. The captains in the precincts are supposed to do a certain amount of inspection and ascertain whether order is kept in their district, whether buildings are inspected, and unless the major and his assistant are to do absolutely nothing except pose as ornaments there can be no necessity for the three inspectors. There is no provision made in this bill for increase in privates, which, it is insisted, are urgently needed. The force that is proposed now is top-heavy. If the officers are authorized it will be necessary to request that these officers be given men to command so that they may have some work to do.

Mr. STEPHENS of Texas. Will the gentleman allow me to ask him a question?

Mr. FITZGERALD. I will.

Mr. STEPHENS of Texas. I will ask if, with the police of the number that there is now, and without any larger number of captains or lieutenants, if it is not the duty of a captain and lieutenant to keep charge of the use of the horses and see that it is properly made, and see that all the property belonging to the city is taken care of, and see all the police force is in the performance of their proper duties? Is it not their duty, also, to do the inspecting required?

Mr. FITZGERALD. There is a private to-day who is detailed as a veterinarian. He is a veterinarian, and he does nothing else than look after the horses of the police department. I do not recollect just now just how many there are, but comparatively few; and he is not overworked, as the investigation conducted in the making up of the bill for the support of the district this year disclosed. Why, with 540 men doing police duty here, they ask 67 officers to command them is beyond my comprehension.

The CHAIRMAN. The time of the gentleman has expired.

Mr. FITZGERALD. I ask unanimous consent that my time be extended for five minutes.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. FITZGERALD. In addition to that, there are in the District of Columbia a number of watchmen in charge of the public buildings, and private policemen in the parks, and if I recollect correctly they number some three hundred and seventy-five. So the police force of the District of Columbia is not burdened with the work of looking after the property of the Government and taking care of the public parks.

Mr. GOULDEN. What are these details, of which you say there are sixty?

Mr. CAMPBELL of Kansas. Ninety-five details.

Mr. WACHTER. Street-crossing policemen.

Mr. FITZGERALD. Street-crossing policemen are additional to the regular force, I might say. I do not know how many there are, but they are appointed by the District Commissioners, but paid for, if I remember the law correctly, by the railroad companies. How many there are of those I do not now remember.

Mr. CAMPBELL of Kansas. Twenty-nine.

Mr. GOULDEN. The abuses always are brought about by the details.

Mr. FITZGERALD. I think there have been some abuses created in the department by details. For instance, they have a private detailed as a printer, doing nothing but the work of a printer at headquarters, and when he serves his allotted time he will retire upon a pension upon the theory that he has performed police duty. They have another detailed as a photographer, who does nothing but take photographs.

Mr. HULL. Does the gentleman not think it is necessary to have a photographer, taking the photographs of thieves and criminals?

Mr. FITZGERALD. In other parts of this country the de-

partments have photographers, but this man is performing the duties of a photographer upon the theory that he is performing police work, and being entitled to a pension after he has worked fifteen years as a photographer.

Mr. GOULDEN. He is doing photographic work as a policeman?

Mr. FITZGERALD. I would not say that that is police duty in the sense.

Mr. HULL. Does not the gentleman know that all of the great cities have photographers in connection with the police force taking the photographs of criminals, and are not some such in the city of New York, and more than one?

Mr. FITZGERALD. We have not got them in the same way, because one of the duties of this photographer is to go out and take photographs of the place where a crime is supposed to have been committed. In my experience, evidence of that character required for the prosecution of criminals is obtained by the prosecuting attorney's office.

Mr. HULL. Is it not true that all the cities under this system of identifying criminals have them photographed, and keep photographers who always take the pictures of all criminals charged with crime?

Mr. FITZGERALD. But whether they are detailed from the force in other cities I do not know.

Mr. GOULDEN. Not in the city of New York.

Mr. FITZGERALD. I do not believe a man who works for fifteen years at police headquarters as a photographer should be retired at a certain percentage of pay upon the theory that he has been performing police duty. But I wish to say in connection with the amendment under discussion that is creating three new inspectors, I say that considering the size of the force and the duties of the force they are absolutely unnecessary, and I hope that the amendment of the gentleman from Illinois, for that reason, striking these three new officers from the bill, will be adopted.

Mr. CAMPBELL of Kansas. Mr. Chairman, I hope that the amendment will not be adopted, because the number of the officers in this police force has been unintentionally exaggerated, I think. The sergeants have all been included in making up the officers, and the sergeants all do regular police duty.

Mr. FITZGERALD. I call the attention of the gentleman to the fact that the sergeants do not all perform regular police duty. They have a number—twenty-nine or thirty, maybe not so many, but a number—of men who are known as "desk sergeants" who do not do police duty.

Mr. CAMPBELL of Kansas. But they take their turns; they perform duties at their desk or in the street, as the case may be.

Mr. FITZGERALD. I beg the gentleman's pardon. The desk sergeant does not perform police duties; they are simply clerks at the station house.

Mr. CAMPBELL of Kansas. There are only sixty-seven officers, including thirty-nine sergeants.

Mr. FITZGERALD. I said that.

Mr. CAMPBELL of Kansas. I ask for a vote.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Illinois.

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. CAMPBELL of Kansas. Division, Mr. Chairman.

The committee divided; and there were—ayes 23, noes 37.

Mr. FITZGERALD. Tellers, Mr. Chairman!

Tellers were refused, fourteen Members, not a sufficient number, rising in support of the demand.

Accordingly, the amendment was rejected.

Mr. MADDEN. Mr. Chairman, I move to amend paragraph 3, page 3, line 9, by inserting the word "four" in lieu of the word "ten," after the word "inspectors."

The CHAIRMAN. The Clerk will read the proposed amendment.

The Clerk read as follows:

On page 3, in line 9, strike out "ten" and insert "four."

Mr. MADDEN. Mr. Chairman, I submit that the creation of ten captains for the force existing in this District would be an unnecessary expenditure of money. The men who do the commanding of the department are the men who are in touch with the rank and file of the department, and these men are the lieutenants.

In a hearing before the Appropriations Committee on District of Columbia matters a day or two ago this question was asked the Commissioner: "How large a proportion of the men in the police department in the District are on duty in the daytime?" Mr. Macfarland, president of the Board of Commissioners of the District of Columbia, answered that during the day there are 300 men on duty doing regular patrol work within the District of Columbia. During the night there are 200 men on duty. This bill seeks to create six additional police captains, and when you ask the gentleman in charge of the bill why it is sought to create them, he says because we want during the day to have a higher ranking commanding officer in charge of the force, or words to that effect. And yet during the hours in which this higher ranking officer is on duty, the lowest number of men are patrolling their beat during any time in the twenty-four hours. The men who give the orders to the patrolmen are the lieutenants. They are the men who map out the work that the patrolmen are called upon to do, and it is to the lieutenants that the sergeants make their reports. The sergeants are the most important men in the police department. They are required to patrol the streets to ascertain whether or not the patrolmen are performing their duty. The sergeant is the man who walks around during the quiet hours of the night to find out whether the patrolman is awake or asleep.

We are told that these additional commanding officers are needed because there is greater danger of depredations in the District, if these men are not appointed to the police force. The commanding officers who come in direct contact with the patrolmen are the men you need more than anybody else. The more efficient your police sergeants are and the greater number you have of them, the more efficient your police force will be. The more captains and the more inspectors you have, the more display you will have, and the less efficiency you will have; the more expense you will have and the less work you will have done. There is no reason why this amendment should not prevail.

Mr. CAMPBELL of Kansas. Mr. Chairman, there are ten precincts in the District of Columbia. The District embraces 70 square miles. There are sixty-eight organized towns and villages besides the city of Washington, within the District. The whole District is divided up into ten precincts, and the purpose in having ten captains is to have one for each of these precincts to be on duty during the daytime, the lieutenants to be on duty at night. The object of the committee in working out this bill was to make of the Metropolitan police force of the District of Columbia one of the best, most efficient, most gentlemanly police forces to be found in America.

Mr. MADDEN. Nobody questions that.

Mr. CAMPBELL of Kansas. And we think it is necessary that there should be a captain on duty during the daytime, maintaining discipline, keeping the men up to a high order of efficiency, exacting the punctual performance of duty, and that there should be lieutenants on duty at night at each of these ten precincts.

Mr. GOULDEN. Why are the captains detailed for day duty and the lieutenants for night duty?

Mr. CAMPBELL of Kansas. That is just a mere matter of custom.

Mr. GOULDEN. I wondered whether it was some established rule.

Mr. CAMPBELL of Kansas. It is so done in New Orleans, in Chicago, and in every other city in the country.

Mr. LOUDENSLAGER. Will the gentleman permit a question?

Mr. CAMPBELL of Kansas. Yes.

Mr. LOUDENSLAGER. These towns in the District that the gentleman from Kansas speaks of—have they any police force of their own?

Mr. CAMPBELL of Kansas. None whatever. They are policed by the Metropolitan police force.

Mr. LOUDENSLAGER. They have no marshals or watchmen?

Mr. CAMPBELL of Kansas. None whatever, except such as are provided by the District of Columbia.

I ask for a vote, Mr. Chairman.

The question being taken on the amendment, the Chairman announced that the noes appeared to have it.

Mr. MADDEN. Division, Mr. Chairman.

The committee divided; and there were—ayes 13, noes 42.

So the amendment was rejected.

Mr. FITZGERALD. Mr. Chairman, in line 9 I move to strike out the word "three" before the word "inspectors" and insert the word "one."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 3, line 9, strike out the word "three" before "inspectors" and insert the word "one."

Mr. CAMPBELL of Kansas. Mr. Chairman, I rise to a point of order. We have passed that and had a vote upon that proposition.

Mr. FITZGERALD. There was a motion made to strike out the three inspectors, but we are still on this paragraph. I be-

lieve it is in order to offer amendments to every part of it, and I have several.

The CHAIRMAN. The Chair thinks it is in order. This is a motion to strike out and insert.

Mr. FITZGERALD. Mr. Chairman, there has been some information given as to the supposed necessity of three inspectors. I think the House by its vote on the previous proposition showed some disposition to doubt the necessity of three inspectors so that the committee may have an opportunity to pass upon this question. This amendment is offered to reduce by two the number proposed in the bill.

Mr. CAMPBELL of Kansas. Mr. Chairman, the object of having three inspectors is so that there will be one inspector on duty on each of the successive shifts of eight hours during the twenty-four.

Mr. FITZGERALD. Mr. Chairman, if that argument holds good there should be two assistant superintendents, so that each of these men can be on duty eight hours. There should be enough captains to have a captain doing duty only eight hours. Here you are providing three high-priced men to do absolutely nothing but remain on duty eight hours a day, while you are leaving the number of privates at the original number, and, as your own report shows, they are compelled to work fourteen hours a day.

Now, if somebody is to be on duty all the time with a superintendent and one assistant, they will have to serve at least twelve hours a day. Why not suggest two assistant superintendents, so that the men will have sixteen hours off out of the twenty-four?

The gentleman evidently is not very familiar with large police forces, or he would not have spoken here of a captain being on duty in the daytime and a lieutenant superseding him during the nighttime. A captain in every well-organized police force is on duty every hour of the twenty-four, except the time when he is off duty for the day.

Mr. CAMPBELL of Kansas. Here he has a day off in the night.

Mr. FITZGERALD. The gentleman from Kansas suggests that the higher officer and superior officer performs police duty during the daytime, when it is least burdensome, and compels his subordinate to serve during the nighttime, when it is most burdensome. There is no necessity in the District of Columbia police force for these inspectors. They are not in the nature of assistant superintendents. I hope the amendment will prevail, as it will reduce the number of inspectors from three to one.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

PAR. 6. The members of the said police force now designated as desk sergeants shall cease to be known as such and shall become privates of class 1 from and after the date this act is to take effect.

Mr. FITZGERALD. Mr. Chairman, I move to strike out the last word, for the purpose of asking the gentleman from Kansas what compensation the desk sergeant now receives. What is the compensation of a desk sergeant now?

Mr. CAMPBELL of Kansas. One thousand three hundred and fifty dollars, as I now remember it. We have not changed it; it is what the present law provides.

Mr. FITZGERALD. Then I call the attention of the gentleman to the fact that this makes a considerable reduction in the salary for the desk sergeant, if he gets $1,350 now. They are, under this bill, to be put in class 1, with a salary of the privates in class 1.

Mr. CAMPBELL of Kansas. Oh, I misunderstood the gentleman. I thought he asked what the salary of the sergeant was. The desk sergeants are privates in class 1 who are detailed to this duty.

Mr. FITZGERALD. And this does not reduce their compensation?

Mr. CAMPBELL of Kansas. No. On the contrary, it automatically increases their compensation.

The Clerk read as follows:

PAR. 7. Police surgeons shall have actually and bona fide resided in the District of Columbia for at least two years next preceding the date of their appointment, and shall be duly qualified according to law for the practice of medicine and surgery in said District, and shall have actively been engaged in the practice of their profession for a period of at least three years next preceding the date of their appointment. Police surgeons shall be members of the said police force and shall be subject to the laws, rules, and regulations for the government, good conduct, discipline, and removal of other officers or members of the said police force. Such police surgeons shall devote their entire time and attention to said police force, attend, without charge, all members of said police force and of the fire department of said District, examine applicants for appointment and retirement in and to said police force and said fire department, and attend such dependent sick and injured and examine and attend such insane or alleged insane persons as may be taken in charge by said police, and shall perform such other duties as the said Commissioners may direct.

Mr. FITZGERALD. Mr. Chairman, I wish to call the attention of the gentleman from Kansas to this fact: The present police surgeons are also surgeons of the fire department.

Mr. CAMPBELL of Kansas. The present surgeons, four in number, get a compensation of $45 a month, and as such are practicing physicians who are designated for that service. This bill creates three surgeons who shall give their entire time and attention to the service.

Mr. FITZGERALD. What happens to these others?

Mr. CAMPBELL of Kansas. They are dispensed with.

Mr. FITZGERALD. What happens to the fire department?

Mr. CAMPBELL of Kansas. These surgeons attend to the fire department and the police force just the same as now. If the gentleman will look at line 6, on page 7, he will see that provision is made for that.

The Clerk read as follows:

PAR. 8. The salaries of the officers and members of the Metropolitan police of the District of Columbia herein provided shall commence with the fiscal year beginning July 1, 1907, and shall continue thereafter annually, unless changed by Congress, as follows: The major and superintendent shall receive an annual salary of $4,000; the assistant superintendent shall receive an annual salary of $2,500; inspectors shall each receive an annual salary of $1,800; police surgeons shall each receive an annual salary of $1,800; captains shall each receive an annual salary of $1,500; lieutenants shall each receive an annual salary of $1,320; sergeants shall each receive an annual salary of $1,250; privates of class 3 shall each receive an annual salary of $1,200; privates of class 2 shall each receive an annual salary of $1,080; privates of class 1 shall each receive an annual salary of $900; members of said police force who may be mounted on horses shall each receive an extra compensation of $240 per annum, and members of said force who may be mounted on bicycles shall each receive an extra compensation of $50 per annum.

Mr. CAMPBELL of Kansas. Mr. Chairman, I offer the following committee amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Line 16, page 7, strike out the word "seven" and insert the word "six."

Mr. CAMPBELL of Kansas. Mr. Chairman, this is a mere typographical error in the bill.

The CHAIRMAN. If there is no objection, the amendment will be considered as agreed to.

There was no objection, and the amendment was agreed to.

Mr. MADDEN. Mr. Chairman, I move to amend paragraph 8, page 7, lines 18 and 19, after the word "of," by striking out the words "four thousand dollars" and inserting the words "three thousand five hundred dollars."

Mr. CAMPBELL of Kansas. Mr. Chairman, we make no change in this. This is the same salary that the major has been receiving for many years. I hope the committee will vote down the amendment.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Illinois.

The question was taken, and the amendment was rejected.

The Clerk concluded the reading of the bill.

Mr. CAMPBELL of Kansas. Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

The CHAIRMAN. The question is on laying the bill aside with a favorable recommendation.

The question was taken, and the motion was agreed to.

ADDITIONAL TERMINAL FACILITIES AT THE UNION STATION.

Mr. SAMUEL W. SMITH. Mr. Chairman, I call up the bill (H. R. 9329) to amend an act approved February 28, 1903, entitled "An act to provide for a union station in the District of Columbia, and for other purposes," which I send to the desk and ask to have read.

The Clerk read as follows:

Be it enacted, etc., That to provide adequate facilities for handling mail, baggage, express, and other business or matter carried on passenger trains, the Washington Terminal Company be, and it is hereby, authorized to locate, construct, maintain, and operate tracks, switches, sheds, and other structures and facilities in and upon the parts of squares Nos. 719 and 720 lying and being between the eastern line of the terminal area, as described in said Union Station act of February 28, 1903, and the western building line of Second street east; and said terminal company is hereby authorized to acquire, by purchase or condemnation, as provided in said Union Station act of February 28, 1903, the lands and property in said squares as above mentioned; and to accomplish the purposes of this act, in addition to the streets vacated, abandoned, and closed by the provisions of the said Union Station act of February 28, 1903, and the acts therein referred to, and in accordance with the provisions thereof, the following-named streets and alleys, to wit, Chicago street and G street and all public alleys in said squares, shall be vacated, abandoned, and closed from the southern line of the said terminal area to the western building line of said Second street east: *Provided*, That said terminal company be authorized to acquire, by purchase or condemnation, as provided above, all the lands and property in square 721 lying between the eastern line of the said terminal area and the western building line of Second street and between F street and the east-and-west public alley between F

street and California street: *And provided further*, That the said terminal company shall dedicate to the District of Columbia sufficient land for a street 60 feet wide on the east side of said terminal area from F street to California street: *And provided further*, That, except as modified by this act, all provisions of the aforesaid Union Station act of February 28, 1903, and of the acts therein referred to, shall apply to the structures and tracks authorized herein.

SEC. 2. That Congress may at any time amend or repeal this act.

With the following amendment:

On page 3 insert the following additional section:

SEC. 2. That on and after January 1, 1908, the provisions of the act of Congress approved February 2, 1899, entitled "An act for the prevention of smoke in the District of Columbia, and for other purposes," and all acts, and are hereby, extended to apply to any and all steam locomotive engines of any description used on any steam railroad within the District of Columbia; and any officer, agent, or employee of any individual, firm, or corporation operating any steam locomotive engine or any steam railroad within the District of Columbia from the smokestack of which engine shall issue or be emitted dense or thick black smoke or cinders after the date above mentioned shall be deemed and held guilty of creating a public nuisance and violating the provisions of said act.

Mr. SAMUEL W. SMITH. Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

Mr. STAFFORD. Mr. Chairman, before the motion is put, I would like the gentleman to explain the bill, and particularly that part which refers to this company handling the mails.

Mr. SAMUEL W. SMITH. Mr. Chairman, I yield to the gentleman from Pennsylvania [Mr. MORRELL].

Mr. MORRELL. Mr. Chairman, I am not aware that there are any provisions in the bill to authorize any new company to handle the mails.

Mr. STAFFORD. It is stated in lines 3 and 4 of the bill, "to provide adequate facilities for handling mail, baggage, and express." I did not know that any private corporation was going to be authorized or necessary to be authorized to handle the mails.

Mr. MORRELL. Oh, that simply refers to facilities which are necessary for the United States postal authorities, according to the statement made by General Shallenberger, the Second Assistant Postmaster-General, to handle the United States mails, for the reason that the facilities originally provided in the Union Station were not, as the work progressed, found to be sufficient. For this reason the terminal company acquired the land described in the bill, so as to give the United States postal authorities the accommodation that they desired.

Mr. STAFFORD. Then no private company is going to handle the mails?

Mr. MORRELL. Oh, no.

Mr. STAFFORD. Other than as it is handled to-day by the railroads?

Mr. MORRELL. Absolutely.

Mr. CRUMPACKER. Will the gentleman explain the effect and meaning of this law—what it is proposed to accomplish by the law, and what reform this bill will bring about?

Mr. MORRELL. Mr. Chairman, this simply allows the railroad company to acquire a certain amount of ground adjoining the new terminal station. The subcommittee visited and went very carefully over the situation. The railroad companies to-day own 96 per cent of the ground that is necessary.

Mr. CRUMPACKER. By purchase.

Mr. MORRELL. They have already purchased it. It also grants them the privilege that they asked of closing up certain blind streets, and in return for that the District of Columbia is saved all the money which would have been claimed for damages by reason of the raising of the grade of these streets. In other words, the present owners of this property, who are now the railroad companies, waive all damages for the raising of the grade of these streets.

Mr. CRUMPACKER. Of course the railroad companies have the power to acquire any property under the right of eminent domain, excepting the streets.

Mr. MORRELL. Yes; the bill so provides.

Mr. CRUMPACKER. This contains a grant of certain public streets.

Mr. MORRELL. Well, yes. What are the blind portions of these streets? These streets, as the situation is to-day, run up against the wall of the viaduct.

Mr. CRUMPACKER. They would be of no public utility?

Mr. MORRELL. Absolutely none.

Mr. CRUMPACKER. And where does the title to the soil go under the law here—in the adjoining lot owners?

Mr. MORRELL. As all other streets do in the District.

Mr. CRUMPACKER. Have the companies already secured title to the lots abutting on those streets?

Mr. MORRELL. On all of those properties which abut on these streets that are now practically blind streets.

Mr. CRUMPACKER. So the effect of this bill is simply to vacate a part of a public street and authorize the railroad company to use the right that the public now has in that street for depot purposes?

Mr. MORRELL. Exactly.

Mr. CRUMPACKER. And that is the only effect of the bill?

Mr. MORRELL. That is the only effect of the bill. The railroads already own 96 per cent of the property.

Mr. CRUMPACKER. And the street already having become practically valueless as a public thoroughfare?

Mr. MORRELL. Absolutely valueless. Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

The CHAIRMAN. If there be no objection, the question will now be taken upon the committee amendment, without reading the bill by paragraphs. [After a pause.] The Chair hears none. The question is on agreeing to the committee amendment.

The question was taken, and the amendment was agreed to.

The CHAIRMAN. The question now is on laying the bill aside with a favorable recommendation.

The question was taken, and the motion was agreed to.

EXTENSION OF M STREET EAST OF BLADENSBURG ROAD.

Mr. SAMUEL W. SMITH. Mr. Chairman, I call up the bill H. R. 15740.

The CHAIRMAN. The Clerk will report the bill.

The Clerk read as follows:

A bill (H. R. 15740) amending an act entitled "An act for the extension of M street east of Bladensburg road, and for other purposes," approved March 3, 1905.

Be it enacted, etc., That section 2 of the act entitled "An act for the extension of M street east of Bladensburg road, and for other purposes," approved March 3, 1905, be, and the same is hereby, amended so that it shall read as follows:

"SEC. 2. That the entire amount found to be due and awarded as damages for and in respect of the land condemned for the extension of M street as herein provided shall be assessed by the jury hereinafter provided for as benefits, and to the extent of such benefits, against those pieces or parcels of land on each side of said street as extended, and also on any or all pieces or parcels of land which will be benefited by the extension of said street as said jury may find said pieces or parcels of land will be benefited, and in determining the amounts to be assessed against said pieces or parcels of land the jury shall take into consideration the respective situations of such pieces or parcels of land and the benefits they may severally receive from the extension of said street as aforesaid, and the verdict of said jury shall also be for a sufficient sum to cover all the costs of the condemnation proceedings herein provided for."

Mr. SAMUEL W. SMITH. Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

Mr. CRUMPACKER. Mr. Chairman, I want to ask the gentleman a question. This bill simply provides for the extension of a street——

Mr. MORRELL. No; the opening of the street has already been provided for. In that opening there was a proviso that those who had dedicated would be exempt from assessment for benefits. Now, the committee is very much opposed to any such exemption as that, and this bill strikes out that proviso in the original bill. In other words, all who are benefited, whether they dedicated their property or not, will be assessed for benefits.

Mr. CRUMPACKER. Now, let us understand that. The original bill provided that all those through whose land the street was extended and who dedicated the land for the street should not be charged with benefits on account of the location of the street.

Mr. MORRELL. Yes.

Mr. CRUMPACKER. Now, a number of people have dedicated their land, and the street is already opened.

Mr. MORRELL. No; the street has not been opened through a portion of this land that the bill affects.

Mr. CRUMPACKER. A number of property owners have already dedicated property, however, have they not?

Mr. MORRELL. I imagine they have; yes.

Mr. CRUMPACKER. Do you believe that, after a law has been enacted——

Mr. MORRELL. I would like to reply to the gentleman from Indiana that the courts have set aside the verdicts in relation to the opening of this street on account of the manifest injustice of the award of the jury. To my mind, it is one of the most vicious practices that ever was enacted in the way of legislation—namely, the giving an exemption from assessments for benefits for simply dedicating a piece of land through which a street was to run. It is absolutely unfair to those who do not dedicate and to the taxpayers of the District at large.

Mr. CRUMPACKER. It seems to me it is altogether likely the gentleman's criticism of that practice is a just one, but it seems to me that ought to have been made at the time the original law was passed. The law provided for the extension of this street, and it provided likewise that those who owned lands through which the street was to be extended should be exempt from the payment of benefits if they dedicated their

lands to the public. Now, many of them acted upon that and made dedications. Now, I understand you propose by a law to take from them the benefit that would result from their dedication and charge them with assessments nowithstanding that fact. Does the gentleman believe that can be done, and have not vested rights now under that law?

Mr. MORRELL. I personally am of the opinion that they would have. It would depend entirely on the extent to which the dedication has gone, whether they have actually made this dedication or whether the court would construe that the fact of that privilege existing in the law would be notice to them that they could take advantage of it. It was, however, the thought of the committee that, in view of the decision of the court setting aside this verdict of the jury, that the committee should thus reproceed, as it were, as far as this street was concerned.

Mr. CRUMPACKER. This bill does not undertake to vacate and cancel anything that has been done heretofore in the way of locating that street and securing a right of way. If you would do that and put the property owners back where they were originally so they could prosecute claims for damages for the land actually taken by the public, and perhaps for incidental damages to other property, and then subject them to the usual charges for benefit, then you would have a different standing, it seems to me, in the Congress for the passage of this bill; but having passed the original law and having promised these property owners that the dedication would exempt them from assessment for benefits, and many of them doubtless having acted upon that and made the dedication, it seems to me to be without the power of Congress now to rescind that action. These people have vested rights unless the whole street should be dedicated and the committee action taken in connection therewith be rescinded and the parties placed absolutely in statu quo.

Mr. MORRELL. I agree with the gentleman perfectly as far as the law and justice of his criticism are concerned, and I say it was the understanding of the committtee and the judgment of the committee that, in view of this whole proceeding practically having been set aside by the court, they could then put such conditions upon the bill or upon the opening of the street when this new assessment should be made that there would not be the manifest injustice there was in the first instance.

Mr. CRUMPACKER. Well, now, does your bill provide, in making assessments for benefits, that the Commissioners shall take into consideration the value of the property that these men have dedicated?

Mr. MORRELL. Oh, yes.

Mr. CRUMPACKER. That is expressly provided for in the bill?

Mr. MORRELL. Yes.

Mr. CRUMPACKER. Well, I do not like the legislation. I think we made a mistake in the first instance.

Mr. MORRELL. I agree with the gentleman there. I think the most absolute outrage ever perpetrated upon any community was the manner in which some of the streets have been opened in the District of Columbia.

Mr. GOULDEN. This has the approval of the Commissioners.

Mr. MORRELL. It has the approval of the Commissioners. I ask that the bill be laid aside with a favorable recommendation.

The CHAIRMAN. Without objection, the second reading of the bill will be dispensed with.

There was no objection.

The bill was ordered to be laid aside with a favorable recommendation.

PUBLIC CREMATORIUM IN THE DISTRICT OF COLUMBIA.

Mr. SAMUEL W. SMITH. I now call up the bill H. R. 14578.

The bill was read, as follows:

A bill (H. R. 14578) to provide for the establishment of a public crematorium in the District of Columbia, and for other purposes.

Be it enacted, etc., That whenever the dead body of any person who has died from smallpox, Asiatic cholera, typhus fever, the plague, leprosy, glanders, scarlet fever, diphtheria, or epidemic cerebro-spinal meningitis comes into the custody of any officer, employee, or agent of the District of Columbia to be disposed of at public expense, said officer, employee, or agent shall cause said body to be incinerated.

SEC. 2. That the Commissioners of the District of Columbia be, and they are hereby, authorized and directed to erect and operate on reservation 13, commonly known as the Washington Asylum grounds, in the city of Washington, in said District, a crematorium of size sufficient for the incineration of all bodies that can not, except at public expense, be disposed of within a reasonable time after death, and for the incineration of such other bodies as may be presented for that purpose by the persons having custody thereof. Said Commissioners are hereby authorized to make and enforce all rules necessary for the proper maintenance and operation of said crematorium, and to prescribe and collect for the incineration of bodies not necessarily disposed of at public expense fees in such amounts as may be required to defray the cost of incineration: *Provided*, That in any case the Commissioners may, by special order, waive or reduce the usual charges when, in the opinion of said Commissioners, to enforce such charges would be burdensome or oppressive upon the person or persons responsible for the disposal of the remains. All fees collected under the provisions of this act shall be paid to the collector of taxes of the District of Columbia, and be deposited by him in the Treasury of the United States, one-half to the credit of the United States and one-half to the credit of the District of Columbia.

SEC. 3. That nothing in this act shall be construed as repealing or in any way modifying any of the provisions of an act entitled "An act for the promotion of anatomical science and to prevent the desecration of graves in the District of Columbia," approved April 29, 1902.

SEC. 4. That for the construction of a crematorium on reservation 13, in the city of Washington, in the District of Columbia, and of all necessary approaches thereto, and for all necessary grading and fencing, for the equipment of said crematorium, and for the maintenance and operation of said crematorium until the 30th day of June next following its completion, there be, and is hereby, appropriated the sum of $15,000 out of any money in the Treasury not otherwise appropriated, one-half payable out of the funds of the United States and one-half out of the funds of the District of Columbia.

Mr. SAMUEL W. SMITH. I move that the bill be laid aside with a favorable recommendation.

The CHAIRMAN. Without objection, the second reading of the bill will be dispensed with.

There was no objection.

The bill was ordered to be laid aside with a favorable recommendation.

BURIAL SITES IN CONGRESSIONAL CEMETERY.

Mr. SAMUEL W. SMITH. Mr. Chairman, I call up the bill H. R. 5972.

The bill was read, as follows:

A bill (H. R. 5972) granting the right to sell burial sites in parts of certain streets in Washington City to the vestry of Washington parish for the benefit of the Congressional Cemetery.

Be it enacted, etc., That the right to sell for burial sites those parts of Eighteenth and Nineteenth streets east which lie between the south side of G street south and the north side of Water street, and also those parts of south G and south H streets which lie between Seventeenth and Twentieth streets east, being the same which have been inclosed and included within the limits of the Washington cemetery, generally known as the Congressional Cemetery, under the provisions of the act of Congress approved May 18, 1858, Eleventh Statutes at Large, page 289, be, and the same is hereby, granted by the United States to the vestry of Washington parish in the District of Columbia, such burial sites to be held, used, and disposed of by the said vestry for the purpose of caring for and improving the said cemetery and for no other purpose; and the second proviso of the first section of said act be and the same is hereby, repealed: *Provided*, That no part of the roadways now laid out and established upon the said streets within the boundaries of the said cemetery shall be included in such sales, but the same shall be preserved and maintained in good order for all time.

SEC. 2. That the proceeds of such sales shall be devoted solely to the care, improvement, and adornment of the said cemetery; and the said vestry shall have the power to remove from any part of said cemetery any stones or cenotaphs under which no body or bodies are interred, and in consideration of the grant hereby made the said vestry shall care for, protect, and preserve in good order that portion of the cemetery in which Members of Congress and officers of the Government are or shall hereafter be buried, the privilege to the Government to bury deceased Members of Congress and officers of the Government being hereby expressly reserved.

SEC. 3. That for the purposes and subject to the limitations prescribed in the preceding sections the provisions of section 2 of the act of Congress approved July 25, 1848 (9 Stat. L., p. 250), are extended and made to apply to all streets and parts of streets east of Seventeenth street and south of E street south passing between any squares owned or possessed by the said vestry: *Provided*, That said provision shall not apply to any part of the grounds attached to the Washington Asylum.

SEC. 4. That before any provision of this act concerning any public street or part thereof shall go into effect the said vestry shall file in the office of the commissioner of public buildings and grounds a duly certified copy of its resolution or order accepting the provisions of this act, and agreeing to comply with the requirements of the second section; and also file in the office of the Commissioners of the District of Columbia a grant to said Commissioners of the right to enter upon the grounds of said cemetery for the maintenance and repair of the public sewer through said cemetery.

SEC. 5. That on the abandonment of this cemetery for cemetery purposes all right to the use of the streets herein referred to shall revert, without cost, to the United States, anything in this act to the contrary notwithstanding.

The amendments recommended by the committee were read, as follows:

Page 3, line 9, strike out the word "commissioner" and insert the word "superintendent."

Page 3, line 13, strike out the word "District."

Page 3, line 17, strike out the period and insert a comma and add the following: "and for the purpose of locating and maintaining a public sewer or water main within the limits of the streets hereinnamed."

Mr. SAMUEL W. SMITH. I move that the bill be laid aside with a favorable recommendation.

The CHAIRMAN. Without objection, the second reading of the bill will be dispensed with.

There was no objection.

The amendments recommended by the committee were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

WASHINGTON MARKET COMPANY.

Mr. SAMUEL W. SMITH. I now call up the bill H. R. 15441.

The bill was read, as follows:

A bill (H. R. 15441) to amend an act entitled "An act permitting the Washington Market Company to lay a conduit and pipes across Seventh street west," approved February 23, 1905.

Be it enacted etc., That section 1 of the act entitled "An act permitting the Washington Market Company to lay a conduit and pipes across Seventh street west," approved February 23, 1905, be, and the same is hereby, amended to read as follows:

"That the Washington Market Company is hereby authorized to lay a conduit and pipes from Center Market eastward across and under Seventh street west, for refrigerating purposes, under the following conditions, namely: The conduit and pipes therein shall be laid in a straight line, and at a right angle to the building lines of said Seventh street, to the west building line of square No. 461 of the city of Washington, and from and near the intersection of said conduit with the west building line of said square the said conduit and pipes may be continued through excavations to be made under the sidewalks on the west and south sides of said square in directions parallel to said sides, respectively, and under the pavement of the alley in said square 461, with such service pipe and connections extending to buildings on said square as said Washington Market Company may think proper. They shall be located as directed by the Commissioners of the District of Columbia, and be laid under their inspection; and the cost of such inspection, together with the cost of replacing the pavement, curbs, and sidewalks disturbed in connection with said work, shall be paid in advance by the Washington Market Company. The conduit and pipes shall be used for no other purpose than refrigeration for the use of persons engaged in said square No. 461 in the traffic in meat and other articles of market produce; and the said company shall not rent or sell the said conduit or pipes, or any part thereof, but may sell for a time not to exceed twelve months at any one sale, the use of the fluid transmitted."

The amendment recommended by the committee was read, as follows:

Add a new section, as follows:

"SEC. 2. That said Washington Market Company shall make affidavit to the board of personal tax appraisers on or before the 1st day of August each year as to the amount of its gross earnings for the preceding year ending the 30th day of June from the conduit or conduits herein authorized to be laid and shall pay to the collector of taxes of the District of Columbia the sum of 4 per cent per annum on such gross earnings."

Mr. CRUMPACKER. Mr. Chairman, I think we ought to have an explanation of this bill.

Mr. SAMUEL W. SMITH. I yield to the gentleman from New York [Mr. OLCOTT].

Mr. OLCOTT. Mr. Chairman, I will say in regard to this bill that during last session of Congress there was a permit given to the Washington Market Company to lay a conduit to conduct refrigerating material across Seventh street, but there was no permission given them to cross underneath the sidewalk to the house line; and this bill is to correct that error. An amendment other than that has been the addition of section 2, which provides for a proper return by the Washington Market Company by payment of 4 per cent of their gross revenue. It is for refrigerating purposes.

Mr. CRUMPACKER. Now, does the Market Company sell or lease the privilege of using this conduit to other people?

Mr. OLCOTT. To people directly across the square, opposite the market. They already have that privilege under an act of Congress.

Mr. CRUMPACKER. And it is used by these other people, for what?

Mr. OLCOTT. For refrigerating purposes entirely.

Mr. CRUMPACKER. Oh.

Mr. OLCOTT. The people connected with the market whose stores are opposite the market need refrigerating facilities, and this bill will enable the market company to supply their needs.

Mr. CRUMPACKER. I got the wrong impression of the purpose. I thought it was in the nature of a private sewer. It is for the purpose of refrigerating.

Mr. OLCOTT. Refrigeration entirely. And then, in addition this amendment to the bill passed last session provides for the payment to the Government of 4 per cent on their gross earnings.

Mr. SAMUEL W. SMITH. I move that the bill be laid aside with a favorable recommendation.

The CHAIRMAN. Without objection, the second reading of the bill will be dispensed with.

There was no objection.

The amendment recommended by the committee was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

Mr. SAMUEL W. SMITH. I move that the committee do now rise and report the bills favorably to the House.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. LACEY, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration sundry bills and had directed him to report the bills H. R. 14578 and H. R. 15740 without amendments, with the recommendation that they do pass, and the bills H. R. 16484, H. R. 9329, H. R. 5972, and H. R. 15441 with amendments, with the recommendation that the amendments be agreed to, and that the bills as amended do pass.

HOUSE BILLS WITHOUT AMENDMENTS.

The following House bills, reported from the Committee of the Whole House on the state of the Union without amendments, were severally ordered to be engrossed for a third reading; and being engrossed, were read the third time, and passed:

H. R. 15740. A bill amending "An act for the extension of M street east of Bladensburg road, and for other purposes," approved March 3, 1905; and

H. R. 14578. A bill to provide for the establishment of a public crematorium in the District of Columbia, and for other purposes.

HOUSE BILLS WITH AMENDMENTS PASSED.

In the following House bills, reported from the Committee of the Whole with amendments, the amendments were severally considered and agreed to, the bills as amended ordered to be engrossed for a third reading; and being engrossed, were accordingly read the third time, and passed:

H. R. 16484. A bill to amend section 1 of an act entitled "An act relating to the Metropolitan police of the District of Columbia," approved February 28, 1901;

H. R. 9329. A bill to amend an act approved February 28, 1903, entitled "An act to provide for a Union Station in the District of Columbia, and for other purposes;" and

H. R. 5972. A bill granting the right to sell burial sites in parts of certain streets in Washington City to the vestry of Washington Parish for the benefit of the Congressional Cemetery.

WASHINGTON MARKET COMPANY.

The next bill reported from the Committee of the Whole House on the state of the Union was the bill (H. R. 15441) to amend an act entitled "An act permitting the Washington Market Company to lay a conduit and pipes across Seventh street west," approved March 23, 1905.

The amendment recommended by the Committee of the Whole was agreed to.

Mr. SAMUEL W. SMITH. Mr. Speaker, I ask to take from the Speaker's table the Senate bill 4833, which is identical with the House bill just now reported, and the amendments to which have just been agreed to, and ask that it be substituted for the House bill.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The Senate bill was ordered to a third reading; and it was accordingly read the third time, and passed.

The SPEAKER. Without objection, the House bill will lie on the table.

There was no objection.

On motion of Mr. SAMUEL W. SMITH, a motion to reconsider the votes by which the several bills were passed was laid on the table.

CONTRACTS WITH THE DISTRICT OF COLUMBIA.

The SPEAKER laid before the House the bill (H. R. 127) regulating the retent on contracts with the District of Columbia, with Senate amendments thereto.

The Senate amendments were read.

Mr. SAMUEL W. SMITH. Mr. Speaker, I move to concur in the Senate amendments.

The motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had passed without amendment bills of the following titles:

H. R. 4463. An act to amend section 2 of an act entitled "An act to provide for the appointment of a sealer and assistant sealer of weights and measures in the District of Columbia, and for other purposes;"

H. R. 4470. An act to amend an act entitled "An act to provide for the appointment of a sealer of weights and measures in the District of Columbia, and for other purposes," approved March 2, 1895;

H. R. 13842. An act to amend an act entitled "An act to incorporate The Eastern Star Home for the District of Columbia," approved March 10, 1902; and

H. R. 14813. An act to amend an act approved March 1, 1905, entitled "An act to amend section 4 of an act entitled 'An act relating to the Metropolitan police of the District of Columbia,'" approved February 28, 1901.

The message also announced that the Senate had passed without amendment the following resolution:

Resolved by the House of Representatives (the Senate concurring), That the President be, and hereby is, requested to return to the House the bill (H. R. 431) to open for settlement 565,000 acres of land in the Kiowa, Comanche, and Apache Indian reservations in Oklahoma Territory.

The message also announced that the Senate had insisted upon its amendments to the bill (H. R. 14171) making appropriations for fortifications and other works of defense, for the armament thereof, for the procurement of heavy ordnance for trial and service, and for other purposes, disagreed to by the House of Representatives, had agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. PERKINS, Mr. WARREN, and Mr. DANIEL as the conferees on the part of the Senate.

The message also announced that the Senate had disagreed to the amendment of the House of Representatives to the bill (S. 2899) granting authority to the Secretary of the Navy, in his discretion, to dismiss midshipmen from the United States Naval Academy, and regulating the procedure and punishment in trials for hazing at the said academy, had asked a conference with the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. HALE, Mr. DICK, and Mr. TILLMAN as the conferees on the part of the Senate.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States, for his approval, the following bills and joint resolution:

H. J. Res. 117. An act extending the time for opening to public entry the unallotted lands on the ceded portion of the Shoshone or Wind River Indian Reservation, in Wyoming;

H. R. 12845. An act to consolidate the city of South McAlester and the town of McAlester, in the Indian Territory; and

H. R. 15848. An act authorizing the sale of timber on the Jicarilla Apache Indian Reservation for the benefit of the Indians belonging thereto.

SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 4300. An act to amend section 4414 of the Revised Statutes of the United States, inspectors of hulls and boilers of steam vessels—to the Committee on Interstate and Foreign Commerce.

S. 2769. An act to divide Nebraska into two judicial districts—to the Committee on the Judiciary.

S. 1916. An act to provide for filling in that portion of the naval station at Honolulu, Hawaii, known as the "Reef"—to the Committee on the Territories.

S. 4426. An act to amend section 927 of the Code of Law for the District of Columbia, relating to insane criminals—to the Committee on the District of Columbia.

S. 4339. An act to amend section 4502 of the Revised Statutes of the United States, relating to bonds and oaths of shipping commissioners—to the Committee on the Merchant Marine and Fisheries.

MILK AND CREAM BOTTLES.

Mr. SAMUEL W. SMITH. Mr. Speaker, I call up the bill (H. R. 16944) to amend section 878 of the Code of Law for the District of Columbia.

The bill was read, as follows:

Be it enacted, etc., That section 878 of the Code of Law for the District of Columbia be, and the same is hereby, amended by adding thereto the following:

"SEC. 878a. That the following words shall, in addition to their ordinary meaning, have the meaning herein given: The word 'person' or 'persons,' in sections 878 b, c, d, e, and g, inclusive, shall include 'firms' or 'corporations;' the word 'vessel' or 'vessels,' in sections 878 b, c, d, and e, shall include 'cans,' 'bottles,' 'siphons,' and 'boxes;' the word 'mark' or 'marks' shall include 'labels,' 'trade-marks,' and all other methods of distinguishing ownership in vessels, whether printed upon labels or blown into bottles or engraved and impressed upon cans or boxes.

"SEC. 878b. That persons engaged in producing, manufacturing, bottling, or selling milk or cream, or any other lawful beverage composed principally of milk in vessels with their name, trade-mark, or other distinctive mark, and the word 'registered' branded, engraved, blown, or otherwise produced thereon, or on which a pasted trade-mark label is put upon which the word 'registered' is also distinctly printed, may file with the clerk of the supreme court of the District of Columbia a description by facsimile, or a sample of an original package so marked or branded or blown, showing plainly such names and marks thereon, together with their name in full, or their corporate name, and also their place of business in the District of Columbia, and shall cause the same to be published for not less than two weeks successively in a daily or weekly newspaper published in the District of Columbia.

"SEC. 878c. That whoever fills with milk or cream, or with any preparation of milk lawfully allowed to be sold in vessels, with intent to sell the same, any vessel so marked or distinguished as aforesaid, the description of which has been filed and published as provided in section 878b, or defaces, erases, covers up, or otherwise moves or conceals any such name or mark, or the word 'registered' thereon, or sells, buys, gives, takes, or otherwise disposes of or traffics in the same without the written consent of, or unless the same has been purchased from the person whose name is in or upon the vessel so filled, defaced, transferred, or otherwise used or disposed of, shall, for the first offense, be punished by a fine of not less than 50 cents for each of said vessels so filled, imprisonment for not less than ten days nor more than one year, or both such fine and imprisonment; and for each subsequent offense a fine of not less than $1 nor more than $5 for each such vessels or by imprisonment for not less than twenty days nor more than one year.

"SEC. 878d. That the use, by any person not lawfully engaged in the production of milk or cream or the bottling or the selling of the same or of any other beverages composed mainly of milk and intended to be sold in the District of Columbia of any vessel marked or distinguished as aforesaid, the description of which has been filed and published, as provided in section 878b, without the written consent or purchase from the owner thereof, or the buying, selling, disposing of, or trafficking in such vessels by such person without such written consent or purchase, or the possession by any junk dealer or dealer in any such vessels without the written consent of or purchase from the owner thereof, shall be prima facie evidence of unlawful use, possession of, or traffic in the same, and shall be subject, upon conviction, to the same penalties as are prescribed under section 3.

"SEC. 878e. That upon complaint of a person who has complied with section 878b, or of his agent, to a court having jurisdiction of such offenses in the District of Columbia, that he has reason to believe and does believe, that any of the provisions of this act have been violated by any person within the District of Columbia, the court may issue a search warrant to discover and obtain vessels and their contents and may also cause to be brought before him the person or his agent or employee in whose possession or upon whose wagon or premises such vessels may be found; and if said court or justice finds that such person has been guilty of a violation of any of the provisions of this act, or of he shall impose the penalty prescribed in the section or sections so violated and shall also order the property taken upon such search warrant to be delivered to the owner.

"SEC. 878f. That the clerk of the supreme court of the District of Columbia is hereby authorized to make regulations and prescribe forms for the filing of labels, trade-marks, or other distinctive marks under the provisions of the foregoing amendments to section 878."

SEC. 7. That nothing in the foregoing amendments to section 878 shall prevent or restrain any person who is the legal owner of a trade-mark or label from proceeding in an action of tort against any person found guilty of violating any subsection of section 878.

Mr. SAMUEL W. SMITH. Mr. Speaker, I yield to the gentleman from Kansas [Mr. CAMPBELL], who desires to offer an amendment.

Mr. CAMPBELL of Kansas. Mr. Speaker, I want to offer an amendment, in line 24, page 4, instead of "7," to insert "878g."

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

In line 24, on page 4, strike out "7" and insert "878g."

Mr. CRUMPACKER. Mr. Speaker, I should like to know what this bill is about and what it purposes to accomplish—what changes it makes in existing law, if the gentleman will explain briefly.

Mr. CAMPBELL of Kansas. The purpose of this bill is to extend the protection now given to persons dealing in such liquids as beer and other drinkables of that character to those who sell milk. The purpose is to protect the bottles from theft and from unauthorized use by other people.

Mr. CRUMPACKER. Is it not a crime now to steal milk bottles?

Mr. CAMPBELL of Kansas. No.

Mr. CRUMPACKER. Are they not property?

Mr. CAMPBELL of Kansas. That is to say, the milk dealers' association represented to the Committee on the District of Columbia that they had absolutely no protection against the unauthorized use of their bottles by their competitors, and they brought us bottles with labels stamped over their labels that had been blown into the bottles.

Mr. CRUMPACKER. I understand that this bill makes it a specific crime to misappropriate a bottle that belongs to another which properly bears the impress of his ownership.

Mr. CAMPBELL of Kansas. That is true.

Mr. CRUMPACKER. And to use it for the same purpose; that is to say, to practice fraud by using another man's milk bottle, bearing his name.

Mr. CAMPBELL of Kansas. This bill imposes a fine of 50 cents for every bottle so unlawfully appropriated.

Mr. CRUMPACKER. I suppose if a man stole a wagonload of milk bottles, he would be guilty of larceny, just the same as if he stole any other kind of property.

Mr. CAMPBELL of Kansas. The trouble about that was that they only took a few of them at a time. For instance, in an apartment house there are this morning a dozen milk bottles in front of a door. Some one other than the one who furnished the milk in those bottles passes that door, picks up those bottles and takes them, and the next day they are delivered to some one else.

Mr. CRUMPACKER. Some other milk dealer uses them?

Mr. CAMPBELL of Kansas. To deliver his own milk; and the milk dealers' association claim that they have no protection against that practice.

Mr. CRUMPACKER. That is all there is in this bill?

Mr. CAMPBELL of Kansas. That is the sole purpose of this bill.

The amendment of Mr. CAMPBELL of Kansas was agreed to.

Mr. CAMPBELL of Kansas. The gentleman from Virginia [Mr. RIXEY] has an amendment that he desires to offer.

Mr. RIXEY. I desire to offer an amendment to section 878b. I understand that section leaves it optional with the milk dealer as to whether he will avail himself of the provisions of the section. I merely want to make that plain, and I want to suggest to him to amend by adding, after the word "and," in line 16, the words "if so filed."

Mr. CAMPBELL of Kansas. I will accept that.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

On page 2, line 16, after the word "and," insert the words "if so filed."

The question was taken, and the amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. CAMPBELL of Kansas, a motion to reconsider the last vote was laid on the table.

URGENT DEFICIENCY BILL.

Mr. LITTAUER. Mr. Speaker, I am directed by the Committee on Appropriations to report the bill (H. R. 17359) making appropriations to supply additional urgent deficiencies in the appropriations for the fiscal year ending June 30, 1906, and for prior years, and for other purposes.

The SPEAKER. The gentleman from New York, by direction of the Committee on Appropriations, reports a bill to supply additional urgent deficiencies, which will be referred to the Committee of the Whole House on the state of the Union.

Mr. LITTAUER. Mr. Speaker, I give notice that I shall ask consideration of this bill to-morrow morning after the reading of the Journal. Mr. Speaker, I reserve all points of order on the bill.

THE AMERICAN CROSS OF HONOR.

Mr. SAMUEL W. SMITH. Mr. Speaker, I call up the bill (S. 2035) to incorporate the American Cross of Honor within the District of Columbia.

The SPEAKER. The bill has been once reported on a former occasion, and unless there is some demand that it be reported again the reading will be dispensed with.

Mr. GARRETT. Mr. Speaker, is it in order to raise the question of consideration?

The SPEAKER. Certainly.

Mr. GARRETT. Then I raise the question of consideration.

The SPEAKER. The gentleman from Tennessee raises the question of consideration.

The question was taken; and on a division (demanded by Mr. CAMPBELL of Kansas) there were—ayes 20, noes 37.

So the House refused to consider the bill.

GREAT COUNCIL OF THE UNITED STATES OF THE IMPROVED ORDER OF RED MEN.

Mr. SAMUEL W. SMITH. Mr. Speaker, I call up the bill (S. 3202) to incorporate the Great Council of the United States of the Improved Order of Red Men.

The Clerk read the bill.

Mr. GARRETT. Mr. Speaker, I raise the question of consideration.

The SPEAKER. The gentleman from Tennessee raises the question of consideration.

The question was taken; and on a division (demanded by Mr. SAMUEL W. SMITH) there were—ayes 53, noes 29.

Mr. SULLIVAN of Massachusetts. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. SULLIVAN of Massachusetts. Is it in order at this time to raise the point of no quorum?

The SPEAKER. Certainly.

Mr. SULLIVAN of Massachusetts. Then I raise it.

The SPEAKER. The Chair will count.

Mr. SAMUEL W. SMITH. Mr. Speaker, I ask unanimous consent to withdraw the bill.

Mr. SULLIVAN of Massachusetts. Do I understand that the bill is withdrawn?

The SPEAKER. The gentleman from Michigan asks unanimous consent to withdraw the bill. Does the gentleman withdraw his point of no quorum?

Mr. SULLIVAN of Massachusetts. Mr. Speaker, I withdraw the point of no quorum.

The SPEAKER. If there is no objection, the bill will be withdrawn. [After a pause.] The Chair hears none.

PRINTING AND BINDING.

Mr. CHARLES B. LANDIS. Mr. Speaker, I desire to call up the House joint resolution (H. J. Res. 128) to prevent unnecessary printing and binding and to correct evils in the present method of distribution of public documents.

The Clerk read as follows:

Resolved, etc., That the Joint Committee on Printing is hereby authorized and directed to establish rules and regulations, from time to time, which shall be observed by the Public Printer, whereby public documents and reports printed for Congress, or either House thereof, may be printed in two or more editions, instead of one, to meet the public requirements: *Provided*, That in no case shall the aggregate of said editions exceed the number of copies now authorized or which may hereafter be authorized: *And provided further*, That the number of copies of any public document or report now authorized to be printed or which may hereafter be authorized to be printed for any of the Executive Departments, or bureaus or branches thereof, or independent offices of the Government may be supplied in two or more editions, instead of one, upon a requisition on the Public Printer by the official head of such Department or independent office, but in no case shall the aggregate of said editions exceed the number of copies now authorized, or which may hereafter be authorized: *Provided further*, That nothing herein shall operate to obstruct the printing of the full number of any document or report, or the allotment of the full quota to Senators and Representatives, as now authorized, or which may hereafter be authorized, when a legitimate demand for the full complement is known to exist.

Mr. CLARK of Missouri. Mr. Speaker, reserving the right to object, I want to ask the gentleman a question. About how much money would this bill save if it goes into operation?

Mr. CHARLES B. LANDIS. It is difficult to answer that question. I will say that if the two joint resolutions that the Commission has recommended are passed I believe that the operation of both, with the cooperation of the Committee on Appropriations (and we have the assurance that we will have that), will during the next year save the Government in the neighborhood of $1,000,000.

Mr. CLARK of Missouri. It takes this resolution in conjunction with the other one to do that?

Mr. CHARLES B. LANDIS. Yes; the resolutions should pass together.

Mr. CLARK of Missouri. What does the committee mean by "different editions of public documents?"

Mr. CHARLES B. LANDIS. It means this: At the present time the edition of all public documents is arbitrarily fixed by law.

It has been discovered that there has accumulated an astounding surplus of publications, owing to the fact that the apportionment to the Senators and Representatives is fixed by law. The individual quotas not being exhausted, accumulation results, and the effect of it all is to pack the basement of the Capitol, the basement of the Maltby Building, the old street-car barn near the Capitol, the old Government Printing Office, recently abandoned, and two large warehouses on L street with public documents for which there will be little demand, and two-thirds of which, it is safe to say, are absolutely obsolete. Now, if this proposition to print in two or more editions were to go into effect, while it would in no manner relieve the warehouses of the accumulated documents, the commission feels that it would check further accumulation. For instance, to show my friend how this joint resolution would operate, there was ordered printed by the last Congress 10,000 copies of the Swayne impeachment proceedings. Those 10,000 copies were prorated among Senators and Representatives. There were many Senators and Representatives who did not have a call for a single copy. The result was that about 7,000 of the 10,000 copies printed are left to mold in the warehouses. Now, if this joint resolution had been in force the Joint Committee on Printing, with the cooperation of the superintendents of the folding rooms of the House and Senate could, by reason of past experience, have figured that there would be a demand for about 3,000 copies of the 10,000 copies ordered, and we would have ordered an edition of 3,000 copies printed first. The quotas of the various Members and Senators would not in any manner have been interfered with.

Mr. OVERSTREET. That is on the basis of the 10,000?

Mr. CHARLES B. LANDIS. On the basis of the 10,000; but there would only be enough demand by reason of requests made to exhaust the 3,000, and, as a result, the second edition would probably never be printed, and the accumulation would not take place.

Mr. GAINES of Tennessee. Mr. Speaker, will my friend allow me to ask him a question or two?

The SPEAKER. Does the gentleman yield?

Mr. CHARLES B. LANDIS. Yes.

Mr. GAINES of Tennessee. I want to say to the gentleman that I will give him all my assistance if he will stop somebody from sending me irrigation papers. [Laughter.] Now, I am in dead earnest.

Mr. CHARLES B. LANDIS. I know my friend is in dead earnest, and I know there are other Members in the House who hold the gentleman's sentiments, and I would say to the gentleman from Tennessee that if this resolution passes it will enable the Joint Committee on Printing to rescue the gentleman from Tennessee from that pursuit.

Mr. GAINES of Tennessee. Will the gentleman tell us what has become of the Swayne documents? And in that connection I desire to say that I stood at the mouth of this aisle last session and objected to printing what I thought an extraordinary number of that proceeding, and one of the most distinguished and best Members of this House said to me, "GAINES, you are wrong; there will be great demand and there is great demand for that document," or words to that effect, and so I withdrew my objection.

Mr. CHARLES B. LANDIS. I will say to the gentleman from Tennessee, answering his inquiry, that the surplus publications of the Swayne impeachment are in the folding rooms of the House and Senate.

Mr. GAINES of Tennessee. How many have been sent out?

Mr. CHARLES B. LANDIS. About 3,000, as I remember it.

Mr. GAINES of Tennessee. How many were printed?

Mr. CHARLES B. LANDIS. Ten thousand. Now, I will say to the gentleman from Tennessee that it was all right to order 10,000 printed so long as we follow the present method of apportioning the quota; but under this joint resolution, if it goes into effect, the committee could have had an edition of 2,700 or 3,000 copies printed and in no manner have interfered with the quota of any Member, but the surplus would have been prevented in that a second edition would never have been printed unless a further demand developed.

Mr. LACEY. Mr. Speaker, will my friend from Indiana now yield to me for a moment?

Mr. CHARLES B. LANDIS. I will say this to the gentleman from Tennessee, that if it had been found necessary to print a second edition of, say, 1,000, the extra cost would only have been about 885 by reason of the two editions.

Mr. LACEY. Will the gentleman now yield to me for a moment?

Mr. CHARLES B. LANDIS. I am at present yielding to the gentleman from Tennessee.

Mr. LACEY. Well, I want to enlighten the gentleman from Tennessee on the inquiry made by the gentleman a moment ago respecting irrigation.

Mr. GAINES of Tennessee. I am about back at my irrigation proposition, Mr. Speaker. I will ask the gentleman how he is going to stop that? It is a great nuisance. I would like to have him tell me and the balance of the world how he is going to stop it.

Mr. CHARLES B. LANDIS. We are simply going to prevent them being sent to Members unless ordered. If not ordered they will not be printed.

Mr. GAINES of Tennessee. Well, Mr. Speaker, I will ask the gentleman to put me down first, please. [Laughter.]

Mr. LACEY. Do not put him down at all until he listens to me. Will the gentleman from Indiana now yield?

Mr. CHARLES B. LANDIS. Yes.

Mr. LACEY. I want to say this to my friend from Tennessee: Thirty million dollars has been set apart out of the land receipts for irrigation purposes. My friend from Tennessee is on the Public Lands Committee.

Mr. GAINES of Tennessee. Oh, I am aware of that fact.

Mr. LACEY. And the first thing he does is to get up in the House here and say, "I don't want to know anything about my duty."

Mr. GAINES of Tennessee. When did I ever utter such a fool statement as that?

Mr. LACEY. I suggest to him that instead of stopping his irrigation papers he better read them as they come to him.

Mr. GAINES of Tennessee. The gentleman stated that I just said I did not want to know anything about my duties. When did I make such a statement?

Mr. LACEY. The gentleman said he did not want to know anything about this irrigation matter.

Mr. GAINES of Tennessee. I made no such statement. I said I did not want any other irrigation papers to come into my office.

Mr. LACEY. Very well. Let me suggest to my friend that he read the irrigation papers.

Mr. GAINES of Tennessee. I will read them; but I will say that I propose to send every land thief in the United States to the penitentiary before I leave that committee, if I can.

Mr. SLAYDEN. Mr. Speaker, will the gentleman yield for a moment?

The SPEAKER. Does the gentleman yield?

Mr. CHARLES B. LANDIS. I yield to the gentleman from Texas.

Mr. SLAYDEN. Mr. Speaker, I want to say that there is no quarantine in my section of the country against the irrigation publications. We find them educational and useful.

Mr. MURDOCK. May I ask a question?

Mr. CHARLES B. LANDIS. Certainly.

Mr. SLAYDEN. Will the gentleman yield?

Mr. CHARLES B. LANDIS. Time is very valuable.

Mr. SLAYDEN. I want to ask the gentleman—I could not understand what the gentleman stated about it—if it is contemplated that irrigation publications will be cut off in any way?

Mr. CHARLES B. LANDIS. They will not be cut off except where they are not wanted.

Mr. SLAYDEN. Will there be a more intelligent distribution?

Mr. CHARLES B. LANDIS. There will be a more intelligent distribution. The quota of each Member will remain the same, but those Members who do not desire irrigation papers will not receive them.

Mr. MURDOCK. Is the gentleman acquainted with the hydrographic report?

Mr. CHARLES B. LANDIS. I have heard of it.

Mr. MURDOCK. Have you ever seen it?

Mr. CHARLES B. LANDIS. I have.

Mr. MURDOCK. It is issued in about eight numbers, and it contains nothing but tables, and no man except an expert mathematician can understand it. Are we still to be further burdened with those?

Mr. CHARLES B. LANDIS. I will say to the gentleman from Kansas that this resolution will control and protect him against that publication.

Mr. MURDOCK. Will it wipe out that publication entirely?

Mr. CHARLES B. LANDIS. No; there are those who desire that publication.

Mr. MURDOCK. Who are they?

Mr. CHARLES B. LANDIS. Well, I can not call the roll at this moment——

Mr. MURDOCK. The gentleman can not find any in his district.

Mr. COOPER of Wisconsin. Is it a rule or law that these publications are sent to Members without being ordered and distributed?

Mr. CHARLES B. LANDIS. I will say it is not pursuant to any law, but it has been done by the superintendent of the folding room simply to make room. They were in a congested condition down there, so they have been sending out these documents in order to make room for the accumulation of more valuable documents. They seem to prefer new documents to the old documents when it comes to accumulations.

Mr. COOPER of Wisconsin. I asked the question of the gentleman because I have received three different installments of bulky, weighty documents, the last one on Friday or Saturday, called the "Triassic Cephalopod Genera of America," and I have not had a single constituent ordering it.

Mr. CHARLES B. LANDIS. I would like to ask the gentleman from Wisconsin if it is strange to him that they desire to get rid of that in the folding room?

Mr. COOPER of Wisconsin. No; but it is strange that they should think that I wanted it. [Laughter.]

Mr. CHARLES B. LANDIS. I want to say this to the House——

Mr. GAINES of Tennessee. Before leaving this matter I want to say two or three words.

Mr. CHARLES B. LANDIS. I yield to the gentleman from Tennessee.

Mr. GAINES of Tennessee. I want to make this statement about these irrigation papers: I have had to send them to Senator TELLER, Mr. Shafroth, John E. Osborn, Senator PERKINS, and any other man I could find who had a district within 200 miles of this great Sahara out here in the West. That occurs when I am at home in Nashville and here in the city of Washington. I have written to everyone whom I thought had little enough sense to send them to me please not to send them any more, and the more I write the more they send them. [Laughter and applause.]

Mr. MONDELL. Will the gentleman please yield for a question?

Mr. CHARLES B. LANDIS. I will. I yield to the gentleman from Wyoming for a question.

Mr. MONDELL. Do I understand this resolution is directed entirely to cutting off the supply of irrigation papers?

Mr. CHARLES B. LANDIS. Not at all.

Mr. MONDELL. I judged so from what has been said on the floor.

Mr. CHARLES B. LANDIS. They are using the irrigation papers as a horrible example.

Mr. MONDELL. Now, we have no particular use for the Coast and Geodetic papers out our way.

Mr. CHARLES B. LANDIS. That is true.

Mr. MONDELL. How does the committee propose to determine what number is desired of a particular publication?

Mr. CHARLES B. LANDIS. We will simply take up these questions, each one, each printed document, on its merits, with the superintendent of the folding room and others who have to do with the distribution of these documents, and by applying the law of averages, as experience has shown in the past, to limit the edition to the probable demand, and we will be able to arrive at as definite a conclusion as is possible with reference to any other subject.

Mr. MONDELL. This question will be taken up and arrived at on each and every publication?

Mr. CHARLES B. LANDIS. Each publication will be taken up separately; and I will say to the gentleman from Wyoming that in no instance will his present quota be disturbed.

Mr. MONDELL. On irrigation papers?

Mr. CHARLES B. LANDIS. On anything.

The SPEAKER. Is there objection to the consideration of the joint resolution? [After a pause.] The Chair hears none.

Mr. CHARLES B. LANDIS. Mr. Speaker, just one word, and then I am willing that a vote should be taken.

I will say that we have simply gone into the question of documents already accumulated. We have had measurements taken and have experimented some with weights, and it is safe to say that there is at the present time, in the shape of accumulated surplus documents—three-fourths, if not four-fifths, of them obsolete—9,500 tons in the basement of the Capitol, in the old street-car barn, in the basement of the Maltby Building, the old Government Printing Office, and in two warehouses on L street.

Mr. SLAYDEN. Are not many of these documents desirable?

Mr. CHARLES B. LANDIS. Some of these documents are desirable. This resolution has nothing to do with the distribution of the accumulated documents. It is simply to cut off further accumulation.

Mr. SLAYDEN. Will it not be well to provide for the distribution of those that are desirable?

Mr. CHARLES B. LANDIS. We have that in contemplation at this time. I say, Mr. Speaker, that if you should load 20 tons to a car and make the car an average length of 30 feet, it would take a train more than 2½ miles long to haul out of Washington this surplus accumulation of documents. Now, if this goes on and some sort of resolution similar to this is not passed we will either have to rent more storerooms or have recourse to the junk dealer. We paid last year, not taking into consideration the basement of the Capitol, the basement of the Maltby Building, or the old Government Printing Office, more than $13,000 for warerooms in which to store these surplus publications.

Mr. CLARK of Missouri. Will the gentleman yield to me for a moment?

Mr. CHARLES B. LANDIS. Certainly.

Mr. CLARK of Missouri. Mr. Speaker, in the Fifty-third Congress these documents had accumulated to such an enormous extent that Congress passed a resolution authorizing the Committee on Printing to parcel them out pro rata among the Members, and they sent me something like two carloads. [Laughter.] About one-half of the documents were mildewed and partially decayed, and the other half were so antiquated that no human being would read them. Now, I wanted to state those facts, and suggest to the gentleman from Indiana another resolution which he ought to introduce as soon as he gets these two through. He ought to introduce one like that introduced in the Fifty-third Congress to get rid of, either by ordering somebody to burn them or parcel them out among Members, this accumulated stock of junk in the shape of printing.

Mr. CHARLES B. LANDIS. The Commission has that very subject under consideration; and I will say here there are accumulating now in the basement of this Capitol CONGRESSIONAL RECORDS, bound, at the rate of 70,000 volumes every year. This resolution will take care of them.

Mr. HINSHAW. Is there any way by which the membership of this House can get hold of these documents in order that they may send them out to their constituents?

Mr. CHARLES B. LANDIS. There is no way by which any Member can get at them unless they are to his credit.

Mr. HINSHAW. I will get rid of a carload of those CONGRESSIONAL RECORDS in my district if you will give me a chance.

Mr. CHARLES B. LANDIS. I ask for a vote.

Mr. GILLETT of Massachusetts. I would like to ask the gentleman a question about the operation of his resolution, just as to how this edition will be allotted among the Members. Will it be just as the present quota?

Mr. CHARLES B. LANDIS. It will be allotted in the present way. If there is an order for 10,000 copies the apportionment to Members will be on that basis.

Mr. GILLETT of Massachusetts. My conundrum was this, Whether if there were a half dozen Members who wanted a certain publication—and I suppose there is no publication which somebody does not want—if they should use up their small quota, would that compel the publication of a second edition? Or could you turn over to them part of the first edition?

Mr. CHARLES B. LANDIS. I want the gentleman to understand that the quota would not be any smaller than it is now. The quota would be in proportion to the original order.

Mr. GILLETT of Massachusetts. Then any Member could get from this first edition his original number if nobody else wanted it.

Mr. CHARLES B. LANDIS. He will get just as many as he ever got.

Mr. MANN. Mr. Speaker, I do not quite understand the suggestion of the gentleman from Indiana. Under this proposition will it be possible for a Member of Congress interested in the Geological Survey reports to obtain as many or more copies than he now receives without forcing the same number upon Members who do not wish those reports?

Mr. CHARLES B. LANDIS. He will have the same opportunity to receive his quota that he now has, because the quota will be to the credit of each Member.

Mr. MANN. He has no opportunity now to receive additional copies beyond his quota?

Mr. CHARLES B. LANDIS. Unless he makes arrangements with some other Member.

Mr. MANN. That is what I wanted to find out, whether under the proposition of the gentleman it would still be necessary for the man who is interested in the geological survey of the John Jones River to hunt all around the Capitol in order to make trades and obtain the copies which he wants and which nobody else wants, or whether it will be self-operative.

Mr. CHARLES B. LANDIS. There is no scheme that we could devise that would make a proposition of that kind self-operative.

Mr. MANN. It seems to me that if the only point is that you print a lot more copies of documents which Members do not want, then instead of relieving the congestion below us you will only add to it.

Mr. CHARLES B. LANDIS. Not at all.

Mr. NORRIS. Will the gentleman permit a suggestion? I think the gentleman from Illinois is laboring under an apprehension which I believe to be wrong, that these allotments are parceled out. There will be a quota issued, for instance, to the gentleman from Illinois and to the rest of the Members, but there is no separation of this publication. It is all in one place, and you can draw out your entire quota even though there is an edition of a less number than is authorized by the resolution. You can draw out your entire number, because they are not separated. They are all kept in one bunch, in one place. You draw out to the extent of your full quota, the same as you do now. I do the same thing, and we keep on doing that until the edition is exhausted. Then another edition will be received; so that it would not interfere with a Member getting his entire quota, and at the same time there would be no accumulation.

Mr. CHARLES B. LANDIS. I assure the House that under this joint resolution the present quota will in no manner be interfered with, but there will be a protection, in my judgment, against much of an accumulation.

I ask for a vote.

The joint resolution was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

On motion of Mr. CHARLES B. LANDIS, a motion to reconsider the last vote was laid on the table.

ALLOTMENT OF COST OF CERTAIN DOCUMENTS.

Mr. CHARLES B. LANDIS. Mr. Speaker, I ask unanimous consent for the present consideration of the House joint resolution (H. J. Res. 127) to correct abuses in the public printing and to provide for the allotment of cost of certain documents and reports.

The SPEAKER. The gentleman from Indiana asks unani-

mous consent for the present consideration of a joint resolution, which the Clerk will read.

The Clerk read as follows:

Resolved, etc., That hereafter, in the printing and binding of documents or reports emanating from the Executive Departments, bureaus, and independent offices of the Government, the cost of which is now charged to the allotment for printing and binding for Congress, or to appropriations or allotments of appropriations other than those made to the Executive Departments, bureaus, or independent offices of the Government, the cost of illustrations, composition, stereotyping, and other work involved in the actual preparation for printing, apart from the creation of manuscript, shall be charged to the appropriation or allotment of appropriation for the printing and binding of the Department, bureau, or independent office of the Government in which such documents or reports originate; the balance of cost shall be charged to the allotment for printing and binding for Congress, and to the appropriation or allotment of appropriation of the Executive Department, bureau, or independent office of the Government, in proportion to the number delivered to each; the cost of any copies of such documents or reports distributed otherwise than through Congress, or the Executive Departments, bureaus, and independent offices of the Government, if such there be, shall be charged as heretofore: *Provided*, That on or before the 1st day of December in each fiscal year each Executive Department, bureau, or independent office of the Government to which an appropriation or allotment of appropriation for printing and binding is made, shall obtain from the Public Printer an estimate of the probable cost of all publications of such Department, bureau, or independent office now required by law to be printed, and so much thereof as would, under the terms of this resolution, be charged to the appropriation or allotment of appropriation of the Department, bureau, or independent office of the Government in which such publications originate, shall thereupon be set aside to be applied only to the printing and binding of such documents and reports, and shall not be available for any other purpose until all of such allotment of cost on account of such documents and reports shall have been fully paid.

This resolution shall be effective on and after July 1, 1906.

The SPEAKER. Is there objection?

There was no objection.

The joint resolution was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

On motion of Mr. CHARLES B. LANDIS, a motion to reconsider the last vote was laid on the table.

LIEU LANDS IN MONTANA.

Mr. DIXON of Montana. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 17135) providing that the State of Montana be permitted to relinquish to the United States certain lands heretofore selected and select other lands from the public domain in lieu thereof.

The SPEAKER. The gentleman from Montana asks unanimous consent for the present consideration of a bill the title of which will be reported by the Clerk.

The Clerk read the title of the bill.

The SPEAKER. Is there objection?

Mr. CLARK of Missouri. Reserving the right to object, I would like to know the substance and intent of this bill.

Mr. DIXON of Montana. Mr. Speaker, I would say that this is a unanimous report from the committee. I hold the printed report in my hand. The State of Montana, through the State board of land commissioners and the Carey land tax board of the State of Montana, wants to dig a great irrigation canal. The governor of the State and the State land board have found in making the surveys that about 4,500 acres of the land granted to the State for educational purposes have been selected within the area of the lands to be inundated. They are situated about 7,000 feet above the sea level, and they want to surrender those lands heretofore selected, so as to allow the construction of a reservoir, and select lands elsewhere in place of them.

Mr. CLARK of Missouri. Is there any provision in the bill to prevent them from selecting mineral lands?

Mr. DIXON of Montana. Yes. The Commissioner of the Land Office drew the bill reported by the committee, and a favorable report has been had from the Secretary of the Interior, from the Commissioner of the Land Office, and is reported unanimously from the Committee on Public Lands.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The Clerk read the bill, as follows:

Be it enacted, etc., That upon the delivery to the Secretary of the Interior by the State of Montana of its properly executed and duly recorded deed or deeds reconveying to the United States of America, in fee simple, certain lands heretofore selected by and certified to said State under the provisions of an act entitled "An act to provide for the division of Dakota into two States and to enable the people of North Dakota, South Dakota, Montana, and Washington to form constitutions and State governments and to be admitted into the Union on an equal footing with the original States, and to make donation of public land to such States," approved February 22, 1889, to wit: All of section 31 in township 13 south of range 1 west, the south half of the southwest quarter, the south half of the southeast quarter of section 26; the south half of the southwest quarter, the south half of the southeast quarter of section 27; the south half of the southwest quarter, the south half of the southeast quarter of section 28; the south half of the southeast quarter of section 29; the west half of section 31; the northeast quarter, the northwest quarter of the southwest quarter, the northwest quarter of the southeast quarter of section 32; the north half and lots 2, 3, and 4 of section 33; the north half and lots 2 and 3 of section 34; the north half of section 35, in township 13 south of range 2 west; the southeast quarter of section 26 and east half of section 35, in township 13 south of range 3 west; the south half of the northwest quarter and lots 3, 4, 10, and 11 of section 1; lot 10 of section 2; lots 1 and 2 of section 11; north half of the northwest quarter of section 12, in township 14 south of range 3 west, principal meridian of Montana; the lands so described having been selected as indemnity school land and the selection thereof having been approved by the Secretary of the Interior under dates of January 2, January 9, February 5, and April 18, 1901. The said State shall be authorized and permitted to select an equal number of acres of land from the unappropriated public land of the United States in said State, in the same manner, for the same purpose, and subject to the same limitations and conditions under which the land so reconveyed was selected and held.

SEC. 2. That the land so reconveyed shall be restored to and become a part of the public domain and be subject to disposal by the Government in the same manner in which other public lands of a like character are disposed of.

The bill was ordered to be engrossed and read a third time; was read the third time, and passed.

On motion of Mr. DIXON of Montana, a motion to reconsider the last vote was laid on the table.

KNOX'S BRIDGE, TUGALOO RIVER.

Mr. GRIGGS. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 16140) authorizing the maintaining and operating for toll an existing structure across Tugaloo River, known as "Knox's Bridge," at a point where said river is the boundary between the States of South Carolina and Georgia.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The Clerk read the bill at length with the committee amendments.

Mr. GRIGGS. Mr. Speaker, the Clerk has not read the committee amendments correctly. There has been a reprint of the bill as reported by the committee, and the lines in the report do not refer to the lines as they now are in the bill.

Mr. ADAMS of Pennsylvania. The printer has not properly printed the bill in accordance with the numbering of the lines.

Mr. GRIGGS. Instead of line 13 it should be line 10, instead of line 16 it should be line 13.

The SPEAKER. Has the gentleman examined this bill which the Clerk has?

Mr. GRIGGS. I have.

The SPEAKER. Are the amendments properly printed in the bill?

Mr. GRIGGS. Yes.

The SPEAKER. That is sufficient.

The bill was ordered to be engrossed and read a third time; was read the third time, and passed.

On motion of Mr. GRIGGS, a motion to reconsider the last vote was laid on the table.

TERMS OF COURT FOR THE WESTERN DISTRICT OF VIRGINIA.

Mr. TIRRELL. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 11029) to authorize the holding of a regular term of the district and circuit courts of the United States for the western district of Virginia, in the city of Big Stone Gap, Va.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. MANN. Mr. Speaker, reserving the right to object, I would like to ask the gentleman, in view of the veto by the President of a similar bill in Texas, whether this has the approval of the Department of Justice, or whether it is likely to be vetoed?

Mr. TIRRELL. I would say in reply that the Attorney-General's Department has been consulted, and they have no objection to the enactment of this law. The facts are that the business of that section of Virginia has been increasing very rapidly. Big Stone Gap is located in Wise County. The county has doubled its population in the last decade, and its industrial enterprises are increasing rapidly. There are six other counties that are nearer to this place for the transaction of the Federal business than any other counties in the district. The population and business in these counties are rapidly increasing. This is a part of Virginia where there is more Federal business than in any other part of the State, not only on account of the increase in industrial enterprises, but it is the moonshine whisky district of Virginia, and there are many prosecutions under the revenue law.

Mr. MANN. Well, Mr. Speaker, if it is proposed to locate the Federal courts in Wise County, I think I will not object. [Laughter.]

Mr. DE ARMOND. Mr. Speaker, I wish to hold up the question of objection for a moment. I would like to have read, pending that, a letter from the judge down there upon the subject, which I send to the desk.

The Clerk read as follows:

UNITED STATES DISTRICT COURT,
WESTERN DISTRICT OF VIRGINIA,
Lynchburg, Va., January 19, 1906.

MY DEAR SIR: It seems that a bill (H. R. 11029) has been introduced providing for another term of the Federal courts in the western district of Virginia. In (unsuccessfully) opposing the bill introduced at the last session of Congress (33 Stat. L., p. 249) I set out in a letter sent to you quite fully the reasons for opposing that bill. At present it is probably sufficient to call to your attention the fact that the statutes now in force (32 Stat. L., 794, and 33 Stat. L., 249) I am required to hold thirteen terms of court per annum at seven different places—more than is required of any other district judge. H. R. 11029 provides for the fourteenth term.

With great respect,
HENRY C. MCDOWELL,
United States District Judge, Western District of Virginia.

Mr. DE ARMOND. Mr. Speaker, I think I shall object on the strength of that letter.

The SPEAKER. The gentleman from Missouri objects.

DAMS ON BEAR RIVER, IN TISHOMINGO COUNTY, MISS.

Mr. CANDLER. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 15259) to authorize the North Mississippi Traction Company to construct dams and power stations on the Bear River on the northeast quarter of section 31, township 5, range 11, in Tishomingo County, Miss., which I send to the desk and ask to have read.

The Clerk read as follows:

Be it enacted, etc., That the North Mississippi Traction Company, their successors and assigns, having authority therefor under the laws of the State of Mississippi, may hereafter erect, maintain, and use a dam or dams in or across the Bear River, in the State of Mississippi, at such points on the northeast quarter of section 31, township 5, range 11, in Tishomingo County, Miss., as they may elect, for the purpose of erecting, operating, and maintaining power stations and to maintain inlet and outlet races or canals and to make such other improvements on Bear River as may be necessary for the development of water power and the transmission of the same, subject always to the provisions and requirements of this act and to such conditions and stipulations as may be imposed by the Chief of Engineers and the Secretary of War.

SEC. 2. That detailed plans for the construction and operation of a dam or dams and other appurtenant and necessary works shall be submitted by said North Mississippi Traction Company, their successors and assigns, desiring to construct the same, to the Chief of Engineers and the Secretary of War, with a map showing the location of such dam or other structures, with such topographical and hydrographic data as may be necessary for a satisfactory understanding of the same, which must be approved by the Chief of Engineers and the Secretary of War before work can be commenced on said dam or dams or other structures; and after such approval of said plans no deviation whatever therefrom shall be made without first obtaining the approval of the Chief of Engineers and the Secretary of War: *Provided*, That the constructions hereby authorized do not interfere with the navigation of Bear River: *And provided further*, That said dam or dams and works shall be limited only to the use of the surplus water of the river, not required for the navigation of Bear River, and that no structures shall be built and no operations conducted by those availing themselves of the provisions of this act which shall injure or interfere with the navigation of Bear River or impair the usefulness of any improvement made by the Government in the interest of navigation.

SEC. 3. That the Government of the United States reserves the right, at any time that the improvement of the navigation of Bear River demands it, to construct, maintain, and operate, in connection with any dam or other works built under the provisions of this act, suitable lock or locks or any other structures for navigation purposes, and at all times to control such dam or dams or other structures, and the level of the pool caused by such dam or dams, to such an extent as may be necessary to provide facilities for navigation; and whenever Congress shall authorize the construction of such lock or other structures, the person, company, or corporation owning and controlling such dam or dams or other structures shall convey to the United States, under such terms as Congress shall prescribe, titles to such land as may be required for the use of such lock and approaches, and in addition thereto shall grant to the United States, free of cost, the free use of water power for building and operating such constructions: *Provided also*, That the person, company, or corporation building, maintaining, or operating any dam or dams or other structures under the provisions of this act shall be liable for any damage that may be inflicted thereby upon private property, either by overflow or otherwise, and the nearest State or Federal court shall have jurisdiction to hear suits to determine the amount of compensation for alleged damage. The person, company, or corporation owning or operating any such dam shall maintain, at their own expense, such lights and other signals thereon and such fishways as the Secretary of Commerce and Labor shall prescribe.

SEC. 4. That all the rights acquired under this act shall cease and be determined if the person, company, or corporation acquiring such right shall at any time fail to comply with any of the provisions or requirements of this act, or with any of the stipulations that may be prescribed by the Chief of Engineers and the Secretary of War, or in case a person, company, or corporation authorized by the laws of the State of Mississippi to erect and maintain a dam and improvements as contemplated by this act shall fail to begin the erection of said dam and improvements within two years after being so authorized or shall fail to complete the same within five years after obtaining such authority.

SEC. 5. That the provisions of this act shall in no manner interfere with or impair the rights of any person, company, or corporation heretofore authorized by Congress to erect a dam or other structures for the development of water power on the Tennessee River.

SEC. 6. That the right to alter, amend, or repeal this act is expressly reserved.

With the following amendments:

Page 4, line 20, strike out the word "two" and insert the word "one."

In line 22, page 4, strike out the word "five" and insert the word "three."

The SPEAKER. Is there objection?

Mr. BURTON of Ohio. Mr. Speaker, reserving the right to object, I would like to inquire a little further in regard to this stream. Is there any navigation upon it?

Mr. CANDLER. None in the world.

Mr. BURTON of Ohio. It is not anticipated that any appropriation will be asked for the improvement of this stream and its navigation?

Mr. CANDLER. Not at all. This is called a river, but it is nothing but a creek. It happens to be in the county where I live. I have fished in it many a time, and there has never been any improvement by the Government at all, and there is no possibility in the future that there ever will be.

Mr. LACEY. Fishways are provided?

Mr. CANDLER. Yes.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The question is on agreeing to the amendments.

The question was taken; and the amendments were agreed to.

The SPEAKER. The question now is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time; read the third time, and passed.

On motion of Mr. CANDLER, a motion to reconsider the last vote was laid on the table.

BRIDGES ACROSS YELLOWSTONE RIVER, MONTANA.

Mr. DIXON of Montana. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (S. 5204) to authorize the construction of a bridge or bridges across the Yellowstone River in Montana, which I send to the desk and ask to have read.

The Clerk read the bill at length, with the following amendments:

Line 13, page 3, strike out the word "two" and insert the word "one," and strike out the word "four" and insert the word "three."

The SPEAKER. Is there objection?

Mr. CLARK of Missouri. Mr. Speaker, reserving the right to object, I want to ask the gentleman from Montana [Mr. DIXON] or anybody else who knows what has become of the general bridge bill, known as the "Mann bill," that we passed here some time ago?

Mr. BURKE of South Dakota. Mr. Speaker, I think I can tell the gentleman. The general bridge bill is now at the White House. The bill that is now being considered is one of six for the Chicago, Milwaukee and St. Paul Railroad Company, which is now engaged in extending its lines from the Missouri River in South Dakota to the Pacific coast. Actual construction is now going on, and these bills they are very anxious to have passed, having been approved by the War Department. The general bridge bill will require some time to promulgate rules, regulations, etc.

Mr. CLARK of Missouri. When are we to begin to operate under the Mann bill?

Mr. MANN. Mr. Speaker, may I say to the gentleman that the Committee on Interstate and Foreign Commerce has ordered printed several hundred blank bills in accordance with the provisions of the general bridge bill, which will be furnished to Members of Congress, and I think that the next bill which will come along, unless some have recently passed the Senate under the old provisions, will be under the new bridge act and save a great deal of time and trouble.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The question is on agreeing to the amendments.

The question was taken, and the amendments were agreed to.

The SPEAKER. The question is on the third reading of the Senate bill.

The bill was ordered to be read a third time, read the third time, and passed.

On motion of Mr. DIXON of Montana, a motion to reconsider the last vote was laid on the table.

EULOGIES ON HON. JOHN W. CRANFORD.

Mr. GRIGGS. Mr. Speaker, I ask unanimous consent for the present consideration of the following House joint resolution.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

Joint resolution (H. J. Res. 111) for the publication of eulogies delivered in Congress on Hon. JOHN W. CRANFORD, late a Representative in Congress.

Resolved, etc., That the eulogies delivered in the Senate and House during the third session of the Fifty-fifth Congress on the late Hon. JOHN W. CRANFORD, a Representative in Congress from the Fourth district of Texas, who died but a short time before the end of the Fifty-fifth Congress, and the eulogies on whose life and character were delivered in the Senate and House before the adjournment of said Congress, but for some unknown reason were never published and under

the law can not now be published except by joint resolution, be published in the form and manner usually followed in the publication of eulogies in Congress on deceased members.

The amendment was read, as follows:

Add at end the following: "To the number of 1,000 copies to be distributed by the Representative from the First district of Texas and the regular number bound in the usual style for the family of the deceased. The usual number shall not be printed."

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The joint resolution as amended was ordered to be engrossed and read a third time; was read the third time, and passed.

On motion of Mr. GRIGGS, a motion to reconsider the last vote was laid on the table.

Mr. GRIGGS. I ask unanimous consent that the present Representative from the First district of Texas [Mr. SHEPPARD] be permitted to insert remarks on Mr. CRANFORD in the RECORD and that they be printed in the memorial volume.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. SHEPPARD. Mr. Speaker, Congressman JOHN W. CRANFORD, my father's immediate predecessor in the House of Representatives, died shortly before the close of his first term. On account of the hurry and confusion attendant on the closing hours of Congress, the eulogies on Mr. CRANFORD'S life and character and public service were not published in the usual memorial form. Justice to his memory requires that these eulogies should be published now. If the House adopts the resolution I have introduced for the publication of these eulogies, I ask unanimous consent to insert in the RECORD a brief statement of my own in reference to Mr. CRANFORD, and I ask further that this statement be published in the memorial volume with the other eulogies.

JOHN WALTER CRANFORD was one of the most gifted men in the history of Texas. Fatherless and motherless in his thirteenth year, he faced the world unaided and alone. Splendidly did he wage the war with destiny. With marvelous industry and perseverance, toiling on the farm for subsistence, refusing with painful fortitude the sleep for which night's desolate hours clamored, attending school with the savings garnered out of years of labor, he acquired a classical education, obtained admission to the bar and rose to the highest positions within the bestowal of the people. He was a senator in the twenty-first and twenty-second legislatures of Texas, having been chosen president pro tempore of the senate in the latter. He was one of the youngest men to hold so exalted a station. His service in the Texas senate was signalized by tireless energy and a broadening grasp of public affairs. He was the author of several beneficent measures which remain to-day upon the statutes of the State. In 1896 he was elected to Congress by a grateful and an admiring constituency. He died before the expiration of his first term. It may be said without extravagance that he was one of the most effective and fascinating orators the South has yet produced. He possessed in a rare and perhaps unequaled degree the quality of clothing the most prosaic facts with sentiment and pathos so entrancingly that they fell before an audience like silver arrows from a bow of gold. Through all these noble attributes shone a remarkable good nature, a generous spirit which was immediately responsive to the appeals of friendship and misfortune. As statesman, orator, lawyer, patriot, he has earned the gratitude of the people and commanded the applause of posterity.

INVITATION TO ATTEND THE CELEBRATION OF THE TWO HUNDREDTH ANNIVERSARY OF THE BIRTH OF BENJAMIN FRANKLIN.

Mr. OLMSTED. Mr. Speaker, I ask unanimous consent that the Committee on Rules be discharged from the further consideration of Senate concurrent resolution No. 16, and that the same may be now considered.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

Concurrent resolution No. 16.

Resolved by the Senate (the House of Representatives concurring), That the invitation extended to the Congress of the United States by the American Philosophical Society, of Philadelphia, Pa., to attend the celebration of the two hundredth anniversary of the birth of Benjamin Franklin, to be held at Philadelphia, Pa., commencing April 17, 1906, be, and is hereby, accepted.

That the President of the Senate and the Speaker of the House of Representatives be, and they are hereby, authorized and directed to appoint a committee, to consist of six Senators and ten Representatives of the Fifty-ninth Congress, to attend the celebration referred to and to represent the Congress of the United States on that occasion.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The question was taken, and the concurrent resolution was agreed to.

BRIDGE ACROSS YAZOO RIVER, MISSISSIPPI.

Mr. HUMPHREYS of Mississippi. Mr. Speaker, I ask unanimous consent for the present consideration of the bill H. R. 11026.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

A bill (H. R. 11026) to authorize the counties of Holmes and Washington to construct a bridge across Yazoo River, Mississippi.

The bill was read at length.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. HUMPHREYS of Mississippi, a motion to reconsider the last vote was laid on the table.

BRIDGE ACROSS MISSOURI RIVER IN SOUTH DAKOTA.

Mr. BURKE of South Dakota. Mr. Speaker, I ask unanimous consent for the present consideration of the bill S. 5184. I desire to state that the bill S. 5184 is identical with the bill which was passed for Montana, except this is for a bridge across the Missouri River in South Dakota, and with the bill (S. 5211) to cross the Snake River in Idaho, which the gentleman from Idaho will offer. They do not differ except in naming different rivers.

The SPEAKER. The gentleman asks unanimous consent upon his statement that this bill be considered at this time, and that the reading be omitted. Is there objection? [After a pause.] The Chair hears none. The Clerk will report the title.

The Clerk read as follows:

An act (S. 5184) to authorize the construction of a bridge across the Missouri River between Walworth and Dewey counties, in the State of South Dakota.

The bill was ordered to be read a third time, was read the third time, and passed.

On motion of Mr. BURKE of South Dakota, a motion to reconsider the last vote was laid on the table.

BRIDGE ACROSS SNAKE RIVER, IDAHO.

Mr. FRENCH. Mr. Speaker, I have a similar bill to offer.

The SPEAKER. The gentleman from Idaho asks unanimous consent that the following Senate bill, the title of which the Clerk will report, be considered at this time.

The Clerk read as follows:

A bill (S. 5211) to authorize the construction of a bridge across the Snake River at or near Lewiston, Idaho.

The SPEAKER. The Chair understands the gentleman from South Dakota to state that this bill is identical with the bill just passed, except the river is different.

Mr. BURKE of South Dakota. And an amendment changing the time to begin from two years to one year and for completion from four years to three years.

The SPEAKER. Is there objection to omitting the reading of the bill? The Chair hears none.

The amendments were agreed to.

The bill as amended was ordered to be read the third time, was read the third time, and passed.

On motion of Mr. FRENCH, a motion to reconsider the last vote was laid on the table.

BRIDGES ACROSS CUMBERLAND RIVER AT OR NEAR NASHVILLE, TENN.

Mr. GAINES of Tennessee. Mr. Speaker, I ask that Mr. GAINES of West Virginia may be allowed to call up this bill, as my throat is so sore I can not speak.

Mr. GAINES of West Virginia. Mr. Speaker, I ask unanimous consent for the present consideration of H. R. 14592.

The SPEAKER. This is the measure for which the gentleman from Tennessee was recognized?

Mr. GAINES of West Virginia. Yes, sir.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

A bill (H. R. 14592) to authorize the construction of two bridges across the Cumberland at or near Nashville, Tenn.

The bill and amendments recommended by the committee were read at length.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The amendments recommended by the committee were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

On motion of Mr. GAINES of Tennessee, a motion to reconsider the vote by which the bill was passed was laid on the table.

Mr. GAINES of Tennessee. Mr. Speaker, I have another little bill of the same kind—a bridge bill.

The SPEAKER. One moment. The gentleman from Iowa [Mr. COUSINS] is recognized.

PROF. SIMON NEWCOMB.

Mr. COUSINS. Mr. Speaker, I ask unanimous consent for the present consideration of the bill S. 4198.

The bill was read, as follows:

A bill (S. 4198) granting permission to Prof. Simon Newcomb, United States Navy, retired, to accept the decoration of the order "Pour le Mérite, für Wissenschaften und Künste."

Be it enacted, etc., That Prof. Simon Newcomb, United States Navy, retired, be authorized to accept the decoration of the order "Pour le Mérite, für Wissenschaften und Künste," conferred upon him by the German Emperor, and that the Department of State be permitted to deliver the decoration to Professor Newcomb.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The bill was ordered to a third reading; read the third time, and passed.

On motion of Mr. COUSINS, a motion to reconsider the vote by which the bill was passed was laid on the table.

BRIDGE ACROSS CUMBERLAND RIVER AT CLARKSVILLE, TENN.

Mr. GAINES of West Virginia. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 17391) to authorize the construction of a bridge across the Cumberland River, in or near the city of Clarksville, Tenn.

The bill, together with the committee amendments, were read at length.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The amendments recommended by the committee were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

On motion of Mr. GAINES of Tennessee, a motion to reconsider the vote by which the bill was passed was laid on the table.

GRANT OF CERTAIN LANDS TO KEYSTONE CAMP, MODERN WOODMEN OF AMERICA.

Mr. MARTIN. Mr. Speaker, I ask unanimous consent for the present consideration of the following bill.

The Clerk read as follows:

A bill (H. R. 8278) authorizing the Secretary of the Interior to issue patent to Keystone Camp, No. 2879, of the Modern Woodmen of America, to certain lands for cemetery purposes.

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to issue a patent to Keystone Camp, No. 2879, of the Modern Woodmen of America, of the town of Keystone, S. Dak., for cemetery purposes, to the following described land, to wit: Beginning at the northwesterly corner of the ground for corner No. 1, from which the corner of sections 8, 9, 16, and 17, township 2 south, range 6 east, Black Hills meridian, bears south 57 degrees 37 minutes west, 638.7 feet; thence north 66 degrees 43 minutes east (variation 15 degrees 15 minutes east), 532.9 feet, to corner No. 2; thence south 77 degrees 44 minutes east, 557.3 feet, to corner No. 3; thence south 21 degrees 12 minutes east, 226.8 feet, to corner No. 4; thence south 52 degrees 27 minutes west, 478.4 feet, to corner No. 5; thence south 81 degrees 50 minutes west, 720.5 feet, to corner No. 6; thence north 4 degrees 53 minutes west, 277.5 feet, to corner No. 1 and the point of beginning, containing an area of 8.987 acres of land, in Pennington County, S. Dak., said patent to contain the provision that said land shall be used for cemetery purposes only: *Provided*, That the said association pay $1.25 per acre therefor.

The SPEAKER. Is there objection?

Mr. CLARK of Missouri. Mr. Speaker, who is it that is to get those lands?

Mr. MARTIN. The land is purchased by a local cemetery association in the town of Keystone, and is to be used by the Modern Woodmen of America. They have used it for a cemetery for years. This place has been settled for quite a number of years; and, as often happens in new western country, they used a piece of the public land for burial purposes for their dead.

Mr. CLARK of Missouri. How much is there of this land?

Mr. MARTIN. It is about 9 acres. The bill is in the usual form, and they have to pay the usual price.

Mr. CLARK of Missouri. It is being used now for a cemetery?

Mr. MARTIN. Yes; and has been for years.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

On motion of Mr. MARTIN, a motion to reconsider the vote by which the bill was passed was laid on the table.

UNITED STATES DISTRICT COURT FOR CHINA.

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that the reference of the bill (H. R. 17345) creating a United States district court for China, and prescribing the jurisdiction thereof, be changed from the Committee on the Judiciary, to which it was erroneously referred, to the Committee on Foreign Affairs.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The change of reference will be made.

WITHDRAWAL FROM PUBLIC ENTRY OF CERTAIN LANDS NEEDED FOR TOWN-SITE PURPOSES.

Mr. FRENCH. Mr. Speaker, I ask unanimous consent for the present consideration of the bill S. 87.

The bill was read, as follows:

A bill (S. 87) providing for the withdrawal from public entry of lands needed for town-site purposes in connection with irrigation projects under the reclamation act of June 17, 1902, and for other purposes.

Be it enacted, etc., That the Secretary of the Interior may withdraw from public entry any lands needed for town-site purposes in connection with irrigation projects under the reclamation act of June 17, 1902, not exceeding 160 acres in each case, and survey and subdivide the same into town lots, with appropriate reservations for public purposes.

SEC. 2. That the lots so surveyed shall be sold at not less than their appraised value at public auction to the highest bidders, from time to time, for cash, and the lots offered for sale and not disposed of may afterwards be sold at not less than the appraised value under such regulations as the Secretary of the Interior may prescribe. Reclamation funds may be used to defray the necessary expenses of appraisement and sale, and the proceeds of such sales shall be covered into the reclamation fund.

SEC. 3. That the public reservations in such town sites shall be improved and maintained by the town authorities at the expense of the town; and upon the organization thereof as municipal corporations the said reservations shall be conveyed to such corporations by the Secretary of the Interior, subject to the condition that they shall be used forever for the purposes for which they were reserved.

SEC. 4. That the Secretary of the Interior may sell and dispose of rights to the use of water available under the provisions of the said reclamation act for municipal, domestic, fire, and other necessary purposes, to any city, town, or village, established as herein provided, and also to any other cities, towns, or villages in or near irrigation projects under the reclamation act. Such water rights shall be applied for by the proper town authorities subject to the provisions of the reclamation act, in so far as the same may be applicable, and the charges therefor shall be paid by such town authorities in sums not less and upon terms not more favorable than those fixed by the Secretary of the Interior for the irrigation project from which the water rights are taken.

SEC. 5. That whenever there is a development of power for use in connection with any irrigation project under the said reclamation act, the Secretary of the Interior is authorized to lease, for municipal or other purposes, the right to use surplus power developed, or which can be developed, in such manner and upon such terms as he may deem proper, and any moneys received therefor shall be covered into the reclamation fund and credited to such project: *Provided*, That the use of surplus water for power may be discontinued on one year's notice whenever, in the opinion of the Secretary of the Interior or his successors in the control of the project, the same can be more profitably used for irrigation purposes.

The amendments recommended by the committee were read, as follows:

On page 1, line 2, insert, after the word "the," the words "appraised under the direction of the Secretary of the Interior;" on page 2, line 1, after the word "said," insert the words "under his direction;" on page 2, line 15, at the end of the line, strike out the word "the" and insert the word "public;" in line 16, after the word "purpose," strike out the words "for which they were reserved."

Strike out sections 4 and 5 and insert the following in lieu thereof:

"SEC. 4. That the Secretary of the Interior shall, in accordance with the provisions of the reclamation act, provide for water rights in amount he may deem necessary for the towns established as herein provided, and may enter into contract with the proper authorities of such towns, and other towns or cities on or in the immediate vicinity of irrigation projects, which shall have a water right from the same source as that of said project for the delivery of such water supply to some convenient point, and for the payment into the reclamation fund of charges for the same to be paid by such towns or cities, which charges shall not be less nor upon terms more favorable than those fixed by the Secretary of the Interior for the irrigation project from which the water is taken.

"SEC. 5. That whenever a development of power is necessary for the irrigation of lands under any project undertaken under the said reclamation act, or an opportunity is afforded for the development of power under any such project, the Secretary of the Interior is authorized to lease for a period not exceeding ten years, giving preference to municipal purposes, any surplus power or power privileges, and the moneys derived from such leases shall be covered into the reclamation fund and be placed to the credit of the project from which such power is derived: *Provided*, That no lease shall be made of such surplus power or power privileges as will impair the efficiency of the irrigation project."

The SPEAKER. Is there objection?

Mr. LACEY. Reserving the right to object, I wish to make some inquiry about this bill. What committee does this bill come from?

Mr. FRENCH. The bill is reported from the Committee on Irrigation.

Mr. LACEY. The bill seems to make a change in the method of disposing of town sites, and that ought to come, it seems to me, from the Committee on Public Lands. I would like to have a full explanation of it. It may be entirely satisfactory, but I would like to know a little more about it before the matter is disposed of. I would be glad to hear from the gentleman from Idaho an explanation of the bill and a statement of what changes are proposed in the town-site law by this bill.

Mr. STEPHENS of Texas. I desire, also, to ask the gentleman if these town sites to be laid off are in the irrigation district? As I understand it, the irrigation law applies in that district. Now, are these town sites to be laid off within the irrigation district?

Mr. FRENCH. In answer to the gentleman's query I would say that should the bill proposed pass we would have a general law under which town-site tracts might be withdrawn from entry from land which is or may be set apart for reclamation under the national reclamation law. It provides that each withdrawal shall not exceed 160 acres, that the town lots shall be sold for cash, and that the proceeds of the sale shall go into the reclamation fund. They do not under the present law. It provides——

Mr. LACEY. I should like to ask the gentleman if there is not now a town-site law that would apply to lands outside of irrigation districts and inside of them?

Mr. FRENCH. Yes; that is true.

Mr. LACEY. The same law applies to them?

Mr. FRENCH. Yes.

Mr. LACEY. And the methods of disposing of the lands apply to both?

Mr. FRENCH. Yes; but it is not complete.

Mr. LACEY. And the Irrigation Committee has nothing to do with the disposition of land, nothing to do with anything except the method of irrigating it. There are some other provisions of the bill that are entirely within the control of the Irrigation Committee, but what I was trying to get at was to know why they complicated these methods of disposing of power and disposing of water with an entirely independent and separate proposition changing the general town-site law, a matter over which the Committee on Irrigation has no jurisdiction or control whatever.

Mr. MONDELL. The Committee on Irrigation of Arid Lands has full control of all lands withdrawn under the provisions of the reclamation law.

Mr. LACEY. Not at all.

Mr. MONDELL. The reclamation law provides how these lands shall be disposed of. That provision was not made by the Committee on Public Lands. It was made by the Committee on Irrigation of Arid Lands. This bill refers entirely to lands withdrawn under the provisions of the reclamation law. Therefore the Committee on Public Lands can not have jurisdiction over the particular town sites. It was necessary to have this legislation in order that the reclamation officers having charge of the reclamation of these lands might provide for town sites within their projects, and it provides for town sites within the project only, and provides that the funds arising from the sale shall flow into the reclamation fund, which they would not do under the general town-site law.

Mr. LACEY. This is a very important matter, involving a radical change in the town-site land laws, and while I do not want to object, I should like at least to have time to consider and examine the bill. I do not think it ought to go through without that.

Mr. STEPHENS of Texas. It is a matter of importance to the West.

Mr. MONDELL. This bill was reported some three weeks ago.

Mr. LACEY. This is the first I have heard of it.

Mr. MONDELL. The Reclamation Commission is desirous of disposing of some town sites.

Mr. LACEY. That can be done under the town-site law. I think I will object at present.

The SPEAKER. The gentleman from Iowa objects.

LIEU LANDS, MINNEAPOLIS, MINN.

Mr. STEVENS of Minnesota. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 15135) to empower the Secretary of War to convey to the city of Minneapolis certain lands in exchange for other lands, to be used for flowage purposes.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of War is hereby authorized and empowered to arrange for an exchange with the city of Minneapolis by which the United States shall convey to said city of Minneapolis the following-described land, situate in the county of Hennepin and State of Minnesota, to wit:

All that part of block 30 of Dorman's first addition to Minneapolis, according to the plat of said addition on file and of record in the office of the register of deeds in and for the county of Hennepin, State of Minnesota, bounded and described as follows: Beginning at the most southerly corner of said block 30 and running thence north along the east line of said block 200 feet; thence northwesterly in a straight line 394.6 feet, more or less, to a point on the southwesterly line of said block 500 feet northwesterly from the point of beginning; thence southeasterly along said southwesterly line 500 feet to the point of beginning, containing eighty-five one-hundredths of an acre, more or less.

And by which, in consideration thereof, the city of Minneapolis shall convey to the United States the following-described land, situate in the county of Hennepin and State of Minnesota, to wit:

That portion of lot 2, section 31, township 29 north of range 23 west of the fourth principal meridian, Hennepin County, Minn., described as follows: Commencing at the quarter-section corner between sections 31 and 32, township 29 north of range 23 west of the fourth principal meridian; thence south along the section line between said sections 31 and 32, 381 feet; thence north 50 degrees 30 minutes west 140 feet to the point of beginning of the land to be described; thence continuing along said line north 50 degrees 30 minutes west 335 feet; thence north 83 degrees east 90 feet; thence south 45 degrees east 60 feet; thence north 75 degrees east 105 feet; thence southeasterly 6 degrees 30 minutes, more or less, 210 feet, more or less, to the point of beginning, containing fifty-two one-hundredths of an acre, more or less. (The section line between said sections 31 and 32 has been considered in this description as the meridian.)

And also the right of flowage for the purposes of Lock and Dam No. 1, upon and over the following-described lands, situate in said Hennepin County, Minn., to wit:

That part of the north half of lot 7, section 5, township 28 north of range 23 west of the fourth principal meridian, described as follows: Beginning at the northwest corner of section 5, township 28, range 23; thence east along the north line of said section 5, 748 feet; thence south 648.4 feet; thence north 89° 40′ E. 386.5 feet to point of beginning of tract of land to be described; thence north 9° 36′ W. 350.5 feet; thence north 25° 20′ E. 84.1 feet; thence north 31° 43′ W. 202.1 feet; thence north 55° 33′ W. 55.7 feet, more or less, to the south line of Lake street east; thence in an easterly direction along the south line of said Lake street east 53.5 feet, more or less, to the west shore of the Mississippi River; thence along the west shore of said river in a southerly direction 722 feet, more or less, to an intersection with a line bearing north 89° 40′ E. from the point of beginning; thence south 89° 40′ W. 262.4 feet, more or less, to the point of beginning, containing 2.11 of an acre, more or less. (The west half of the north line of section 5, township 28 north, range 23 west of the fourth principal meridian, in the city of Minneapolis, county of Hennepin, State of Minnesota, is used as a true meridian in this description.)

That portion of lot 8, section 5, township 28 north of range 23 west of the fourth principal meridian, north of the north line of Riverside Park addition to the city of Minneapolis, county of Hennepin, State of Minnesota, described as follows: Beginning at the west quarter corner of said section 5; thence east along the south line of lot 8 in said section 5, 1,151.5 feet; thence north 27° 36′ E. 204.2 feet; thence north 14° E. 226.5 feet; thence north 1° 13′ E. 228.1 feet; thence north 2° east 174.8 feet; thence north 9° 2′ W. 28.45 feet to the point of beginning of tract of land to be described; thence north 9° 2′ W. 134.25 feet; thence north 2° 20′ W. 188 feet; thence north 13° 40′ W. 150.[illegible] feet, more or less, to the north line of lot 8; thence east along said north line of lot 8, 248 feet, more or less, to the west shore of the Mississippi River; thence in a southerly direction along said west shore of said river 497.46 feet, more or less, to an intersection with an east and west line from the point of beginning; thence west along said east and west line 243.37 feet, more or less, to the point of beginning, containing 2.89 of an acre, more or less. (The north half of the west line of section 5, township 28 north of range 23 west of the fourth principal meridian is used as a true meridian in this description.)

That part of "Park boulevard," so called, in Riverside Park addition to the city of Minneapolis, county of Hennepin and State of Minnesota, in lot 8, township 28 north of range 23 west of the fourth principal meridian, described as follows: Beginning at the west quarter corner of said section 5; thence east along the south line of lot 8 in said section 5, 1,151.5 feet, to the point of beginning, of tract of land to be described; thence north 27 degrees 36 minutes east 112.27 feet, more or less, to the south line of Block 11 in said Riverside Park addition; thence in an easterly direction along said south line of block 11, 313 feet, more or less, to the west shore of the Mississippi River; thence in a southerly direction along said west shore of river 100.7 feet, more or less, to an intersection with the south line of said lot 8; thence in a westerly direction along said south line of lot 8, 252.90 feet, more or less, to the point of beginning, containing .77 of an acre, more or less. (The north half of the west line of section 5, township 28 north, range 23 west of the fourth principal meridian is used as a true meridian in this description.)

And when said exchange has been arranged for and approved by the Secretary of War and upon receipt of conveyances from the city of Minneapolis, in accordance with the provisions of this act, a patent shall issue to the city of Minneapolis for the tract of land first above described.

SEC. 2. That this act shall take effect and be in force from and after its passage.

The SPEAKER. Is there objection?

There was no objection.

The bill was ordered to be engrossed and read a third time; and was accordingly read the third time, and passed.

On motion of Mr. STEVENS of Minnesota, a motion to reconsider the last vote was laid on the table.

LIEU LANDS IN WYOMING.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent for the present consideration of the bill S. 4628, now on the Speaker's table, identical with House bill 6314, which has been reported, a bill providing that the State of Wyoming be permitted to relinquish to the United States certain lands heretofore selected and to select other lands from the public domain in lieu thereof.

The bill was read, as follows:

Be it enacted, etc., That upon the delivery to the Secretary of the Interior by the State of Wyoming of its properly executed and duly recorded deed or deeds reconveying to the United States of America in fee simple, certain lands heretofore selected by and certified to said State under the provisions of an act entitled "An act to provide for the admission of the State of Wyoming into the Union, and for other purposes," approved July 10, 1890, to wit, south half of section 7, and all of sections 17, 18, 19, 20, 29, 30, 32, 33, and 34, in township 23 north, range 110 west; north half and north half of southwest quarter, and north half of southwest quarter of section 10, south half of section 3, north half and north half of south half and southwest quarter of southwest quarter of section 5, and all of sec-

2, 4, 6, 8, 10, 12, 14, 18, 20, 22, 24, 26, 28, 30, 32, and 34, in township 22 north, range 110 west; section 2, and the east half, northwest quarter, and north half of southwest quarter of section 10, in township 21 north, range 110 west; west half and southeast quarter of section 18, and all of sections 4, 6, 8, 20, 30, and 32, in township 22 north, range 109 west; west half of section 8, south half of section 22, and all of sections 6, 18, 20, and 26, in township 21 north, range 109 west; and all of sections 8, 22, and 26, in township 20 north, range 109 west; the land so described having been selected under the grant of 30,000 acres for the benefit of the miner's hospital, and grant of 30,000 acres for the benefit of penal, reform, and educational institutions in Carbon County, said selections being approved by the honorable Secretary of the Interior on March 6, 1894, and February 16, 1894, the said State shall be authorized and permitted to select an equal number of acres from the unappropriated public lands of the United States in said State in the same manner, for the same purposes, and subject to the same conditions and limitations under which the lands so reconveyed were selected and held.

SEC. 2. That the lands so reconveyed shall be restored to and become a part of the public domain and be subject to disposal by the Government in the same manner in which other public lands of a like character are disposed of.

Mr. PAYNE. Mr. Speaker, reserving the right to object, I would like to ask the gentleman to explain what this is.

Mr. MONDELL. This is a bill similar to the bill which was passed a few moments ago, brought up by the gentleman from Montana [Mr. DIXON]. It allows the State of Wyoming to exchange lands heretofore selected as a part of a land grant for other lands of a similar character and under like conditions. The necessity for this exchange arises from the fact that it is impossible to carry out certain irrigation projects contemplated. Under our State constitution these lands can not be disposed of for less than $10 an acre. In order that the project may be carried out it is proposed to allow the State to select other lands than these, and let these become a part of the public domain.

Mr. MANN. I can not quite understand from the gentleman's explanation the necessity of this bill. How much land is involved?

Mr. MONDELL. About 20,000 acres. It is land which was selected under two of the State's grants for penal and eleemosynary institutions. It is proposed to carry out a large irrigation project in the vicinity of these lands, including these lands.

Mr. MANN. The lands the State now owns?

Mr. MONDELL. The lands that the State has selected. It is impossible for the State to dispose of them, because under our constitution they can not sell them for less than $10 an acre. It is proposed to allow the State to relinquish these lands in order that they may be irrigated as a part of the public domain and locate other lands of like character in other portions of the State.

Mr. MANN. But they might select lands worth a great deal more.

Mr. MONDELL. They could not select any lands that the State could not have selected at the time they selected these, and they could not select more valuable lands, because they can not be found.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. MONDELL, a motion to reconsider the last vote was laid on the table.

A similar House bill (H. R. 16344) providing that the State of Wyoming be permitted to relinquish to the United States certain lands heretofore selected and to select other lands from the public domain in lieu thereof was laid on the table.

GEORGE E. PICKETT.

The SPEAKER laid before the House the bill (H. R. 11467) for the relief of Capt. George E. Pickett, paymaster, United States Army, with a Senate amendment.

The Senate amendment was read.

Mr. MILLER. Mr. Speaker, I move that the House concur in the Senate amendment.

The motion was agreed to.

LEAVE OF ABSENCE.

Mr. GOLDFOGLE, by unanimous consent, obtained leave of absence indefinitely, on account of illness.

Mr. PAYNE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

Accordingly (at 5 o'clock and 28 minutes p. m.) the House adjourned until to-morrow, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred by the Speaker as follows:

A letter from the Postmaster-General, transmitting an answer to the inquiry of the House as to the status of the Union News, of Thomasville, Ga., with reference to the use of the mails—to the Committee on the Post-Office and Post-Roads, and letter only ordered to be printed.

A letter from the Acting Secretary of the Treasury, transmitting a copy of a letter from the Secretary of the Interior submitting an estimate of appropriation for surveying the public lands—to the Committee on Appropriations, and ordered to be printed.

A letter from the Acting Secretary of the Treasury, transmitting a copy of a letter from the president of the Spanish Claims Commission submitting an estimate of appropriations for salaries and expenses of the Commission—to the Committee on Appropriations, and ordered to be printed.

A letter from the assistant clerk of the Court of Claims, transmitting a copy of the conclusions of fact and law in the French spoliation cases relating to the sloop *Flora*, Francis Bourn, master—to the Committee on Claims, and ordered to be printed.

A letter from the Acting Secretary of the Treasury, transmitting a copy of a letter from the Secretary of War, submitting an estimate of appropriation for the relief of George Drake and Lillie Nelson—to the Committee on Claims, and ordered to be printed.

A letter from the assistant clerk of the Court of Claims, transmitting a copy of the conclusions of fact and law in the French spoliation cases relating to the schooner *Brothers*, James Vinson, master—to the Committee on Claims, and ordered to be printed.

A letter from the assistant clerk of the Court of Claims, transmitting a copy of the conclusions of fact and law in the French spoliation cases relating to the brig *Eleanor*, George Price, master—to the Committee on Claims, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. BURKE of South Dakota, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the Senate (S. 5181) to authorize the construction of a bridge across the Missouri River between Walworth and Dewey counties, in the State of South Dakota, reported the same without amendment, accompanied by a report (No. 2648); which said bill and report were referred to the House Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 5201) to authorize the construction of a bridge or bridges across the Yellowstone River in Montana, reported the same with amendment, accompanied by a report (No. 2649); which said bill and report were referred to the House Calendar.

Mr. CUSHMAN, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the Senate (S. 5211) to authorize the construction of a bridge across the Snake River at or near Lewiston, Idaho, reported the same with amendment, accompanied by a report (No. 2650); which said bill and report were referred to the House Calendar.

Mr. CHARLES B. LANDIS, from the Committee on Printing, to which was referred the House joint resolution (H. J. Res. 127) to correct abuses in the public printing and to provide for the allotment of cost of certain documents and reports, reported the same without amendment, accompanied by a report (No. 2652); which said joint resolution and report were referred to the House Calendar.

He also, from the same committee, to which was referred the House joint resolution (H. J. Res. 128) to prevent unnecessary printing and binding and to correct evils in the present method of distribution of public documents, reported the same without amendment, accompanied by a report (No. 2653); which said joint resolution and report were referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 1233) granting an increase of pension to Edward M. Barnes, reported the same without amendment, accompanied by a report (No. 2585); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 1877) granting an increase of pension to

Amanda O. Webber, reported the same without amendment, accompanied by a report (No. 2569); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 955) granting an increase of pension to James Shaffer, reported the same without amendment, accompanied by a report (No. 2570); which said bill and report were referred to the Private Calendar.

Mr. WEISSE, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 1415) granting an increase of pension to Alexander Esler, reported the same without amendment, accompanied by a report (No. 2571); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 1105) granting an increase of pension to Harriet Williams, reported the same without amendment, accompanied by a report (No. 2572); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 1939) granting an increase of pension to Louise M. Wynkoop, reported the same without amendment, accompanied by a report (No. 2573); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 3566) granting an increase of pension to John Carpenter, reported the same without amendment, accompanied by a report (No. 2574); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 3987) granting an increase of pension to Samuel H. Hancock, reported the same without amendment, accompanied by a report (No. 2575); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 3825) granting an increase of pension to Luther M. Royal, reported the same without amendment, accompanied by a report (No. 2576); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 3641) granting an increase of pension to William P. Marshall, reported the same without amendment, accompanied by a report (No. 2577); which said bill and report were referred to the Private Calendar.

Mr. WEISSE, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 2667) granting an increase of pension to Benjamin W. Valentine, reported the same without amendment, accompanied by a report (No. 2578); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 2653) granting an increase of pension to Mary L. Burr, reported the same without amendment, accompanied by a report (No. 2579); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 2462) granting an increase of pension to George W. Lucas, reported the same without amendment, accompanied by a report (No. 2580); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 3484) granting an increase of pension to Jacob A. Field, reported the same without amendment, accompanied by a report (No. 2581); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 2775) granting an increase of pension to Thomas W. Waugh, reported the same without amendment, accompanied by a report (No. 2582); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 3297) granting an increase of pension to George Conklin, reported the same without amendment, accompanied by a report (No. 2583); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 3064) granting a pension to Cassy Cottrill, reported the same without amendment, accompanied by a report (No. 2584); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4551) granting an increase of pension to John F. White, reported the same without amendment, accompanied by a report (No. 2585); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4606) granting an increase of pension to Kate Gilmore, reported the same without amendment, accompanied by a report (No. 2586); which said bill and report were referred to the Private Calendar.

Mr. HOPKINS, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 3841) granting an increase of pension to Ephraim Winters, reported the same without amendment, accompanied by a report (No. 2587); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 3222) granting an increase of pension to Henry Golder, reported the same without amendment, accompanied by a report (No. 2588); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 1434) granting an increase of pension to Samuel Derry, reported the same without amendment, accompanied by a report (No. 2589); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 1203) granting a pension to Albert B. Lawrence, reported the same without amendment, accompanied by a report (No. 2590); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 520) granting an increase of pension to William D. Johnson, reported the same without amendment, accompanied by a report (No. 2591); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4612) granting an increase of pension to Jesse A. Thomas, reported the same without amendment, accompanied by a report (No. 2592); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 4386) granting a pension to George Thomas, reported the same without amendment, accompanied by a report (No. 2593); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 2633) granting an increase of pension to David Tremble, reported the same without amendment, accompanied by a report (No. 2594); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4817) granting an increase of pension to Delight A. Allen, reported the same without amendment, accompanied by a report (No. 2595); which said bill and report were referred to the Private Calendar.

Mr. HOPKINS, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4180) granting an increase of pension to William C. Quigley, reported the same without amendment, accompanied by a report (No. 2596); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 4196) granting an increase of pension to Katherine Wills, reported the same without amendment, accompanied by a report (No. 2597); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 3676) granting an increase of pension to James M. McCorkle, reported the same without amendment, accompanied by a report (No. 2598); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 3653) granting an increase of pension to Francis J. Keffer, reported the same without amendment, accompanied by a report (No. 2599); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 3252) granting an increase of pension to Mary Jane Schnure, reported the same without amendment, accompanied by a report (No. 2600); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 2638) granting an increase of pension to Thomas B. Whaley, reported the same without amendment, accompanied by a report (No. 2601); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 1614) granting a pension to Kate L. Young, reported the same without amendment, accompanied by a report (No. 2602); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to

which was referred the bill of the Senate (S. 1435) granting an increase of pension to Lewellen T. Davis, reported the same without amendment, accompanied by a report (No. 2603); which said bill and report were referred to the private Calendar.

Mr. HOPKINS, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4717) granting an increase of pension to Ellen A. Gibbon, reported the same without amendment, accompanied by a report (No. 2604); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 829) granting an increase of pension to James Gannon, reported the same without amendment, accompanied by a report (No. 2605); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 2574) granting an increase of pension to Peter Pritchard, reported the same without amendment, accompanied by a report (No. 2606); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 2577) granting an increase of pension to Francis M. Lynch, reported the same without amendment, accompanied by a report (No. 2607); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4775) granting an increase of pension to Thomas A. Maulsby, reported the same without amendment, accompanied by a report (No. 2608); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 4409) granting an increase of pension to James W. Linnahan, reported the same without amendment, accompanied by a report (No. 2609); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 4146) granting a pension to John W. Hall, reported the same without amendment, accompanied by a report (No. 2610); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 2725) granting an increase of pension to John Mather, reported the same without amendment, accompanied by a report (No. 2611); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 3035) granting an increase of pension to Charles W. Sheild, reported the same without amendment, accompanied by a report (No. 2612); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 3254) granting an increase of pension to Anna Frances Hall, reported the same without amendment, accompanied by a report (No. 2613); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 3449) granting an increase of pension to Joseph H. Beale, reported the same without amendment, accompanied by a report (No. 2614); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 3520) granting an increase of pension to Ada A. Thompson, reported the same without amendment, accompanied by a report (No. 2615); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 3584) granting an increase of pension to Peter Quernbeck, reported the same without amendment, accompanied by a report (No. 2616); which said bill and report were referred to the Private Calendar.

Mr. LINDSAY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4325) granting an increase of pension to Jabez Miller, reported the same without amendment, accompanied by a report (No. 2617); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 3012) granting an increase of pension to Samuel H. Foster, reported the same without amendment, accompanied by a report (No. 2618); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 1349) granting an increase of pension to Isaiah C. Earle, reported the same without amendment, accompanied by a report (No. 2619); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 1354) granting a pension to Lydia Jones, reported the same without amendment, accompanied by a report (No. 2620); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 4301) granting an increase of pension to Louisa Arnold, reported the same without amendment, accompanied by a report (No. 2621); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4324) granting an increase of pension to James H. Noble, reported the same without amendment, accompanied by a report (No. 2622); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 1667) granting an increase of pension to John A. Stockwell, alias John Stockwell, reported the same without amendment, accompanied by a report (No. 2623); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 2077) granting an increase of pension to Alice A. Arms, reported the same without amendment, accompanied by a report (No. 2624); which said bill and report were referred to the Private Calendar.

Mr. WEISSE, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 3257) granting an increase of pension to Walter Green, reported the same without amendment, accompanied by a report (No. 2625); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 3284) granting an increase of pension to Charles B. Fox, reported the same without amendment, accompanied by a report (No. 2626); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 3296) granting an increase of pension to Patrick Burk, reported the same without amendment, accompanied by a report (No. 2627); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 3532) granting an increase of pension to Anna K. Carpenter, reported the same without amendment, accompanied by a report (No. 2628); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 3524) granting an increase of pension to John N. Henry, reported the same without amendment, accompanied by a report (No. 2629); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 4228) granting an increase of pension to Joel S. Weiser, reported the same without amendment, accompanied by a report (No. 2630); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 4680) granting an increase of pension to John Brown, reported the same without amendment, accompanied by a report (No. 2631); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 4681) granting an increase of pension to Aaron J. Burget, reported the same without amendment, accompanied by a report (No. 2632); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 2540) granting an increase of pension to Benjamin S. Miller, reported the same without amendment, accompanied by a report (No. 2633); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 1302) granting an increase of pension to William A. Murray, reported the same without amendment, accompanied by a report (No. 2634); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4124) granting an increase of pension to Alden Fuller, reported the same without amendment, accompanied by a report (No. 2635); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 2670) granting an increase of pension to Thomas E. Keith, reported the same without amendment, accompanied by a report (No. 2636); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 2673) granting an increase of pension to Minard Van Patten, reported the same without amendment, accompanied by a report (No. 2637); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 4541) granting an increase of pension to Benson H. Bowman, reported the same without amendment, accompanied by a report (No. 2638); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 249) granting an increase of pension to Alfred E. Sears, reported the same without amendment, accompanied by a report (No. 2639); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 3893) granting an increase of pension to David C. Howard, reported the same without amendment, accompanied by a report (No. 2640); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 4424) granting an increase of pension to Nettie E. Tolles, reported the same without amendment accompanied by a report (No. 2641); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 3839) granting an increase of pension to John T. Brothers, reported the same without amendment, accompanied by a report (No. 2642); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 2736) granting an increase of pension to James Williams, reported the same without amendment, accompanied by a report (No. 2643); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 563) granting an increase of pension to Thomas Martin, reported the same without amendment, accompanied by a report (No. 2644); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 97) granting an increase of pension to Thomas F. Carey, reported the same without amendment, accompanied by a report (No. 2645); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 337) granting an increase of pension to Lydia Ann Jones, reported the same without amendment, accompanied by a report (No. 2646); which said bill and report were referred to the Private Calendar.

Mr. MAHON, from the Committee on War Claims, to which was referred the bill of the House (H. R. 15942) for the relief of John H. Frick, reported the same without amendment, accompanied by a report (No. 2647); which said bill and report were referred to the Private Calendar.

Mr. CLAUDE KITCHIN, from the Committee on Claims, to which was referred the bill of the House (H. R. 6302) providing for the payment of certain claims growing out of the Army maneuvers at West Point, Ky., in 1903, reported the same with amendment, accompanied by a report (No. 2655); which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS INTRODUCED.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. HULL: A bill (H. R. 17347) to reorganize and to increase the efficiency of the artillery of the United States Army—to the Committee on Military Affairs.

By Mr. KNOWLAND: A bill (H. R. 17348) providing for the purchase of a site and the erection of a public building thereon at Berkeley, in the State of California—to the Committee on Public Buildings and Grounds.

By Mr. MANN: A bill (H. R. 17349) declaring valid the acts and records of the criminal court of Cook County, Ill., relating to naturalization, and for other purposes—to the Committee on Immigration and Naturalization.

By Mr. SULZER: A bill (H. R. 17350) to make October 12 in each year a public holiday, to be called Columbus Day—to the Committee on the Judiciary.

By Mr. RHODES: A bill (H. R. 17351) making appropriations for the improvement of the Mississippi River at Ste. Genevieve, Mo., and other points in Ste. Genevieve County, Mo.—to the Committee on Levees and Improvements of the Mississippi River.

Also, a bill (H. R. 17352) fixing a duty on crude barytes, barium sulphate, and barium compounds—to the Committee on Ways and Means.

By Mr. SHERMAN: A bill (H. R. 17353) for a public building for the United States Geological Survey at Washington, D. C.—to the Committee on Public Buildings and Grounds.

By Mr. WILLIAMS: A bill (H. R. 17354) to repeal internal duties on antitoxin and diphtheria serum—to the Committee on Ways and Means.

By Mr. WATSON: A bill (H. R. 17355) to prohibit the transportation, by common carrier or by mail, of any cigarettes or cigarette paper the manufacture, sale, or gift of which is prohibited by the State of its destination—to the Committee on the Judiciary.

By Mr. ROBERTSON of Louisiana: A bill (H. R. 17356) to authorize the construction of a bridge across Bayou Manchac at Hope Villa, in the State of Louisiana—to the Committee on Interstate and Foreign Commerce.

By Mr. PEARRE: A bill (H. R. 17357) to repeal and reenact with amendments sections 37 and 54 of chapter 106 of the act of the Thirty-eighth Congress, entitled "An act to provide a national currency secured by pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864—to the Committee on Banking and Currency.

By Mr. McGUIRE: A bill (H. R. 17358) to provide for allotments to certain members of the Kiowa, Comanche, and Apache tribes of Indians—to the Committee on Indian Affairs.

By Mr. LITTAUER, from the Committee on Appropriations: A bill (H. R. 17359) making appropriations to supply additional urgent deficiencies in the appropriations for the fiscal year ending June 30, 1906, and for prior years, and for other purposes—to the Union Calendar.

By Mr. BARTHOLDT: A joint resolution (H. J. Res. 120) authorizing the Secretary of War to allow to the Manufacturers' Railway Company a right of way through the western limits of the United States engineering depot at St. Louis, Mo.—to the Committee on Rivers and Harbors.

PRIVATE BILLS AND RESOLUTIONS INTRODUCED.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. ACHESON: A bill (H. R. 17360) granting an increase of pension to David Freed—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17361) granting an increase of pension to Margaret McGillin—to the Committee on Invalid Pensions.

By Mr. BURLEIGH: A bill (H. R. 17362) granting an increase of pension to Oliver N. Blackington—to the Committee on Invalid Pensions.

By Mr. CANNON: A bill (H. R. 17363) granting an increase of pension to George S. Burtner—to the Committee on Invalid Pensions.

By Mr. CHANEY (by request): A bill (H. R. 17364) granting an increase of pension to Edward Bryan—to the Committee on Invalid Pensions.

By Mr. CURTIS: A bill (H. R. 17365) for the relief of Monroe Tompkins—to the Committee on Claims.

Also, a bill (H. R. 17366) granting a pension to James Hall—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17367) granting a pension to Henry Daniels—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17368) granting an increase of pension to Herman Logos—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17369) granting an increase of pension to Minor R. Monaghan—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17370) granting an increase of pension to John H. Johnson—to the Committee on Invalid Pensions.

By Mr. DARRAGH: A bill (H. R. 17371) granting an increase of pension to David Wood—to the Committee on Invalid Pensions.

By Mr. DAVEY of Louisiana: A bill (H. R. 17372) granting an increase of pension to Arethusa M. Pettit—to the Committee on Invalid Pensions.

By Mr. DIXON of Indiana: A bill (H. R. 17373) granting an increase of pension to William T. Stott—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17374) granting an increase of pension to Isom Wilkerson—to the Committee on Invalid Pensions.

By Mr. ELLIS: A bill (H. R. 17375) authorizing the appoint-

pension to Francis M. McCallum, contract surgeon, United States Army, as a captain and assistant surgeon on the retired list—to the Committee on Military Affairs.

By Mr. FLACK: A bill (H. R. 17376) granting an increase of pension to Mary Parris—to the Committee on Invalid Pensions.

By Mr. FLOOD: A bill (H. R. 17377) granting a pension to Luther M. Southall—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17378) granting a pension to Mary W. Tucker—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17379) granting an increase of pension to Sarah Conner—to the Committee on Invalid Pensions.

By Mr. GILLETT of Massachusetts: A bill (H. R. 17380) to correct the military record of Wilson B. Strong—to the Committee on Military Affairs.

By Mr. GRAHAM: A bill (H. R. 17381) granting an increase of pension to James McConnaha—to the Committee on Invalid Pensions.

By Mr. HERMANN: A bill (H. R. 17382) granting an increase of pension to W. A. Custer—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17383) granting an increase of pension to Joseph B. Leatherman—to the Committee on Invalid Pensions.

By Mr. HULL: A bill (H. R. 17384) granting an increase of pension to William Warnes—to the Committee on Invalid Pensions.

By Mr. HUMPHREYS of Mississippi: A bill (H. R. 17385) granting a pension to James S. Ruby—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17386) granting an increase of pension to W. H. Fawcett—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17387) granting an increase of pension to David F. Eakin—to the Committee on Invalid Pensions.

By Mr. KELLHER: A bill (H. R. 17388) granting an increase of pension to Patrick McCarthy—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17389) granting an increase of pension to Mary Holle—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17390) granting an increase of pension to Mary Sheehan—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17391) granting an increase of pension to William J. Du Wors—to the Committee on Invalid Pensions.

By Mr. LESTER: A bill (H. R. 17392) for the relief of Thomas McFarlane—to the Committee on War Claims.

By Mr. MANN: A bill (H. R. 17393) granting an increase of pension to George S. Green—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17394) granting an increase of pension to Albert W. Boggs—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17395) granting an increase of pension to Thomas C. S. Brown—to the Committee on Invalid Pensions.

By Mr. POLLARD: A bill (H. R. 17396) granting an increase of pension to Benjamin P. Powell—to the Committee on Invalid Pensions.

By Mr. POU (by request): A bill (H. R. 17397) granting a pension to Edwin Stephens—to the Committee on Invalid Pensions.

By Mr. RHODES: A bill (H. R. 17398) for the relief of Sarah E. Talley—to the Committee on Invalid Pensions.

By Mr. RIXEY: A bill (H. R. 17399) for the relief of the legal representatives of E. A. W. Hooe, late of Stafford County, Va.—to the Committee on War Claims.

Also, a bill (H. R. 17400) for the relief of the trustees of Chopawamsic Primitive Baptist Church, of Stafford County, Va.—to the Committee on War Claims.

By Mr. TYNDALL: A bill (H. R. 17401) granting an increase of pension to Hiram J. Weston—to the Committee on Invalid Pensions.

By Mr. UNDERWOOD: A bill (H. R. 17402) granting an increase of pension to Isaiah H. Hazlitt—to the Committee on Pensions.

By Mr. VOLSTEAD: A bill (H. R. 17403) granting an increase of pension to John F. Kent—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17404) granting a pension to Mathias Moeller—to the Committee on Pensions.

By Mr. WACHTER: A bill (H. R. 17405) correcting the military record of William McCormick—to the Committee on Military Affairs.

Mr. WILEY of Alabama: A bill (H. R. 17406) granting an increase of pension to William B. McAllister—to the Committee on Invalid Pensions.

By Mr. CHAPMAN: A bill (H. R. 17407) for the relief of Fannie Pemberton—to the Committee on War Claims.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of bills of the following titles; which were thereupon referred as follows:

A bill (H. R. 13575) granting a pension to Frances Bell—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 16466) granting an increase of pension to Asenith Woodall—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 4544) for the relief of ship keepers at the Mare Island Navy-Yard, Cal.—Committee on Naval Affairs discharged, and referred to the Committee on Claims.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER: Petition of citizens of Oklahoma and Indian Territory, for admission as States—to the Committee on the Territories.

By Mr. ACHESON: Petition of Corn Exchange National Bank, Philadelphia, Pa., for bill H. R. 15846—Committee on Banking and Currency discharged, and referred to the Committee on Interstate and Foreign Commerce.

Also, petition of Pennsylvania Bankers' Association, for amendment to present banking law to loan 10 per cent on capital and surplus—to the Committee on Banking and Currency.

Also, paper to accompany bill for relief of Margaret McGillin—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of Theodore F. Montgomery—to the Committee on Invalid Pensions.

By Mr. ANDREWS: Petition of Benjamin G. Lowe et al., and merchants of Las Vegas, N. Mex., against consideration of third and fourth class mail matter—to the Committee on the Post-Office and Post-Roads.

By Mr. BARCHFELD: Petition of Chamber of Commerce of Pittsburg, for metric system—to the Committee on Coinage, Weights, and Measures.

Also, petition of American Free Art League, for removal of duty on art works—to the Committee on Ways and Means.

Also, petition of William Petty, McKees Rocks, Pa.; John G. Peters, and D. K. West Coal Company, for Senate bill 4357 and House bill 15442—to the Committee on Immigration and Naturalization.

Also, petition of General Alexander Hayes Post, Grand Army of the Republic, No. 3, for Senate bill 2165, relative to military telegraphers of 1861–1865—to the Committee on Invalid Pensions.

By Mr. BARTHOLDT: Petition of Christian Endeavor Society of Lafayette Park Presbyterian Church, of St. Louis, against conditions in the Kongo Free State—to the Committee on Foreign Affairs.

Also, petition of Pigment and Chemical Company, against removal of tariff from certain chemical compounds—to the Committee on Ways and Means.

Also, petition of citizens of St. Louis, for ameliorating condition of people in Kongo Free State—to the Committee on Foreign Affairs.

Also, petition of citizens of St. Louis, against religious legislation in the District of Columbia—to the Committee on District of Columbia.

Also, paper to accompany bill for relief of William I. Mitchell—to the Committee on Pensions.

By Mr. BATES: Petition of National Bank of Corry, against bill H. R. 48—Committee on Banking and Currency discharged, and referred to the Committee on the Post-Office and Post-Roads.

By Mr. BELL of Georgia: Paper to accompany bill for relief of Lucius C. Fletcher—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of George H. Gordon—to the Committee on Invalid Pensions.

By Mr. BISHOP: Petition of citizens of Michigan, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. BOWERSOCK: Petition of citizens of Kansas, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. BROWN: Petition of citizens of Wisconsin, against Sunday banking—to the Committee on the District of Columbia.

By Mr. BURGESS: Paper to accompany bill for relief of John McDonald—to the Committee on War Claims.

By Mr. BURKE of Pennsylvania: Petition of General Alex. Hayes Post, Grand Army of the Republic, for Senate bill 2165—to the Committee on Invalid Pensions.

Also, petition of Chamber of Commerce of Pittsburg, for the metric system—to the Committee on Coinage, Weights, and Measures.

Also, paper to accompany bill for relief of John K. Dalzell—to the Committee on Invalid Pensions.

Also, petition of Morningside Civic Organization, for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

By Mr. BURKE of South Dakota: Petition of Sioux Falls Credit Men's Association, against repeal of the bankruptcy law—to the Committee on the Judiciary.

Also, petition of General Federation of Women's Clubs, for investigation of industrial condition of women in the United States—to the Committee on Appropriations.

By Mr. BURLEIGH: Petition of Honesty Grange, No. 83, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. CAMPBELL of Kansas: Paper to accompany bill for relief of William H. Hosler—to the Committee on Invalid Pensions.

By Mr. CHAPMAN: Petition of Mrs. Gertie E. Menaugh, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. COCKS: Petition of citizens of New York State, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. COOPER of Pennsylvania: Petition of Charles S. Caldwell and Corn Exchange National Bank of Philadelphia, for bill H. R. 15846—Committee on Banking and Currency discharged, and referred to the Committee on Interstate and Foreign Commerce.

By Mr. COOPER of Wisconsin: Petition of citizens of Racine, Wis., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. DARRAGH: Petition of citizens of Charlevoix County, Mich., against repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. DAVIDSON: Petition of Wisconsin Farmers' Institute, against free distribution of common seeds—to the Committee on Agriculture.

Also, petition of Frank Elza et al. and Albert Mather et al., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of Wisconsin Farmers' Institute, for Heyburn pure-food bill—to the Committee on Interstate and Foreign Commerce.

By Mr. DAWSON: Petition of Women's Club of Dewitt, Iowa, for investigation of industrial condition of women in the United States—to the Committee on Appropriations.

By Mr. DE ARMOND: Paper to accompany bill for relief of Robert L. Foster—to the Committee on War Claims.

By Mr. DIXON of Indiana: Paper to accompany bill for relief of W. W. Howe—to the Committee on Claims.

By Mr. DIXON of Montana: Paper to accompany bill for relief of Captain Mack and Lieutenant Osbourne—to the Committee on Military Affairs.

Also, paper to accompany bill for relief of George Herbert—to the Committee on Claims.

By Mr. DOVENER: Paper to accompany bill for relief of William H. White—to the Committee on Invalid Pensions.

By Mr. ESCH: Petition of a Round-up Farmers' Institute, against distribution of common seeds, etc.—to the Committee on Agriculture.

Also, petition of citizens of Wisconsin, for the Heyburn pure-food bill—to the Committee on Interstate and Foreign Commerce.

By Mr. FLETCHER: Petition of citizens of Minnesota, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. FLOOD: Petition of B. A. Blackmore et al., of West Virginia, against conflict of national law with State law governing sale of liquor—to the Committee on Alcoholic Liquor Traffic.

By Mr. FRENCH: Petition of citizens of Grangeville, Idaho, against a parcels-post law—to the Committee on the Post-Office and Post-Roads.

Also, petition of citizens of Idaho, against bill H. R. 7067—to the Committee on Indian Affairs.

By Mr. GAINES of West Virginia: Paper to accompany bill for relief of George W. Ollis—to the Committee on Pensions.

By Mr. GARDNER of Massachusetts: Petition of Bradford Grange, Patrons of Husbandry, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of Merrimac Council, Puritan Council, Ethan Allen Council, Niagara Council, Star Council, Caleb Cushing Council, Washington Council, Indian Hall Council, John Sumner Council, and Bay State Council, Order United American Mechanics, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. GARRETT: Paper to accompany bill for relief of Francis H. Hite—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

By Mr. GILLETT of Massachusetts: Petition of Tuesday Club, Palmer, Mass., for pure-food bill—to the Committee on Interstate and Foreign Commerce.

By Mr. GOULDEN: Petition of Buffalo Credit Men's Association—Committee on Banking and Currency discharged, and referred to the Committee on the Judiciary.

By Mr. GRANGER: Petition of citizens of Providence, R. I., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. GRIGGS: Petition of International Association of House Painters and Decorators of America, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. GRONNA: Petition of citizens of Dakota, for the pure-food bill—to the Committee on Interstate and Foreign Commerce.

By Mr. HASKINS: Petition of C. H. Davis et al., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. HERMANN: Petition of Jobbers and Manufacturers' Association of Portland, Oreg., for amendment to the law classifying shipments to noncontiguous territory of the United States—to the Committee on Interstate and Foreign Commerce.

By Mr. HILL of Connecticut: Petition of Local Union No. 52, Musical Protective Union, of South Norwalk, Conn., for bill H. R. 8748—to the Committee on Naval Affairs.

By Mr. HOUSTON: Paper to accompany bill for relief of William F. Stewart—to the Committee on Military Affairs.

By Mr. KELIHER: Petition of Boston Merchants' Association, against ship-tonnage tax and Senate bill 529—to the Committee on the Merchant Marine and Fisheries.

By Mr. WILLIAM W. KITCHIN: Paper to accompany bill for relief of heirs of Martin Rominger—to the Committee on War Claims.

By Mr. KLEPPER: Petition of Union Veteran Legion, of Washington, D. C., and Bell H. Gibson et al., against section 8 of legislative, executive, and judicial appropriation bill, Fifty-ninth Congress, first session—to the Committee on Appropriations.

Also, petition of Auxiliary No. 32, Union Veteran Legion, against section 8 of the legislative appropriation bill—to the Committee on Appropriations.

Also, petition of Headquarters Union Veteran Union, against section 8 of the legislative appropriation bill—to the Committee on Appropriations.

Also, petition of citizens of Oklahoma, for the statehood bill—to the Committee on the Territories.

By Mr. KNOWLAND: Petition of Local Union No. 127, Painters, Decorators, and Paper Hangers of America, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. LEE: Paper to accompany bill for relief of Mrs. S. C. Gober—to the Committee on War Claims.

Also, paper to accompany bill for relief of Thaddeus N. Morris—to the Committee on War Claims.

By Mr. LESTER: Paper to accompany bill for relief of Thomas McFarlane, Plymouth Frazier, July Anderson, and Plymouth Frazier, jr.—to the Committee on War Claims.

By Mr. LINDSAY: Petition of Robert S. Waddell, against Du Pont powder monopoly—to the Committee on Military Affairs.

Also, petition of U. S. Grant Post, No. 327, New York, for National Battle Field Park at Petersburg, Va.—to the Committee on Military Affairs.

Also, petition of American Free Art League, for repeal of duty on art works—to the Committee on Ways and Means.

Also, petition of Public Education Association, for regulation of child labor in the District of Columbia, children's bureau, investigation of the labor of women and children—to the Committee on the District of Columbia.

Also, petition of C. A. Auffmordt & Co., for Government quarantine regulation for Gulf ports—to the Committee on Interstate and Foreign Commerce.

Also, petition of Commercial Travelers' Mutual Accident Association, for amendment to bankruptcy bill—to the Committee on the Judiciary.

By Mr. LOUD: Petition of citizens of Sheboygan, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. LOUDENSLAGER: Petition of Daughters of Liberty, Elmer, N. J., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. MANN: Paper to accompany bill for relief of George S. Green—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of Albert W. Boggs, Lewis E. Glover, and Thaddeus C. S. Brown—to the Committee on Invalid Pensions.

By Mr. MAYNARD: Petition of Valley Forge Council, No. 45, Newport News, Va., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. MINOR: Petition of citizens of Champion, Wis., and citizens of Fish Creek, Wis., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. MOON of Tennessee: Papers to accompany bill for relief of heirs of John A. Heard, heirs of Alexander L. Anderson, and Martin V. Easterly—to the Committee on War Claims.

By Mr. NORRIS: Petition of Nebraska Cement Users' Association, for continued investigation of structural material by the Geological Survey—to the Committee on Appropriations.

By Mr. PALMER: Petition of Frank A. Zerfoss et al., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. PAYNE: Paper to accompany bill for relief of Henry Power, Esek W. Hoff, Joseph H. Truax, and Lewis F. Belden—to the Committee on Invalid Pensions.

Also, petition of various granges in Oregon, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. RHODES: Petition of Green Ridge Mission, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of Ward Cunningham et al., against parcels-post law—to the Committee on the Post-Office and Post-Roads.

By Mr. RIVES: Petition of many citizens of New York and vicinity for relief for heirs of victims of *General Slocum* disaster—to the Committee on Claims.

Also, petition of National Association of Cement Users, of Nebraska, for continuance by United States Geological Survey of tests in structural material—to the Committee on Appropriations.

By Mr. RIXEY: Paper to accompany bill for relief of Chappawamsic Primitive Church, Stafford County, Va.—to the Committee on War Claims.

Also, paper to accompany bill for relief of legal representatives of E. A. W. Hoe, late of Stafford County, Va.—to the Committee on War Claims.

By Mr. RUCKER: Petition of citizens of Missouri, against parcels-post law—to the Committee on the Post-Office and Post-Roads.

By Mr. SHARTEL: Petition of L. B. Ream, et al., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. SHEPPARD: Paper to accompany bill for relief of Virginia A. Hieborn—to the Committee on Pensions.

By Mr. SHERMAN: Paper to accompany bill for relief of Nettie A. Hill—to the Committee on Invalid Pensions.

By Mr. SIBLEY: Petition of citizens of Warren County, Pa., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. SMITH of Kentucky: Petition of Hiram Atkinson et al. for relief of Sampson M. Archar and others—to the Committee on War Claims.

By Mr. SPERRY: Petition of citizens of New Haven, Conn., against sale of liquor in Government buildings—to the Committee on Alcoholic Liquor Traffic.

By Mr. STEENERSON: Petition of A. L. Ward, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. SULLIVAN of New York: Petition of Japanese and Korean Exclusion League, for Chinese-exclusion law as it is—to the Committee on Foreign Affairs.

Also, petition of Brooklyn Central Labor Union, for building battle ships at Brooklyn Navy-Yard—to the Committee on Naval Affairs.

Also, petition of Robert S. Waddell, against powder monopoly—to the Committee on Military Affairs.

Also, petition of Interstate Commerce Law Convention, for the President's recommendation relative to railway rate control—to the Committee on Interstate and Foreign Commerce.

Also, petition of Yale & Towne Manufacturing Company, against repeal of national bankruptcy act—to the Committee on the Judiciary.

Also, petition of American Free Art League, for repeal of duty on art works—to the Committee on Ways and Means.

Also, petition of American Humane Society, against bill S. 3413—to the Committee on Interstate and Foreign Commerce.

Also, petition of N. D. Lailliard & Co., New York, and Daniel O'Dell & Co., New York, for the Williams-Mallory bills—to the Committee on Interstate and Foreign Commerce.

Also, petition of J. B. Colt Company, for regulation of quarantine by Government in Gulf ports—to the Committee on Interstate and Foreign Commerce.

Also, petition of Peter Henderson, against seed distribution—to the Committee on Agriculture.

Also, petition of C. A. Auffmordt & Co., for Government quarantine regulation in Gulf ports—to the Committee on Interstate and Foreign Commerce.

Also, petition of Allied Boards of Trade, Brooklyn, N. Y., for building battle ships at Brooklyn Navy-Yard—to the Committee on Naval Affairs.

Also, resolutions of legislatures of several States for regulation of freight rates by Interstate Commerce Commission—to the Committee on Interstate and Foreign Commerce.

Also, petition of National Board of Trade, for forestry reservations and irrigation—to the Committee on Agriculture.

Also, petition of Commercial Travelers' Mutual Accident Association, for amendment to bankruptcy law—to the Committee on the Judiciary.

By Mr. THOMAS of North Carolina: Paper to accompany bill for relief of John B. Wolf—to the Committee on War Claims.

By Mr. TIRRELL: Petitions of many citizens of New York and vicinity for relief for heirs of victims of *General Slocum* disaster—to the Committee on Claims.

By Mr. WILLIAMS: Petition of Independent Refiners' Association, for railway rate bill—to the Committee on Interstate and Foreign Commerce.

By Mr. WILEY: Paper to accompany bill for relief of William B. McAllister—to the Committee on Invalid Pensions.

SENATE.

TUESDAY, *March 27, 1906.*

Prayer by the Chaplain, Rev. EDWARD E. HALE.

The Journal of yesterday's proceedings was read and approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed the following bills:

S. 4198. An act granting permission to Prof. Simon Newcomb, United States Navy, retired, to accept the decoration of the order "Pour le Mérite, für Wissenschaften und Kunste;"

S. 4628. An act providing that the State of Wyoming be permitted to relinquish to the United States certain lands heretofore selected, and to select other lands from the public domain in lieu thereof;

S. 4833. An act to amend an act entitled "An act permitting the Washington Market Company to lay a conduit and pipes across Seventh street west," approved February 23, 1905; and

S. 5184. An act to authorize the construction of a bridge across the Missouri River between Walworth and Dewey counties, in the State of South Dakota.

The message also announced that the House had passed the following bills, with amendments in which it requested the concurrence of the Senate:

S. 5204. An act to authorize the construction of a bridge or bridges across the Yellowstone River in Montana; and

S. 5211. An act to authorize the construction of a bridge across the Snake River at or near Lewiston, Idaho.

The message further announced that the House had agreed to the amendments of the Senate to the following bills:

H. R. 125. An act regulating the retent on contracts with the District of Columbia; and

H. R. 14467. An act for the relief of Capt. George E. Pickett, paymaster, United States Army.

The message also announced that the House had agreed to the concurrent resolution of the Senate accepting the invitation extended to the Congress of the United States by the American Philosophical Society of Philadelphia, Pa., to attend the celebration of the two hundredth anniversary of the birth of Benjamin Franklin, to be held at Philadelphia, Pa., commencing April 17, 1906.

The message further announced that the House had passed

the following bills and joint resolutions; in which it requested the concurrence of the Senate:

H. R. 5972. An act granting the right to sell burial sites in parts of certain streets in Washington City to the vestry of Washington parish for the benefit of the Congressional Cemetery;

H. R. 8278. An act authorizing the Secretary of the Interior to issue patent to Keystone Camp, No. 2879, of the Modern Woodmen of America, to certain lands for cemetery purposes;

H. R. 9329. An act to amend an act approved February 28, 1903, entitled "An act to provide for a Union Station in the District of Columbia, and for other purposes;"

H. R. 11026. An act to authorize the counties of Holmes and Washington to construct a bridge across the Yazoo River, Mississippi;

H. R. 14578. An act to provide for the establishment of a public crematorium in the District of Columbia, and for other purposes;

H. R. 14591. An act to authorize the construction of a bridge across the Cumberland River in or near the city of Clarksville, State of Tennessee;

H. R. 14592. An act to authorize the construction of two bridges across the Cumberland River at or near Nashville, Tenn.;

H. R. 15259. An act to authorize the North Mississippi Traction Company to construct dams and power stations on the Bear River on the northeast quarter of section 31, township 5, range 11, in Tishomingo County, Miss.;

H. R. 15435. An act to empower the Secretary of War to convey to the city of Minneapolis certain lands in exchange for other lands, to be used for flowage purposes;

H. R. 15740. An act amending an act entitled "An act for the extension of M street east of Bladensburg road, and for other purposes," approved March 3, 1905;

H. R. 16140. An act authorizing the maintaining and operating for toll an existing structure across Tugaloo River, known as "Knox's Bridge," at a point where said river is the boundary between the States of South Carolina and Georgia;

H. R. 16484. An act to amend section 1 of an act entitled "An act relating to the Metropolitan police of the District of Columbia," approved February 28, 1901;

H. R. 16944. An act to amend section 878 of the Code of Law for the District of Columbia;

H. R. 17135. An act providing that the State of Montana be permitted to relinquish to the United States certain lands heretofore selected and select other lands from the public domain in lieu thereof;

H. J. Res. 11. Joint resolution for the publication of eulogies delivered in Congress on Hon. John W. Crawford, late a Representative in Congress;

H. J. Res. 127. Joint resolution to correct abuses in the public printing and to provide for the allotment of cost of certain documents and reports; and

H. J. Res. 128. Joint resolution to prevent unnecessary printing and binding and to correct evils in the present method of distribution of public documents.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented a petition of the legislative assembly of San Juan, P. R., praying for the enactment of legislation to protect the coffee industry of that Territory; which was referred to the Committee on Pacific Islands and Porto Rico.

He also presented a petition of the Presbyterian, Congregational, and Reformed Ministers' Association, of Baltimore, Md., praying for an investigation of the existing conditions in the Kongo Free State; which was referred to the Committee on Foreign Relations.

Mr. PLATT presented a petition of Ganesvoort Chapter, Daughters of the American Revolution, of Albany, N. Y., praying for the adoption of an amendment to the Constitution to prohibit polygamy; which was referred to the Committee on the Judiciary.

He also presented sundry petitions of Empire Council, No. 28, Junior Order of United American Mechanics, of Greenport, N. Y., praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

Mr. CULLOM. I present a long paper in the form of a letter addressed to the Secretary of the Treasury, the Members of Congress, committees on tariff, etc., concerning the tariff on chemicals. I ask that the paper be referred to the Committee on Finance.

The VICE-PRESIDENT. Does the Senator from Illinois wish to have the paper printed?

Mr. CULLOM. I do not think it necessary to order the printing now. The committee will ascertain whether it is important to have it printed.

The VICE-PRESIDENT. The paper will be referred to the Committee on Finance.

Mr. CULLOM presented petitions of the Catholic Women's League of Peoria, the Clio Club of Pana, the Clio Club of Olney, and the Woman's Club of Atlantis, all of the General Federation of Women's Clubs in the State of Illinois, praying for an investigation into the industrial condition of the women of the country; which were referred to the Committee on Education and Labor.

Mr. DILLINGHAM presented petitions of the Monday Club of Rochester, of the Unity Club of Rutland, and of the Woman's Club of Morrisville, all in the State of Vermont, praying that an appropriation be made for a scientific investigation into the industrial conditions of women in the United States; which were referred to the Committee on Education and Labor.

He also presented petitions of the Noel House Social Settlement Committee, of Washington, D. C.; of the Associated Charities of Cleveland, Ohio; of the Consumers' League of Maryland, of Baltimore, Md.; of the Charity Organization Society of Paterson, N. J.; of the Woman's Club of Orange, N. J.; of the Council of Jewish Women of New York City, N. Y., and of the National Consumers' League, of New York City, N. Y., praying for the enactment of legislation to regulate the employment of child labor in the District of Columbia; which were referred to the Committee on the District of Columbia.

Mr. SCOTT presented a petition of Morning Glory Council, No. 13, Daughters of Liberty, of Paint Creek, W. Va., praying for the enactment of legislation to restrict immigration; which was referred to the Committee on Immigration.

Mr. WARNER presented sundry papers to accompany the following bills; which were referred to the Committee on Pensions:

A bill (S. 2502) granting an increase of pension to Stephen M. Fitzwater;

A bill (S. 2503) granting a pension to Martina Danenmueller;

A bill (S. 2504) granting an increase of pension to Jonathan B. W. Bennington;

A bill (S. 2505) granting a pension to Edwin F. Foster, alias Paul Gillon;

A bill (S. 2506) granting a pension to Samuel H. Gott;

A bill (S. 2507) granting an increase of pension to William Wheeler;

A bill (S. 2508) granting an increase of pension to Rosanna Zahn;

A bill (S. 2509) granting an increase of pension to Albert Sriver;

A bill (S. 2511) granting a pension to James P. Hopkins;

A bill (S. 2513) granting a pension to William D. Foster;

A bill (S. 2515) granting a pension to Nathan Goodman;

A bill (S. 2516) granting a pension to Mary C. McCaw;

A bill (S. 2517) granting a pension to Charles Herlst;

A bill (S. 2518) granting a pension to Frederick Hartman;

A bill (S. 2519) granting a pension to John Hebart;

A bill (S. 2520) granting an increase of pension to Albert H. Hannaford;

A bill (S. 2521) granting an increase of pension to R. R. Dill;

A bill (S. 2522) granting a pension to Thomas J. Hughes;

A bill (S. 2523) granting a pension to Celestine Grojean;

A bill (S. 2524) granting a pension to Freda Burow; and

A bill (S. 2525) granting an increase of pension to Perry B. Sibley.

Mr. WARNER presented sundry papers to accompany the bill (S. 2755) for the relief of William Wilson; which were referred to the Committee on Military Affairs.

He also presented sundry papers to accompany the bill (S. 2757) for the relief of Henry Nichol; which were referred to the Committee on Claims.

He also presented sundry papers to accompany the following bills; which were referred to the Committee on Pensions:

A bill (S. 2758) granting an increase of pension to William McCan;

A bill (S. 2759) granting an increase of pension to William B. Mitchell;

A bill (S. 2760) granting a pension to Eliza J. Glover;

A bill (S. 2761) granting an increase of pension to George W. King;

A bill (S. 2762) granting an increase of pension to Abram J. Bozarth;

A bill (S. 2763) granting an increase of pension to William Kelly;

A bill (S. 2764) granting an increase of pension to Archibald T. Stewart;

A bill (S. 2765) granting a pension to John Wier;

A bill (S. 2766) granting a pension to William H. Thomas; and

...(S. 4518) granting an increase of pension to Van Buren ...

...WARNER presented sundry papers to accompany the ... (H. R. 12707) to enable the people of Oklahoma and of the Indian Territory to form a constitution and State government ... admitted into the Union on an equal footing with the ... States; which were referred to the Committee on Ter...

...CLARK of Montana presented the memorial of John M. ... John Lindsay, Joseph Williams, and sundry other citizens of Butte, Mont., remonstrating against the enactment of legislation to encourage the reclamation of certain tracts of arid land in the State of Montana and to provide relief for the owners of inundated lands, and also praying that they be granted a hearing before the Committee on Irrigation and Reclamation of Arid Lands when this bill shall be considered; which was referred to the Committee on Irrigation and Reclamation of Arid Lands.

Mr. HALE presented petitions of the Woman's Literary Union of Androscoggin County; the Current Events Club, of Portland; the Pierian Club, of Presque Isle; the Barton Reading Club, of Norway; the Educational and Industrial Union, of ... the Monday Club, of Portland; the Woman's Literary Union of Portland, and the women's clubs of South Berwick, ..., and Old Orchard, all of the General Federation of Women's Clubs, in the State of Maine, praying for an investigation into the industrial condition of the women of the country; which were referred to the Committee on Education and Labor.

He also presented a petition of sundry citizens of Jackson, Me., praying for the passage of the so-called "railroad rate bill;" which was ordered to lie on the table.

Mr. HEMENWAY presented petitions of A. G. Amsden Lodge, No. 23, Brotherhood of Railroad Trainmen, of Elkhart; of the Associated Charities of Evansville, and of the Associated Charities of Anderson, all in the State of Indiana, praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

He also presented a memorial of the Indiana Retail Merchants' Association, remonstrating against the passage of the so-called "parcels-post bill" and praying for the establishment of a 1-cent postage rate; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of the Conversation Club of Valparaiso, Ind., and a petition of the Women's Study Club, of Michigan City, Ind., praying for an investigation into the industrial conditions of the women of the country; which were referred to the Committee on Education and Labor.

He also presented a petition of Local Union No. 203, American Federation of Musicians, of Hammond, Ind., and a petition of Local Union No. 331, American Federation of Musicians, of Rochester, Ind., praying for the enactment of legislation to prohibit the employment of Government musicians in competition with civilian musicians; which were referred to the Committee on Naval Affairs.

Mr. HOPKINS presented petitions of the Wicker Park Culture Club, the Alternate Club, the Lake View Woman's Club, of Chicago, and the Nineteenth Century Club of Oak Park, all in the State of Illinois, praying for the enactment of legislation to prevent the impending destruction of Niagara Falls on the American side by the diversion of the waters for manufacturing purposes; which were ordered to lie on the table.

He also presented a petition of Greenville College, Greenville, Ill., and a petition of the Browns Business College, Peoria, Ill., praying for the enactment of legislation relative to the rates of postage on college publications; which were referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of Altgeld Lodge, No. 460, International Association of Machinists, of Waukegan, Ill., and a petition of the Trades and Labor Council of Waukegan, Ill., praying for the enactment of legislation to regulate the compensation of skilled mechanics employed in the Naval Gun Factory at the navy-yard, Washington, D. C.; which were referred to the Committee on Naval Affairs.

He also presented petitions of the Musical Protective Unions of Galesburg, Aurora, Quincy, and Sterling, all in the State of Illinois, praying for the enactment of legislation prohibiting the employment of Government musicians in competition with civilian musicians; which were referred to the Committee on Naval Affairs.

He also presented petitions of sundry citizens of Harpe, Tolerau, Saybrook, Marshall, Mount Carmel, Durand, Monmouth, Elgin, and Chicago, all in the State of Illinois, praying for the enactment of legislation to remove the duty on denaturized alcohol; which were referred to the Committee on Finance.

He also presented memorials of the American Well Works, of Aurora; of the Manufacturers' Association of Bellville, and of the George P. Bent Manufacturing Company, of Chicago, all in the State of Illinois, remonstrating against the passage of the so-called "anti-injunction bill;" which were referred to the Committee on the Judiciary.

He also presented the petition of Francis T. A. Junkin, of Chicago, Ill., praying for the enactment of legislation to establish a laboratory for the study of the criminal, pauper, and defective classes; which was referred to the Committee on the Judiciary.

He also presented petitions of sundry citizens of Rockford, Decatur, and Peoria, all in the State of Illinois, and of New York City, N. Y., praying for the passage of the so-called "Hepburn-Dolliver railroad rate bill;" which were ordered to lie on the table.

He also presented petitions of Local Division No. 469, Brotherhood of Railroad Trainmen, of Charleston, Ill., and a petition of John Player Division, No. 458, Brotherhood of Locomotive Engineers, of Chicago, Ill., praying for the passage of the so-called "employers' liability bill," and also the "anti-injunction bill;" which were referred to the Committee on Interstate Commerce.

He also presented petitions of Greene & Greene, bankers, of Tallula; of the State Bank, of Chicago; of the Union Trust Company, of Chicago, and of the Continental National Bank, of Chicago, all in the State of Illinois, praying for the enactment of legislation relating to uniform bills of lading; which were referred to the Committee on Interstate Commerce.

He also presented a memorial of Local Union No. 448, United Brotherhood of Carpenters and Joiners of America, of Waukegan, Ill., and a memorial of the Trades and Labor Assembly of Quincy, Ill., remonstrating against the repeal of the present Chinese exclusion law; which were referred to the Committee on Immigration.

REPORTS OF COMMITTEES.

Mr. WETMORE, from the Committee on the Library, to whom was referred the bill (S. 5288) appropriating $5,000 to inclose and beautify the monument on the Moores Creek battlefield, North Carolina, reported it without amendment, and submitted a report thereon.

Mr. CLARK of Wyoming, from the Committee on the Judiciary, reported an amendment proposing to appropriate $10,000 for the preparation of the four volumes of the Consolidated Index to the United States Statutes at Large from March 4, 1789, to March 3, 1903, under Senate resolution of June 19, 1902, intended to be proposed to the general deficiency appropriation bill, and moved that it be printed, and, with the accompanying paper, referred to the Committee on Appropriations; which was agreed to.

He also, from the same committee, reported an amendment providing for the printing, binding, and distribution of the Consolidated Index to the United States Statutes at Large from March 4, 1789, to March 3, 1903, etc., intended to be proposed to the sundry civil appropriation bill, and moved that it be printed, and, with the accompanying papers, referred to the Committee on Appropriations; which was agreed to.

Mr. GALLINGER, from the Committee on the District of Columbia, to whom was referred the bill (H. R. 8207) to regulate the practice of pharmacy and the sale of poisons in the District of Columbia, and for other purposes, reported it with amendments, and submitted a report thereon.

Mr. OVERMAN, from the Committee on Claims, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 12028) granting relief to John W. Donovan;

A bill (H. R. 13217) for the relief of John H. Tharp, of Eversonville, Mo.;

A bill (H. R. 12286) granting relief to the estate of James Staley, deceased; and

A bill (S. 1218) for the relief of Louise Powers McKee, administratrix.

Mr. SIMMONS, from the Committee on Post-Offices and Post-Roads, to whom was referred the bill (S. 2368) for the relief of the Postal Telegraph Cable Company, reported it without amendment, and submitted a report thereon.

BILLS INTRODUCED.

Mr. FRYE introduced a bill (S. 5358) to remove the charge of desertion from the record of Edward Kelly; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Military Affairs.

He also introduced a bill (S. 5359) granting an increase of pension to William H. Ward; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. ALLISON introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 5360) granting an increase of pension to James Brown; and

A bill (S. 5361) granting an increase of pension to J. H. Peters.

Mr. CULLOM introduced a bill (S. 5362) to finally adjust the swamp land grants, and for other purposes; which was read twice by its title, and referred to the Committee on Public Lands.

He also introduced a bill (S. 5363) granting an increase of pension to L. D. Hartwell; which was read twice by its title, and referred to the Committee on Pensions.

Mr. FULTON introduced a bill (S. 5364) granting a pension to Lewis Cole; which was read twice by its title, and referred to the Committee on Pensions.

Mr. TALIAFERRO introduced a bill (S. 5365) to appoint Joseph Y. Porter a lieutenant-colonel and assistant surgeon and to place him on the retired list of the Army; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. SMOOT introduced a bill (S. 5366) granting an increase of pension to John Beatty; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. LATIMER introduced a bill (S. 5367) to provide for the erection of a monument to Gen. Andrew Pickens; which was read twice by its title, and referred to the Committee on the Library.

Mr. WARNER introduced the following bills; which were severally read twice by their titles, and, with the accompanying papers, referred to the Committee on Pensions:

A bill (S. 5368) granting an increase of pension to William P. Watkins;

A bill (S. 5369) granting an increase of pension to Joseph E. Jackson;

A bill (S. 5370) granting a pension to Michael Champlain; and

A bill (S. 5371) granting a pension to Smith Thompson.

Mr. PILES introduced a bill (S. 5372) to prevent dangers to navigation from rafts of logs or timbers on coast waters of the United States; which was read twice by its title, and referred to the Committee on Commerce.

He also introduced a bill (S. 5373) to remove the charge of desertion from the military record of James T. Wellman; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Military Affairs.

Mr. WARREN introduced a bill (S. 5374) granting a pension to Floyd A. Honaker; which was read twice by its title, and referred to the Committee on Pensions.

Mr. HALE introduced a bill (S. 5375) granting an increase of pension to Frances L. Porter; which was read twice by its title, and referred to the Committee on Pensions.

Mr. FLINT introduced a bill (S. 5376) providing for the reclamation of lands in the Sacramento and San Joaquin valleys, in the State of California; which was read twice by its title, and referred to the Committee on Irrigation.

Mr. BACON introduced a bill (S. 5377) for the relief of James I. Fountain; which was read twice by its title, and referred to the Committee on Claims.

Mr. SPOONER introduced a bill (S. 5378) removing the charge of desertion from the name of William R. Garner; which was read twice by its title, and referred to the Committee on Military Affairs.

He also introduced the following bills; which were severally read twice by their titles, and, with the accompanying papers, referred to the Committee on Pensions:

A bill (S. 5379) granting an increase of pension to Otto A. Risum; and

A bill (S. 5380) granting an increase of pension to Richard Jones.

Mr. HEMENWAY introduced a bill (S. 5381) to amend an act to incorporate the Supreme Lodge of the Knights of Pythias; which was read twice by its title, and referred to the Committee on the Judiciary.

He also introduced a bill (S. 5382) granting an increase of pension to Lawrence H. McGinnis; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 5383) granting an increase of pension to Greenberry B. Patterson; which was read twice by its title, and referred to the Committee on Pensions.

Mr. FRYE introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Commerce.

A bill (S. 5384) to amend rule 12 of section 4233 of the Revised Statutes of the United States, relating to lights on water craft;

A bill (S. 5385) to amend an act entitled "An act to adopt regulations for preventing collisions upon certain harbors, rivers, and inland waters of the United States, approved June 7, 1897; and

A bill (S. 5386) to amend an act entitled "An act to regulate navigation on the Great Lakes and their connecting and tributary waters," approved February 8, 1895.

Mr. HOPKINS introduced a bill (S. 5387) granting an increase of pension to Lorenzo D. Hartwell; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. BACON introduced a bill (S. 5388) to authorize the acquisition of land and a building for the United States legation in Constantinople; which was read twice by its title, and referred to the Committee on Foreign Relations.

Mr. NEWLANDS introduced a bill (S. 5389) granting an increase of pension to Benjamin F. Woods; which was read twice by its title, and referred to the Committee on Pensions.

Mr. WETMORE introduced a joint resolution (S. R. 45) authorizing a commission to examine the battlefields around Petersburg, Va., and report whether it is advisable to establish a battlefield park; which was read twice by its title, and referred to the Committee on Military Affairs.

AMENDMENTS TO BILLS.

Mr. FLINT submitted an amendment proposing to appropriate $200,000 for examinations and surveys for the location of reclamation and irrigation works in the valleys of the Sacramento and San Joaquin rivers in California and on streams tributary thereto, intended to be proposed by him to the sundry civil appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. TELLER submitted sundry amendments to accompany the bill (S. 3245) creating the Mesa Verde National Park; which were ordered to lie on the table, and be printed.

REGULATION OF RAILROAD RATES.

Mr. LODGE submitted an amendment intended to be proposed by him to the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission; which was ordered to lie on the table, and be printed.

Mr. SIMMONS submitted an amendment intended to be proposed by him to the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission; which was ordered to lie on the table, and be printed.

WITHDRAWAL OF PAPERS—ALBERT S. SCROGGINS.

Mr. SCOTT. I submit an order which I send to the desk.

The VICE-PRESIDENT. The order will be read.

The Secretary read the order, as follows:

Ordered, That leave be granted to withdraw from the files of the Senate, without leaving copies, the papers in the case of Senate bill 6333, a bill granting an increase of pension to Albert S. Scroggins, Fifty-ninth Congress, no adverse report having been made thereon.

Mr. SPOONER. What is the object of the provision "without leaving copies?" I do not know whether that is usual or not.

The VICE-PRESIDENT. The Chair understands the rule to require that copies shall be left only in case there has been an adverse report. The order just read discloses the fact that no adverse report has been made.

The order was agreed to.

D'ANGER'S BUST OF WASHINGTON.

On motion of Mr. WETMORE, it was

Ordered, That the 500 copies of the report of the proceedings on the occasion of the presentation to the United States of a bust of Washington by certain citizens of France, which have been bound in cloth and lately delivered to the Senate document room, be transferred to the Senate folding room and placed to the credit of Senators; and that the fraction remaining after such allotment shall be placed to the credit of the Committee on the Library for distribution.

PUBLIC PRINTING AND THE DISTRIBUTION OF DOCUMENTS.

Mr. PLATT. I ask that the joint resolutions which have just been received from the House of Representatives relating to public printing and binding, etc., be laid before the Senate with a view to their passage.

The VICE PRESIDENT. The Chair lays before the Senate a joint resolution from the House of Representatives, which will be read for the information of the Senate.

The joint resolution (H. J. Res. 127) to correct abuses in the public printing and to provide for the allotment of cost of certain documents and reports was read the first time by its title and the second time at length, as follows:

Resolved, etc., That hereafter, in the printing and binding of documents or reports emanating from the Executive Departments, bureaus, and independent offices of the Government, the cost of which is now charged to the allotment for printing and binding for Congress, or to appropriations or allotments of appropriations other than those made to the Executive Departments, bureaus, or independent offices of the Government, the cost of illustrations, composition, stereotyping, and work involved in the actual preparation for printing, apart from the preparation of manuscript, shall be charged to the appropriation or allotment of appropriation for the printing and binding of the Department, bureau, or independent office of the Government in which such documents or reports originate; the balance of cost shall be charged to the allotment for printing and binding for Congress, and to the appropriation or allotment of appropriation of the Executive Department, bureau, or independent office of the Government, in proportion to the number delivered to each; the cost of any copies of such documents or reports distributed otherwise than through Congress, or the Executive Departments, bureaus, and independent offices of the Government, shall, where be, shall be charged as heretofore: *Provided*, That on or before the 1st day of December in each fiscal year each Executive Department, bureau, or independent office of the Government to which an appropriation or allotment or appropriation for printing and binding is made, shall obtain from the Public Printer an estimate of the probable cost of all publications of such Department, bureau, or independent office now required by law to be printed, and so much thereof as would, under the terms of this resolution, be charged to the appropriation or allotment of appropriation of the Department, bureau, or independent office of the Government in which publications originate, shall thereupon be set aside to be applied only to the printing and binding of such documents and reports, and shall not be available for any other purpose until all of such allotment of cost on account of such documents and reports shall have been fully paid.

This resolution shall be effective on and after July 1, 1906.

Mr. PLATT. I ask unanimous consent for the present consideration of the joint resolution.

There being no objection, the joint resolution was considered as in Committee of the Whole.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. PLATT. I move that the joint resolution (S. R. 44) to correct abuses in the public printing and to provide for the allotment of cost of certain documents and reports be indefinitely postponed.

The motion was agreed to.

The VICE PRESIDENT laid before the Senate the joint resolution (H. J. Res. 128) to prevent unnecessary printing and binding and to correct evils in the present method of distribution of public documents; which was read the first time by its title and the second time at length, as follows:

Resolved, etc., That the Joint Committee on Printing is hereby authorized and directed to establish rules and regulations, from time to time, which shall be observed by the Public Printer, whereby public documents and reports printed for Congress, or either House thereof, may be printed in two or more editions, instead of one, to meet the public requirements: *Provided*, That in no case shall the aggregate of such editions exceed the number of copies now authorized or which may hereafter be authorized: *And provided further*, That the number of copies of any public document or report now authorized to be printed or which may hereafter be authorized to be printed for any of the Executive Departments, or bureaus or branches thereof, or independent offices of the Government may be supplied in two or more editions, instead of one, upon a requisition on the Public Printer by the official head of such Department or independent office, but in no case shall the aggregate of said editions exceed the number of copies now authorized or which may hereafter be authorized: *Provided further*, That nothing herein shall operate to obstruct the printing of the full number of any document or report, or the allotment of the full quota to Senators and Representatives, as now authorized, or which may hereafter be authorized, when a legitimate demand for the full complement is known to exist.

Mr. PLATT. I ask for the present consideration of the joint resolution.

There being no objection, the joint resolution was considered as in Committee of the Whole.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. PLATT. I move that the joint resolution (S. R. 43) to prevent unnecessary printing and binding and to correct evils in the present method of distribution of public documents be indefinitely postponed.

The motion was agreed to.

REGULATION OF RAILROAD RATES.

Mr. KNOX. Mr. President, I desire to give notice that to-morrow morning, after the close of the morning business, with the permission of the Senate, I will submit some remarks in connection with the pending rate bill.

RAINY RIVER BRIDGE IN MINNESOTA.

Mr. NELSON. I ask unanimous consent for the consideration of the bill (S. 4825) to provide for the construction of a bridge across Rainy River, in the State of Minnesota.

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported from the Committee on Commerce with amendments.

The first amendment was, in section 2, page 2, line 13, after the words "United States," to insert: "and equal privileges in the use of said bridge shall be granted to all telegraph and telephone companies, and the United States shall have the right of way across said bridge and its approaches for postal, telegraph, and telephone purposes;" so as to make the section read:

SEC. 2. That any bridge built under this act and subject to its limits shall be a lawful structure, and shall be recognized and known as a post route, upon which also no higher charge shall be made for the transportation over the same of the mails, troops, and munitions of war of the United States than the rate per mile for the transportation over the railroads or public highways leading to said bridge, and it shall enjoy the rights and privileges of other post roads in the United States; and equal privileges in the use of said bridge shall be granted to all telegraph and telephone companies, and the United States shall have the right of way across said bridge and its approaches for postal, telegraph, and telephone purposes.

The amendment was agreed to.

The next amendment was, in section 3, page 2, line 22, after the word "river," to strike out the words "leaving a clear waterway of not less than —— feet on one side of the pivot pier" and insert "affording such clear widths of openings as the Secretary of War may decide to be necessary;" so as to read:

SEC. 3. That unless the Secretary of War shall find and determine that said bridge as actually located is situate at a point where the said Rainy River is not navigable for boats, the said bridge shall have a draw or draws over the main channel of said river, affording such clear widths of openings as the Secretary of War may decide to be necessary, unless the plan of said bridge, etc.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

FEES OF JURORS AND WITNESSES.

Mr. CLARK of Wyoming. I ask unanimous consent for the present consideration of the bill (S. 5361) amending the act of August 3, 1892, clause 361, entitled "An act fixing the fees of jurors and witnesses in the United States courts in certain States and Territories." (27 Stat. L., p. 347.)

The VICE PRESIDENT. The bill will be read for the information of the Senate.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported from the Committee on the Judiciary with amendments.

The first amendment was, on page 1, line 4, before the words "three hundred and sixty-one," to strike out "clause" and insert "chapter;" and on page 2, line 5, after the word "day," to strike out "during such attendance;" so as to read:

That the act of August 3, 1892, chapter 361, Twenty-seventh Statutes at Large, page 347, entitled "An act fixing the fees of jurors and witnesses in the United States courts in certain States and Territories," be so amended as to read: "That jurors and witnesses in the United States courts, including commissioners' courts, in the States of Wyoming, Montana, Washington, Oregon, California, Nevada, Idaho, Colorado, and Utah, and in the Territories of New Mexico and Arizona shall be entitled to receive for actual attendance at any court or courts, including commissioners' courts, and for the time necessarily occupied in going to and returning from the same, $3 a day, and 15 cents for each mile necessarily traveled over any stage line, or by private conveyance, and 5 cents for each mile over any railway, in going to and returning from said courts.

The amendment was agreed to.

The next amendment was, on page 2, line 9, after the word "Provided," to insert:

That for such portion of his travel as shall be made by railway such witness shall be entitled, at his election, to receive, in lieu of his mileage for such portion of his travel, the amount of his actual and necessary expense for railway fare, not to exceed, however, the amount required to be paid as railway fare for carriage over the most direct route available for his travel in going to and returning from the place of trial or hearing: *And provided further*,

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill amending the act of August 3, 1892, chapter 361, entitled 'An act fixing the fees

of jurors and witnesses in the United States courts in certain States and Territories.' (27 Stat. L., p. 347.)"

PITTSBURG STANDARD COAL COMPANY.

Mr. GALLINGER obtained the floor.

Mr. TILLMAN. Mr. President——

The VICE PRESIDENT. Does the Senator from New Hampshire yield to the Senator from South Carolina?

Mr. GALLINGER. I yield.

Mr. TILLMAN. I wish to recur to morning business for a few minutes, if the Senator will kindly permit me. I got in a little late.

Mr. GALLINGER. Certainly; I yield to the Senator for that purpose.

The VICE PRESIDENT. Morning business will be received.

Mr. TILLMAN. As I have just explained, I was not here when this order of business came up; and I send to the desk and ask to have read a communication relating to the railroad situation in Pennsylvania. I do this in accordance with the kind suggestion of the Senator from West Virginia [Mr. SCOTT] that this matter should be brought to the attention of the Senate and of the country every day.

The VICE PRESIDENT. The Senator from South Carolina sends to the desk a communication, which he asks may be read. Without objection, the Secretary will read it.

The communication was read and ordered to lie on the table, as follows:

PITTSBURG STANDARD COAL COMPANY,
Carrick, Pa., February 27, 1906.

Hon. BENJAMIN TILLMAN,
Washington, D. C.

DEAR SIR: The Hepburn bill relating to railway discrimination has some attraction for our company. We are sufferers by the railway company's discrimination against us, and desire that our case be submitted to the Commission investigating this matter. Our coal property is situated 31 miles west of Pittsburg on the Pittsburg, Cincinnati, Chicago and St. Louis Railway. We purchased coal lands, opened our mines, built our tipple, and graded for side tracks, bought railway ties and other material, and had options on other coal lands adjoining. We have expended over $50,000 on this property and contemplated investing $150,000, but the railway company emphatically refused to make any switch connection for us with their main line in order to transport our product to market. We began negotiations for a switch connection with the railway company February, 1903 (three years ago), and we have no assurance to-day that we will ever obtain a switch connection from the said railway company. Our investment is laying idle and our improvements going to decay. In writing to the first vice-president, Mr. James McCrea, of this railway company, he replied to me on the 23d instant that he had no objection to taking our case before the Commission. In submitting this matter to your consideration it brings our case before the public, and we are anxious to have it decided in that manner.

Yours, very truly, SAMUEL KINSEY, *President.*

CAMPAIGN CONTRIBUTIONS BY NATIONAL BANKS.

Mr. TILLMAN. Mr. President, there is another little matter to which I desire to refer, or rather upon which I want some information.

In the earlier days of the session I introduced a resolution, and the Senate referred it to the Committee on Privileges and Elections, relating to contributions by national banks to campaign funds. A couple of weeks ago that committee kindly gave me a hearing to make such an exhibit of facts as I had gathered; and I was a little astonished to find that the crime, for I think it must be a crime under the law, to which the resolution had reference, was acknowledged by everybody. There seemed to be no dispute about it at all in the minds of the committee, saying that the national banks had contributed to the campaign fund in 1896, that everybody knew it, that they had contributed to the storm sufferers, and other things like that, etc. The committee practically refused or seemed to pooh-pooh the idea of an investigation, and my action was met by having a subcommittee appointed to consider and report a bill to the Senate, by which this practice or offense against the laws should be stopped and some stringent legislation had. I am aware that one of the members of that committee has been absent on account of sad and unavoidable circumstances, and therefore I am not disposed to find any fault with the inaction or nonaction of the committee in not moving actively along this line.

But recent events have brought to my attention another phase of this subject which I had not thought of when I went before the committee. I noticed in the papers some days ago that there was some question in the mind of District Attorney Jerome as to whether there was any law under which the trustees of the insurance companies in New York, who had been guilty of this same act, were punishable, whether they had committed any crime under the statute which would carry them into court under an indictment. Judge O'Sullivan did not seem to agree with the district attorney, and thus we have two great lawyers, one on the bench and the other ready to go there as far as ability goes, or to go higher, who do not seem to think alike in regard to that insurance transaction.

But in regard to national banks there can be no doubt whatever, and it is that phase of the subject which causes me to reopen this question, with the purpose of directing the attention of the Senate to it. I want to read for the further information of those who are not entirely familiar with it, section 5209 of the Revised Statutes:

SEC. 5209. Every president, director, cashier, teller, clerk, or agent of any association who embezzles, abstracts, or willfully misapplies any of the moneys, funds, or credits of the association; or who, without authority from the directors, issues or puts in circulation any of the notes of the association; or who, without such authority, issues or puts in circulation any certificate of deposit, draws any order or bill of exchange, makes any acceptance, assigns any note, bond, draft, bill of exchange, mortgage, judgment, or decree; or who makes any false entry in any book, report, or statement of the association, with intent, in either case, to injure or defraud the association or any other company, body politic or corporate, or any individual person, or to deceive any officer of the association, or any agent appointed to examine the affairs of any such association; and every person who with like intent aids or abets any officer, clerk, or agent in any violation of this section, shall be deemed guilty of a misdemeanor, and shall be imprisoned not less than five years nor more than ten.

Now, Mr. President, if it can be shown that national banks in 1896, and probably since, have been guilty of disobeying this section and of contributing of the funds of the bank to campaign committees, it seems to me there is a clear case of crime which ought to be investigated, and the men guilty of this disobedience of law called to account.

I am not prepared this morning to go into the details of this subject, but I will state, as a matter of general information just now, which I will undertake to prove at the proper time, that in one city of the second size, of which I have the name, in 1896 $17,000, or thereabouts, was contributed to the Republican campaign fund. And I have reason to believe that year the national banks of the United States contributed probably a million dollars to that campaign fund. It was with a view of calling briefly this morning the attention of the Senate to these facts that I have thought it worth while to mention the matter in connection with some other things which are transpiring that are of very great general interest, and which relate more particularly to the railway rate legislation with which the Senate is now wrestling.

For instance, Judge Humphreys the other day rendered a very important and far-reaching decision in regard to the criminality of the officers of certain corporations, under which those officers have been invited to put on their hats and walk out of court; and we are told blandly and, I suppose, authoritatively that that will probably be the end of it, although there is some discussion of the propriety and necessity of an appeal to the Supreme Court to see whether that court holds the same view as Judge Humphreys. I saw a cartoon——

Mr. LODGE. Will the Senator permit me to ask him a question?

The VICE PRESIDENT. Does the Senator from South Carolina yield to the Senator from Massachusetts?

Mr. TILLMAN. With pleasure.

Mr. LODGE. Was not that a criminal prosecution?

Mr. TILLMAN. I so understand it.

Mr. LODGE. Then how is the United States going to appeal?

Mr. TILLMAN. That is my trouble. I find so much anxiety here to take care of the corporations and so little desire to punish the corporator.

Mr. LODGE. Oh, no. The Senator said the question of the propriety of an appeal was being considered.

Mr. TILLMAN. I saw it in a newspaper.

Mr. LODGE. The propriety of an appeal can not be considered, because the United States is unable to take an appeal in such a case, as I understand.

Mr. TILLMAN. I am glad the Senator's superior knowledge of the law illuminates my ignorance. I had, however, read at some time, somewhere, that a man could not be put in jeopardy of life or limb in the way of a criminal indictment but once. I am glad the Senator reminds me there is no appeal; but Judge Humphreys, one of these immaculate Federal judges of whom we hear so often, has caught that corporation by the nape of the neck, and in a cartoon which I saw a day or two ago the situation is graphically depicted of a policeman who has grabbed a man of straw—one of those scarecrows which we hang up in the South and elsewhere to keep the crows from pulling up the corn. It is stuffed with straw, it has on a hat and a coat, and has all the semblance of a man, but there is nothing about it that you can hurt, unless you tear him open and let out the straw. Here we have this man of straw hurried off to jail by this policeman, while peeping over the fence a man is seen. His face is full of grins, his pocket is full of money, with a bag or two hanging on his hand, and the officer is dragging off the blessed little innocent while the criminal hangs over the fence and some inquiring citizen, who has been robbed by these beef packers and these other instrumentalities of corporations, says:

why don't you catch the fellow on the fence?" I am here in the rôle of an attorney for the goose, to ask my friend from Wisconsin, or anybody else who chooses to answer, why we are so infernally solicitous about taking care of the corporations and only interfering with this man of straw in the legislation we are enacting here, or trying to enact, and why we do not pay any attention to the actual man? We forget the man in our efforts to redress all these grievances and wrongs, and we go to protecting this artificial man, this corporation, and we are almost shedding tears here in regard to the possible invasion of the rights of this impersonal creature, but we do not seem to care or take any concern about the man of blood with a belly to feed. That is what concerns me, and when I look about I see Judge Humphreys turn loose these people. Probably it was lawful; but if that is the law, then the law ought to be changed. That is what I contend here.

Mr. Jerome also has fallen from grace as a great reformer. How we go. The dear people are told that it is unconstitutional to do any other way than the way we are doing; that we are trying our level best to help them somehow or other, but our dear old Constitution stands in the way. Talk about Judge Humphreys and his decision——

Mr. SPOONER. Mr. President——

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Wisconsin?

Mr. TILLMAN. With pleasure, always.

Mr. SPOONER. I am quite at a loss to understand why the Senator from South Carolina refers to me by name.

Mr. TILLMAN. I have not said anything about you.

Mr. SPOONER. The Senator said "the Senator from Wisconsin" in referring to the decision of Judge Humphreys in the beef trust case.

Mr. TILLMAN. It is just a parallel case, because the Senator devoted his great intellect for five hours, sick, though he was, to demonstrate the great damage and harm that will come to these railroad corporations by having them submit to the decision of a railroad commission appointed to protect the people of the country against just such infamies as I have had read at that desk. I was just led along by parallel reasoning to try to think out why it is we are so anxious to take care of these corporations, while we seem to ignore and forget the man.

Mr. SPOONER. That shows, Mr. President, if the Senator will permit me, how dangerous and foolish it is for a man to attempt to legislate, as it would be for a judge to attempt to decide a question, with sole reference to the characteristics of either one or the other of the parties.

The Senator does not seem to have been able to comprehend that the contention for which I argued the other day had no reference whatever, or involved in no respect, any bias for corporations. The Senator ought to be able to distinguish between parties against whom there may be prejudice or in favor of whom there may be bias, and principle.

The argument which I made here the other day, Mr. President—and I regretted the length of it as well its discursiveness—was made upon a principle. It was made for the bill, Mr. President, which the Senator from South Carolina has in charge. If I am right in my contention—and as to that I have very little doubt—no Senator capable of intelligent judgment or action upon this bill ought to be willing to have a provision of that kind incorporated in it. It ought to be, if my contention is a correct one, the strong and earnest desire of the Senator from South Carolina, having this bill in charge, to withhold from the bill a provision which under the Constitution would endanger its validity if it became a law.

This is the first time I have ever known a decision of a court to be impeached by the authority of a cartoon——

Mr. TILLMAN. I have known cartoons to play most important parts in great transactions in this country.

Mr. SPOONER. Yes; but not in the courts. I saw a cartoon in a newspaper the other day of the Senator, in which he lies sprawling, having been kicked over by a donkey. [Laughter.]

Mr. TILLMAN. Yes; and the last one I saw had me on that donkey and the elephant was tied to the donkey's tail, and we were proceeding down the road. [Laughter.]

Mr. SPOONER. That was another cartoon. How far that was an accurate illustration of the situation I do not undertake to say; but that was another cartoon. I myself saw a cartoon in a newspaper the other day, in which it was attempted to clothe me in the pants, vest, and coat of Secretary Taft.

Mr. TILLMAN. Which, of course, you did not fit. [Laughter.]

Mr. SPOONER. Which, of course, I did not fit. It was ludicrous, but it was fine, and I enjoyed it; but it illuminated no principle, nor did it tend to the correct application of any principle.

Mr. President, the Senator from South Carolina is yielding possibly a little too much to the suggestion of the Senator from Massachusetts [Mr. LODGE]. It does not follow, necessarily, because the defendant in a criminal case can not twice be put in jeopardy, that it is beyond the power of the legislature to send to the appellate court the question for the guidance of future courts in the determination of such cases. There has been a law in force in this District—for how many years I do not know—which authorizes an appeal in certain criminal cases, providing that the determination shall not adversely affect the defendant, if he had been placed in jeopardy, but in order that the question may be determined and the rule of decision established for the future conduct of the Government. There is a bill pending now before the Judiciary Committee to extend that principle throughout the country, that is receiving the serious consideration of the Committee on the Judiciary. It is recommended by the Department of Justice. So the Senator will see that this question is not being ignored; but that, on the contrary, it is being carefully considered; and I think he will agree that it is one of those questions which can better be considered carefully and deliberately by a committee of lawyers than perhaps by a committee of laymen. So the Senator must not assume that what he suggests as necessary in the public interests may not be done possibly through appropriate legislation, without violating the constitutional guaranty which prevents a citizen from being twice put in jeopardy.

Now, if I have not too long interrupted the Senator, I have endeavored to bring his attention to the situation as it really is, so far as such legislation is concerned.

Mr. TILLMAN. The Senator has made a little excursion away from the line of thought that I was trying to follow, and seems called upon to defend himself from an attack which I did not make. I was merely making an allusion to the condition which exists here. I do not impugn any man's motives, and I do not impugn the Senator's entire honesty and integrity of purpose.

Mr. SPOONER. I had a notion that when the Senator referred to the infernal anxiety of some people for the interests of corporations he might have added, to make the sentence complete, their infernal want of interest in the people, but that was perhaps going further than the Senator intended; but it meant something.

Mr. TILLMAN. Well, possibly my language is always more or less lurid [laughter], and it probably cuts deeper than I intend for the reason that I take the first word that exactly conveys my meaning, without undertaking to shade it off or oil it or sweeten it, but it does appear to me an infernal anxiety, if it exists in any man here, to protect the corporations and leave the man out of consideration.

Mr. SPOONER. Nobody wants to do that.

Mr. TILLMAN. Well, I hope the bill, when we get through with it, will prove that. We are not on that bill now, however, but I am just throwing in a few side remarks in relation to it and the general cussedness of the situation. [Laughter.]

I was proceeding to illustrate this latter condition by pointing out this remarkable opinion of Judge Humphreys. It may be entirely in accordance with the law as it is written, but that only shows that we write laws here and enact them which have more concern for the corporations in one sense than they have for the man, and the other has more concern for the man than it has for the corporation. In this case our law leaves the corporations in jeopardy of a fine of $2,000, or something like that; but the individuals who are the agents of the corporations, who do its thinking, who do its acting, and without whom it is dead, go scot free. I was proceeding to illustrate this unfortunate situation by calling attention to the fact that the Attorney-General, our distinguished head of the Department of Justice, who is no doubt a very brilliant lawyer, and who has shown great ability in this prosecution, has "fallen down," as the phrase is, to use a slang word, in his efforts to punish these beef packers, these fellows who handle the meat. No doubt he feels considerably mortified and nonplused, but I could not help but be reminded of that simile of Byron:

> So the struck eagle, stretch'd upon the plain,
> No more through rolling clouds to soar again,
> View'd his own feather on the fatal dart,
> And wing'd the shaft that quivered in his heart.

The Attorney General is the direct progenitor, so far as I am able to discover, of the doctrine that the corporation can be punished, that the man of straw can be punished, but the active agents—the eyes, the head, and the hands of that corporation—are entirely immune. In the language of the Attorney-General, which he gave us in his argument last week, "they are dipped in the immunity bath." In his opinion in the Santa Fe

case, which was unfortunately indorsed and corroborated by President Roosevelt, we were told that the vice-president of that road, Mr. Morton, had been shown—I believe he acknowledged it, in fact—to have granted rebates, and so forth, and so on. "Oh, no," says Mr. Moody. "Oh, no," says Mr. Roosevelt. "By no means punish Mr. Morton; he is clean; he is high; he is honorable, and all that; and go after this dirty railroad." And here you go. Judge Humphreys comes along. He says the President and Attorney-General are not high judicial officers. There may be no precedents for this—though the Senator from Wisconsin can inform me if there are, for he is a higher authority. President Roosevelt says this is good law. Mr. Attorney-General Moody says this is good law. Therefore, if it is good law in the Santa Fe case, why is it not good law in the packers' case? And Mr. Moody gets "hoist by his own petard," so to speak.

Mr. SPOONER. You can not do it under existing law.

Mr. TILLMAN. Are we going to change the law? Why did we ever enact such a law? The Senator not being responsible for it, probably has no right to answer, but that is where these people——

Mr. SPOONER. The Senator asked me a question. I should like to answer it.

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Wisconsin?

Mr. TILLMAN. With pleasure.

Mr. SPOONER. We have not enacted such a law.

Mr. TILLMAN. How, then, did it come about that this judge can not decide that this is the situation?

Mr. SPOONER. That is what I am speaking about. If the Senator will possess his soul in patience after asking me a question until I can answer it, I shall be glad.

Mr. TILLMAN. I will sit down and be very patient.

Mr. SPOONER. Oh, no; that is not necessary.

Mr. TILLMAN. I can get up again.

Mr. SPOONER. The Attorney-General could not do otherwise under existing law. He asks us to enact a law under which he might appeal.

Mr. TILLMAN. Would not that be retroactive in this case?

Mr. SPOONER. It would not apply to these men.

Mr. TILLMAN. Oh, these fellows, then, go scot-free?

Mr. SPOONER. The Senator interrupts again. No wonder the Senator will never learn any law. He can not keep still long enough. [Laughter.]

Mr. TILLMAN. Does it take stillness to make a lawyer? [Laughter.]

Mr. SPOONER. It takes——

Mr. TILLMAN. I thought it took mental ability and logic and the power of analysis.

Mr. SPOONER. It takes stillness on the part of a student to teach him law.

Mr. TILLMAN. I will sit still, then, and learn at the feet of my learned tutor.

Mr. SPOONER. Not at all; that is not a fair thing to say.

Mr. TILLMAN. I say it in all respect and in all sincerity, because my friend knows he is a learned lawyer. If not, I will tell him so, if he wants my opinion.

Mr. SPOONER. If the Senator wants to insist upon my admitting that myself my modesty compels me to decline. [Laughter.]

Possibly there ought to be such a law enacted. Long ago there was not, except as to this District. The Attorney-General and the Department of Justice ask us to enact one under which an appeal may be taken by the Government in such a case, even in case of acquittal, in order to advance to a court of appellate jurisdiction some question involved in the case which the public interest requires shall be finally adjudicated and settled for guidance in future cases. That bill is pending before the committee. Of course it can not be enacted so as to make it retrospective in its operation upon these men. That is impossible under the Constitution; but the Senator would not say because it can not be made retrospective——

Mr. TILLMAN. "Retroactive," is it not?

Mr. SPOONER. Well, "retroactive"—that we should not pass it, if it would be proper to do it, in order to establish a rule for the future.

Mr. TILLMAN. Of course, Mr. President, I would consider that we were very derelict if we had discovered a great loophole in the law through which these scoundrels are going to escape punishment, if we should not immediately remedy that; but I am afraid, as I remarked the other day, that we are getting ready to provide some scheme of "how not to do it" in the railroad business.

Mr. SPOONER. If the Senator would only become cured of that jaundice, which constantly affects him and makes everything upon which he casts his eye yellow, he would be healthier mentally. [Laughter.]

Mr. TILLMAN. Anything more? [Laughter.]

Mr. SPOONER. Overcredulity, Mr. President, is a weakness; oversuspicion is none the less so. If there is any reason in the world why the Senator should look upon his colleagues in this Chamber in connection with their proposed action upon this measure with suspicion or with the thought that it is not the universal desire in the Chamber to do precisely what ought to be done as to this measure, I confess that I do not know what it is. The Senator may; but I do not.

Mr. TILLMAN. Mr. President, I may be jaundiced, as the Senator says, and may see things through yellow glasses; but, being a straightforward, frank, blunt man, as I am, and as everybody recognizes me to be, I can not understand these finements, these hair-splitting distinctions, and these most erroneous pleas for a certain interpretation of the law which is against common sense. The Senator, of course, considers me as wholly unworthy of notice——

Mr. SPOONER. Not at all.

Mr. TILLMAN. In discussing a law point; but he never has been able, and I do not believe he ever will be able, to convince the everyday, common people of this country that whatever Congress can create and Congress can destroy Congress can not control.

Mr. FORAKER. Mr. President——

Mr. TILLMAN. He found the other day a great distinction or difference between the meaning of the words "judicial power" and "jurisdiction."

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Ohio?

Mr. TILLMAN. Yes.

Mr. FORAKER. I rise to a parliamentary inquiry. What is before the Senate, and what is it we are discussing, Mr. President?

Mr. TILLMAN. I am before the Senate. [Laughter.]

Mr. FORAKER. There is nothing unusual in that. The Senator is always before the Senate when he can get a chance to be.

The VICE-PRESIDENT. The Chair will state to the Senator from Ohio that this debate is proceeding by unanimous consent.

Mr. FORAKER. So I understood.

Mr. TILLMAN. I asked consent, not in the ordinary way, but I said "with the indulgence of the Senate" I wanted to make a few remarks. Now, if the Senator wants to take me off my feet I will sit down, but I will notify him that the very first bill that comes up, or anything else, I will get right up and talk along this same line; so he had better let me get through now.

Mr. FORAKER. I am well aware of that peculiar characteristic of the Senator.

Mr. TILLMAN. No; that is not a peculiar characteristic, but a blessing to this body.

Mr. FORAKER. That is true——

Mr. TILLMAN. That is one thing we have as an inheritance from our predecessors here, that here is a place of freedom of debate, where there is no gag rule.

Mr. FORAKER. Mr. President, if the Senator would allow me just a moment, I could tell him why I interrupted him.

Mr. TILLMAN. I have never objected to having the Senator interrupt me. He can interrupt me for a minute or for five or for fifteen minutes.

Mr. GALLINGER. I ask that the rule be enforced, Mr. President.

Mr. FORAKER. There goes the Senator from South Carolina again.

Mr. TILLMAN. He did not go off that time, however.

Mr. FORAKER. What I wanted to call attention to was the fact that the Senator had asked consent to occupy the time of the Senate for a few moments——

Mr. TILLMAN. Not moments; minutes.

Mr. FORAKER. To make some explanation of some sort. Let it be "minutes," then. He proceeded to make a statement concerning which I wanted to make an answer, because it directly concerns a matter I have in charge. I observed he was drifting into a general discussion of the rate bill, of which he has charge, and which is all the while on his mind, but realizing that he was drifting off into that general discussion, I was about to interrupt him with a view to calling him back to the point upon which he started out to address the Senate, so that I could make answer to it in a brief way. Then we could take up the rate bill in order, and with some kind of orderly procedure proceed to consider it and the various amendments which have been offered. I am very anxious——

Mr. TILLMAN. Is the Senator through now?

Mr. FORAKER. I am through with the inquiry that I had——

Mr. TILLMAN. Now, will the Senator let me get through with a few little remarks that I wanted to make, and then resume the thread of the inquiry which he wanted to answer?

Mr. FORAKER. Before I consent to an indefinite occupation of the time of the Senate by the Senator I should like to know whether he wants to proceed to a discussion of the rate bill?

Mr. TILLMAN. No, sir; but the Senator from North Dakota [Mr. MCCUMBER] wants to discuss the rate bill at 2 o'clock, and we will take it up then. I want to finish a few little remarks by way of getting rid of some of the yellow blood in me.

Mr. GALLINGER. Mr. President——

Mr. FORAKER. It takes so long to do that that I do not want to yield indefinitely, but I will, of course, accommodate the Senator if he wishes to occupy but a short time.

Mr. TILLMAN. I will get through inside of three minutes.

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from New Hampshire?

Mr. TILLMAN. With pleasure, always.

Mr. GALLINGER. Mr. President, more than half an hour ago I was recognized by the Chair and yielded to the Senator from South Carolina [Mr. TILLMAN]. Of course I will not interrupt the Senator if he is to conclude soon; otherwise I will ask for the regular order. If the Senator intends to conclude in a reasonable time of course I shall not interrupt him.

The VICE-PRESIDENT. The Senator from New Hampshire is entitled to the floor.

Mr. TILLMAN. As I have just remarked, I have never seen any time in the Senate when by any such proceeding as that a Senator can get the floor.

Mr. GALLINGER. I have no disposition to cut off the Senator. The Senator knows that.

Mr. TILLMAN. If the Senator will allow me to conclude in my own way in my own time I will do so; otherwise I will conclude in some other way under the rules of the Senate during the day.

Mr. GALLINGER. Mr. President——

Mr. TILLMAN. I recognize that I owe the Senator from New Hampshire an apology for occupying so much of his time.

Mr. GALLINGER. The Senator need not make an apology to me. I am always glad to yield to him or to any other Senator, and I certainly have no disposition to gag him. Of course I yield to him to conclude his remarks.

Mr. TILLMAN. Now, Mr. President, I am so torn up and so befuddled that I do not know "where I was at," as the phrase is.

Mr. FORAKER. Perhaps I can bring the Senator back, if he will allow me.

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Ohio?

Mr. TILLMAN. Certainly. Then we will uncoil this somehow or other.

Mr. FORAKER. The Senator opened his remarks with a reference to the nonaction, as he termed it, of the committee or subcommittee having in charge the proposed legislation with respect to campaign contributions from national banks. Now, it so happens that I am chairman of the subcommittee which has that matter in charge. The matter has come to our subcommittee in the form of a bill introduced by the Senator from South Carolina on that subject. The Senator was heard in support of his bill before the committee, and the committee referred it to the Senator from Pennsylvania [Mr. KNOX], the Senator from Texas [Mr. BAILEY], and myself as a subcommittee to examine and report to the full committee.

Mr. TILLMAN. Will the Senator allow me now?

Mr. FORAKER. In a moment, if the Senator will allow me. Only yesterday, when the Senator made inquiry of me as to what progress we were making, I reported to him that we had been unable to have a meeting of the subcommittee, because of the unavoidable absence, under very lamentable circumstances, of the Senator from Texas, who is a member of the subcommittee. But I told him that immediately upon the return of the Senator from Texas I hoped to be able to get the subcommittee together to consider the matter, and we would, without any delay, make a report.

But notwithstanding that assurance, notwithstanding the knowledge on the part of the Senator of the facts and circumstances to which I have referred, he brings the matter before the Senate this morning in a way that seems to involve criticism for nonaction on the part of the subcommittee.

Mr. TILLMAN. The Senator will allow me to disclaim any such purpose, for I expressly tried to have it understood that my sole object in bringing up the matter was to point out the fact that, if I understand the law, the men who have been contributing the funds of the national banks have broken the law, and therefore an investigation is necessary, not a mere bill to prohibit this crime in the future, but to go back and root out the facts in past cases and get at the men who have broken the law and punish them for it.

Mr. FORAKER. I hope I may be allowed to proceed until I have concluded. The Senator has not by his interruption added anything to what he said in his opening remarks. It is true in his opening remarks he made the point he now makes, and it is true he then read the statute under which he claims that an offense was committed, but having read the statute he announces in the most conclusive way that if contributions were made to campaign committees by national banks that statute has been violated. Mr. President, I am not going to discuss that, though I am going to call attention to what the statute does provide. I think the practice of national banks making contributions to political campaigns is a bad one. I think it ought to be prohibited, and I think they ought not to be allowed to do it. I think it is bad for insurance companies to make such contributions, and I am quite glad to join in any proper legislation that will break up all practices of that reprehensible character.

Now, it is true that when this matter was brought before the committee by the Senator, who appeared there in support of his bill, it was stated in the committee, if I may tell what occurred there without violating the rules of the Senate, that there was no doubt that national banks in 1896, when the question of the gold standard was before the country, had made contributions to the campaign committee, possibly to both campaign committees. I do not know about that. But it was stated anyway that they had made contributions to the Republican national campaign committee. I had no knowledge about it at that time; I have no knowledge now; but I have an idea, from what I have heard, that that is perhaps accurate. But it does not follow from that that under the statute an offense has been committed of the character mentioned by the Senator, for if he will read this statute carefully he will find that the provision is as I shall read it.

I do not read this in order to show they did not commit an offense. I do not care whether they did or did not, so far as this discussion is concerned. It is a matter to be considered in another connection. I am not interested in any national bank. I am not interested in protecting anybody. I have no desire to protect anybody. But I am interested in having a matter that concerns the integrity of the Senate and the dignity of the Senate properly presented to the Senate and to have it properly appear in the RECORD and before the country.

Section 5209, which the Senator read, provides as follows:

SEC. 5209. Every president, director, cashier, teller, clerk, or agent of any association, who embezzles, abstracts, or willfully misapplies any of the moneys, funds, or credits of the association; or who, without authority from the directors, issues or puts in circulation any of the notes of the association; or who, without such authority, issues or puts forth any certificate of deposit, draws any order or bill of exchange, makes any acceptance, assigns any note, bond, draft, bill of exchange, mortgage, judgment, or decree; or who makes any false entry in any book, report, or statement of the association, with intent, in either case, to injure or defraud the association or any other company, body politic or corporate, or any individual person, or to deceive any officer of the association, or any agent appointed to examine the affairs of any such association; and every person who with like intent aids or abets any officer, clerk, or agent in any violation of this section, shall be deemed guilty of a misdemeanor, and shall be imprisoned not less than five years nor more than ten.

Mr. President, you will see from a reading of the statute that the intent must have accompanied the act. The contribution must have been with intent to defraud, with intent to willfully misapply. It must have been without the knowledge and without the authority of the directors in order to bring it within the terms of the statute. Who knows from the mere statement that national banks made contributions to a campaign fund but that they were made with the knowledge not only of the directors, but with the knowledge also of the stockholders? Who will say that a contribution made by a national bank was for the purpose of defrauding or for the purpose of violating the law of the country? All those are legal questions which will arise upon an attempt to prosecute.

Now, I have no objection to the Senator having the fullest information it is possible to obtain, but it does not seem necessary, when we all agree that the practice is a bad one and that it should be prohibited by law, that we should wait upon an investigation in order to report upon this bill and pass it.

Mr. TILLMAN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from South Carolina?

Mr. FORAKER. Certainly.

Mr. TILLMAN. The Senator from New Hampshire will have to bear me out now that the few minutes I was to consume——

Mr. FORAKER. I thought the Senator had concluded.

Mr. TILLMAN. I only want to point out that the Senator's law is not good or that his interpretation of the law is not good, for this reason——

Mr. FORAKER. Can not the Senator do that in his own time?

The VICE PRESIDENT. The Senator from Ohio declines to yield.

Mr. TILLMAN. Oh, no; he does not do that.

Mr. FORAKER. No; I will not decline. I was only trying to persuade the Senator to wait until I had made one other remark; just a sentence or two.

Mr. TILLMAN. Let me ask the Senator's attention to one point.

Mr. FORAKER. Very well.

Mr. TILLMAN. This statute provides that there must be no false entry. It happens that I introduced and the Senate passed a resolution requesting the Comptroller of the Currency to make inquiry on this very line, and the report of the Secretary of the Treasury showed that, reaching back to 1892, as far as the records go, there were only one or two little, pitiable instances, involving $500 perhaps, in which this thing had been done. But I wanted an investigation by a committee, with power to send for persons and papers, in order to go back to the records and come on down if we should strike a hot trail, as I know we would, and show that either there have been false entries or the examiners have failed to do their duty; and it was with a view to having the law amended not only in this particular, so as to punish contributions, but to provide that it could not be done in the future.

Take the instance of the banks in the Senator's own city, where we have notice within the last week or two of the restitution by the treasurers of Hamilton County of some sixty or seventy thousand dollars. It has been returned by the treasurers to the county treasury. I do not know, but the report was that the money had been left by the agents of the banks with which the deposits were made lying around loose in envelopes; it just came out of the sky, so to speak. The fellow found it. Somehow or other he knew where it came from. It shows that there was collusion between him and the national banks.

Take the condition in Chicago, where the John R. Walsh bank went by the board with a powerful load of obligations hanging over it, and, as I understand, the national banks of Chicago, the associated banks, have assumed all of Mr. Walsh's debts and have taken his assets, and are acting as receivers, and all this in broad light of day, and nobody knows whether the stockholders and depositors of the banks who are going into this business are acting according to law or not, or whether the stockholders and the depositors are being protected or not. It only shows to me that there is need for a thorough search into all the transactions regarding all these things.

Mr. HOPKINS. Will the Senator from South Carolina yield to me for a moment?

Mr. FORAKER. Has the Senator from South Carolina finished his question?

The VICE PRESIDENT. Does the Senator from South Carolina yield to the Senator from Illinois?

Mr. FORAKER. I had the floor, as I understood, and I yielded to the Senator from South Carolina to ask a question.

The VICE PRESIDENT. The Senator from Illinois [Mr. HOPKINS] desires to interrupt the Senator from South Carolina [Mr. TILLMAN] to ask a question. Does the Senator from Ohio yield?

Mr. FORAKER. The Senator from South Carolina yielded the floor, I understand. If the Senator from Illinois wishes to say something, I will yield.

Mr. HOPKINS. The Senator from South Carolina was so obviously misinformed regarding the Chicago National Bank that I desired to correct him. But if it seems necessary I can do so at another time.

Mr. FORAKER. As I stated to the Senator from South Carolina before he interrupted me at such length. I have only one sentence or two to add, and then I will be through with all I desired to say.

The other point I desired to add was with respect to what the Senator from South Carolina said about Judge Humphreys. That could perhaps come better from the Senator from Illinois [Mr. HOPKINS] than it would from me. I have only a limited acquaintance with Judge Humphreys. I have met him once only, I believe, but I know his reputation, and I know he stands high as an honorable, upright, able, capable jurist, a judge in whom the people of the country may well have confidence, according to the information I have in regard to him.

But the word I wanted to say was not a word of defense of him, for I take it he needs none, but a word of suggestion to the Senator from South Carolina. I do not think it comes in very good grace from Senators here on the floor of this Chamber to be criticising those who are engaged in another department of the Government, as Judge Humphreys is, as to the manner in which they discharge their duties. He sat there as a judge to determine the rights of the parties who had been brought before him. It was his duty to determine those rights under his oath of office, according to his interpretation of the statutes that might be involved, which this Congress had passed when they were made laws. I have no question that he acted with absolute integrity in every sense of the word and with absolute impartiality. I believe that all the great judges of the Federal courts of this country, in so far as I have any personal knowledge of them, are incapable of acting in any other way.

Here is a decision of which the Senator from South Carolina does not seem to approve. It is his right to take exception in a proper way, but it does not seem to me that it is appropriate for us in this body to discuss such matters in such a way. Only a few weeks ago there were a number of decisions, coming one after another from the Supreme Court of the United States. There was the decision in the Chesapeake and Ohio and the New Haven coal case, and then the decision in the "Immunity cases," as they are called, and then the decision in the case that came up from the Senator's own State—South Carolina—all decisions with which the Senator must certainly have been very much gratified——

Mr. TILLMAN. Will the Senator from Ohio allow me?

Mr. FORAKER. As all other citizens of this country are gratified, because of the long step ahead which the court took in settling some of the most difficult questions with which we are beset to-day. But not one word of commendation have I heard from the Senator.

If he is to discuss every decision that is announced, it seems to me it would be in order for him now and then to take note of the fact that there is some progress being made by the courts along the line on which we are all anxious to see progress made. He should not confine himself to those decisions which do not seem at the time to entirely please him, certainly not when with him, as with the rest of us, it is perhaps true that he does not know just what the case was. I have not studied the case decided by Judge Humphreys. I am sure the Senator has not. I have confidence, however, that the judge who sat for weeks as presiding judge of the court, hearing all the testimony, examining all the law, hearing all the arguments that were made both pro and con, gave to it his best and an honest judgment, and whatever criticisms there may be of his action ought not to originate in this body. I do not think it is in keeping with the dignity of this body.

Mr. TILLMAN. Will the Senator permit me?

Mr. FORAKER. I do not like to speak thus plainly, but it seems to be necessary.

Mr. TILLMAN. I was going to remark that if the Senator had listened closely to my words, or if he will send to the stenographer and get a transcript of them, he will not feel warranted in asserting that I have adversely criticised Judge Humphreys. I know nothing about the case. I only know the result. I was particular—at least, I intended to be—to say that I know nothing about the facts, as to whether the judge had decided according to the law or not, but I was trying to give a kind of bird's-eye view of the situation in regard to this class of cases in which these instances in New York had attracted the attention of the country, of the district attorney and the judge being crosswise in their opinions as to the criminality of certain acts, and then going on to illustrate, by the condition in which we find ourselves in regard to the punishment of the pork packers, with the idea that it appears to be very probable, if not sure, that in the insurance frauds the big thieves will escape just as in the packing business the individuals are to escape.

I was animadverting or criticising or lamenting rather with my jaundiced vision the condition of the country; that we were in a bad way, and that we were very cautious, somehow or other, to take care of the corporations here while we were more or less indifferent as to the man. But when it came to punishing the men who run the corporations, then the corporations got it in the neck or got into trouble, while the men who ran the corporations got loose. That is what I was trying to bring out, and I was not criticising or abusing Judge Humphreys.

I want to say here and now that I have faith in the ability and patriotism and learning of the Supreme Court of the United States which every American ought to have, and I do not [illegible]

that that court will ever declare that Congress is powerless to help the people and relieve them from this infamous condition which has been disclosed.

Mr. FORAKER. I am glad to hear the Senator say what he has just uttered, and I am particularly glad in view of the fact that within the last ten days—I think it was so recently as that the Senator said, in effect, that if the Supreme Court did not decide with respect to this question of the power of Congress to legislate as proposed the people would find a way to reform the Supreme Court.

Mr. TILLMAN. That was a warning, and I had a right to warn the court, even if I am a cornfield lawyer.

Mr. FORAKER. I happen to know, from letters I am receiving, that remarks of that kind have not a good effect upon the people of the country. They cause people to think that there is some lack of integrity somewhere connected with the administration of public affairs, either in the Congress of the United States to legislate or in the courts that decide. I think we ought not to contribute to that sort of feeling unless we believe there is ground for it; and if there is ground for it there ought to be an appropriate proceeding instituted to discover the facts and punish those who may have offended.

Mr. TILLMAN. I do not care to have any more to say about it just now. I have my opinion; I have very strong convictions; I have those based on my view of the public welfare, and I certainly shall not hesitate to express my opinions here, although they may not conform to the ideas of propriety and good taste which govern my friend, the Senator from Ohio.

Mr. FORAKER. Did the Senator, after what I told him yesterday about the reason for nonaction on the part of the subcommittee, think that the public welfare required that he should parade the fact that we had not acted as he did in his remarks this morning on the floor of the Senate? Was there anything in the public interest that required it?

Mr. TILLMAN. If the Senator feels aggrieved because, having talked with him about this matter yesterday and knowing that the Senator from Texas [Mr. BAILEY] was absent, I brought up this matter this morning, I hope he will let me say that it was not with any view or purpose or intention to cast any reflection upon him or any other member of the subcommittee, but it was to bring out the other phase of the question which leads to the necessity of an investigation; that is all. I hope the Senator will accept my apology now as to any purpose or intention of charging him directly or indirectly with any intention or any purpose of delaying action on that proposition.

Mr. FORAKER. There was no necessity for an apology to me, for I was not finding fault with the Senator because of anything he had said as to myself, for I take it that my explanation would be a sufficient answer if anyone thought I was being criticised. But I want to know, in view of the fact that the Senator has brought this matter out and just now said that he had spoken only with a view of promoting the public welfare, how he expected to promote the public welfare by saying that the subcommittee had not made a report when he knew it was impossible for us to have a meeting of the subcommittee unless we ignored the absence of the only member of the opposition on the subcommittee, who, as he knows, is unavoidably detained.

Mr. TILLMAN. If the Senator will feel that he has been attacked by insinuation or innuendo by my bringing it up, I can only disclaim any such purpose. I had no intention of impugning his integrity of purpose and honesty in dealing with this question.

Mr. FORAKER. I understand——

Mr. TILLMAN. I can not say any more.

Mr. FORAKER. I understand that; and, of course, what the Senator says is entirely satisfactory. What I was trying to say to him was that it was not necessary to say anything at all.

Mr. TILLMAN. I wish I had not said it. Will that satisfy you?

Mr. BURROWS. Mr. President, as chairman of the Committee on Privileges and Elections, to which this matter was referred, I think I owe it to the committee to make a simple statement of the facts.

On the 6th day of December the Senator from South Carolina [Mr. TILLMAN] introduced a resolution calling upon the Secretary of the Treasury for certain information in relation to contributions by national banks for campaign expenses. One of the inquiries in that resolution is the following:

> Sixth, whether the reports now on file made since said date show payments by any bank to any political committee or to any chairman, treasurer, or other officer of a political committee; and, sixth, whether such reports show any payments of the moneys of a bank to any person upon any voucher, or without any voucher, where the circumstances of the payments suggest that the money paid was to be used to carry on a political campaign or for any political purpose.

On the same day, December 6, the Senator from South Carolina [Mr. TILLMAN] introduced a resolution, as follows:

> *Resolved*, That the Committee on Privileges and Elections be, and is hereby, directed to make inquiry and report to the Senate whether since March 4, 1893, any payments have been made by any national bank or banks to any political committee, or to the chairman, treasurer, or other officer of a political committee, or to carry on any political campaign, or for any political purpose; and said committee, if such payments have been made, is directed to report all the facts in detail to the Senate.

It will be observed that the resolution directing the Secretary of the Treasury to ascertain and report the facts was dated December 6, and the resolution directed to the Committee on Privileges and Elections to make inquiry on the subject bears the same date.

The Secretary of the Treasury made answer to the resolution on the 13th day of December, seven days later. Although the Senate is familiar with it, I will read a part of what the Secretary said:

> 5. While it is impossible to state positively whether any report shows any payments by any bank to any political committee or to any chairman, treasurer, or other officer of a political committee without an examination of each and every one of more than 100,000 reports on file of examinations made during the period covered by the resolution, to the best of my knowledge and belief such reports as have been made during my incumbency of the office of Comptroller, covering the period since October 1, 1901, do not show any payments of the nature indicated except in one or two instances, and these were in banks of the smaller capital class and for amounts not exceeding two or three hundred dollars.

After the report of the Secretary of the Treasury was received, in response to the resolution of December 6, and while the resolution directing the Committee on Privileges and Elections to inquire into the same subject-matter was pending, I inquired of the Senator if the report of the Secretary of the Treasury upon this matter was deemed sufficient. The Senator then said very frankly it was not satisfactory to him; that he would want further inquiry, and then stated to me, not in detail the testimony expected to be adduced before the committee, but in a general way what possibly might be brought to light and proved. I then informed the Senator that if he would appear before the committee, state what he expected to prove, the evidence he had in support of his resolution, the committee would be very glad to take the matter up for consideration.

Subsequently a time was fixed when the Senator would appear before the committee and advise the committee of all the facts had within his knowledge bearing on his resolution. Before the meeting of the committee the Senator informed me that he was not certain he could appear before the committee on the day named, but would advise me later. I received a letter from the Senator, who was necessarily called from the Senate to his home in South Carolina, saying it would be impossible for him to be present at the meeting as agreed to. Upon the Senator's return I again called upon the Senator and asked him when he would be ready to come before the committee, and he again fixed a certain time—I do not now remember the day, but it was not more than three or four weeks ago, possibly three weeks ago. I then stated to the Senator I would call a meeting of the Committee on Privileges and Elections and we would be very glad to hear the Senator.

The meeting was called. I notified the Senator. It was a full committee practically. The Senator appeared and stated to the committee fully and frankly what his evidence was or what he expected to prove.

At the same time it should be stated that the Senator, on February 19, introduced a bill to prohibit national banks from contributing to campaign expenses. That bill was before the committee when the Senator made his statement. Of course the attention of the committee was called to the bill which he had introduced to remedy the evil complained of. It was the consensus of opinion of the members of the committee that the evil did exist. I think the Senator will bear me out in saying that I asked him if the object to be attained was not the correction of the evil, to which the Senator replied, of course that was the end to be reached.

Thereupon I appointed a subcommittee consisting of the Senator from Ohio [Mr. FORAKER], the Senator from Pennsylvania [Mr. KNOX], and the Senator from Texas [Mr. BAILEY] to take into consideration the bill introduced by the Senator, and report to the full committee. As everyone knows, the Senator from Texas was called away upon a very painful occasion, and the other members of the committee have been busy, and there has been no opportunity for the subcommittee to give the measure proper consideration.

I will say to the Senator from South Carolina there is no disposition on the part of the Committee on Privileges and Elections or of the subcommittee to in any way suppress or postpone the matter, and as soon as the subcommittee can ex-

amine the bill it will be reported to the full committee, and no doubt receive prompt consideration.

I make this plain statement of the matter in justice to the committee over which I have the honor to preside.

Mr. TILLMAN. Mr. President, the Senator from Michigan need not have taken the trouble to give the history of this matter; but, of course, he is to determine whether he thought it worth while or not. I want to say here and now what I tried to say this morning. I think you will find it in the report of the words I spoke that I said I was not reflecting on the committee; that I was not charging anybody with a disinclination to act or to delay; but that on these new developments brought out by the statement of Mr. Jerome, if the trustees of the insurance companies had committed a crime and were guilty of larceny, Messrs. Bliss and Cortelyou had been guilty of receiving stolen goods; and that this train of criminalty was more far-reaching that the mere gift by the trustees; and if that was true, while there is some doubt about it, as is shown by the division of opinion between the district attorney and the judge, here can be no doubt, in my judgment, about the malfeasance in office and the criminality of the national banks or any agent of any national bank who has contributed to a campaign fund, because the law expressly forbids it, as I understand the law.

That being true, I felt that with the knowledge which I have of $17,000, in one second or third class city, having been contributed from the funds of national banks toward a campaign fund, and I got from a reliable source that $70,000 was contributed in Chicago, and as that seemed to be a general policy pursued by all the banks, it appeared to me that there must be a million or a million and a half dollars of this kind of money that had been misappropriated. I do not like to say stolen, but it has been taken from the funds of the banks, and it has gone into the coffers of the campaign committee.

I thought an investigation ought to be had, so that those who have been guilty of breaking the law could be made at least to refund, if prosecution had gone by, under the statute of limitations, so that they can not be indicted. If we get the legislation we will get it much more rapidly, much more effectively, by the course I suggest. This is no reflection upon the Senate, because I think the Senate will pass this bill, but they are practicing how not to investigate over in the House on this very line, if I may speak of a coordinate branch of the Government without being again called to book by the Senator from Ohio. We have no assurance that even if the bill is reported favorably by the Senator from Michigan or by the subcommittee and the full committee and if it passes here that it will pass the other end. I want some ventilation of this subject. I want some light. I want the country to know that the beef packers and insurance people are not the only rascals who are floating around. I should like to run down every one of them if we can. Let us all join in legislating here so that they will not get loose the next time they are caught. That is my purpose. I had no desire to reflect on the committee or the subcommittee.

Mr. FORAKER. Mr. President, I desire to call the Senator's attention to the fact that the House is not just now investigating the subject he refers to, but the House has been investigating it, and on last Saturday the House made a report from its Judiciary Committee, through the chairman of that committee, a very able report on this very subject, as to what extent Congress has power to visit corporations that are organized under State laws. I commend it to the Senator.

Mr. TILLMAN. Does the Senator say that the national banks are organized under State law?

Mr. FORAKER. Certainly not.

Mr. TILLMAN. Then to what does the opinion of the Judiciary Committee apply?

Mr. FORAKER. The Senator always interrupts before he gives me time to say anything. The Senator's bill applies to national banks, and it also applies to all carriers that are engaged in interstate commerce, without regard to the fact that most of them, perhaps all of them, are incorporated under the State laws.

Mr. KEAN. And it applies also to all other corporations.

Mr. FORAKER. It applies also, I believe, to all other corporations. Therefore, no matter what they are doing——

Mr. TILLMAN. I was trying to sweep with a clean broom.

Mr. FORAKER. I did not rise to discuss the report of the House, but only to call the Senator's attention to the fact that the House has already, through its committee, made a report. I took it home with me last evening and looked over it. It is a very able document, and it is signed by every Democrat who is a member of that committee, as well as by the Republicans.

Mr. TILLMAN. I had out of my cornfield law expressed an opinion here in the early days of the session that it was outside of the jurisdiction of Congress to undertake to control insurance companies. I am not a lawyer and I do not pretend to be, I have just some general ideas of this great science and some little concrete propositions of law in my head. I depend on common sense a great deal more than I do on any other factor in judging this question.

Mr. FORAKER. I wish to call the Senator's attention to the further fact that the same committee, through its very able chairman, has reported separately on the question of insurance corporations. There are two reports. They are both well worth the Senator's perusal.

Mr. TILLMAN. I am too well grounded in State rights to need anything of that sort coming from any committee. But the Senator still does not deny that the national banks are national corporations and are peculiarly under the jurisdiction of Congress.

Mr. FORAKER. Oh, certainly.

Mr. President, I did not rise to take any issue with the Senator, but only to give him the information that the investigation to which he referred had been conducted, so far as the committee had been conducting it, and that the committee has made two reports, both of them very full.

PRESERVATION OF NIAGARA FALLS.

The VICE-PRESIDENT laid before the Senate the following message from the President of the United States; which was read, and, with the accompanying papers, referred to the Committee on Foreign Relations, and ordered to be printed:

To the Senate and House of Representatives:

I submit to you herewith the report of the American members of the International Waterways Commission regarding the preservation of Niagara Falls. I also submit to you certain letters from the Secretary of State and the Secretary of War, including memoranda showing what has been attempted by the Department of State in the effort to secure the preservation of the falls by treaty.

I earnestly recommend that Congress enact into law the suggestions of the American members of the International Waterways Commission for the preservation of Niagara Falls without waiting for the negotiation of a treaty. The law can be put in such form that it will lapse, say in three years, provided that during that time no international agreement has been reached. But in any event I hope that this action will make it evident that it is doing all in its power to preserve the great scenic wonder, the existence of which, unharmed, should be a matter of pride to every dweller on this continent.

THEODORE ROOSEVELT.

THE WHITE HOUSE, *March 27, 1906.*

REORGANIZATION OF THE CONSULAR SERVICE.

The VICE-PRESIDENT. The Chair understands that the Senator from Alabama [Mr. MORGAN] desires to be relieved from service as conferee on the bill (S. 1345) to provide for the reorganization of the consular service of the United States. The Chair appoints in the place of the Senator from Alabama [Mr. MORGAN] the Senator from Georgia [Mr. BACON].

HOUSE BILLS REFERRED.

The following bills were severally read twice by their titles, and referred to the Committee on the District of Columbia:

H. R. 5972. An act granting the right to sell burial sites in parts of certain streets in Washington City to the vestry of Washington parish for the benefit of the Congressional Cemetery;

H. R. 9329. An act to amend an act approved February 28, 1903, entitled "An act to provide for a Union Station in the District of Columbia, and for other purposes;"

H. R. 14578. An act to provide for the establishment of a public crematorium in the District of Columbia, and for other purposes;

H. R. 15740. An act amending an act entitled "An act for the extension of M street east of Bladensburg road, and for other purposes," approved March 3, 1905;

H. R. 16484. An act to amend section 1 of an act entitled "An act relating to the Metropolitan police of the District of Columbia," approved February 28, 1901; and

H. R. 16944. An act to amend section 878 of the Code of Law for the District of Columbia.

The following bills were severally read twice by their titles, and referred to the Committee on Public Lands:

H. R. 8278. An act authorizing the Secretary of the Interior to issue patent to Keystone Camp, No. 2879, of the Modern Woodmen of America, to certain lands for cemetery purposes; and

H. R. 17135. An act providing that the State of Montana be permitted to relinquish to the United States certain lands heretofore selected and select other lands from the public domain in lieu thereof.

The following bills were severally read twice by their titles, and referred to the Committee on Commerce:

H. R. 11026. An act to authorize the counties of Holmes and Washington to construct a bridge across Yazoo River, Mississippi;

H. R. 14591. An act to authorize the construction of a bridge across the Cumberland River in or near the city of Clarksville, State of Tennessee;

H. R. 14592. An act to authorize the construction of two bridges across the Cumberland River at or near Nashville, Tenn.;

H. R. 15239. An act to authorize the North Mississippi Traction Company to construct dams and power stations on the Bear River on the northeast quarter of section 31, township 5, range 11, in Tishomingo County, Miss.; and

H. R. 16140. An act authorizing the maintaining and operating for toll an existing structure across Tugaloo River, known as "Knox's Bridge," at a point where said river is the boundary between the States of South Carolina and Georgia.

H. R. 15435. An act to empower the Secretary of War to convey to the city of Minneapolis certain lands in exchange for other lands, to be used for flowage purposes, was read twice by its title, and referred to the Committee on Military Affairs.

H. J. Res. 11. Joint resolution for the publication of eulogies delivered in Congress on Hon. John W. Cranford, late a Representative in Congress, was read twice by its title, and referred to the Committee on Printing.

FIVE CIVILIZED TRIBES.

Mr. CLAPP. I had intended this morning to ask the Senate to proceed to the consideration of the conference report on House bill 5976. I understand that the Senator from North Dakota [Mr. MCCUMBER] is going to speak on the rate bill at 2 o'clock, and at the conclusion of his speech I will ask the Senate to consider the report.

Mr. CLAPP subsequently said: At the request of the Senator from Colorado [Mr. PATTERSON], I will let the report on House bill 5976 go over until to-morrow morning.

YELLOWSTONE RIVER BRIDGE IN MONTANA.

The VICE-PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 5204) to authorize the construction of a bridge or bridges across the Yellowstone River in Montana.

The amendments were, on page 3, line 13, to strike out the words "two years" and insert "one year;" and on page 3, line 13, to strike out "four years" and insert "three years."

Mr. CARTER. I move that the Senate concur in the House amendments.

The motion was agreed to.

SNAKE RIVER BRIDGE, NEAR LEWISTON, IDAHO.

The VICE-PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 5211) to authorize the construction of a bridge across the Snake River at or near Lewiston, Idaho, which were, on page 4, line 2, to strike out "two years" and insert "one year;" and on page 4, line 2, to strike out "four years" and insert "three years."

Mr. FRYE. I move that the Senate concur in the amendments of the House of Representatives.

The motion was agreed to.

REGULATION OF RAILROAD RATES.

Mr. TILLMAN. As it is just two minutes before 2 o'clock, I ask that the unfinished business be laid before the Senate.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission.

Mr. TILLMAN. Mr. President, yesterday evening it was suggested by the Senator from Maine [Mr. HALE], whose long experience and judgment in regard to these matters I have learned to have great respect for, that I should propose this morning a unanimous-consent agreement in regard to voting on the rate bill. I want to say that, while I am not disposed to press this matter unduly or to have the appearance of dragooning anything or anybody and desire every Senator to have the fullest opportunity to speak, I would like if we could come to some understanding in regard to a day when we can have a final vote upon the bill.

Mr. HALE. Has the Senator considered what I think ought to be a part of the proposition in fixing a time——

Mr. TILLMAN. I will read what I have prepared, so that the Senator will understand what I have thought, under the enlightening disussion yesterday afternoon, would be a desirable and advantageous method of dealing with it when we do come to it.

Mr. HALE. I wish the Senator would read it.

Mr. ALDRICH. Mr. President——

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Maine or to the Senator from Rhode Island?

Mr. TILLMAN. I will yield to either Senator or to both Senators.

Mr. HALE. While I am on the floor, I will yield to the Senator from Rhode Island.

Mr. ALDRICH. I was about to say that it seems to me even an attempt at an agreement is decidedly premature at this moment. The Senator from South Carolina is quite aware that there is no disposition on any side to extend the discussion beyond reasonable limits. Several very important speeches are to be made this week. The Senator from Texas [Mr. BAILEY], who has two very important amendments pending, and who takes a great interest in this whole question, will be unavoidably absent from the Senate for a number of days yet, and until his return certainly we can not even approach an agreement. So it seems to me that it would be most desirable to wait for a few days until some of these important speeches are to be made before even any details of a suggested agreement are made. I shall feel obliged at this moment to object to any agreement of any kind.

Mr. TILLMAN. Well, I had not anticipated getting an agreement the first time or the second time. I rose this morning merely for the purpose of suggesting the desirability of some date, and I did that more under the advice and counsel of my distinguished friend from Maine [Mr. HALE] and of his colleague from Iowa [Mr. ALLISON], both of whom have had so long and honorable experience here and whose judgment and skill in handling this kind of thing every man must acknowledge and look up to. I would not have presumed to undertake to press the matter at all but for the fact that I had been rather asked to do it.

Mr. HALE. I think the Senator is all right. The process of bringing the Senate to a conclusion upon any matter is a gradual process. I think the Senator is moving in the right direction in calling attention to the fact that some day we have got to agree, which is the manner of the Senate—the rule, I will say, of the Senate—upon a time. I should like to have read what the Senator has already brought out in his mind, covering the suggestion of the last few days being devoted to a ten minutes' debate on different amendments.

Mr. TILLMAN. If the Senator desires it, I will read what I have prepared here.

Mr. HALE. I would be glad to hear it, because that will go into the RECORD.

Mr. TILLMAN. It is agreed, by unanimous consent, that on such a day and such a date, 1906, and the following days, immediately after the conclusion of the routine morning business the Senate will proceed with the bill H. R. 12987, an act, etc., the debate to proceed under the ten-minute rule; that amendments may be offered and may be disposed of by a vote during this five days' period at the pleasure of the Senate, and that on such and such a date following, at 2 o'clock p. m., the Senate will begin voting on the amendments that have not been disposed of up to that day and that may then be pending or which may be offered, and that a vote shall be taken on the bill itself before adjournment.

I thought I would try to cover the various good suggestions that were made yesterday evening in the absence of the Senator from Rhode Island as to the advisability and desirability of having the fullest possible opportunity to discuss amendments, which we have not been doing heretofore on some other measures, as must appear to him evident.

Mr. HALE. The two things will go together. When we agree upon a date for the final vote to end the discussion and consideration in the Senate, we ought at the same time, and I have no doubt will, agree to a provision something in the line of that suggested by the Senator. It seems to me that he has covered it quite well. We shall agree upon the two things, and then the Senate will be in a position not only to listen to the general discussion, but at a time fixed to proceed to the consideration of the amendments.

I am glad to see that the Senator in framing this provision has left the question as to the time to be consumed by particular amendments to the discretion of the Senate. We could not say in terms that each amendment shall have so much time, because some amendments are of much more account than others and need more time. But if we fix the number of days, five or six days, it is then at the discretion of the Senate during that time to limit the debate on an amendment to five speeches or ten speeches, or if it is a more important and critical amendment the Senate in its discretion may give it more time. I think the Senator has been wise in leaving that discretion. As to the form that the agreement will take, that can be finally considered when we agree upon a time and when we

will also agree upon the process. I think the Senator has hurried the matter along by preparing this suggestion.

Mr. TELLER. Mr. President, I do not know whether this is intended to cut off the adoption of amendments previous to the period of five days. If so, I shall want to object to it. I think we ought to take up some of the amendments that are important and take a vote on them and dispose of them.

Mr. ALDRICH. I think there is no proposition now to have it agreed to.

Mr. TILLMAN. No; I do not make it as a proposition to be agreed to. I would not have brought it out but for the fact that the Senator from Maine asked to have it read.

Mr. TELLER. I wish to suggest to the Senator that I want an opportunity to vote on one or two of these amendments. Whether I want to make a speech or not will depend somewhat upon whether a particular amendment is adopted or not. What I want to say on it may depend upon whether the amendment is adopted. So I do not want to be cut off and prevented on to-morrow, if that is a proper time, from action on a certain amendment.

Mr. TILLMAN. To-morrow?

Mr. TELLER. To-morrow or any other day.

Mr. TILLMAN. Will the Senator allow me to explain why I think that would be unwise and unfair?

Mr. TELLER. Certainly.

Mr. TILLMAN. It is for this reason: Senators are now engaged in preparing speeches, and it takes a great deal of research, as I happen to know from experience, to even touch this great question in high places. There are so many ramifications of it, and it is so vastly important that any man who approaches it without getting acquainted with the great amount of labor involved is showing very little knowledge of the situation.

Senators who are preparing speeches want to be heard and also want to vote on amendments. I do not think it would be altogether good policy or fair, either, to such Senators to say that to-morrow we will take up a given amendment and press it to a conclusion. I would judge that that would mean the death of that amendment on general principles, however meritorious it might be.

I thought that the best course to follow would be to let any and every body who wants to speak speak on the general subject or speak on a given amendment and ventilate it in the fullest possible way; and when we get ready to do business, as the phrase is, we have notice given to every Senator that upon a certain day the Senate is going to begin the active work of framing this bill, inserting amendments and taking out words if they want to, and completing it. Therefore I think it would be unwise to undertake to begin to amend it until the time that may be agreed on, say five days ahead of the time for a final vote. If any Senator during those five days feels called on to speak longer than ten minutes, I am sure the Senate has never yet, since I have been in it, objected to having such a Senator continue, unless he was exceedingly dull and uninteresting. Sometimes I have seen Senators notified by the presiding officer that the time was out and nobody moved to extend it, but ordinarily any Senator who has got anything to say can always get a hearing here, thank God.

Mr. TELLER. I do not remember ever to have seen a unanimous-consent agreement of this kind changed by allowing a Senator to go on, except on a few occasions when I think the presiding officer has been oblivious of the fact that the time had arrived for quitting. In such a case nobody has ever found any fault, but I have never heard anyone ask for an agreement that we might proceed further than the allotted time. I do not suppose that will be done.

Mr. President, all I am trying to get at is not that we shall take up a case and press it, but that when the Senate is ready to vote on a proposition we shall not be stopped by the Chair saying to the Senate, as we heard on the statehood bill and several others, "It is not in order to vote on this amendment until a certain time." I want to say to the Senator that that will be the arrangement anyway, whether he agrees to it or not.

Mr. TILLMAN. It is not my agreement; it is the Senate's agreement, and if any Senator will read this——

Mr. TELLER. As a member of the Senate, I mean to reserve the right of the Senate to vote on it, not to press it unduly, and if Senators want to have their votes recorded they can be here. That is all there is about it.

Mr. TILLMAN. During those five days?

Mr. TELLER. During the time between now and the beginning of the five days.

Mr. TILLMAN. Between this and the five days?

Mr. TELLER. Yes; between this time and the five days. If some amendment should be presented and adopted, there would be a necessity for further amendments, and further amendments would not be necessary unless that amendment was adopted. If some amendments that are offered should be rejected, then there might be a necessity for some amendments that otherwise would not exist.

But what I want to obtain has always been the rule of the Senate, that Senators will have a right to a vote on an amendment at the proper time and have it determined. What I want is that when we come to a time to conclude debate that the agreement to do so shall be irrevocable, and that we shall live up to it.

Mr. HALE. Mr. President, I suppose on this general understanding that we shall proceed as the Senate has done for years—that during general debate if a point is reached when the Senate is ready to vote on a proposition or on an amendment it shall do so. In that way one consideration and one point after another is eliminated; and I do not suppose that anything we do now will interfere with that. But that at some time in the future there is a necessity for a time being agreed upon for the consideration of all remaining amendments not disposed of, I think must be clear to every Senator's mind. In the meantime, however, if there is any amendment in the consideration of any bill that has ever been considered since I have been a member of the Senate, when we come to the point of a vote, we vote on that, and that is eliminated from the final consideration. It is not contemplated that every amendment that is offered shall go over. We may vote upon any amendment after we have reached it and concluded discussion upon it; but finally a time should be fixed for the remaining amendments to be considered.

I agree with the Senator that if the Senate decides beforehand to vote upon any particular amendment, it has the power to do so, and nobody can take that power away.

Mr. TELLER. It can not be taken away legally, unless we shall agree to it.

Mr. HALE. I do not understand that it can be.

Mr. TILLMAN. I have not asked for any agreement at all, because the Senator from Rhode Island [Mr. ALDRICH] very clearly indicated that he was not now ready to consider one, and gave a good reason why. This is a mere tentative suggestion, which will probably be amended to suit the Senator from Colorado and other Senators who may have special reasons for wanting some slight change in the phraseology; and until it is agreed to, the Senate will act under its general rules.

Mr. HALE. Precisely.

Mr. TILLMAN. And do as it pleases and do as it has done with everything before it.

Mr. HALE. I so understand.

Mr. TELLER. I was moved to make this suggestion by the fact that we had what I think was an unusual agreement with reference to the statehood bill. I was surprised when it was announced that no vote was in order until 4 o'clock on the day of the disposition of that bill, although that statement was strictly correct under the agreement, as I found when I examined it. I wish to avoid a repetition of that. If we want a vote at any time during the last four or five days on any amendment we shall have it, and that we shall stand by that agreement.

Mr. McCUMBER. Mr. President, Senate resolution No. 86, being a resolution introduced by me on the 26th day of February of this year, is a brief synopsis of the points I desire to make in my argument upon the rate bill; and as it contains at least one or two features which I shall ask to be incorporated in an amendment to that bill, I am desirous to make that resolution a part of my remarks, and will ask the Secretary to read it.

The VICE-PRESIDENT. The Secretary will read as requested.

The Secretary read as follows:

Resolved, That the "act to regulate commerce," approved February 4, 1887, and acts amendatory and supplementary thereto, should be amended as to provide:

First. That the provisions of said act shall be so extended as to cover and include all rates and charges for transfer or switching, and apply to all terminal or other facilities for receiving, handling, and shipping goods, wares, and merchandise, and shall prohibit any and all unjust charges or discrimination in relation thereto.

Second. That if it be established that any railroad company has granted or paid, directly or indirectly, by or through any means or device whatever, any rebate or preference to any shipper, that both such railroad and said shipper shall be adjudged to pay a fine of three times the amount of such rebate or the value of such preference granted or received, in addition to any other fine or penalty now provided in said act.

Third. That all refrigerator cars or cold-storage cars or other cars, whether owned by any railway company or by any other person or corporation, used in interstate commerce, shall be covered by the provisions of said act.

Fourth. That all charges paid by any railroad company for use or rental of any such cars shall be just and reasonable to the end that the owner of such cars using the same for shipment of his own goods shall

no unfair or unjust benefit over any other shipper of like goods; all unjust and unreasonable charges by the owners of such cars use or rental thereof to any railway company or for use or thereof by any other shippers or for ieing or other service in ction with the use thereof shall be prohibited.

Fifth. That on and after January 1, 1909, every railroad company an interstate-commerce business shall furnish all cars, whether erator, cold-storage, or other specially constructed or designed for the carriage of special merchandise, necessary for the con- of its business as a common carrier, and shall furnish at just and nable rates all ieing and other service necessary or proper for the tion of any goods in transit; and on and after such date no such d company shall enter into any contract with the owner or ship- any goods to ship the same in the cars of such owner or shipper any rental for such cars.

Sixth. That all discrimination in rates or service between persons ving from one point to another point shall be strictly prohibited; ch provision shall not prevent any railroad company from making special rates to or from any locality as it may deem necessary for development of such locality or enterprise therein, as may seem to the interest of such locality, business, or the railroad serving the

Seventh. That the said Interstate Commerce Commission shall be pro- ited from making any rules or regulations or adjusting any rates the of which shall in any respect prevent or discourage free and full petition between the several carrying lines of the country.

Eighth. That such Interstate Commerce Commission shall make no or regulation having for its object the distribution of the carrying transportation business of the country between any particular carry- lines or between any particular cities; but that all such carrying or transportation of goods shall be allowed to go to such road ads or through such city or cities as shall be able under free and restricted competition to secure the same.

Mr. McCUMBER. Mr. President, that resolution in a very few words and in a general way expresses my own convictions and my own personal views as to the scope and the breadth of any law that should be proposed for the government of inter-state commerce. It is more drastic in some respects than the bill which has been reported from the Committee on Interstate Commerce. It is drastic in those provisions which are intended to meet drastic conditions, such as rebates, discriminations, private-car offenses, and the like. On the other hand, Mr. President, it would liberalize the present law in respect of special rates designed to develop either a new country or a new industry. It would allow, under proper safeguards and restrictions, special rates for those smaller and weaker industries and localities for the very purpose of developing them to such a condition that they could break the monopoly of the great trusts and corporations and give the public the benefit of honest competition.

It does not contain any provision about changing the rate-making power from the managers of the railways to a political board, for the reason, Mr. President, that, in my humble judgment, such a provision will not in the slightest degree tend to affect rebates in any way, shape, or manner, or any of the other evils of which we are complaining, but would, on the contrary, be injurious to the public.

Why? First, Mr. President, because it would destroy that elasticity so necessary for building up the interior of the country and building up any new industries; second, it would destroy to a very considerable degree the little competition that now exists between the great carrying lines; and, third, it would lead directly to government ownership of railways in a very short time; and I think that we would all deprecate a condition of that character. A provision, Mr. President, which is very doubtful of good results and very certain of bad results, in my judgment, ought not to be made the law of the country.

Mr. President, I believe that this bill substantially as reported by the Committee on Interstate Commerce will pass this body, that it will be concurred in by the other House, be signed by the President, and become the law of the land. Then what? The worst disappointment that has ever befallen a really interested and expectant people. Why? Because the bill itself in beginning to end in its entire scope is not a bill that can possibly reach at the real things that the people are actually complaining of; secondly, because there is not a single provision aimed at a single one of the real injustices or the evils complained of that is not already a law; and the only other important provision is one which does not remedy any existing evil, but, in my opinion, will result in incalculable injury to the whole country.

Mr. President, the press of the country, with more zeal than logic, has for more than a year persistently, in season and out of season, insisted that all of our transportation evils and all of the evils which are back of these transportation offenses are awaiting only this panacea of Interstate Commerce Commission rate-making power in order to be entirely eradicated. In this the people are being deceived, and as surely as the sun shall rise to-morrow they will awaken soon to a realization of that deception. Worse than this, Mr. President, they will awaken to a realization of the fact that rates which heretofore have rapidly, and in many instances marvelously, declined will in the future become stationary or go even higher; that rates which heretofore have been sufficiently flexible to adapt themselves to the commercial and industrial exigencies of the country will hereafter become rigid and unyielding; that the great interior of the country, with its thousands of little cities which have flourished and grown independent, will in the future become more and more subservient to a few of the great seaboard towns of the country; and that the competition which has played, heretofore at least, some part in the matter of lowering and maintaining lower rates will hereafter lie dormant. They will awaken, Mr. President, to a realization of the real reason for the utter and absolute complacency of all the great trusts in the country, which are the prime causes of all our transportation evils, and of a thousand other wrongs against the public; and, Mr. President, there will be some reaction, in my opinion, when they find that not a single one of these great trusts has been in the slightest degree affected.

It is impossible to properly consider any legislation proposed to remedy offenses in railroad rate making without investigating the causes which lead to such offenses, causes which not only invite them, but, in very many instances, force them upon unyielding railways.

Mr. President, industrial and commercial America of to-day is not the industrial or commercial America of thirty years ago. Remedies which might have been successfully applied to conditions of thirty years ago have absolutely no potency when applied to the new conditions of to-day; and, Mr. President, the sooner we wake up to this truth and open our eyes to a full realization as to where our industrial course has brought us, the sooner we stop temporizing and avoiding the real issue and face the foe, intrenched though he may be in seemingly impregnable positions, the better will it be for the people and for Congress. We may as well understand now where we are at and what we are up against, industrially and commercially, and then, if we have any remedy for the evils which flow from these changed conditions, let us apply that remedy.

Mr. President, in all the great crises in the world's history, whenever the critical time has arisen which was to determine the survival of the fittest, whether in physical, political, or industrial evolution, the inexorable law of nature has never given but one alternative, destruction or adaptation. Destroy the opposing conditions or submit and adapt yourself to them. That is as much the law to-day as it has been any time in the history of the world.

There is a most extreme nervous tension over this whole country and over the world at large which is ominous, a nervous tension verging almost on hysteria, if we can take the press as a standard. This is not because of the little dissatisfaction that grows out of rate making or the complaints that are made by shippers. It has a broader and a wider significance than that. These are only evidences of this world-wide restlessness. It can only be compared, it seems to me, with that tense strain of public sentiment in this country which followed the election of Mr. Lincoln and continued up to the very beginning of the civil war.

What is this crisis? It is the struggle for supremacy between individualism on the one hand and combination on the other; between the unit individually and the unit collectively; between great corporate interests and opportunities and individual interests and opportunities. These two conditions are now coming in such sharp contact with each other that one or the other will ultimately be supreme. The people are realizing which one of these conditions is rapidly gaining the ascendancy, and, as Americans, with their inherited ideas of independence, they are not disposed to surrender this individual opportunity, with its fairer hopes, with its loftier ambitions, with its fairer aspirations, without most earnest and desperate opposition.

Mr. President, this is the people's battle. This is what is absorbing the interest of the public, awakening distrust, creating an antagonism and uncertain apprehension. The mere changing of the rate-making power of railroads from manager to board, even though it produce all that its most ardent advocates could possibly dare to claim, would be infinitesimal in its influence upon the final result of this contest. Destruction or adaptation is the issue. We must accomplish the one or accept the other.

What is our present industrial situation? Why is the temper of the people becoming so acute? What are the complaints that are made to-day and to which we ought, in justice, to listen? The great industrial concerns of the country, which, by reason of their power, their wealth, their economy, are able to control, and are controlling more and more, the principal branches of industry, and which, while enriching themselves often with marvelous rapidity, are able to strike down competition wherever it may raise its head—these are the causes of this great unrest and uncertainty, amounting to extreme hostility in very many instances. These great corporations enjoy

natural advantages irrespective of any carrying privileges through the railways themselves. These advantages are mostly of an economic nature, wholly independent of special privileges. There is the economy in the great packing houses where not a hair, not a drop of blood, not a hoof, nor a horn, nor a bone, nor an organ, nor its contents are wasted; the economy in our great manufacturing industries, where not a single stroke of the hammer, not a turn of the wrist, not a contraction of a muscle, but is turned to profitable account; advantages in vast credit and ability to control other industries which might otherwise be antagonistic; alliances, both offensive and defensive between each and all of such industrial corporations, whereby the one secures from the other either actual aid or assurance of non-interference while it deals with its smaller adversary. These advantages are wholly independent of special carrying privileges. To compete against such advantages, the smaller concerns must have the special rates. Were it in my power I would give it to them. I certainly would not prevent a railroad from giving such special or preferential rates as would enable them to compete with the greater concerns. Against such a wall of economic advantages, competition may hurl itself in vain. Its defeat is assured.

If a rival arises of such importance as to challenge serious consideration, it is found to be to the mutual advantage of both to unite into a still greater concern and monopolize to a still greater extent the markets of the country.

And so it is that the average American finds that the field of individual opportunity for the man of moderate means to build up an industry which he may with assurance develop and transmit to his children, is becoming more and more limited and supplanted by the great corporation, and he can either go to the wall, eke out a mere existence, or accept a clerkship, or become the manager of a department in the larger concern.

If this average American goes into the open market to purchase the necessaries of life, he finds but the dying embers of competition. The meat trust has fixed a month beforehand just what he shall pay for his steak or ham or bacon. The leather trust has determined the price of his shoes and his harnesses. The hat and clothing manufacturers have made an arrangement with each other and with the retail merchant as to the unalterable price for the retail of their respective wares, and the merchant who varies a farthing loses his business. The sugar trust, measuring with scrupulous ability his means to pay, fixes the price of his sugar each day. The oil magnates have a mortgage for a definite amount of his earnings if he indulges in the luxury of light. If he travels he falls into the clutches of the hotel trust. If he wants a home he finds a combination on all available building lots. If he has sufficient wealth to pass this barrier and contract to build, he has fallen into the grasp of a greater trust—the labor trust—whose iron rules forbid more than eight hours for a day's labor, or more than one-half of the laborers' ability during those eight hours. If he desires amusement he is met with the theater trust, and the business man, though his earnings may be fair, is forced to live in a stall. The trusts see to it that he has no surplus at the end of the year.

And so, Mr. President, go where he will, he finds himself corralled by this great wall of trusts upon every side. He sees his opportunity cut off completely, and do we wonder that his mind has got into a condition where it is in a very receptive mood to seize with alacrity and with a ravenous appetite anything he thinks will throttle these great corporate interests?

I was very much interested a year or two ago in the most eloquent address—I might almost call it lecture—made by the Senator from Iowa [Mr. DOLLIVER] on the future possibilities of the young men of energy. He depicted in the most glowing terms, as he always does, the possibilities of every young man who has brain and the energy to go to work to accomplish something for himself. His rhetoric was beautiful, because no matter what the Senator from Iowa may say his wildest fancies always fly on painted wings. He gave us an example of the Studebaker Wagon Company. He depicted an old man who a few years ago in his blacksmith shop hammered day after day while the sparks flew from his sturdy strokes. He followed him up the ladder of prominence until he had some 30,000 people under him, and the Senator gave that as one of the glories and opportunities for the young man of to-day.

Ah, Mr. President, if we should take that Mr. Studebaker and put him in his same old blacksmith shop to-day, hammering with the same energy which he did in those days in which there was opportunity, we would find that he would never get out of that blacksmith shop. The Studebaker of to-day, the young Studebaker, would put a wagon down in front of his shop for one-third what the old man could make it for.

These are the conditions that the people are complaining against, and bitterly complaining against, and if we can help them in any way I certainly would be one who would be very glad to do it. So I feel that we are diverting this hostile sentiment from its real cause—the great combinations and the great trusts—and we are directing it, fanned by the press into a flame, along certain channels. The sugar trust is far in the distance. The meat trust is somewhere, but we can not reach it. The railways, however, reach into every town and every section of the country, and we see them constantly before us, and it is very much easier to turn the attention of the public to and the animosity of the public against that which they can see them against that which they feel but can not see. So I feel that we are using this sentiment of public indignation, of public animosity, and we are directing it in such a way that it will in the end be detrimental and not beneficial to the very people whose interests we are attempting to subserve.

The real root of the evil which is challenging the serious consideration of the public and creating this animosity which in the end will force paternalism upon the Government is the trustification or combination of the industries of the country. And as I have said before, we can not deal intelligently with railroad rates independent of the great corporations, which every day fix the price of the people's commodities for the next day, and even coerce the great railway systems into rebates and other unlawful devices. What will it avail the public even if in a given case a product is shipped 1 cent per pound cheaper from Chicago to New York if half a dozen men who own all of such commodity or control it still continue the old price?

Now, what the people really want is this: They want a law that will break every one of these great industrial concerns into a thousand different pieces. Then they want another law that will prevent them from ever combining again; and they want another law that will prevent any one of them gaining such ascendency or growing to such an extent that it will be able again to monopolize the business of the country. And if the Senator from South Carolina, or any other Senator, can conceive of any plan whereby we can constitutionally reach that condition, he will go down in history as the greatest benefactor of the human race. I have myself found no way, but I know that those are the conditions with which we are dealing and they are the conditions about which the people are complaining.

Mr. President, there are other forces that are working more and more toward the aggrandizement, toward increasing the size and importance and the influence, of these great industrial concerns more insidious than the others I have mentioned, simply because no one yet has suggested any remedy for them. I refer to our banking system, to our great fire and life insurance companies, to the savings banks, to our great trust companies.

Our national banking system has been one of the greatest blessings this country has ever enjoyed. It has been able to keep a stable currency, which must be the basis of all industrial progress and prosperity. Our great life and fire insurance companies have likewise been of inestimable value to the American people. Our savings banks and our trust companies, investing the savings of men of small means, have also been of great benefit. But all of these working together have carried within them a seed which under favorable conditions has grown and developed and brought forth its train of evils.

Mr. President, the great increase in the gold production of the United States in the last ten years, the mighty balances of trade, averaging $400,000,000 in our favor during the last ten years, have given us a quantity of available cash and currency beyond anything that the country has ever known before.

The savings of the people—for despite the fact that they are trust ridden it is a matter of fact that during these prosperous times their savings have been greater than ever before—have poured billions into these receptacles, and thereby subjected enormous sums of money to the control of comparatively few persons. These immense sums of money have been invested, they have been used for speculative purposes in making and breaking markets and have been manipulated to such an extent that they have made vast fortunes for comparatively few people, and those vast sums of money, looking for investment, go back again to those same industries and increase their power and thereby decrease the opportunity for the smaller individual industry.

This, Mr. President, is creating an intense animosity, an animosity which if not checked, I believe, will in the end force this Government more and more into the field of paternalism. I am not raising my voice against the accumulation of great fortunes by honest means, such as grow naturally from the development of any business. The great inventors, such as Edison, have been worth hundreds of millions of dollars to this country, and they are well worthy the millions which perhaps

they have saved. So, too, a man may project a railway into a new country, and by the marvelous development of that country possibly become many times a millionaire, but in doing so he has made it possible for hundreds of thousands of people to become rich, to have the comforts and blessings of life; and while he has made one million he has made it possible for the people to make a thousand millions. The field of opportunity should always be open to men of that class. They have been one of the greatest blessings to the human race.

But what the American people object to, and what they have a right to object to, is the vast sums that are being made by their owners, by speculation and manipulation, and which sums, going into the already immense industrial combinations, advance their power and control, and, of course, thereby diminish the field of opportunity for smaller business interests. They object, and they have a right to object, to the great increase in the number of nonproducers as compared with the producing population of the country, for the former must always either directly or indirectly live upon the latter.

This, Mr. President, is a very brief statement of the conditions as they exist to-day. We are rapidly passing through an evolutionary stage which in compacting the mass is destroying the individual, and not without serious complaint on the part of the latter, and to my mind a very just complaint. It does not answer this to say, as has often been said, that there is opportunity for development and opportunity for advancement within the limits of these great concerns. This does not answer human aspirations. The ambition of every father is not that his son shall be a high-salaried clerk, not that he shall simply be an overseer or the head of a department, but that he shall be the head of his own business, with a field of opportunity in which may be broadly developed both the individual and the man; and nothing short of that is going to satisfy human ambition.

Mr. President, these are the conditions the people are crying against. How are you answering their complaint? If you say that the new provision in the rate bill, the only important provision which is not now the law—that of changing the rate-making power from the managers to a political board—will accomplish anything in changing those conditons; if you are luring the public into the belief that this provision will answer their prayer, then certainly the Senator from South Carolina spoke with inspired wisdom when he said that this bill was one of the greatest farces ever perpetrated on the public. Of course he said this before he knew that he was to become the stepfather of this same bill.

There is a false supposition that this will be a new law affecting rebates, but as a matter of truth it does not add one syllable to the old law upon rebates. In my opinion that law is insufficient, as it now stands, and it ought to be modified. Why? Because it does not strike with sufficient and effective force the principal party to the rebate transaction. To be sure it provides for a fine of $5,000, we will say, but that may be a mere bagatelle as compared with the entire amount which may be received by one of these great concerns in rebates during a year. If the meat trust or any other one of these trusts which are wringing these rebates out of the railways receive $200,000 in a single year, and if at the end of the year you require it to pay back $600,000 in fines, the next year, so far as that company is concerned, rebates will have become a matter of past history.

The resolution which I offered follows the recommendation of the President, that both the giver and the taker of a rebate should pay a penalty equivalent to three times the amount of the rebate. Why has this recommendation, the strongest and most potent remedy in abating this abominable practice, been ruthlessly thrust aside? Why have we abandoned the most effective weapon we have in our warfare against this evil while we substitute therefor a provision merely granting the Interstate Commerce Commission the power to fix maximum rates, which no one has had the temerity to assert on this floor would in the slightest degree affect the rebate business, because anyone must know that it is just as easy for a railway company or a trust of any kind to avoid a rate that is made by the Commission as a rate made by the proper board of managers themselves?

Mr. President, it has been shown that a reduction of 1½ mills per ton per mile in the aggregate would prohibit any railway company from paying any dividend; that another reduction of 1½ mills in the aggregate would prevent them paying one dollar upon their bonded indebtedness. I cite these facts for the purpose of showing how sensitive every great carrying line must be to any loss of its business. Now, we will suppose that the beef trust, which controls the greater part of the shipments of beef from Kansas City or Omaha or Chicago, or the sugar trust, which practically controls all shipments of sugar in the country, or the oil trust, which controls practically all the oil shipped back and forth in the country, says to the railways, "I control all of the shipments of meat," or "oil" or "sugar," as the case may be. "Not only this, but my business is so related and correlated with all the other great concerns of the country that I can turn one-quarter of your business into other channels. I want to destroy my competitor, and I want you to give me a rebate or such other privilege as will enable me to drive him out of the market; and if you do not do it, I will turn this business another way and drive you into bankruptcy."

The freight agent is responsible entirely for the success of his road. The real earnings come from the freight rather than from the passenger traffic. The very existence of that line will depend upon his not losing any particular portion of that business, and he is thereby forced into giving this rebate in order to save his own business. It seems to me that inasmuch as the great industrial concern is the real party in interest, the real party who has driven the railway into this act, it should be the principal party against whom the law should be aimed, simply because they are enabled in that way, first, to destroy the smaller competitors, and as soon as they have done this then to raise their prices again to such an amount as is possible and at the same time not have a serious diminution in their sales.

I will give but a single example: For the last four years the price of cattle on our western plains has been gradually declining. For the same number of years the cost of converting those cattle into meat has also slightly declined. During the same years the price of the finished product as it comes to our tables has very enormously advanced.

Mr. BEVERIDGE. I wish merely to make a suggestion to the Senator in connection with his very interesting speech. Has the Senator the figures for the last three generalizations he has made; and if so, will he put them in his address?

Mr. McCUMBER. I have not got them to-day. I take them generally from statements I have read in the reports. I think they are true. I do not know the exact amounts.

Mr. BEVERIDGE. I thought I remembered that last year, for instance, cattle on the hoof in the farmer's field brought 8 cents. But the Senator has made three generalizations here of very great economic importance, and if he had the figures it would be very helpful to many who are studying the problem if he would insert them.

Mr. McCUMBER. I have not got them here. I take them from the cattle shippers, and I think they are absolutely correct.

If we can place any dependence upon the magazine articles that have been written in the last fifteen years—not those written within the last two or three years of hysteria, but in the earlier period, such as come from the North American Review and magazines of that character—this has been the method adopted by the great trusts in their evolution from comparatively innocent bodies to those of the greatest concerns in the United States.

Mr. President, the people are asking for the enforcement of the present law. They are not asking particularly for the reenactment of the old law, which is being done in this bill, but they are asking for the enforcement of the laws we have to-day. They are asking that rebates shall cease. We have a law for that to-day. They are asking that the great shipper shall have no undue preference over the small shipper. We have a law for that to-day. They are asking that the owner of private cars shall not be able to charge such rentals for the use of his private cars that it operates in effect as a method of rebate which enables him successfully and easily to compete against smaller concerns.

In brief, what the people are asking for is simply honest dealing and an honest enforcement of the law. I know it is difficult to enforce a criminal law of any character, but I believe it is no more difficult to enforce this than almost any other law, and especially with the new provision which you have for a systematic method of bookkeeping.

I am informed that even an editor in New York has been able to unearth considerable of these rebates in the sacred recesses of the sugar trust, working unaided and alone, and if this is true, can you say that the Attorney-General, with the entire force and wealth of the country backing him, with any number of specialists to work up the case, is unable to do what an individual can do working alone? This new bill contains an admirable provision in the matter of a uniform system of keeping railway records which will, in my opinion, assist greatly in securing the proper evidence of rebates. Now, supplement this with a law compelling every rebate to be paid thrice over by the party receiving it, and, in my judgment, you will have completely destroyed the system.

Mr. SPOONER. Will the Senator allow me a moment?

Mr. McCUMBER. Certainly.

Mr. SPOONER. In the line of the Senator's argument, I call attention to the fact that the House of Representatives has passed a bill which is pending in the Senate before the Judiciary Committee, to forfeit rebates made to large corporations to which he refers, and providing for the recovery of double rebates at the suit of the Government in execution of the forfeiture provided by the bill. That is in line with the Senator's argument.

Mr. McCUMBER. It is absolutely in line, and it is in line with the recommendation of the President, with the exception that I make it a punishment, and it is a punishment only when it is more than a recovery back of the amount received.

Mr. SPOONER. This is in addition to other penalties.

Mr. McCUMBER. The provision which I have in my resolution here requires them to pay three times over, and especially would I enforce that against the party receiving the rebate.

Mr. BEVERIDGE. Does the Senator embody his suggestion in a resolution?

Mr. McCUMBER. It is in my resolution which was read at the beginning of this address.

Mr. BEVERIDGE. I do not want to interrupt the Senator, but I am very much interested in his remarks. May I ask why the Senator does not put it in the way of an amendment to the bill itself? If it is in the form of a resolution how does he make it effective?

Mr. McCUMBER. The Senator was probably not here when I opened the address.

Mr. BEVERIDGE. I was not.

Mr. McCUMBER. After reading the resolution, I stated that there were two or three provisions in it which I would ask to have inserted as an amendment in the bill itself.

Mr. President, much more intolerable than rebates is the private car system which has grown into use. It is, in effect, a system of legalized discrimination of a most offensive nature. It is but another instrumentality in the hands of the monster industrial concern to secure special freight reduction, which, with its already great advantages, makes it the easier to drive its competitor out of the country's markets.

This is accomplished in three ways:

First, by charging such a high rate to the carrying railways for the use of the refrigerator car, over and above a fair rental value, as to constitute, in effect, the equivalent of a large rebate.

Second, by making such excessive and, in many instances, outrageous charges for icing and other privileges to outside parties using their cars as to wipe out their profits.

Third, by securing from the railway companies, by the same methods adopted in forcing rebates, special privileges, such as rushing their products to their destination ahead of those of their competitors and in securing for them special terminal privileges and advantages.

Mr. President, I am not an expert upon car building, but I have inquired from my friend on my right as to the cost of building the refrigerator cars. I am informed that it ranges from $800 to $1,100. We will take, therefore, $1,000 as a fair basis. We all understand that the cars are simply rented to the railways for three-quarters of a cent per mile. The companies using them pay full freight, but charge back for the car. It is stated by Mr. Hill, in his testimony before the Interstate Commerce Committee, that the average earnings of one of these cars is about $2.50 a day. Remembering that every one of the cars can practically be used either for meat or fruit; that some of them can be used in the southern fruit section one season of the year, in the California fruit section another, in the Michigan and Middle States another, while those for meat are used the year around, and remembering also that these trains run Sundays as well as other days, we can safely estimate that they will make a run of three hundred days in a year. That would bring in an income of $750; in other words, 75 per cent upon their investment in that car.

Of course there will be other expenses, but reduce it down to 50 per cent, if you please, that 50 per cent income will amount to what? Take it upon the first basis: If they were given simply a reasonable value on their investment at 6 per cent, they would receive $60 a year instead of $750 a year. The balance of that amount, or whatever the sum may be, above the $60, or a reasonable investment, is the equivalent of a rebate multiplied many times over.

Now, how can any small concern compete against those conditions? To overcome this I have recommended in this resolution, which I will ask to go in as an amendment, first, that all of these special private cars shall be brought under the rules and the laws of the Interstate Commerce Commission. That is already in the bill to-day. Secondly, that the charges for rental and use and for icing shall only be reasonable and just, to the end that the owner of those cars shall never have an unfair advantage over the smaller shipper. Thirdly, that at the end of about three years all railway companies doing an interstate business shall be compelled to own their own facilities and their own cars. The sooner the railway companies cease their partnerships with any of the shippers, the sooner they are divorced from all character of business outside that of the carrying business, the better I believe for the railways themselves and for the country.

Mr. BACON. I should like to inquire of the Senator if in his suggestion he means to include cars engaged in the transportation of passengers as well as cars engaged in the transportation of freight?

Mr. McCUMBER. I did not, for the reason that I have heard no complaint of any abuses and extra charges by those cars. In fact, our sleeping cars, our Pullman cars, etc., I believe, give us better accommodations than we can get in the hotels for the same price, and we are traveling at the same time.

Mr. BACON. I merely asked the question of the Senator because his language was so general that it would include them.

Mr. McCUMBER. I did not intend it to include them, although they might be included in the resolution.

Mr. President, the old law writers defined law as a rule of action prescribed by the supreme or sovereign power, commanding what is right and prohibiting what is wrong. That definition, to my mind, should be the breadth, the scope, the limitations of government. If the Government will simply make good laws and then enforce those laws, there will never be any need for it to come down from its lofty position of governing to the position of entering into the industries of the country in competition with the people to whom those industries belong, because we well know that if we take that first step into the realm of paternalism, Government control of railway rates, I mean such control as would be manifested in the fixing and determining absolutely those rates, the next and sure to follow step, in my mind, will be the Government ownership of roads.

Why? Mr. President, because there is always an element of the public who are demanding it; and whenever there is such interference on the part of the Government in the running of the roads of the country that the owners themselves desire to get rid of them, then we will have this double force working together and forcing it upon the country.

Ordinarily, Mr. President, when there is a wrong to be remedied, the first thing considered by a legislative body whose duty is to remedy it, is to ascertain what is the best remedy. There may be a hundred bills introduced to cure the wrong, each having its advantages and defects.

It is scarcely possible that any one should be the perfect remedy. Each may have its virtues and vices, and out of all there should be selected those provisions which will insure the greatest amount of good and the least amount of harm. Why should a different rule prevail in this case? Why does anyone insist upon a different rule? The press of the country seems to have usurped the function of Congress, and said in advance of any consideration that one certain remedy is the only remedy. It has given no reasons in support of that contention, nothing but the bald statement.

Mr. President, it seems to me that whenever it comes to the question of deciding a matter according to our own judgment or according to the judgment of the press of the country, the people expect us to use our judgment, and to use it patriotically and honestly for them, and not to be swayed by any character of prejudice.

The committee was directed to take testimony upon this question. That testimony amounts to about five large-sized volumes, nearly all of which is directed toward the one question of the feasibility of conferring the rate-making power upon the Interstate Commerce Commission. Lawyers, railroad managers, scholars, shippers, men who have made railway economics the study of their life, foreign railway managers and those who have studied into that question all gave their testimony upon this subject, and the consensus of the opinion of all and the testimony of nearly every man to support the contention was that granting the rate-making power to any political board would be injurious to the country in the long run.

Now, sitting in judgment upon that specific question, the press ask us to disregard all of this testimony that has been taken carefully and laboriously, to disregard our own judgment, and simply pass a law on what they have seen fit to assert was necessary for the Government of this country.

Before considering the expediency of this question, there are certain legal propositions that rather obstruct our path, and some of them are very important. They are these: First, has Congress itself any constitutional power to fix rates for rail-

Secondly, conceding that it has, can it delegate that power to a commission? Is it legislative or administrative? That is, if it can be exercised by a commission, is it possible to exercise it in any way that will not be in conflict with the provisions of the Constitution against granting preferences to the ports of one State over the ports of another State?

Mr. President, our Attorneys-General and our ex-Attorneys-General, men who were presumed to know the law, seem to differ radically upon this subject. Lawyers of note upon this floor do not always agree upon the proposition. It raises at least a serious question as to what the decision of the courts will be when it is up for final adjudication. It raises a question of sufficient importance, as suggested by the Senator from Wisconsin [Mr. SPOONER], to justify us in scrutinizing it with the greatest of care; and if we are sincere in wanting to get a bill that will benefit the public, and one that will stand as law, we should, then, strike from it everything that is absolutely unnecessary, and especially if it is also in our opinion unconstitutional.

Conceding, Mr. President, that all of these legal difficulties which I have mentioned can be overcome, that all of the propositions can be answered in the affirmative, we are led directly to the question of expediency. I am less concerned about the illegality of delegating the rate-making power to the Interstate Commerce Commission than about the propriety of it. If we should err in legal judgment in delegating this authority, the courts can correct our error, but if we should err in making this the law of the land this first step which we have taken in the realm of paternalism can never be retraced, but will compel us to take further steps and walk deeper and deeper into that realm of buried hopes, decaying ambitions, and moldering aspirations.

If the effect of granting this power will insure absolute equality to all shippers from any given point to another, if it will insure that elasticity in the matter of rates necessary for the development of certain sections of the interior and certain industries in the interior of the country, so that such sections or such industry may compete with others in the markets of the world; if it will tend to open up and keep open the greatest possible degree of competition between roads and between localities; if it will continue the gradual lowering of freight rates from the interior, as has been done in the past; if it is possible for a commission to give such enlightened judgment upon the questions of rates from every station on every railway in the United States as the demands of justice may require, then truly the rate-making power should be conferred upon a commission.

But if it can be demonstrated with almost mathematical accuracy that the placing of this gigantic power—the commercial destiny of every village, township, and county in the United States—in the hands of a political body of five or seven men will strangle the last vestige of railway competition, bind every section of our vast domain in the clasp of a hard and inflexible schedule of rates; that it will make the whole interior of the country pay homage to a few seaport cities, and, finally, that it will build up a great political machine that will hold both or all great political parties by the throat, then, in my humble opinion, the people do not want it.

At the very threshold of this discussion we are met with grave and far-reaching questions. How will that mighty power be exercised? Will it open up commerce and traffic to the freest and fullest competition, or will it practically close the gates against all competition? Will it tend to build up and promote the welfare of the great interior, the western arid and semi-arid regions of our extensive domains, which require the fullest and greatest elasticity in the matter of rates, or will it destroy such elasticity in rate making so necessary to the development of this section? Will it tend, by a hard rule, to fix rates absolutely, or will the result of its exercise leave perfect freedom to vary rates from day to day, from week to week, as the exigencies, the conditions of any locality along any line of railway may demand? Will its exercise tend to build up a few of the great seaports at the expense of the interior and at the expense of all other seaports, or will it tend to facilitate the progress and prosperity of the cities of the interior and the country tributary to them? Can a commission by a single order or 10,000 orders meet every contingency, every inequality of distance, inequality in amount carried, inequality of bonded indebtedness, inequality in maintenance, inequality of values, inequality of stock as compared with actual value, and the thousand other inequalities which must be weighed and measured in connection with rate making? Can five or seven men perform the duties now incumbent upon an army of 50,000 men?

Under our present laws railways may lower their schedules of rates upon three days' notice. They may raise the schedule upon ten days' notice. Except for these slight limitations the flexibility of rates is free to meet all commercial exigencies, the constant shifting of demands of production and consumption. When such rates shall have been established or fixed by a commission, their status can only be altered by the slow process of the rehearings before the Commission, in most cases ineffectual to meet the exigency because of necessary delay. To all intents and purposes, therefore, such rates will become fixed and unalterable. That this would have little effect upon a few of the seaport cities of our country may be conceded. But what effect will it have upon the interior, upon the West and great Northwest? This is a question of supreme importance.

To understand this we must first understand what forces have been responsible for the upbuilding of this great section in the past. Many of us on this floor have spent all of our lives in that section; have grown to manhood in that part of the United States. And every man who has watched our progress or development and the causes which conduced to it knows that the progress, the prosperity, the development of that country and its industries have been due to the efforts of each of the great transcontinental lines to build up the industries and the country along and contiguous to its own road, and that this has been accomplished by discrimination in rates—not discrimination between individuals, which is always pernicious, but discrimination in favor of their own territory; in other words, it has been accomplished by giving especially favorable rates to those sections.

It has been done by giving discriminations in rates as between localities. It has been done by giving preferences where those preferences were absolutely needed to build up a great country. And this is something that we can not justly and fairly take away from that section of country.

They have maintained immigration bureaus to attract settlers along the lines of their roads. They have given special rates to land seekers. They have given special rates for the purpose of developing industries. They have given special rates to laborers to harvest the farmers' grain. They have given special rates to develop the lumber industries of the Pacific slope. To meet these special privileges given by one great transcontinental line other lines of like character were compelled to do likewise, and these all working together have been responsible for making the interior the best country that God's sun ever shone upon. It is due, Mr. President, to this very discrimination, and if you enforce the law rigidly it can not but be injurious to that particular section of the country.

Discrimination in rates as between localities is at the very foundation of the progress and prosperity of every State without the immediate zone of large manufacturing industries, or whose products were far removed from the field of consumption. It is the application of the great Republican principle of protection to infant industries, a protection growing out of the inequality of conditions by reason of greater distance from the field of consumption.

You people of the East many years ago said to the Government: "On account of cheaper labor we are unable to compete with the Old World in our manufactures. To equalize this, give us a preferential tariff." We of the West said to the railroads: "On account of shorter hauls we are unable to compete with the Eastern and Middle States, whose products are raised at the very gates of the manufacturing centers which consume them. To equal this, give us preferential freight rates."

The Government gave to the East its tariff, and as if by magic 10,000 industries sprang into being in all the villages and hamlets, and the whole length of the Alleghenies became skirted with fiery furnaces giving a prosperity undreamed of. The railroads gave to the West rates that made it possible for it to compete with the eastern agriculturist and drive him out of his own fields, and as a result our Indian plains bloomed with the grains and the flowers of the white man's civilization, and homes, those fairest flowers of civilization, dotted our expansive prairies.

Without that discrimination there would have been no Dakotas, no Minnesota, no Montana, or Idaho, or Washington. Take away that discrimination, place us on a mileage basis, and our progress and prosperity would vanish like frostwork in the morning sun.

This matter of discrimination, Mr. President, is absolutely necessary for the building up of certain sections of the country, and it is absolutely necessary in order to maintain their present prosperity.

Mr. BEVERIDGE. Mr. President, will the Senator allow me to ask him a question?

Mr. McCUMBER. Certainly.

Mr. BEVERIDGE. Is it the Senator's position, then, that not only the present proposed law should not be enacted, but that the existing law on the same subject should be repealed?

Mr. McCUMBER. In my opinion, the present proposed law should be enacted with a modification. So that I may not be misunderstood, I will state that I expect to support the law which the wisdom or unwisdom of the Senate shall deem to be for the best interest of the American people, but I think, however, it should be modified. I think our present law in reference to discriminations has not been enforced, and because it could not be enforced is the reason why it has not been a greater damage to us than it really has been.

I can show you, and propose to show before I get through, that instead of enforcing the spirit of that law in the North Atlantic cases the Interstate Commerce Commission enforced exactly the opposite, by its own decision, and absolutely destroyed the competition which we claim is necessary for our own State.

Mr. SPOONER. When the Senator speaks of discriminations I suppose he refers to the discriminations which were lawful at the common law.

Mr. McCUMBER. Certainly; not discriminations between individuals——

Mr. SPOONER. Oh, no.

Mr. McCUMBER. But discrimination in favor of the weaker locality or in favor of the weaker industrial concern as against the stronger that did not need it.

Mr. BEVERIDGE. Will the Senator permit me?

Mr. McCUMBER. Certainly.

Mr. BEVERIDGE. My question was drawn out by the statement of the Senator that certain portions of the country in the interior and farther west had been developed by reason of these discriminations which were an economic necessity and which the present law prevents, and that if the present law had been rigidly enforced those discriminations by which the interior has been built up would have been prevented and an incalculable injury, to use the Senator's own words, would have been done to the country. That is the reason why I asked the Senator whether his position was not only that the proposed law should not be enacted, but that the existing law should be repealed.

Mr. McCUMBER. I purpose to make that clear before I get through.

Mr. SPOONER. My observation had no reference whatever to the Senator's question. I simply wished to understand the Senator from North Dakota that when he spoke of preferences and discriminations, and the general question of facilities in the West, he referred to those which were permitted by the common law.

Mr. BEVERIDGE. He specifically said, however, they were those which were forbidden by the existing interstate-commerce act, which, if it had been rigidly enforced, would have prevented them.

Mr. McCUMBER. If the present interstate-commerce act had been rigidly enforced, there could have been no discriminations between localities, as I understand.

Mr. BEVERIDGE. And therefore the Senator said the interior of the country and farther west would have been incalculably injured.

Mr. McCUMBER. Certainly. If, as a matter of fact, the railway company provides that its charges for taking our products out of our country shall be only one-half of what it charges for bringing things into our country between exactly the same points, you can see there is a discrimination in favor of output as against importation; and that discrimination was absolutely necessary for our growth and prosperity.

Mr. President, Minnesota is not yet fifty years of age as a State. It is my native State, and as I travel over that beautiful country with its fair fields, with its massive red barns, with its great white dwellings, and as I follow into my own Red River Valley of the North I will find the same condition, except perhaps on a little larger scale, as I view the prosperity of those great Northwestern States; and then as I compare those barns and those houses with many of those of the Eastern and the Middle States, whose gray, decaying walls have not known the touch of paint for fifty years—for, Mr. President, everybody will acknowledge that red and white paint are the surest index in the world of agricultural prosperity—as I look at those conditions I can not but ask myself by what magic has it been possible for us of the Dakotas and Minnesota and Iowa, nearly 2,000 miles from eastern seaports, where every bushel of our grain that we sell is to be carried across the ocean, to move that grain nearly 2,000 miles and drive the eastern agriculturist out of his own field? Has it been by any method of dividing the country into great sections, which they call differential sections, and so adjusting the rates between the several carrying lines that they will each receive their proportionate share, and also that each one of the great seaport cities will receive what this Commission may declare to be its proportionate share of the business; or has it been for the reason that I have stated, of the great effort of those companies to find outlets for our own exports?

What difference does it make to the Northern Pacific or the Great Northern Railroad Company, which are the principal routes in Minnesota and in my State, whether New York or Boston or Baltimore or Philadelphia gets their share of the business? What they are interested in is in securing the very lowest rates that can be secured from their terminals to the Atlantic coast, where our goods must pass en route across the ocean.

Mr. President, suppose that this gigantic power is given to this Interstate Commerce Commission, what is going to be the result? Will it be the destruction of all competition between the great carrying lines? I ask that question in all sincerity—will it be the destruction of competition between all the great carrying lines? Mr. President, coming events cast their shadows before. On the 27th day of April, 1905, the Interstate Commerce Commission handed down its findings and conclusions in the North Atlantic Seaport Differential case. That decision, to my mind, projects a shadow into the future that is as discernible and as clear as the shadow of an eclipse across the face of the earth and demonstrates beyond any possible question the certainty of the very danger that I have spoken of thus far in my discussion. This opinion foreshadows not only the condition which we will be in when the Interstate Commerce Commission fixes the rate, instead of the powers that are in possession to-day, but what the Government's position will be when we reach that next—and, to my mind, sure to follow step—Government ownership of the railways of this great country. Government ownership in the Old World has resulted in building up a few of the great seaport towns, congesting the people there and congesting traffic there, while at the same time it has absolutely destroyed the prosperity of all of the interior.

I might say a great deal, Mr. President, upon this subject, but it has been so eloquently stated by the Senator from West Virginia [Mr. SCOTT] and by the Senator from Massachusetts [Mr. LODGE] that I will not touch upon that subject any further than to show that that has been the inevitable result. It has been said on this floor that these Commissioners will be human, men of good judgment, and the country need fear no tyrannical action. The surest—aye, the only—preventive against tyranny is to never place tyrannical power in the hands of any person or body of persons. But in this instance this autocratic power can only be carried on by autocratic methods, and tyranny will be the inevitable result.

Mr. President, it may be said at the outset that the granting of this power, in my opinion, will at one blow absolutely destroy competition between all of the great carrying lines of the country; it will strangle that very principle which we have inserted in every law—the free exercise of the competitive spirit of every one of the great carrying lines. It will be twofold worse, Mr. President, than that which we sought to guard against in the Northern Securities case. Why? Because in that case we simply prevented two competing lines from combining, while in this case you will place all of the great transcontinental lines under one great management, and, as I will show you, that management will be forced—absolutely forced—by industrial and commercial exigencies to follow the same rules that the railways followed when they made their own arrangements of pooling, because in effect it amounts to pooling.

Ever since these great rival lines connected the Atlantic seaboard with the interior of the country there has always been more or less freight warfare between the great lines and also between the great cities that were served by those lines, growing out of the adjustment or the lack of adjustment of differentials. Whether these wars were beneficial to the public in the long run I am not prepared to say. But the condition which existed there, and which made it possible for those wars, was of inestimable value to every shipper from the interior to the seaboard.

Mr. President, this decision makes perfectly clear what is meant by differentials; but as I am speaking for more than the Senate here, I will make my point clear, so that it may be distinctly understood what that term means.

That territory bounded on the west by the Mississippi, south by the Ohio River, east by a line running from Pittsburg to Buffalo, and north by the Great Lakes, is called "differential territory." All shipments for the east, originating directly or indirectly in this territory, had by agreement of the several lines of road operating between such territory and seaboard been based on the rate from Chicago to New York; that is, the rate between any point in this territory to New York was either the same as the Chicago rate to New York or a certain percentage less or greater than that rate. To other points on the

Atlantic seaboard the rate is higher or lower than to New York by a given number of cents per hundred pounds. Thus the rate to Boston might be greater, that to Philadelphia and Baltimore less. These differences above or below the New York rate are termed "differentials."

At the time that this matter was considered by the Interstate Commerce Commission, rates upon all classes and commodities, with the exception of grain and iron, were 2 cents lower to Philadelphia and 3 cents lower to Baltimore than to New York. The Boston rates were the same as New York on export traffic, while on domestic traffic they were higher by amounts ranging from 7 cents per hundred pounds on first-class to 2 cents on sixth-class commodities. The question involved, however, differentials only on export traffic.

Now, anyone who has followed the cases decided by the Interstate Commerce Commission can not but be impressed with the great number which are instituted by or through the boards of trade of our great commercial cities, and that the spirit which governs the institution of these actions has not been such a desire to protect the interest of individual shippers as to secure the greatest amount of business for this or that particular city. This case was no exception to the rule. The real parties in interest, as in most cases, were cities against railroads, and not the public against railroads. The public was not the party to this action. If it was indirectly a party I can not but feel that its interests were shamefully dealt with. The parties to this action were the municipal corporations of Boston, New York, Philadelphia, and Baltimore, on one part, and the several railroads operating between this differential territory and these cities on the other part. The interest to be considered, and which was, in fact, considered, was not the interest of the people of my State who might ship their grain to New York, Buffalo, or Baltimore, but the interests of those particular cities in securing what each claimed as its share of the business of the country, just as though any city independent of its location was entitled to any particular division or share of the business of the country.

Now, to show how this Commission walked the same path which has led, in the old country, to preferring great seaports, at the expense of the interior, upon the assumption that such cities are entitled, as a matter of right, whether they can honestly compete under natural conditions with other cities, to their share of the business, and thus destroying all competition, I wish to call attention to the reasonings and the conclusions of a majority of this Commission.

On page 62 of the decision in re North Atlantic seaport differentials the Commission say:

> It is said that a fair differential is one which would give to those ports the traffic to which they are entitled. It is also said that these several ports are entitled to what of this traffic they can obtain upon a fair differential.

They are entitled not to what they can secure under fair competition, but under a fair (equalizing) differential. By what process of reasoning does the Commission arrive at a conclusion that any city as a matter of right is entitled to such differential that it may obtain its proper proportion of the export business of the country? If Baltimore is one-half the size of New York, then under this decision those rates must be so fixed that Baltimore will get one-third of the export business and New York will get the other two-thirds.

Mr. President, we have condemned, and we condemn to-day, pooling between railways. This principle adopted by the Interstate Commerce Commission not only legalizes pooling, but fastens it upon all railways. That simple proposition that rates are to be made for the benefit of cities and not for the benefit of the public condemns beyond all measure the power which would authorize such principle being carried into effect by any political body.

I want to say to the Senator from Massachusetts [Mr. LODGE], who so ably defended and pleaded for his own New England States the other day as against the arbitrary power that might be given this Commission, he may well complain if there is no way that we can escape that arbitrary power, for if they follow the opinion they may protect New England, but that opinion is not the law. If they do not follow it, they destroy the industries of New England and many of the industries of the interior.

Again, on page 62, the Commission say:

> Again it can be properly done, these rates should be so adjusted that competitive traffic will be fairly distributed between the different lines of railway which serve these ports. Each one of these four cities is served by two or more great railway systems. The prosperity of these cities and systems can not be separated. The ability of a railway adequately discharge its duty for a reasonable charge depends upon the business which it can obtain, and no one of these systems should be deprived of its fair proportion of this export trade.

In simple, plain English what does this mean? It means that the public must be compelled to support a road if that road can not of itself compete with another road; that the rates must be so adjusted that the weaker one shall receive its proportion of the carrying business. For illustration: If the Baltimore and Ohio Railroad can carry my grain from Chicago to Baltimore for 5 cents per hundred pounds less than the Pennsylvania line can carry it to New York, I shall not have the benefit of this natural competition and Baltimore shall not have the benefit of its location; but that the Pennsylvania line must be supported and must have its proportion of that traffic, and if it can not be secured in any other way, the Baltimore and Ohio road must raise its rates or else the other road must lower its rates; and if the other road can not afford to lower its rates, then the Baltimore and Ohio must raise its rates. That is the same Commission to whom you are going to give the power to determine what are just and fair rates.

Does not the mere statement of the proposition by the Interstate Commerce Commission carry with it its own condemnation? Carrying this proposition out in all the great transcontinental lines, that road which has been built or may in the future be built through a poor country, a country that will not give it sufficient business to pay its running expenses, must have its proportion of the carrying trade, and rates must be so made by the other lines that it may secure its proper proportion.

It has always been supposed in the past that great cities were entitled to the enjoyment of the conditions which made them great so long, and only so long, as they subserved the interest of the public, and that railroads were quasi public institutions, because they subserved the interest of the public. The conclusion of the Interstate Commerce Commission reverses this rule and promulgates the startling proposition that the public interest must be subservient to the demands of great cities for the continuation of their prosperity, and that the public business is for the benefit of all the roads or at least all such as the Commission may consider of sufficient importance to demand its protective care. That is certainly a new theory.

Again they say, on page 63:

> Now, if there had been no export business in the past, if these domestic rates had been adjusted solely with a view to what was right between the communities, it is altogether probable that the differentials in favor of Baltimore and Philadelphia would have been even greater than they are to-day.

But constituting itself as the guardian of the interests of New York and Boston, the Commission decided that the differentials should be even less than they are to-day, so that these latter cities could enjoy greater commercial prosperity and the whole country, the producer, is made to pay higher freights for the benefit of Boston and New York.

I am not criticising these Commissioners, because I insist that when that power is given them it will have to be exercised along such lines or else they will so disrupt all rates as to produce a case of practical anarchy among all the railroads.

Again, they had to take into consideration the ocean freights. They had to look beyond Boston and Philadelphia and Baltimore. They found, for instance, that our goods, our wheat and corn, would go through the route of least resistance, and that meant the cheapest route, not merely to the seaboard, but to Liverpool, where our grain was carried. They found also that the rates from Baltimore to Liverpool were generally a little more than from New York and Boston, while the facilities for handling and shipping at New York and Boston were better than at Baltimore. They so equalized these different conditions and weighed them and measured them that it became possible for them to arrive at a differential which would allow each of these roads to carry what they considered its proper proportion and each of these cities to have its proportionate share of the business.

On page 69 of this opinion the Commission give us another view. They say:

> In view of the fact that Baltimore and Philadelphia have natural advantages in location, that Boston and New York have certain natural advantages in the way of ocean facilities, that it is impossible to make and maintain the same rate through all the ports, we think the true inquiry in adjusting this differential is, What will equalize the advantages of transportation through these various ports? What part of the advantage which Baltimore and Philadelphia enjoy on the score of the inland haul shall they be allowed to retain to compensate them for their disadvantage in the water haul?

In other words, neither Baltimore nor Philadelphia shall retain the natural advantages which they have by reason of location to any extent that will more than equalize any special advantage that New York and Boston have in ocean facilities. If this is not fixing up competition, then I would like to be informed of any process or any combination of the railroads themselves which could more effectually strangle competition.

Again, on the same page, they say:

The most important factor in determining the route is undoubtedly the rate. It was said in testimony upon the former investigation, and has been repeated in this, that a difference of from one-fourth to one-eighth of a cent a bushel will determine the port to which grain shall be exported. Other traffic is not equally sensitive, but it must follow, with respect to this low grade freight, that the through rate by all lines should be substantially the same.

Now, note their decision: "It must follow with respect to this low grade freight that the through rate by all lines should be substantially the same." Why should the rates by all lines be substantially the same? Why should not the shipper have the benefit of the lines which can carry his goods most cheaply to any port? The answer of the Commission is that if that natural rule should apply certain cities would not receive their share of the export business and certain railroads would not receive their share of the carrying trade. They decided that it was their duty to look after the interest of those roads and those cities which can not, under natural laws and natural conditions, compete with other roads or other cities; and they considered it their duty to so check and interfere with the natural law of competition that it shall not work against the interest of such roads or such cities. I candidly ask the question, Is this what the people of my country or of any of the inland country are asking for? If it is not, is it what they will surely get if the Commission has power to give it to them? I am not blaming or complaining of the Commission. It will be compelled to take the place of the traffic managers of all railways. To-day each manager is compelled to look after the interests of his own system. When he is supplanted by the Interstate Commerce Commission that Commission must look after the interest of their system, and it can only do so by so adjusting rates so that everyone shall receive its portion of the business, because it has stated again and again that the public necessities demand that each one of these roads shall receive its proper proportion of the carrying business in order that it may properly subserve the interests of the people along its line.

So they are driven into the same position that they have been driven into in the old countries; and I am doubtful if they will get as good an adjustment of it as they would if they would leave it entirely in the hands of the present managers.

Mr. DOLLIVER. Mr. President——

The VICE PRESIDENT. Does the Senator from North Dakota yield to the Senator from Iowa?

Mr. McCUMBER. With pleasure.

Mr. DOLLIVER. The Senator appears to be reading from the finding of the Commission in the case of the seaboard discriminations or preferentials submitted to the Interstate Commerce Commission for a voluntary arbitration. Does the Senator claim that there is anything in the existing law that would give to the Interstate Commerce Commission the jurisdiction which they voluntarily, at the request of the railway companies, exercised in that case?

Beyond that, I call the Senator's attention to the fact that the pending bill expressly excludes, or in effect excludes, the jurisdiction to determine these differentials and confines the jurisdiction of the Commission entirely to a complaint against a given carrier for excessive or discriminating rates, and does not authorize the Commission in any way to enter this field of territorial discrimination, weighing against each other the separate and independent railway systems of the country or the independent and separate markets of the country.

Mr. McCUMBER. Mr. President, the Senator speaks of the existing law. Under the existing law the Commissioners held in that case that they could not make it binding upon the company, but that that was the law which should govern and it is the law which they would enforce if they had the power to enforce it. The pending bill, by giving them the power to fix maximum rates, in my opinion, does give them the power to enforce exactly that provision. Let us suppose that here is a line from Chicago to New York and another line running from Chicago to Baltimore and New York. One line can afford, by reason of its facilities, by reason of its not being too greatly in debt, and a thousand other reasons, to carry grain, say, at 20 cents a hundred. When the Commission pass upon the question of the rate on grain for that railroad alone they are compelled to say that that 20 cents a hundred is a reasonable rate. When they come to the other road they will find that it can not pay dividends unless it charges 25 cents a hundred, yet by saying that the rate upon the first road shall be 20 cents a hundred they are compelled by the logic of events to hold that that is a reasonable rate between Chicago and New York, because the product is going by the road that will take it the cheapest. So the other road would be destroyed. But following the North Atlantic differential case, they would be compelled to call a halt and say the interests of the country demand that reasonable rates shall be so construed that they will be reasonable for every one of these roads, so that they all may participate in the traffic.

I have tried to study out the real meaning and intendment of this rate-making power. I should like to ride in your train if I knew what station it was going to land me in; but there is not a single one among your own advocates who can tell me the direction it is going or on what track it is running. None of you arrive at the same conclusion as to where you are going because you do not start upon your first basis; and that is the basis of reasonableness. I know of no method of determining accurately the question of reasonableness, except you take up one road at a time, and if you do that you have got just as many reasonable rates as there are roads and all different. On the other hand, if you take a railroad that can haul for the least amount between two given points and you make that your basis, then every one of the other roads will have to carry unreasonably low to compete; and if you take as a basis the road that will be the most expensive, whether it is by valuation or anything else, then the rate of every other road will be unreasonably high; and if you take some middle ground between them, then half of them, on one side, will be unreasonably high and the other half unreasonably low.

Mr. TILLMAN. Mr. President——

The VICE PRESIDENT. Does the Senator from North Dakota yield to the Senator from South Carolina?

Mr. McCUMBER. With pleasure.

Mr. TILLMAN. The Senator said a moment ago that not one of us knew where we are going or where the train would land. Does the Senator know where he is going? [Laughter.]

Mr. McCUMBER. I am going to stand where I am until the Senator shows where he is going to land me; but if he can show me a better place than where I am, I am going with him. I do not want the Senator to understand that because I criticise this portion of the bill, I am opposed to the bill as a whole.

Mr. TILLMAN. The Senator said a moment ago, if he will permit me, that this territory, speaking of the inland territory, had been built up by reason of favoritism. He did not use that language exactly, but that was the idea—that there had been discrimination in favor of it.

Mr. McCUMBER. You can use that language, because that is what I mean.

Mr. TILLMAN. I have seen a good many statements coming from farther west, where there is a great outcry over the discrimination against those points—Denver, Spokane, and other points are loud, howling, in fact, because they say they are practically being destroyed by this very favoritism; and I, for one, have been trying to go to that point where everybody will have an equal show, and where you will have no discrimination between sections or between localities or between individuals.

Mr. ALDRICH. Mr. President——

The VICE PRESIDENT. Does the Senator from North Dakota yield to the Senator from Rhode Island?

Mr. McCUMBER. Certainly.

Mr. ALDRICH. I should like to ask the Senator from South Carolina a question, if the Senator from North Dakota will permit me.

Mr. McCUMBER. Certainly.

Mr. ALDRICH. I should like to ask the Senator from South Carolina whether this bill, in his opinion, gives jurisdiction to the Commission over the question of differentials?

Mr. TILLMAN. I have not examined that particular point.

Mr. ALDRICH. Well, it is the most vital point in the bill or one of the most vital points, and it is a question about which there seems to be a difference of opinion.

Mr. DOLLIVER. Mr. President——

The VICE PRESIDENT. Does the Senator from North Dakota yield to the Senator from Iowa?

Mr. McCUMBER. Certainly.

Mr. ALDRICH. I would be glad to have any Senator answer it who thinks he can.

The VICE PRESIDENT. Does the Senator from North Dakota yield to the Senator from Iowa?

Mr. McCUMBER. I yield to all Senators.

Mr. BEVERIDGE (to Mr. ALDRICH). Repeat the question.

Mr. ALDRICH. It is whether the bill before the Senate gives to the Commission jurisdiction over differentials between different localities and ports.

Mr. TILLMAN. The main thing in it is to give the Commission jurisdiction over the fixing of rates.

Mr. ALDRICH. I was content with the Senator's first answer, which seemed to be conclusive. I would be glad to have some one else who will give a different answer.

Mr. DOLLIVER. The jurisdiction given by section 15 of the bill is plain, I think. It gives jurisdiction to the Commission where a complaint is made that a given rate is too high or is in

the nature of a discrimination forbidden by law, to make an order prescribing a maximum rate and an order to require the carrier to cease and desist from the discrimination in so far as they find it to exist. The complaint authorized is under section 13 of the existing law, and must be directed against a given carrier or, where more than one carrier participates in a joint rate, against the carriers participating in it. It will be seen, therefore, that the bill deals with no rates except rates that are too high, charged by a carrier, or in the case of a joint rate, by the carriers who participate in it, and with cases of discrimination made by a carrier on its own line or upon the joint line of more than one carrier participating in the same joint carriage.

It is therefore obvious that the bill applies to no excessive rates and no discriminations except such as are involved in the carriage of goods over a particular line or a joint line. It does not therefore include these port differentials or any of the territorial conflicts, such as the one that was recently submitted by the trunk lines to the voluntary arbitration of the Interstate Commerce Commission.

Mr. McCUMBER. Evidently we differ a little upon the construction of that law. Let us suppose that the board of trade of the city of Minneapolis, in Minnesota, should lay before the Commission the charge that the rates charged on all of class A freight between Minneapolis and Chicago over the Chicago and Milwaukee road was excessively high and unjust. Does the Senator mean to say to me that the Commission would not be compelled to take cognizance of that matter? If I understand the law, you may not only bring in one little shipment, but you may also invite the railroad commissioner of any State to make up a schedule of rates which he says are too high, and the Commission has to consider those; and if I can understand law at all, if I can construe the language of that measure, if I read it correctly, then the power lies with the board absolutely to consider not only one article, but any class of articles between any two cities, and that in effect will determine the whole question. If you can take up one class, you can take them all up in the same way.

Mr. ALDRICH. But this provision of section 15 of the bill as it came from the House directs the Commission to inquire into any rates that are otherwise in violation of the provisions of "this act"—that is, the interstate-commerce act; and the third section of the interstate-commerce act reads as follows:

That it shall be unlawful for any common carrier subject to the provisions of this act to make or give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation, or locality, or any particular description of traffic.

Those words are written into the interstate-commerce act, and any rates which are in violation of that provision it is the duty of the Commission to consider and report upon as much as upon the question of reasonableness. I can not understand the use of language if that does not give to the Interstate Commerce Commission jurisdiction over differentials.

Mr. DOLLIVER. Will my friend the Senator from North Dakota permit me?

Mr. McCUMBER. Certainly.

Mr. DOLLIVER. Admitting what the Senator from Rhode Island says, it is evident that the discriminations referred to there are not such discriminations as might be claimed to arise by comparing the rate on the Illinois Central from Chicago to New Orleans with the rate on the Lake Shore and New York Central from Chicago to New York City.

Mr. ALDRICH. "Any" is the word used.

Mr. DOLLIVER. But it is not competent to establish a charge against the Illinois Central on account of a discrimination made by some other railroad. The whole object of this bill has been to narrow the jurisdiction of the Commission to a complaint directed to be made by certain authorized parties against a common carrier, or, where there is more than one, against the railroads interested in the joint carriage. There can not be found in the bill a line which authorizes the Commission to weigh the rates to New York against the rates on another railroad to New Orleans, or Baltimore, or Philadelphia, or anywhere else.

Mr. FORAKER. Mr. President——

The VICE-PRESIDENT. Does the Senator from North Dakota yield to the Senator from Ohio?

Mr. McCUMBER. I will yield to the Senator, and then I will proceed.

Mr. FORAKER. I wish to ask the Senator from Iowa, if the Senator from North Dakota does not object, how otherwise under this bill, if it become a law, it would be possible for the Interstate Commerce Commission to hear and determine whether the rate from Chicago to New York is an unreasonable rate as compared with the rate to Baltimore and Philadelphia, when it, because of the differential, is put 2 or 3 cents lower, and for no other reason?

Mr. DOLLIVER. The Interstate Commerce Commission will be required under this bill to deal with the complaint on its merits, to make whatever inquiry is necessary, to use the information it has and all the information it can get, but directed to the question whether the rate complained of as excessive is in reality too high.

Mr. FORAKER. That is it precisely; but the question we are determining is whether or not the rate from Chicago to New York is excessive as compared with the rate from Chicago to Philadelphia or Chicago to Baltimore. The complaint may not be in that exact form, but necessarily, if there is an intelligent investigation, it will comprehend that, because it is only by considering relative rates that you can determine whether or not a difference of 2 or 3 cents on grain from Chicago to New York is a discrimination; and if the Commission would be compelled to consider that, the whole system of differentials goes to the wall, and the disruption which the Senator from North Dakota has pictured so eloquently and forcibly would inevitably follow, for according to the finding of the Commissioners themselves a difference of one-eighth of a cent per bushel on grain from Chicago to New York would destroy the whole distribution that has been brought about between the roads and the cities by this differential.

Mr. McCUMBER. I really can not understand the position of the Senator from Iowa when he considers section 3 of the law as it now stands. The bill which he is advocating provides for the enforcement of the provisions of that law, and as this law prevents anything which would be a discrimination as between localities as well as between persons, and as discrimination between localities is always a question of differentials, of course the Commission must consider and fix differentials in order to prevent those discriminations between localities.

Mr. DOLLIVER. It is true that section 3 refers to differentials, but not to differentials such as he is talking about. It refers to differentials that may exist along a line of railroad between the localities served by the railroad.

Mr. FORAKER. If the Senator will allow me, he will certainly concede, when his attention is called to it, that the kind of differential, to employ his expression, to which he now refers is known in technical language as a "preferential."

Mr. DOLLIVER. Very well.

Mr. FORAKER. Differentials are those that apply to ports, and the term has been correctly employed by the Senator from North Dakota.

Mr. DOLLIVER. The word "differential" applies to ports, but section 3 of the original interstate-commerce act does not refer to such discrimination as may arise out of the fact that one railroad charges more than another, but out of the fact that the same railroad charges one point on its line more than another.

Mr. ALDRICH. The Senator from Iowa must find that distinction outside of the language of the act, because the language of the act is broad enough to cover and does cover in terms any possible discrimination between localities.

Mr. FORAKER. Will the Senator from North Dakota permit me to ask the Senator from Iowa just one more question?

Mr. McCUMBER. Certainly.

Mr. FORAKER. In the interstate-commerce bill, as it is called, presented by the Interstate Commerce Commission, it was carefully provided that they should have jurisdiction not only to determine maximum rates, but minimum rates, and to fix differentials. When the bill which is now under consideration was introduced, or, at least, when it came here, that had been taken out of it. I want to ask the Senator from Iowa why it was that all allusion to differentials in terms was stricken out of the bill, except only for the reason that he foresaw that it would be absolutely impossible for the Commission to fix differentials, that it would be in conflict with——

Mr. DOLLIVER. I will say frankly that my study of the question convinced me that it would be quite impossible, and for practical purposes possibly dangerous to the commercial peace of the country, to clothe the Interstate Commerce Commission with the power against which my honorable friend the Senator from North Dakota is contending. I studied very carefully that decision and other decisions in which they undertook to exercise this territorial jurisdiction, weighing one market against another and one railroad against another, although they serve far separate communities; and upon a study of the question, running over a very long space of time, I became convinced that such a jurisdiction ought not to be conferred upon the Commission. That suggestion of the Interstate Commerce Commission was omitted in the bill which I had the honor to introduce in the Senate because I recognized the force of what the Senator from North Dakota has said in relation to this matter, and I did not desire to be put in the at-

titude of seeking to clothe the Commission with that vast power over the competitive market places of the United States.

Mr. McCUMBER. The Senator undoubtedly——

Mr. SPOONER. Will the Senator allow me for a moment?

Mr. McCUMBER. Certainly.

Mr. SPOONER. I want to ask the Senator from Iowa for his opinion. He has given the bill careful examination. In his opinion, would it work no change in this bill to insert in it a proviso that it is not the intention of this bill and it shall not be construed to authorize the Commission to fix differentials?

Mr. DOLLIVER. If the word "differential" has a fixed and technical definition, as my friend from Ohio suggests, I certainly would have no objection to that. I would rather, however, clothe the proposition in such general phraseology as would avoid any uncertainty as to the word "differential." In the testimony before our committee the word seemed to be used indiscriminately to describe the differences between the rates of different railroads and between different points on the same railroad; and there evidently was some confusion in the technical meaning of the term. But so far as this bill is concerned—and I do not know whether anybody agrees with the bill or not—the intention of it was to narrow the jurisdiction of the Commission to the simple business of reducing a rate which was found to be too high or reducing a rate at the high point which was found to be a discrimination against localities along the lines of the carriers interested in that rate.

Mr. BACON. Mr. President——

The VICE PRESIDENT. Does the Senator from North Dakota yield to the Senator from Georgia?

Mr. BACON. I should like to ask the Senator from Iowa a question.

The VICE PRESIDENT. The Senator from North Dakota has not yet yielded. Does he yield?

Mr. McCUMBER. I would if I had not yielded so often for the Senator from Iowa to answer questions.

Mr. BACON. Then I will not trespass upon the Senator.

Mr. McCUMBER. However, I will yield this time to let the Senator from Georgia ask the question.

The VICE PRESIDENT. The Senator from North Dakota yields.

Mr. BACON. I appreciate the courtesy of the Senator, but I realize the fact that possibly he has extended it as far as he should, and desires to conclude his speech. I can make the inquiry at some other time. While I appreciate it, I will not take advantage of the Senator's courtesy.

Mr. McCUMBER. I thank the Senator very much.

Mr. President, I do not think that the Senator from Iowa [Mr. DOLLIVER] comprehends the point I desire to make in this respect, and I will give a concrete case. We will suppose that the Northern Pacific will make rates to Tacoma, on the western coast, lower on a certain class of goods, or on all export goods, than the Great Northern will make to Seattle. The result would be that the Northern Pacific would get that business. It would get all of the export business, and Tacoma would be the exporting city.

Now, following the decision and the rule that was laid down in the North Atlantic Differential case, what would be the duty of the Commission when the case is brought up before it? They have said that it is not to the interest of the public that the business shall be taken by one line entirely away from the other. They have said that it is not for the interest of the public that the people of the great cities should be deprived of their export business. They have given that—and with good reason, I think, in many instances—as the very foundation of their holding.

Now, what I mean to say is that when the Commission pass upon the reasonableness of the rate of the Northern Pacific from Minneapolis or St. Paul to Tacoma, they will be forced, by the logic of the situation, in order to maintain a proper equilibrium, which will be for the benefit of the public, also to consider what would be the effect upon the other roads of lowering the rate to a certain amount. I am not only defending them upon that proposition, but I am insisting that unless we have absolutely chaotic conditions with respect to our railways that will be absolutely necessary. The railways themselves have found it necessary in order to continue the business without a continuous rate warfare, and I believe the Commission will be justified in holding more or less to that particular contention.

Now, Mr. President, I wish to go a little further.

Mr. NEWLANDS. Mr. President——

The VICE PRESIDENT. Does the Senator from North Dakota yield to the Senator from Nevada?

Mr. NEWLANDS. I wish to ask the Senator a question.

Mr. McCUMBER. Certainly.

Mr. NEWLANDS. That is, whether there is not this distinction: I understand the Senator to refer to the case of a rate from Minneapolis to Tacoma by the Great Northern and from Minneapolis to Seattle by the Northern Pacific.

Mr. KEAN. Just the reverse.

Mr. McCUMBER. Just the reverse.

Mr. NEWLANDS. Just the reverse; and he assumes that one rate—the rate to Seattle—is less than the other, and in that way Seattle would absorb all the export business. Now, we will assume that these two roads were in one ownership. I can imagine then that under this bill if that preference were given to Seattle over Tacoma or to Tacoma over Seattle, a complaint would be made under this act. But if the two roads are in separate ownership, each in the ownership of a corporation, I do not see how the Interstate Commerce Commission could be called upon then to determine the question for the only complaint, if the Senator will permit me——

Mr. McCUMBER. I will make that clear.

Mr. NEWLANDS. The only complaint will be of the action of a particular road in the area of its own territory.

Mr. McCUMBER. I know; but suppose——

Mr. NEWLANDS. And a comparison with the action of another road in——

Mr. McCUMBER. I understand that.

Mr. NEWLANDS. Will not furnish any basis for determining the reasonableness or the unreasonableness of the charge by the individual road.

Mr. McCUMBER. The point is simply here. Suppose the rate on the Northern Pacific is challenged as being still too high. Suppose the Northern Pacific can carry freight at rates at which the Great Northern can not profitably carry it to Seattle, and the rate of the Northern Pacific is still challenged as being too high, that they could afford to carry cheaper even than the rate fixed; then I say that the Interstate Commerce Commission will be forced to take into consideration what other roads could carry it for in fixing a standard of reasonableness for the Northern Pacific.

Mr. NEWLANDS. Not, it seems to me, if the Interstate Commerce Commission——

Mr. BEVERIDGE. How will the Commission get jurisdiction over the Great Northern?

Mr. McCUMBER. I am not speaking of any jurisdiction over the Great Northern. I say the Commission would not reduce the rate if the effect of the reduction would be to deprive Seattle of its business or to drive the Great Northern out of business. In other words, they will fix no rate that will send another railway, a competing line, into bankruptcy or that will seriously injure it. That is the proposition which I have been trying to lay down.

Mr. NEWLANDS. I do not understand, let me say to the Senator, that the Interstate Commerce Commission, in determining the reasonableness of rates upon a given road, is to allow the rates on another and different line to enter into the calculation at all.

Mr. McCUMBER. Then the Senator has not understood the argument I have been trying to deduce, and that which is clearly deducible, from the North Atlantic Differential case, where they claimed that it is necessary and proper to take that matter into consideration.

Mr. NEWLANDS. The Senator must recollect that that case was not considered under the interstate-commerce act. It was considered as a matter of voluntary arbitration between the parties.

Mr. McCUMBER. It was an arbitration, but in that they are laying down a few general propositions that would govern in fixing rates.

Mr. NEWLANDS. That govern them in voluntary arbitration——

Mr. McCUMBER. Yes; and in involuntary arbitration.

Mr. NEWLANDS. And not in exercising authority under the interstate-commerce act? It seems to me the Supreme Court has laid down the rule in Smith *v.* Ames as to what shall be considered in determining the reasonableness of rates, and they simply consider the question of value and return upon value—the value of the individual road and the return upon the value of the individual road—and no other considerations than those are alluded to in that opinion.

Mr. McCUMBER. And the value of one road, if fixed by what it can pay, is three times, perhaps, as great as the value of another road that is beside it and competing with it. That is not a basis for determining it, and I confess I do not know any reasonable basis for determining it. It has to be determined according to the exigencies, the conditions of the trade throughout the country, the law of supply and consumption. That is what will necessarily have to determine it, and it will not be based upon the valuation of any other road.

I wish to call attention to another matter, and then I will pass from this. On page 70 the Commission say:

And does the result fairly show? Does this competitive traffic move to and from these ports freely, or do these differentials give to Baltimore and Philadelphia a distinct and unfair advantage over New York and Boston?

They conclude that it does, and therefore modify the differentials accordingly. What does the Commission mean by an unfair advantage? It calls a natural advantage which would give greater business to Baltimore and Philadelphia and the roads leading thereto unfair. They apply it to serving the entire public. And its idea of fairness demands a surrender of the benefits of a natural advantage.

Again, on page 74, they say:

It is therefore possible that in the future it may become evident that Boston can not fairly compete for this traffic upon the present basis; but we do not feel that the record before us would justify that in existence to-day.

So, however, in the future it shall appear to the Commission that Boston can not fairly compete with Philadelphia or Baltimore, then the Commission will see to it that Baltimore and Philadelphia rates are so increased that Boston can compete.

Finally, on page 75, in treating of ex-lake traffic, the Commission say:

These four cities are all seaports. This is a fundamental advantage of location which entitles each and every one of them to participate in the export business and the public requires that this right shall be recognized.

Now, that is a judicial or semi-judicial utterance, "and the public interest requires that this right shall be recognized"—the right of this differential in their favor—so that they may secure their proper proportion of the business. I am not denying that perhaps the public interest in the long run will require that.

Now, why does the Commission stop with these four seaports? Why should not the same rule apply to Portland, Me., or Charleston, S. C., or any other of the smaller ports? On what theory does the Commission base its finding that each of these cities is entitled to participate in the export business? The only cities that are entitled to participate, according to the economics of my country, which is the shipper, are those cities that can furnish us the cheapest transportation between the field of production and the field of consumption in the old country, where it is going; and if Boston can do better than any other city, then, according to our views, Boston is entitled to the whole of it. But according to the views of the eastern people who are interested in building up Boston and building up their industries, the essential interest of the people of that section is exactly the contrary.

Commissioner Clements dissented quite strongly against this proposition. The view which I have taken in reference to this decision, and the view which, it seems to me, must be taken by everyone who is an advocate of honest competition, seems for the most part to be exactly in harmony with the view taken by Commissioner Clements, as shown in his dissenting opinion; and as that opinion demonstrates more clearly than I am able to do the dangers which would follow from carrying into effect this decision if the power were actually given to the Commission, I will avail myself of the privilege of quoting from his dissenting opinion. After considering many of the conclusions of the majority, he says, page 78:

If this were a proceeding against a carrier reaching by its lines all of the ports in question, it would be within the jurisdiction of the Commission to deal with the differences in rates as discriminations between localities by such carrier and, if found undue, to condemn them. * * * But there is a manifest and radical difference between an order of discrimination like that by a carrier between places on its line and which is clearly covered by the provisions of the third section of the act to regulate commerce, and the fixing of differentials in rates to or through the various ports and over independent and competing railroads. In the latter case the law has undertaken to leave the free play of competition to adjust rates, subject only to the reasonable rule of each carrier that its rates shall be reasonable and just and shall not unduly discriminate between commodities or between persons and localities reached or served by it.

In this he properly differentiates a discrimination by a railroad between localities along its line and a differential in rates to various ports over different competing lines. I think, however, that when this supervisory control is given to the extent of absolutely fixing the rates by the Commission, he will be compelled to follow the rule adopted by the other four members.

Again he says, page 78:

The foregoing report proceeds upon the idea that there is some intimate and ascertainable standard of fairness by which there can be fixed a limited and proper degree of competition and measure of adjustment of the traffic between the ports and carrier other than that wrought by competition. The law undertakes to fix no such standard or limitation; nor does it authorize the Commission to do so even for the purpose of putting to rest these questions so long and so often involved in the competitive contests between carriers.

And it might be added that the law neither undertakes to fix such standard or limitation, nor ought it ever to put in the hands of a Commission the power to fix such standard or limitation.

Again he says, page 79:

Thus it is seen the purpose and effect of the conclusions is to declare what differences in rates the railroads should make to the four ports for the purpose of distributing the business. Whether the carriers see fit to follow the suggestions of the Commission, which they are, of course, in no sense bound to do, or decline to accede to the same, will, in my opinion, leave the Commission in an embarrassing attitude.

If they acquiesce we will have gone beyond our authority to interfere in the course of trade, determining the direction and destination of commerce, a matter with which we are not charged. To-morrow we may be called upon to determine what share the Gulf ports may have and the Gulf roads carry, the next day to fix the proportion to which the Pacific coast is entitled.

And, again, he very forcibly says on page 80:

In declaring as between competing lines and competing ports what differentials shall govern, assuming that they will govern, we hamper competition, and by this regulation of distribution effect in reality a division of territory, a division of traffic, and a division of earnings, which in substance and effect tend to defeat not only the purposes of the antitrust act against the restraint of trade, but the leading provision of the interstate-commerce act, with the enforcement of which the Commission is charged.

And, again, on page 81:

May competing carriers lawfully effect, through the agency of the Commission, restraint of competition and trade by a division of traffic between themselves and the ports, when to do the same thing through an agency of their own would be unlawful? I think not.

In this last quotation he clinches the argument that forcing a division of traffic by the rate-making power destroys the very competition that we are seeking to maintain.

Mr. President, I believe it is to the best interest of the country, or certain sections of the country, that railroads should have the right to discriminate in their favor, not that they may raise the rates unreasonably high, but that they may place the rates unreasonably low. I will give a case of this kind. Suppose citizens of Oshkosh, Wis., go to the Milwaukee or whatever road serves them and say, "We have the timber here; we should like to build up a great furniture manufacturing industry; but Grand Rapids, in Michigan, has corralled all the Chicago business; they have been running for fifty years; they can conduct their business so economically that for several years at least we could not compete with them; and our only method of competition is for you to give us preferential special rates to the Chicago market." The railway says, "We will haul your products for three years for just exactly what it will cost, and after that we will raise the rate to such an extent as we can afford to carry them. This will then build up your industry."

Now, the Commission appears and says, under the law which you would pass, "You can not give this rate to that particular city unless you give it to every other city on the line, and to every other person who is attempting to build up any kind of an industry along any particular line." Thus you are deprived of building up a business there that would benefit the railways and would benefit also the country.

You deprive them of competition. I recall this character of a condition: Here is a section of country where they raise nothing but potatoes, or another section where they raise nothing but flax. They have raised an excellent crop of potatoes there, but at the same time they have raised an excellent crop over the country, and they find, when they want to ship those potatoes to the market, the freight rates will equal what they can get for them in the market of consumption. The railway says, "We will carry these goods this year at even less than cost. We will carry them for the express purpose of keeping that business there. To do that we will have to lower our rates here, and we will have to raise them, it may be, in the wheat-raising section, because we can not afford to cut down the general result of our income to meet running expenses."

Under this law they could not do it. They could not change the rate except upon thirty days' notice, and in thirty days the potatoes would be rotten.

I believe that the best interest, especially of any new country, demands that a railway may discriminate in favor of any locality by giving especially low rates to one particular industry; that while they shall be always prohibited from making any rate unreasonably high, they shall not be prohibited from making one unreasonably low for a legitimate purpose.

Mr. President, in the Old World the railway management simply supplies the demand for carriage. They do not attempt to make markets. They supply the demand for the markets. The exact reverse is the rule in this country. Our railways, especially in a new country, must give special attention to creating markets. Their management must study the demand; they must carefully compare the field of production with the field of consumption, not only in this country but in every other country. They must build up and stimulate trade. In this country they make the demand; they work for it; they develop

industries, and they find markets. As long as they do this, then I say that they should have the privilege of giving such special and low rates under certain conditions to certain places in the country as would be beneficial to the part of the country that is given those particularly low rates.

Now, Mr. President, answering the Senator from South Carolina about the complaints in the southwestern part of the country. The southwestern cattle raisers complain somewhat not that their rates are too high—they are not saying that—but they say that compared with the rates North Dakota and Montana get they are not treated fairly; that their rates are much higher than in those States. So the lumbermen from the South say that the rates from the southern lumber districts as compared with the rates from the Pacific coast districts are excessively high, thus favoring the Pacific coast.

That is true for three reasons. First, those rates were made excessively low for the very purpose of developing that western lumber industry. Again, the railroad companies could afford to do it, because the industry is of such importance that they can haul loaded trains both ways. Again, they do it because the settlement along the northern roads is much more dense than it is along the southwestern roads, and therefore they can carry cheaper. Now, if the railways can give us that benefit we are entitled to it.

Mr. TILLMAN. Mr. President——

The VICE PRESIDENT. Does the Senator from North Dakota yield to the Senator from South Carolina?

Mr. McCUMBER. With pleasure.

Mr. TILLMAN. Do I understand the Senator to contend that the population along the road from Dakota to the Pacific coast, where these lumber districts are, is more dense than it is from any point in the South northward?

Mr. McCUMBER. I said the Southwest.

Mr. TILLMAN. Going over to Texas as far as our lumber district extends?

Mr. McCUMBER. I will take the section on the Rio Grande, the roads that run to Denver and to the coast. They pass through more country that is unsettled a certain portion of the distance than the roads running through the northern section. Minnesota and the Dakotas are very well settled. There are great settlements in Washington and along the Northern Pacific. Along the Great Northern road we have a considerable population in every one of the States, while in portions of Nevada and portions of California, in Utah, Arizona, and the other sections there is very much less population, and of course less business.

Mr. TILLMAN. I think the Senator will find on examination that he is away from the facts in regard to the density of population in the country between the Pacific and the Dakotas or the part of the country south of the Dakotas which is near the edge of the arid belt. I know it runs between the ninety-ninth and the hundredth parallel; but there is no part of that country that is at all comparable to any part of the Southwest in lumber. There may be no lumber away out in the Rio Grande country; I do not think there is; it is too dry; but from any part of Texas where there are trees I am sure northward through the Indian Territory and Oklahoma the country is four times—ten times—as densely populated as any part of the country west referred to, until you reach the Pacific coast.

Mr. McCUMBER. That may be true as to certain portions of it. But now let me take up this same matter of the discrimination in favor of localities. In the early part of the history of North Dakota, or of the Dakotas, all of our lumber came from the pine woods of Minnesota and Wisconsin and Michigan. There was very little competition. But away to the west of us lay the immense primeval forests of fir and pine of Oregon and Washington. We needed their lumber and they needed our market. They were too remote from the field of consumption to compete with the lumbermen of Minnesota and Wisconsin on anything like equal carrying charges. The only way to meet this condition was by discrimination, and by a great discrimination in favor of the western product and even over the same line of road.

So the managers of our northern railways said to the lumbermen of the west coast, "For what carrying charges can you compete on the plains of Dakota with your lumber as against Minnesota and Wisconsin?" They thought they could compete on a 65-cent rate per hundred. The railroads said, "We do not think you can compete on a 65-cent rate. If you will go into the business, however, with sufficient capital, so that you will give us loaded trains each way, we will give you a 50-cent rate, or a 40-cent rate, if that is necessary." And a 40-cent rate, I believe, was given.

Mr. President, that was a simple proposition, having for its object the development of the lumber industry of the Pacific coast and the development of the farming industry in my own State.

Under that agreement lumber was carried from the Pacific coast into the Red River Valley at a cost that barely more than paid the cost of running trains one way. Had Minnesota and Wisconsin been given comparatively favorable rates, then all of the forests of Oregon and Washington would have been to-day in their primeval beauty and grandeur. It was by reason of this discrimination that we have been enabled to build up the great lumber industry on the one hand, and that we have been enabled to build up the agricultural section upon the other hand. If we were to take away that discrimination to-day, the discrimination that the West enjoys in the matter of these freights, then all of our prosperity would vanish like frostwork in the morning sun.

Mr. CLAPP. Will the Senator pardon a short question?

Mr. McCUMBER. Certainly; though I will be through in a short time.

Mr. CLAPP. I do not like to interrupt a Senator speaking, but I should like, if the Senator can, to have pointed out a single word in the House bill that would enable the Commission to interfere with that condition beyond what they might have interfered with it under the original bill as it stands to-day as a law.

Mr. McCUMBER. One of two things is certain under this bill. Either the Commission will have the power to determine what are just and reasonable rates or it will not have that power. If it has that power, it has got to base its decision upon something. If it bases its decision upon the North Atlantic differential theory that it has promulgated, it will be bound to follow the theory I have suggested. If it bases it upon any other theory, then you would have as many different kinds of reasonable rates as there are railways in the United States.

I know of no system, I will say to the Senator from Minnesota, whereby the Commission can determine what is a reasonable rate without absolutely destroying all the relations of one road to another and bringing about a chaotic condition in transportation, unless it takes into consideration the question what would be reasonable on other roads and what other roads can haul the freight for.

Mr. CLAPP. If the Senator will pardon me again, he must concede that before the Commission under the new law can ascertain a reasonable rate the Commission must first be satisfied in condemning the existing rate. The Senator is undoubtedly familiar with the decisions of the Supreme Court in regard to the long and short haul clause of the existing law. I undertake to say that there is not a line, or word, or syllable in this bill which enlarges the power of the Commission as to the long and short haul clause as found in the existing interstate-commerce law. If the Commission would not find those rates unreasonable under the existing law, clearly they could not in the place of those rates substitute an alleged reasonable rate under the proposed law.

Mr. McCUMBER. Mr. President, let me come down still closer to the point. I will not give the exact figures, but I will give enough to show the result. I will give a good illustration. We will say that a carload of wheat carried from my city to the Senator's city or Minneapolis, where we marked it, is carried by the roads at $50 per car. Now, that same car is loaded at the same place and carried back to the same city where it started for $100 per car.

This is done under a system which has been adopted by the railways that it is for the best interest of our country; that we get these benefits for the things we ship out rather than the things we ship in; that while we ship out 3,000 bushels of wheat, for instance, if it is but $50 a car, we will receive 5 cents a bushel more than we would upon an equalization of those rates. To be sure, when we ship something in it will cost more. It may cost us 5 cents more for a pitchfork, but while selling 3,000 bushels of wheat we do not buy back 3,000 pitchforks, and hence we are really benefited by this discrimination.

Now, suppose the Interstate Commerce Commission is called upon to decide that the rate from Minneapolis to my town of $100 a car is excessively high, what evidence will they receive? One of the things that would necessarily be submitted is that the railway company hauled the same car the other direction for only $50, and if they can haul it one direction for $50 they can haul it the other direction for $50. They may cut down on the $100 rate, but the chances are if they do cut down on the $100 rate on the ground that it is excessive, the company will make up on the $50 rate, which is the real rate that benefits us, and the only one that amounts to anything to us, and will make it cost all the more to move our products eastward.

Mr. CLAPP. I will ask the Senator if that could not be done under the existing law, provided the Commission could find successfully that the $100 rate is an unreasonable rate? Is there anything in the existing law to prevent the Commission from attacking that rate?

Mr. McCUMBER. The Commission will attack the $100 rate. I am assuming now that they hold that it is unreasonable, and that they hold that instead of the $100 rate they could well afford to carry freight for $75 westward. Now, what is the railway going to do with the other $25? They will probably—

Mr. CLAPP. That is a violation of the existing law.

Mr. McCUMBER. Just a moment, Mr. President. They probably will attach it to the eastward haul, because the eastward haul already may be low, and the railway can not afford to carry both ways at a less amount. In other words, they must have $150 for hauling that car both ways. I want to let them have the opportunity to differentiate in favor of the eastward haul, and I would not willingly put it in the hands of the Commission to say that they shall not have that power.

Now, Mr. President, a word before closing. A work half done had better be left undone. Unless this Commission can properly consider everyone of the freights that it will be called upon to consider, it seems to me that we ought not to force it upon them, or even expect them to do it or allow them to do it.

Mr. President, I make no claim to expert knowledge on the subject of railroad rate making. There are, however, a few basic principles relative to the subject which, if not known by every person, are at least understood by those who have given the subject even casual consideration, principles which ought not to be lost sight of. We know, in a general way, how these rates are arrived at. The official charged with the rate-making power on any great line of railway receives daily reports from every station along the line as to condition of crops, business, the amount of produce that will be required to be moved from each station, etc. Not only this, but he receives information directly or indirectly from points along every other railway system. Those lines he must utilize and those which are in competition with his line. He must study the market of the entire nation and the entire world. He must constantly have before him the schedules of charges for all ocean traffic, and the amount of that traffic, because he must fix his rates in accordance with it. He must understand exactly what the variation of a half cent per hundred pounds on any commodity between any points will have upon the rates and charges and business of other lines, as well as his own, so that, in fact, every agent, every employee in every station along every line of railway does his part in imparting information which shall be the basis of fixing rates from day to day. I therefore do not exaggerate when I say that it takes an army of 50,000 men to make railroad rates for the railroads of the United States. Now, we propose to place this extraordinary power in the hands of five men, who, though they be giants in intellect, could not consider the one-hundredth part of 1 per cent of the things which properly should be considered in the matter of rate making.

I judge from the remarks of the Senator from Massachusetts [Mr. LODGE] that if he pays the Commissioners twice as much he will make them twice as intellectual. I will hardly agree with that proposition, Mr. President. I think that though their intellect be gigantic and a thousandfold multiplied they could not consider properly one-quarter of the rates that would naturally come before them, because I believe that as soon as that rate-making power is given it will be followed by applications from nearly every great commercial city to secure lower rates or preferential rates to its own particular locality for the very purpose of securing its own prosperity; and if they are not successful in that way they will get in as defendants for the purpose of preventing some other city from getting the preferentials, and the Commission will be naturally overwhelmed with a great amount of work.

I am informed that there are more than 100,000 schedules of rates filed every year with this Commission. That means 500 for every working day in a year. It means 40 for every working hour. Now, how can we expect a Commission to take into consideration and justly consider every one of these propositions, which must be determined not alone on value, but on a thousand other conditions, such as the inequalities of bonded indebtedness, inequalities of cost of construction, inequalities of a thousand other kinds, which must necessarily be taken into consideration in the matter of fixing and determining even what shall be considered as a fair and reasonable rate.

Mr. President, the Commission have declared a rule that they will follow, and it seems to me that they will be compelled to follow the rules which they have laid down in this North Atlantic differential case.

Mr. President, a word before closing. All who have written about the conditions in the old country agree that granting the rate-making power to any political commission has worked disastrously to every one of those inland cities which did not have the benefit of water transportation. We have no water transportation to amount to anything in this country, and I conceive it would be much worse in this country than in the old. I take just a little excerpt from the testimony of Mr. Meyer, given before the Interstate Commerce Commission. He says:

> The experience of all such countries has been to bring into politics the question of reasonable rates and the great question of conflict of sectional interests, which is an incident necessary to the development of a country; and the ultimate result has been that railway rates have become inelastic and finally have ceased to decline; they have become stationary and have remained so.
>
> The result of that has been to paralyze commerce to a very large extent, the railways as effective agents for the development of commerce, and the resources of a country; and unless there has been the possibility of escape from that paralysis through a recourse to a means of transportation that was abandoned in this country in the seventies, namely, by river and canal, the effect has been absolutely disastrous.

And, again, he says, speaking of what the result of the German ownership or fixing of rates has been:

> Berlin has lost all its import trade in petroleum, except trade dependent upon petroleum consumed in Bremen and the immediate neighborhood; and the petroleum import trade has gone entirely to Hamburg for eastern Germany, which distributes by means of the Elbe and then the canal from Berlin, and then the Oder.
>
> On the other hand, for western Germany the petroleum trade has gone entirely to Rotterdam and Mannheim, which is the head of navigation of large vessels on the Rhine, at the point where the Main empties into the Rhine.

And so the hard and fast rules enforced upon railway carriage in the German Empire have had the effect of totally destroying business in some centers and moving it to others, have built up some sections—namely, those with extra facilities for water transportation—and have destroyed those centers which depend wholly upon railway transportation. The like is also true in Australia. The interior is as much a desert to-day as it was a hundred years ago. On the other hand, the whole interior section of our country has been built up, because of the constant endeavor of each line of railway to make the country contiguous to its line prosperous, even at the expense of sinking millions upon millions of dollars in making rates so low that other sections of the country could not for a time compete.

Mr. President, there are about one and one-fourth million voters employed by the railroads of the United States. At present each one of this great army must deal separately with the organization that controls the particular railroad in which he is employed. Some of those railroads, which are operating upon their own systems, upon their own theories, contemplate improvements in one direction, some of them in another direction; and all these matters of expenses and improvements are considered in determining what they can pay their employees; but, now, when you substitute and project this political body into the management of the railways of the country, even to a slight degree, does anyone for a single moment believe that this immense political influence will not make itself felt, first, in demands before this commission for higher wages; second, for shorter hours, and third, for smaller train loads, etc.? If they appeal there in vain, does anybody for a single moment believe that they will not make stupendous power felt in the only body that is back of this great political power—the Congress of the United States? For my part, I say, Mr. President, Heaven pity the nation when it is wholly at the mercy of all the great trusts and of all these political combinations in the United States.

I am informed that when Germany took over the railways from private to public ownership, she foresaw all of these great dangers, and she disfranchised everyone of the employees. That would be contrary to our idea of government, and it could never be done in this country; but it shows that we shall more and more and to a greater extent be subjected to these great political organizations and influences if we once bring the Government down from its lofty function of governing to that of taking part in the business industries of the country.

The bill contains amendments to the old law that will assist in its better enforcement, and I will cheerfully support those provisions. If this other provision, which I believe will be detrimental to all but a few great seaports and possibly some other lines of railway, is adopted, then, in my judgment, both for constitutional reasons and for fair play, I believe the courts should be open, with provisions for speedy determination to all persons interested alike.

Mr. President, since the day of Magna Charta, which insured for all time the right of every man to a fair trial, no principle has been more sacredly cherished or protected by all English-speaking races. While litigation in late years may be slow and often hampered with trivial technicalities, still, when we compare it with trials by departments or boards or courts-martial,

its superiority stands out grandly above all other methods of determining the personal or constitutional rights of the citizen. And I, for one, do not believe that the time has come or any condition has arisen which demands the substitution of a political board for a judicial tribunal.

Mr. President, in closing I only want to say one other thing. It has been reiterated here again and again with impassioned declamation that, unless we take this first step toward socialism, the placing of the rate-making power in the hands of a political commission, the people will rise in their majesty and compel us to take another one, and that is government railway ownership; in other words, that if we do not do one great wrong, the people will rise and compel us to do a still greater wrong.

But the people, as a whole, do not want and do not ask their representatives to do anything but right. Whenever the people have understood a subject they have never yet, by their vote, allowed any great wrong to be perpetrated by us, much less perpetrate it themselves. The people not only want their representatives to do the right thing, but they want them to do the right thing in the right way.

Mr. President, I need give but a single illustration of the ability of the people themselves to change their own minds when they have duly considered a matter. I call attention to the great campaign of 1896 between the gold standard and free silver. During that campaign had there been a vote had by the people of the United States during the months of July, August, September, or even in the early part of October, the advocates of the gold standard would have gone down to destruction before an avalanche of American votes. Our schoolhouses throughout the entire country, devoted to the education of youth during the day, were given up in the evenings for the education of bearded men. We were told at that time that our silver money had been surreptitiously demonetized some years before, that there would be necessarily a great contraction of the currency to the benefit of the wealthy people of the country and to the detriment of the poor. They fought it out in argument; and on that day of November when the question was determined the people of the United States completely changed their first conclusion; and they did the best thing, Mr. President, that was ever done in this country, for if we had adhered to that policy, notwithstanding all of the savings and all the great accumulation of gold since that time and the wealth which the mines have developed, our money would not have been worth more than 40 cents on the dollar in its purchasing value as compared with what it is to-day.

So, Mr. President, I have confidence that the people are not themselves insisting that we shall surrender our own judgment upon any particular phase of this case. I am sincere in my belief that that portion of the bill which changes the rate-making power from the railways to a political body will be to the detriment of the people, and I do not feel that I am acting against the interest of those people. I would be perfectly willing to submit that question wherever it may be justly and fairly heard.

I am afraid that we are substituting the press for the people in this case. I am not so certain, the matter never having gone to the people, that they will say that out of all the remedies there is one, and only one, that the Congress can conscientiously and honestly consider.

What the people want are results. They want a law that will go directly to the evil, and then they want that law enforced. They do not want the enactment of a new law which will not touch the wrong. They want a law that all rates shall be just and reasonable. They want a law that no preferences will be given to the great shipper over the small shipper. They want a law that the owners of special cars shall not have such privileges as will enable them to drive out of business concerns so small that they can not afford to manufacture their own special cars. They want a law that no rebates of any character shall be allowed any person whereby he gains an advantage over others. In a nutshell, they want simple justice and fair play. And I believe that they want another thing which the press have forgotten to agitate. The people in business, representing all characters of enterprise, are compelled to compete in the open markets of the world and against immense business interests. They therefore have a right to demand, and do demand, that the railways which carry their products shall also be compelled to compete for them; and they want no law which will allow a commission, through the rate-making power, to destroy that competition.

I have very little fear of the result this will have upon the railways themselves. I do not believe they will be greatly injured. I believe that rule will be applied which was applied in the North Atlantic differential case. I believe that the Commission will see to it that they in their determination of reasonable rates will not destroy any railway if they can help it. But I am interested in what is going to be the final result upon the great interior of this country, the exact center of which I myself represent. While I am here, Mr. President, I purpose to vote according to my own judgment. I do not think the editors who have written up this question in lurid lines have given it the study that I have; I do not think they have given it the consideration that any one of the Senators here present has given it. I simply ask that in its consideration, instead of always putting our ear to the ground to get the public sentiment for the sole purpose of ascertaining which way the wind is blowing that it may blow us safely into a political port, that we shall put our ear to the ground and keep it there to hear the complaints that are being made by the people; then study all those complaints, and, under our obligations as Senators, before God do our duty according to the best of our information and our judgment in remedying the complaints.

Mr. President, I want to say finally that I will not be a party in deceiving the people into a belief that in their battle against these great combinations, the source of all their real injuries, they are going to get any remedy in this bill that will amount to anything in whatever way we may pass it.

Mr. KEAN. I move that the Senate proceed to the consideration of executive business.

Mr. BEVERIDGE. I wish the Senator would withhold that motion for a moment.

Mr. KEAN. I will.

Mr. BEVERIDGE. I wish to request that there be printed for the use of the Senate in parallel columns the interstate commerce law and the proposed law—the law of 1887 as amended by the law of 1889, in one column, and the proposed law in a parallel column opposite the sections which it is intended to amend, and that after these the Elkins law be printed, so that the Senate may have immediately at hand just what exists and precisely what is proposed, in order that the matter may be seen at a glance.

Mr. KEAN. I have no objection to the request of the Senator.

Mr. CARTER. I suggest that the compilation likewise include all the pending amendments which have been proposed.

Mr. BEVERIDGE. I had considered that, but I think it would make the document too bulky. I had thought that we could take the proposed amendments and lay them side by side in two parallel columns. My proposition is that the law of 1887, as amended by the law of 1889, which is the existing interstate commerce law, shall be printed in one column and the proposed law in the other column opposite the sections which it is proposed to amend, and that after those two the Elkins law be printed.

Mr. KEAN. There is a print of that kind in existence at the present time.

Mr. BEVERIDGE. No; I beg the Senator's pardon.

Mr. LODGE. The Senator from Indiana wants the matter in parallel columns.

Mr. KEAN. There is a copy in my committee room.

Mr. BEVERIDGE. The print as it now exists is very, very difficult to get at. You have to cut the laws out and paste them upon paper. What I propose is that we shall have a document containing the existing law and the proposed law in parallel columns, so that it can be seen at a glance.

Mr. KEAN. I have no objection to the Senator's request, but I will furnish him with a copy made up in that way.

Mr. BEVERIDGE. It does not exist.

Mr. KEAN. I have one in my committee room, I will say to the Senator.

The VICE-PRESIDENT. Is there objection to the request of the Senator from Indiana? The Chair hears none; and that order is made.

FREE TRANSPORTATION ON RAILROADS.

Mr. TILLMAN. Mr. President, inasmuch as the Senator from Ohio [Mr. FORAKER] introduced an amendment to the railroad rate bill yesterday afternoon, about which we had some discussion in regard to the free-pass evil, I desire to introduce and to ask the Senate to consider and pass a resolution which I send to the desk, calling for information from the Interstate Commerce Commission on that subject. It will take only a few minutes.

The VICE-PRESIDENT. The Senator from South Carolina submits a resolution, which, in the absence of objection, will be read.

The Secretary read the resolution, as follows:

Resolved, That the Interstate Commerce Commission be, and hereby is, directed to transmit to the Senate all information in the possession of the Commission showing that any railroad companies of the country engaged in interstate commerce, are in the habit of receiving payment for the transportation of passengers not in cash paid for tickets, but in services rendered under some form of prior agreement between the railroads and the individuals or corporations using the transportation.

and particularly all information showing that a custom has existed or exists on the part of the railroad companies of entering into advertising contracts with the proprietors of newspapers and other publications under which free passes or passage tickets or mileage books are furnished to such proprietors and charged to their account, to be paid for by publishing for the railroads their time tables, notices of excursions, descriptions of scenery, and other miscellaneous reading matter, which publishing is charged to the account of the railroads, so that a system of running accounts, to be adjusted at convenience, is established between the railroads and the proprietors of the newspapers and other publications; and, further, to inform the Senate to what extent such custom of not collecting payments for passenger fares in money and of keeping running accounts has prevailed or now prevails between the railroads and the proprietors of newspapers and other publications, and whether such customs are contrary to the interstate commerce law, and whether any proceedings have been at any time taken by the Interstate Commerce Commission in respect to such customs, and also to report to the Senate the reports and opinions of the Commission in all cases concerning such customs which have been heretofore examined and considered or are still pending and undecided in whole or in part, together with the reasons for any delay that has taken place in any such cases, and the reasons for any failures on the part of the Commission to investigate and deal with any illegalities in connection with passenger transportation which may have come to the knowledge of the Commission.

Mr. KEAN. Let that resolution go over until to-morrow morning, Mr. President.

The VICE-PRESIDENT. Under objection, the resolution will lie over.

EXECUTIVE SESSION.

Mr. KEAN. I renew my motion that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were reopened, and (at 5 o'clock and 25 minutes p. m.) the Senate adjourned until to-morrow, Wednesday, March 28, 1906, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate, March 27, 1906.

CONSUL.

Eugene L. Belisle, of Massachusetts, to be consul of the United States at Limoges, France, to fill an original vacancy.

PROMOTIONS IN THE NAVY.

Lieut. Commander Albert N. Wood to be a commander in the Navy from the 12th day of February, 1906, vice Commander George W. Mentz, deceased.

Asst. Paymaster James F. Kutz to be a passed assistant paymaster in the Navy from the 2d day of February, 1906, vice Passed Assistant Paymaster Edward T. Hoopes, promoted.

Boatswain Frederick R. Hazard to be a chief boatswain in the Navy from the 1st day of March, 1906, upon the completion of six years' service, in accordance with the provisions of the act of Congress approved March 3, 1899, as amended by the act of April 27, 1904.

Gunner Andrew Olsson to be a chief gunner in the Navy from the 16th day of September, 1904, upon the completion of six years' service, in accordance with the provisions of the act of Congress approved March 3, 1899, as amended by the act of April 27, 1904.

ASSISTANT SURGEONS IN THE NAVY.

Walter F. Schaller, a citizen of California, to be an assistant surgeon in the Navy from the 21st day of March, 1906, to fill a vacancy existing in that grade on that date.

Condie K. Winn, a citizen of Alabama;
John B. Kaufman, a citizen of Virginia;
Avery H. Robnett, a citizen of Texas;
Matthew H. Ames, a citizen of Maryland, and
William S. Kuder, a citizen of Pennsylvania.

CONFIRMATIONS.

Executive nominations confirmed by the Senate March 27, 1906.

PROMOTIONS IN THE NAVY.

Boatswain Daniel Moriarty to be a chief boatswain in the Navy from the 1st day of March, 1906, upon the completion of six years' service, in accordance with the provisions of the act of Congress approved March 3, 1899, as amended by the act of April 27, 1904.

Carpenter Jacob Jacobson to be a chief carpenter in the Navy from the 9th day of February, 1906, upon the completion of six years' service, in accordance with the provisions of the act of Congress approved March 3, 1899, as amended by the act of April 27, 1904.

Carpenter William H. Squire to be a chief carpenter in the Navy from the 20th day of February, 1906, upon the completion of six years' service, in accordance with the provisions of the act of Congress approved March 3, 1899, as amended by the act of April 27, 1904.

POSTMASTERS.

GEORGIA.

William E. Burch to be postmaster at Hawkinsville, in the county of Pulaski and State of Georgia.

NEW YORK.

Robert M. Skillen to be postmaster at Akron, in the county of Erie and State of New York.

PENNSYLVANIA.

Jonathan C. Gallup to be postmaster at Smethport, in the county of McKean and State of Pennsylvania.

Charles Seger to be postmaster at Emporium, in the county of Cameron and State of Pennsylvania.

WASHINGTON.

Charles H. Jones to be postmaster at Arlington, in the county of Snohomish and State of Washington.

HOUSE OF REPRESENTATIVES.

TUESDAY, *March 27, 1906.*

The Chaplain, Rev. HENRY N. COUDEN, D. D., offered the following prayer:

Almighty God, our Heavenly Father, who madest us to think, to will, to act, to do things, help us to think right, to choose right, to do right, that we may thus adjust ourselves to the eternal laws which environ us, that as individuals and as a nation move on to larger achievements.

Be graciously near to the Member whose companion has been taken by the Angel of Death to a larger life. Let Thine everlasting arms be about him to comfort and sustain, and help us all to realize that death is not an extinction of being, but an epoch, an event, in the grand eternal march of existence, and Thine be the praise through Jesus Christ, our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

EULOGIES ON THE LATE REPRESENTATIVE PATTERSON, OF PENNSYLVANIA.

Mr. SAMUEL. Mr. Speaker, I offer the following order and ask unanimous consent for its present consideration.

The Clerk read as follows:

Ordered, That Sunday, the 15th day of April, 1906, be set apart for addresses on the life, character, and public services of Hon. GILBERT R. PATTERSON, late a Representative from the State of Pennsylvania, said services to be held immediately following the services to be held in honor of the memory of Hon. BENJAMIN F. MARSH, Hon. JOHN M. PINCKNEY, and Hon. GEORGE A. CASTOR.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The order was agreed to.

STEPHEN B. HOPKINS.

The SPEAKER laid before the House the bill (H. R. 6216) to grant an increase of pension to Stephen B. Hopkins, with a Senate amendment.

The Senate amendment was read.

Mr. SAMUEL W. SMITH. Mr. Speaker, I move that the House concur in the Senate amendment.

The motion was agreed to.

LEAVE OF ABSENCE.

Mr. WEBBER, by unanimous consent, obtained leave of absence, for ten days, on account of death in the family.

COMMITTEE APPOINTMENT.

The SPEAKER. The Chair announces the following committee appointment.

The Clerk read as follows:

To the Committee on Military Affairs, Mr. JAMES F. BURKE, of Pennsylvania.

URGENT DEFICIENCY APPROPRIATION BILL.

Mr. LITTAUER. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 17359) making appropriations to supply additional deficiencies.

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union, with Mr. OLCOTT in the chair.

The CHAIRMAN. The House is now in Committee of the Whole House on the state of the Union for the consideration of House bill 17359, making appropriations to supply additional deficiencies.

Mr. LITTAUER. Mr. Chairman, I ask unanimous consent that the first reading of the bill be dispensed with.

The CHAIRMAN. The gentleman from New York asks unani-

mous consent that the first reading of the bill be dispensed with. Is there objection?

There was no objection.

Mr. LITTAUER. Mr. Chairman, the urgent deficiency bill presented for the consideration of the committee contains but six items. Four carry appropriation to the amount of $136,-016.42, and two call for the diversion of $85,000 of appropriation from certain funds to other purposes. The first item is concerned with the expenses of the Third International Conference of American States, to be held in Rio de Janeiro on the 21st day of July this year. The committee will bear in mind that the first of these international conferences took place here in the city of Washington in 1889. That conference was authorized by statute, and appropriations to the amount of $189,750 were made for that purpose. Among its results was the establishment of the Bureau of American Republics. The second conference, which was provided for in the sundry civil bill of 1901, carried an appropriation of $25,000. That conference was held in the City of Mexico. The $25,000 appropriated was not sufficient for the purpose, so the State Department drew upon the emergency fund in the diplomatic service for an additional amount of $8,000. From the financial standpoint I will say that there were a number of very wealthy men appointed delegates to that conference, who personally paid much of the expenditure out of their own pockets. The result of that conference was in particular the establishment of the International Sanitary Bureau. That International Sanitary Bureau has held two conventions and a treaty has been formulated ad referendum, which, if ratified, will, I believe, go far toward eradicating yellow fever and the other plagues originating in these southern countries. This second conference charged the governing board of the Bureau of American Republics with the duty of fixing the time and place of a third conference, to be held within five years thereafter. That third conference, as stated, is called for the coming summer. All the States of the American Continent, with the exception of three, have joined in this conference. The three are Santo Domingo and Colombia (which, just at present, are in disturbed conditions) and Venezuela. Venezuela at first invited the congress to be held at Caracas, but since it was determined to hold it at Rio has not signified its intention to join. Now, I can best state in the words of the Secretary of State the particular benefit of this conference. He says:

> I think that the work of the Bureau of American Republics, the existence of the international union, and the holding of these conferences afford all together the best means of breaking up the comparative isolation of this country from the other countries of America and establishing relations between us and them in place of the relations—the rather exclusive relations—that have existed hitherto between them and Europe.
>
> Our relation with them has been largely a political relation, while, on the other hand, their racial ties of race and language and inherited customs and habits—the relations of which have come from the investment of great amounts of European capital in their country, which have come from the establishment of numerous and convenient lines of communication between them and Europe—have made the whole trend of South American trade and social relations and personal relations setsast with Europe rather than with the United States. So that, while we occupy the political attitude of warning Europe off the premises in Central and South America under the Monroe doctrine, we are comparatively strangers to them, and the Europeans hold direct relations with them.

We were at first asked for an appropriation of $100,000 for this purpose. The Secretary of State declared that $60,000, in his opinion, would be sufficient to carry out the programme. We believe that an ample amount should be provided in order that rich men need not be appointed delegates. These delegates serve without any compensation, and this appropriation simply takes care of the necessary expenses.

Mr. CRUMPACKER. Mr. Chairman, does the gentleman believe that the relations between the United States and the Central and South American republics will ever be entirely cordial until that principle of political development which we call the "Monroe doctrine" is better defined and understood? Does it not bring about some degree of irritation?

Mr. LITTAUER. I believe there has been a decided degree of irritation because in their opinion it seems we have established this doctrine for the purpose of perhaps gathering them into our union some day, and then there are many other prejudices against us which a closer intercourse ought to dissipate.

Mr. CRUMPACKER. Will the holding of these conventions tend toward assuring them of the altogether disinterested attitude of this Republic toward the South American republics?

Mr. LITTAUER. It seems to me that these conventions, together with the results achieved by the Bureau of American Republics, will do much to bring that about.

Mr. CRUMPACKER. I have felt, in common with most of the citizens of the country, that the attitude of this Government might be, and perhaps was, construed by the South American republics particularly as a position of guardianship in a way, and that their pride was humiliated to some extent on account of the assumption of political control in a large sense by this Government over their actions and relations with foreign countries. I hope this convention will tend toward ameliorating these conditions and toning down that feeling of hostility that may have been generated.

Mr. LITTAUER. Mr. Chairman, it seems to me it will unquestionably act in that way, and that the time has now come when the citizens of the United States have reached a point when they desire to take a greater interest, at least an interest of investing capital more and more in the Central and South American countries, and that the statesmen and citizens of these countries have shown a greater interest in our institutions and a desire to get in touch with us and thus promote commercial and social intercourse.

Mr. CRUMPACKER. How are our treaties observed generally in the South American republics? Are the rights of American citizens and property pretty generally respected?

Mr. LITTAUER. I think in the more stable countries, yes. There are others, perhaps, that have not been quite as careful in the treatment of our citizens as they should be. I also want to call the attention of the committee to the fact that there is no authorization of law for this appropriation unless the action of the second Congress in calling this third one may be so construed; but the State Department has acted as though the purpose of Congress, as previously demonstrated, would be continued, and I trust this appropriation may be made without objection.

The next item concerns the joint resolution approved on March 7 for examination into the subject of railroad discriminations and monopolies in coal and oil.

The committee will bear in mind that this joint resolution calls for a very wide investigation—an investigation whether common carriers and their agents have any interest in coal lands and properties or in oil lands; whether the officers of any of the carrier companies are interested directly or indirectly by means of stock ownership in corporations or companies owning coal or oil properties; and whether there is any contract, any combination, any conspiracy in restraint of trade to which these companies are parties in interest; whether they can find any facts as to the effect of such relationship upon persons engaged independently, and, finally, whether the system of the supply and distribution of cars has affected these independent distributors adversely.

Mr. CRUMPACKER. Mr. Chairman, Congress made an appropriation of a hundred thousand dollars for this purpose for many weeks ago.

Mr. LITTAUER. No; there was no appropriation accompanying that joint resolution. We now seek to appropriate to carry into effect this joint resolution.

Mr. CRUMPACKER. I remember the appropriation was omitted; I had forgotten it.

Mr. LITTAUER. It was omitted designedly. The Interstate Commerce Commission advises us that its regular funds will not be sufficient to carry on this work. The resolution declared that it should immediately investigate, and consequently they came to us with an urgent deficiency estimate for an appropriation of $45,000. They declared very plainly they are not in possession of any facts which will enable them to come to any proper estimate; that they can only guess, so to speak, at what the expense will be.

Mr. OLMSTED. How much did they guess?

Mr. LITTAUER. They estimated $45,000, stating clearly that that amount of money is as good a guess as they can give, because, as the field is entirely new, it will lead into a wide investigation. They say, "We do not know what the expense will be." I hope that the amount to be paid will not be half that. If the appropriation of this money means the spending of all of it, it is a deplorable state of affairs, but it is not necessary that it should be so; the Commission simply wants to have money to begin the investigation and determine what will be needed for the next fiscal year, for which appropriation will be made on the sundry civil bill, and which, in all probability, will be a very substantial sum.

Mr. OLMSTED. I notice they contemplate spending $25,000 for the employment of counsel alone.

Mr. LITTAUER. No; that is a mistake, and if you will permit me I will refer to that in a moment. The Commission gives a statement of the estimate, which includes clerical services, the compensation to attorneys, to high-grade accountants, special agents, clerical services, stenographers, and others necessary. Now, they ask for this $45,000, but as the right granted them in their usual annual appropriation limits the expenditure for counsel to $25,000, they ask that that limit of expendi-

tion for the engagement of counsel be extended to $45,000, which would enable them to spend $20,000 out of the $45,000 of the proposed appropriation for the engagement of counsel.

Mr. OLMSTED. What are the lawyers to do—investigate for the Commission?

Mr. LITTAUER. The lawyers are to investigate for the Commission.

Mr. MAHON. Why do not they do it themselves?

Mr. LITTAUER. I think they have plenty of work outside of this investigation.

Mr. OLMSTED. What I want to ask, Mr. Chairman, is whether, in the opinion of the gentleman in charge of the bill, it would not be better and cheaper for us to revoke the entire resolution and pass a different resolution providing for an investigation by a joint committee of Senators and Members, who would not need to employ lawyers to assist them in the investigation, who could do it at about one-third of the expense and perhaps more effectively.

Mr. LITTAUER. Well, I do not want to pass an opinion upon the action of Congress authorizing this joint resolution. I want to pass this bill. Now, the committee will notice that the proposal of the submission here is that this $45,000 be drawn from the balance of appropriations now available for the enforcement of antitrust laws. We appropriated on March 2, 1903, $500,000 for the enforcement of antitrust legislation. Of that amount, after nearly three years have passed (up to January 16, 1906), only $120,682.34 has been used, leaving a balance of nearly $380,000 idle in the Treasury. We felt that the purpose of this resolution was in the line of antitrust enforcement, and consequently our purpose here is not to appropriate $45,000, but divert $45,000 from that large balance of $380,000 to be used for this purpose.

Mr. SMITH of Kentucky. Twenty thousand dollars to be used as counsel fees?

Mr. LITTAUER. Twenty thousand dollars of which may be used as counsel fees. That is the purpose.

Mr. SMITH of Kentucky. I would like to ask the gentleman a question about the next clause, if he will yield.

Mr. LITTAUER. Yes.

Mr. SMITH of Kentucky. I see in the last six lines, in that part of the bill providing in regard to employees, that clerks and stenographers are taken out.

Mr. LITTAUER. We felt that the clerks and stenographers that are to be employed should be under civil-service regulations. The employment of attorneys is exempt from civil-service regulations; and accountants—the high grade of accountants needed in this work—might be considered clerical, and consequently we want to exempt them and also special agents who may be required, while simple clerical service—clerks and stenographers, running from $900 to $1,800 in compensation—ought to come in in the regular way.

If there are no other questions, I will pass on to the item concerning the District of Columbia. This item is for the collection and disposal of garbage. Contracts for this purpose are entered into every five years. The contract for the last five years, which expired in part last August and in part last December, amounted to $106,519 yearly. The yearly appropriations were $115,000, but the balance was used for ordinary clerical service, which practice we put a stop to in the appropriation bill of last year. The new yearly contract amounts to $107,700.30, or practically an increase of $60,000 in the contract for the coming five years over the contract now just expired. These contracts have been entered into according to law, after advertisement, and it is simply for us to provide here for this shortage, which arises because in the sundry civil bill of last year only $100,000 was appropriated, the amount needed not being then known. The auditor of the District of Columbia has figured out the new contracts and declares he will need $46,646.42 to pay for the service up to the 1st of next July.

Mr. SIMS. I would like to ask the gentleman what is done with the garbage here. Is it sold, or what goes with it?

Mr. LITTAUER. The garbage is gathered by the contractor, who transports it about 40 miles down into Maryland, and there disposes of it. We pay him now, under contract, $78,400 a year for taking this garbage away.

Mr. SIMS. Is not that garbage sold by the contractor?

Mr. LITTAUER. Why, of course. If he could not sell it, he could not afford to contract. We pay him $78,400 to dispose of the garbage.

Mr. SIMS. Is it not a fact that this garbage can be sold for enough money to supply revenue sufficient to pay for its removal?

Mr. LITTAUER. I do not believe it can.

Mr. SIMS. Is that not done in New York?

Mr. LITTAUER. Oh, no; New York has a large expense in connection with garbage. They do get some use of it through a reduction plant where they develop power used in electric lighting and the like.

Mr. SIMS. How much do we pay under this contract?

Mr. LITTAUER. We pay $78,400 to the contractor for collecting the garbage and disposing of it.

Mr. SIMS. And actually give it away besides?

Mr. LITTAUER. We give it away, and pay that in addition.

Mr. SIMS. And pay the company for taking it?

Mr. LITTAUER. Seventy-eight thousand four hundred dollars a year.

Mr. SIMS. Has the committee ever investigated whether or not it can be sold for something?

Mr. LITTAUER. The committee has only investigated that the Commissioners of the District have entered into these contracts according to law. The law describes the plan as to how these contracts should be let, and they have been let according to law, and consequently it is our purpose to provide the necessary appropriation for carrying out this law.

Mr. SIMS. The garbage is increasing all the time, as the city grows——

Mr. LITTAUER. All the time it is growing, and the contract price is increasing.

Mr. SIMS. It is of great utility to the fertilizer company that gets it; would it not be a good thing to have an inquiry by your committee, and some way ascertain whether this garbage can be sold instead of being an annual expense to the District which is constantly increasing?

Mr. LITTAUER. I should like to call the gentleman's attention to this fact, that the contract which just expired, which was entered into five years ago, provided for an annual payment to the contractor of $51,600. When this item was advertised for this year, two bids were received, one of them at $78,400, and the other one at $108,000.

Mr. SIMS. And a contract was entered into for five years again?

Mr. LITTAUER. For five years again, showing that the increased work would require an increased sum to be paid, on top of the privilege of using the garbage for their own purposes.

Mr. SIMS. And the gentleman, no doubt, has a lingering idea somewhere in his mind that these two bidders did not bid very viciously against each other.

Mr. LITTAUER. All I can say is that the increase was an enormous one, and that directed our attention to the inquiry, "Why this increase?" We were met by the answer that the company that has been doing this work for the last five years has continually declared that it was losing money, and in consequence the work was done in a poorer and continually poorer fashion, because money was being lost. When the bids were opened this year, instead of $51,000 there were two bids, for $78,000 and $108,000, respectively.

Mr. PALMER. Is it not up to the District Committee to make an investigation?

Mr. LITTAUER. I have no doubt the District Committee reported the bill on which this law was founded.

Mr. SIMS. When the bill was before the House the gentleman from New York [Mr. FITZGERALD] made a statement as to the conditions in New York City, and he stated that they absolutely sold the garbage there and got a profit out of it, but it did not seem to interest anybody. We went over to the other end and tried to have an investigation instituted, but nothing resulted from it.

Mr. LITTAUER. It is the District Committee you have got to encourage in order to have that matter thrashed out.

Mr. LIVINGSTON. I will say to the gentleman that when we prepared this bill we endeavored to ascertain if that garbage could not be sold instead of given away, but we could get no information at all out of the Commission in that direction, and we had to drop it.

Mr. LITTAUER. I do not believe that any city in the United States gets any money out of its refuse. I believe its disposal is an expense.

Mr. SIMS. It is an expense, it is true, but the company that gets it certainly does make big money out of it. Would they not pay something for it?

Mr. LITTAUER. I believe they would not, and I believe we must pay them in order to remove it.

Mr. SIMS. I do not mean the expense of removal, but the company that buys it.

Mr. LITTAUER. The balance of the cost of removal is much greater than the $78,000 that we are paying for it. If something was not realized from the sale of refuse, the expense of removal to the District would be very much greater than it is

now. Carts are compelled to go from house to house on every street and alley in this District of Columbia, gathering up this refuse.

Mr. SIMS. I believe there is an enormous profit involved in this for somebody.

Mr. LITTAUER. If so, why does not the gentleman present the facts to show it?

Mr. SIMS. I think we will take steps to show it. The contract has been let for five years, and it is now too late to do anything to affect that contract, but I hope we shall be able to get some investigation now.

Mr. LITTAUER. Mr. Chairman, the next item concerns the miscellaneous expenses of this House. The estimate last year for our miscellaneous expenses was $80,000. We reported an appropriation of $45,000, and limited the expenditure for miscellaneous items by the words "exclusive of salaries and labor."

Early in this session we found that we had to qualify that limitation by adding "unless specifically ordered by the House of Representatives," which means that since the beginning of this session the miscellaneous fund has been charged with the salaries in connection with the many resolutions passed. The sum of $45,000 was appropriated; $25,000 additional is now asked, a total of $70,000—less than the average sum appropriated for the last five or six years, which has run $80,000, $90,000, $70,000, $75,000, and for the last year $75,000.

I find in a statement that has been prepared for me that of the total of $70,000 which will become available when this appropriation may go into effect, $66,800 have already either been paid out or contracted for in the way of salaries to become due. There is an extraordinary expense of $8,000 in connection with the Joint Committee on Printing, which reported yesterday. Then we come to the item of $5,000 for fuel and oil for heating purposes. All we can say in regard to this sum is that the present appropriation has been exhausted. The Senate for doing the same work makes an appropriation of $25,000; we have been getting along with $15,000 with an occasional deficiency. The Clerk reports that this fund is now exhausted. The last item is in reference to the leave of absence fund at the Government Printing Office. Gentlemen will bear in mind that those who work in the Government Printing Office have under statute a right to thirty days' annual leave. For this purpose in 1904 there were expended $331,000 and in 1905 $344,000. For the current year an appropriation was made of $325,000, of which, on the 21st day of March, $308,000 had already been expended, leaving a balance of $16,412.18. At the rate at which this fund has been drawn on, the Public Printer estimates that $40,000 will be required to pay for the leaves of absence allowed by law until June 30 next.

Mr. PERKINS. Is not that a larger amount than was allowed last year?

Mr. LITTAUER. The amount allowed last year was $360,000, of which $344,980.60 was used.

Mr. PERKINS. How much was used this year?

Mr. LITTAUER. So far $308,000 has been used, and the Public Printer estimates the total expenditure will come within $365,000, or it may be $350,000; he can not tell exactly. The work at the Government Printing Office, according to the amount of labor paid for, is about as much during the past year as ever. These annual leaves are a complicated kind of calculation. The Public Printer practically states to us that he does not know anything about it himself. I asked him, "How is the calculation made; how do you handle the leaves of absence account?" Mr. Stillings answered, "It seems to me it has been more or less guesswork."

The Public Printer described this matter of annual leaves, and it appears that one working at the Public Printing Office has to work there a year before they figure that he is entitled to thirty days' leave of absence, which must be taken during the annual year. Therefore the leaves we are paying for now are leaves of absence in connection with the work done the year past. Again he stated to us that the appropriation for printing for the present fiscal year was more than sufficient, and that if we would simply transfer $40,000 of that fund to the leave of absence fund, which funds are kept entirely separate, it would meet the purpose.

Mr. PERKINS. In other words, there is a reduction in the expense of the annual printing itself?

Mr. LITTAUER. I don't think you can tell that until the year is ended. There is a great deal of work connected with Congress, but less work connected with the Departments.

Mr. SMITH of Kentucky. Does the gentleman think that in all probability, after transferring this from the general fund, there will be a demand for a deficiency appropriation in that fund?

Mr. LITTAUER. I do not think so. The Public Printer is positive that there is more than ample provision for printing this year and that the transfer is absolutely warranted.

Mr. PALMER. What is the entire cost of the leaves of absence?

Mr. LITTAUER. Last year it was $344,000. This year it will be about the same—between $340,000 and $365,000.

Now, Mr. Chairman, I ask that the Clerk read the bill.

The Clerk, proceeding with the reading of the bill, read as follows:

DEPARTMENT OF STATE.

To meet the actual and necessary expenses of the delegates of the United States to the Third International Conference of American States to be held at the city of Rio de Janeiro, beginning on the 21st day of July, 1906, and of their salaried clerical assistants, to be expended in the discretion of the Secretary of State, and to continue available during the fiscal year 1907, $60,000.

Mr. ADAMS of Pennsylvania. Mr. Chairman, I move to strike out the last word. As acting chairman of the Committee on Foreign Affairs I wish to call the attention of the House to the importance of this appropriation. This is to carry into effect the Pan-American scheme that was introduced by one of the greatest Secretaries of State that our country ever possessed—James G. Blaine. It was done to draw into closer affiliation the South American states with the Republic of the North, both in regard to the diplomatic relations and in regard to our commercial intercourse. I regret to say that owing to a lack of interest, partly, and to unforeseen circumstances the progress has not been made, either diplomatically or commercially, which was greatly to be desired. I am glad to say that the present Secretary of State is inaugurating this new movement to draw us closer together to our South American republics. Of the necessity of this it is hardly necessary to speak. There is no doubt a feeling of some unrest among our South American sisters that there is a disposition on the part of the more powerful Republic of the North to override and oversee, so to speak, their affairs. It is to allay this fear on their part that this has been called in a very large degree, but more important than that, Mr. Chairman, a great part of this is to develop our commercial relations with South America. There is a great deal being said now about the expansion of our trade in the Far East, but, in my judgment, there lies a field for the expansion of our commerce right to the south of us, inhabited by people already educated to the use of the articles that we produce. Yet our commerce with the great continent to the south of us constitutes but a very small portion of our exports. The opportunity is there; it only needs development. Blaine sought twenty years ago and called a Pan-American convention in 1890 to develop these great ideas. It was one of the brightest and most important projects that have been promulgated in the history of our country. For this reason this new conference assumes a value and proportion of importance which I hope will reflect not only in developing those amicable relations so devoutly to be wished between all the great republics that are centered in this Western Hemisphere, but also to develop the commerce which we are now seeking to develop throughout all the world, and to give opportunity for the increase of our export trade to these countries which, with the institution of proper facilities of transportation, lies open for the benefit and increase of our commerce. I trust that there will be no opposition to this.

Mr. SMITH of Kentucky. Mr. Chairman, is there any connection between this conference and the consular service, I would ask the gentleman?

Mr. ADAMS of Pennsylvania. None whatever.

Mr. SMITH of Kentucky. It is entirely distinct and operates along different lines?

Mr. ADAMS of Pennsylvania. Yes; entirely. The conference relates to diplomatic relations and commercial development.

Mr. SMITH of Kentucky. I understand that the consular service has some connection with the development of commercial ideas.

Mr. ADAMS of Pennsylvania. The gentleman is quite correct. The consular service is most efficient in developing our trade, but it will not play any part in this conference, because it is limited to diplomatic and commercial relations.

Mr. SULLIVAN of Massachusetts. Mr. Chairman, may I ask the gentleman a question?

The CHAIRMAN. Does the gentleman yield?

Mr. ADAMS of Pennsylvania. Yes.

Mr. SULLIVAN of Massachusetts. I would like to inquire in what manner these delegates will be able to promote better commercial relations between the United States and other American states or to assist in promoting better relations?

Mr. ADAMS of Pennsylvania. In this way: In the first place they will draw more cordial diplomatic relations. As I have already stated, there is undoubtedly a prevailing sentiment in

of the South American countries that the greater Republic to the North desires, in an undue degree, to interfere in their affairs. The recent great discussion respecting the Monroe doctrine has called the attention of the South American countries to that fact. It is to allay any such fear on their part that even our Secretary of State is going to do something that heretofore has not been done, and visit this conference and have personal intercourse with the foreign representatives of the other republics, to allay any such fear, and to let them understand exactly the cordial intentions of our country toward them.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SULLIVAN of Massachusetts. Mr. Chairman, I ask unanimous consent that the gentleman be given two minutes more, so that I may ask him another question.

The CHAIRMAN. The gentleman from Massachusetts asks unanimous consent that the time of the gentleman from Pennsylvania may be extended for two minutes. Is there objection? There was no objection.

Mr. SULLIVAN of Massachusetts. Mr. Chairman, the gentleman has explained that we are to get better trade relations by making the South American republics understand that the United States is not to descend upon them.

Mr. ADAMS of Pennsylvania. Not at all. The gentleman can not put any such language into my mouth or any such idea into my head.

Mr. SULLIVAN of Massachusetts. Perhaps I can not put such ideas into the gentleman's head.

Mr. ADAMS of Pennsylvania. And he can not misquote me.

Mr. SULLIVAN of Massachusetts. I would not attempt to do either. Now, will the gentleman tell me in what manner the delegates may directly promote better commercial relations, leaving aside the question of the Monroe doctrine?

Mr. ADAMS of Pennsylvania. I will answer that very readily. There are all sorts of trade conditions that exist between different countries. The result of the first Pan-American conference was the establishment of the South American Bureau here, which furnishes information to all the countries and to our merchants of what is needed in those countries, the facilities for transportation, etc. That was the practical result of the first. Now, then, they can also develop those ideas. They can take up the question of transportation, they can take up the question of reciprocity, they can take up the question of taxes on imports and exports relating to different countries, and all those questions that will redound to the mutual benefit of the different republics.

Mr. SULLIVAN of Massachusetts. Has our commerce with South American states increased since the last Pan-American conference?

Mr. ADAMS of Pennsylvania. It has increased, but nothing like the amount that is desirable, and for this reason: The very lack of transportation facilities and mail facilities between this country and South America, and the great argument for the shipping bill is that it will tend more to develop that trade than any other feature that could possibly be passed by this House, and I hope the House in its wisdom and justice will take up that bill and pass it.

Mr. SULLIVAN of Massachusetts. Then the only possibility of getting trade relations is by passing a shipsubsidy bill?

Mr. ADAMS of Pennsylvania. I never said that.

Mr. SULLIVAN of Massachusetts. In what other way can you promote general trade relations?

Mr. ADAMS of Pennsylvania. By considering the question of taxation on exports and imports between the countries and—

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. LIVINGSTON. Mr. Chairman, I ask unanimous consent that Mr. WILLIAMS, of Mississippi, may have fifteen minutes, as I prefer that to having a general discussion on the subject.

The CHAIRMAN. The gentleman from Georgia asks unanimous consent that the gentleman from Mississippi may have fifteen minutes additional time. Is there objection? [After a pause.] The Chair hears none.

Mr. WILLIAMS. Mr. Chairman, the Fifty-ninth Congress is "making history." It is making history slowly in so far as legislation is concerned and making history very rapidly in so far as "standing pat" on old abuses is concerned. This morning I saw in the Washington Post a letter from the Hon. SERENO E. PAYNE, of the State of New York, majority floor leader of this honorable body and chairman of the Committee on Ways and Means. The reply is very properly headed, "PAYNE shatters all hope for a revision of tariff." I am going to insert in the RECORD, and ask unanimous consent now to do it, so as to avoid abusing the patience and consuming the time of the House, the letter from Mr. MCCALL to Mr. PAYNE and Mr. PAYNE'S reply to Mr. MCCALL. I ask that unanimous consent now, Mr. Chairman.

The CHAIRMAN. The gentleman from Mississippi asks unanimous consent to insert the two letters to which he has referred in the RECORD. Is there objection? [After a pause.] The Chair hears none.

The letters referred to are as follows:

PAYNE SHATTERS ALL HOPE FOR A REVISION OF TARIFF—CHAIRMAN OF THE HOUSE COMMITTEE ON WAYS AND MEANS IN LETTER TO REPRESENTATIVE MCCALL, OF MASSACHUSETTS, DECLARES IT WILL NOT BE DONE BY THIS CONGRESS.

Hope of possible tariff revision by the Fifty-ninth Congress has been shattered by SERENO E. PAYNE, chairman of the House Committee on Ways and Means.

This blasting of the desires of the revisionists did not come in the heat of debate or during the discussion of the subject across the committee-room table.

In a formal, carefully prepared letter, in which every word was studied and selected to make his position absolutely and bluntly plain, Mr. PAYNE, who in this case stands for the Speaker of the House, issues his final pronouncement against tariff revision.

This appeal for the redemption of the promises made by the party in its national conventions came to Chairman PAYNE from S. W. MCCALL, representing the Eighth Massachusetts district, who was chosen by the delegation from that State to present the matter to the chairman of the Committee on Ways and Means.

Mr. MCCALL puts great stress upon the fact that conditions have so changed as to demand revision of the rates imposed by the Dingley bill nine years ago.

Chairman PAYNE in replying, reiterates his sympathy with the utterances of the Republican national platform, but denies that conditions have so changed as to require the fulfillment of the promises of the platform. He asserts that a majority of the House does not believe there should be any change in tariff schedules, although he admits the existence of groups here and there who want some sort of revision.

While declaring the views expressed in his letter to be his individual opinion, Mr. PAYNE says he has reason to believe he represents the sentiment of a decided majority of the committee in refusing to entertain the appeal of the Massachusetts people.

These two letters constitute an interesting chapter to the history the Fifty-ninth Congress is now making, and are as follows:

MCCALL'S LETTER TO PAYNE.

MAY 21, 1906.

Hon. SERENO E. PAYNE,
Chairman Committee on Ways and Means,
House of Representatives.

MY DEAR MR. PAYNE: Referring to our conversations concerning a revision of the tariff, I desire to bring to your attention, for the purpose of making clear the attitude of the Republican Members of the Massachusetts delegation, the declaration of the platform of the Massachusetts Republicans, adopted by their State convention on the 6th of last October.

After pronouncing adherence to the policy of protection, and opposition to "tariff changes tending to depress or destroy any of our industries, or to lower the wages of American labor," the platform urged the Senators and Representatives from Massachusetts to "continue to press upon their party associates in Congress from other States the wisdom of a consideration of the tariff for the purpose of revision and readjustment." This declaration was at least not inconsistent with the last national Republican platform, which, referring to the tariff, declared that "rates of duty should be readjusted only when conditions have so changed that the public interest demands their alteration," and that "to a Republican Congress and a Republican President this great question can safely be intrusted."

The country voted to intrust the question to a Republican President and a Congress strongly Republican in both Houses. If revision is not to be considered at the present session, it is extremely unlikely that it will be accorded during the life of the present Congress, for the next session will be so short as to suffice for little more than the passage of the appropriation bills. On behalf, therefore, of the Republican Members from Massachusetts, who believe that nothing can more endanger the enforcement of the existing rates "than a general belief that the public interest demands their alteration," and who, at a meeting delegated me to make the request, I ask consideration of the tariff by the Committee on Ways and Means, with a view to its revision and readjustment.

Sincerely, yours,

S. W. MCCALL.

PAYNE'S REPLY TO MCCALL.

COMMITTEE ON WAYS AND MEANS,
HOUSE OF REPRESENTATIVES,
Washington, D. C., March 24, 1906.

Hon. S. W. MCCALL, M. C., *House of Representatives.*

MY DEAR MR. MCCALL: Yours of the 21st instant reached me last evening. You refer me to the deliverance of the Massachusetts platform and also of the national Republican platform. I am thoroughly in sympathy with the announcement in the several platforms that rates of duty should be readjusted only when conditions have so changed that the public interest demands their alteration. I am now personally satisfied for myself as to whether the conditions presently existing have changed to such an extent as demands a change in tariff rates. This question can only be answered prudently by the concurrent view of the majority of the party in power and responsible for legislation. While there are groups in Massachusetts of the House who believe that a few changes should be made, and also another group or groups who believe the changes demanded by them are comparatively unimportant, but that the tariff should be considered in regard to other items in the schedules, I think you will agree with me that a majority of the Republicans in the House do not consider it the case that there should be a general revision of the tariff.

While there is a minority of Republican Members who consider that the tariff should be amended in some few items, there is also a sizable minority who believe that any effort to change the tariff should be entered upon at the present session of Congress.

Our people have not forgotten the dishonest, but plausible, claims that were made by our opponent at the election in 1890, following within

a month the final passage of the McKinley bill, and the unfortunate results of that election. The resulting change of policies was especially disastrous to the business and labor interests of the country through the years that followed. Surely we ought not to repeat that experiment in the year 1906.

Congress is not prepared to review the tariff schedules in that calm, judicial frame of mind so necessary to the proper preparation of a tariff act at a time so near the coming Congressional elections. The Dingley bill was the most successful ever enacted. Its practical results were so evident to the country during the eighteen months that elapsed between its passage and the next election that the people have continued the policy of that bill to the present day. It would be unfortunate should any precipitate action in the future result in a temporary reversal of the policy of protection in the United States.

While it is true that some improvement could well be made in the rates under the Dingley bill, it was probably as free from defects at the time of its passage as any new law which could now be enacted. During the nine years of its operation *the country has enjoyed prosperity unparalleled*—a prosperity which at the present time is simply marvelous. We may well hesitate to take any chance of interrupting the business of the country by *a general revision* of the tariff, and we should never enter upon it until we are satisfied that such a revision will accomplish results far outweighing any well-grounded apprehension of business depression and consequent evil results which would come even temporarily from such revision.

I can not, therefore, agree with your delegation that it would be best at the present session of Congress to enter upon a consideration of the tariff with a view to its revision and readjustment. While this is my individual opinion, I have reason to believe that it is also the judgment of a decided majority of the Committee on Ways and Means.

Sincerely, yours,

SERENO E. PAYNE.

Mr. WILLIAMS. Now for a few words of comment upon the reply made by the gentleman from New York [Mr. PAYNE]. The original letter of Mr. MCCALL needs no comment. It is so concise, brief, plain, and to the point that it speaks for itself all the way through. The reply requires a little bit of note. Not so awfully much note, because it is a novelty. We have all known for a long time that the coterie which was controlling this House had made up its mind that there should be no revision of the tariff in any particular whatsoever, no matter how urgent. Massachusetts, forgetting her historic dignity, has been actually howling—think of the inappropriateness generally of the word "howling" in connection with the dignified name "Massachusetts"—but Massachusetts lately has been actually howling for some sort of reformation of the tariff in those particulars in which the tariff is a shoe which pinches her foot, and she appeals to the majority leader of this floor for some sort of sympathy. She asks for bread, and she gets a stone.

Mr. Chairman, I find in the letter of the gentleman from New York to the gentleman from Massachusetts this language:

> Congress is not prepared to review the tariff schedules in that calm, judicial frame of mind so necessary to the proper preparation of a tariff act at a time so near the coming Congressional elections.

The gentleman from New York gives as a reason, then, for not revising the tariff the proximity of a Congressional election and the lack on his side of the Chamber of "calm and judicial frames of mind." I have suspected for a long time that there was no calm and judicial framing of mind upon the Republican side in connection with the tariff, but that about the only calm and judicial framing there was was the calm and judicial and deliberate framing of the tariff itself by the fellows who were benefited by its robberies. I had already concluded that the only function the Republican majority performed in connection with "framing" of any sort was to take orders from the fellows who were benefited by the tariff, upon the general fallacious notion that the tariff ought to be framed in the interest of the producer, and in the interest of the producer alone, forgetting altogether that all men are consumers at the same time that they are producers, and that the tariff ought to be framed in the interest of the producer and consumer alike. Then I find below a warning from the gentleman from New York. "It would be unfortunate," said he, "should any precipitate action in the future"—not in the present, but in the future—"result in a temporary reversal of the policy of protection in the United States." Talking about precipitate action upon the part of the Republican majority in this Fifty-ninth Congress upon tariff questions reminds me very much of the fellow who begged the other fellow not to leave after they had been playing poker for forty-eight hours, wording his appeal in these touching words: "Old fellow, do not break up the crowd all of a sudden."

As far as I can learn, there will be no "precipitate action," and there will be no action of any sort; there will be no "calm judicial action" of this Republican party even after having adopted in national convention a platform, whereupon, under false pretenses, they carried the last election, stating that the tariff ought to be "revised by its friends," and that it "ought to be revised whenever changed conditions" in connection with any schedule demanded revision. This Republican party that by this false pretense added to its majority, and perhaps procured its majority, is ready now to do nothing, is ready to say nothing except to veto whatever may come up in the way of change or revision.

The other day in the Committee on Ways and Means, Mr. Chairman, a bill was offered and voted upon to reduce the tariff duties wherever they were over 100 per cent down to 100 per cent, and a strict party vote was cast upon the call of the yeas and nays in the committee, the call for the yeas and nays having been purposely made so that the ordinary committee rule of not mentioning what was done in committee should not apply. On a straight party vote the Republicans on the committee voted down the proposition to reduce duties over 100 per cent to 100 per cent.

Now, upon yesterday, Mr. Chairman—and this discussion is peculiarly appropriate here, because amongst other things contained in this urgent deficiency bill is an appropriation to carry on some sort of Pan-American work. Originally that work was inaugurated for the purpose of obtaining reciprocal trade relations between us and the other two Americas—Central and South. We have not obtained any; the Senate never passes any; the House passes no bills looking toward that view. Old James G. Blaine had looked forward to this sort of reciprocal trade relations as a great thing for the United States. He is dead and gone the way of all flesh. The Republican party now knows not Joseph and remembers not James G. Blaine, and seems to have forgotten McKinley almost, and has turned its back upon all sorts of trade arrangements with all the balance of the world, except, recently, when frightened and bulldozed by the Emperor of Germany, it granted some reciprocal arrangements in the way of custom-house regulations for the purpose of giving Germany an unfair advantage over Great Britain, which furnishes us with most of our market. It is peculiarly appropriate, I say, that we should discuss this question right now upon this urgent deficiency bill.

Mr. Chairman—I came very near saying Mr. Speaker, because I see the Speaker looking at me with a considerable degree of interest—I notice that in the gentleman's letter he says that the country "enjoyed prosperity unparalleled." Yes; that is true. Mexico has enjoyed prosperity; Canada has enjoyed prosperity; the Argentine Republic has enjoyed it, and nearly all the new countries of the world have, of late years, enjoyed "prosperity unparalleled," to use the language of the gentleman from New York; and once before upon this floor I have had the honor to demonstrate that the prosperity of Mexico, of the Argentine Republic, of New Zealand, and Canada was solely due to the passage of the Dingley bill.

The gentleman announces his opposition to "a general revision of the tariff." Why, bless his soul! Mr. Chairman, none of us were ever stupid enough to imagine that he was going to lend his countenance to "a general revision of the tariff." Some of us were stupid enough, and among others myself, to imagine that if we could show a particular schedule to be ridiculous that the gentleman would lend his countenance to a revision of that special schedule. I think the Massachusetts people have demonstrated the hide-and-leather and boot-and-shoe schedule to be absolutely ridiculous; and we had hoped there would be some reduction of that. In order to comply with any possible movement of moderately sane Republican sentiment upon that subject, I have introduced two bills before the committee—one reducing the duty on hides to 5 per cent and reducing the balance of the schedule about 50 per cent, and another bill to put hides on the free list and the balance of the schedule to be reduced about 70 per cent. We can not get a voice from the Committee on Ways and Means in favor of either bill. Take your choice. Either will satisfy us and Massachusetts.

Mr. SULLIVAN of Massachusetts. Mr. Chairman——

Mr. WILLIAMS. One word, and I will let the gentleman interrupt me. Not only Massachusetts, but the entire history of the country to-day and for four years has demonstrated the absurdity of the steel schedule; and, as representing this side of the House, I have introduced a bill not drastic, not revolutionary, but simply to reduce the steel schedule 40 per cent upon some articles and 60 per cent upon some others, averaging about 50 per cent upon the entire schedule.

Upon yesterday, Mr. Chairman, I introduced a bill to put antitoxin and diphtheria serum upon the free list. They now bear a duty of 25 per cent ad valorem, and a family that wants antitoxin or diphtheria serum has got to pay from $6 to $25 in a case of sickness. So that the children of the poor are absolutely cut off from having their lives saved by this most remarkable medical discovery of the nineteenth century. Not many of the poor can pay these charges.

I had hoped that the Republicans upon the Committee on Ways and Means would at least listen to the voices of the children moaning in the land. But I have no idea now, after the letter from the gentleman from New York [Mr. PAYNE] to his colleague, Mr. MCCALL, representing his party as he does on this

that even the cries of the children—poor, inarticulate little ones—will receive any sort of heed.

Yesterday, Mr. Chairman, I cut out of a newspaper this poem. Who wrote it I know not, but it is well written. It is signed "R." and addressed to the editors. It reads as follows:

To the Editors—

Quoting first from Shakespeare's King John—

"Thou art damn'd as black—nay, nothing is so black;
Thou art more deep damn'd than Prince Lucifer:
There is not yet so ugly a fiend of hell
As thou shalt be, if thou didst kill this child."

And the great poet denounce the man who was suspected of having one child. Oh, that he were with us now to suitably anathematize those persons who, to put a little money in their pockets, have, under the tariff, increased the cost of antitoxin and diphtheria thereby putting it out of the reach of an unknown number of children who have died for want of these medicines.

The persons who are financially benefitted by the tariff on these drugs could without crowding be put in a very small room; yet the people of this country's eighty million of persons has to pay them whenever a dose of antitoxin is administered to a sick child.

And it can thus be said to each citizen of this great country—

Quoting the Bard of Avon once more—

And I especially direct this appeal to the gentleman from New York [Mr. PAYNE]. I know, notwithstanding the fact that he worships the schedules of protectionism as if he were a fetish worshiper, that at the bottom of him he has a kind and benevolent heart. I know that he is a good father, I know that he is a good husband, and this last appeal I direct to him.

The CHAIRMAN. The time of the gentleman has expired.

Mr. WILLIAMS. Mr. Chairman, I understood I was to have fifteen minutes in addition to the five minutes usually allowed. That was the request.

Mr. PAYNE. I ask unanimous consent that the gentleman have ten minutes.

Mr. WILLIAMS. Ten minutes will amply finish it.

The CHAIRMAN. If there be no objection, the gentleman's time will be extended ten minutes by unanimous consent of the House.

There was no objection.

Mr. WILLIAMS. Mr. Chairman, I am sorry that the fall of the hammer interfered with this pathetic appeal to the conscience and the benevolence of the gentleman from New York [Mr. PAYNE]. I am not appealing to his statesmanship, because he, being a worshiper of protectionism, has no statesmanship, and that would be an idle pursuit upon my part, but I am appealing to his heart as a man.

The CHAIRMAN. The committee will rise informally to receive a message from the Senate.

MESSAGE FROM THE SENATE.

The committee informally rose; and the Speaker having resumed the chair, a message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had passed bills of the following titles; in which the concurrence of the House of Representatives was requested:

S. 5303. An act granting to the Chicago, Milwaukee and St. Paul Railway Company, of Montana, a right of way through the Fort Keogh Military Reservation, in Montana, and for other purposes;

S. 5306. An act providing for the establishment of a life-saving station at or near Neah Bay, in the State of Washington, and for the construction of a first-class ocean-going tug to be used in connection therewith, for life-saving purposes in the vicinity of the north Pacific coast of the United States, and for other purposes;

S. 5325. An act to amend the act approved March 6, 1896, relating to the anchorage and movements of vessels in St. Marys River;

S. 5376. An act to grant certain lands to the State of Minnesota to be used as a site for the construction of a sanitarium for the treatment of consumptives;

S. 4525. An act for the relief of Sarah E. Baxter, executrix of the last will and testament of Warren S. Baxter;

S. 5237. An act confirming to certain claimants thereto portions of lands known as "Fort Clinch Reservation," in the State of Florida;

S. 1668. An act for the relief of the administrator of the estate of Gotlob Graeginger; and

S. 290. An act to amend the act approved March 15, 1878, entitled "An act for the relief of William A. Hammond, late surgeon general of the Army."

The message also announced that the Senate had passed without amendment joint resolutions of the following titles:

H. J. Res. 128. Joint resolution to prevent unnecessary printing and binding and to correct evils in the present method of distribution of public documents; and

H. J. Res. 127. Joint resolution to correct abuses in the public printing and to provide for the allotment of cost of certain documents and reports.

The message also announced that the Senate had passed with amendment bill of the following title; in which the concurrence of the House of Representatives was requested:

H. R. 8861. An act to amend chapter 1295, Revised Statutes of the United States, entitled "An act for the survey and allotment of lands now embraced within the limits of the Flathead Indian Reservation, in the State of Montana, and the sale and disposal of all surplus lands after allotment," as amended by section 9 of chapter 1479, Revised Statutes of the United States.

URGENT DEFICIENCY APPROPRIATION BILL.

The committee resumed its session.

Mr. WILLIAMS. Mr. Chairman, as usual the Senate, at a critical moment, has interfered with an appeal to humanity and to sound legislative instinct. [Laughter.] I hope the gentleman from New York [Mr. PAYNE] will listen to this, and I hope it will touch his heart, and I hope he will let this one bill, at least, pass his committee, that the cries of the children may be heard in the land.

> Duller shouldst thou be than the fat weed
> That rots itself in ease on Lethe wharf,
> Wouldst thou not stir in *this*.

Just this little bit of a bill; let it out of committee; for Heaven's sake do something! You Republicans said that the tariff ought to be "reformed by its friends." Why, if the tariff in all of its abuses ever had a friend, the gentleman from New York [Mr. PAYNE] is its friend; and if it ever had a right bower in the House, in the "house of friendship," the Speaker of this House is its right bower; and if it ever had—oh, what shall I call it, not a left bower——

A MEMBER. A joker.

Mr. WILLIAMS. The dignity of a left bower is too low; but if it ever had a joker in the house of its friends, why, the gentleman from Pennsylvania [Mr. DALZELL] is that joker. Surely the tariff is now in the hands of its friends; nearly a two-thirds majority over here and almost as large a majority in the other wing of the Capitol; somewhat of an uncertainty, it is true, at the other end of the Avenue, around about the White House; but you Republicans are so much accustomed to this uncertainty upon many other questions that it need not freeze you at all. I appeal to you, "friends of the tariff." I appeal to you at least to remove the duty on antitoxin and diphtheria serum, that the poor children can get it for less than from six to twenty-four dollars a case, depending upon the virulency of the case.

Are you going to stand pat on that too? Are you going to stand pat, with the empty pretense in your mouths that you want to "protect labor" against the bill you have already turned down in your committee, to reduce duties, wherever they were over 100 per cent, to 100 per cent? For a little time you tried to meet that by saying there were no duties over a hundred per cent. I quoted you the other day—fifty-seven of them from Austin's report—your Austin, your partisan statistician—which shows that notwithstanding the fact that many other duties over 100 per cent were prohibitive and prevented imports, those fifty-seven had to come over even that tariff; because Austin's report was the report of actual importations. In addition to that there are fifty-odd more that are prohibitive, and that can not appear in a report of that sort, because no actual importations are made, the tariff acting as a Chinese wall preventing entry. In the latter case we have ideal Republican protectionism, a system shutting us off absolutely from the things we need and want and need as cheap as we can get them.

Are you going to stand pat on the steel schedules which the steel trust exploited at the expense of our consumers, with the magnificent flamboyant announcement of remarkable dividends at its last annual settlement? Are you going to stand pat upon the powder trust, with the immense charge they are making to the Government every year over and above cost and a reasonable profit, as has been demonstrated upon this floor by the gentleman from Illinois [Mr. GRANT], one of your own Members? Are you going to stand pat upon the armor-plate trust instead of letting the United States Government make its own armor plate? Are you going to stand pat against Massachusetts—that federalistic Republican Massachusetts that has tied her destinies to you for so many years, that has supported you in season and out of season, who comes here now appealing for cheaper raw material in order that the American manufacturers may continue the work of taking possession of the markets of the world? Are you going to turn a deaf ear to both the Democratic and the Republican parties in that State?

Now, I will yield to the gentleman from Massachusetts [Mr. SULLIVAN].

Mr. SULLIVAN of Massachusetts. I want to call the gentleman's attention to the fact, which possibly he does not know, that the partisan newspapers in the State of Massachusetts are industriously misquoting the position of the gentleman from Mississippi. You have just stated that you have introduced a bill to repeal the duty on hides and sole leather. I want to ask the gentleman whether, if the Republicans on the Committee on Ways and Means will report that bill to the House, you will give your support to it?

Mr. WILLIAMS. Absolutely and undoubtedly, not only my vote but every vote on this side of the Chamber, if that bill is brought in, will be for the bill. We have never asked anything of Massachusetts manufacturers except that when they demand equity in the halls of the National Legislature they shall do equity. That bill provides that they shall do equity while demanding equity. The great State of Texas would be glad to give up the duty on hides if in consequence of it she can get the reduction provided in that bill upon harness, saddles, and boots and shoes. There is not a county in the great State of Texas whose people would not make more money in a week by the reduction of the price of boots and shoes and harness and saddles that would follow the passage of that bill than they could gain in ten years by the maintenance of the duty on hides. There will not be a vote cast against that bill upon this side, upon either bill which I have introduced on this side of the Chamber. We yearn to get the Massachusetts Republicans sufficiently in earnest to prod the elephant and to make the elephant move.

Mr. PRINCE rose.

Mr. WILLIAMS. I will yield to the gentleman from Illinois.

Mr. PRINCE. It is only fair to the House that the gentleman should change the name of Mr. PRINCE of Illinois to Mr. CRAFTS of Illinois; he was the one who demonstrated the profits of the powder trust.

Mr. WILLIAMS. I will make that change.

Mr. PRINCE. I want to say further that the Committee on Military Affairs has reported a bill appropriating $350,000 for the purpose of building and purchasing a powder plant. [Applause.]

Mr. WILLIAMS. Mr. Chairman, I am absolutely delighted that there is some committee of this House wielding power in the name of the Republican party that can listen partially, at any rate, to the voice of the people.

I introduced a bill appropriating $750,000 for the establishment of a powder plant. I would rather see that bill go through than one appropriating $300,000, and I will explain why. This constituent of yours in Illinois, Mr. Waddell, who has addressed everyone of us here, is of like opinion. If you appropriate too small a sum, you are going to do your powder manufacturing upon too small a scale. If you appropriate a sufficient amount to make all the powder that is needed for the Army and the Navy and be done with it, you will have your manufactory upon a wholesale scale, with all the economies involved in wholesale production. If you start a plant with only $300,000, I am afraid you will find that the smallness of your operation will add to the expense of the operation so much that the powder will cost you more money than it ought to cost. I am afraid that the enemies of the people want you to give an object lesson of that sort. But it will still cost less than 70 cents a pound, which is what we are now paying the powder trust, and somewhere down to 50 or 60 cents a pound, even with your insufficient $300,000 plant. With a plant of sufficient capacity it ought to cost somewhere between 30 and 40 cents a pound.

But I am glad even for special favors from this stand-pat party, from this Grand Old Procrastinator—this G. O. P.—always waiting for "changed conditions" and never having sense enough to recognize changed conditions even when they come.

My heavens! Has not the changed condition come in connection with the steel schedule? We are shipping locomotives to Siberia, we are sending railroad iron to Canada and to Mexico and to South Africa, and yet these gentlemen tell us that conditions have not changed since the time when the Dingley bill was adopted—a time at which the American steel manufacturers could no more have competed with British railroad iron makers and locomotive makers than they could have flown. What do you want as a demonstration of a change of condition more emphatic, I ask you, than that? We are sending our structural iron for bridges and for house building to nearly all parts of the world. We are sending our barbed wire past the doors of Great Britain to her own colony, South Africa. We are sending steel nails to South Africa and even to New Zealand. Yet gentlemen say that the "changed conditions" have not come. As for the steel schedule, why do you want to keep that duty? Do the steel manufacturers need it to meet foreign competitors? No; they don't. The only thing that they need it for in the world is to exploit the American consumer in a sheltered market by selling to him at a higher price than they do to those very people in South Africa, Siberia, and the Argentine Republic, to whom they export the goods. [Applause on the Democratic side.]

Mr. PAYNE. Mr. Chairman, I did not expect my letter would please the gentleman from Mississippi [Mr. WILLIAMS]. In fact, I am proud of the fact that it displeases the gentleman from Mississippi. He speaks of that calm judicial frame of mind in formulating a tariff bill. Then he speaks with pride of one of his own offspring, which was evidently formulated not in that calm and judicial frame of mind of which he speaks. He says the Committee on Ways and Means, by a strict party vote, voted down his proposition to reduce all tariffs to 100 per cent where ever they exceeded that amount. Of course we did, and of course, we had the most excellent reason for it. We are not amending tariff schedules on the line of the lack of information of the gentleman from Mississippi. We are collecting here an internal-revenue tax on alcohol over 800 per cent upon its value—an internal-revenue tax.

Mr. WILLIAMS. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. PAYNE. I can not yield at this time.

Mr. WILLIAMS. But surely the gentleman does not want to misconstrue anything. I merely want to correct the gentleman.

The CHAIRMAN. The gentleman declines to yield.

Mr. PAYNE. We put a customs tax upon the same article sufficient to take care of our internal-revenue tax, a tax I believe of $2.25 a gallon upon the importation. Under the reciprocity treaty with Germany we admit their alcohol at $1.75. Under our Cuban reciprocity treaty we admit their alcohol at 20 per cent reduction of the customs tax. Under this we are importing alcohol from Germany and alcohol from Cuba, and to reduce that customs tax to 100 per cent would simply drive out every gallon of the 130,000,000 gallons of alcohol that we are producing in this country from domestic distilleries and fill the vacuum with alcohol from a foreign country. Of course we could not stand for that.

Then we have a tax upon tobacco aimed at the Sumatra wrapper, at $1.85 a pound. This is equivalent to an ad valorem duty of about 250 per cent. It is a high rate; put on there why? Because a pound of Sumatra tobacco will wrap as many cigars as 4 or 5 pounds of the domestic article. It needs a high duty in order to protect the farmers of Connecticut and other parts of the country who raise leaf suitable for wrappers, and to reduce that duty to 100 per cent would simply drive out from this country the industry of raising tobacco leaf for wrappers. Not only that, but it would reduce the tax on cigars, put purposely high in order to compensate for the duty placed upon the wrappers, and enable our cigar manufacturers of this country to compete with cigar manufacturers in Cuba and other countries; to encourage the labor of those thousands of men engaged in the manufacture of cigars in this country. We could not enter into the calm judicial frame of mind of the gentleman from Mississippi, or into his lack of information on the subject, that would strike down these two industries by reducing all duties to 100 per cent ad valorum.

There was a time, Mr. Chairman, a few years ago when a distinguished gentleman from Illinois, the chairman of the Committee on Ways and Means in a Democratic House, came into the House with a proposition to reduce all tariff rates 20 per cent, or, in other words, to collect 80 per cent of the then present tariff upon all articles coming into this country. That bill was examined in the light of the interests of the industries and the laborers of this country, but it was found that it would open the gates and destroy many an industry and take the bread from the mouth of many a laborer.

The CHAIRMAN. The time of the gentleman has expired.

Mr. WILLIAMS. Mr. Chairman, I ask that the time of the gentleman may be extended, that he may be able to finish his remarks.

Mr. PAYNE. Mr. Chairman, I ask for fifteen minutes more.

The CHAIRMAN. The gentleman from New York asks that his time may be extended for fifteen minutes. Is there objection?

There was no objection.

Mr. WILLIAMS. I asked that it may be extended in order that he may be able to complete his remarks, Mr. Chairman.

Mr. PAYNE. Oh, Mr. Chairman, I think that I can conclude my remarks in fifteen minutes. Now, that bill and the author of it became known to fame and to ridicule from one end of the country to the other as Horizontal Bill—Horizontal Bill Mercer son, with his horizontal bill. It was ridiculed by the press, the

ended by the people, and ridiculed out of this House. Yet the gentleman from Mississippi [Mr. WILLIAMS], taking wisdom from the gentleman from Illinois and copying his bill, comes in with a horizontal reduction bill of 20 per cent to those favored nations who are willing to reduce their tariff in order that we may get into their markets—reducing ours by a horizontal reduction of 20 per cent, a reduction that in some industries would bring widespread ruin into the country. Then a few years ago another distinguished citizen, also from Illinois, was chairman of the Ways and Means Committee, and he brought in several special bills relating to special articles and special schedules and brought them into the House one after the other, revising the tariff by piecemeal. That gentleman's bills were called "popgun bills," originated by the chairman of the Committee on Ways and Means. The gentleman from Mississippi [Mr. WILLIAMS] evidently has become a diligent student of the gentleman from Illinois, the former chairman of the Committee on Ways and Means, because he amuses himself by introducing before the Committee on Ways and Means these special bills like the popgun bills of years ago, which were ridiculed from one end of this country to the other.

And he advocates to-day upon this floor slight amendments here and there, or great amendments here and there, to particular schedules in the tariff bill. The majority of the committee do not believe in either kind of change in the tariff. They know whatever bill is brought in here will not meet the assent of a majority of the House upon various matters unless we have a general revision that takes into its consideration the whole tariff question and which, while it may not change materially many schedules in the present law, will yet change some, and by a process of comparison of views will result in perfecting a tariff bill which could pass the House. The subject of hides has been spoken of. I understood the gentleman to say and pledge his side that if a free-hide bill came into the House they would all vote for it.

I remember in 1897 an amendment was offered by a gentleman who was at that time an assistant Democrat from the State of Kansas, the late Jerry Simpson, of Kansas, putting a duty on hides. I say "assistant Democrat." He was one of the avant couriers of the Democratic party. He stood in 1897 where the whole party stood in the year 1900, and he fought in that amendment and I was curious to see the vote of that side of the House in favor of a duty on hides as an amendment to the Dingley bill. Every gentleman coming from a cattle-raising State on that side of the House rose and voted for the amendment. I do not know what they will do now just before election——

Mr. WILLIAMS. Mr. Chairman——

Mr. PAYNE. But I believe if it were eighteen months before election, as it was when we passed the Dingley bill, they would be in that calm and judicial frame of mind that they would still vote, coming from a cattle section, for a duty upon hides.

Mr. WILLIAMS. Will the gentleman now permit an interruption?

Mr. PAYNE. I do not like to be interrupted; I did not interrupt the gentleman.

Mr. WILLIAMS. Very well.

The CHAIRMAN. The gentleman from New York declines to yield.

Mr. PAYNE. Now, the gentleman speaks of antitoxin; says it sometimes cost $6 a case and sometimes $24 a case. Afterwards he said something which might indicate that it depended upon the size of the case, and that the tariff is 25 per cent, and it was beyond the reach of poor people. Well, antitoxin is a comparatively recent discovery. It is a most valuable medicine, as I had occasion to know only three or four years since——

Mr. WILLIAMS. Mr. Chairman——

Mr. PAYNE. It was then within my reach, and cost only about the price of ordinary medicine—why will the gentleman interrupt——

Mr. WILLIAMS. Because the gentleman does not want to misquote me. When I said "case" I meant "patient;" not a case of goods, but a case of sickness. Six dollars for a dose. [Laughter and applause.]

Mr. PAYNE. Well, Mr. Chairman, I am glad the gentleman interrupted me.

Mr. WILLIAMS. In order that the gentleman may understand what I meant was this: That it was $6 a dose; that it was $6 for each patient, and sometimes they required four doses for a case or for a patient.

Mr. PAYNE. Now, Mr. Chairman, I am glad the gentleman explained himself, because, as I say, three years ago this medicine was prescribed for my own personal use, and I paid the bill at the drug store after I got well. I had two doses of it, two different doses, and each dose cost less than a dollar instead of $6 a dose. It is a fact that many States in the Union provide free antitoxin for the use of any person who desires it, manufacturing it for that purpose, so the gentleman's tale of woe is founded simply upon a fiction of some newspaper writer who has been writing over his initials, as I understand, for some newspaper and not upon the facts in the case, and yet the gentleman goes off upon this and wants to revise the tariff and take away the small duty of 25 per cent upon the antitoxin that comes into this country.

Mr. WILLIAMS. Mr. Chairman, I move to strike out the last word.

Mr. PAYNE. Oh, but I am not through yet.

Mr. WILLIAMS. I beg the gentleman's pardon, I thought he had finished.

Mr. PAYNE. The gentleman wandered over a good deal of ground and I want to follow it as far as I am able from the very few notes I have upon the subject.

The gentleman speaks of smokeless powder and the provision made by the Committee on Military Affairs to build a manufactory in this country. He says that is all on account of the high duty on powder. Well, it is true, Mr. Chairman, that in making smokeless powder alcohol is one of the chief ingredients, and that the duty has to be a considerable duty as long as we pay such a high internal-revenue rate upon the alcohol which is used in making it. There is no question about that. The price for it does not depend upon the duty upon the article. The article is protected by a patent or patents, and every ounce of smokeless powder manufactured in the United States is made under these letters patent; and that is the reason that these people get a higher price than they are entitled to for the article while we furnish them the alcohol free from internal-revenue tax. They make the powder under bids; the bids of a combination of these people who are licensed under these patents; and there is no escape for it, except for the Army to do what the Navy has been doing—make their own powder, taking possession of the patents which have been granted upon that article. I understand that these patents were secured by some gentleman who was then in the employ of the Government of the United States, and their invention was discovered while in this employ of the Government of the United States, and that some concession has been made to the Navy Department which was not made to the War Department, with reference to this article.

Now, the gentleman speaks of the prosperity of Canada and the prosperity of Argentina, and he might have spoken of the prosperity in Germany and the prosperity in France; and he might have commented upon the lack of unparalleled prosperity in Great Britain. The Canadians are prosperous, and, unlike the gentleman from Mississippi, being upon the ground and studying the conditions, the statesmen in Canada attribute their growth in manufacture, their growth in prosperity, to their protective tariff. Why, it is not many years ago that Bismarck commented on the wonderful prosperity of the United States, and it was the judgment of that greatest statesman of his day that that prosperity was due to the protective system maintained in the United States; and he advocated the same protective system in Germany; and the German Government was wise enough to adopt it, and the German people and their laborers are prosperous to-day under similar conditions with those that obtain in the United States, under the protecting wing of a tariff which gives them an opportunity to supply their home market.

The gentleman says we were not sending steel rails and locomotives to the four quarters of the world before the Dingley bill. No; we were not selling a great many in this country, either, previous to the Dingley bill and for a few years before, when our industries were somewhat idle in this country; but under the Dingley bill we can not supply the demand that comes to our factories from the railroads in this country, busy with carrying freight of the people, the prosperous people of this country, and at the same time meet all the demands that come to us from the four quarters of the globe for American locomotives, American cars, and American rails. But the gentleman will say we are selling the same articles cheaper abroad than we are at home. True. Every country in the world sells articles cheaper abroad than they do at home. There is no country that has not an export price and a home price.

One of the contentions recently settled for a time with Germany was this: They asked us to appraise their exports to us at the export price; to allow them in the custom-house at New York to enter their goods at the exporting price and not at the manufacturer's price of the country of their origin. Of course we refused this, because it would result in a horizontal

reduction of our tariff. Great Britain, a free-trade country—not free trade because she does not collect any duties on her imports, but free trade because she does not collect duties upon those articles which she produces in her own territory; free trade according to the idea of the gentleman from Mississippi—a duty put upon articles for revenue and not for protection. England sells goods cheaper abroad than she sells them at home, and sells them continually. So it is with this modern evolution of trade that compels, that impels the big department store in the city to allow people coming from the surrounding towns the amount of their railroad fares, the amount of their expenses, selling their goods at the same price to them, and even at a lower price than they do to people living in their own town, because it extends their trade beyond the natural limits, and they get a clear though smaller profit, while they sell their goods a little cheaper abroad than they sell them at home.

And so, Mr. Chairman, I, for one, looking about me on every hand, into the gentleman's State of Mississippi, into every quarter of this Union, and seing a demand for labor, a demand that can not be satisfied, because there are not a sufficient number of laborers to do the work; seeing the prosperity that is in front of every man's door and in every man's place of business, would not do anything to interrupt this flood of prosperity. Correct a duty here and there, enter into a general discussion of the tariff, and you will surely produce unrest, stop business, frighten capital, rob labor, and run the risk of the conditions attending the tariff of 1894. Mr. Chairman, so long as we have this prosperity, while the conditions are as they are to-day, so long as the good in sight will overbalance the evils sure to come, the Republican party will have the courage to stand by its convictions, fortified as they are by the experience of all the world, fortified by the statements of the great statesmen of the foremost nations of all the world. [Applause on the Republican side.]

Mr. WILLIAMS. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. That motion is now under discussion.

Mr. WILLIAMS. Then, Mr. Chairman, I will resort to the parliamentary device of moving to strike out the last two words.

The CHAIRMAN. If there be no objection, the gentleman from Mississippi will proceed.

Mr. WILLIAMS. Mr. Chairman, I am informed that this antitoxin and diphtheria serum costs from $4 to $6 per dose, and that it requires from one to six doses for each patient. I have consulted a Republican Member of the House who is a physician, and whose name I will not mention, and he tells me that the average cost per patient is $5, that the dose is from one to two thousand "units," that 1,000 units cost $2.50, that 5,000 units cost $5, and that ordinary cases require from two to three thousand units. This agrees with the other information that I have given of the cost, as running from $4 to $6, $5 being an average statement.

Now, I can not account for the fact that the gentleman from New York got his for $1, unless it was because, being chairman of the Committee on Ways and Means, and charged very largely with responsibility for the tariff upon the subject-matter, manufacturers gave him a "rebate" in order that he might safely "stand pat" upon their particular steal. [Laughter.]

Now, Mr. Chairman, the other day I did not mention alcohol or tobacco among the fifty-sven articles bearing a tax of over 100 per cent.

Mr. PAYNE. I am speaking of the gentleman's bill.

Mr. WILLIAMS. Ah, very well; but the gentleman would not allow me to interrupt him, even to correct a misstatement.

Mr. PAYNE. I am speaking of the gentleman's bill which was before the committee——

Mr. WILLIAMS. I do not wish to be interrupted, Mr. Chairman, unless the gentleman will let me have just that much more time. The other day I used this language:

> Outside of tobacco and spirituous liquors, I find fifty-seven cases of duties on goods actually imported of over 100 per cent. I have not thought it fair to use them—

That is, the duties on alcohol and tobacco—

> because they have been levied partially for the purpose of countervailing an internal-revenue tax, and of course there ought to be a tariff equal to and somewhat above the internal-revenue tax.

The gentleman from New York [Mr. PAYNE] can not pretend to have misunderstood my purpose; and if the bill introduced by me and referred to a moment ago needed amendment, to strike out "tobacco and spirituous liquors," then I hazard the remark that nobody in this House is ignorant of the fact that the chairman of the Committee on Ways and Means, when that committee is in session, has a right to move an amendment to a bill before the committee, and nobody doubts that the gentleman from Pennsylvania [Mr. DALZELL] had a right to move that amendment. In order that there may be no doubt about that at all, I shall reintroduce the bill and amend it, leaving out tobacco and alcoholic liquors, so that the gentleman may not be put to the physical discomfort of moving to amend in the committee; and I now announce that I will accept the amendment if he offers it to the bill as now hastily written. The gentleman can not hide behind any hedge of that sort, and he can not throw dust in the eyes of the public. He can not blind them to the fact that a whole lot of these duties over 100 per cent are upon woolen goods of the commonest sort of necessity to the people, and he can not blind them to the fact that some of these duties are also upon glass, and, amongst other articles of glass, ordinary window-pane glass that the ordinary mechanic puts into his house, and that the ordinary negro laborer needs in his cabin.

Mr. GAINES of Tennessee. I want to ask the gentleman from Mississippi a question.

Mr. WILLIAMS. I can not yield right now. If I can I will yield later.

Mr. GAINES of Tennessee. Correct that statement about hides.

Mr. WILLIAMS. Mr. Chairman, before my time expires I wish to say I had understood that it was denied upon that side that there was any tariff on antitoxin serum, and the Hon. ALBERT S. BURLESON, of Texas, wrote a letter to the Surgeon-General of the Public Health and Marine-Hospital Service, and got a reply, which I shall now read to the House:

> TREASURY DEPARTMENT,
> *Washington, March 23, 1900.*
>
> Hon. A. S. BURLESON,
> *House of Representatives, Washington, D. C.*
>
> SIR: In reply to your communication, dated March 21, 1900, requesting information as to whether the tariff prohibits the importation, free of duty, of antitoxins, I am informed by the division of customs, Treasury Department, that antitoxin is subject to 25 per cent ad valorem duty in general with other medicinal preparations not containing alcohol.
>
> Respectfully, WALTER WYMAN,
> *Surgeon-General.*

The CHAIRMAN. The time of the gentleman from Mississippi has expired.

Mr. GAINES of Tennessee. I move to strike out the last paragraph.

Mr. WILLIAMS. I ask unanimous consent for time enough to answer the question.

Mr. GAINES of Tennessee. The gentleman from New York [Mr. PAYNE] incorrectly stated a few minutes ago that the Democrats over here voted to tax hides when you framed the Dingley tariff. Do you remember history that way? I know you do not, and never will.

Mr. WILLIAMS. The gentleman misunderstood the gentleman from New York. What the gentleman said was that when there was a motion made here to put hides upon the free list certain gentlemen upon this side voted against the motion; and that is true.

Mr. PAYNE rose.

Mr. WILLIAMS. I say that statement is true. You are not going to quarrel with me about my saying it is true, are you?

Mr. PAYNE. The motion was made by the gentleman from Kansas [Mr. SIMPSON] to put a duty on hides. That is what we voted on, and that is what so many Democrats voted for.

Mr. WILLIAMS. But, Mr. Chairman, there was later a motion made to put hides upon the free list.

Mr. GAINES of Tennessee. And if you do not put hides upon the free list now, we will take the hides off from you. [Laughter.]

Mr. WILLIAMS. There was a motion made to put hides upon the free list, but there was no reduction at all proposed in that motion upon boots and shoes and harness to the people of the United States. And while I myself voted for that motion I had my doubts about it, and I will say now that if that motion by itself and alone, and unsupported by any reduction of other duties upon the leather schedule, were placed before this House to-day, I would vote against it. [Applause on the Democratic side.]

We will give equity whenever the other fellows are ready to do equity. I have introduced two bills giving them a chance to do equity and announcing here that we are willing to do it.

I ask Massachusetts Republicans to join me in support of either bill.

Mr. SHACKLEFORD. Mr. Chairman, I ask the gentleman from New York to grant me five minutes for general debate.

Mr. LITTAUER. I can not grant that now, because we must be getting along with this bill.

Mr. SHACKLEFORD. It will not take much time.

Mr. LITTAUER. Well, Mr. Chairman, I move that debate on this paragraph end in five minutes.

Mr. SHACKLEFORD. Mr. Chairman, I arose a few days ago to address the Speaker in behalf of my colleague [Mr. RHODES] and his bill for the relief of the Missouri soldiers of the civil war. I was indulging in some preliminary remarks in criticism of the arbitrary methods of the Speaker, when, upon objection by the gentleman from Minnesota [Mr. TAWNEY], I was ruled off of the floor. I had just read from the morning papers that the Speaker had "given it out flat-footed that he would not permit the House to concur in the Senate amendments to the statehood bill," and was deprecating that one-man power had taken away from the people their free government, when my remarks were brought to a sudden stop by a sharp rap of the gavel. I now propose to pick up the thread of my speech where I dropped it then.

My colleague [Mr. RHODES] has introduced a bill giving a pensionable status to the Missouri soldiers who rallied around the flag in the war of the rebellion. One or another of us has introduced this bill into every Congress for twenty-five years. It has never been allowed to come to a vote. It has always been smothered in committee. These old soldiers deserve well at our hands. In the prime of their lives and the pride of their manhood they answered their country's call. They risked their lives to save the Union. Upon their bodies they bear the scars of battle. They are racked with disease contracted in the service of the Republic. They are old now and poor. Suffering, they stand upon the brink of the grave and raise their voices to Congress for relief. Hear their voice, Mr. Speaker. No-body obstructs them but you. If you will let them have a vote, this House will pass their bill. All they ask of you is that you permit the House to vote. We are here—DE ARMOND, CLARK, LLOYD, RUCKER, HUNT, WOOD, SHACKLEFORD—all ready and anxious to vote for the measure. Take your heavy hand off the old soldier, Mr. Speaker, and let my colleague [Mr. RHODES] call up his bill. Missouri—magnificent, majestic Missouri—implores you to let us give tardy justice to her old heroes of the war.

Sir, my colleague [Mr. RHODES] is entitled to your most kindly consideration. His people, as one man, are in favor of statehood for Oklahoma. He favors it himself, yet with singular loyalty and devotion to your authority he disregarded his constituency's wishes to comply with yours—sacrificed his own convictions to your caprice, and voted to lash the people of Oklahoma to a corpse. Then, sir, I beg you not to forget your faithful retainer; let him call up his bill.

Mr. Speaker, I appeal to you to give back to the people their representative government.

Mr. CANNON. Mr. Chairman, just a second, and a second only. I have listened to the gentleman from Missouri [Mr. SHACKLEFORD]. If it affords him any consolation to make me a stalking horse on account of his quarrel with the minority leader, well and good. [Applause.]

Mr. SHACKLEFORD. I deny that my quarrel with you, Mr. Speaker, has any such foundation.

The CHAIRMAN. Without objection, the pro forma amendment will be withdrawn.

Mr. SULLIVAN of Massachusetts. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Page 2, after line 5, insert: "That said delegates of the United States are hereby instructed to advocate the establishment of reciprocal tariff relations between the United States and other American States."

Mr. LITTAUER. Mr. Chairman, I will make a point of order against that, or I will reserve the point of order.

Mr. SULLIVAN of Massachusetts. Mr. Chairman——

Mr. FITZGERALD. Mr. Chairman, I call for order.

Mr. DALZELL. Mr. Chairman, I make the point of order.

The CHAIRMAN. The gentleman from Pennsylvania will state his point of order.

Mr. DALZELL. It is not germane to the bill.

Mr. SULLIVAN of Massachusetts. Mr. Chairman, the gentleman from New York had reserved the point of order, and I had begun to discuss it. I make the point of order that the gentleman's point of order is out of order.

Mr. DALZELL. I had a right to make it.

Mr. SULLIVAN of Massachusetts. The gentleman has no right to make it during the course of my remarks.

Mr. DALZELL. I have a right to make the point of order at any time.

Mr. SULLIVAN of Massachusetts. I had addressed the Chair, and was about to continue my remarks when some kind-hearted gentleman asked for order in the House. At that moment the gentleman from Pennsylvania [Mr. DALZELL] made his point of order. It seems to me that as I had begun my remarks the point of order made by the gentleman from New York [Mr. LITTAUER] having been first reserved, that I can not, under the rules of this House, be cut off any more than if I had continued for several minutes.

The CHAIRMAN. The Chair thinks the gentleman from Pennsylvania [Mr. DALZELL] made his point of order as speedily as he could after the gentleman from New York [Mr. LITTAUER] had reserved the point of order and taken his seat.

Mr. SULLIVAN of Massachusetts. Does the Chair rule that if he made it as speedily as possible, although he made it after I had begun my remarks, that his point of order can be considered?

Mr. DALZELL. Mr. Chairman, the gentleman from Massachusetts [Mr. SULLIVAN] had first to be recognized.

The CHAIRMAN. The Chair will not rule upon that phase of the question. The Chair thinks the gentleman from Pennsylvania [Mr. DALZELL] was in time to make his point of order.

Mr. SULLIVAN of Massachusetts. Let me ask if the Chair knows the facts, and then we will understand the ruling of the Chair. Does the Chair understand that I had not actually begun my remarks?

The CHAIRMAN. The Chair understands that the gentleman from Massachusetts rose, and a point of order was made by the gentleman from New York [Mr. LITTAUER], who afterwards reserved his point of order.

Mr. SULLIVAN of Massachusetts. That is correct.

The CHAIRMAN. And that before the gentleman from Massachusetts was again recognized the Chair recognized the gentleman from Pennsylvania [Mr. DALZELL] to make a point of order.

Mr. SULLIVAN of Massachusetts. Then I wish to state to the Chair, because I assume the Chair desires to be fair, occupying the chair only for a brief time—and I trust he will occupy it much longer later—that the Chair is mistaken in his facts, and being mistaken in his facts and being corrected on those facts, I now ask the Chair if he will not make a correct ruling upon the facts as ascertained for him now?

Mr. GARDNER of Massachusetts. Mr. Chairman, a parliamentary inquiry.

Mr. SULLIVAN of Massachusetts. I should like first to have the answer of the Chair.

Mr. GARDNER of Massachusetts. A parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. GARDNER of Massachusetts. Has the amendment been reported by the Clerk?

The CHAIRMAN. It has been reported by the Clerk.

Mr. SULLIVAN of Massachusetts. Now, Mr. Chairman, having stated the actual facts and not the facts as the Chair erroneously conceived them to be, I will humbly request the Chair to make a ruling which is in accordance with the facts in the case.

The CHAIRMAN. The Chair has already ruled and believes that his idea of the facts is the correct statement of the facts, and will not change his ruling.

Mr. SULLIVAN of Massachusetts. I move to strike out the last word, Mr. Chairman.

Mr. DALZELL. Mr. Chairman, but I ask for a ruling on the point of order.

Mr. LITTAUER. Mr. Chairman, I ask for a ruling on the point of order.

The CHAIRMAN. The Chair will hear the gentleman from Massachusetts on the point of order if he desires to be heard, although the Chair is ready to rule on the point of order.

Mr. SULLIVAN of Massachusetts. As the Chair has announced his readiness to rule on the point of order, and as the Chair has shown clearly that he does not desire to be corrected, I shall not attempt to make any argument.

Mr. DALZELL. The Chair does not need correction. The Chair stated the facts as they existed.

Mr. BARTLETT. I call for the regular order.

Mr. SULLIVAN of Massachusetts. Mr. Chairman, I desire to be heard on the point of order then.

Mr. GAINES of Tennessee. Mr. Chairman, I rise to a point of order that the House is in disorder and ought to be in order before the Chair settles the question of order. [Laughter.]

The CHAIRMAN. The Chair will hear the gentleman from Massachusetts.

Mr. SULLIVAN of Massachusetts. Mr. Chairman, this is an appropriation of $60,000 to meet the expenses of delegates of the United States to the International Conference of American States, and this amendment which I have offered is a direction to these delegates to consider, to discuss, to advocate the establishment of reciprocal tariff relations between the United States and other States in America. I regret that the gentleman from New York [Mr. LITTAUER] and the gentleman from Pennsylvania [Mr. DALZELL] have felt a party necessity to make a point

of order against the amendment which simply seeks to impose a duty upon delegates to discuss the question of reciprocity as one of the questions which are to be discussed by the delegates at that conference. I do not desire to argue the question further.

The CHAIRMAN. The Chair sustains the point of order.

Mr. SULLIVAN of Massachusetts. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Massachusetts moves to strike out the last word.

Mr. SULLIVAN of Massachusetts. Now, Mr. Chairman, the debate which we have had here has clearly shown that there is no chance of getting any tariff revision in this House, and the amendment which I just offered was for the purpose of permitting a peaceable discussion of reciprocal tariff relations at this conference, having in mind that by the House's stubborn refusal to even consider the question of tariff revision the only way to get it is by treaties with other nations. The gentleman from New York [Mr. PAYNE] took pains to ridicule the bills offered by the gentlemen from Massachusetts asking for a repeal of the duty upon hides and characterized them as pop-gun bills. Undoubtedly the constituents of the gentlemen from Massachusetts [Mr. MCNARY, Mr. ROBERTS, and Mr. LOVERING], all of whom have introduced bills for the repeal of the duty on hides, will be pleased with the sneers of the gentleman from New York at the bills which they have introduced. There is a willingness in this House to discuss the tariff upon this floor at any time. None of the leaders of the majority is disinclined to discuss it when any minority Member brings the subject forward. They are all ready to discuss it on the floor, because there is no tariff bill pending and because it is purely an academic discussion, but they are not ready to discuss a reduction of the tariff in the only place where it can be a practical discussion, namely, within the doors of the Committee on Ways and Means. The chairman of that committee is ready to defend the tariff policy of his party upon the floor of this House when there is no bill pending, but he stubbornly refuses to open the doors of that committee and grant relief to the thousands of manufacturers throughout this land who believe that the Dingley schedules are outgrown, and who are asking only for a moderate share of relief.

Now, then, if that tariff is as sound as he claims it to be, why does he fear to open the doors of the room of the Committee on Ways and Means to hear the manufacturers of this country? Surely the manufacturers understand their business better than the gentleman from New York is capable of understanding it for them, and if they say that the time has come to modify tariff schedules, if only a little and only in a reasonable way, why does the gentleman from New York persist in refusing to hear their moderate demands? The Secretary of the Treasury the other day said that the governor of Iowa was an enemy to his country because he was keeping up this tariff agitation, and he told us also the proper time to consider a tariff bill. He said the time was immediately after a Presidential election—that is, in the next session of Congress after a Presidential election—but we did not hear the Secretary tell us or tell the country in the first session of this Congress immediately succeeding the last Presidential election that that was an opportune time to discuss a tariff bill. No; in his opinion the time to discuss it is after a Presidential election that has not yet taken place, and when the Presidential election does take place and the session does arrive in which it is proper to discuss it, he will then ask to postpone it again until after the next Presidential election. And so these gentlemen continue to trifle with the legitimate demands of the people of this country. Now, Mr. Chairman, I am sorry that the gentleman from New York has raised this point of order, because the people of the country believe that we ought to have relief. They believe there is some relation of cause and effect between the great contributions made by the corporations of this country to the Republican campaign. We heard it stated from high quarters last fall that the charge that tribute was levied upon corporations was an infamous lie, and to-day we find the facts admitted, and I am informed, though I will not state it upon my own responsibility, but only upon information, that just now the telegraph wires have brought us the news that the former vice-president of the New York Life Insurance Company has had a warrant issued for his arrest for giving the money of the policy holders without legal right to the treasurer of the last Republican campaign committee for party uses. Now, this money was paid into the hands of the Republican campaign managers, and it helped to carry the election in 1904 of a President and Members of Congress. Why was it given? I will not undertake to answer, but the refusal of this House to even discuss the modification of tariff schedules indicates clearly to thinking men that there is a relation of cause and effect between the giving of contributions and the failure to even consider the tariff question by the Committee on Ways and Means of this House.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

Mr. FITZGERALD. Mr. Chairman, I offer this amendment at this point.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Provided, That no part of the sum hereby appropriated shall be expended unless the programme for the conference contains provision for a discussion of reciprocal trade relations between the countries participating in the conference.

Mr. LITTAUER. Mr. Chairman, I make the point of order against the amendment.

The CHAIRMAN. The gentleman from New York makes the point of order against the amendment.

Mr. FITZGERALD. The Chair might as well pass upon the point of order. This is clearly a limitation upon this appropriation. It provides that no part of this money shall be expended except under certain contingencies. It is not legislation within the rulings made in the committee upon similar provisions.

Mr. LITTAUER. Mr. Chairman, in my opinion, the amendment is not germane.

Mr. FITZGERALD. Why, it is clearly germane. The fact is, they are now preparing a programme for this conference.

Mr. LITTAUER. This provision simply carries an appropriation for the purpose of holding the conference.

Mr. CRUMPACKER. Mr. Chairman, I desire to say a word upon the point of order. The question of limitation upon appropriations was up in the last Congress on two or three occasions, and where the amendment is clearly a limitation upon the appropriation, and could not be construed by the administrative officers into a legislative direction, it was held clearly in order; but where the limitation contains such language as it would be construed into a legislative direction, then it is legislation; it is more than a limitation, and it is obnoxious to the rule.

Now, this amendment provides that no part of the appropriation shall be expended unless the conference shall make a certain kind of programme, including in that the subject of reciprocal trade relations; and it amounts to a legislative direction as to what the programme shall be. It is more than a limitation. It goes clearly beyond it; and if the question should ever go to any court, any judicial tribunal for construction, the court would unhesitatingly say that it was the intention of Congress to direct the international congress to include in its programme the subject of reciprocal trade relations with the South American republics. That is, I say, beyond a limitation. It is legislative direction, and must be so construed by the Administration or by any judicial tribunal whose duty it may be to deal with it. In the last Congress, I think, the subject, not the particular question, but the principle, was involved in a number of rulings upon the post-office bill. I do not now have them in mind, but it was settled there, and it was announced as a clear and well-understood and all-pervading principle in the interpretation of laws that where the administrative officer gathers from the proposed amendment that it was the intention of Congress to include a legislative direction rather than a mere limitation upon the expenditure it is obnoxious to the rule.

Now, in this case, in determining this appropriation, the question might properly be asked, What is the appropriation for? It is to promote a general international conference. What is the conference to do? It is to discuss such things as it may deem proper, but among others the amendment requires it to discuss the subject of reciprocal trade relations. There is nothing clearer in my mind than that this amendment is legislative in its character, and obnoxious to the rule.

Mr. FITZGERALD. Mr. Chairman, the gentleman from Indiana overlooked a very important fact, and that is that this entire paragraph is legislation. This conference, and the appointment of delegates to this conference, is not authorized by law. If the point of order had been interposed against this provision it would have been eliminated from the bill. Now, it is a well-established rule that where a legislative provision is put in a bill that is "new legislation," as known to the rules, any amendment that is germane to the provision is in order, although if the provision to which the amendment is offered were in order upon the bill, a "legislative" amendment would not be in order. I challenge any gentleman on the floor to show that there is any authority existing now for the appointment of the delegates to this conference; and that being the fact——

Mr. CRUMPACKER. Let me suggest, if there be no authority for the appropriation of the money or the appointment of

those delegates, the paragraph would be subject to a point of order.

Mr. FITZGERALD. Undoubtedly.

Mr. CRUMPACKER. No point of order is made; and therefore, for parliamentary purposes, the status of the paragraph is the same as if there were a direct expressed authority for the appropriation.

Mr. FITZGERALD. Oh, no.

Mr. CRUMPACKER. Why, most certainly.

Mr. FITZGERALD. It is a well-established rule in this House that if a legislative provision in violation of the rule is incorporated upon an appropriation bill any provision is then in order as an amendment if it be germane to the provision to which the point of order was not raised.

What is the first point, Mr. Chairman, that the appointment of these delegates not being authorized by existing law the provision itself is new legislation; so that the point of order, so far as that is concerned, does not lie. More than that. Even if the appointment of delegates were authorized by law, Congress has the right to say that it will not appropriate a dollar to pay the expenses of the delegates unless they are going to discuss certain matters in the conference—that is, that the money will be appropriated upon certain conditions. If those conditions do not happen, the delegates can not go, and the money can not be spent. If that is not a limitation upon the expenditure of money under the rules of this House, I am unable to conceive any legislative provision that would be a limitation. These are the only two points that I wish to discuss.

The CHAIRMAN. The Chair is of the opinion that the point of order is not well taken.

Mr. FITZGERALD. Now, Mr. Chairman, I just wish to say——

The CHAIRMAN. The Chair would like, in this connection, to read to the House a ruling had on the 31st of March, 1904, on some amendment:

"On March 31, 1904, the sundry civil appropriation bill was under consideration in Committee of the Whole House on the state of the Union, when the Clerk read a paragraph, which, after modification, by unanimous consent, was presented in this form:

"SEC. 3. That all carriages and other vehicles used in the public service, other than for personal purposes, as authorized in section 2 of the legislative, executive, and judicial appropriation act for the fiscal year 1905, the expenses for purchase, or maintaining, driving, or operating of which are paid from money appropriated by this act, shall have conspicuously painted thereon at all times the full name of the Executive Department or other branch of the public service to which the same belong and in the service of which the same are used."

Mr. JAMES R. MANN, of Illinois, made the point of order that the paragraph proposed legislation.

The Chairman sustained the point of order.

Thereupon Mr. HEMENWAY, of Indiana, proposed as a new paragraph the following:

"No part of any money appropriated by this act shall be used for purchase, maintaining, driving, or operating any carriage or other vehicle other than those authorized for personal purposes in section 2 of the legislative, executive, and judicial appropriation bill for the fiscal year 1905, unless the same shall have conspicuously painted thereon at all times the full name of the Executive Department or other branch of the public service to which the same belongs and in the service of which the same are used."

Mr. MANN having made the same point of order, the Chairman held (Mr. THEODORE E. BURTON, of Ohio, being the Chairman):

"The Chair thinks this does not change existing law; that it is merely a limitation. It would seem that this legislative body was very much lacking in power if there could not be a provision in the way of a limitation that carriages used for public purposes shall have a designation upon them to that effect. The Chair is not ready to think that any parliamentary rule makes this other than a limitation. The Chair overrules the point of order."

That was the ruling of Mr. BURTON of Ohio.

Mr. FITZGERALD. I wish to call the attention of the House to the fact that it was disclosed in the investigation made by the Committee on Appropriations that at the present time the programme of this conference has not been arranged. There are many questions which the representatives of the United States and of South American countries might discuss with profit to all the countries participating in the conference, but I take it that there is no matter of more supreme importance to the United States and to the South American countries than that question which affects the trade between the United States and South American countries. It has been reported that it is the intention to attempt to mollify the South American countries; that an arrangement will be made by which the Monroe doctrine will be strengthened, and that these South American countries will be protected against European nations in the collection of debts from them by force. While these are matters of great importance to the South American countries, the question in which the people of the United States are particularly interested is the question of how best to advance our trade with the South American countries. If there are possibilities for great export trade between the United States and the countries of South America, this would be a very opportune and advisable time to discuss them. The Secretary of State himself, while not proposing to attend the conference as a delegate, expects personally to visit the place where the conference is to be held and as many of the South American capitals as it will be possible for him to visit. It will be of the greatest importance to us if the chief questions to be discussed in this conference shall be questions affecting trade, because as the head of the Department of State the Secretary in his visit there can impress his views upon the representatives of the other governments. If I am correctly informed, no one will have more to say about the programme for this conference than the Secretary of State of the United States, and if it is made to appear to him that no money will be available for the delegates to this conference unless the programme contains a provision for the discussion of reciprocal trade relations between the countries participating in the conference, there will be no doubt whatever that he will arrange that that question will have a prominent part in the programme of this conference. For that reason, believing that Congress should retain control over the moneys appropriated for public purposes and that Congress should determine the particular uses to which these moneys shall be put, I hope this amendment will be adopted.

Mr. SULLIVAN of Massachusetts. Mr. Chairman, there is a provision in the tariff of 1897 looking toward the establishment of reciprocal trade relations between the United States and other countries. In pursuance of that provision a commissioner of the United States was instructed by the President to negotiate tariff treaties, and he negotiated, I believe, some sixteen tariff treaties between the United States and South American countries. All of those were reported to the United States Senate, and not one of them has ever been ratified. There was a great desire then to establish better trade relations——

Mr. WATSON. I desire to make the point of order on this discussion. My recollection is—if I am in error the Chair can so inform me——

Mr. SULLIVAN of Massachusetts. Mr. Chairman, I do not yield the floor.

The CHAIRMAN. No; the gentleman is making a point of order.

Mr. WATSON. My recollection is that debate on this paragraph was closed. Therefore discussion is not in order.

Mr. SULLIVAN of Massachusetts. But in the gentleman's absence an amendment was offered surreptitiously.

Mr. WATSON. No.

Mr. SULLIVAN of Massachusetts. Yes.

Mr. WATSON. Debate on this paragraph and all amendments was closed.

The CHAIRMAN. The motion was made.

Mr. CLARK. Mr. Chairman——

Mr. WATSON. The motion was made to close debate on the paragraph, but not upon the amendments. Thereafter an amendment was offered. I do not think that changes the result of the vote closing discussion upon the paragraph.

The CHAIRMAN. The gentleman can proceed by unanimous consent.

Mr. SULLIVAN of Massachusetts. Well, Mr. Chairman, I ask unanimous consent to conclude my remarks, which will not take more than three minutes.

The CHAIRMAN. The gentleman from Massachusetts asks unanimous consent to proceed for three minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. SULLIVAN of Massachusetts. There was a general desire for better trade relations with the South American countries. There is a greater need now for better trade relations with the South American countries and the United States.

Now, in the interval that has passed the trade between the South American countries and the United States has increased but very little. Our foreign trade would be greatly diminished to-day if it were not for the increases we have had in trade with the oriental countries. Other nations in Europe are getting a far larger percentage of South American trade than we are, and the reason for it is that our tariffs are hostile to the interests of the South American countries. If we can establish reasonable tariff relations between the United States and the South American countries, undoubtedly our commerce with those countries will be improved, and it is for the simple purpose of discussing the establishment of reciprocal tariff relations between the several states on this continent that this amendment is offered. I can not conceive how any gentleman on the other side can object to the mere discussion at the Pan-American conference of the necessity of establishing better trade relations between the United States and the several states of the American continent. I trust that no objection will be made to an amendment of that character.

Mr. TAWNEY. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. TAWNEY. I thought the gentleman from Massachusetts had concluded, and I was going to ask unanimous consent for three minutes to reply to the gentleman from Massachusetts.

Mr. SULLIVAN of Massachussetts. I will conclude within my time. I thought the gentleman was about to ask me a question. Now, Mr. Chairman, one of the great grievances of the people of this country is because of the duty on hides. If we modify our tariff upon hides, or repeal it, then the commerce with the South American countries which produce hides will be stimulated, and by receiving the hides of these countries into the United States we will gain in return a market in those countries for American manufactures which will be of great benefit both to the United States and to those countries.

Mr. ADAMS of Pennsylvania. Mr. Chairman, I would like to ask the gentleman a question.

Mr. SULLIVAN of Massachusetts. I will yield to the gentleman.

Mr. ADAMS of Pennsylvania. I want to ask the gentleman why the Democratic party as soon as it came into power repealed the greatest and best reciprocal treaty with those countries that we ever had. I mean the treaty we had with Brazil, negotiated in 1890. Almost the first act the Democratic party did was to abrogate that reciprocal treaty.

Mr. SULLIVAN of Massachusetts. I can not answer the gentleman's question without assuming that what the gentleman states is the fact, and I have no knowledge that it is a fact. I will say that since the Dingley tariff has been adopted the Democratic party has labored constantly to get reciprocal tariff treaties with other countries, but the Republican party has persistently opposed it.

Mr. GAINES of Tennessee. If the gentleman will permit, I want to say that the gentleman from Pennsylvania asked why the Democrats repealed the treaty which he thinks was so valuable, I will ask him why his party has not put it back on the statute book?

Mr. ADAMS of Pennsylvania. Because they can never get such a chance again.

Mr. GAINES of Tennessee. This is the first time I have ever heard a Republican acknowledge that the Republican party couldn't do anything.

Mr. TAWNEY. Mr. Chairman, I ask unanimous consent that I may proceed for five minutes.

Mr. CLARK of Missouri. Mr. Chairman, I do not want to object to the gentleman's request, but I want to make a parliamentary inquiry, and then make a request of my own. Who has the close of the debate on this proposition?

Mr. TAWNEY. Nobody has. We are proceeding by unanimous consent.

Mr. FITZGERALD. I want to suggest that the gentleman from Missouri desires a little time on this amendment.

Mr. CLARK of Missouri. I want the gentleman from Minnesota to have five minutes and then I want ten minutes, and if he prefers it I will speak first. Or if he prefers to speak first I am perfectly willing.

Mr. TAWNEY. The gentleman can make his request for unanimous consent.

Mr. CLARK of Missouri. Then I ask for ten minutes.

The CHAIRMAN. The gentleman from Missouri asks that he may proceed for ten minutes after the gentleman from Minnesota has had five minutes.

Mr. WATSON. I shall not object to that provided the gentleman from Minnesota can have ten minutes, and after that I shall object to further discussion on this paragraph.

The CHAIRMAN. Is there objection to the gentleman from Minnesota proceeding for ten minutes, to be followed by the gentleman from Missouri ten minutes?

Mr. OLMSTED. I think the request was that the gentleman from Missouri have ten minutes, to be followed by the gentleman from Minnesota with ten minutes.

Mr. CLARK of Missouri. I do not care which way it is.

The CHAIRMAN. Is there objection to the gentleman from Missouri proceeding for ten minutes, followed by the gentleman from Minnesota for ten minutes?

There was no objection.

Mr. CLARK of Missouri. Mr. Chairman, the proposition here that is pending in the bill is that we appropriate $60,000 to send delegates to an international conference to be held at Rio de Janeiro, which sum is to be expended in the discretion of the Secretary of State. The amendment proposed by the gentleman from New York [Mr. FITZGERALD] is that this money shall not be available unless reciprocity with South American countries is made a part and parcel of the programme to be discussed at that conference. I am in favor of the conference. I am in favor of the amendment. I am in favor of every legitimate measure to increase our trade with foreign countries. We have an enormous home market, but we need more foreign markets for our surplus. Surely the Congress has a right to say how the money shall be expended. The gentleman from New York [Mr. LITTAUER], in charge of this bill, said that the principal object of this conference is to discuss the Monroe doctrine. Well, the Monroe doctrine is the only proposition ever enunciated by man that the entire American people agree upon. As far as we are concerned it needs no discussion. We know what it means, and we intend that the whole world shall accept our interpretation of it, for it is our doctrine—the American doctrine. With our present and our increasing strength the Monroe doctrine does not amount to as much to us as it did when we were a feeble folk. When it was first enunciated it was a proposition necessary to our continued prosperity and growth, if not to our existence. We will maintain it at all hazards for the good of all concerned. If our South and Central American brethren have not found out by this time that the Monroe doctrine is more for their benefit than ours at present and for the future, they have not very much mental acuteness. We have been trying to cultivate friendly relations with those peoples ever since the days of John Quincy Adams's Administration, when they had a Panama Congress. Blaine originated the Pan-American Congress. I undertake to say without fear of successful contradiction that it is vastly more important to cultivate closer trade relations with Central and South America than it is to have an academic discussion as to the benefits of the Monroe doctrine. That is especially true with reference to the Mississippi Valley and the trans-Mississippi country. From the Rio Grande clear to the Cape there is a great and growing civilization. The resources of that vast region are just beginning to be developed. If we establish correct trade relations with those peoples down there, we will have the largest market for our manufactured articles that there is on the face of the earth.

We will have an all-water route from Pittsburg and St. Paul and Fort Benton to South and Central America, by which we can ship our products of every sort and in huge quantities. The Mississippi and its tributaries constitute the cheapest and shortest route to South and Central American ports. In addition to our raw materials and manufactured articles, we should ship them American machinery for the purpose of manufacturing and for development generally. If we had as assiduously cultivated commercial relations with those nations as we ought to have done in the last thirty years, to-day the vast majority of the commerce of all these Latin-American states would be ours and ours for all time to come. Of all the great commercial nations we are their nearest neighbor and should enjoy the bulk of the trade with them. Criminations and recriminations about who has been in favor of reciprocity in days gone by do no good here. I do not care a bawbee what the Republicans thought about it fifteen or twenty years ago, and I do not care a straw what the Democrats thought about it ten or fifteen years ago. We are not legislating here to-day by reason of any man's opinion and conduct a decade ago. I know this: that a Republican Congress believed in 1897 that reciprocity was a good thing. I know that President McKinley appointed John A. Kasson, of Iowa, an eminent Republican, to negotiate reciprocity treaties. I know that Mr. Kasson negotiated the treaties, several of them. I know that they were sent to the United States Senate with recommendations from both President McKinley and President Roosevelt that they should be ratified, and I know that the Senate never ratified a blessed one of them and that they are sleeping the sleep of death in the pigeonholes of the Senate Chamber now. I am in favor of the Rio de Janeiro conference because it is to the interest of the entire American people, particularly those who live beyond the Alleghenies, to cultivate friendly trade relations with the peoples at our very doors. As far as I am individually concerned, I am in favor of turning this international conference into a discussion of trade relations between the nations participating in it. What political effect it would have I do not know and I do not care. Its general effect upon this country can not be doubted. It would be all for good. Our New England brethren want reciprocity with Canada. The Texas brethren want reciprocity with Mexico. My friend from Texas [Mr. BURGESS] has a proposition of his own that seems to me to contain a good deal of wisdom, and that is for a continental tariff scheme that will take in the British possessions on the north and the Central American states clear down to the Isthmus of Panama on the south; and if we can not secure reciprocity with all creation at once, I will take the Burgess proposition as a half loaf that is better than no bread at all.

I would like to hear some man suggest some sensible reason why if we are going to spend $60,000 in participating in an international conference, it shall not be made to do some good to the American people. If we are not going to discuss trade relations, our delegation to Rio de Janeiro will do just exactly as much good and no more as our delegation to Algeciras—and I am not to say, incidentally, that I think that man Raisuli, who kidnaped Perdicaris, is missing the greatest opportunity of his life by not kidnaping that entire crowd that is over there at Algeciras. [Laughter.]

Mr. GRAHAM. If the gentleman will allow me, I would suggest to him that he would first have to cross the Mediterranean in order to do it.

Mr. CLARK of Missouri. I suppose they have ships over there in which he could cross. This is a plain business proposition. Increase our trade with Mexico; increase it with all the South and Central American states. The only reason on earth that Mexico is more stable than the rest of the Latin-American states is that there are lots of Americans down there, and wherever there is an American he is a standing, living bond to keep the peace. Our relations would become closer with Mexico except for the artificial barrier that has been erected by these high tariff laws. [Applause on the Democratic side.]

Mr. TAWNEY. Mr. Chairman, I listened with a great deal of pleasure to the remarks of the gentleman from Massachusetts and the gentleman from Missouri. Their remarks recall an instance that I witnessed upon this floor in the Fifty-third Congress when we had under consideration the so-called "Wilson tariff law." At that time the Representatives of the Democratic party were so absolutely hostile to the policy of reciprocity that their distinguished leader, Mr. Wilson, of West Virginia, was not satisfied with the ordinary provisions in the Wilson bill repealing the existing tariff laws, but in order to emphasize their hostility to reciprocity Mr. Wilson presented an amendment specifically repealing section 3 of the McKinley tariff law and all of the treaties with the South and Central American Republics, under which provision those treaties were negotiated. I therefore rejoice and welcome the Representatives of the Democratic party into the Republican party in so far as the Republican policy of reciprocity is concerned. I submit, however, that they have no justification for saying that because we are opposed to this amendment, which proposes to restrict and limit the action of American representatives in an international congress, we are thereby objecting even to a discussion or to an enactment of reciprocity legislation. This provision, Mr. Chairman, and the reason for our objection to it is because we do not believe that if we are to accomplish anything in this Pan-American Congress that the way to accomplish it is to send our delegates there with specific instructions as to what they shall consider and what they shall not consider. One of the primary objects of this bill——

Mr. FITZGERALD. Mr. Chairman——

The CHAIRMAN. Does the gentleman from Minnesota yield?

Mr. TAWNEY. I have only a few minutes. I yield to the gentleman, however.

Mr. FITZGERALD. I offered this amendment and I am afraid the gentleman does not understand it.

Mr. TAWNEY. I have read it and I understand it fully.

Mr. FITZGERALD. Now, is it not a fact that the programme for this conference is now in the course of preparation?

Mr. TAWNEY. It is.

Mr. FITZGERALD. Is it not a fact that the Secretary of State would largely determine the subjects that will be discussed by this country?

Mr. TAWNEY. I do not know that is the fact. I presume that the representatives of this Government who are going down to attend this conference will be governed somewhat by the judgment of the Secretary of State, but this programme is being made up not by the Secretary of State nor by the representatives of this Government, but the programme is being made up by the representatives of the governments who are to participate in this conference, and I say it would not be wise, it would not even be courteous to the representatives of the foreign governments for us to attempt to restrict our representatives in the making up of the programme for consideration by this congress.

Mr. FITZGERALD. The men who are making up this programme are at present in Washington at work on it, are they not?

Mr. TAWNEY. I am so informed by the Secretary of State.

Mr. FITZGERALD. And if Congress puts this limitation upon this appropriation would it not insure a place on the programme for the discussion of reciprocal trade relations?

Mr. TAWNEY. Not any more, in my judgment, Mr. Chairman, than that subject is now assured a place in the programme. It is one of the primary objects of this congress, and I think, Mr. Chairman, that it would be unwise, it would be in poor taste, and would be an unwise policy for us to attempt in advance to fix a limitation within which our representatives must go when they are going to act in conjunction with the representatives of foreign governments concerning interests pertaining to our own as well as to their people, and for that reason I think that the amendment, Mr. Chairman, should be defeated.

Mr. LIVINGSTON. Will the gentleman allow me to suggest to him a limitation restricting our delegates and not restricting others in the same channel might defeat the whole object of the conference?

Mr. TAWNEY. Unquestionably that might be the result. That might be the effect of it. The very idea of our sending representatives into an international conference and then tying their hands with respect to the doing of certain things, of course, would afford the other representatives the opportunity of saying, "You come here with specific instructions; you are not competent to participate in a free conference concerning matters pertaining to the welfare of all the nations represented in this conference."

Mr. SULLIVAN of Massachusetts. May I ask a question?

Mr. TAWNEY. I yield to the gentleman from Massachusetts.

Mr. SULLIVAN of Massachusetts. May I ask the gentleman a question?

Mr. TAWNEY. Certainly.

Mr. SULLIVAN of Massachusetts. Does not the gentleman think that if the Congress of the United States instructs its delegates to discuss any specific subject, such as, according to the terms of this amendment, to discuss the question of reciprocal trade relations, that the representatives of the other nations will be courteous enough to permit that discussion; and does not he believe they will be glad to hear that discussion?

Mr. TAWNEY. I believe, Mr. Chairman, that independent of any instruction on the part of the Congress of the United States that this will be one of the primary topics of discussion in this proposed Pan-American Congress.

Mr. SULLIVAN of Massachusetts. Why leave it to conjecture when you can make it certain?

Mr. TAWNEY. I do not believe it would be left to conjecture. I believe that we ought to leave this entirely to the discretion of the representatives we send to this congress. It is entirely unusual for a government sending a representative to an international conference to specifically instruct him in advance as to what subject he shall or shall not consider. This amendment, if it has any utility at all, it is in the State of Massachusetts, where the question of reciprocity seems to be uppermost in the minds of all the people, regardless of political affiliation. I believe, just as much as the gentleman from Massachusetts and the gentleman from Missouri, in encouraging and developing our trade relations with the South American countries, and that being one of the primary objects of this convention, I say it is almost silly for Congress to say that it must consider that particular subject. I therefore hope the amendment will be defeated, and in this connection I wish to insert as a part of my remarks the following colloquy between Mr. Dingley, of Maine, and Mr. Wilson, of West Virginia, respecting the repeal of section 3 of the McKinley tariff, to be found on page 1117 of the RECORD of the second session of the Fifty-third Congress:

Mr. WILSON of West Virginia. Mr. Chairman, I offer the amendment which I send to the Clerk's desk.

The Clerk read as follows:

"On page 141: That section 50 be amended by inserting after the figures 50, 'That section 3 of an act approved October 1, 1890, entitled "An act to reduce the revenue, to equalize duties on imports, and for other purposes," is hereby repealed.'"

Mr. WILSON of West Virginia. The effect of that is to repeal the language of section 3 of the McKinley bill, which authorizes retaliatory proclamations by the President.

Mr. DINGLEY. I desire to ask the gentleman from West Virginia if this is a provision distinctly repealing all the reciprocity provisions of the existing law, as I understand?

Mr. WILSON of West Virginia. This is a provision distinctly repealing section 3 of the McKinley bill.

Mr. DINGLEY. That is the reciprocity provision?

Mr. WILSON of West Virginia. That is a reciprocity provision.

Mr. DINGLEY. The effect of this amendment is not only to destroy reciprocity, but to emphasize the fact of its destruction.

Mr. WILSON of West Virginia. It is the understanding of the committee that the bill as originally presented effects that repeal; but in order that there may be no question about it they put in this provision distinctly repealing that section.

Mr. TAWNEY. Mr. Chairman——

The CHAIRMAN. Did the gentleman from West Virginia [Mr. Wilson] surrender the floor?

Mr. WILSON of West Virginia. Yes.

Mr. TAWNEY. Mr. Chairman, by the amendment just offered by the gentleman from West Virginia [Mr. Wilson], it is proposed to expressly repeal section 3 of the present tariff law, commonly known as the reciprocity clause. This proposition, we are told, emanates from the Democrats on the Ways and Means Committee, and is another evidence, if more were needed, of the utter disregard which those

gentlemen have for the interests of the West, and especially for the interests of the agriculturists of that great section of our country. They have reported a tariff bill which greatly reduces the duty or places on the free list the products of the farm, and almost every article in which the farmers are interested, at the same time retaining a duty on the products of the eastern manufacturer for the express purpose of affording them adequate protection.

[Cries of "Vote!"]

The CHAIRMAN. The question is on agreeing to the amendment.

Mr. BRICK. May I ask the gentleman from Minnesota a question?

Mr. TAWNEY. Certainly.

Mr. BRICK. I am a little at a loss, I will say to the gentleman from Minnesota, as to the object in offering this amendment. I will ask you whether there is any question in the world that this congress was provided for or contemplated unless it was to consider the fostering of trade relations?

Mr. TAWNEY. That was the primary object of the conference, in my judgment, and I am so informed by the State Department.

Mr. BRICK. Is there any question in the world but that that will be carried out?

Mr. TAWNEY. None.

Mr. FITZGERALD. I call the attention of the gentleman to the fact that that does not appear from the statement of the State Department before the committee.

Mr. CLARK of Missouri. If that is true, what objection have you to putting in this amendment?

Mr. BRICK. I might answer that as I might answer almost any practical question: That here is a conference to be held; that we will not attempt to give the details of all the things that shall be considered; that it would be impossible that we should examine all that beforehand, but that we will trust our representatives that they will carry out the objects and purposes of entering upon an international conference in that convention.

Mr. SULLIVAN of Massachusetts. I would like to ask the gentleman just one question. The gentleman from Minnesota has stated that it is unusual to instruct delegates. Now, I want the gentleman to search his memory and read up on that point. Is it not a fact that it is the universal practice to instruct delegates?

Mr. TAWNEY. It has never been done. We have had two Pan-American congresses, and never have given specific instructions to the delegates concerning any subject that that congress was called together to consider.

I want to say one word further. The representatives of all the governments that are to participate in this congress are now considering the subjects that will be considered by the Pan-American Congress in July next. They are making up a programme of the subjects; and hence I think it would be very unwise for Congress to inject itself into their deliberations as to what the programme of the Pan-American Congress should be.

Mr. LITTAUER. I call for a vote. [Cries of "Vote!"]

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken; and the Chairman announced that the noes seemed to have it.

Mr. FITZGERALD. Division!

Mr. SULLIVAN of Massachusetts. Mr. Chairman, I ask for tellers, to save time.

Tellers were ordered.

The CHAIRMAN. The gentleman from New York, Mr. LITTAUER, and the gentleman from New York, Mr. FITZGERALD, will please act as tellers.

The committee divided; and the tellers reported—ayes 47, noes 98.

So the amendment was rejected.

The Clerk read as follows:

INTERSTATE COMMERCE COMMISSION.

To enable the Interstate Commerce Commission to properly carry out the objects of the act to regulate commerce and all acts and amendments supplementary thereto, including the joint resolution "instructing the Interstate Commerce Commission to make examinations into the subject of railroad discriminations and monopolies in coal and oil, and report on the same from time to time," approved March 7, 1906, the sum of $45,000 is hereby transferred to said Commission, and made available for the remainder of the fiscal year 1906, from the balance of the appropriation of $500,000 for the enforcement of "An act to regulate commerce" and all acts amendatory thereof or supplemental thereto, and other acts mentioned in said appropriation, made in the legislative, executive, and judicial appropriation act for the fiscal year 1904, and reappropriated for the fiscal year 1906 by the sundry civil appropriation act, under the Department of Justice: *Provided*, That the total amount that may be expended in the employment of counsel by the Interstate Commerce Commission shall not exceed the sum of $45,000 during the fiscal year 1906.

Mr. GAINES of Tennessee. Mr. Speaker, I desire to offer the following amendment.

The CHAIRMAN. The gentleman from Tennessee offers the following amendment, which the Clerk will report.

The Clerk read as follows:

Insert on page 2, line 25, after the word "*Provided*," "That not more than the sum of $10,000 may be used in investigating the illegal issuance and use of free passes, free tickets, and free transportation on railroads engaged in interstate and foreign commerce; *And provided further*."

Mr. LITTAUER. Mr. Chairman, I must make the point of order against that, that it is not germane to the appropriation.

Mr. GAINES of Tennessee. It is just as germane as it is possible for the English language to make it. The paragraph of the bill starts out by saying:

To enable the Interstate Commerce Commission to properly carry out the objects of the *act to regulate commerce and all acts and amendments supplementary thereto.*

The commerce act alluded to is the commerce act of February 4, 1887, entitled "An act to regulate commerce"—the act the paragraph alludes to.

Mr. LITTAUER. Read further.

Mr. GAINES of Tennessee. Section 22 of the act of February 4, 1887, is the section which, with other sections of the law, prohibits the issuance of free transportation except to railroad officials and their employees. This amendment is just as germane as anything can make it, *and it is a limitation upon the appropriation.* Pending the investigation of that, while I am perfectly satisfied that it is perfectly germane——

The CHAIRMAN. The Chair will hear the gentleman from Tennessee.

Mr. GAINES of Tennessee. I have this to say: The appropriation starts in line 7, as I said, with these words:

To enable the Interstate Commerce Commission to properly carry out the objects of the act to regulate commerce, etc., "*including* the joint resolution instructing the Interstate Commerce Commission to make examination into the subject of railroad discriminations and monopolies in coal and oil."

The act of February 4, 1887, is an act entitled "An act to regulate commerce," and section 22 of that act is the one which covers the question of free transportation. I have the law here, Mr. Chairman. Shall I read the paragraph?

The CHAIRMAN. The Chair would like to see it.

Mr. GAINES of Tennessee. I will send it up and let the Chair read it. You will see the title to the act and the particular paragraph there, section 22, which has been amended, as the Chair will see from the paragraph, the amendments being printed in the annotated copy of the law which I have just handed to the Chair.

Mr. LITTAUER. The purpose of this paragraph is simply to provide for the carrying out of the resolution referred to and the statement, "To enable the Interstate Commerce Commission to properly carry out the objects of the act to regulate commerce," is simply a method of stating the object for the appropriation, or to give a basis to add on, as the subject of the joint resolution, to examine into railroad discriminations in coal and oil.

Mr. GAINES of Tennessee. What does the gentleman mean by the language in the bill, the paragraph I want to amend, to wit:

To enable the Interstate Commerce Commission to properly carry out the objects of the *act to regulate commerce?*

The amendment I offer is clearly germane. That is as clear as the noonday sunshine. I will read the title of the act of 1887 again: "An act to regulate commerce"—the very words of the paragraph. The law, section 22 of the act of February 4, 1887, reads as follows:

SEC. 22. *Free or reduced rates—Excursions—Mileage—Commutation rates—Remedies cumulative.*—That nothing in this act shall prevent the carriage, storage, or handling of property free or at reduced rates for the United States, State, or municipal governments, or for charitable purposes, or to and from expositions for exhibition thereat, or the free carriage of destitute and homeless persons transported by charitable societies, and the necessary agents employed in such transportation, or the issuance of mileage, excursion, or commutation passenger tickets; nothing in this act shall be construed to prohibit any common carrier from giving reduced rates to ministers of religion or to municipal governments for the transportation of indigent persons, or to inmates of the National Homes or State Homes for Disabled Volunteer Soldiers and of Soldiers and Sailors' Orphan Homes, including those about to enter and those returning home after discharge under arrangements with the boards of managers of said Homes.

Nothing in this act shall be construed to prevent railroads from giving free carriage to their own officers and employees, or to prevent the principal officers of any railroad company or companies from exchanging passes or tickets with other railroad companies for their officers and employees; and nothing in this act contained shall in any way abridge or alter the remedies now existing at common law or by statute, but the provisions of this act are in addition to such remedies: *Provided*, That no pending litigation shall in any way be affected by this act [as amended March 2, 1889]: *Provided further*, That nothing in this act shall prevent the issuance of joint interchangeable 5,000-mile tickets, with special privileges as to the amount of free baggage that may be carried under mileage tickets of 1,000 or more miles.

But before any common carrier, subject to the provisions of this act,

issue any such joint interchangeable mileage tickets with special ... as aforesaid, it shall file with the Interstate Commerce Com... copies of the joint tariffs of rates, fares, or charges, on which ... interchangeable mileage tickets are to be based, together with ... tions of the amount of free baggage permitted to be carried ... such tickets, in the same manner as common carriers are re... to do with regard to other joint rates by section 6 of this act; ... the provisions of said section 6 relating to joint rates, fares, ... shall be observed by said common carriers and enforced ... Interstate Commerce Commission, as fully with regard to such ... interchangeable mileage tickets as with regard to other joint ... rates, and charges referred to in said section 6. It shall be un... for any common carrier that has issued or authorized to be is... such joint interchangeable mileage tickets to demand, collect, ... from any person or persons a greater or less compensation for ... portation of persons or baggage under such joint interchangeable ... tickets than that required by the rate, fare, or charge specified ... copies of the joint tariff of rates, fares, or charges filed with the ... in force at the time. The provisions of section 10 of this ... apply to any violations of the requirements of this act (cov... laws of 1895, ch. 61, approved February 8, 1895).

Mr. CRUMPACKER. Mr. Chairman, just one word. As was said by the gentleman from New York [Mr. LITTAUER], this appropriation is made clearly and expressly for the purpose of carrying out the resolution adopted by the House a short time ago, the title of which is included in the paragraph—that is, instructing the Interstate Commerce Commission to make examinations into the subject of railroad discriminations and monopolies in oil and coal. Now, a limitation providing that not more than $10,000 should be expended for coal or oil, or providing that that much should be expended for the investigation of either one of those subjects, would be germane; but this provision requires that $10,000 of this appropriation shall be expended for the investigation of the pass question, which is not at all the subject of that resolution and not at all germane to the resolution, and therefore I think the point of order is clearly well taken.

Mr. FINLEY. Mr. Chairman, I have this to say in reference to the point of order, that if the contention of the gentleman in charge of the bill and of the gentleman from Indiana [Mr. CRUMPACKER] is correct, then certainly the wording of this paragraph is unfortunate. It seems to me that the purpose of this appropriation is to provide means for an investigation by the Interstate Commerce Commission under the terms of the act to regulate commerce and all acts amendatory thereof. That is the purpose of this appropriation. Then there is added to this the words:

Including the joint resolution instructing the Interstate Commerce Commission to make examination into the subject of railroad discriminations and monopolies in coal and oil.

Now, Mr. Chairman, I do not see how it can be argued here that the sole purpose of this appropriation is to investigate the matter of coal and oil rebates or abuses or improper charges, in violation of the interstate-commerce act, because that is only made a part of the general provision, and it is only one of the many duties that the Interstate Commerce Commission is called upon to perform. I can not see, nor do I think it can be successfully argued, that the sole business here is to investigate the coal and oil business. Any violation of the act mentioned is included in the scope of the investigation to be had. If the point of order has to be sustained, it must be held that this provision applies to the investigation of the coal and oil business and to nothing else. A casual reading of the provision shows that this is not true.

Mr. GAINES of Tennessee. Mr. Chairman, this paragraph of the bill, as the Chair will see by the reading of the bill, provides:

To enable the Interstate Commerce Commission to properly carry out the objects of the act—

That is, the commerce act of February 4, 1887—

to regulate commerce and all acts and amendments supplemental thereto—

The bill does not stop there—

including the joint resolution instructing the Interstate Commerce Commission to make examination into the subject of railroad discrimination and monopolies in coal and oil.

Now, then, Mr. Chairman, down in line 18 you will find the words "an act to regulate commerce" are quoted, and allude, of course, to the act of February 4, 1887; and then it proceeds:

all acts amendatory thereof or supplemental thereto and other acts mentioned in said appropriation made in the legislative, executive, and judicial appropriation act for the fiscal year 1904.

Now, Mr. Chairman, the need for this investigation is so apparent to any fair man that I will not discuss that, but will leave the point of order with the Chair, with this statement, that no language can possibly make it any plainer than this bill is written; that this appropriation is to carry out the "*act to regulate commerce* and all acts and amendments supplemental thereto, including the joint resolution."

The committee was unhappy in its use of language if it intended for this bill simply to enforce the provisions of this "*joint resolution*" only.

Mr. TAWNEY. Mr. Chairman, the purpose of this proposition is to enable the Interstate Commerce Commission to do what Congress has directed it to do in respect to investigating the ownership of coal and oil lands and the relation of the railroads of the country in the United States to that ownership. The reason for the reference in the bill to the interstate-commerce act is that without referring to that act it would be necessary for the Interstate Commerce Commission to provide an entirely new organization for the purpose of conducting the investigation. It could not use any part of its present organization, for the reason that the Comptroller of the Treasury and the Auditor for that Department would not pass their accounts. Therefore in order to make it possible for the Commission to use any part of the organization now in existence—which it can do without additional expense—we have in this bill referred to the general interstate-commerce act, although the appropriation is specifically and exclusively for the purpose of carrying on this investigation.

Mr. GAINES of Tennessee. But, as a matter of fact, the bill states it is to enforce the commerce act, "including" this joint resolution. The gentleman from Minnesota says this would require a new organization to carry it out. The Commission has the organization there and haven't carried out the law as to unlawful free passes, and I want the law executed, and limit this amount of $10,000 to do so (all needed, possibly), and let them proceed to execute the law. If the committee reporting this bill had wanted to confine this appropriation to the coal and oil investigation only it could have easily had this paragraph read in this way:

To enable the Interstate Commerce Commission to properly carry out the object of the *joint resolution*, instructing the Commission so and so.

Instead of that the bill reads to execute the commerce act and this resolution.

Mr. TAWNEY. Let me ask the gentleman a question.

Mr. GAINES of Tennessee. Very well.

Mr. TAWNEY. Had we provided, as the gentleman now suggests, entirely omitting any reference to the interstate-commerce act, then would it not have been necessary for the Interstate Commerce Commission to have provided, under the resolution authorizing this investigation, for an entire new organization to carry on the investigation? By referring to the interstate-commerce act, the Commission is enabled to utilize a part of the force that it now has.

Mr. GAINES of Tennessee. I think the argument of the gentleman from Minnesota is not sound. The law allows such an investigation, and this resolution directs this investigation to oil and coal and the general enforcement of the act of 1887. The Commission has all the machinery it needs, and all it needs now is the money. It merely instructs them to proceed, generally, and on oil and coal particularly. You have told them to proceed under the interstate-commerce act of 1887, and particularly to investigate oil, etc., which this joint resolution in question calls for.

The CHAIRMAN. The Chair sustains the point of order. The Clerk will read.

The Clerk read as follows:

The Interstate Commerce Commission is authorized to employ such temporary employees, except clerks and stenographers, as it may deem necessary to carry out the provisions of said joint resolution, approved March 7, 1906, and to fix their compensation.

Mr. LITTAUER. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Page 3, line 67, strike out the words "except clerks and stenographers;" and at the end of line 9 insert "but clerks and stenographers shall be appointed only on certification by the Civil Service Commission."

The amendment was agreed to.

The Clerk read as follows:

DISTRICT OF COLUMBIA.

For the collection and disposal of garbage and dead animals, miscellaneous refuse and ashes from private residences in the city of Washington and the more densely populated suburbs; for collection and disposal of night soil in the District of Columbia, and for the payment of necessary inspection, livery of horses, and incidental expenses, $40,640.42, one-half of which shall be paid from the revenues of the District of Columbia and one-half from the Treasury of the United States.

Mr. NORRIS. Mr. Chairman, I move to strike out the last word. I would like to inquire if the gentleman can give us some information of a more definite nature as to what particular salaries and labor is referred to in this paragraph?

Mr. LITTAUER. All salaries and labor authorized by resolution of the House.

Mr. NORRIS. I would like to ask the gentleman if included in that there is anything for special stenographers before the different committees of the House?

Mr. LITTAUER. Mr. Chairman, I do not believe any resolution has been passed for such service, though I do not claim to be fully advised.

Mr. NORRIS. So that the gentleman may understand me better, I wish to state that the regular committee stenographers, four in number, sometimes select, when they are busy, some one to take their places before different committees when there is a demand made for additional stenographers.

Mr. LITTAUER. They are authorized by law to engage stenographers.

Mr. NORRIS. That is what I understand. I did not mean to say that they did it illegally.

Mr. LITTAUER. And the compensation of such stenographers is provided for.

Mr. NORRIS. I am not finding any fault with it, but I want to know whether included in this item there is any expenditure of that class.

Mr. LITTAUER. I have no such specified item before me, but I take it for granted that there may be such.

Mr. NORRIS. Now, the other day, when we had the regular appropriation committee bill up for consideration, the statement was made, when the gentleman from Ohio [Mr. SOUTHARD] made a motion to cut down the appropriation for these four committee stenographers, that all services of other stenographers who were brought in when they were busy was paid for out of the salaries of these particular stenographers.

Mr. LITTAUER. Oh, I think the gentleman is mistaken. It is paid for out of the contingent fund.

Mr. NORRIS. I understand that is right, but I think the statement was made by several gentleman—I believe by the chairman of the Committee on Appropriations, the gentleman from Minnesota [Mr. TAWNEY], and also by the gentleman from Ohio.

Mr. TAWNEY. Mr. Chairman, if the gentleman will permit me, I will answer the question. The statement made by myself was that the committee stenographers paid for the service of writing out on the typewriter the notes which they take in the committee rooms during the hearings—not for the additional expert stenographic service, but the service incident to the transcription of their notes.

Mr. CRUMPACKER. Mr. Chairman, the gentleman from Minnesota [Mr. TAWNEY] also made the statement that they are not reimbursed for that amount. The sundry civil bill contains an item of over $7,000 this year for reimbursing the committee stenographers for that service, and it has always been the practice of Congress.

Mr. TAWNEY. If that is the fact I did not so understand it.

Mr. LITTAUER. It is in the general deficiency bill.

Mr. CRUMPACKER. They are always reimbursed for that expenditure.

Mr. NORRIS. I understood that is right. I only wanted to call the attention of the House to the fact that a great many Members of the House were under the impression that these committee stenographers selected by the regular stenographers were paid out of the salary of $5,000 a year that went to the committee stenographers.

Mr. LITTAUER. The committee stenographers are not selected by the regular stenographers.

Mr. NORRIS. But the gentleman does not understand what I mean. I do not mean these reporters here, but there are four committee stenographers.

Mr. LITTAUER. And they are selected by the Speaker.

Mr. NORRIS. And sometimes they are busy and can not do all the business of the different committees and they have to select somebody else.

Mr. LITTAUER. I do not think that they select the additional service. The Clerk of the House provides for it, and it is paid for.

Mr. NORRIS. It was the impression obtained by many that they paid for that, and I wanted merely to call attention to the fact, so that those who had misunderstood might understand properly that these were all paid outside of the regular salary of these stenographers.

The CHAIRMAN. The Clerk will read.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

The committee informally rose; and the Speaker having resumed the chair, a message, in writing, from the President of the United States was communicated to the House of Representatives by Mr. BARNES, one of his secretaries.

URGENT DEFICIENCY APPROPRIATION BILL.

The committee resumed its session.

The Clerk resumed and concluded the reading of the bill.

Mr. LITTAUER. Mr. Chairman, I move that the committee do now rise and report the bill as amended favorably.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. OLCOTT, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 17359, the urgent deficiency bill—and had directed him to report the same with an amendment, with the recommendation that the amendment be agreed to, and that the bill as amended be passed.

The SPEAKER. The question is on agreeing to the amendment.

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read the third time, was read the third time, and passed.

On motion of Mr. LITTAUER, a motion to reconsider the last vote was laid on the table.

LEAVE OF ABSENCE.

By unanimous consent, Mr. CALDERHEAD was granted leave of absence, for ten days, on account of important business.

MESSAGE FROM THE PRESIDENT.

The SPEAKER laid before the House a message from the President; which was read, referred to the Committee on Rivers and Harbors, and ordered to be printed, as follows:

To the Senate and House of Representatives:

I submit to you herewith the report of the American members of the International Waterways Commission regarding the preservation of Niagara Falls. I also submit to you certain letters from the Secretary of State and the Secretary of War, including memoranda, showing what has been attempted by the Department of State in the effort to secure the preservation of the falls by treaty.

I earnestly recommend that Congress enact into law the suggestions of the American members of the International Waterways Commission for the preservation of Niagara Falls without waiting for the negotiation of a treaty. The law can be put in such form that it will lapse, say in three years, provided that during that time no international agreement has been reached. But in any event I hope that this nation will make it evident that it is doing all in its power to preserve the great scenic wonder, the existence of which, unharmed, should be a matter of pride to every dweller on this continent.

THEODORE ROOSEVELT.

THE WHITE HOUSE, *March 27, 1906.*

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

On motion of Mr. LITTAUER, the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 16472—the legislative, executive, and judicial appropriation bill—Mr. OLCOTT in the chair.

The Clerk read as follows:

Office of assistant treasurer at Cincinnati: For assistant treasurer, $4,500; cashier, $2,250; assistant cashier, $1,800; bookkeeper, $1,800; receiving teller, $1,500; interest clerk, and five clerks, at $1,200 each; two clerks, at $1,000 each; clerk and stenographer, $720; clerk and watchman, $840; night watchman, $600; day watchman, $600; in all, $23,810.

Mr. PRINCE. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. PRINCE. To make points of order against this paragraph or section. The first point of order is against the entire paragraph beginning on line 7 and ending line 18 at the word "dollars," page 63, because the paragraph changes existing law. The second edition of the Revised Statutes of 1878, page 713, section 3612, reads as follows:

There shall be appointed in the office of the assistant treasurer at Cincinnati one cashier at $2,000 a year, one clerk at $1,800, one clerk at $1,500, two clerks at $1,200 each, two clerks at $1,000 each, one messenger at $600, two watchmen, one at $720 and one at $240.

There is a statute of the United States. This legislative act seeks to change existing law, and I make the point of order that the entire paragraph seeks to change section 3612 of title 11 of the public statutes of the United States. I make the further specific point of order, if the Chairman should see fit to hold that there is not enough poison in this paragraph to kill the entire paragraph—then I make the specific additional point of order, on line 9, page 63, that they have increased the salary $250; that while the statutory salary of the cashier is fixed by law at $2,000 they have increased it to $2,250. Beginning line 10 of the same page, they have by this legislative act again changed existing law by adding a bookkeeper at $1,800. Beginning on line 12 of the same page with the words "interest clerk, and five clerks at $1,200 each," they have added four clerks, making a change of existing law. Again, on the same page, line 14, "clerk and stenographer, $720," is new legislation in contravention of the law. In lines 15 and 16 they have increased, beginning with the word "clerks" and ending with the word "dollars," on line 16, the salaries of the watchmen $120. Now, it is so difficult to segregate all these items that I ask for a ruling as against the entire paragraph.

Mr. TAWNEY. Will the gentleman permit me to ask him a question?

Mr. PRINCE. Yes, sir.

Mr. TAWNEY. Except the provision increasing the salary of one employee to the extent of $250 per annum, what, if any, difference is there between that paragraph and the current appropriation law for the clerical service of the subtreasury at Cincinnati?

Mr. PRINCE. I am inclined to think, as I recall it now without looking it up, that it does make one increase as to the former current legislation, but it has been held time out of mind by the present occupant of the chair during the discussion of this bill, as well as by other occupants of the chair, that any reiteration in the legislative enactment of a current appropriation does not have the force of law, and does not change the statutes of the United States, and I am standing by the law. I say that if the Appropriations Committee has the right by a legislative act to change the statutes of the United States in one paricular, they have the right to come into this House and change the entire statutes of the United States by an appropriation bill, and if they have the right to change a section of the law in one instance, there is no provision of the laws of the United States but what can be subject to their will, and the rest of us might as well go out of this House and let them conduct the entire legislative business of this Congress.

Mr. TAWNEY. Mr. Chairman, the point of order rests primarily upon the increase of the salary of one clerk or employee in the subtreasury at Cincinnati. I am aware of the fact that the gentleman from Illinois makes the point of order as to all of these positions which are now carried in the current appropriation law in excess of those specified in the section of the Revised Statutes to which he referred. I want to call the Chair's attention to the fact that this section of the Revised Statutes is a provision of the preceding appropriation law or the current appropriation law at the time of the revision of those statutes. These statutes are merely prima facie evidence of what the law is. I have here the provision of law authorizing the subtreasury at Cincinnati. Section 5 of an act approved March 3, 1873:

That there shall be appointed an assistant treasurer of the United States to be located in the city of Cincinnati, in the State of Ohio; such assistant treasurer shall be appointed in like manner, for like terms, and be subject to all the provisions of law to which the other assistant treasurers of the United States are subject.

This provision, therefore, originally authorizing the appointment of an assistant treasurer and the establishment of a subtreasury in the city of Cincinnati makes that subtreasury subject to all the provisions of law in regard to subtreasuries of the United States.

The point I want to make is that under this original law of 1873 every subtreasury in the United States is a part of the Treasury Department of the Government. It is not an establishment distinct and separate from the Treasury Department, but made by Congressional enactment a part of the Treasury, and not an institution outside of the Department. I refer to the act approved August 6, 1846, and I want to call the attention of the Chair to the fact that this was two years after the enactment of this statute dividing the employees of the Government, or the clerks in the Government service, into four classes, and providing for the appointment of messengers, watchmen, and such other employees as may be necessary. This act reads:

Whereas by the fourth section of the act entitled "An act to establish a Treasury Department," approved September 2, 1789, it was provided that it shall be the duty of the Treasurer to receive and keep the moneys of the United States, and to disburse the same upon warrants drawn by the Secretary of the Treasury, countersigned by the Comptroller, and recorded by the Register, and not otherwise; and

Whereas it is found necessary to make further provisions to enable the Treasurer the better to carry into effect the intent of the said section in relation to the receiving and disbursing the moneys of the United States: Therefore,

Be it enacted, etc., That the rooms prepared and provided in the new Treasury building at the seat of government for the use of the Treasurer of the United States, his assistants, and clerks, and occupied by them, and also the fireproof vaults and safes erected in said rooms for the keeping of the public moneys in the possession and under the immediate control of said Treasurer—

Now, here is the language that includes the subtreasuries of the United States in the Treasury Department of the Government:

and such other apartments as are provided in this act as places of deposit of the public money are hereby constituted and declared to be the Treasury of the United States.

Not an independent branch of the Treasury of the United States, but are declared—"constituted and declared"—to be not a part, but to be the Treasury of the United States. Then follows the enumeration of the different places provided for the various subtreasuries for the better convenience of the Government in receiving and disbursing the public funds. That is what our subtreasuries are created for, and they are made subject to the provisions of this act, the subtreasuries and the Treasury here in Washington constituting the Treasury of the United States.

Now, if it is the Treasury of the United States, Mr. Chairman, we are certainly, under section 169 of the Revised Statutes, entitled to provide—that is, this House can provide—for as many clerks—that is, the clerks designated, or other employees—as the Department may deem necessary to carry on this branch of the public business.

Now, these subtreasuries, I repeat, being the Treasury of the United States, there would be no question, Mr. Chairman, of the right of this House to appropriate a lump sum for this service. We can appropriate a lump sum for the carrying on of this service in every subtreasury in the United States, and it would be in order. Why? Because the Congress of the United States has authorized this service. The Congress of the United States has expressly authorized the service in each individual case, and thereby impliedly authorized the necessary appropriation for carrying on the service. If we can appropriate a lump sum for the purpose of carrying on this service, the Secretary of the Treasury, the head of the Department, would have authority to employ as many clerks as he deemed necessary for the performance of that service, and pay them such salaries as he in his judgment deemed necessary. There can be no question in regard to his authority to do this. Do you mean to tell me that an administrative officer of this Government can do that under a lump-sum appropriation which the Congress of the United States can not do? And yet to sustain the point of order made by the gentleman from Illinois would be equivalent to declaring that, although Congress may appropriate for this service in a lump sum, and the Secretary of the Treasury has the power to expend that appropriation by employing such clerks as the service, in his judgment, may demand, and pay them such salaries as he sees fit, yet the House of Representatives can not, under its rules, segregate the appropriation and designate the number of clerks and provide specifically for their salaries. The effect of such a ruling would be to say that the House of Representatives can not exercise its constitutional function of appropriating specifically for a public service authorized by law which an administrative officer of the Government would have authority to provide for. Such a construction would be equivalent to saying that the House of Representatives, that must originate all appropriations, was not the power to provide specifically for a service that Congress has itself expressly authorized, which would be a reductio ad absurdum.

I maintain, therefore, Mr. Chairman, that this service having been established by an act of Congress, as I have shown, it is entirely competent and within the rule invoked by the gentleman from Illinois [Mr. PRINCE] for us to provide specifically how much of the appropriation we are authorized to make for this service shall go to the payment of salaries of particular clerks, and what the specific salary in each case shall be. There is no other rational or logical conclusion to be drawn from the fact that this service is established by law, that Congress has the power to appropriate by a lump sum for the purpose of carrying on that service, and that the administrative officer of the Government under such appropriation would have the power of distributing the appropriation in the payment of salaries and such other services as he, in his judgment, might deem necessary for that purpose. That being the case, and this being the Treasury of the United States and not an independent organization, I respectfully submit that this House—not the Committee on Appropriations, but the House itself—has the power to consider the question of how many clerks shall be provided for and what their compensation shall be, independent of whether there is any specific statute authorizing the appointment of a certain number of clerks. If we have not that right, if this House has not that right, then what is the logical conclusion? The logical conclusion is that this House must confine itself to rewriting and passing current appropriation bills, sending such bills to the Senate of the United States, allowing that body to originate all new appropriations, and to that extent we surrender our constitutional right and duty to originate all appropriation bills.

In my judgment, this House can not legally adopt a rule that would have that effect. If it has that effect, then the rule is in violation of the Constitution of the United States.

Mr. PRINCE. Mr. Chairman, I stand by the United States statutes. I have read the statutes to the Chairman. As I recall, not long ago an objection was made by some members of the Committee on Appropriations to some provision for the appropriation for clerks in the military bill, on the ground that while they were clerks to be appointed at the departments and divisions of the different offices connected with the military establishments of the Government, yet they were not clerks to be appointed here in Washington under the Departments, and therefore, being outside of the Departments here in Washington, they

were in the nature of separate and distinct bureaus or divisions, aside from the District of Columbia. I had returned from a sick bed to come into this House. I was not present at the time that the bill was prepared in the committee room, but I heard the discussion on this floor, and I heard the reading of an opinion, I think by the Attorney-General, holding what were Departments here in Washington and what were regarded as divisions outside of the Departments in Washington. Now, here is the law creating these places—for instance, at Cincinnati—and specifically telling what shall be the salary of the chief in charge, and specifically stating what shall be the personnel of that office and the salaries that shall be paid them. Has there been any modification of that by this House from that day to this by statute?

Mr. TAWNEY. Will the gentleman permit an interruption?

Mr. PRINCE. Yes.

Mr. TAWNEY. I think the gentleman fails to make a distinction between an institution which is the Treasury of the United States, as a subtreasury is declared by law to be, and a service that is entirely separate and distinct from departmental service here at the seat of government.

Mr. PRINCE. Very well; this is not the Treasury.

Mr. TAWNEY. The law so declares.

Mr. PRINCE. It is the subtreasury, and these are separate and distinct, and the bill itself regards it as the office of the Assistant Treasurer, and by the bill, on page 61, they call it the Independent Treasury. If we have been misled by what they call the Independent Treasury, if we have been misled by the law, which I do not think we have, it is strange that we find it out for the first time that it is the Treasury and not the Independent Treasury, as the bill declares it to be.

Mr. TAWNEY. That is merely the running head of the paragraph. That is not a part of the provision of the law.

Mr. PRINCE. Now, I insist that here is the law, and I further insist that here are the rules of this House. On page 281 it is provided:

No appropriation shall be reported—

Reported! What does that mean? It means that the Appropriations Committee of this House, if they obey the rules of the House, shall not report, let alone ask the passage in this House of any bill in violation of the rules of the House. They are told at the door of that committee room to report no provision on an appropriation bill—

No appropriation shall be reported in any general appropriation bill or be in order as an amendment thereto—

Let any gentleman on the floor of this House as a member of the Committee of the Whole rise to make an amendment to this bill, and how promptly they say it is contrary to Rule XXI, paragraph 2, because it is an amendment thereto—

for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress; nor shall any provision changing existing law be in order in any general appropriation bill or any amendment thereto.

I still contend that this entire provision is subject to a point of order, and I further contend that the particular items I have mentioned are subject to a point of order. The gentleman from Minnesota confesses, as I understand him—perhaps I do not—that there is one provision contrary to the previous current legislative act. Does not the gentleman say that there is one?

Mr. TAWNEY. I do not. The provision for increase of salary is not out of order for the reason that it is entirely within the discretion of this House, the subtreasury at Cincinnati being the Treasury of the United States, an institution created by law, we are authorized to legislate for it.

Mr. PRINCE. Well, Mr. Chairman, I deny that proposition.

Mr. GOEBEL. Mr. Chairman, the gentleman from Illinois makes the point that this is new legislation. We find that the act referred to by him was passed in 1870, more than thirty-three years ago. The number of clerks or officers mentioned therein were evidently sufficient for the transaction of the public business at that time.

We all know, Mr. Chairman, that since that time this Government has expanded and that it has become necessary in furtherance of the public business to employ additional clerks and other help. I contend that in this instance the right to appoint was with the executive department of the Government and is inherent. The executive department having exercised that power, then, for the purpose it is intended, it has the force and effect of a law, leaving it for the Congress to make the necessary appropriations for these appointees. If the Congress refuses to make the appropriation, we shall find that these employees will refuse to serve, but it will not affect the validity of the appointments.

But assuming for a moment that there was no power in the Executive to make these appointments, but the Congress having continued from year to year to make the appropriations, ought it not be estopped from asserting the invalidity of the appropriations, and ought this Congress at this time stultify itself?

It seems to me, Mr. Chairman, that by the very action of this Congress in making the fiscal appropriations of last year as well as the preceding years, it has acquiesced in these appointments and ratified them and made them a part of the statute. I submit, therefore, that the point of order is not well taken.

Mr. PRINCE. Mr. Chairman, one further suggestion with reference to the suggestion. On page 27, section 169, it says: "Each head of the Department is authorized to employ in his Department a certain number of clerks of the several classes recognized by law."

If the Chairman will notice, I have objected to some that could not be regarded in the classified service, even if the Chairman should go so far, as it seems to me he can not, as to hold that this is a part of the Treasury, because there are clerks there to which I object that are above the classified service. Therefore they are clearly subject to a point of order, and the Chair in a ruling heretofore said that when it referred to messengers, assistant messengers, copyists, watchmen, laborers, and other employees it referred to a grade below the classified grade.

Mr. TAWNEY. But the Chairman did not so rule. The Chair made no ruling on that point. He was about to rule one way or the other on the question when we discovered the existence of an express statute authorizing the eight chiefs of divisions in the Sixth Auditor's office in the Treasury Department, and thereupon the Chair declined to rule on that question, the question of whether or not "any such other employees as may be necessary," includes those of a lower grade than laborers. That has not been decided.

Mr. PRINCE. Oh, no; not lower than laborers; but a lower grade than clerks in the classified service.

Mr. TAWNEY. Or a higher grade. On that point, when the point is reached, I desire to be heard because I have a statute directly bearing upon the question.

The CHAIRMAN. Does the Chair understand the gentleman from Minnesota [Mr. TAWNEY] to say that he had a statute upon that proposition?

Mr. TAWNEY. I have a statute passed two years subsequent to the enactment of that statute cited by the gentleman from Illinois [Mr. PRINCE], being section 169 of the Revised Statutes. The legislative appropriation bill following two years thereafter appropriated for the public service in lump sums. I thought I had the sections here, but I find I have not. It reads in substance thus: "For the salary of the Secretary of the Treasury and such clerks, messengers, assistant messengers, copyists, laborers, and other employees as may be necessary, $51,000"—a lump-sum appropriation, leaving it entirely in the discretion of the head of the Department as to the number of clerks and their salaries, except as to the designation of those provided for by statute.

This shows conclusively, Mr. Chairman, that under the practically contemporaneous interpretation of this statute it was left to the discretion of the Department as to the designation of all other employees that might be required in the public service, for the reason that they appropriated for that service in a lump sum, specifying certain employees, and such other employees as in the judgment of the Department might be necessary to carry on the service authorized by Congress. Now, if it was deemed competent by the men who practically enacted that statute for the head of a Department to fix the designation of all employees in the Department, other than those expressly provided for, it is certainly competent for Congress to do the same thing when it is appropriating specifically for this service.

Mr. HULL. Mr. Chairman, I desire to say one word only, and that is that no matter what may have been done in an appropriation bill in any Congress of the past, when no point was raised, the Chair ruled, when the military bill was under consideration, that such action had no bearing whatever when a proposition of that character happened to be before the Committee of the Whole House, and the mere fact that a provision would go into an appropriation bill without a point of order being raised gave it no standing in the future Congresses, if a point should be raised against it. So that the legislation that the gentleman refers to can have no bearing on this point of order. It seems to me that the one great question on this would be, Are these appointments made by the head of a Department or are they made by some outside power entirely independent of what the head of a Department may desire for his Department?

Mr. TAWNEY. Mr. Chairman, just a word in reply to the gentleman from Iowa [Mr. HULL]. The bearing that this has upon the point of order is that it tends to show the construction

when the men who enacted this statute placed upon it almost immediately after its enactment by vesting in the heads of Departments the discretion of determining the particular designation of all employees in the Departments, except those in the four classes named, and the laborers, messengers, and copyists. That discretion was left with the Secretary of the Treasury and the heads of the Departments. Now, that was not peculiar to the appropriation for that particular Department. I thought I had before me here the act of 1846, but I find I have not. I think the Chair has the volume, and if he will turn to the legislative act in that volume of the statute he will see that every appropriation for the public service in the Executive Departments of the Government was made at that time in lump sums, the only exception being the appropriations made for the Senate and the House of Representatives. There the salaries were specifically stated; but in every other instance the appropriation for the service in the Executive Departments was a lump-sum appropriation, leaving entirely to the judgment and discretion of the administrative officers the matter of designating the clerks employed in that service, and also fixing the salaries of all clerks except those that were fixed at that time by statute. Therefore, if that is competent under a lump-sum appropriation under the statute cited by the gentleman from Illinois [Mr. PRINCE], it is certainly competent to-day for Congress to do the same thing. It would have been competent at that time for Congress to have specifically designated the positions and fix the salary for each one of them, because they would simply, in that event, be distributing the appropriation or segregating it among the personnel employed in the public service in the Executive Departments.

Mr. HARDWICK. If the Chair will permit me, just a minute. If there ever was a thing that is res adjudicata this is one. Now, I want to call the attention of the Chair to the RECORD of March 23, page 4292, and I read from the RECORD:

Mr. TAWNEY. Mr. Chairman, one word further with regard to this statute. The Chair will observe that this statute was enacted away back in 1850. I presume at that time there were no chiefs of divisions. At least we did not have the same organization that we have now in the Departments.

We did not have the same designation of employees, except the special classes were from 1 to 4, inclusive, and the laborers and messengers that we have always had. Now, the term "other employees" includes all employees that are necessary by reason of the growth of the service. Although not specifically designated or provided for, they are included in the general term "other employees."

Mr. LITTAUER. Mr. Chairman, I would simply like to add that at that time chiefs of divisions were not known specifically to the law, and consequently they must be included in the words "other employees."

The CHAIRMAN. The Chair would be inclined to give very great weight to the arguments that have been advanced were it not for the fact that the question has apparently been clearly ruled upon in the first session of the Fifty-seventh Congress. The question raised was under this same section 169 of the Revised Statutes, and the ruling seems to have been that in the use of the phrase "clerks and such messengers, assistant messengers, copyists, laborers, and other employees" the term "other employees" was used at the end of a diminishing scale and would not authorize any employee above the grade of clerk of the fourth class.

That is exactly the point now, and I point the Chair to the ruling of the Chair on March 23, in the language which I read.

The CHAIRMAN. As the Chair understands it, the gentleman from Illinois invokes against this paragraph the provision of the second clause of Rule XXI of this House that—

No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress; nor shall any provision changing existing law be in order in any general appropriation bill or in any amendment thereto.

In opposition to the point of order it is urged that section 169 of the Revised Statutes applies. That section reads as follows:

Each head of a Department is authorized to employ in his Department such numbers of clerks of the several classes recognized by law and such messengers, assistant messengers, copyists, watchmen, laborers, and other employees at such rates of compensation, respectively, as may be appropriated for by Congress from year to year.

It does not seem to the Chair that the fact stated that a year or two after the passage of that statute a general appropriation bill was passed appropriating a lump sum for one of the Departments would call for such a construction of section 169 as has been suggested, for section 169 itself distinctly says that the employees shall receive "such rates of compensation as may be appropriated for by Congress," not leaving it to the heads of Departments to determine. Now, it is suggested that the subtreasury at Cincinnati is, by reason of a provision in an act of 1846, which has been cited, a part of an Executive Department of the United States, namely, the Treasury Department, within the meaning of section 169.

The Chair does not find it necessary to pass upon that point at this time, for a reason which will be stated. The highest grade specifically mentioned in section 169 of the Revised Statutes is clerk of the fourth class, and the salary is fixed in the same statute. If the effect to be given to the term "other employees" were entirely an open question, the present occupant of the chair would be inclined to give much weight to the argument of the gentleman from Minnesota, but this precise question is found to have been decided in the first session of the Fifty-seventh Congress and the term held to apply only to employees below the grade, at least not above the grade, of clerks as classified in the act of which section 169 forms part.

The Chair, while recognizing the susceptibility of that construction to argument on either side, feels bound by the ruling then made and acquiesced in.

The Chair does not find it necessary to decide at this time whether or not the subtreasury at Cincinnati is a department or to be treated as part of the Treasury Department within the meaning of section 169, for it appears that in section 3612 of the Revised Statutes the salary of the cashier is specifically fixed at $2,000 a year.

The paragraph complained of appropriates $2,250, an increase of $250 above the salary provided by law for that officer. Some other items have been specified as also in violation of the rule. It is not necessary to pass upon them. Ordinarily a bill is read in the House by sections, but the custom has arisen—growing largely out of convenience—of reading appropriation bills in Committee of the Whole by paragraphs. It is a very old custom, founded almost upon necessity, certainly upon strong reasons of convenience, as may be seen from the fact that the first section of this bill covers 161 pages and embraces hundreds of paragraphs. This consideration of the bill by paragraphs, if not directly authorized, is clearly recognized in clause 6 of Rule XXIII.

It has often been ruled that if a point of order be made against an amendment and part of it found out of order the whole amendment must be ruled out. In one or two instances it has been similarly ruled that if a paragraph in a pending bill be objected to and part of it found subject to the point, the whole paragraph falls, and, it seems to the present occupant of the chair, with good reason. If one item is clearly shown to be in violation of the rule, it can hardly be in the province of the Chair to go through and scrutinize the entire paragraph and see what items, if any, are entitled to stay in the bill. If there are such, it would be in order to put them in again by amendment, without the obnoxious matter. Of course, where a point of order is limited to a specific item in a paragraph that item only is affected by the ruling. But this point is aimed at the whole paragraph. Finding that it contains at least one item in violation of the rule, the Chair feels constrained, for the reasons stated, to sustain the point of order against the entire paragraph.

The Clerk read as follows:

Office of assistant treasurer at New Orleans: For assistant treasurer, $4,500; chief clerk and cashier, $2,250; receiving teller, and paying teller, at $2,000 each; vault clerk, $1,800; two bookkeepers, at $1,500 each; coin clerk, $1,200; six clerks, at $1,200 each; two clerks, at $1,000 each; porter and messenger, $500; day watchman, $720; night watchman, $720; typewriter and stenographer, $1,000; in all, $28,890.

Mr. HARDWICK. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. HARDWICK. I rise to make a point of order against the entire paragraph. It has one additional teller, at $2,000, in line 22, on page 63, not authorized by existing law. Then there is a vault clerk, at $1,800, not authorized by law; a coin clerk, at $1,200, not authorized by law; six clerks, at $1,000 each, none of whom are authorized by law.

Mr. LITTAUER. Is there any change in the current law made from the former appropriation?

Mr. HARDWICK. No, sir; but from the statute law.

Mr. LITTAUER. You are making the point of order on that?

Mr. HARDWICK. The point of order is that all of those appropriations are increases in force over the force provided by section 3639 of the Revised Statutes.

Mr. TAWNEY. When was that statute enacted?

Mr. HARDWICK. I do not know; about 1873.

Mr. TAWNEY. About 1873; and the increased service since that time has been taken care of by increasing the clerks from time to time, and those increases are taken care in the present law.

Mr. HARDWICK. Yes.

Mr. TAWNEY. I simply wanted the House to know.

Mr. HARDWICK. I stated it; the gentleman can not state it any plainer than I have stated it to save his life.

The CHAIRMAN. Does the Chair understand the gentleman from New York to concede the fact?

Mr. LITTAUER. We concede nothing, Mr. Chairman. [Laughter.]

The CHAIRMAN. The Chair will ask the gentleman what statute he referred to, as the Chair was unable to hear the gentleman.

Mr. HARDWICK. Section 3609 of the Revised Statutes of the United States, page 712.

The CHAIRMAN. It may well be that the great increase of business since the time when this statute was enacted has necessitated the use and employment there of a larger number of clerks and officials. Nevertheless, it appearing that there are items in this paragraph not authorized by the statute upon the subject nor, so far as the Chair is informed, by any statute, and there being thus no previous authority for the expenditure as required by Rule XXI, the Chair is compelled to sustain the point of order.

The Clerk read as follows:

Office of assistant treasurer at New York: For assistant treasurer, $8,000; deputy assistant treasurer and cashier, $4,200; assistant cashier and chief clerk, $3,600; assistant cashier and vault clerk, $3,200; two chiefs of division, at $3,100 each; chief paying teller, $3,000; two chiefs of division, at $2,700 each; chief of division, $2,600; chief of division, and chief bookkeeper, at $2,400 each; chief of division, and assistant chief of division, at $2,300 each; two assistant chiefs of division, at $2,250 each; two assistant tellers, at $2,200 each; two assistant tellers, and one bookkeeper, at $2,100 each; six assistant tellers, one assistant chief of division, and three bookkeepers, at $2,000 each; nine assistant tellers, and two bookkeepers, at $1,800 each; two assistant tellers, at $1,700 each; four assistant tellers, one bookkeeper, and two clerks, at $1,600 each; six assistant tellers, and two clerks, at $1,500 each; nine assistant tellers, one bookkeeper, and four clerks, at $1,400 each; one assistant teller, and two clerks, at $1,300 each; eight assistant tellers, and three clerks, at $1,200 each; six assistant tellers, at $1,100 each; six assistant tellers, at $1,000 each; one clerk, $900; five assistant tellers, at $900 each; two messengers, at $1,200 each; three messengers, at $900 each; two messengers, at $800 each; two hall men, at $1,000 each; two porters, at $900 each; superintendent of building, $1,800; chief detective, $1,500; assistant detective, $1,200; two engineers, at $1,050 each; assistant engineer, $820; eight watchmen, at $720 each; in all, $295,580.

Mr. PRINCE. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. PRINCE. I desire to make the point of order against the entire paragraph, beginning with line 7, on page 64, and ending with line 24, on page 65, for the reason that in line 11, page 64, there is an assistant cashier and vault clerk, at $3,200, entirely new and unauthorized by law, and that can not by any possibility be regarded as a proper provision under section 169 of the statutes as heretofore quoted.

The CHAIRMAN. The Chair did not hear the last item the gentleman read.

Mr. PRINCE. It is poison enough to knock out all of it, and they put it in themselves. Assistant cashier and vault clerk, at $3,200, in line 11, beginning with the word "assistant" and ending in line 12 with the word "dollars"—that one is enough. There are a number of others that could be raised.

The CHAIRMAN. Will the gentleman specify the others?

Mr. PRINCE. On page 64, in line 12, "one chief of division, at $3,100." I make the point of order against the entire provision. It is unauthorized by law. Two chiefs of division are provided at $3,100. I make another point of order on line 13, "chief paying teller, $3,000;" another point of order, on line 14, beginning with the words "two chiefs of division, at $2,700 each;" line 15, another point of order, "chief of division, $2,600;" line 16, another point of order, "chief of division and chief bookkeeper, at $2,400 each;" and in line 17, "chief of division and assistant chief of division, at $2,300 each;" line 19 again, "two assistant chiefs of division, at $2,250 each;" line 20, "two assistant tellers, at $2,200 each;" further on, "two assistant tellers and one bookkeeper, at $2,100 each;" and I refer the Chairman to section 3603, Revised Statutes, page 711.

The CHAIRMAN. The Chair understands the point of order of the gentleman from Illinois to be that the positions he has named are not authorized at all by section 3603.

Mr. PRINCE. Some are, and some are not. Some are increases; but the one to which I specially call the attention of the Chair, in view of his former ruling, is the one on page 64, line 11, "assistant cashier and vault clerk, $3,200." That is an entirely new office, not authorized by the section of the law, and can not be authorized under section 169, which has been so frequently read. And if, as it has been held heretofore, there is poison enough in the other provisions to put the entire paragraph out, there is poison enough in this one proposition to put the entire paragraph out.

The CHAIRMAN. Does the Chair, then, understand the gentleman's point of order to be based on the single item he has specified?

Mr. PRINCE. Yes.

The CHAIRMAN. The Chair has made but a hasty examination of section 3603 of the Revised Statutes, to which reference was made, and deems further consideration unnecessary, as it appears that section 3604 immediately following controlles this language:

The assistant treasurer at New York may appoint, from time to time, by and with the consent and approbation of the Secretary of the Treasury, such other clerks, messengers, and watchmen, in addition to those already employed by him, as the exigencies of the public business may require, at rates of compensation to be fixed by the Secretary of the Treasury; but such rates shall in no case exceed those allowed by law for the several persons similarly employed in the office of the said assistant treasurer.

The Chair is not advised or informed that the salary allowed in this bill in the item complained of is in excess of that allowed other persons similarly employed in the same office, and therefore the appropriation for this clerk being apparently authorized by section 3604, the Chair overrules the point of order.

The Clerk read as follows:

Office of assistant treasurer at Philadelphia: For assistant treasurer, $4,500; cashier and chief clerk, $2,500; paying teller, $2,300; coin and paying teller, $2,000; bond and authorities clerk, $1,600; vault clerk, $1,600; bookkeeper, $1,800; assorting teller, $1,800; redemption teller, $1,600; receiving teller, $1,700; two clerks, at $1,500 each; three clerks, at $1,400 each; clerk, $1,300; six clerks, at $1,200 each; superintendent messenger and chief watchman, $1,100; six counters, at $900 each; seven watchmen, at $720 each; in all, $48,940.

Mr. HARDWICK. Mr. Chairman, I make the point of order against the entire paragraph, and I specify as new, the paying teller, line 4, at $2,500. Second, the bond and authorization clerk at $1,600, in lines 5 and 6. Then there is an increase over the salary fixed by statute of the receiving teller, $1,700, in line 10. I say that all of these provisions are not authorized by section 3605 of the Revised Statutes of the United States, and therefore in violation of Rule XXI, and that the entire paragraph is subject to the point of order under the ruling of the Chair.

The CHAIRMAN. Without investigating further, it seems that the paragraph objected to contains an appropriation of salary or compensation for the receiving teller in excess of that authorized by section 3605 of the Revised Statutes. There seems to be no such general provision with reference to the assistant treasurer at Philadelphia as we find relating to the assistant treasurer at New York.

Mr. TAWNEY. Mr. Chairman, I want to call attention to the fact that the assistant treasurer at Philadelphia is specifically provided for in the act of 1846, which I cited a few minutes ago, constituting a part of the Treasury of the United States. It is one of the five places outside of the Treasury building here in Washington that the statute of 1846 defines as the Treasury of the United States. If the Chair has read this provision, he will observe that it designates what constitutes the Treasury of the United States; this building down here occupied by the Secretary, the building at Philadelphia, the custom-house in New York, the custom-house in Boston, and the one in New Orleans is constituted by statute the Treasury of the United States. Therefore it is entirely within Rule XXI.

The CHAIRMAN. That is a point upon which the Chair has not felt called upon to pass, as to whether or not it did constitute a Department within the intendment of section 169 of the Revised Statutes. The difficulty is that whether we treat it as a Department or not an act of Congress itself specifically fixes the salary of this particular employee at $1,300, and the paragraph in question appropriates $1,700, or $400 apparently without authority of law; whereas the second clause of Rule XXI expressly declares that no appropriation shall be in order "for any expenditure not previously authorized by law." The Chair is, therefore, compelled to sustain the point of order.

Mr. TAWNEY. I will ask the Chair this question: If it would be competent, in the judgment of the Chair, for Congress to appropriate a lump sum for the service in this subtreasury, and in that event, would it not be competent for the Secretary of the Treasury to increase this salary from thirteen hundred to seventeen hundred dollars?

The CHAIRMAN. That is a question the Chair would prefer to meet when the occasion arises.

Mr. MORRELL. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. MORRELL. In reference to the subject-matter of this paragraph and the point of order. Might I ask the Chair if the fact of the authorization of this office would not presuppose that there were and carry with it sufficient and the proper kind of employees to carry it on?

The CHAIRMAN. The difficulty is that the act of Congress specifically provides the employees who shall carry on the office of the assistant treasurer at Philadelphia, but what is most important is that this particular office in question has a fixed salary of $1,300; there is no authority of law for an appropriation of a larger amount, and under the rule of this House an

appropriation is not in order without previous authority of law for the expenditure.

Mr. MORRELL. Mr. Chairman, may I ask if the law presupposed that the business of this office should always remain at a standstill and never increase, and that no recommendation made even by the Secretary of the Treasury should be considered? In other words, that it simply means that the office has got to stand still on the level that it was originally constituted.

The CHAIRMAN. The present occupant of the chair is in entire sympathy with the purpose of the gentleman from Pennsylvania, but unfortunately the Chair can not presuppose anything except what he finds in the statute. The second clause of Rule XXI specially provides that there can be no appropriation without previous authority of law, and the law fixes the salary of this office at $1,300. Hence an appropriation of seventeen hundred violates the rule. The Chair can only pass upon the point of order and the rule and not upon the merits of the proposed appropriation. The paragraph in question appropriates $1,700 and is out of order because there is no authority of law for the $400 difference.

Mr. MORRELL. Then the increase in population, increase of importance, increase in the business, does not cut any ice as far as these provisions are concerned.

The CHAIRMAN. Such a proposition would undoubtedly cut ice if a bill were pending for an increase of clerks or increase of salaries, but it does not in the construction of a rule of the House. [Laughter.]

The Clerk read as follows:

Office of assistant treasurer at St. Louis: For assistant treasurer, $4,000; cashier and chief clerk, $2,500; first teller, $2,000; second teller, $1,800; third teller, $1,600; assorting teller, $1,800; assistant assorting teller, $1,500; coin teller, $1,200; bookkeeper, $1,500; nine clerks, at $1,200 each; three clerks, at $1,000 each; three day watchmen and coin counters, at $900 each; night watchman, $720; two janitors, at $600 each; in all, $36,820.

Mr. HARDWICK. Mr. Chairman, I make the point of order against the paragraph. In line 22 a first teller is provided for at a salary of $2,000. His salary is fixed by the statutes of the United States at $1,800. Immediately following that, in the same line, a second teller is provided for at $1,800. That is an entirely new office. Following that a third teller, in line 23, is provided for at $1,600, also a new office not authorized by the statute, and I refer the Chair on this proposition to section 3607 of the Revised Statutes of the United States.

The CHAIRMAN. The Chair sustains the point of order. The Clerk will read.

The Clerk read as follows:

Office of assistant treasurer at San Francisco: For assistant treasurer, $4,500; cashier, $2,500; bookkeeper, $1,800; chief clerk, $2,000; assistant cashier, $2,000; first teller, $2,250; assistant bookkeeper, $1,800; coin teller, and one clerk, at $1,800 each; clerk, $1,500; clerk, $1,400; messenger, $840; four watchmen, at $720 each; and two coin counters, at $900 each; in all, $28,670.

Mr. PRINCE. Mr. Chairman, I make the point of order against the entire paragraph beginning on page 67 with line 8 and closing with line 21. In line 11 a chief clerk at $2,000 is provided for, which is new legislation; in line 13 a second teller is provided for at $2,250, also new legislation, and in line 16 a clerk at $1,500 is also new. Then also the one following, the clerk at $1,400 is new legislation. Two coin counters at $900 each also. This paragraph is in violation of section 3610, page 712, Title XI, of the Revised Statutes of the United States, second edition, 1878.

The CHAIRMAN. The Chair will have to ask the gentleman from Illinois [Mr. PRINCE] to specify a little more particularly. The Chair has difficulty to find just what the matter is. Does the gentleman contend that there are increases of salary?

Mr. PRINCE. No; they are new and unauthorized. They do not fall under the provisions of section 169. Here is a chief clerk at $2,000. The highest classified clerks are $1,800. An assistant cashier at $2,000, while the highest classified clerk is $1,800. There is also a first teller at $2,250.

The CHAIRMAN. There may be a slight change of name in some of the items of the paragraph of the appropriation bill, so that it is difficult to compare with the statute; but the salaries provided for in section 3610 seem to be higher in some particulars than in the bill itself.

Mr. KAHN. That is true; they are higher.

The CHAIRMAN. The Chair finds in the act of Congress one assistant bookkeeper at $2,000. Is that the same item?

Mr. PRINCE. I don't know. I don't think it is. It might be possible. Let us pass that for a moment. First teller, $2,250, on line 13. I can not find any assistant teller in the section that I have referred to. If they see fit to reduce a bookkeeper's salary they can not reduce his salary and call him a classified clerk when they call him a bookkeeper, and then put in another man and regard him as a bookkeeper.

The CHAIRMAN. The Chair finds that there is a provision here in this paragraph for a clerk at a salary of $2,000, apparently not authorized by the statute. Now, even if this office of assistant treasurer at San Francisco can be construed a department, within the meaning of section 169 of the Revised Statutes, nevertheless as that section has been construed by former occupants of the Chair strictly it does not authorize an appropriation for an employee above the class of clerk provided for in that statute, which was a clerk of the fourth class at $1,800. The Chair is therefor compelled to sustain the point of order against the paragraph. The Clerk will read.

The Clerk read as follows:

Mint at Denver, Colo.: For superintendent, $4,500; assayer, melter and refiner, and coiner, at $3,000 each; chief clerk, $2,500; weigh clerk, $2,000; cashier, $2,250; assistant assayer, assistant melter and refiner, and assistant coiner, at $2,000 each; bookkeeper, $1,800; abstract clerk, warrant clerk, assistant weigh clerk, and calculating clerk, at $1,600 each; calculating clerk, $1,400; and two clerks, at $1,200 each; in all, $38,250.

Mr. HARDWICK and Mr. JOHNSON rose.

The CHAIRMAN. For what purpose does the gentleman from Georgia rise?

Mr. HARDWICK. To make a point of order.

Mr. JOHNSON. I rose to offer an amendment to the paragraph.

Mr. HARDWICK. I make the point of order against the entire paragraph on the ground that the chief clerk, at a salary of $2,500, in lines 21 and 22, is unauthorized by law; that the weigh clerk, at a salary of $2,000, is unauthorized by law; that the cashier, at $2,250 is unauthorized by law; that the bookkeeper, at $1,800, is unauthorized by law.

Mr. BROOKS of Colorado. Mr. Chairman, I would like to be heard on that point of order, and suggest that the gentleman is quoting the wrong statute.

The CHAIRMAN. The Chair will hear the gentleman from Colorado.

Mr. BROOKS of Colorado. Mr. Chairman, the statute applying to officers at the Denver mint is a special statute. The executive force was provided for as a general provision in the legislative, executive, and judicial appropriation act of 1904. The gentleman is in error in thinking that a portion, at least, of the clerks to whom he has made objection are open to any point of order. I have before me the legislative, executive, and judicial appropriation bill for 1904 in which the provision is made, in general terms, that as soon as this mint becomes a coinage mint thereafter it shall be discretionary with the Secretary of the Treasury to appoint the executive force therein mentioned, and that modifies the coinage act of 1873, from which the gentleman read.

The CHAIRMAN. The Chair will be glad if the gentleman will send to the Chair the statute to which he referred.

Mr. BROOKS of Colorado. I admit there are two clerks there who are not specified in that act, but they are not the ones which the gentleman mentioned.

Mr. HARDWICK. Mr. Chairman, I want to say just this, if the Chair will pardon me: No matter what the legislative act of 1904 is, it was in violation of the statutes of the United States. That is the point we make, and the fact that it was contained in a provision of the legislative, executive, and judicial appropriation bill would not meet the point we are now urging against it.

Mr. BROOKS of Colorado. But that statute is general in terms; it does not apply to any specific year; it simply authorized the Secretary of the Treasury to appoint those people.

The CHAIRMAN. The Chair is of opinion the provision found in the act of March 18, 1904, does authorize the appointment of the force therein specified and at the salaries therein named, but understands it to be conceded that the paragraph in question does contain one item——

Mr. PRINCE. Two, he said.

The CHAIRMAN. Not found in the act of 1904. Is that correct?

Mr. BROOKS of Colorado. I have not compared them, but there is one; the weigh clerk is carried at a different salary than was provided in the act of 1904. But I want to call the Chair's attention to and submit what is known as the "Blount ruling," for the consideration of the Chair. I think that because under the legislative bill of last year the same force was mentioned and provided for which is provided for in the bill for this year, therefore under what is known as the "Blount ruling" that provision becomes existing law in this case. I would like to submit that executive bill also for the consideration of the Chair. The Chair will understand, I think, that these officers who are objected to are those of the executive officers who are not covered by the act of 1904.

Mr. PRINCE. Will the gentleman from Colorado yield to a question?

Mr. BROOKS of Colorado. Certainly.

Mr. PRINCE. Looking at the legislative bill, on page 68, line 20, you claim that the "chief clerk, $2,500," is not new?

Mr. BROOKS of Colorado. I did not say that. I said a weigh clerk.

Mr. PRINCE. What do you say as to the other clerks?

Mr. BROOKS of Colorado. I said I had not compared this section of the pending bill with the section of the law of 1904, but I said I admitted that there was one and possibly others against whom this point would lie, but not those that the gentleman from Georgia mentioned.

The CHAIRMAN. The Chair understands that the gentleman from Illinois has concluded his remarks.

Mr. PRINCE. Yes, sir.

The CHAIRMAN. The Chair is of opinion that the officers, clerks, etc., in the mint at Denver, are fixed in the act of March 18, 1904; that was an appropriation bill, but nevertheless did more than appropriate for that year. It contained matters of permanent legislation and made continuing provision for this mint—appropriations would be in order upon this pending bill for any salary for any position authorized by the said act of 1904. It provides for a weigh clerk at $1,600. It provides for the position and fixes the salary. But in the paragraph to which objection is made the weigh clerk is allowed $2,000, or $400 more than the act of 1904 authorized. The attention of the Chair has been called to a ruling first made in the first session of the Fiftieth Congress, reported on page 355 of the Manual, thus:

In the absence of a general law fixing a salary, the amount appropriated in the last appropriation bill has been held to be the legal salary, although in violation of the general rule that an appropriation bill makes law only for the year.

But the difficulty in applying that rule here is that the general law does fix the salary at $1,600, and as the paragraph appropriates more than that amount without authority of law, the Chair is compelled to sustain the point of order.

Mr. BROOKS of Colorado. But as I understand—and I ask the gentleman from Georgia if I am not right—that the objection was not to the whole paragraph, but to particular obnoxious items.

Mr. HARDWICK. I will make objection only to the particular things I have specified, if the gentleman prefers it that way.

The CHAIRMAN. Does the Chair understand the gentleman from Georgia now to limit the point to the item referred to?

Mr. HARDWICK. Yes, sir.

The CHAIRMAN. The Chair sustains, then, the point of order against the item of "weigh clerk, at $1,600."

Mr. LITTAUER. Do I understand, then, that the other items in this paragraph remain in?

The CHAIRMAN. The Chair understands the point of order was limited to the appropriation for one weighing clerk.

Mr. LITTAUER. I think the ruling some time ago was that where one item was out of order that carried out the whole of the paragraph.

The CHAIRMAN. That has been the ruling, provided that the point of order is directed to the whole paragraph. It has frequently been ruled it may be limited to one item. In this instance the point was not urged against the paragraph, but was limited to a single item in the paragraph.

The Clerk read as follows:

For wages of workmen and adjusters, and not exceeding $10,000 for other clerks and employees, $75,000.

Mr. BROOKS of Colorado. Mr. Chairman, I submit the amendment which I send to the Clerk's desk.

The Clerk read as follows:

In lines 7 and 8, page 69, strike out the word "seventy-five" and insert "one hundred and fifty" in lieu thereof.

The CHAIRMAN. The question is on agreeing to the amendment.

Mr. JOHNSON. I want to be heard before action is taken on the amendment.

The CHAIRMAN. The gentleman from Colorado is entitled to the floor.

Mr. BROOKS of Colorado. I wish to speak to the amendment.

Mr. LITTAUER. Pending consideration of this matter, I move that the committee do now rise.

Mr. BROOKS of Colorado. I would like to know the parliamentary status of this amendment. I understand that the amendment is the first thing in order in the morning.

The CHAIRMAN. The amendment will be considered as pending when the consideration of the bill is resumed, and the Chair will recognize the gentleman from Colorado.

The motion was then agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. OLMSTED, Chairman Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 16472—the legislative, executive, and judicial appropriation bill—and had come to no resolution thereon.

ENROLLED BILLS SIGNED.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

H. R. 14467. An act for the relief of Maj. George E. Pickett, paymaster, United States Army;

H. R. 4463. An act to amend section 2 of an act entitled "An act to provide for the appointment of a sealer and assistant sealer of weights and measures in the District of Columbia, and for other purposes;"

H. R. 13842. An act to amend an act entitled "An act to incorporate The Eastern Star Home for the District of Columbia," approved March 10, 1902;

H. R. 125. An act regulating the retent on contracts with the District of Columbia;

H. R. 4470. An act to amend an act entitled "An act to provide for the appointment of a sealer and assistant sealer of weights and measures in the District of Columbia, and for other purposes," approved March 2, 1895; and

H. R. 14813. An act to amend an act approved March 1, 1905, entitled "An act to amend section 4 of an act entitled 'An act relating to the Metropolitan police of the District of Columbia,' approved February 28, 1901."

SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 290. An act to amend the act approved March 15, 1878, entitled "An act for the relief of William A. Hammond, late Surgeon-General of the Army"—to the Committee on Claims.

S. 1697. An act confirming to certain claimants thereto portions of lands known as Fort Clinch Reservation, in the State of Florida—to the Committee on Private Land Claims.

S. 4623. An act for the relief of Sarah E. Baxter, executrix of the last will and testament of Warren S. Baxter—to the Committee on Private Land Claims.

S. 4925. An act to amend the act approved March 6, 1886, relating to the anchorage and movement of vessels in St. Marys River—to the Committee on Interstate and Foreign Commerce.

S. 5026. An act providing for the establishment of a life-saving station at or near Neah Bay, in connection therewith, for life-saving purposes in the vicinity of the North Pacific coast of the United States, etc.—to the Committee on Interstate and Foreign Commerce.

S. 5203. An act granting to the Chicago, Milwaukee and St. Paul Railway Company, of Montana, a right of way through the Fort Keogh Military Reservation, in Montana, and for other purposes—to the Committee on Military Affairs.

S. 4976. An act to grant certain land to the State of Minnesota to be used as a site for the construction of a sanitarium for the treatment of consumptives—to the Committee on the Public Lands.

S. 1668. An act for the relief of the administrator of the estate of Gotlob Groezinger—to the Committee on Claims.

COMMITTEE ASSIGNMENT.

The SPEAKER. The Chair announces the following committee assignment.

The Clerk read as follows:

Committee on Pensions—Mr. SAMUEL, of Pennsylvania.

DAM NEAR BERRIEN SPRINGS, MICH.

Mr. HAMILTON. Mr. Speaker, I ask unanimous consent for the present consideration of the bill I send to the Clerk's desk to be read.

The Clerk read as follows:

A bill (H. R. 16671) permitting the building of a dam across the St. Joseph River near the village of Berrien Springs, Berrien County, Mich.

Be it enacted, etc., That the consent of Congress is hereby granted to the Berrien Springs Power and Electric Company, a corporation organized under the laws of the State of Michigan, its successors and assigns, to construct, erect, and maintain a dam across the St. Joseph River, in Berrien County, in the State of Michigan, at any point within 2 miles south of the highway bridge at Berrien Springs, together with all necessary works appurtenant thereto: *Provided*, That the plans of said dam shall be submitted to and be approved by the Chief of Engineers and the Secretary of War before construction is commenced; and the Secretary of War may at any time require and enforce, at the expense of the owners, such modifications in the construction of said dam as he may deem advisable in the interests of navigation: *Provided further*, That there shall be placed and maintained in connection with said dam a sluiceway so arranged as to permit logs, timber, and lumber to pass around, through, or over said dam without unreasonable delay or hindrance and without toll or charges; and suitable fishways

to be approved by the United States Fish Commission, shall be constructed and maintained on said dam.

SEC. 2. That before the construction of said dam shall be begun, the permission of the board of supervisors of Berrien County, Mich., shall be obtained thereto, and compensation shall be made for all property taken or damages thereby occasioned according to the laws of the State of Michigan.

SEC. 3. That this act shall be null and void unless the dam herein authorized is commenced within two years and completed within five years from the date hereof.

SEC. 4. That the right to amend or repeal this act is hereby expressly reserved.

The amendments recommended by the committee were read, as follows:

On page 2, at the end of line 6, insert the following: "and suitable gates, weirs, and sluices shall be provided in said dam, and shall be so operated as to furnish at all times the flow of water necessary for the navigation of the St. Joseph River below Berrien Springs."

On page 2, in line 16, strike out the word "two" and insert the word "one;" strike letter "s" from word "years."

On page 2, in line 17, strike out the word "five" and insert the word "three."

The SPEAKER. Is there objection?

Mr. PAYNE. Reserving the right to object, I would like to ask the gentleman if this river is practically navigable?

Mr. HAMILTON. No.

Mr. PAYNE. Has it ever been navigated?

Mr. HAMILTON. This dam is above the point of navigation. There are already seven dams across the river above the point of navigation.

Mr. PAYNE. It is above the point of navigation? Has the Government any improvements there?

Mr. HAMILTON. No; there are no Government improvements; and this bill has twice been recommended by the War Department.

Mr. PAYNE. I have no objection.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The amendments recommended by the committee were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

On motion of Mr. HAMILTON, a motion to reconsider the vote by which the bill was passed was laid on the table.

Mr. LITTAUER. I move that the House do now adjourn.

The motion was agreed to.

Accordingly (at 5 o'clock p. m.) the House adjourned.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred by the Speaker as follows:

A letter from the Acting Secretary of the Treasury, transmitting a copy of a letter from the Secretary of War submitting an estimate of appropriation for second secretary of the embassy to Brazil—to the Committee on Foreign Affairs, and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Secretary of War submitting a recommendation for relief of Col. George S. Grimes, United States Army—to the Committee on Claims, and ordered to be printed.

A letter from the secretary of Porto Rico, transmitting a joint resolution of the legislative assembly praying for protection to the coffee of Porto Rico—to the Committee on Ways and Means, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. CAPRON, from the Committee on the Territories, to which was referred the bill of the House (H. R. 13543) for the protection and regulation of the fisheries of Alaska, reported the same with amendment, accompanied by a report (No. 2657); which said bill and report were referred to the House Calendar.

Mr. CUSHMAN, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the Senate (S. 5181) to authorize the construction of a bridge across the Snake River between Whitman and Columbia counties, in the State of Washington, reported the same with amendment, accompanied by a report (No. 2658); which said bill and report were referred to the House Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 5182) to authorize the construction of a bridge across the Columbia River between Franklin and Benton counties, in the State of Washington, reported the same with amendment, accompanied by a report (No. 2659); which said bill and report were referred to the House Calendar.

He also, from the same Committee, to which was referred the bill of the Senate (S. 5183) to authorize the construction of a bridge across the Columbia River between Douglas and Kittitas counties, in the State of Washington, reported the same with amendment, accompanied by a report (No. 2660); which said bill and report were referred to the House Calendar.

Mr. MANN, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the House (H. R. 47) to amend section 4386 of the Revised Statutes of the United States, reported the same with amendment, accompanied by a report (No. 2661); which said bill and report were referred to the House Calendar.

Mr. HULL, from the Committee on Military Affairs, to which was referred the bill of the Senate (S. 4109) to increase the efficiency of the Bureau of Insular Affairs of the War Department, reported the same with amendment, accompanied by a report (No. 2662); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. TIRRELL, from the Committee on the Judiciary, to which was referred the bill of the House (H. R. 16802) to fix the regular terms of the circuit and district courts of the United States for the southern division of the northern district of Alabama, and for other purposes, reported the same with amendment, accompanied by a report (No. 2664); which said bill and report were referred to the House Calendar.

Mr. CAPRON, from the Committee on Military Affairs, to which was referred the bill of the Senate (S. 4111) to authorize the Chief of Ordnance, United States Army, to receive four 3.6-inch breech-loading field guns, carriages, caissons, limbers, and their pertaining equipment from the State of Connecticut, reported the same without amendment, accompanied by a report (No. 2665); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. STEVENS of Minnesota, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the House (H. R. 15923) to provide for the construction of a bridge across Rainy River, in the State of Minnesota, reported the same with amendment, accompanied by a report (No. 2666); which said bill and report were referred to the House Calendar.

Mr. HULL, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 35) authorizing the Secretary of War to accept the tract of land at or near Greeneville, Tenn., where lie the remains of Andrew Johnson, late President of the United States, and establishing the same as a fourth-class national cemetery, reported the same without amendment, accompanied by a report (No. 2667); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. CURRIER, from the Committee on Patents, to which was referred the bill of the House (H. R. 15911) to amend the laws of the United States relating to the registration of trade-marks, reported the same with amendment, accompanied by a report (No. 2668); which said bill and report were referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. SLAYDEN, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 3498) for the relief of Stephen M. Honeycutt, reported the same without amendment, accompanied by a report (No. 2662); which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS INTRODUCED.

Under clause 3 of Rule XXII, bills resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. MAYNARD: A bill (H. R. 17408) to establish a lightship at a point about 6 miles east of Cape Henry, Virginia—to the Committee on Interstate and Foreign Commerce.

By Mr. LONGWORTH: A bill (H. R. 17409) incorporating the Archæological Institute of America—to the Committee on the District of Columbia.

By Mr. CAMPBELL of Ohio: A bill (H. R. 17410) to increase the pension of certain pensioned soldiers and sailors who have

lost the sight of one eye or the sight of both eyes in the service of the United States, and to provide for a rate of pension for those who have lost the sight of one eye and partial loss of sight of the other eye—to the Committee on Invalid Pensions.

By Mr. KINKAID: A bill (H. R. 17411) for the resurvey of certain townships in the State of Nebraska—to the Committee on the Public Lands.

By Mr. BISHOP (by request): A bill (H. R. 17412) for acquiring by condemnation, for Government reservations, certain triangles on Sixteenth street, in the city of Washington—to the Committee on the District of Columbia.

By Mr. NEVIN: A bill (H. R. 17413) to amend section 4833 of the United States Statutes at Large as amended—to the Committee on Military Affairs.

Also, a bill (H. R. 17414) making an appropriation to aid in the erection of a monument on the site of Fort Hamilton, Butler County, Ohio—to the Committee on the Library.

By Mr. LACEY: A bill (H. R. 17415) to authorize the assignees of coal land locations to make entry under the coal land laws applicable to Alaska—to the Committee on the Public Lands.

By Mr. MOON of Tennessee: A bill (H. R. 17416) to authorize the Secretary of War to grant a permit to construct and operate an electric railway through the Chattanooga and Chickamauga National Military Park—to the Committee on Military Affairs.

By Mr. BURTON of Ohio: A resolution (H. Res. 380) to amend paragraph 8 of Rule XI, House of Representatives—to the Committee on Rules.

By Mr. GILLETT of Massachusetts: A resolution (H. Res. 381) to amend the Rules of the House of Representatives—to the Committee on Rules.

By Mr. TAWNEY: A resolution (H. Res. 383) providing for the further consideration of the bill H. R. 16472—to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS INTRODUCED.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. BELL of Georgia: A bill (H. R. 17417) for the relief of the heirs of Hardy Pace, deceased—to the Committee on War Claims.

By Mr. BINGHAM: A bill (H. R. 17418) granting a pension to Jacob N. Wunder—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17419) granting a pension to Mary Zoi Randall—to the Committee on Invalid Pensions.

By Mr. BRICK: A bill (H. R. 17420) granting a pension to Charles C. Marshall—to the Committee on Invalid Pensions.

By Mr. BURTON of Ohio: A bill (H. R. 17421) granting a pension to Nellie V. C. Worden—to the Committee on Invalid Pensions.

By Mr. COCKS: A bill (H. R. 17422) granting an increase of pension to Orlando Hand—to the Committee on Invalid Pensions.

By Mr. CURTIS: A bill (H. R. 17423) for the relief of the heirs of Eli F. Bouton—to the Committee on War Claims.

Also, a bill (H. R. 17424) granting a pension to John H. Riley—to the Committee on Invalid Pensions.

By Mr. DOVENER: A bill (H. R. 17425) granting an increase of pension to Hugh A. Hawkins—to the Committee on Invalid Pensions.

By Mr. HALE: A bill (H. R. 17426) granting an increase of pension to Jonathan E. Young—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17427) to remove the charge of desertion against John C. White—to the Committee on Military Affairs.

By Mr. KAHN: A bill (H. R. 17428) granting a pension to Mary E. McKinnon—to the Committee on Pensions.

By Mr. LORIMER: A bill (H. R. 17429) granting an increase of pension to Mary C. Bagby—to the Committee on Invalid Pensions.

By Mr. LOUDENSLAGER: A bill (H. R. 17430) granting an increase of pension to John A. Mather—to the Committee on Invalid Pensions.

By Mr. McGUIRE: A bill (H. R. 17431) granting to the regents of the University of Oklahoma section No. 36, in township No. 9 north of range No. 3 west of the Indian meridian, in Cleveland County, Oklahoma Territory—to the Committee on the Territories.

By Mr. NEVIN: A bill (H. R. 17432) granting a pension to John C. Wheaton—to the Committee on Pensions.

Also, a bill (H. R. 17433) granting a pension to James Pusey—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17434) granting an increase of pension to David A. Roush—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17435) granting an increase of pension to Mary Jane West—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17436) granting an increase of pension to Silas A. Wardlow—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17437) granting an increase of pension to Lena Klein—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17438) to remove the charge of desertion from the record of Anton Smith, alias Charles Roehmer—to the Committee on Military Affairs.

Also, a bill (H. R. 17439) placing upon the records of the War Department the names of the members of the Dayton Zouave Rangers as volunteer soldiers of the United States—to the Committee on Military Affairs.

By Mr. RHINOCK: A bill (H. R. 17440) for the relief of Mrs. Mary A. Coe—to the Committee on War Claims.

By Mr. RICHARDSON of Alabama: A bill (H. R. 17441) granting a pension to Albert M. Geiger—to the Committee on Pensions.

By Mr. SAMUEL: A bill (H. R. 17442) granting a pension to Benjamin F. Hicks—to the Committee on Invalid Pensions.

By Mr. STERLING: A bill (H. R. 17443) granting a pension to Alexander Miller—to the Committee on Invalid Pensions.

By Mr. THOMAS of Ohio: A bill (H. R. 17444) granting a pension to Emeline Beattie—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17445) granting an increase of pension to William H. Farrell—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17446) granting an increase of pension to Lucius W. Waters—to the Committee on Invalid Pensions.

By Mr. WACHTER: A bill (H. R. 17447) granting an increase of pension to Margaret V. Worth—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17448) granting an increase of pension to Thomas M. Magness—to the Committee on Invalid Pensions.

By Mr. WEEKS: A bill (H. R. 17449) granting an increase of pension to Carlton Cross—to the Committee on Invalid Pensions.

By Mr. PARKER: A bill (H. R. 17450) for the adjudication of the claim of Henry A. V. Post by the Court of Claims—to the Committee on Claims.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of bills of the following titles; which were thereupon referred as follows:

A bill (H. R. 17398) for the relief of Sarah E. Talley—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 17050) granting an increase of pension to Theodore F. Montgomery—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 9777) granting a pension to Annie Valerie Stockton—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 8226) granting a pension to Laura B. Ihrie—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 17372) granting an increase of pension to Arethusa M. Pettit—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 17032) for the relief of Richard Robins—Committee on Claims discharged, and referred to the Committee on War Claims.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ADAMS of Pennsylvania: Petition of Silver Crescent Council, No. 3, Daughters of Liberty, Philadelphia, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of Indian Rights Association, for that part of statehood bill affecting the Five Indian Tribes—to the Committee on Indian Affairs.

Also, petition of citizens of Pennsylvania, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of Progress Council, No. 29, Daughters of Liberty, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of Naval Post, No. 400, Department of Pennsylvania, for bill H. R. 3814—to the Committee on Invalid Pensions.

By Mr. ADAMS of Wisconsin: Petition of citizens of Wis-

sin, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. ALEXANDER: Petition of Political Equality Club of Erie County, N. Y., to investigate industrial condition of women—to the Committee on Appropriations.

Also, petition of Buffalo Forge Company and Manufacturers' Club, Buffalo, against anti-injunction bill—to the Committee on the Judiciary.

By Mr. BOWERSOCK: Petition of American Free Art League, of Boston, for removal of duty on works of art—to the Committee on Ways and Means.

By Mr. BROWNLOW: Paper to accompany bill for relief of J. A. Galbraith—to the Committee on Claims.

By Mr. BUCKMAN: Petition of citizens of Royalton, Minn., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of The Herald, against tariff on linotype machines—to the Committee on Ways and Means.

By Mr. BURLEIGH: Petition of citizens of Maine, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. CAMPBELL of Ohio: Petition of citizens of Ohio, against a parcels-post law—to the Committee on the Post-Office and Post-Roads.

By Mr. CHAPMAN: Paper to accompany bill for relief of Fannie Pemberton—to the Committee on War Claims.

By Mr. CLARK of Missouri: Petition of dean and faculty of Missouri College, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. COCKRAN: Petition of The Industrial Press, against tariff on linotype machines—to the Committee on Ways and Means.

Also, petition of business firms et al., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. CURTIS: Petition of citizens of Kansas, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of citizens of Kansas, against a parcels-post law—to the Committee on the Post-Office and Post-Roads.

Also, petition of citizens of Kansas, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. DARRAGH: Petition of citizens of Charlevoix County, against the repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of citizens of Montcalm, Mich., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of citizens of Michigan, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. DAWSON: Petition of Luke Roberts et al., citizens of Clinton, Iowa, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of National Association of Cement Users, for Geological Survey investigation of structural material—to the Committee on Appropriations.

By Mr. DUNWELL: Petition of American Bankers' Association, for bill H. R. 15846, relative to transportation bill of lading—to the Committee on Interstate and Foreign Commerce.

Also, petition of Robert S. Waddell, against the Du Pont powder monopoly—to the Committee on Military Affairs.

Also, petition of various State legislatures, for control of freight rates on railways by Interstate Commerce Commission—to the Committee on Interstate and Foreign Commerce.

Also, petition of Commercial Travelers' Mutual Accident Association of America, for amendment to bankruptcy law—to the Committee on the Judiciary.

Also, petition of Lake Torpedo Boat Company, for bill H. R. 17233—to the Committee on Naval Affairs.

Also, petition of Public Education Society, for regulation of child labor, a child's bureau, and investigation of labor of women and children in the District of Columbia—to the Committee on the District of Columbia.

By Mr. ESCH: Petition of citizens of Wisconsin, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. FITZGERALD: Petition of Chamber of Commerce, Buffalo, for the Gallinger subsidy bill—to the Committee on the Merchant Marine and Fisheries.

Also, petition of New York Florists' Club, against free distribution of seeds—to the Committee on Agriculture.

Also, petition of U. S. Grant Post, No. 327, Grand Army of the Republic, Brooklyn, N. Y., for national military park at Petersburg, Va.—to the Committee on Military Affairs.

Also, petition of International Association of House Painters and Decorators of America and Canada, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of Illinois Manufacturers' Association, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of John M. Orkison and 7 others, for purchase of lands for landless Indians of California—to the Committee on Indian Affairs.

Also, petition of Japanese and Korean Exclusion League, for the Chinese exclusion law as it is—to the Committee on Foreign Affairs.

Also, petition of Allied Board of Trade, Brooklyn, N. Y., for battle-ship construction at Brooklyn Navy-Yard—to the Committee on Naval Affairs.

By Mr. FORDNEY: Petition of citizens of St. Charles, Mich., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. GARDNER of Massachusetts: Petition of The Sunday Record, against tariff on linotype machines—to the Committee on Ways and Means.

By Mr. GILLETT of Massachusetts: Petition of National Grange, Athol, Mass., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. GRAHAM: Paper to accompany bill for relief of James McConnaha—to the Committee on Invalid Pensions.

Also, petition of General Federation of Women's Clubs, for investigation of industrial condition of women—to the Committee on Appropriations.

Also, petition of Robert S. Waddell, against Du Pont powder monopoly—to the Committee on Military Affairs.

Also, petition of General Alex. Hayes Post, No. 3, for bill S. 2167—to the Committee on Invalid Pensions.

Also, petition of City Park Association of Philadelphia, for public playgrounds in the District of Columbia—to the Committee on the District of Columbia.

Also, petitions of many citizens of New York and vicinity for relief for heirs of victims of *General Slocum* disaster—to the Committee on Claims.

Also, petition of American Free Art League, for removal of duty from works of art—to the Committee on Ways and Means.

Also, petition of Chamber of Commerce of Pittsburg, for metric system—to the Committee on Coinage, Weights, and Measures.

By Mr. GRIGGS: Petition of the Dawson News, against tariff on linotype machines—to the Committee on Ways and Means.

By Mr. GROSVENOR: Petition of citizens of New Lexington, Ohio, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. HALE: Petition of Morning Star Council, No. 4, Order United American Mechanics, of Newcomb, Tenn., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. HAMILTON: Petition of citizens of Michigan, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. HASKINS: Petitions of citizens of Windhall, Townshend, Jamaica, and Hartland, Vt., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. HUFF: Petition of Free Art League of Boston, for removal of duty from art works—to the Committee on Ways and Means.

Also, petition of Robert J. Stoney, jr., for right to loan 10 per cent on surplus and capital of banks—to the Committee on Banking and Currency.

Also, petition of John Wyeth & Bros., for pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of Allied Boards of Trade of Brooklyn, N. Y., for building battle ships at the Brooklyn Navy-Yard—to the Committee on Naval Affairs.

By Mr. JENKINS: Petition of citizens of Superior, Wis.—to the Committee on the District of Columbia.

By Mr. KAHN: Petition of Barneson-Hibberd Company, for ship-subsidy bill—to the Committee on the Merchant Marine and Fisheries.

Also, petition of Retail Clerks' International Protective Association, San Francisco, and Local Union No. 432, against the Foster bill—to the Committee on Foreign Affairs.

Also, petition of Hind, Ralph & Co., San Francisco, Cal., for ship-subsidy bill—to the Committee on the Merchant Marine and Fisheries.

Also, petition of Local Union No. 510, Painters, Paper Hang-

ers, and Decorators of America, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of Local Unions Nos. 25, 205, and 410, Brotherhood of Boiler Makers and Iron-Ship Builders of America, San Francisco, Cal., for ship-subsidy bill—to the Committee on the Merchant Marine and Fisheries.

By Mr. KNAPP: Petition of citizens of New York, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. LAMB: Petition of Pioneer Council, No. 31, Ridge Church, Va.; New South Council, No. 8, Manchester, Va., and Jefferson Council, No. 57, Richmond, Va., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. LEE: Paper to accompany bill for relief of D. C. Jones—to the Committee on War Claims.

By Mr. LONGWORTH: Petition of citizens of Oklahoma and Indian Territory, for statehood—to the Committee on the Territories.

By Mr. LOUD: Petition of citizens of Rose City, Mich., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. LOUDENSLAGER: Petition of Daughters of Liberty, Swedesboro, N. J., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. McKINLEY of Illinois: Petitions of Women's Clubs of Champaign and Urbana, Ill., for investigation of industrial conditions of women in the United States—to the Committee on Appropriations.

Also, petition of Woman's Club of Decatur, Ill., for investigation of industrial condition of women in the United States—to the Committee on Appropriations.

By Mr. MAYNARD: Papers to accompany bill for establishment of light-ship east of Cape Henry—to the Committee on Interstate and Foreign Commerce.

By Mr. NEVIN: Petition of Acey Radcliff, Patrick Bryan, James D. Huffman, James Cassidy, Henry Borgman, James S. Thompson, Henry Hastings, Henry A. Harlan, Robert Robb, Albert Jamison, Joseph Newman, George Baker, George Menninger, Edward Flynn, Charles W. Finnegan, David B. P. Mann, and 2,326 others, in favor of commutation in lieu of rations to members of the several National Military Homes while on furlough—to the Committee on Military Affairs.

Also, petition of citizens of Ohio, against abuses in administration of affairs in Kongo Free State—to the Committee on Foreign Affairs.

Also, petition of citizens of Hamilton, Ohio, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, paper to accompany bill for relief of officers and men of Dayton Zouave Rangers—to the Committee on Military Affairs.

By Mr. NORRIS: Petition of citizens of Nebraska, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. RHINOCK: Paper to accompany bill H. R. 17024—to the Committee on Invalid Pensions.

By Mr. RUCKER: Petition of The Morning Journal, against tariff on linotype machines—to the Committee on Ways and Means.

By Mr. SAMUEL: Petition of True and Loyal Council, No. 177, Daughters of Liberty, of Shamokin, Pa.—to the Committee on Immigration and Naturalization.

By Mr. SHACKLEFORD: Petition of 160 citizens of Oklahoma, for admission as a State of the Union—to the Committee on the Territories.

By Mr. SHERLEY: Petition of the Inland Farm, against tariff on linotype machines—to the Committee on Ways and Means.

By Mr. SIBLEY: Petition of the Advance Argus, against tariff on linotype machines—to the Committee on Ways and Means.

By Mr. SMITH of Iowa: Petition of citizens of Iowa, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of citizens of Iowa, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. SMITH of Pennsylvania: Petition of faculty of Bryn Mawr College, for repeal of tariff on art works—to the Committee on Ways and Means.

Also, petition of International Association of Master House Painters and Decorators, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of Japanese and Korean Exclusion League, for Chinese-exclusion law as it is—to the Committee on Foreign Affairs.

Also, petition of George C. Henry, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of Hornstown Grange, for a parcels-post law—to the Committee on the Post-Office and Post-Roads.

Also, petition of Buffalo Chamber of Commerce, for Gallinger bill—to the Committee on the Merchant Marine and Fisheries.

Also, petition of Sons of Veterans, Camp No. 188, Pennsylvania Division, against bill H. R. 8131—to the Committee on Military Affairs.

Also, petition of State Federation of Pennsylvania Women, for national forestry reserves—to the Committee on Agriculture.

Also, petition of The Clarion Democrat, against tariff on linotype machines—to the Committee on Ways and Means.

By Mr. SMITH of Texas: Petition of citizens of Texas, for a parcels-post law—to the Committee on the Post-Office and Post-Roads.

By Mr. WM. ALDEN SMITH: Petition of hundreds of citizens of Michigan, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. SPERRY: Petition of Perseverence Council, No. 3, Daughters of Liberty, New Haven, Conn., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of Irish-American citizens of Ansonia, Conn., for a monument to Commodore Barry—to the Committee on the Library.

By Mr. THOMAS of Ohio: Petition of Huntsburg Grange, No. 1588, Patrons of Husbandry, for retention of 10 per cent law on imitation butter—to the Committee on Agriculture.

Also, petition of Lester J. Williams, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of Lake Shore Lodge, No. 84, Brotherhood of Railroad Trainmen, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of citizens of Akron, Barberton, and Everett, Ohio, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. VREELAND: Petition of citizens of Elko, N. Y., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. WEEKS: Petition of Massachusetts State Board of Trade, for removal of duty on hides—to the Committee on Ways and Means.

By Mr. WACHTER: Paper to accompany bill for relief of William McCormick—to the Committee on Military Affairs.

By Mr. WOOD: Petition of merchants of Mercer and Hunterdon counties, N. J., for removal of tariff on hides—to the Committee on Ways and Means.

SENATE.

WEDNESDAY, *March 28, 1906.*

Prayer by the Chaplain, Rev. EDWARD E. HALE.

The Secretary proceeded to read the Journal of yesterday's proceedings; when, on request of Mr. NELSON, and by unanimous consent, the further reading was dispensed with.

The VICE-PRESIDENT. The Journal stands approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 16671. An act permitting the building of a dam across the St. Joseph River near the village of Berrien Springs, Berrien County, Mich.; and

H. R. 17359. An act making appropriations to supply additional urgent deficiencies in the appropriations for the fiscal year ending June 30, 1906, and for prior years, and for other purposes.

The message also announced that the House insists upon its amendment to the bill (S. 3899) granting authority to the Secretary of the Navy, in his discretion, to dismiss midshipmen from the United States Naval Academy and regulating the procedure and punishment in trials for hazing at the said academy, disagreed to by the Senate, agrees to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. VREELAND, Mr. LOUD, and Mr. PADGETT managers at the conference on the part of the House.

The message further announced that the House had agreed to

the amendment of the Senate to the bill (H. R. 6216) granting an increase of pension to Stephen D. Hopkins.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the Vice-President:

H. R. 125. An act regulating the retent on contracts with the District of Columbia;

H. R. 4463. An act to amend section 2 of an act entitled "An act to provide for the appointment of a sealer and assistant sealer of weights and measures in the District of Columbia, and for other purposes;"

H. R. 4470. An act to amend an act entitled "An act to provide for the appointment of a sealer and assistant sealer of weights and measures in the District of Columbia, and for other purposes," approved March 2, 1895;

H. R. 13842. An act to amend an act entitled "An act to incorporate The Eastern Star Home for the District of Columbia," approved March 10, 1902;

H. R. 14467. An act for the relief of Maj. George E. Pickett, paymaster, United States Army; and

H. R. 14813. An act to amend an act approved March 1, 1905, entitled "An act to amend section 4 of an act entitled 'An act relating to the Metropolitan police of the District of Columbia,' approved February 28, 1901."

PETITIONS AND MEMORIALS.

Mr. NELSON presented a petition of Minnesota Lodge, No. 193, Brotherhood of Railroad Trainmen, of Staples, Minn., praying for the enactment of legislation to restrict immigration; which was referred to the Committee on Immigration.

He also presented a petition of sundry citizens of Red Wing, Minn., praying that an appropriation be made for the erection of a public building at that city; which was referred to the Committee on Public Buildings and Grounds.

Mr. FRYE presented a petition of Dirigo Grange, No. 13, Patrons of Husbandry, of Brunswick, Me., praying for the removal of the internal-revenue tax on denaturized alcohol; which was referred to the Committee on Finance.

Mr. PLATT presented a petition of the Minerva Club, of New York City, N. Y., praying for the enactment of legislation providing for the better protection of women and children employed in the industries of the United States; which was referred of the Committee on Education and Labor.

He also presented the petition of W. W. Mayo and sundry other citizens, of Canaan Four Corners, N. Y., praying for the enactment of legislation to remove the duty on denaturized alcohol; which was referred to the Committee on Finance.

He also presented a memorial of Local Division No. 132, Amalgamated Association of Street and Electric Railway Employees of America, of Troy, N. Y., remonstrating against the repeal of the present Chinese-exclusion law; which was referred to the Committee on Immigration.

Mr. HOPKINS presented a petition of Northwestern Lodge, No. 424, Brotherhood of Railroad Trainmen, of Central Hall Park, Chicago, Ill., praying for the enactment of legislation to restrict immigration; which was referred to the Committee on Immigration.

Mr. PENROSE presented a petition of the congregation of the First United Presbyterian Church, of Crafton, Pa., and a petition of the congregation of the Hawthorne Avenue Presbyterian Church, of Crafton, Pa., praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah; which were referred to the Committee on Privileges and Elections.

He also presented a memorial of sundry citizens of Blair County, Pa., remonstrating against the consolidation of third and fourth class mail matter and for the establishment of a parcels-post system; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. KEAN presented the petition of Dr. E. S. Corson, of Bridgeton, N. J., praying for the enactment of legislation to remove the duty on denaturized alcohol; which was referred to the Committee on Finance.

He also presented petitions of Starry Flag Council, No. 40, Daughters of Liberty, of Freehold; of Integrity Council, No. 93, Daughters of Liberty, of Cranford; of Pride of Diamond Council, No. 114, Daughters of Liberty, of Swedesboro; of Pride of Daniel Webster Council, No. 54, of Newark, and of Pride of Indian Council, No. 138, Daughters of Liberty, of Elmer, all in the State of New Jersey, praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

Mr. GAMBLE presented petitions of the Woman's Club of Brookings; the Excelsior Club, of Milbank; the Nineteenth Century Club, of Huron; the Woman's Club of Pukwana, and the Woman's Club of Fort Pierre, all in the State of South Dakota, praying that an appropriation be made for a scientific investigation into the industrial conditions of women in the United States; which were referred to the Committee on Education and Labor.

Mr. BURKETT presented a petition of the general grievance committee, Union Pacific system, Order of Railway Conductors, of Omaha, Nebr., praying for the passage of the so-called "employers' liability bill;" which was referred to the Committee on Interstate Commerce.

Mr. MARTIN presented a paper to accompany the bill (S. 2607) for the relief of the estate of John Heater, deceased; which was referred to the Committee on Claims.

He also presented petitions of Old Dominion Council, No. 5, of Petersburg; New River Council, No. 155, of New River; Mount Tory Council, No. 165, of Sherando; Grafton Council, No. 76, of Grafton; Red Cross Council, No. 134, of Lynchburg; Harborton Council, No. 108, of Harborton; Mount Vernon Council, No. 122, of Chiltons Crossroads; Martinsville Council, No. 111, of Martinsville; Phoenix Council, No. 162, of Pinners Point; Newport News Council, No. 65, of Newport News; Unionville Council, No. 159, of Sandy Bottom; George Washington Council, No. 88, of Oak Grove; Columbian Council, No. 52, of Buena Vista; River View Council, No. 148, of Newport News; Seaside Council, No. 49, of Greenbackville; Parksley Council, No. 114, of Parksley; Valley Forge Council, No. 145, of Newport News; Pioneer Council, No. 31, of Ridge Church; Pittsylvania Council, No. 94, of Elba; New Market Council, No. 10, of New Market; Reliance Council, No. 18, of Roanoke; Tenth Legion Council, No. 129, of Tenth Legion; Basic City Council, No. 44, of Basic City; Halifax Council, No. 41, of South Boston; Molusk Council, No. 67, of Molusk; New South Council, No. 8, of Manchester; Oak Hill Council, No. 83, of McGaheysville; Jefferson Council, No. 57, of Richmond, and Rescue Council, No. 1, of Richmond, all of the Junior Order United American Mechanics, in the State of Virginia, and of Accomac Council, No. 37, of Chincoteague, and of Violet Council, No. 14, of Ridge Church, Daughters of Liberty, in the State of Virginia, praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

Mr. ELKINS presented a petition of Richlands Grange, Patrons of Husbandry, of Lewisburg, W. Va., praying for the enactment of legislation to remove the duty on denaturized alcohol; which was referred to the Committee on Finance.

REPORTS OF COMMITTEES.

Mr. PENROSE, from the Committee on Post-Offices and Post-Roads, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 4686) to reimburse Garrett R. Bradley, late postmaster at Tonopah, Nev., for money expended for clerical assistance; and

A bill (S. 4685) to reimburse Ella M. Collins, late postmaster at Goldfield, Nev., for money expended for clerical assistance and supplies.

Mr. FULTON, from the Committee on Public Lands, to whom was referred the bill (S. 4487) granting to the State of Oregon certain lands to be used by it for the purpose of maintaining and operating thereon a fish hatchery, reported it without amendment, and submitted a report thereon.

He also, from the Committee on Claims, to whom was referred the bill (S. 4819) for the relief of M. A. Johnson, reported it without amendment, and submitted a report thereon.

Mr. GAMBLE, from the Committee on Indian Affairs, to whom was referred the bill (S. 3895) for the restoration of annuities to the Medawakanton and Wahpakoota (Santee) Sioux Indians, declared forfeited by the act of February 16, 1863, reported it with amendments, and submitted a report thereon.

Mr. McCUMBER, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 1241) granting an increase of pension to John G. Wallace;

A bill (H. R. 4691) granting an increase of pension to George L. Janney;

A bill (H. R. 6128) granting an increase of pension to Thomas Patterson;

A bill (H. R. 4888) granting an increase of pension to William Moore;

A bill (H. R. 2082) granting an increase of pension to Sotha Bennett;

A bill (H. R. 8823) granting an increase of pension to Charles C. Briant;

A bill (H. R. 8942) granting an increase of pension to Marquis L. Johnson;

A bill (H. R. 10230) granting an increase of pension to Clark A. Winans;

A bill (H. R. 10300) granting an increase of pension to George C. Sackett;

A bill (H. R. 10923) granting an increase of pension to Matilda Rockwell;

A bill (H. R. 9296) granting an increase of pension to Elizabeth D. Hoppin;

A bill (H. R. 13198) granting an increase of pension to Josiah F. Allen; and

A bill (H. R. 2099) granting an increase of pension to Ellen M. Grant.

Mr. HANSBROUGH, from the Committee on Public Lands, to whom was referred the amendment submitted by Mr. HEYBURN on the 5th instant, proposing to appropriate $1,250 for separate State and Territorial maps, prepared in the General Land Office, intended to be proposed to the legislative, executive, and judicial appropriation bill, reported it with an amendment, and moved that it be printed, and, with the accompanying papers, referred to the Committee on Appropriations; which was agreed to.

Mr. BACON, from the Committee on Foreign Relations, to whom was referred the bill (S. 5288) to authorize the acquisition of land and a building for the United States legation in Constantinople, reported it without amendment.

Mr. NELSON (for Mr. GAMBLE), from the Committee on Public Lands, to whom was referred the bill (S. 4635) to approve certain final proofs in the Chamberlain land district, South Dakota, reported it with an amendment, and submitted a report thereon.

He also (for Mr. GAMBLE), from the same committee, to whom were referred the following bills, reported them each without amendment, and submitted reports thereon:

A bill (H. R. 8278) authorizing the Secretary of the Interior to issue patent to Keystone Camp, No. 2879, of the Modern Woodmen of America, to certain lands for cemetery purposes; and

A bill (H. R. 9465) authorizing the Secretary of the Interior to issue patent to the Scandinavian Evangelical Lutheran Little Missouri River congregation to certain lands for cemetery purposes.

BILLS INTRODUCED.

Mr. FRYE introduced a bill (S. 5390) granting an increase of pension to Stephen S. Welch; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. PLATT introduced a bill (S. 5391) for the relief of the heirs of Asa O. Gallup; which was read twice by its title, and referred to the Committee on Claims.

Mr. PENROSE introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 5392) granting an increase of pension to John W. Wilson;

A bill (S. 5393) granting an increase of pension to Jesse H. Critchfield;

A bill (S. 5394) granting an increase of pension to William Roberts; and

A bill (S. 5395) granting an increase of pension to Antonette Stewart (with accompanying papers).

Mr. PILES (for Mr. ANKENY) introduced a bill (S. 5396) for the relief of John Gebhart Abbott; which was read twice by its title, and referred to the Committee on Indian Depredations.

Mr. HOPKINS introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 5397) granting an increase of pension to James B. Fairchild;

A bill (S. 5398) granting a pension to Samuel Lyda; and

A bill (S. 5399) granting a pension to Katherine Lyda (with accompanying papers).

Mr. DICK introduced a bill (S. 5400) granting an increase of pension to John A. Chase; which was read twice by its title, and referred to the Committee on Pensions.

Mr. SUTHERLAND introduced a bill (S. 5401) granting an increase of pension to John Elbin; which was read twice by its title, and referred to the Committee on Pensions.

Mr. CULLOM introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 5402) granting an increase of pension to C. M. Lyon; and

A bill (S. 5403) granting a pension to Isabelle Wallace.

Mr. MARTIN introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Claims:

A bill (S. 5404) for the relief of the vestry of St. Peter's Church, of New Kent County, Va. (with accompanying papers);

A bill (S. 5405) for the relief of Mrs. Sarah C. Jones and Mrs. Lucy F. Tyler;

A bill (S. 5406) for the relief of Bland Massie;

A bill (S. 5407) for the relief of the trustees of Fredericksburg Lodge, No. 4, Ancient Free and Accepted Masons;

A bill S. 5408) for the relief of the trustees of the town schoolhouse of Onancock, Accomac County, Va. (with accompanying papers);

A bill (S. 5409) for the relief of John S. Mann and the estate of Lewis W. Mann, deceased;

A bill (S. 5410) for the relief of Monroe Stevens (with an accompanying paper);

A bill (S. 5411) for the relief of the estate of Branson Thatcher, deceased;

A bill (S. 5412) for the relief of E. Scott Arrington (with accompanying papers);

A bill (S. 5413) for the relief of Joseph E. Funkhouser;

A bill (S. 5414) for the relief of the estate of Abraham Hisey;

A bill (S. 5415) for the relief of the estate of James L. Miller;

A bill (S. 5416) for the relief of C. N. Rash (with an accompanying paper); and

A bill (S. 5417) for the relief of Mrs. Emma E. Marsteller (with accompanying papers).

Mr. MALLORY introduced a bill (S. 5418) relinquishing the title of the United States to certain land in the city of Pensacola, Fla., to James Wilkins; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. TALIAFERRO introduced a bill (S. 5419) to extend to the officers and enlisted men and the officers and men of the boat companies of the Florida Seminole Indian war of 1856 to 1858, and their widows, the benefits of the act of March 3, 1855, granting bounty in land; which was read twice by its title, and referred to the Committee on Pensions.

Mr. CLAPP introduced a bill (S. 5420) granting an increase of pension to Thomas W. Gilpatrick; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

He also introduced a bill (S. 5421) to amend section 558 of the Code of Laws for the District of Columbia, as approved by act of March 3, 1901, amended by acts of January 31 and June 30, 1902; which was read twice by its title, and, with the accompanying paper, referred to the Committee on the District of Columbia.

He also introduced a bill (S. 5422) for the relief of the estate of the late Christina Turner; which was read twice by its title, and referred to the Committee on Claims.

Mr. McCREARY introduced a bill (S. 5423) granting an increase of pension to William M. Tinsley; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. FRAZIER introduced a bill (S. 5424) for the relief of the legal representatives of P. M. Craigmiles, deceased; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

He also introduced a bill (S. 5425) for the relief of the legal representatives of the estate of James Maney, deceased; which was read twice by its title, and referred to the Committee on Claims.

Mr. TELLER introduced a bill (S. 5426) providing for the administration of the operations of the act of Congress approved June 17, 1902, known as the reclamation act; which was read twice by its title, and referred to the Committee on Irrigation.

Mr. McLAURIN introduced a bill (S. 5427) for the relief of Mrs. M. M. Champion; which was read twice by its title, and referred to the Committee on Claims.

Mr. ELKINS introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 5428) granting an increase of pension to Lucretia L. Flick; and

A bill (S. 5429) granting a pension to George Myers.

Mr. ELKINS introduced a bill (S. 5430) granting to certain employees of the United States the right to receive from it compensation for injuries sustained in the course of their employment; which was read twice by its title, and referred to the Committee on the Judiciary.

He also (by request) introduced a bill (S. 5431) for the relief of J. L. Millspaugh; which was read twice by its title, and referred to the Committee on Indian Depredations.

REGULATION OF RAILROAD RATES.

Mr. LODGE submitted an amendment intended to be proposed by him to the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission; which was ordered to lie on the table, and be printed.

Mr. DANIEL submitted an amendment intended to be proposed by him to the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission; which was ordered to lie on the table, and be printed.

Mr. ELKINS submitted two amendments intended to be proposed by him to the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission; which were ordered to lie on the table, and be printed.

BALLS BLUFF (VA.) NATIONAL CEMETERY.

Mr. MARTIN submitted an amendment authorizing the acceptance on behalf of the United States of a strip of land from the Leesburg and Point of Rocks turnpike in Loudoun County, Va., to the Balls Bluff National Cemetery, and proposing to appropriate $5,000 for the construction of a macadamized road from the Leesburg turnpike to the said cemetery, intended to be proposed by him to the Army appropriation bill; which was ordered to be printed, and, with the accompanying papers, referred to the Committee on Military Affairs.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. MARTIN submitted an amendment proposing to increase the salary of one computer at the Naval Observatory from $1,200 to $1,400 per annum, intended to be proposed by him to the legislative, executive, and judicial appropriation bill; which was ordered to be printed, and, with the accompanying papers, referred to the Committee on Appropriations.

Mr. TELLER submitted an amendment proposing to appropriate $2,500 for salary of the chief of the division of public surveys, General Land Office, intended to be proposed by him to the legislative, executive, and judicial appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. BURKETT submitted an amendment providing that $100,000 of the appropriation for barracks and quarters be expended at Fort Robinson, Nebr., on construction of barracks and officers' quarters, intended to be proposed by him to the Army appropriation bill; which was referred to the Committee on Military Affairs, and ordered to be printed.

PRINTING OF INDIAN TREATIES.

On motion of Mr. CLAPP, it was

Ordered, That there be printed for the use of the Senate and Interior Department 300 copies of Indian treaties A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, and R, Thirty-second Congress, first session, with the accompanying correspondence, and that the usual number be not printed.

KANAWHA AND HOCKING COAL AND COKE COMPANY.

The VICE-PRESIDENT. Concurrent or other resolutions are in order.

Mr. TILLMAN. Mr. President, this is not a resolution; it is simply in the nature of a memorial. I was not in when that order of business was called. If no other Senator wants to introduce something, I will send it forward.

The VICE-PRESIDENT. Without objection, the memorial will be received.

Mr. TILLMAN. I ask that it be read.

There being no objection, the paper was read, and ordered to lie on the table, as follows:

During the year 1901 the Kanawha and Hocking Coal and Coke Company, the corporate name of which is now the Sunday Creek Coal Company, was organized by the officers and stockholders of the Kanawha and Michigan Railroad, Toledo and Ohio Central Railroad, and Hocking Valley Railroad, and financed and floated by the banking house of J. P. Morgan & Co.

This coal company purchased most of the important coal mines on the Kanawha and Michigan Railroad in West Virginia, and then refused for a period of about three years, to allow any new company or owner of coal land on its line to develop any property or ship any coal, stating through their attorneys in open court and through their officers at different times, that they did not intend to allow any new coal mines opened on their line. To curtail the shipment of rail coal in competition with them, they went so far as to tear up the tracks at Plymouth mine, West Virginia, 18 miles below Charleston and at the mines of the Black Diamond Coal Company, about 12 miles above Charleston, so that these companies could not ship coal by rail at all; and they have, up to the present time, refused to put the tracks in again.

The Kelleys Creek Colliery Company, developing a plant about 18 miles above Charleston, and the Hughes Creek Coal Company, developing a plant about 21 miles above Charleston, were refused any kind of side tracks or facilities for shipping coal until after lengthy litigation, and then only after these companies had been put to very extraordinary expense by being required to purchase a number of standard-gauge railroad cars. The Burning Springs Coal Company were treated in like manner, and Johnson Brothers, of Columbus, Ohio, were treated likewise, having been refused side tracks at their mine for something over a year after they were ready to ship coal, and did not get the track until at the end of protracted and expensive litigation.

The M. A. Hanna Coal Company, of Boomer, W. Va., on the Kanawha and Michigan Railroad, found it necessary to purchase 500 cars of their own before they could do business with any satisfaction.

One large independent coal concern on the Kanawha and Michigan Railroad offered to furnish that company its fuel coal for less than 75 cents a ton, when it was at the same time paying the Kanawha and Hocking $1.05 per ton, but the officers of the road refused to purchase its fuel coal from any company except its own, Kanawha and Hocking Company; the same gentleman being at the time president of the Kanawha and Michigan Railroad and of the Kanawha and Hocking Coal Company, the same gentleman purchasing agent and the same auditor. All of which shows conclusively that the coal company is absolutely controlled and owned by the railroad, and is being operated with an open intention and avowal of crushing out the independent operators and all competitors.

All of these and other similar facts can be ascertained by summoning the following witnesses:

Thomas Johnson, of Johnson Brothers, Columbus, Ohio; J. B. Lewis, Montgomery, W. Va.; S. H. Montgomery, Montgomery, W. Va.; V. S. Klick, Columbus, Ohio, 898 Factory street; J. W. Moore, Roe, W. Va.; Arthur Robinson, Coalburg, W. Va.; E. J. Hickey Transportation Company, Covington, Va.; George W. Bright, Columbus, Ohio; J. S. Stone, Columbus, Ohio; Charles Willis Ward, Queens, Long Island, N. Y.; J. W. Dawson, Charleston, W. Va.; F. M. Staunton, Charleston, W. Va.

PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. B. F. BARNES, one of his secretaries, announced that the President had approved and signed the following act:

On March 22:

S. 4229. An act to authorize the sale and disposition of surplus or unallotted lands of the diminished Colville Indian Reservation, in the State of Washington, and for other purposes.

HOUSE BILLS REFERRED.

H. R. 16671. An act permitting the building of a dam across the St. Joseph River near the village of Berrien Springs, Berrien County, Mich., was read twice by its title, and referred to the Committee on Commerce.

H. R. 17359. An act making appropriations to supply additional urgent deficiencies in the appropriations for the fiscal year ending June 30, 1906, and for prior years, and for other purposes, was read twice by its title, and referred to the Committee on Appropriations.

FREE TRANSPORTATION ON RAILROADS.

The VICE-PRESIDENT. The Chair lays before the Senate a resolution coming over from yesterday, which will be read.

Th Secretary read the resolution submitted yesterday by Mr. TILLMAN, as follows:

Resolved, That the Interstate Commerce Commission be, and hereby is, directed to transmit to the Senate all information in the possession of the Commission showing that any railroad companies of the country engaged in interstate commerce are in the habit of receiving payments for the transportation of passengers not in cash paid for tickets but in services rendered under some form of prior agreement between the railroads and the individuals or corporations using the transportation, and particularly all information showing that a custom has existed or now exists on the part of the railroad companies of entering into advertising contracts with the proprietors of newspapers and other publications under which free passes or passage tickets or mileage books are furnished to such proprietors and charged to their account, to be paid for by publishing for the railroads their time-tables, notices of excursions, descriptions of scenery and other miscellaneous reading matter, which publishing is charged to the account of the railroads, so that a system of running accounts to be adjusted at convenience is established between the railroads and the proprietors of the newspapers and other publications; and further to inform the Senate to what extent such customs of not collecting payments for passenger fares in money and of keeping running accounts has prevailed or now prevails between the railroads and the proprietors of newspapers and other publications, and whether such customs are contrary to the interstate-commerce law, and whether any proceedings have been at any time taken by the Interstate Commerce Commission in respect to such customs; and also to transmit to the Senate the reports and opinions of the Commission in any cases concerning such customs which have been heretofore examined and considered or are still pending and undecided in whole or in part, together with the reasons for any delay that has taken place in any such cases and the reasons for any failures on the part of the Commission to investigate and deal with any illegalities in connection with passenger transportation which may have come to the knowledge of the Commission.

The VICE-PRESIDENT. The question is on agreeing to the resolution.

The resolution was agreed to.

REGULATION OF RAILROAD RATES.

Mr. TILLMAN. I ask that the unfinished business be laid before the Senate and proceeded with.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved

February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission.

Mr. KNOX. Mr. President——

Mr. CLAPP. Will the Senator from Pennsylvania yield to me for a moment?

Mr. KNOX. Certainly.

Mr. CLAPP. Yesterday I gave notice that I would ask leave to call up the conference report on House bill 5976 at the close of the morning business to-day. Out of deference to the desire of the Senator from Pennsylvania to proceed, I will now give notice that at the conclusion of his remarks I shall call up the conference report.

Mr. KNOX. Mr. President, the necessity for a detailed consideration of many of the serious and important legal propositions upon which the bill under consideration rests has been obviated by the lucid and masterful presentation of the views of Senators who have preceded me in this debate. I shall endeavor, therefore, in what I have to say, to avoid repetition of what has been so ably discussed, except so far as bare allusion to some of the great questions is necessary in the substructure of the theory I entertain as to the policy and constitutionality of the great measure we are now considering. I agree with the Senators who have contended, first, that the power to fix railroad tolls for transportation is a legislative power, and that when the legislature has laid down a rule for the establishment of rates the application of such rule to specific cases is a matter of administration which may be delegated to a commission; and, second, that the power to investigate the reasonableness of a proposed rate, and to fix a rate for future observance, is a nonjudicial power which can not be conferred upon courts exercising the judicial power of the United States.

The authorities cited by Senators fully sustain these propositions. Their soundness is essential to the validity of the proposed legislation, and the present question is whether the reported bill in its essential features is securely predicated upon these principles, is otherwise innocuous when submitted to constitutional tests, and whether it properly supplements the existing laws.

Upon the threshold of this inquiry I think it will be instructive to take a general view of the purposes of the law which created the Interstate Commerce Commission and the powers and duties the Commission now possesses and performs.

In the case of the Interstate Commerce Commission *v.* Cincinnati, etc., Rwy. Co. (167 U. S., 506) the court said:

> The Interstate Commerce Commission is *charged with the duty of seeing* that there is no *discrimination* between individual shippers, and that nothing is done by *rebate or any other device* to give preference to one as against another; that no undue preferences are given to one place or places or individual or class of individuals, but that in all things that equality of right, which is the great purpose of the interstate-commerce act, shall be secured to all shippers.

To these ends the Commission now has, *inter alia*, the following powers:

First. *The power to investigate* matters complained of in such a manner and by such means as it shall deem proper.

> *The Commission is to keep itself thoroughly informed* as to all the operations of every common carrier in the United States engaged in interstate commerce; and *whenever* in the course of its *investigations* it discovers abuses which affect the public commercial interests injuriously, its duty is at once to have such abuses suppressed, and, if need be, to call in the strong arm of the Government, through its appointed courts, to enforce the provisions of the law. (United States *v.* Missouri Pacific Railway Co., 65 F. R., 909.)

Second. The *power to require* by subpœna the *attendance and testimony* of witnesses from any place in the United States, *and the production of* all *books*, papers, tariffs, contracts, agreements, and documents relating to any matter under investigation, and in case of disobedience of the subpœna, to invoke the aid of the United States courts.

This power is conferred in section 12 of the act as amended (25 Stat., 859), and includes the affirmed constitutionality of the law requiring the participant in a criminal transaction to testify in regard thereto, such enforced testimony having the effect, however, of giving the witness complete immunity. (Sec. 12 as amended, 26 Stat., 743; and act of Feb. 11, 1893, 27 Stat., 443.)

Third. *The power to inquire into the management* of the business of all common carriers subject to the provisions of the interstate-commerce act, *to keep itself informed* as to the manner and method in which the same is being conducted, *and to obtain* from the carriers full and complete *information* to enable it, the Commission, to perform its duties. (Sec. 12 as amended, 25 Stat., 858.)

Fourth. *The power to prescribe* the *measure of publicity to be given to joint rates, fares, and charges, to make public proposed advances* or reductions in joint rates, fares, and charges, and to determine and prescribe the *form of schedules* as to rates, etc., to be kept open for public inspection. (Sec. 6 as amended, 25 Stat., 856, 857.)

Fifth. *To require annual reports* from carriers, to fix the time and *prescribe the manner* in which such report shall be made, and to *require specific answers* to all questions upon which the Commission may need information. (Sec. 20, 24 Stat., 386.) This section also authorizes the Commission to *prescribe a uniform system of keeping accounts*, to be observed by the carriers.

Sixth. To conduct its proceedings in such manner as will best conduce to the proper dispatch of business, *and to make* or amend such *general rules or orders* as may be requisite in proceedings before the Commission. (Sec. 17 as amended, 25 Stat., 861.)

Seventh. *To direct* common carriers to cease and *desist from violations* of the interstate-commerce *law* and to make reparation for the injury found to have been done. (Sec. 15, 24 Stat., 384.)

Eighth. *To apply to the circuit court* in a summary way *for an enforcement of its orders* (sec. 16 as amended, 25 Stat., 856); and the Commission is directed to execute and enforce the provisions of the act (sec. 12 as amended, 25 Stat., 858), not, however, by attempting to enforce its own decrees and orders, but by calling upon the district attorneys for their enforcement. (United States *v.* Mo. Pac. Rwy. Co., 65 F. R., 909).

The powers, Mr. President, which I have enumerated I have expressed either in the language of the statutes or in the language of the Supreme Court construing the statutes.

Very broadly speaking, Mr. President, it will be observed from this rough review of its powers that the Commission possesses abundant power to seek and discover deviations from the great purpose of the act to secure equality of right for all, but it wholly lacks power to enforce its orders and decrees, and that its orders and decrees do not have the force of law until made so by judicial decree.

The President in his annual message to the third session of the Fifty-eighth Congress called attention of the Congress to the advisability of expanding the powers of the Interstate Commerce Commission, and again in his message to the present Congress, in these words:

> It is not my province to indicate the exact terms of the law which should be enacted; but I call the attention of the Congress to certain existing conditions with which it is desirable to deal. In my judgment the most important provision which such law should contain is that conferring upon some competent administrative body the power to decide, upon the case being brought before it, whether a given rate prescribed by a railroad is reasonable and just, and if it is found to be unreasonable and unjust, then, after full investigation of the complaint, to prescribe the limit of rate beyond which it shall not be lawful to go—the maximum reasonable rate, as it is commonly called—this decision to go into effect within a reasonable time and to obtain from thence onward, subject to review by the courts.

This suggestion was no surprise to me, as I regarded it the next logical step to be taken in the development of the executive and legislative policy which had been already manifested in proceedings to enforce existing laws and the new legislation of the Fifty-seventh Congress regulating commerce among the States.

This Executive recommendation made it incumbent upon every Member of Congress to give such attention to the subject as would enable him to intelligently determine whether his judgment approved the suggestion of increased power to the Commission, and, if so, the extent to which it should be conferred and how, if at all, its exercise should be supervised.

After giving the subject serious consideration I ventured to publicly express the opinion that the proposition that the National Government should exercise supervisory control over the tax upon transportation became almost self-evident from the time that the railroads began, through various devices, to concentrate this taxing power in the hands of a few men; that the Government's efforts to check this concentration of power under the provisions of existing laws should be supplemented by legislation which will prevent the abuse of the power of taxing the movement of persons and property under any form of concentration or under any circumstances whatever, and that a short and simple law would reach the root of the trouble. That it should provide that the tolls collected by common carriers and the practices pursued by them should be just, fair, and reasonable.

That the Commission should have the power, if it finds the complaint well founded, to declare what shall be a just, fair, remunerative, and reasonable rate or practice to be charged or followed in place of the one declared to be unreasonable.

That this order of the Commission should take effect within such reasonable time as shall be prescribed by the Commission in the order, and should be final, subject only to attack for unlawfulness in the Federal courts, where it would have to stand or fall upon its merits, and that such an act, with suita-

lative provision for the regulation of joint rates and rates upon traffic of international carriers, would go to the full extent of, and no further than, the recommendations made by the President.

Subsequently these tentative suggestions were elaborated in a bill which I introduced, and to the provisions of which I shall refer, as an expression of my views upon the general subject. The bill to which I refer, in my judgment, comprehends and deals with the mischiefs for which we are seeking a remedy more effectually than any measure yet brought to the attention of Congress. It is broader and more comprehensive in its scope because it is as broad and comprehensive as the regulative power of Congress under the Constitution. Its provisions include the class of carriers which it describes, engaged in any commerce to which the regulative power of Congress extends under the Constitution, and to all the facilities and instrumentalities connected therewith to which the regulative power of Congress extends, whether they are owned or provided by the carrier or not. It provides for just, reasonable, and nondiscriminating charges and services in transportation, or in connection therewith, from the instant of time that goods are separated from the body of the property of the State from which they are to be transported and pass the line which marks the beginning of Congressional authority, and covers as well the receiving, delivering, storage, or handling of goods before actual transit begins, the transit itself and all charges and expenses and practices relating to or incident to the delivery of such goods in the State to which they are consigned, up until the instant of time when they pass out of the regulative power of Congress into the body of the property of the State where they are delivered and are no longer subject to national control.

The theory upon which this bill was drawn is that general words in a statute which are sufficiently comprehensive to cover the evil aimed at, in whatever form it may possibly appear, makes better and more effective legislation than specific prohibition of the evil in the forms in which it has appeared. The recent decision of the Supreme Court in the Chesapeake and Ohio Railroad coal cases construing the general words of prohibition against discrimination in the Elkins Act, and the decision in the Northern Securities case construing the general words of prohibition in the Sherman Act, confirm the wisdom of this method of legislation.

This bill follows the recommendations contained in the President's message and clearly provides that the Interstate Commerce Commission shall have power after full hearing upon complaint to set aside any rate, practice, or regulation found by it to be unjust, unreasonable, or discriminatory, and to substitute in its place one that is just, reasonable, and fairly remunerative, which by the terms of the bill then, upon a date fixed by the Commission, becomes the maximum rate to be charged or the practice to be observed by the carrier. In its provision as to the establishment of through routes where none exist, and the establishment of joint rates when carriers fail to agree upon the same, and as to penalties and appeals, the employment of special agents or examiners with power to administer oaths, there is very little essential difference between its provisions and the provisions of the bill under consideration, and I shall not now stop to point out those differences or to recommend that they are more perfectly and efficiently provided for.

After calling attention to its tenth section, which is designed to control the movement of traffic over railroads operating in part in a foreign country, in order to compel obedience to the orders of the Commission, I shall come at once to the fifth section, which provides for what has been popularly termed a court review, the omission of which in the Hepburn bill constitutes the main feature of difference between the two measures.

It is obvious that a law conferring the tremendous power which it is proposed by all the bills under consideration to confer upon the Commission, to substitute one rate or practice for another, must be drawn upon one of two theories: Upon the theory that the order of the Commission shall be final and not reviewable by the courts or upon the theory that it shall be reviewable by the courts. I have no hesitation in saying, upon the authority of the cases which have already been submitted to the Senate by the distinguished Senators who have participated in this debate, that a bill drawn upon the theory that the orders of the Commission shall be final and unassailable in the courts would be unconstitutional.

In Covington, etc., Turnpike Company *v.* Sandford (164 U. S., 597) the court said:

It is now settled that corporations are persons within the meaning of the constitutional provision forbidding the deprivation of property without due process of law, as well as a denial of the equal protection of the laws.

And in Chicago, Milwaukee, etc., Railway *v.* Tompkins (176 U. S., 172) the court said:

When we recall that, as estimated, over ten thousand millions of dollars are invested in railroad property, the proposition that such a vast amount of property is beyond the protecting clauses of the Constitution, that the owners may be deprived of it by the arbitrary enactment of any legislature, State, or nation, without any right of appeal to the courts, is one which can not for a moment be tolerated.

In Chicago, Milwaukee and St. Paul Railway Company *v.* Minnesota (134 U. S., 458) the court said:

If the company is deprived of charging reasonable rates for the use of its property, and such deprivation takes place in the absence of an investigation by judicial machinery, it is deprived of the lawful use of its property, and thus, in substance and effect of the property itself, without due process of law and in violation of the Constitution of the United States; and in so far as it is thus deprived, while other persons are permitted to receive reasonable profits upon their invested capital, the company is deprived of the equal protection of the laws.

The question of the reasonableness of a rate of charge for transportation by a railroad company, involving as it does the element of reasonableness both as regards the company and as regards the public, is eminently a question for judicial investigation, requiring due process of law for its determination.

From the decisions of the Supreme Court it will be seen that railroads have a constitutional right to just compensation for services rendered, and that by direct act of legislation, or indirectly through an administrative body, as through the Interstate Commerce Commission, they can not be deprived of this right. That they are entitled to their day in court, and that an act which prevents a judicial review or determination of the question of the reasonableness of an order of the Commission would deprive the carriers of this constitutional right, and would, therefore, be unconstitutional.

Being thus convinced of the unconstitutionality of a law designed to make the orders of the Commission final and not subject to court review, it seemed to me to be proper and rational, if not essential, that the act should provide for that review and throw about it such constitutional restrictions and terms as would prevent unnecessary and frivolous appeals to the courts to defeat the end of this remedial legislation, and this I undertook to do in the fifth section of the bill. That section provides that the orders of the Commission, except orders for the payment of money, which for obvious reasons must be excluded, shall take effect at a date to be fixed by the Commission, and shall continue in effect for a period of time fixed by the Commission, not exceeding two years, unless the Commission itself shall set them aside or they shall be set aside by a court in a suit to test their lawfulness. The method of testing their lawfulness is then prescribed. The right is given to any party to the proceedings, whether it be a municipality, an agricultural association, a mercantile association, a shipper, a carrier, or the owner of some instrumentality necessary or incident to the transportation, who is affected by the decision of the Commission as to the rate and practice covered by the complaint, or by its order prescribing a different rate or practice, and alleging either or both to be in violation of its or his rights, to institute a suit in equity in the circuit court of the United States to have such questions determined.

I desire to draw special attention to the fact that the question that can be submitted to the determination of the court is solely the question as to whether the order violates the rights of the party who institutes the proceedings. There is no attempt to define what those rights are. There is no attempt to expand or to contract them. It is the heritage of every English-speaking man, or association of men, to have his rights determined in a court. It is for the court to decide what those rights are. An attempt to specify what right shall be determined by the court might be fatal to the constitutionality of the legislation. If the specification should not include all his rights, he would be shorn of a constitutional privilege. Should it undertake to enumerate rights which he could not establish, it would be meaningless and unintelligent legislation.

Mr. DANIEL. Mr. President——

The VICE-PRESIDENT. Does the Senator from Pennsylvania yield to the Senator from Virginia?

Mr. DANIEL. I should like to ask the Senator a question, if it will not interrupt him.

Mr. KNOX. I would rather proceed with my remarks if the Senator will be kind enough to defer his question until later on.

Mr. DANIEL. Very well.

Mr. KNOX. If his rights are determined solely by the Constitution, that instrument would be the measure employed in their determination. If he has rights vested upon some other foundation, a limitation placed upon him to have nothing but his constitutional rights determined, would be a fatal objection.

It seems to me to be wise, both as an indication of legislative intention that the orders of the Commission were not to be inconsiderately disturbed, as well as a provision of protection, to

the public, to provide against the suspension of the Commission's orders by interlocutory decrees, without requiring a cash deposit or a bond to secure to the parties entitled to repayment, the difference between the Commission's rate and the railroad rate if the Commission's rate were sustained; and to that end the proviso of the fifth section has been inserted, which carries in its terms a direction to the court to regulate the practice of the parties pending the litigation, in order to make these rights of repayment certain and effective. I do not share the oft-expressed opinion that the courts, even in the absence of such a provision, would lightly deal with the orders of the Commission.

The disposition among Federal judges to grant preliminary injunctions without hearing and for trifling reasons is one I have not observed in my experience, and while I accept, of course, as true the statements made by Senators as to their own experience and observation, I think the situation presented to a court in an application to set aside an order of the Commission made under authority of law would be essentially different from the one presented in ordinary litigation between man and man. It must be remembered that the Commission would be exercising a power delegated to it by Congress; that its findings would have the prima facie force of an act of Congress, not to be suspended, disturbed, or modified, except upon that *quantum* of proof necessary to overthrow the findings of a master in chancery or the verdict of a jury. I should be amazed, if this power is given to the Commission, to find any circuit court take any view other than the one I have expressed. Section 14 of the act to regulate commerce expressly provides that the Commission's findings shall be deemed *prima facie* evidence as to each fact found in all judicial proceedings.

While thus far I have done little more than indicate my attitude toward this legislation and a preference for the bill I have introduced as a comprehensive measure, and one most likely to prevent discrimination or preferences between individuals by devices worked out through the accessories to commercial intercourse, and to secure "in all things that equality of right which is the great purpose of the interstate commerce act," and, as well, most likely to escape the construction, so frequently encountered in courts, that the particular evil complained of was not covered by the terms of the law, yet I have referred to it here so much in detail solely with the hope that as a contribution to the general fund it might be of use in adjusting the bill which has been reported to the requirements of the situation.

Up to this time, after having referred to the movement and policy which has logically led to legislation such as is generally proposed in the reported bill, I have undertaken to show in a general way the purposes for which the Interstate Commerce Commission was originally created, the powers which it possesses to effectuate those purposes, and in what direction, in my judgment, those powers should be expanded in order to establish a workable and understandable code of commercial regulation and a type of a bill adapted to the situation. I have contended that a law authorizing the Commission to set aside rates and practices upon complaint, and to substitute others in their stead, must proceed either upon the theory of the Commission's action being final, or upon the theory that it must be subjected to review in the courts. I have, using the bill I introduced as a text, spoken in some detail of its provisions and pointed out that it was drawn upon the constitutional theory of subjecting the orders of the Commission to a court review.

I shall now take up the pending bill and endeavor to ascertain from its provisions whether or not it contemplates such review, and if a review by the courts was contemplated by its proponents, whether they have succeeded in providing for or preventing one, and whether or not to make that bill constitutional such a review is necessary.

I have no words but words of praise for the distinguished Senators who have given their time and great abilities in the work of preparation of this proposed great remedial law. I am in hearty sympathy with the purposes with which they were inspired, but I am sincerely convinced that the bill as it now stands utterly fails to accomplish their beneficent purposes, and, indeed, wholly defeats them.

That the sponsors for this measure conscientiously believed that they had prepared a bill providing unrestricted and unlimited power in the courts, quoting its language in the venue clause, page 17, lines 10 to 14, "to enjoin, set aside, annul, or suspend any order or requirement of the Commission," is indisputable because of their statements to that effect. Mr. HEPBURN, in closing the debate in the House (RECORD, p. 2651), replying to a question of Mr. SULLIVAN of Massachusetts, stated there was no doubt of the power of the court to review the reasonableness of a rate fixed by the Commission. I quote from the RECORD:

Mr. SULLIVAN of Massachusetts. Then, in your opinion, the court, under this bill, if it becomes law, will have the right to enjoin a rate fixed by the Commission if it is unreasonably low but yet does not amount to confiscation?

Mr. HEPBURN. I think there is no doubt about that.

The junior Senator from Minnesota [Mr. CLAPP] is, I understand, in complete accord with Mr. HEPBURN upon this point, and I understand, also, that the junior Senator from Iowa [Mr. DOLLIVER] takes the same position.

Mr. DOLLIVER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Pennsylvania yield to the Senator from Iowa?

Mr. DOLLIVER. If it will not interrupt the Senator——

Mr. KNOX. It will not interrupt me.

Mr. DOLLIVER. I feel impelled to disclaim entertaining that view if it is interpreted as I understand the Senator from Pennsylvania interprets it. The Supreme Court have decided in the Maximum Rate cases that an unfair and unjust rate is an essential deprivation of the carrier's property. I have no doubt they would review the order from that standpoint if the question were presented under the pending bill, but I do not go to the extreme of saying that the court would review the reasonableness of the rate with the view of substituting its discretion for the discretion confided by this bill to the Commission to determine the question whether a disputed rate is just and reasonable.

Mr. KNOX. The Senator from Iowa has stated very much more clearly than I have myself been able so far to state exactly what I understand to be his position.

If this is a correct construction of the bill, it is obvious that, so far as court review is concerned, the only point of difference between these gentlemen and myself is that I stand for a restricted power of the court to set aside the Commission's order while they propose an unrestricted power to that end.

I have ventured the opinion heretofore that I regarded the bill under consideration unconstitutional. I now repeat that opinion, and for the following reasons:

First. It does not provide any method for challenging the unlawfulness of the orders of the Commission in a direct proceeding against the Commission.

Second. It prohibits parties affected and aggrieved by the Commission's orders from defending proceedings to enforce them upon the ground of their unlawfulness.

Third. It so heavily penalizes the disobedience of the Commission's orders as to make any attempt to secure a judicial hearing in any form of proceeding impracticable. These reasons combined manifest such an intention to exclude inquiry into the lawfulness of the acts of the Commission as to bring the measure within the principle decided in the case of the Chicago, etc., Ry. *v.* Minnesota (134 U. S.), namely, that where the statute deprives the carrier "of its right to a judicial investigation, by due process of law, under the forms and with the machinery provided by the wisdom of successive ages for the investigation judicially of the truth of a matter in controversy it conflicts with the Constitution of the United States."

It is not possible to find in the bill a single word conferring jurisdiction upon any court to entertain a suit of any party aggrieved by any order of the Commission. Although the Commission is given power to sue in several cases, in no case is it made subject to suit. It may sue to enforce its order, but the parties bound by the order can only deny the fact that the order was regularly made.

How can a Commission administering a law of Congress be sued without the consent of Congress? What interest has it in an order after it is made? How can a case or controversy exist between it and a carrier after it has performed its duties under the act? If it is replied that it is the Commission's duty to enforce its orders by proceedings in court, my answer is that it is not a duty under the terms of the bill, but a discretion, and in such proceedings it is but a nominal party. Indeed, it is not necessary for it to be a party at all, as the right to enforce the order is expressly given to the Commission, or any party *injured* through its disobedience, and the bill expressly provides that the merits of the order can not be tried in such proceedings.

The fact is that under the bill the orders of the Commission can only get into court in two ways. One I have just indicated, in which the carrier can not defend. The other is by a suit by the United States to collect penalties for disobedience of the orders. Both are by proceedings against the carrier. In no way can the order be brought into court by proceedings against the Commission.

It is clearly the purpose of the bill to preclude in proceedings by the United States to collect penalties any consideration by the courts of the validity of the order of the Commission, and indeed it would be a curious consequence if an order made by the Commission could be practically annulled in a proceeding by the United States against the carrier to enforce the penalty

to which neither the Commission nor the party who made the complaint was a party. But apart from this consideration, it is evident that a carrier could not afford to take the chances incident to testing the Commission's order in a proceeding to collect these penalties because of the extent to which it would be penalized if its contention should not be sustained by the courts.

The bill confers no right of review whatever upon the initiative of the carrier. It seems to assume the existence of some right in the carrier to institute a proceeding in the courts for the suspension or setting aside of the Commission's order, for in section 16 it is provided that the Commission's order shall take effect thirty days after service of notice thereof upon the carriers affected thereby "*unless such orders shall have been suspended or modified by the Commission, or suspended or set aside by the order or decree of a court of competent jurisdiction.*"

Is it not clear that in the absence of a grant of power to the courts to review the Commission's order in a proceeding brought to have it set aside, the courts, under the peculiar frame of this bill, which imposes no duty upon the Commission or anyone to enforce the order, could not entertain a suit brought for that purpose? *Unless and until* the Commission should itself move for the enforcement of the order, the carrier by failing to comply therewith would not have a standing in equity to set it aside. And when the Commission does move for the enforcement of the order the bill prohibits a defense upon the ground of its unlawfulness.

The sole ground upon which a claim to relief at the hands of a court of equity could rest would seem to be that the continued existence of the order was a menace to the carrier because of the penalties that might be recoverable for its failure to comply therewith. But how could a court of equity interfere merely to relieve the carrier from an action to recover penalties or to prohibit the United States from prosecuting such an action?

The difficulties in the way of any procedure at the instance of the carrier, intended to get rid of the effect of any order of the Commission (unless such procedure is specially authorized), will be apparent when we consider what relief the courts could afford, supposing that some ground for equitable relief could be found.

A proceeding to restrain the Commission from proceeding to enforce compliance with its order would be of no avail, if the Commission should answer that it did not propose so to proceed.

A proceeding to restrain the United States from bringing an action to recover the penalties could not be sustained.

Nor could a proceeding be sustained the only purpose of which was to secure a declaration upon the part of the court that the Commission had reached a wrong conclusion, and that consequently its order was an unlawful one. There could not be coupled with any such declaration any coercive or effective order which could compel the Commission to annul or modify its order. And if this could not be brought about, resort could not be had to a court of equity merely for the purpose of securing a declaration by it that an order made by an administrative body was unlawful, to be coupled with or followed by no action relieving the carrier from the effects of such order.

In all the cases in which relief has been granted to carriers against orders of commissions *some order was possible restraining or enjoining some action upon the part of the commission whose order had been attacked.*

In the case of Southern Pacific Company *v.* Board of Railroad Commissioners (78 Fed. Rep., 236) it was contended upon the part of the board that a certain order it had made reducing rates could not be enjoined, because the board had no further office or duty to perform in respect to the subject-matter of the order. In dealing with this contention Judge (now Justice) McKenna said:

> The grain schedule was served and the twenty days prescribed by statute after which the rates should go into effect had not expired when the bill was filed. Were there yet any acts or duties to be performed by the board? *It is very clear that if there was nothing left to be performed—if the rates had become the law to be enforced by other officers than the commissioners—there was nothing to be enjoined in a suit against the commissioners.*

And in the case of L. & N. Railroad Co. *v.* McChord (103 Fed. Rep., 216) the circuit court of the United States for the district of Kentucky enjoined a board of State commissioners from acting under a statute of Kentucky, because in the opinion of the court no opportunity was afforded to any railroad company affected by an order of the commissioners to have the same reviewed by the courts. In this case the circuit court was unable to find any warrant for the contention that after its order had been promulgated the commission had any further duty to perform, and its conclusion as to the effect of this was thus stated:

> It is indeed manifest from the entire scope and plan of the enactment, and its operation upon mere isolated cases only, that it was the purpose to exclude all inquiry upon that subject after the commission had acted, and to enforce by rigorous and extravagant penalties the rates thus fixed, however reasonably and earnestly the railroads might desire to promptly have the question of the justness of those rates finally determined by a judicial inquiry. Upon the principles so often and so emphatically announced by the Supreme Court, this purpose thus plainly written in the legislation must be fatal to its validity.

The Supreme Court set aside the injunction thus granted (McChord *v.* L. and N. Railroad Company et al., 183 U. S. 483) not because it differed from the circuit court as to the invalidity of the act construed as the circuit court had construed it—on this point no opinion was expressed, but because it held that action on the part of the commissioners was necessary for the enforcement of any order made by them, and consequently that an opportunity would be afforded to initiate proceedings to enjoin such orders.

The result of these considerations—

To quote from the court's opinion—

> is that the duty of enforcing its rates rests on the commission, and that none of the consequences alleged to be threatened can be set up as the basis of equity interposition before the rates are fixed at all.

Unless the order itself could be got rid of, how could a mere declaration of a court of equity that it was unlawful be availed of by the carrier in an action brought by the United States to recover penalties claimed to be incurred because of the nonobservance of the Commission's order? The declaration that it was unlawful would have been made in a proceeding to which the United States was not a party, and if for any reason the Attorney-General did not consider that he should be governed thereby, he could have the question of the lawfulness of the Commission's order determined in a proceeding to collect the penalties, in which he could be heard and in which a court of law might, as it certainly could, reach a conclusion in favor of the lawfulness of the Commission's order, in direct opposition to the declaration of a court of equity.

The conclusion seems inevitable that, unless some special method of procedure is provided for in the act which will afford to a carrier the right to have an order of the Commission effectively reviewed and dealt with by the courts, no effective remedy is available.

Unless the courts are empowered, in a proceeding brought with this object in view by the carrier, to suspend, set aside, or modify an order of the Commission, the carrier is practically without remedy, for it can not be otherwise relieved from the coercive effect upon it of the danger that, after all and in the last analysis, the lawfulness of the Commission's order (if this question can be raised at all) will have to be determined in an action brought by the United States to recover the penalties imposed by the act—a danger which, considering the amount that may be recovered, it can not afford to incur.

Even, therefore, if the lawfulness of the Commission's order could be raised in a proceeding brought by the United States to collect these penalties, the remedy thus afforded to the carrier would be utterly inadequate. It would be such a remedy as that adverted to in the opinion of Mr. Justice Brewer in the case of Cotting *v.* Kansas City Stock Yards Company (183 U. S., 79).

It is doubtless true—

Said Mr. Justice Brewer in that case—

> that the State may impose penalties such as will tend to compel obedience to its mandates by all individuals or corporations, and if extreme and cumulative penalties are imposed only after there has been a final determination of the validity of the statute, the question would be very different from that here presented. But when the legislature, in an effort to prevent any inquiry of the validity of a particular statute, so burdens any challenge thereof in the courts that the party affected is necessarily constrained to submit rather than take the chances of the penalties imposed, then it becomes a serious question whether the party is not deprived of the equal protection of the laws.

But, as already pointed out, no inquiry into the lawfulness of the Commission's orders would be possible in actions for the penalties imposed by the bill.

That the bill as it now stands is not only unfair, in respect to the question of review, but is also unconstitutional, seems to be clear. The decision of the Supreme Court in the case of Chicago, Milwaukee and St. Paul Railway Company *v.* Minnesota (134 U. S., p. 418) would seem to settle this.

In that case the railway commission of Minnesota, acting under a statute of that State, after a hearing upon complaint and answer, found that a certain rate should be thereafter charged, which rate the Chicago, Milwaukee and St. Paul Railway Company, the carrier affected by such order, declined to put in force. Thereupon the commission, following the procedure which the act authorized, applied for a mandamus to compel the railway company to publish the rate which it had prescribed. The railway company set up in its return to the alternative writ that the rate which it had had in force was a reasonable, fair, and just rate and that the rate which it had been directed by the commission to promulgate was not a

reasonable or fair or just rate and that the establishment of this rate by the commission amounted to a taking of the railway company's property without due process of law.

The Supreme Court of the United States, in passing upon the questions involved, held, in the first place, that it was concluded by the construction put upon the statute by the supreme court of Minnesota, and that consequently it must assume that it was the intention of the statute (provided the commission proceeded in the manner pointed out therein) to make the rates, which it directed should be enforced, as the Supreme Court put it in its opinion, "not simply advisory, nor merely prima facie equal and reasonable, but final and conclusive as to what are equal and reasonable charges; that the law neither contemplated nor allowed any issue to be made or inquiry to be had as to their equality or reasonableness in fact; that under the statute the rates published by the commission are the only ones that are lawful, and therefore in contemplation of law the only ones that are equal and reasonable, and that in a proceeding for mandamus under the statute there is no fact to traverse except the violation of law in not complying with the recommendations of the commission."

Accepting this as the effect which it was bound to give the statute, the court held that so construed it was in conflict with the Constitution of the United States.

This being the construction—

Said Mr. Justice Blatchford, delivering the opinion of the court—

of the statute by which we are bound in considering the present case, we are of opinion that, so construed, it conflicts with the Constitution of the United States in the particulars complained of by the railroad company. It deprives the company of its right to a judicial investigation, by due process of law, under the forms and with the machinery provided by the wisdom of successive ages for the investigation judicially of the truth of a matter in controversy, and substitutes therefor, as an absolute finality, the action of a railroad commission which, in view of the powers conceded to it by the State court, can not be regarded as clothed with judicial functions or possessing the machinery of a court of justice.

In the opinion reference is made to the fact that the statute permitted the commission to promulgate a rate in place of one found by it to be unreasonable without having first accorded the carrier an opportunity to be heard; but this fact could have no controlling effect upon the decision, because the commission had, in the case of the rate at issue, promulgated it after hearing the carrier's side of the case.

In the concurring opinion delivered by Mr. Justice Miller it appears very clearly that he was governed in reaching his conclusion by what he regarded as the unlawfulness of the attempt made to deprive the carrier of any review of the commission's order by the courts. This is apparent from the following extract from his opinion:

I do not agree that it was necessary to the validity of the action of the commission that previous notice should have been given to all common carriers interested in the rates to be established, nor to any particular one of them, any more than it would have been necessary, which I think is not, for the legislature to have given such notice if it had established such rates by legislative enactment.

But when the question becomes a judicial one and the validity and justice of these rates are to be established or rejected by the judgment of a court, it is necessary that the railroad corporations interested in the fare to be considered should have notice and have a right to be heard on the question relating to such fare, which I have pointed out is a judicial question. For the refusal of the supreme court of Minnesota to receive evidence on this subject I think the cause ought to be reversed, on the ground that this is a denial of due process of law in a proceeding which takes the property of the company, and if this is a just construction of the statute of Minnesota it is for that reason void.

Mr. President, I ask Senators to make especial note of the fact that this question was raised in a proceeding to enforce the commission's order, and a denial of the right to defend on the merits was held to invalidate the law. The right to defend on the merits in such a case is expressly withheld in the bill we are considering.

While the courts have upheld acts of Congress conferring final power upon administrative officers, they have refused to do so when the orders of such officers affected rights secured or recognized by the Constitution.

Thus in Wong Wing *v.* United States (163 U. S., 228) the Supreme Court while recognizing its previous decisions as to the conclusive effect of decisions of the officers charged with the duty of enforcing the Chinese exclusion acts, refused to extend the doctrine of these cases to an order of such officer committing one adjudged by him to have been guilty of a violation of the act to prison for a period of sixty days, although such order was authorized by the provisions of the act.

After referring to previous decisions of the court in which it had been determined that the deportation of aliens not entitled to be in the country did not constitute a deprivation of life, liberty, or property, Mr. Justice Shiras, who delivered the opinion of the court, said:

No limits can be put by the courts upon the power of Congress to protect, by summary methods, the country from the advent of aliens whose race or habits render them undesirable as citizens, or to expel such if they have already found their way into our land and unlawfully remain therein. But to declare unlawful residence within the country to be an infamous crime, punishable by deprivation of liberty and property, would be to pass out of the sphere of constitutional legislation, unless provision were made that the fact of guilt should be first established by a judicial trial. It is not consistent with the theory of our Government that the legislature should, after having defined an offense as an infamous crime, find the fact of guilt and adjudge the punishment by one of its own agents.

While the right of Congress to confer upon the Secretary of War final discretion as to approval of bridges over navigable streams has not been successfully challenged, when the question has arisen as to the finality of an order made by him pursuant to authority conferred upon him by Congress, requiring the removal or alteration of bridges upon the ground that they had become an obstruction to navigation, the courts have held that his decisions were subject to judicial review.

See United States *v.* Bridge Company (45 Fed. Rep., 178); United States *v.* Rider (50 Fed. Rep., 406).

In United States *v.* City of Moline (82 Fed. Rep., 592) Judge Grosscup thus dealt with the question of the authority of administrative bodies. He said:

In this case two questions alone arise: First. Is the bridge an obstruction to navigation? Second. Is it there by any such legal right that the Government may not interfere with it in the respect designated without just compensation? The first question is purely administrative, and is one that Congress can certainly delegate to the Secretary of War. A thousand questions of equal moment to the parties interested, and of equal difficulty, are necessarily delegated to the great Departments of the Government every month. In the very nature of things Congress can not dispose of them. A Government of the size of this, operated upon such a conception would be clogged immediately. The second question is, undoubtedly, judicial, and for that very reason is not subject, constitutionally, to the decision of Congress any more than of the Secretary of War. If the bridge be there by legal right—if it be a franchise or property that can not be taken except after just compensation—Congress is powerless, either by special or general acts, to touch it. In the face of such property right Congress is as helpless as the War Department. In the end such right, whether it be attacked by special act of Congress or by action of the War Department, will, through some channel, find an appeal to the judiciary. This right of appeal to the judiciary in all questions in their nature judicial is preserved in the sections of the statute under discussion. The Secretary of War has no power to carry out his decisions respecting these obstructions except through a court. Any question, whether law or fact, essentially judicial, may be raised under these informations. A court of the United States stands always, by the clear provisions of the act, between the decision of the Secretary and its execution. There is, therefore, in the act no delegation of judicial power to the Secretary that is not open to review in the courts. I hold, therefore, that the act, so far as it is applicable to the case in hand, is constitutional and valid, and the motion to quash will be overruled.

The motion to quash, which Judge Grosscup overruled, was made upon the ground that the decision of the Secretary of War that the bridge in question amounted to a nuisance was, under the acts of Congress, a final determination of the matter, and that such decision was not open consequently to question or review in the courts. Because of his conclusion that this was not the case, Judge Grosscup refused to quash the information.

The principle is thus concisely stated in Murray's Lessee *v.* Hoboken Co. (18 Howard, 284):

To avoid misconstruction upon so grave a subject, we think it proper to state that *we do not consider Congress can either withdraw from judicial cognizance any matter which, from its nature, is the subject of a suit at the common law, or in equity, or admiralty*; nor, on the other hand, can it bring under the judicial power a matter which, from its nature, is not a subject for judicial determination. At the same time *there are matters, involving public rights*, which may be presented in such form that the judicial power is capable of acting on them, and *which are susceptible of judicial determination, but which Congress may or may not bring within the cognizance of the courts of the United States, as it may deem proper.*

Mr. NEWLANDS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Pennsylvania yield to the Senator from Nevada?

Mr. KNOX. Certainly.

Mr. NEWLANDS. I understood the Senator from Pennsylvania a few moments ago to say that the right of the carrier to go into court and defend itself against the action of the Commission is expressly denied by the proposed act.

Mr. KNOX. The Senator misunderstood me, then. I said that the right of the carrier to defend, in a proceeding begun by the Commission to enforce its orders, is expressly denied by the proposed act.

Mr. NEWLANDS. Will the Senator kindly refer to that provision of the proposed statute?

Mr. KNOX. If the Senator will permit me to finish my remarks, I shall be very glad to do so.

Mr. NEWLANDS. Certainly. I do not wish to interrupt the Senator.

Mr. KNOX. I can indicate where the Senator can lay his hand on it. It is that provision of the statute which gives the

Commission, or any person affected by an order of the Commission, the right to go into any circuit court of the United States and by mandamus or otherwise secure the enforcement of the order. But in such proceedings the right of the carrier or other person who is made defendant in the proceedings is limited to the question as to whether or not the order was regularly made, and not as to its lawfulness.

Mr. NEWLANDS. What section is it?

Mr. KNOX. Section 15, I believe.

Whatever the intentions of the framers of this bill may have been, they have succeeded in producing a measure which permits an administrative body to make orders affecting property rights, gives no right to the owners of the property to test their lawfulness in the courts in a direct proceeding, denies the right to challenge their lawfulness in proceedings to enforce them, and penalizes the owner of the property in the sum of $5,000 a day if it seeks a supposed remedy outside of the provisions of the bill for challenging either its constitutionality or the lawfulness of the acts performed under its provisions.

The conclusion to which I am irresistibly led for the reasons and upon the authority I have given is that such a measure is unconstitutional.

Mr. President, as Congress is now dealing for the first time with the proposition to confer upon its Commission the power to examine and readjust rates, it is instructive to observe the manner in which some of the States have dealt with the question of court review, as applied to the acts of their own State railroad commissions exercising similar powers. With the view of ascertaining to what extent such provisions are incorporated in the laws of these States, and also of learning the nature of such provisions, I recently caused to be prepared a statement showing the provisions in their statutes with regard to the review of the orders of State railroad commissions; and believing that this information would prove of value in the determination of the similar question now before this body, I presented the memorandum to the Senate, and it was made a Senate document.

That statement refers to the statutes of 16 States. It is, of course, impracticable for me to refer at length to each of these statutory provisions, but they have been summarized as follows:

In all the right of court review is affirmed, in some more comprehensively granted than in others, but in none wholly ignored. In Alabama the courts may examine into the reasonableness and justice of a commission's order, and appeal may be carried up to the supreme court of the State. The Arkansas statute allows the justice of the railroad tariff to be passed upon judicially. While the Florida law vests the railroad commission with judicial powers, it also provides that appeals "by either party" from judgments, orders, and decrees of inferior courts shall be to the same extent that appeals lie "in similar cases and suits brought under any other law of the State." Indiana provides for an appeal by "a dissatisfied company or party" to its highest tribunal. Kansas has a similar provision, and there, too, the courts may inquire whether the rate prescribed by the commission is "reasonable and just." Parties in interest may carry their case up to the supreme court of Louisiana "without regard to the amount involved."

In Minnesota the right of appeal to the supreme court is elaborately provided for. Mississippi also guards the right, and declares that in trials of cases "brought for a violation of any rate of charges as fixed by the commission, it may be shown in defense that such tariff so fixed was unreasonable and unjust to the carrier." Missouri gives the reviewing court, if it holds and decides that the challenged order of the railroad commission was not lawful, the power and right, "without reference to the regularity or legality of the proceedings of said board or of the order thereof," to proceed "to make such order as the said board should have made." Here is a "court review" with a vengeance! North Carolina allows appeals to be carried to its supreme court. So do North Dakota and South Dakota. Texas also grants to either party dissatisfied with the commission's order the benefit of judicial review practically unrestricted. Virginia, to expedite decision, has enacted that all appeals from the commission "shall lie to the supreme court of appeals only." Washington permits any railroad or express company "affected" by an order of the railroad commission to test its lawfulness in the superior court. In the Wisconsin law it is set forth that dissatisfied parties may bring an action in the circuit court of the State to vacate the order of the commission, which is made the defendant, and the court may pass upon the lawfulness or reasonableness of the commission's requirement.

It will be seen from this outline, and more particularly from the document above referred to, known as Senate Document No. 278 of the present session, that the legislatures of these States have deemed it necessary to incorporate in their statutes specific provisions for review, or to provide for defense against the enforcement of orders which are deemed by the carriers to be unjust or unreasonable.

Now, Mr. President, if such provisions are necessary in the legislation of States possessing complete original sovereign power over the subject, hampered by no limitations except such as are contained in their own constitutions and imposed by the fourteenth amendment of the Constitution of the United States, *a fortiori*, they are necessary in an act of Congress which rests upon the delegated power of commercial regulation.

I can not but think there is some difference in the plenitude of the respective powers of the State and nation arising not only out of the source of the power but out of the difference of the relations of the two sovereignties to the subject upon which the power operates.

The right of a railroad to establish public highways and to take tolls for the transportation of persons and property is a right derived from the States who delegate to private enterprise a public function. The right of a State to exercise free control over the operations of a railroad and the charges for its service grows out of its dominion over an institution it has created to perform a function of the State.

The right of Congress is found in the constitutional power to regulate commerce among the States, which the great Chief Justice said:

> Is the right to prescribe the rule by which commerce shall be governed.

The purpose of these observations is not to throw doubt upon the power of Congress to confer upon the Commission the powers proposed in this bill—of this I have no doubt—but to confirm the view that in dealing with the subject greater caution should be observed in guarding the rights of those upon whom its provisions are intended to operate, because of the difference in the radical relations of the States and the nation to the subject and to emphasize the suggestion that it would be unwise to omit in national legislation that which seemed necessary in State legislation.

It could be contended, if it were admitted that Congress could not establish a schedule of rates, that Congress could lawfully enact the main proposition of this bill. I do not believe that an act to regulate rates, to secure their reasonableness and uniformity, necessarily depends upon Congressional power to establish rates; it could safely rest upon the power to prescribe a rule to govern rates when established. Congress's power to regulate the construction of a bridge across a navigable stream does not depend upon its power to build the bridge.

Is there not a difference between establishing rates and establishing a rule that they shall be reasonable and nondiscriminatory? The power to regulate commerce includes the power to remove restrictions upon commerce; and unreasonable, extortionate, and discriminating rates and practices amount to a restriction, an obstacle, an obstruction.

The decision in the Northern Securities case is precisely put upon the ground that Congress has power to prescribe the rule of freedom of competition and that the incidental interference with corporations created by a State in the enforcement of the rule does not suggest an attempt to assume control over them for any other purpose. The court said in that case:

> The means employed in respect of the combinations forbidden by the antitrust act, and which Congress deemed germane to the end to be accomplished, was to prescribe as a *rule* for interstate and international commerce (not for domestic commerce) that it should not be vexed by combinations, conspiracies, or monopolies which restrain commerce by destroying or restricting competition, etc.

Similar provisions for a judicial review, or for judicial investigation of complaints, are also to be found in nearly all of the bills upon the subject of rate regulation that have been introduced during the present session of Congress, to wit:

H. R. 295, introduced by Mr. RICHARDSON of Alabama, December 4, 1905, provides (sec. 4) for a review by the circuit court.

H. R. 469, introduced by Mr. HEARST December 4, 1905, provides (secs. 9 and 10) for a court of interstate commerce, which shall have exclusive jurisdiction to review all orders of the Interstate Commerce Commission, and that any party aggrieved may file a petition for review, such review to include the justness, reasonableness, and lawfulness of the order.

H. R. 4425, introduced by Mr. TOWNSEND December 6, 1905, provides (sec. 7) for review by the circuit court.

H. R. 8414, introduced by Mr. SUTZER December 15, 1905, provides for judicial review (p. 2, lines 20 to 25).

H. R. 8999, introduced by Mr. OLCOTT December 18, 1905, provides for a judicial review (p. 3, lines 3 to 10).

H. R. 10998, introduced by Mr. HOGG January 4, 1906, provides

for a court of transportation, which shall inquire into and determine complaints presented by a commission termed the transportation commission (p. 8).

H. R. 10639, introduced by Mr. HEPBURN January 4, 1906, provides, on page 15, for the determination by the circuit court of the *lawfulness* of an order, upon complaint for its enforcement, and on page 16 distinctly recognizes and refers to an assumed right of the carrier "to *enjoin, set aside, annul, or suspend* any order or requirement of the Commission."

H. R. 12220, introduced by Mr. MCCALL January 17, 1906, provides (p. 1, lines 11 to 13) for a judicial investigation of complaints made to the Commission and for an appeal in all cases to the Supreme Court (p. 3, lines 2 to 4).

H. R. 12312, introduced by Mr. DAVEY January 18, 1906, provides for a review in the circuit court by any carrier or other party aggrieved (p. 11, lines 19 to 25).

S. 285, introduced by Mr. FORAKER December 6, 1905, provides (p. 3) for a judicial review in the circuit court upon an action for enforcement of an order, and for the right of appeal therefrom to the Supreme Court (p. 4, lines 10 and 11).

S. 2261, introduced by Mr. DOLLIVER December 19, 1905, provides for the judicial determination of the *lawfulness* of an order, upon an action for its enforcement (p. 15, lines 10-15).

S. 2653, introduced by Mr. CULBERSON January 8, 1906, provides for judicial review where rate prescribed by Commission is confiscatory (p. 2, lines 5 to 10).

S. 4072, introduced by Mr. ELKINS February 13, 1906, provides for judicial review by the circuit court, section 3.

S. 4639, which I introduced February 22, 1906, provides for review, section 5.

Of the remainder, practically all contemplate and refer to, although they do not expressly provide for, a judicial review.

H. R. 278, introduced by Mr. CANDLER December 4, 1905, contemplates and refers to a judicial review (sec. 7).

H. R. 184, introduced by Mr. RUSSELL December 4, 1905, contemplates and refers to a judicial review (sec. 7).

H. R. 5966, introduced by Mr. ADAMSON December 11, 1905, clearly contemplates and refers to a judicial review, but does not expressly provide for one (secs. 4 and 9).

H. R. 11488, introduced by Mr. HEPBURN January 11, 1906, contemplates and refers to, but does not provide for, a judicial review (p. 10, lines 1 to 3, and p. 16, lines 5 to 7).

H. R. 12387, introduced by Mr. HEPBURN February 8, 1906, contemplates and refers to, but does not provide for, a judicial review (p. 14, lines 22 to 25, and p. 17, lines 10 to 13).

I am aware of but one bill (S. 1378, introduced by the Senator from South Carolina [Mr. TILLMAN]) which grants the Commission the power to fix rates, and which fails to provide *expressly* either for a judicial review or investigation, or to *recognize* a power assumed to exist in the Federal courts to review the orders of the Commission; and in that one instance it was stated at the time the bill was introduced that the reason it was not included was because the right of review already existed. What the Senator said was, I quote from the RECORD, page 233:

> Mr. GALLINGER. I want to ask the Senator if I correctly understand his proposition as embraced in the bill to mean that the Interstate Commerce Commission shall be given the power to fix rates and that there shall be no appeal to the courts permitted—that it shall be absolute?
>
> Mr. TILLMAN. Oh, no; the Supreme Court has declared—and the Senator is familiar with the decision—that under the Constitution *Congress has no such power*, and *it is not worth while for us to say in a bill that we are going to give that power*, because *the court* would pay no attention to it and *would declare such a bill unconstitutional.*

If this is correct; if there exists a practical unanimity in the desires and views of those who have given sufficient thought and study to this matter to be willing to express their views in the form of a bill; if all these Senators and Representatives believe either that a provision for review is essential or desirable, or take the ground that that right already exists in the courts, or that it should be included in the bill, what can possibly be the objection to definitely stating that right in the bill?

One thing I want to settle absolutely and to make clear beyond the possibility of a doubt: There exists in the minds of a large number of people throughout the United States the idea that the pending bill opposes a judicial review, and that those who are attempting to amend the bill by the insertion of a provision for review are endeavoring to force something into the bill that is foreign to its purposes. Such a view is erroneous. I do not mean that the bill effectually provides for a review, but that it makes distinct reference to such review, and assumes that such right exists.

That the bill provides, page 11, lines 5 to 9, as follows:

> Such order shall go into effect thirty days after notice to the carrier and shall remain in force and be observed by the carrier, unless the same shall be suspended or modified or set aside by the Commission *or be suspended or set aside by a court of competent jurisdiction.*

And on page 14, lines 20 to 25:

> And the orders of the Commission shall take effect at the end of thirty days after notice thereof to the carriers directed to obey the same, unless such orders shall have been suspended or modified by the Commission *or suspended or set aside by the order or decree of a court of competent jurisdiction.*

And on page 17, lines 10 to 14:

> The venue of suits brought in any of the circuit courts of the United States *to enjoin, set aside, annul, or suspend any order or requirement of the Commission* shall be in the district where the carrier against whom such order or requirement may have been made has its principal operating office.

Now if these expressions "suspended or set aside by a court of competent jurisdiction;" "suspended or set aside by the order or decree of a court of competent jurisdiction," and "the venue of suits brought in any circuit court of the United States to enjoin, set aside, annul, or suspend any order or requirement of the Commission" do not refer to and contemplate a review, what do they mean?

One of two things is certain, either the bill does or it does not provide for a review. If it does not provide for review, and if those in favor of the bill as it now stands do not contemplate or desire a review, then, in all fairness, these provisions should be stricken from the bill.

The fact is, however, as I have already shown, that the friends of the bill as it now stands claim, not that it does not contemplate a review, but that the bill either sufficiently provides for a review, or recognizes a right claimed to exist independently of the bill. On the other hand, while not differing from them in the object sought to be accomplished, I claim that the bill does not effectively provide for a review, and that it is essential in view of its other provisions that such a right should be distinctly given in the bill. But for the seriousness of the situation the matter would be most ludicrous. Both sides agree that the right should exist; one holds that it is in the bill or exists independently; the other that it is not in the bill, but should be; and yet the former, for some mysterious and unaccountable reason, objects to an amendment which would place the matter beyond doubt.

When we consider that the people are asking for prompt, decisive, and effective action; that the present bill distinctly contemplates a review; that its constitutionality is seriously threatened by failure to provide for such review if the other features are to stand; that precedents of State legislation are in favor of a review; that all the bills presented in either House provide for or recognize a review; that this bill itself as presented in both Houses, and as originally prepared by the Interstate Commerce Commission, contained a provision for review, and that the President in his message speaks of the orders being subject to review—when we consider all these facts, the action of those who are willing to imperil the validity and effectiveness of this law by not explicitly providing for a review for no valid reason whatever is to me incomprehensible.

It is not my purpose, Mr. President, to discuss at length the proposition involved in the amendment proposed by the junior Senator from Texas [Mr. BAILEY], which raises the question of the power of Congress to prevent the circuit courts of the United States from exercising what I deem to be an inherent function of a court of equity, namely, the power to grant an injunction, preliminary or final, to suspend an order of the Interstate Commerce Commission in a case where it is alleged and established to the satisfaction of the court that the order takes the property of a carrier or person without allowing just compensation for its use. An extended discussion of this question after the able argument of the Senator from Wisconsin [Mr. SPOONER] would be superfluous.

I am constrained, however, to say that, in arriving at a correct solution of this question, it is necessary to have constantly in mind the distinction between the judicial power of the United States and the jurisdiction of the Federal courts, as prescribed by the Constitution and laws of the United States.

The Constitution prescribes that the *judicial power* of the United States *shall be vested* in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish (Art. III, sec. 1); and in the next paragraph

> The *judicial power* of the United States *shall extend* to all cases *in law and equity* arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers and consuls.

It will be observed that in the first case the Constitution says *where* this power shall be *vested* and in the next *to what* cases it shall *extend*, but it in no way attempts to define the power further than to indicate the three well-known branches through which it operates—law, equity, and admiralty. These three divisions or features of judicial power were not created by the Constitution, but were well understood and existed long before the Constitution was thought of. Thus the framers of that

instrument merely adopted the system of jurisprudence then in existence and in use among English-speaking people, and presumed that the judicial system of the new nation should be founded upon the same principles of administrative justice.

It is also necessary to bear in mind the fact that the judicial power is one of the three coordinate powers of the Government of the United States, equal and in no material respect subordinate to either of the others. Indeed, in some respects it may be said to be the superior of the others, for it may pass upon the validity of their acts. Congress did not create this power. It exists wholly independently of that body; but while this is true, Congress has an office to perform in connection with it. This office is to create and establish the inferior Federal courts and to distribute or apply the judicial power to them. And right here is the vital part of the controversy. By the creation of these inferior courts Congress does not also create the power with which they are to be clothed. Congress merely *applies* the power already created by the Constitution. If it were otherwise, and Congress not only created the courts but the judicial power as well, then it would undoubtedly be true that Congress could likewise deprive the courts of this power by taking away one or more of their essential and inherent subordinate powers, such as the right to issue the writ of injunction. But that is not the case. The judicial power exists inherently by virtue of the Constitution, which instrument likewise created Congress and prescribed that it should establish the courts through which the judicial power should operate.

The office of Congress is therefore to *distribute* and not to *create* these powers. This power of distribution is a step lower down in the scale than the power to create. The first is the creation of the judicial power itself. That was accomplished by the Constitution. The next step was the distribution of these powers to the Supreme Court and to the dead machinery of the lower courts. And the third and next lower step is the mapping out of the jurisdiction of the court—that is, the prescribing of the particular objects or cases upon which this judicial power shall operate, which latter in very large measure was also outlined in the Constitution.

The judicial power, therefore, and the forms through which it operates, is a very different matter from a creation of the courts through which the power shall operate and the prescribing of the particular cases upon which it shall operate.

It is not necessary to consider the history of the origin and development of the chancery as a court distinct from the common-law courts. It is sufficient to state that the whole framework and structure of equity jurisprudence was built up and made possible because of this inherent equity power, the power of injunction, and now it is suggested to limit and control this power.

If Congress can interfere and lop off this highly essential branch of equity jurisprudence, it is easy to see that it can destroy the whole system or at least its efficacy. Such an attempt upon the part of Congress would clearly be an encroachment upon another and a coordinate branch of the Government, and it is a matter of highest satisfaction to know that in the system of nicely adjusted checks and balances which safeguard this Government the judicial power is not helpless, but may assert its own proper position and functions by declaring such an encroachment unconstitutional. That the Supreme Court would do so can hardly be doubted.

In volume 16, Cyclopedia of Law and Procedure, page 30, occurs the following:

> When, however, equity jurisdiction is confered over a particular subject, such jurisdiction includes with respect to that subject *all the powers of courts* of chancery.

"*All of the powers of courts of chancery*," not some of them. All of them. The power of injunction is the most vital of them all. How can a court of equity exercise *all* of its powers if its most vital power is taken away?

And again in Beach on Modern Equity Jurisprudence, section 5:

> The jurisdiction in equity has in many instances been modified in one way or another by modern statutes; but these statutes have ordinarily dealt with matters of practice or with matters which are not fundamentary; *and the changes have not affected the fundamental principles of equity.* Legislation affecting such changes is subject to various constitutional limitations. The most important of these is the provision preserving the right to trial by jury, which can not be curtailed by the extension of equity jurisdiction. And, on the other hand, it is said that *the right to have equity controversies dealt with by equitable methods is as sacred as the right of trial by jury.*

And in Bispham's Equity, sixth edition, page 2:

> In the Federal courts the limits of equitable jurisdiction are to be ascertained by reference to the boundaries within which the powers of the English court of chancery were exercised.

The power of injunction, as we have seen, is the very power to which the English court of chancery is indebted for its existence. Measured by this standard, how can Congress claim the power to take it away?

One of the best statements of the law upon this subject is to be found in Bates on Federal Equity Procedure:

> SEC. 525. These constitutional and statutory provisions have had the effect to vest in the several courts of the United States, in cases over which they have jurisdiction, respectively, *full and complete equity power and jurisdiction*, as that jurisdiction was known, defined, distinguished, and administered in England at the time of the adoption of the Federal Constitution, embracing, among other powers, the power to grant injunctions, etc.
>
> SEC. 526. *Full and complete chancery jurisdiction* is conferred on the courts of the United States, in the classes of cases of which they have cognizance, with the limitation that suits in equity shall not be sustained by them where plain, adequate, and complete remedy may be had at law. The rules of the High Court of Chancery of England have been adopted by the courts of the United States. *And there is no other limitation to the exercise of a* chancery jurisdiction by these courts in the classes of cases committed to them by the Constitution and laws of the United States. * * * *The usages of the High Court of Chancery in England*, whenever the jurisdiction is exercised, *govern the proceedings.* The remedies in equity in the courts of the United States are the same, and are to be granted and administered according to the principles, usages, and remedies in equity in England at the time our Government was established: *and where, under the English chancery system, relief by injunction can be given, the same or similar relief may be given by the courts of the United States.*

In the Monongahela Navigation Co. *v.* United States, 148 U. S., 325, the Supreme Court quoted with approval the following language taken from the case of Isom *v.* Mississippi Central Railroad, 36 Miss., 315:

> *The right of the legislature* of the State, by law, to apply the property of the citizen to the public use, and then to constitute itself the judge in its own case, to determine what is the "just compensation" it ought to pay therefor, or how much benefit it has conferred upon the citizen by thus taking his property without his consent, or to extinguish any part of such "compensation" by prospective conjectural advantage, *or in any manner to interfere with the just powers and province of courts* and juries in administering right and justice, *can not for a moment be admitted or tolerated under our Constitution.* If anything can be clear and undeniable, upon principles of natural justice or constitutional law, it seems that this must be so.

Mr. President, a correct solution of the question mooted is to be arrived at only by keeping in mind the fundamental difference between the *jurisdiction* of a court and the *judicial power* which operates and extends over the matters of which it has jurisdiction, which power is itself the life of the court. The creator and life giver of the whole judicial system is the Constitution, and not Congress.

Congress maps out the jurisdiction of the court by stating upon and to what particular objects this judicial power shall extend and operate, but here its office ends. All of the decisions cited to support the proposition that Congress may take from a court of equity the power to do equity extend no further than to the *jurisdiction* of the courts. Of this Congress undoubtedly has complete control, subject to the limitations imposed by the Constitution. What, then, does jurisdiction mean? Nothing more than the right to speak. Congress can clearly say *when* the judicial power operating through the circuit courts shall speak, but not *how* it shall speak.

Congress may say through what tribunals the judicial power shall operate, but it can neither limit nor eliminate an essential function of that power when vested. That would be an encroachment by the legislative upon the judicial branch of the Government, an encroachment full of danger to the stability of the Government.

In the case of Brown *v.* Kalamazoo Circuit Judge (75 Mich., 283, 284) the court said:

> It is within the power of a legislature to change the formalities of legal procedure, but it is not competent to make such changes as to impair the enforcement of rights.
>
> The functions of judges in equity cases in dealing with them is as well settled a part of the judicial power and as necessary to its administration as the functions of juries in common-law cases. Our constitutions are framed to protect all rights. When they vest judicial power, they do so in accordance with all of its essentials, and when they vest it in any court they vest it as efficient for the protection of rights, and not subject to be distorted or made inadequate. The right to have equity controversies dealt with by equitable methods is as sacred as the right of trial by jury.

I consider the question raised by the junior Senator from Texas an important one, for the reason that in it, in my judgment, centers the main point of debatable difference in regard to the pending bill. I can not but think that it will be very generally conceded that the bill must be amended so as to provide explicitly for some form of judicial review. The question this leaves for serious discussion is as to whether the amendment shall be so framed as to deny to the courts the power to suspend an order of the Commission pending its review. With regard to that proposition I can only say that it is not a question of what the Senate may *desire* to do, but of what it lawfully *can* do; and I believe it has been shown that such a provision is impracticable because it is unconstitutional.

A provision for notice and hearing before granting an injunction can easily be provided without the risk of infringing upon chancery powers or constitutional rights by requiring the application for an injunction to be made in a suit against the Commission to be begun before the day fixed for the order to go

into effect. This would be before there had been any actual taking of the carrier's property, and therefore a provision for ample notice and hearing would not be subject to the objection that irreparable injury might ensue pending the hearing, as no injury could be sustained until the order became effective.

Mr. President, men of our inheritances repel summary and arbitrary methods, and none the less if these proceed from acknowledged power, accompanied by the mere empty professions and forms of law. Judicial review of every substantial controversy affecting persons and property is a right. This right was painfully won from tyrannies of the past, and is established now beyond the power of any present tyrannies to destroy, in whatever guise they may come, and even if masquerading in the name of the people. This right is to have the rights of the parties in every controversy determined by the courts. Why, then, should there be any doubt on that point in this bill; why should the relative provisions not be clear and explicit? Is it because the friends of this bill doubt the character or capacity of the courts? I have heard that doubt suggested in and out of this Chamber, and I now take leave to raise my voice in protest against the shallow and dangerous notion. Is the relation of the courts to government by the people forgotten? The courts are an integral and vital part of our Government, and it would be a sad day for American civilization if their function were degraded or weakened. They are the balance wheel and check in our system between contending passions and policies. This is not idle rhetoric.

It is the sober truth that the courts are the guardians of our rights and liberties. It is high time that the people should remember this and should soberly reflect upon the current heresies. It is high time that public sentiment and conviction should loyally support the judicial power, recognize the patriotism and good faith of the courts, and maintain their authority and independence. If the derogatory ideas which I have heard relate to State courts, I can not challenge those who are better informed than I as to particular States, but, speaking for my own State, I indignantly repudiate that idea, and as to the Federal tribunals, I assert without fear of contradiction that to their honor, capacity, and just judgments any human controversy may be safely intrusted. If now and then some unworthy judge constitutes an exception that contrast only accentuates the general record of high personnel, character, and ability.

Mr. President, this great subject should be discussed and considered in a spirit of sincerity and courage, far removed from political expediency, or levity, or passion. It is a question affecting the entire country and every section. It concerns vitally great aggregates of the people and each individual citizen. It touches at all points the interests of capital and the interests of labor. It is a question of constitutionality, of fundamental rights, of law. It is therefore a question which peculiarly concerns the lawyers of this Chamber. It would be a reproach to all of us if we should fail in our patriotic duty to give to the study of this question the best that is in us—to bring to bear in candor and honesty all our powers of mind and conscience. But it would be a peculiar reproach to those of us who are lawyers if for lack of intellectual integrity, for want of courage, because of expediency—for any reason short of absolute conviction—we should urge this bill, or, sitting silent, should supinely permit it to become law although believing it to be unconstitutional or illegal and unjust on any ground.

Mr. President, the sense of this responsibility weighs upon me, and has guided me in all that I have thought or said or done in this matter. I trust I do not need here or anywhere to give assurances as to the spirit and motives actuating my public conduct. But it is fitting for me to say in closing my remarks that my course on this important subject of debate before the people of the United States reflects the deliberate judgment of my mind on the legal questions and the deep conviction of my conscience as to my patriotic duty.

Mr. NEWLANDS. Mr. President, may I ask the attention of the Senator from Pennsylvania for a moment? Regarding the power which the Senator seeks to insert in the bill for court review, I wish to ask him whether if Congress to-day should pass a statute absolutely fixing the rates for interstate commerce through the entire country he thinks it would invalidate that statute on constitutional grounds if it failed to make provision for court review?

Mr. KNOX. Mr. President, it is not necessary for me to take that position under this bill. My contention is not that the bill is unconstitutional because it fails to make provision for court review, but that it is unconstitutional for that reason in conjunction with the provision prohibiting defense in proceedings to enforce the orders of the Commission, and likewise imposing heavy penalties which are intended to keep the carrier from challenging the order of the Commission.

If the Senator from Nevada will kindly excuse me from answering other questions—I am very much fatigued; I expect to be in the debate to the end, and he will have another opportunity.

Mr. NEWLANDS. I should like to press the inquiry further, but I shall avail myself of another opportunity.

THE FIVE CIVILIZED TRIBES.

Mr. CLAPP. Mr. President, I desire now to call up the conference report on House bill 5976.

There being no objection, the Senate proceeded to consider the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. 5976) to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory, and for other purposes.

The VICE-PRESIDENT. The conference report has been printed as a document and is on the desks of Senators. It has also been printed in the RECORD by order of the Senate. The question is on agreeing to the conference report.

Mr. LA FOLLETTE. Mr. President, I am not quite familiar with the proceeding, but I desire to have an opportunity to discuss the conference report. To that end I move—and yet I may not be taking the right course—that the Senate disagree to the conference report.

Mr. LODGE. I do not wish to interfere at all with the Senator from Wisconsin, but if he desires the conference report to go over so as to have an opportunity to look further at it——

Mr. LA FOLLETTE. Oh, no; I have looked at the report; I merely desire to get it in such form that it can be discussed here.

Mr. CLAPP. That can be done now.

Mr. LODGE. Of course the first motion is to agree to the conference report.

Mr. CLAPP. The question is on the adoption of the conference report.

The VICE-PRESIDENT. The question before the Senate is on agreeing to the report. The report is open for discussion. The junior Senator from Wisconsin is recognized.

Mr. LA FOLLETTE. I yield to the Senator from Colorado [Mr. PATTERSON].

Mr. PATTERSON. Mr. President, against one of the amendments, I think it is the eleventh, I desire to raise a point of order.

The VICE-PRESIDENT. The Senator from Colorado will state his point of order.

Mr. PATTERSON. I may not be able to state it in a few words, but I will try to make myself clearly understood by the Senate.

I would not interpose the point of order did I not feel that the amendment is a very vital one and is liable to do a great amount of injustice to several thousand citizens by blood of the Five Civilized Tribes and its effect must be, in my judgment, to deprive many of them of large property interests that they would otherwise acquire.

The point I make against the eleventh amendment is that it strikes out a provision of the bill that was acted upon favorably by both the Senate and the House of Representatives, and that the conference committee was not appointed for the purpose of revising the act or the acts of both branches of Congress, but was appointed for the purpose of settling, if they could, differences that arose by reason of amendments.

Turning to the report of the conference committee as printed on page 3, I understand this to be the situation of the eleventh amendment: The eleventh amendment made by the Senate consisted of striking out the word "six" and changing it to "seven," so that the proviso reads:

Provided, That the rolls of the tribes affected by this act shall be fully completed on or before the 4th day of June—

Which was changed to March—

1906—

Which was changed to 1907. That was the entire eleventh amendment—the changing of the word "six" to "seven." But not content with agreeing to that amendment the conference committee proceeded to strike out an entire provisio that had no relation to the date that was changed in the Senate and to substitute for that proviso a provision of its own.

The proviso to which I refer is the proviso commencing on line 14, page 3, of the bill. That proviso was a part of the bill as it came to the Senate from the other House, and it remained a part of the bill as it left the Senate. It was not altered to the extent of the crossing of a "t" or the dotting of an "i;" but when the conference committee got together they struck out the deliberate action of the Senate, which was not in dispute at all between the two bodies, and they substituted for that a provision of their own.

Mr. TILLMAN. From what page is the Senator reading?

Mr. PATTERSON. I am reading from page 3. The amendment to which I refer commences on line 12, page 3, and the proviso that it strikes out commences on line 14, on page 3. I call the attention of the Vice-President again to the proposition that this proviso was in the bill as it passed the other House; it was in the bill as it passed the Senate without any change whatever, and this united action of both bodies has been obliterated from the bill and a new proviso substituted for it. To me it seems quite unusual, quite extraordinary, and must be subject to the point of order.

This is the proviso as it left the House and was approved of by the Senate:

Provided further, That nothing herein shall be construed so as to prevent any person to file an application for enrollment in any case where the date for filing application has been fixed by agreement between said tribe and the United States: *Provided further*, That nothing herein shall apply to the intermarried whites in the Cherokee Nation whose cases are now pending in the Supreme Court of the United States.

The conference committee struck that out bodily and substituted for it the following:

Provided, however, That the decision of the Commissioner to the Five Civilized Tribes on a question of fact shall be final.

In the first place, Mr. President, there is nothing cognate between the two provisions. The amendment of the conference committee is to change a rule of evidence; and under the operation of that change the cases of several thousand freedmen and citizens must be most materially affected. I understand, from what I consider very fair and reliable authority, that there are pending in the Indian Territory several thousand cases, in which the parties, by virtue of their relation to the tribes, are seeking to secure lands, moneys, and other property that will come to them by virtue of the status that they may establish in the proceeding before the Commissioner or the Commission, mostly upon the part of those who were freedmen, who are only entitled to 40 acres of land and some proportion of tribal property of another character, who have undertaken to establish their rights in the land as citizens of the tribe; citizens by reason of the fact that they are children or grandchildren of Indians, whether through the father or through the mother.

I submit, Mr. President, that the injustice of a provision of that kind is manifest on its face. The Commissioner, who is made the final tribunal upon all questions of fact, and whose decisions are to be final, is not even a lawyer. He has under him four or more clerks, who, in reality, sit as a court, make their findings, submit them to him, and he, as the Commissioner, finally adjudicates the matter. The presumption is that all hearings are before him; that all the witnesses appear before him as they would before a judge of a court; but the practice is to the contrary, and the practice necessarily prohibits him, on account of the number of litigants, from giving his personal attention to each case. I am informed that so inaccurate, if I may use that term, have been the decisions of the Commissioner in almost innumerable cases that, upon appeal from the Commissioner to the Secretary of the Interior, at least 50 per cent of the decisions of the Commissioner have been reversed, and that is not at all to be wondered at. Not being a lawyer, not being educated in the weight of testimony and giving the proper weight to each witness and to each item of evidence, he commits many blunders.

Now, it is proposed to arbitrarily amend the rule in such manner that the decision of this Commissioner upon questions of fact in future will be held absolutely final. It is because of this manifest injustice that will be done to those who are entitled to have justice done under the law, regulated according to the usual custom in court, that I make the point of order that I do—that the conference committee have struck out an entire proviso, a proviso that was consented to by the other House and the Senate, not a word of it changed while the bill was before either body, and have substituted for it an entire new proviso and one that is altogether different in its aim and in its results from the one that was struck out.

I think, Mr. President, that the point of order must be well taken, in view of what is the scope of the duties of a conference committee.

Mr. CLARK of Wyoming obtained the floor.

Mr. CLAPP. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wyoming yield to the Senator from Minnesota?

Mr. CLARK of Wyoming. I do.

Mr. CLAPP. Mr. President, I do not care in this connection to discuss particularly the merits of the change in the bill proposed by the conference committee any more than to say that the Commissioner has opportunities certainly equal to those of the Secretary of the Interior for giving personal attention to these cases. One of the unfortunate conditions in the Indian Territory is the long delay incident to the attempt to settle the affairs of that Territory; and one of the most striking occasions of that delay is the appeal, not only upon questions of law, but upon questions of fact. It was my fortune last fall to visit the Indian Territory, and from every source these complaints came up. It now seems to me, as it did then, that in questions of fact it is better that the decision of the man who is on the ground, possessing more opportunity for investigation than the man sitting in his office in Washington, shall be final as to questions of fact, leaving questions of law to be sent to the Department of the Interior, and by the head of that Department referred to its legal branch.

The fact that the cases to which the Senator from Colorado [Mr. PATTERSON] refers have been reversed, to my mind affords no argument against this proposed change. In that country there is a condition existing where the controversy is between Indians and the white people and those who have obtained tribal relations either by marriage or adoption by the tribe itself. An examination of these appeals will show that where the Commissioner has been most often reversed, his decision was in favor of the Indians and the reversal against the Indians. But I do not care to pursue that question further.

The reason the conference committee struck out from line 14 to line 21 is that that was involved in the settlement of the question whether these rolls should be completed in June, 1906, or in March, 1907. I call the attention of the Senator from Colorado to the fact that the House never did assent to the language from line 13 to line 21 in connection with a change of those dates. The House bill provided that these rolls should be completed on the 4th day of June, 1906, and, in view of that fact, it was necessary to provide that it should not relate to the intermarried whites whose cases are pending in the courts. But when the House assented to changing that date to March, 1907, giving us the next session of Congress in which to make provision, according as the decision in the intermarried whites case might go one way or the other, it then was mere surplusage to leave that language in the bill.

Section 2 provides for completing this enrollment. It first provides for the taking in of minors who have been born since March 4, 1906, up to that time they being included under the allotment of last year. Then it provides for equalizing the allotments, prohibiting any action after six months from the date of the original selection, or after the expiration of six months from the passage of this act as to allotments heretofore made. Then it changes the date, the whole purview of that condition being in relation to the question of these allotments; and then the House submitted, as the record will show, this addition:

Provided, however, That the decision of the Commissioner to the Five Civilized Tribes on a question of fact shall be final.

Mr. HALE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Minnesota yield to the Senator from Maine?

Mr. CLAPP. Certainly; with pleasure.

Mr. HALE. While I have no great familiarity with the subject-matter of this bill, the conference report brings out what is a constantly recurring question in the Senate, whether the conferees have inserted matter neither put in by the House of Representatives nor by the Senate—that is, new matter. It is an old question, as the Senator knows, older than his service here—and valuable service it is—older than my service, and we need always here to scrutinize conference reports. That is done without any reflection upon Senators, but it is to preserve the integrity of legislation. Nothing is so dangerous as the assumption of undue power on the part of a conference committee, no matter how strong the temptation may be to perfect a bill; nothing is so pernicious in legislation as for the conferees to assume, in perfecting a bill, to put in what has not been put in by either House.

I know in the Committee on Appropriations, which deals with almost every subject of legislation, and which has a tremendous power by reason of the important matters that are intrusted to it in conference, some of us old members have to constantly make a contest in conference committees against putting on new matter, regardless of how good the new matter may be, and regardless of how desirable it may be in perfecting the bill.

It is not the province of a conference committee to legislate. The province of a conference committee is to adjust differences, differences between the two Houses, differences that have already arisen, and that appear to need adjustment; but it is not the province of a conference committee to assume what either House should do and put in new matter.

Now, what I want of the Senator is——

Mr. GALLINGER. Or strike out matter not in controversy.

Mr. HALE. A conference committee can not strike out matter not in controversy.

Mr. CLAPP. Of course, I realize, as the Senator suggests, that there is nothing personal to the conferees in anything that may be said.

Mr. HALE. Not in the least.

Mr. CLAPP. Of course, I did feel an added interest in this case because it was put on by the House conferees. But take the language from line 15 to line 21, more especially the second proviso as to the intermarried whites. If a matter in conference between the two Houses changed the date so that that would not longer be pertinent to the view first taken by the House, would it not be proper to strike that out in adjusting these views? I am asking merely for information.

Mr. PATTERSON. I want to call the attention of the Senator from Maine [Mr. HALE] to what has been changed or for what the new matter has been substituted. This is the proviso, commencing on line 10:

Provided, That the rolls of the tribes affected by this act shall be fully completed on or before the 4th day of June—

"June" was stricken out and "March" inserted—

nineteen hundred and six.

"Nineteen hundred and six" was stricken out and made "1907." So the amendment up to that point simply changes the time for the completion of the roll.

Mr. HALE. That is, they deal simply with the question of when the thing shall be done and take effect. That is all.

Mr. PATTERSON. Yes. Then they proceed to change the rule of evidence, striking out an entire proviso that had no reference whatever to the rule of evidence and that had received the approval of both bodies of Congress, and substituting a new rule of evidence by which thousands of cases are to be governed.

Mr. HALE. That is precisely to what I was going to call the attention of the Senator from Minnesota [Mr. CLAPP], who is a good lawyer and who will see the force of it. The only thing that was brought into controversy by the amendments were the dates. "March" was substituted for "June," and "seven" for "six"—that is, the time when the provision should take effect. That is the only real question that was raised.

Mr. CLAPP. I submit, if the Senator will pardon me, that the second proviso was also involved in that change. That was the expression of the wish of the House if the time were limited to June, 1906. Of course it ceased to be their wish if it was extended to 1907.

Mr. HALE. I see the force of that. How far does that go? Does it follow that because of a change of date the conditions are changed, and that the conferees had a right to put in, instead of the proviso which was left in the bill by both Houses, absolutely a new rule, which is:

That the decision of the Commissioner to the Five Civilized Tribes on a question of fact shall be final?

I think, Mr. President, the conference committee has exceeded its power in putting that in, though I see the force of what the Senator says, that the whole subject-matter may have been changed by the change of date. I should like the Senator to explain that; otherwise I should be very clear that introducing this new rule of evidence in place of the proviso that had been left untouched by both Houses is clearly transcending the power of the conferees.

Mr. CLAPP. No; I do not mean that changing the date changed the whole of it. What I meant to say was that changing the date clearly warranted the committee, it seemed to me, in striking out the second proviso. However, that still leaves unimpaired the Senator's objection concerning the addition of the provision in regard to the Commissioner. That I concede, and probably in view of the Senator's opinion of it the objection would be practically decisive.

I should like to ask as a question of practice now—of course this report has to be adopted in whole or rejected in whole, as I understand——

Mr. HALE. I suggest to the Senator that when a conference encounters difficulties of this kind, which, I think, evidently are insuperable—and the Senator is very frank about his statement—the report is withdrawn or it can be voted down, and then the bill goes into conference again.

Mr. CLAPP. I think, in view of the suggestion of the Senator from Maine [Mr. HALE]—and certainly his opinion on a matter of this kind ought to be decisive; it would be to my mind anyway—I will take the report back. But there is another question involved.

Mr. TELLER. There are several other questions.

Mr. CLAPP. There are some other questions. My idea was whether in this manner the conferees on the part of the Senate could take the judgment of the Senate in advance upon those other questions, so that we would not have to come back again and perhaps again encounter them.

Mr. HALE. The other questions may be brought up.

Mr. CLAPP. I should like to have that done, so that in the next report——

Mr. HALE. We can have those all brought up, and then the conferees on the part of the Senate will be strengthened in their position.

Mr. CLAPP. I should like to have that done.

Mr. CLARK of Wyoming. Mr. President, there are several matters to which I was about to call attention when I yielded to the chairman of the committee [Mr. CLAPP]; but in view of the statement of the chairman that he would like these matters called to attention now, I will make mention of some of them.

I was about to express my reluctance, Mr. President, to in any way criticise a conference report coming from a committee of which I was a member. I simply want the Senator from Minnesota, as I was calling attention to these matters, to be advised as to my objections to the report. There are very many, and they are on various grounds.

First, because I do not believe the conference report reflects in any way the sentiment of the Senate upon the points in difference between the two Houses. That perhaps is not the subject of a point of order; but it is a matter to which I wish to call attention, especially in view of the very great importance of one of the amendments.

It has seemed to me, Mr. President, in looking over the report that the Senate conferees have not been insistent enough perhaps in expressing in the conference the views of the Senate, and I would call attention first, on that line, to the action of the conference committee with reference to the coal lands.

Mr. TELLER. Give us the number of the amendment.

Mr. CLARK of Wyoming. I am trying to find the amendment now.

Mr. CLAPP. It is 33, I think.

Mr. CLARK of Wyoming. Thirty-three.

Mr. GALLINGER. It is on page 4 of the conference report.

Mr. TELLER. And on page 16 of the bill.

Mr. CLARK of Wyoming. Page 16 of the bill.

Mr. CLAPP. On page 4 of the report, amendment No. 33.

Mr. CLARK of Wyoming. Yes, and it is on page 16 of the bill.

Mr. PATTERSON. What is the number of the amendment?

Mr. TELLER. Thirty-three.

Mr. CLARK of Wyoming. The numbers of the amendments are 33 and 34.

My recollection of that matter is this: The House provision as it came to us was not at all satisfactory to the Senate, as developed here by two or three days of discussion. This matter was so important that the Senate committee spent several days in devising some plan which they thought would be just and proper in dealing with these coal lands, variously estimated in value at from fifteen to fifty million dollars. It was finally determined in the Senate to reject the amendment prepared by the committee, which provided, under careful restrictions, for the disposal of the coal lands; to strike out the House provision for their further lease, and to leave matters exactly as they are at this time, pending further information to be received upon the subject of the coal lands. I think if there was anything in the bill that was carefully considered and carefully voted upon in the Senate it was that very provision.

Mr. President, the result of the conference is not only to undo what we have done in the Senate, but to do what I am sure the Senate never would have done—to concur in full in the House provision. The only change made in the House provision as it came to us, after all the discussion and vote in the Senate, is to insert in line 11 "or until such time as may be otherwise provided by law." The effect of this legislation, if the conference report shall prevail upon that matter, is simply this: It does not even leave this matter in the shape in which it now is, but it virtually instructs the Secretary of the Interior, prior to the time when we meet here again in Congress, to dispose of all that coal land.

Mr. CLAPP. Oh, Mr. President, I beg to call the Senator's attention to the fact that he is mistaken, unless he means to dispose of it by lease.

Mr. CLARK of Wyoming. I mean to dispose of it by lease.

Mr. CLAPP. Oh!

Mr. CLARK of Wyoming. It makes no difference whether it is disposed of by lease or is sold; it takes it out of the power of Congress ever to legislate, during the time those leases run, with respect to an acre of land, which the Secretary is given a direct invitation to lease as rapidly as possible and before Congress shall again meet in session.

As I said, if there was one thing which the Senate fully discussed in connection with this bill it was this very coal-land proposition, and the result has been not only to set at naught all the discussion, not only to set at naught the desire of the Senate to learn something about the coal lands, not only not to leave it in statu quo, but to go further than can be gone under the existing law and lease the lands. The present law provides against the leasing of any of these coal lands. The law that is proposed goes a step further than that and provides for the leasing of all the lands, and takes the control of them absolutely out of the power of Congress. That is one of the matters in this report to which I wish to call attention.

Mr. BACON. May I ask the Senator from Wyoming a question?

The VICE-PRESIDENT. Does the Senator from Wyoming yield to the Senator from Georgia?

Mr. CLARK of Wyoming. With pleasure.

Mr. BACON. Does the Senator refer to the word "leased" in the eighth line on the sixteenth page or is it some other section of the bill that he has in view?

Mr. CLARK of Wyoming. Section 13, page 16, of the bill.

Mr. BACON. Yes; that is the one I refer to.

Mr. ALLISON. The last print of the bill?

Mr. CLARK of Wyoming. The last print of the bill. The thirty-fourth amendment of the Senate struck out the provision for leasing. The present law is that there is no authority for leasing. I will say to the Senator from Georgia that under a distinct agreement with the Indians the Secretary of the Interior is prohibited from making any leases of these coal lands. The House, in its wisdom, saw fit to put in a provision for the leasing of these lands by the Secretary, notwithstanding the solemn agreement with the Indians not to lease them. The Senate, when it came to discuss this question, struck out the House provision for the leasing. The conference committee have restored it.

Mr. TELLER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wyoming yield to the Senator from Colorado?

Mr. CLARK of Wyoming. Certainly.

Mr. TELLER. I call the attention of the Senator to the fact that that would be within the province of the committee.

Mr. CLARK of Wyoming. As I stated to the Senator from Minnesota when he and the Senator from Colorado were engaged in conversation, I urged that not as a technical objection to the report, but for the information of the committee when they went back into conference.

Mr. ALLISON. Let me see if I understand this. Do I understand the Senator to contend that the conference report restores the phraseology from line 12 to line 19?

Mr. CLARK of Wyoming. Exactly.

Mr. ALLISON. The printed report does not so indicate.

Mr. TELLER. Yes; it does.

Mr. CLARK of Wyoming. I think it does.

Mr. ALLISON. It says:

That the House recede from its disagreement to the amendment of the Senate numbered 33.

Now, what was that amendment?

Mr. CLAPP. That is the language we put in:

Or until such time as may be otherwise provided by law.

That was Senate amendment No. 33.

Mr. ALLISON. What about 34?

Mr. CLAPP. Then the Senate receded from its amendment numbered 34.

Mr. ALLISON. I see.

Mr. CLAPP. The record shows it.

Mr. TELLER. The Senate receded, as the record will show.

Mr. ALLISON. I see now. The Senator is right.

Mr. CLARK of Wyoming. I will say to the Senator that the record is not entirely accurate as to the print of this bill. The accurate statement is this: The entire section 13 was stricken out by the Senate.

Mr. TELLER. No.

Mr. CLAPP. The Senator is mistaken.

Mr. CLARK of Wyoming. I will finish my statement, and if when I get through it appears that I am mistaken I will be subject to correction.

The entire section was stricken out. A new section was thereupon inserted, which began with the word "section," in line 8, and closed with the word "law," in line 12. I am satisfied of that, because I myself prepared the amendment and offered it on the floor, and it was adopted.

Mr. CLAPP. Was not the language from the word "section," in line 8, a repetition of the House provision?

Mr. CLARK of Wyoming. It was an exact repetition of the House provision, but the House provision was stricken out. But, however that may be, the point to which I call attention is the effect of the action of the conferees, as their report shows; and I wish to call the attention of the conferees to the fact that I do not think a just interpretation of the desires of the Senate——

Mr. McCUMBER. I should like to ask the Senator a question. Where is it shown that the Senate conferees have receded from Senate amendment numbered 34?

Mr. ALLISON. On the first page of the report.

Mr. TELLER. The first page.

Mr. CLARK of Wyoming. The Senator will find it on the first page.

Mr. McCUMBER. Where is it in the report?

Mr. ALLISON. On the first page of the report.

Mr. TILLMAN. The Senate recedes from its amendment numbered 34.

Mr. ALLISON. The Senate recedes from its amendment numbered 34.

Mr. McCUMBER. I see it.

Mr. HALE. It is in the general list.

Mr. McCUMBER. Yes.

Mr. CLARK of Wyoming. Yes. I think it would be very unfortunate, indeed——

Mr. BACON. On what page is the statement that the Senate recedes from its amendment numbered 34?

Mr. CLARK of Wyoming. Page 1 of the report.

Mr. TILLMAN. The Senate recedes, as is shown on page 1.

Mr. BACON. I see.

Mr. HALE. The Senator will find it in the general list.

Mr. BACON. I see.

Mr. CLARK of Wyoming. I think that is all I care to say upon that particular section, but I will call the attention of the committee——

Mr. ALLISON. Before the Senator leaves that section I should like to ask him whether, as the conferees have reported this provision, it allows the Secretary to go on in the meantime and lease any of these lands?

Mr. CLARK of Wyoming. It is a direct invitation to the Secretary to go on and lease the lands, because the law at present prohibits him from leasing any of the lands. This new legislation in the pending bill not only allows him, but is a direct invitation to him to go on and lease from this time on all of the lands that are not already under lease.

Mr. ALLISON. I understand.

Mr. TELLER. I wish to call the attention of the Senator on the floor to amendment 33:

That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment as follows.

The only amendment of the Senate was to put it "or until such time as may be otherwise provided by law."

Mr. CLARK of Wyoming. Yes.

Mr. TELLER. That had reference to the sale?

Mr. CLARK of Wyoming. Yes.

Mr. TELLER. I do not remember what that matter was, but I think it was substantially as in this print.

Mr. CLARK of Wyoming. Exactly the same.

Mr. TELLER. Then the conferees add after that:

Provided, That the Secretary of the Interior be, and he is hereby, authorized to ascertain and report by the opening of the next session of Congress if he can secure an agreement with the Choctaw and Chickasaw Indian tribes to have said coal lands set aside for school purposes, or report a plan for the sale and disposition of said lands.

Then comes the leasing provision——

Mr. CLARK of Wyoming. Yes.

Mr. TELLER. And we recede from amendment numbered 34.

Mr. CLARK of Wyoming. Yes.

Mr. TELLER. I understand that the right to recede with an amendment or to agree with an amendment means an amendment that is substantially——

Mr. CLARK of Wyoming. Germane.

Mr. TELLER. Related to the subject-matter. Here is an entirely new thing, new legislation which has never been before either body.

Mr. HALE. Let me ask the Senator whether in debate or in the consideration in either House this feature of ascertaining and reporting by the opening of the session whether the Secretary could secure an agreement with the Choctaw and Chickasaw Indians to have their coal lands set aside for school purposes was up at all?

Mr. TELLER. No; I believe it was not up in the House, because it did not come to us in the bill, and it was not in the Senate, at least, in any shape or manner, nor in the committee.

Mr. HALE. So it is absolutely new matter?

Mr. TELLER. The committee never considered that matter.

Mr. DUBOIS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wyoming yield to the Senator from Idaho?

Mr. CLARK of Wyoming. Certainly.

Mr. DUBOIS. Did I understand the Senator from Maine to ask whether the subject-matter of the amendment had been brought before the Senate?

Mr. HALE. It was not by any action of the Senate. There has been no action at all by the Senate on this subject-matter that I can find; nor was there by the House, either.

Mr. DUBOIS. I am not quite clear in my mind as to whether there was any action of the Senate in regard to the setting aside of these coal lands for school purposes, but it certainly was brought up in the Senate and discussed by the Senator from Texas, I believe.

Mr. HALE. If it was brought up and not adopted, then it makes in favor of the argument that it ought not to be put in here. What I intended to say was that in neither House had this subject-matter been adopted or agreed to.

Mr. CLARK of Wyoming. No.

Mr. HALE. If it was discussed and not agreed to, then that makes the action of the conferees all the more objectionable in putting in new matter which was discussed and not adopted by either House.

Mr. DUBOIS. My recollection is that it was not put in the form of a motion. The Senate did not act.

Mr. CLARK of Wyoming. Probably I can refresh the memory of the Senator from Idaho. It was discussed, or some Senator upon the floor expressed the hope that that might be the outcome of legislation in regard to these lands.

Mr. TELLER. At a subsequent time.

Mr. CLARK of Wyoming. Yes; at a subsequent time.

Mr. DUBOIS. Of course the Senator from Wyoming will recall—and I also call the attention of the Senator from Maine to the fact—that it was stated very distinctly in regard to this and other matters that they were referred to the conference committee with instructions practically to report a new bill.

Mr. CLARK of Wyoming. I should dislike very much to have the Senator from Wyoming called as a witness to that proposition.

Mr. DUBOIS. I do not mean a new bill, but greater discretion was given by the Senate to the conferees than is usually given.

Mr. TELLER. I can relieve the situation, I think. After we had disposed of the thirteenth section and several other things, I called the attention of the Senate to the fact that there were a great many things in the bill that we had amended; and if we left them in that way, if we struck out our own committee amendment, we should, in order that the conferees might pass upon these questions, strike out of the House bill all matter touching that question, and then there would be a chance for the House to recede with an amendment. But of course it must be an amendment touching the very question—not a new amendment, but one that would explain or modify the text. We struck out pretty nearly all of the bill, with the statement that the conferees might have to make a new bill. But it could only be a new arrangement of the matters we had considered either in the Senate or the House and had put in the bill or had knocked out of the bill.

Mr. HALE. I remember very well, if the Senator will allow me, the expression of the Senator and the connection in which it was made, just as he puts it now—that in adjusting these different amendments and differences between the two Houses a new form of bill would be provided; but I had no thought that the veteran Senator from Colorado had in his mind then that the conference committee would be invested with any legislative power.

Mr. TELLER. Oh, no.

Mr. CLARK of Wyoming. My objection to the conference report with respect to this particular section was not that a new section had been inserted not germane to the section, which, of course, is true, but my objection went to the subject-matter of the agreement, and to it I wished to call the attention of the chairman of the committee and of the Senate.

If there was another matter more distinctly brought out in the discussion in the Senate than any other, I mean more distinctly after the one I have just referred to, it was the continuance of these tribal relations and tribal governments until the 4th of March, 1907. It was not only agreed in the Senate that the tribal governments should continue, but a joint resolution was passed through both Houses and signed by the President.

Mr. HALE. Offered by whom?

Mr. CLARK of Wyoming. I have forgotten who offered it. It was offered——

Mr. HALE. Did not the Senator himself offer it?

Mr. CLARK of Wyoming. No; the Senator from Rhode Island [Mr. ALDRICH] offered it.

Mr. HALE. Certainly he did.

Mr. CLARK of Wyoming. The tribal governments and the tribal relations were continued in force until the 4th of March, 1907. The conference committee have not in so many words in this report repealed that joint resolution, but they have in fact. And why and where? With respect to section 9, this appears on page 3 of the conference report:

And the House agree to the retention of the new matter added by the Senate, from line 4 to line 13, inclusive, on page 11.

Mr. HALE. Where is the Senator reading from? What page of the report?

Mr. CLARK of Wyoming. I am reading from page 3 of the report, referring to Senate amendment numbered 24.

Strike out the words "dissolution of the several tribal governments of the Choctaw, Chickasaw, Cherokee, Creek, and Seminole tribes, all records and files of said tribes" and insert in lieu thereof the following: *The 1st day of June, 1906, all records and files of the Choctaw, Chickasaw, Cherokee, Creek, and Seminole tribes.*

The effect of that is that notwithstanding the tribal governments and tribal relations are continued for a year, on the 1st day of June, 1906, all the records and files of said tribes "shall, under the direction of the Secretary of the Interior, be removed and deposited with such Government officer or officers as he may designate, and the Secretary of the Interior is authorized to make such rules and regulations as he may deem necessary respecting the removal, deposit, preservation, and in respect of such records."

In other words, the effect of that is to leave upon paper as a legislative enactment the continuance of these tribal relations and governments, but to rob them of all the means and implements and tools for carrying on those governments.

Mr. HALE. Exactly.

Mr. CLARK of Wyoming. It is further emphasized on page 3:

And the House agree to the retention of the new matter added by the Senate, from line 4 to line 13, inclusive, on page 11; and as agreed to the amendment reads as follows:

"SEC. 9. That upon June 1, 1906, all records and files of the Choctaw, Chickasaw, Cherokee, Creek, and Seminole tribes shall, under direction of the Secretary of the Interior, be removed and deposited with such Government officer or officers as he may designate," etc.

As I say, that does not repeal, in so many words, the action of both Houses of Congress by joint resolution and the action of this body on this bill which continues these tribal relations and governments, but it does repeal it by depriving the tribes of the means of carrying on those governments, by taking away from them all their records and all their files and all their implements and machinery of tribal relations and government and having them deposited elsewhere.

Mr. President, there is another point to which I wish to call attention, and this I should have called attention to as being a question of order as to the report. I ask the consideration of the Senator from Minnesota to this point, as to whether or not——

Mr. CLAPP. What page of the bill?

Mr. CLARK of Wyoming. Page 3 of the conference report, where it is proposed to insert, after the word "funds," on page 13, line 15, of the bill, the words:

Provided, That hereafter clerks and deputy clerks of United States courts in the Indian Territory who are ex officio recorders of recording districts in said Territory shall be allowed, out of the fees received for the recording and filing of instruments, 25 per cent in addition to the sum for compensation and actual expenses for clerk hire now provided by law.

There may be some point in the bill to which this is germane, but if there be I have not found it. Certainly neither House of Congress in considering this bill touched upon that matter. There is no reference to it in the action of either branch of Congress. There is no reference whatever in considering this matter to the fees of clerks and depaty clerks of United States courts. Certainly——

Mr. CLAPP. What line of the bill is it?

Mr. CLARK of Wyoming. There may be somewhere in the bill, but I have not been able to find it—certainly it does not occur in section 10, which is the subject-matter of this amendment and conference agreement—a provision to which this is germane.

Mr. CLAPP. There is a provision here which provides for those records. It is barely possible that that amendment may have been inserted at the wrong place. I call the Senator's attention to section 8, which relates to the fees for transcribing records, for certified copies, etc. I am inclined to think the criticism is correct in that the amendment was made to the wrong section.

Mr. CLARK of Wyoming. Then does the Senator think that the amendment to section 22 was agreed to by the House without any amendment? The conference report shows——

Mr. CLAPP. Yes; but I think the provision placing the limit on the fees should have been attached to section 8.

Mr. CLARK of Wyoming. That is amendment numbered 22?

Mr. CLAPP. Yes.

Mr. CLARK of Wyoming. And the House agreed to the Senate amendment to section 22 without any amendment?

Mr. CLAPP. I know; I say it was probably an inadvertence that this was not dealt with there instead of being attached to section 10.

Mr. CLARK of Wyoming. Then I ask the Senator, if it was intended to go on section 10, why does he still believe that it is germane to section 8?

Mr. CLAPP. I would think so. I do not know.

Mr. CLARK of Wyoming. I am not interested especially in this, but may I ask the attention of the Senator from Minnesota to another amendment?

On page 5 of the report, section 19 removes all restriction upon alienations and leasing of lands of Indian allottees of the Choctaw, Chickasaw, Cherokee, Creek, and Seminole tribes other than full bloods, except as to homesteads. As I understand it, that allows the absolute sale of all the lands belonging to those mentioned, except the homesteads. The Senator will find it on page 5 of the report.

Mr. CLAPP. Yes; I have it.

Mr. CLARK of Wyoming. It provides for the sale of the lands, except the homesteads.

Mr. CLAPP. That is, of all but full bloods.

Mr. CLARK of Wyoming. Of all who are not full bloods?

Mr. CLAPP. Yes.

Mr. CLARK of Wyoming. First, it allows the sale, and then it prohibits the leasing.

Provided, That nothing in this act contained shall be construed or held to authorize the leasing of such lands for oil, gas, or other mineral without the approval of the Secretary of the Interior.

Do I understand that the sale of the land requires the assent of the Secretary of the Interior?

Mr. CLAPP. No.

Mr. CLARK of Wyoming. Then may I ask the Senator what was the purpose, if the Indian can give the greater title without the assent of the Secretary of the Interior, that the less title should be hampered? I am asking for information only.

Mr. CLAPP. I will answer the question.

The Department of the Interior has held, I think without warrant of law perhaps, that removing the restriction as to alienation does not carry with it the power to lease. That is the ruling of the Department. Consequently we removed these restrictions and then left the power to lease subject to the approval of the Secretary of the Interior.

Mr. CLARK of Wyoming. I want to ask the Senator this question: If it is the intention to remove the restrictions and give the Indians full power over their lands to sell them, why should you limit their power to lease the lands? That is the question.

Mr. CLAPP. I think the Senator will find that the leasing restriction is broad and applies to full bloods as well as mixed bloods.

Mr. CLARK of Wyoming. But this specifically says, in the first place, that the restrictions upon alienations and leasing by Indians of less than full blood are, except as to homesteads, removed after the 1st day of July, 1906; and then it proceeds to limit it:

That nothing in this act contained shall be construed or held to authorize the leasing of such lands for oil, gas, or other mineral without the approval of the Secretary of the Interior.

Mr. CLAPP. We felt that possibly it would be safe to allow them to alienate, as they would exercise more judgment probably in getting fair compensation for their land and there would be less opportunity to get it for less than its value than under leases. So we put in this safeguard—that they shall not lease the lands for oil and other purposes without the approval of the Secretary of the Interior.

Mr. CLARK of Wyoming. Then, acting as men who are relieved from all restrictions upon their land, they are compelled to sell their land if they want to get anything out of it, and are not allowed to lease it from year to year.

Mr. CLAPP. That is true, sir.

Mr. CLARK of Wyoming. In other words, they must make a sale of the lands, and will not be allowed to get any revenue from it by leasing it.

Mr. CLAPP. Oh, yes; they can get a revenue from it if the Secretary of the Interior allows them to lease it.

Mr. CLARK of Wyoming. If they allow somebody else to lease it for them; but they are not allowed to handle it in regard to leasing it, and they are allowed to handle it in regard to selling it. That seems to me to be a singular provision.

Mr. CLAPP. Mr. President, I tried to explain that. This thing is not the easiest in the world to handle between the Department on the one hand and the people on the other. There is one individual who seems never to be thought of here, and that is the Indian. The Indians have to do this.

Mr. CLARK of Wyoming. I supposed the object of the provision was to confer a favor upon the Indian and allow him to deal with the lands. It certainly allows him to sell his land. I think it ought to allow him to lease his land unrestricted and give him some hold upon his land, so that he will not be compelled to sell it.

Mr. CLAPP. I felt, in the adoption of this amendment, that an Indian would be more likely to get his full value in the sale than he would in some lease, which to him would not seem, perhaps, to amount to very much. For that reason, wisely or unwisely, we inserted the provision. Now, that is the only explanation that is to be made of it.

Mr. CLARK of Wyoming. I am obliged to the Senator for the explanation.

Mr. SPOONER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wyoming yield to the Senator from Wisconsin?

Mr. CLARK of Wyoming. Certainly.

Mr. SPOONER. If the Indian sells his land at an inadequate price he is remediless; it is gone.

Mr. CLAPP. Yes, sir.

Mr. SPOONER. But if he leases his land at an inadequate rental he is not remediless, because he still has title to the land, and when the lease has expired he can try this business operation again.

Mr. CLAPP. If the lease includes a term of years that takes the value out of the land in the shape of oil he would not have much of a remedy. It was the wisdom of the Senate we were acting on as to leaving him with the right to sell without restriction, because the Senate amendment to that effect was adopted.

Mr. SPOONER. I may be wrong about it, but it seems to me it is infinitely better for the Indian not to remove the restriction upon his power of alienation, but to grant him only the power to lease, subject to the approval of the Secretary of the Interior, if that can be done, because the whole object of such restrictions is upon the theory that the Indian is unable to take care of himself in business transactions; that he falls an easy prey to the white man who plies him with drink and in various ways beguiles him into parting with his property. The whole basis of such legislation is the assumption that the Indian in point of business intelligence and commercial acuteness is not on a par with the average white man.

Mr. HALE. He needs a guardian.

Mr. SPOONER. He needs a guardian; and it does not safeguard his interest, it does not protect him at all against the wiles of the men who follow up the Indians to get away from them their land to confer upon him an absolutely unrestricted power of alienation and yet leave him where he can not lease the land.

Mr. TELLER rose.

Mr. SPOONER. Am I wrong about it?

Mr. TELLER. I will tell you later.

Mr. SPOONER. If I am wrong I wish the Senator would tell me now.

Mr. TELLER. If the Senator from Wyoming will allow me.

Mr. SPOONER. I beg pardon of the Senator from Wyoming.

Mr. TELLER. I wish to call the attention of the Senator from Wisconsin to the fact that there are no Indians in the Indian Territory.

Mr. SPOONER. They are all American citizens?

Mr. TELLER. They are all American citizens. They have disappeared as Indians.

Mr. SPOONER. Then what right have you to provide——

Mr. TELLER. I do not think we have any.

Mr. SPOONER. That he shall not lease his land without the approval of the Secretary of the Interior?

Mr. TELLER. There is a decision of the Supreme Court made in a certain case which would indicate, possibly, they might claim that control over the property extended some time after they became citizens, because in the deed or patent there were certain restrictions or limitations. It seemed to me, if I may be allowed to say so, that when they became citizens those restrictions were removed by law. That is the way I look at it.

Mr. SPOONER. Then why this provision removing them by law?

Mr. TELLER. I have not been in favor of removing them by law. I have been in favor of asserting that they were removed already.

Mr. CLARK of Wyoming. I will answer the Senator. It was

universally held that they were not removed until removed by statute.

Mr. TELLER. It is an incumbrance on the property that he can not sell it. For that reason we felt it proper to make it possible for him to sell it. I believe the court would hold that he has a right to sell it anyway.

Mr. CLAPP. If the Senator will pardon me one moment. We are told of something the Senate did not put in, and the next moment we are asked why something is done that the Senate did put in. So far as absolutely removing all restrictions as to less than full bloods and absolutely prohibiting all alienation on the part of full bloods the Senate did that.

Mr. CLARK of Wyoming. Then, as I understand the Senator from Minnesota in answer to my inquiry, it is the fact that this section as agreed to by the conference removes all restrictions on the sale of the land of everyone except the full bloods. It places, however, a restriction as to the leasing of the lands for oil, gas, or other mineral, leaving it to the Senate to judge whether that is a consistent or a wise provision or not.

Now, there is only one other matter to which I wish to ask the attention of the chairman, and I should like the attention of the Senator from Colorado also. My recollection is that there was a provision made by the Senate in considering the bill by which certain freedmen were allowed 40 acres only by allotment. It was proposed, and, I think, carried in the Senate, to increase the amount of land which they might acquire. My recollection is that they were allowed to purchase at the appraised value an additional 40 acres. I think the Senator from Colorado was concerned in that matter, and I ask him if that was the action of the Senate?

Mr. TELLER. No; not quite. There were some of them who got less than 40 acres because they were to receive the value of certain land, and it was provided that to make up the 40 acres they could take additional land by buying it.

Mr. CLARK of Wyoming. That is, to make up to 40 acres?

Mr. TELLER. Yes.

Mr. CLARK of Wyoming. That answers the question, and I have nothing further to say on that point.

Mr. CULLOM. Will the Senator from Wyoming allow me to ask him whether he is talking about the clause on page 5 of the conference report where it says:

Strike out the words "one hundred and sixty," in line 3, on page 21, and insert in lieu thereof the following: "forty;" and the Senate agree to the same.

Mr. CLARK of Wyoming. We put it, I understand, at 160 acres.

Mr. TELLER. That is, they might buy enough to make up 160 acres?

Mr. CLARK of Wyoming. They might buy enough more land at the appraised value in addition to or with the allotment of 40 acres to make up to 160 acres.

Mr. CULLOM. Let me ask the Senator another question. In this paragraph of the conference report the words "one hundred and sixty" are stricken out and the word "forty" put in. What would a person get out of that now?

Mr. CLARK of Wyoming. Forty acres.

Mr. CULLOM. Provided he has 40 acres already?

Mr. CLARK of Wyoming. He does not get any.

Mr. CULLOM. Suppose he has 20 acres?

Mr. CLARK of Wyoming. He gets 20, I understand.

Mr. CLAPP. I think that ought to be explained, perhaps.

These lands were allotted upon a basis of a cash value of the allotment—that is, the lands were appraised and then an allotment was figured, we will say, at $400. I think it was at about $11. Then the allottee was permitted to take as much land as the appraised value would equal the value of the allotment. That sometimes would be less than 40 acres, of course. The object of this provision was to enable these men to come in at the old price, which is a mere gratuity to them, and take enough land to make up what they already had—40 acres. Every acre that they are allowed to take under that condition is, in a measure, in derogation of the right of the Indian. The Senate raised it to 160 acres, not that they might come in and have the preference right to buy 160 acres at its present value, but that they could go back and do what the Indian can not do, file up to 160 acres on the old price. The conferees settled on 40 acres. That is the only explanation of that provision.

Mr. SPOONER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wyoming yield to the Senator from Wisconsin?

Mr. CLARK of Wyoming. I will yield the floor to the Senator.

Mr. LA FOLLETTE rose.

The VICE-PRESIDENT. Does the senior Senator from Wisconsin yield to his colleague?

Mr. SPOONER. I yield to my colleague.

Mr. LA FOLLETTE. I thank my colleague. Mr. President, I could not quite hear what the Senator in charge of the conference report said with respect to the provision that the Commissioner of the Five Civilized Tribes is to be given jurisdiction to determine finally all questions of fact which may come before him.

Mr. CLAPP. On account of that having been asked for by the House I felt it proper to defend it as well as I could, but the Senator from Maine [Mr. HALE], who is unquestionably an authority on that matter, felt that it was not within the order and was subject to a point of order. Therefore, so far as I am concerned, I withdrew it from consideration.

Mr. LA FOLLETTE. Then that goes out?

Mr. CLAPP. It goes out.

Mr. LA FOLLETTE. I wished to address myself to that provision if it was still to be defended by the conferees. Since it is withdrawn it is unnecessary to say anything with respect to it.

But, Mr. President, I desire to address the Senate briefly upon that portion of the conference report which deals with the coal lands of the Indian Territory. The Senator from Wyoming [Mr. CLARK], in referring to the value of these coal lands, said they were easily worth from $10,000,000 to $50,000,000. Right at the outset the Senate can be impressed with the fact that they are dealing with property the value of which is greatly in excess of that sum.

There can be no better authority for the value of these coal lands than the United States Geological Survey. Under its direction these lands have been carefully surveyed with respect to coal deposits.

There are 437,734 acres of coal lands in the Indian Territory. The veins of ore, in so far as the outcroppings will indicate, have been carefully located. Of that amount 104,000 acres, or a little less than one-fourth, have been leased. The Indians receive 8 cents per ton as a royalty under these leases. This yields upon the average $400 per acre in royalties alone. I am assured by the Geological Survey that this would be a fair average for the royalties upon the remaining unleased lands.

This is a most remarkable deposit of coal, running from bituminous coal of not a very high grade up to almost anthracite in quality. There is no other like deposit, so far as I am able to ascertain, of bituminous coal in the country.

Applying the ascertained value of the royalties in so far as these coal lands have been mined to the remaining lands, the computation would show all the lands to be worth in royalties alone $175,000,000.

I believe if the Senate can get even an approximation to the importance of the subject with which we are dealing, it will call a halt here and now upon any further disposal of these lands until the resolution offered by the Senator from Wyoming for an investigation of this whole matter shall have been passed, an investigation made under it, and the results reported to the Senate.

The value of this coal as mined out is from $1.90 to $2 a ton at the mine. Taking $2 per ton as the value of the coal at the mouth of the mine, it means that there is a value of coal deposit in these lands upon the average of $10,000 per acre. Applying this figure to the entire acreage makes a total valuation of $4,377,000,000 for these coal lands in the Indian Territory, something more, I think, than a third of the capitalized value of all the railroads of the country.

Mr. President, the Senate should proceed with extreme caution in dealing with property of this immense value.

What is our responsibility with respect to it? The Government is the trustee of the Indians who own it. Their interest must be protected to the last dollar. Whenever disposed of, it is the duty of the Government to protect the public which is dependent upon these lands for fuel.

Mr. TILLMAN. Mr. President——

The PRESIDING OFFICER (Mr. MCCUMBER in the chair). Does the Senator from Wisconsin yield to the Senator from South Carolina?

Mr. LA FOLLETTE. I do.

Mr. TILLMAN. Can the Senator tell us how long these leases run?

Mr. LA FOLLETTE. I think the leases run for thirty years. I was about to say, Mr. President, that the proposition made in this conference report to lease these lands is equivalent to the sale of them. When this bill was before the Senate it refused to sanction a sale under any conditions. We spent two days in discussing the section which provided for sale and then the entire proposition was voted out of the bill. As the Senate left it when that section was laid upon the table, there was no

authority or direction to anybody to dispose of a single acre of it.

Now it comes back to us in the form of a conference report, which, as the Senator from Wyoming [Mr. CLARK] has made entirely plain to this body, amounts to a direction to the Secretary of the Interior to proceed to the leasing of the residue of these lands. Between this time and the time when Congress shall again meet every acre may be thus disposed of. But it will be claimed that the Secretary of the Interior can protect the interests of the Indians and the interests of the public.

The Secretary of the Interior has many duties to discharge; he has upon his hands a vast Department dealing with great questions and great problems; this is a small portion of it; and with respect to this I think it is fair to presume that he must, in large measure, depend upon the suggestion of subordinates in his Department. The Secretary of the Interior will not give personal supervision to everything which issues from his Department. Why, Mr. President, when the subcommittee presented this bill to the Committee on Indian Affairs it provided for the sale of these coal lands in a way which would have protected neither the interests of the Indians nor the interests of the public. We were informed by the chairman that the provision came from the Interior Department. It proposed to sell all of the coal lands. They were to be appraised. One appraiser was to be selected by the Indians, one to be selected by the Secretary of the Interior, and one to be selected by the lessees of those coal lands. It contained a further provision that the lessees were to have the right for a period of some months after the appraisal to take the lands at the appraised value. There was to be no open sale. They were not to be sold to the highest bidder. It was also provided that the lands were to be appraised without taking into account the value added by mining development.

I do not mention this as a reflection upon the Department of the Interior, but merely to suggest that we should not impose too many burdens upon a great Executive Department of the Government.

So, I say, Mr. President, that we must proceed with the greatest caution. We should take a lesson from the conditions existing with respect to the coal lands already leased in the Indian Territory, through the Interior Department, under provisions for which Congress is responsible. What is the situation there at the present time as to the portion of the land already under lease? There are 113 leases and 52 of them are openly under the control of railroad companies. There are five railroad companies whose lines run through this coal region. These roads connect with lines which distribute this coal over something like 10,000 miles of railroad. There is a vast area of country dependent upon the coal of the Indian Territory for fuel. Within the next five years not less than 10,000,000 people will take their fuel supply from these coal lands. As to the lands already leased, the public are completely at the mercy of these railroad companies. Their control is absolute. They dictate as to conditions and prices.

Every railroad company, I think, whose lines cross the coal lands of the Indian Territory secured its right of way under acts of Congress which impose a certain specific obligation upon them, and it is very interesting to note what that obligation is.

When the railroad rate discussion was on here the other day a controversy arose between the Senator from Texas [Mr. CULBERSON] and the Senator from Ohio [Mr. FORAKER] with respect to whether there had ever been any legislative construction of the constitutional provision regarding the right of Congress to fix rates. The charter of the Texas Pacific Railroad Company was cited as bearing on that question.

The Senator from Texas contended that in granting that charter Congress fixed transportation charges under the commerce clause of the Constitution. The Senator from Ohio contended that the Government imposed the condition with respect to rates under its proprietary right to grant it a franchise and impose any condition it pleased. But, Mr. President, in every one, I think, of the five Congressional acts which permitted these railroad companies to cross these Indian lands there was a provision regulating the rates that they should charge in the Indian Territory. Sometimes the regulation was imposed with respect to one adjoining State as the standard and sometimes with respect to another State as the standard.

I have here before me, Mr. President, the rates charged upon coal transported by one of these railroad companies as compared with the rates in Texas fixed as the standard for this road in the law granting it a right of way through the Indian Territory.

Freight rates on coal from Wilburton, on the Chicago, Rock Island and Pacific Railroad, successors to the Choctaw, Oklahoma and Gulf Railway, in the Choctaw district, Indian Territory, compared with the rates on coal for similar distances in the State of Texas.

Wilburton to—	Distance from Wilburton, in miles.	Rates per ton of 2,000 pounds on coal in Indian Territory.	Rates per ton of 2,000 pounds on coal in Texas for the same distance.	Excess per ton in Indian Territory.
Barnett, Ind. T	41	$1.25	$0.65	$0.60
Stuart, Ind. T	51	1.25	.70	.55
Calvin, Ind. T	62	1.25	.75	.50
Holdenville, Ind. T	75	1.25	.80	.45
Wewoka, Ind. T	83	1.40	.85	.55
Ardmore, Ind. T	135	1.50	1.10	.40
Provence, Ind. T	129	1.50	1.05	.45
Durwood, Ind. T	124	1.50	1.05	.45
Mannsville, Ind. T	118	1.50	1.00	.50
Russet, Ind. T	111	1.50	1.00	.50
Randolph, Ind. T	108	1.40	.95	.45
Milburn, Ind. T	94	1.40	.90	.50
Wapanucka, Ind. T	80	1.35	.80	.55
Coalgate, Ind. T	63	1.25	.75	.50
Herbert, Ind. T	49	1.25	.65	.60

NOTE.—The rates between points in Texas are on single line haul. When haul is over two or more lines, the rate is greater. The rates quoted to Indian Territory points are also for single-line haul, so that the comparison is fair.

It is unnecessary to consume more time in taking up each one of these roads with reference to the States with whose rates they were bound to comply. Enough has been said to show the violation of the provisions of the right of way under which they went into the Indian Territory.

It is impossible for an independent coal operator to get fair treatment in the Indian Territory as elsewhere in the country, when he comes in competition with transportation companies engaged in the same business. I have some letters from residents of Indian Territory and from others who have investigated the situation. They show clearly the bad results of leasing the 104,000 acres under the existing law. With permission of the Senate, I will have them printed in connection with what I have said on the subject.

Now, Mr. President, I believe it to be the duty of Congress to withhold every acre of land remaining in Indian Territory from disposal either by sale or lease until Congress is more fully informed upon the subject than it is at this time. If, however, the lands are to be leased, it should be understood by this body that leasing is equivalent to sale. A lease covers a period of time that enables those taking it to work out the coal, and that is equivalent to selling the mineral rights of the land. Whether sold or leased the Government has absolute control. It is bound, in dealing with this important question, to indicate its position clearly and specifically. It should see to it that no railroad company becomes the owner of the products which it transports over its lines in competition with other producers.

So I say that if the conferees are going to yield to a proposition in this bill that these lands shall be leased, they should insist that the lands shall be leased only under restrictions and limitations that shall absolutely exclude the railroad companies from becoming the holders, either in the first instance or by assignment, of any of those leased lands. To effect this it will be necessary to provide that the lands shall not be leased to railroad corporations nor to the officers or the stockholders of railroad corporations, nor assignable to railroad corporations or to the officers or stockholders of railroad corporations or to anyone else acting directly or indirectly for them. Otherwise they will eventually pass into the hands of those who will simply stand as the representatives of the railroad company for the purpose of controlling these coal lands and the shipment of the coal in competition with independent producers. I believe there should be incorporated in such lease not only the provisions I have suggested, but the provision that the lease shall become absolutely void upon being so assigned.

Mr. NEWLANDS. Mr. President, I should like to ask the Senator from Wisconsin whether he does not think it would be better to provide, if possible, that the remaining lands shall neither be sold nor leased until the Secretary of the Interior shall report to Congress a plan for their disposal, so as to prevent the lands falling into the hands of a monopoly, whether that monopoly be a railroad company or any other kind of a company?

Mr. LA FOLLETTE. Mr. President, I think that would be a good provision, but I would supplement it by adopting the resolution offered by the Senator from Wyoming [Mr. CLARK], that the Senate shall make an independent and thorough in-

vestigation and report to this body at the next session. Such an investigation will aid us in considering any recommendation made by the Secretary of the Interior.

Mr. NEWLANDS. I was not aware that such a resolution had been submitted.

Mr. LA FOLLETTE subsequently said: Mr. President, I ask leave to print, in connection with the remarks I have made, certain papers relating to the matters with which I have dealt.

The VICE-PRESIDENT. Without objection, permission is granted.

The papers referred to are as follows:

MUSKOGEE, IND. T., *March 15, 1906.*

Hon. ROBERT M. LA FOLLETTE,
United States Senator, Washington, D. C.

DEAR SIR: Your favor of the 7th instant, acknowledging mine of the 28th ultimo, was received while I was engaged in a little investigation of my own to ascertain the conditions pertaining in the southern section of the Territory. What I have learned convinces me that the only remedy—the only course to be pursued—is the one suggested by you—i. e., lease the coal lands under restrictions preventing the railroads either directly or indirectly geting control of them.

These lands should by no means be sold, for two reasons: (1) It would be impossible at present to get what they are worth if thrown on the market; (2) restrictions against the ownership of more than a certain number of acres would be an absolutely dead letter after the lands are out of the control of the Government, in view of the many ways to evade such a law and the difficulty not only to prove violations, but to enforce the law after proof.

Looking at the matter from the standpoint of material good to the greatest number, I believe the following is obvious:

To sell at present, the true value will not and can not be realized. The profits would therefore go to the railroads and other allied corporations, who are bound to get them. By keeping the fee under restriction and leasing for the benefit of the Indians, the latter would have an income for some years, and they will need it badly. Then when the lands are finally sold the natural increase in value owing to the settlement of the country, with its increased demands for fuel, will be distributed, not among a few corporations, to be removed from the Territory, but among the entire people through the natural channels of trade.

By keeping these lands in the control of the Government, with proper restrictions, it will be possible to enforce a law prohibiting the control—a monopolistic control—of this public necessity. If left in the hands of the Secretary of the Interior with a proviso that any violation shall make the lease void (not voidable, thus throwing the necessity for action on the delinquent), it will be much better.

However, conditions are rather discouraging, and it looks like an impossibility to prevent the despoilation of these people—ultimately, I mean. Should it be possible to have the recording of fraudulent deeds made a crime, it would at least have a deterrent effect. Such a law would not only provide for making it a crime to taking an instrument with intention to defraud, but should apply to the "knowingly recording, attempting to record, or causing to be recorded, or knowingly to accept title so derived." This would catch many outstanding instruments.

Thanking you for your courtesy, and wishing you every success in your efforts to restrain within legal bounds those who by their powerful influence appear to be able to violate law with impunity, I am,

Very truly,

C. G. STEPHENSON.

NEW YORK, *February 20, 1906.*

Senator LA FOLLETTE, *Washington, D. C.*

MY DEAR GOVERNOR: You are on the right track. "There is lots of meat in this cocoanut."

The Choctaw, Oklahoma and Gulf Railroad runs from the Arkansas line to Ardmore over a solid bed of coal down a valley from a quarter to a mile wide. I once thought of trying for some of this land myself, but I found "the railroad had no cars," and knowing "the game," having been a railroad man, I kept out and did not join "Les Miserables" who had already invested. If you will look up the early charterers, builders, owners, and head railroad men of the Choctaw, Oklahoma and Gulf you will find the Pennsylvania cloven foot sticking out in every direction, such as Wistars, Browns, etc.

You will also find the Goulds, I think, as they were "boring" all through the Territory. If you will call on the Interior Department to expose the various leases and terms, I think you will uncover the biggest thing you have seen in a long time.

I recollect three years back, when I was up in the Creek Nation, there was to be a survey and leasing of Indian oil lands. People told me there that when they went to Washington to file their leases they found them all covered by pets—Cudahy and others.

The only solution of this problem is to reserve all terminal rights to and for the Indians in perpetuity and allow them the usufruct from mining the same in the shape of a royalty of 25 per cent of the sale price.

Yours,

JNO. REED.

HOWE, IND. T., *March 20, 1906.*

Senator LA FOLLETTE,
United States Senate, Washington, D. C.

SIR: I notice there is a motion in the Senate to investigate the coal lands in the Indian Territory. Now, if there is an investigation we would like you to see that the leases at and around this town of Howe be especially investigated. There are five leases of about 920 acres each held here, I think, originally by the Choctaw, Oklahoma and Gulf Railway Company and perhaps subsidized by that company to the Mexican Gulf Coal and Turpentine Company.

Now, of the five leases aforesaid, they are only working one, and there never has been any coal taken from any of the other four leases, except three or four years ago. The Mexican Gulf Coal and Transportation Company started to open up a slope on another, but soon abandoned the work on it. How can they hold the four leases which they do not work, and keep other people from working them or buying them? They may have put in coal from the only one that they work and claim it is from the other leases.

Now, if you can do anything to have the surface of the coal lands sold, please do so, for our town is in the midst of a huge body of segregated coal lands, and if the lease system is continued our town will be dead.

Respectfully,

HOWARD WELLBORN.

Mr. BACON. Mr. President, there is one view of this matter which I think ought to control the Senate in its action on the report of the conference committee. It is this: The proposition before the Senate, when the bill was under consideration with reference to the thirteenth section, was that these leases should be made without restriction. The junior Senator from Wisconsin [Mr. LA FOLLETTE] called the attention of the Senate to the matters about which he has so earnestly spoken to-day, and, in consequence of suggestions made by him and information which he gave to the Senate, it was entirely evident that the Senate would not enact this provision into law without very material amendment, by which amendment it was intended to restrict the railroad companies, and any persons acting in their interest, from controlling these coal mines, having both control of the product and of the transportation at the same time—a matter which has been recently condemned by the Supreme Court of the United States in a case which we have had recently so often cited.

Mr. CLAPP. If the Senator will pardon me, as I understood the discussion on that day, although I admit that by the time we got into the plan of the Government to purchase these lands the matter became somewhat complicated—but as the matter was presented here the suggestions of the Senator went to the proposition that had been reported to the Senate for the sale of the lands.

Mr. BACON. I did not catch what the Senator said.

Mr. CLAPP. I say the proposition of throwing around those lands restrictions as to ownership, as I understood at the time, went to the proposition that had been reported to the Senate for the sale of the lands. I certainly understood that the rejection of the House plan was simply for amendment, so that it might go into conference; and, while the Senate was not ready to sell the land, in view of the fact that we had prohibited the leasing when we authorized the sale two years ago, that now prohibiting the sale was for the purpose of restoring the power to lease.

Mr. BACON. I had not fully stated my proposition before the Senator suggested his view of it.

I was trying to recall to the Senate the history of what occurred. The Senator will remember the very earnest debates we had upon that question, in which were discussed the very great evils of permitting the railroad companies to be at once the producers of coal and the transporters of coal. The very large interests involved were set forth and presented to the Senate by the junior Senator from Wisconsin, as he has done to-day with equal earnestness and with equal clearness. The point to which I desire to direct the attention of the Senate at this time in reference to the precise question whether or not this report should be agreed to is this: That that discussion, I think, while no vote was taken in regard to this matter, had brought the Senate to a point where they certainly would not have authorized either the sale or the lease of this property without amendments which would guard against the possibility of the railroad companies which were to haul this coal being at the same time the owners and producers of the coal. Now, Mr. President, that there was a disposition to restrict the railroad companies as such, but because of the manifestly proper objection against the railroad companies which were engaged in the transportation of it being at the same time the owners and controllers of the product of coal.

That discussion went on; one amendment after another was suggested, and the matter was nearing a point where a satisfactory solution was about to be reached by the Senate, when a suggestion was made that a still more perfect remedy would be found in the amendment offered by the Senator from Colorado, if I recollect aright, to strike the section out entirely. That was adopted by the Senate, not because the Senate viewed with disfavor the suggestions of the Senator from Wisconsin or with disfavor the amendments which were then being presented to the Senate for the purpose of accomplishing that which he advocated, but because it was deemed that the amendment offered by the Senator from Colorado would more perfectly effectuate the purpose of removing altogether the right of the authorities to either sell or lease these lands until there should be further information and further authority on the part of the Government.

The bill goes into conference in that condition without the amendments which we otherwise would have put upon it; it goes with the naked proposition authorizing these leases. If the proposition to authorize leases had gone to the conference with the approbation of the Senate, it would have gone there with these restrictive amendments. As it was, being stricken

out altogether with only sufficient amendment put in to carry it to conference, it goes there without the restrictive amendments; so that when the proposition now is to recede from the action of the Senate, the effect of it will be to restore the original proposition, without the amendments which the Senate put upon it, as we would have put upon it if the section had not been entirely stricken out.

I think the Senator from Wyoming is absolutely correct in his presentation of the matter, that to agree to the report is to surrender entirely that which we had intended to prescribe as the conditions upon which there should be hereafter any sale or lease; and, if we adopt the report, we put it within the power of the Interior Department, or those acting for it, not only to lease these lands without restriction, but we put it without their power to make any restriction; and the very evils complained of, and, I think, very justly and properly complained of in the presentation of the Senator from Wisconsin, will be those which will be realized and which we will fail utterly to meet or to try to guard against.

I think, therefore, Mr. President, that, outside of all other questions, so far as the report of the committee is concerned with reference to the thirteenth section, there should be no question that we should reject the report. I am only sorry, Mr. President, that all the Senators who may possibly be called upon to vote on this question were not here to hear the presentation of the subject made by the Senator from Wisconsin.

Mr. CLAPP. There is nothing to vote on. A point of order was raised, I think, by the Senator from Colorado [Mr. PATTERSON] and was advocated by the Senator from Maine [Mr. HALE]. The point of order carried the whole report with it. There was no objection, however, to the Senator from Wisconsin [Mr. LA FOLLETTE] going on with his remarks.

Mr. TILLMAN. What becomes of the bill?

Mr. CLAPP. It goes back to conference, of course.

Mr. BACON. If the Senator had stated that to me before I began—I did not really hear what the Senator from Maine said, as he spoke in a very low tone—I should have had no desire to occupy the time of the Senate. I am only after practical results.

Mr. CLARK of Wyoming. I will say to the Senator from Georgia that this entire discussion was invited by the Senator from Minnesota when he withdrew the report, saying he would like to have the views of the Senate upon it.

Mr. BACON. I did not hear either statement.

Mr. CLAPP. But I was calling the attention of the Senator to the fact that no vote could be had upon this provision. The discussion was desired simply to get the sense of the Senate.

Mr. BACON. I did not know that fact when I took the floor, or I should not have occupied the time of the Senate. I understand, however, though I did not then know the fact, that the Senator had invited an expression of views.

Mr. CLAPP. I had.

Mr. TILLMAN. I was not in the Senate when this matter originally came up, but I have had occasion to examine somewhat into this question of coal and railroad monopolies of coal, and I have some very radical views in regard to this Indian Territory deposit of coal, which has been shown by the Senator from Wisconsin to be very valuable. It seems to me—in fact, I have information to this effect that has come from all directions since I have been placed in charge of the railroad rate bill—that at this moment the railroads of this country have practically monopolized the fuel supply of the United States—that is, speaking broadly. Of course there are private operations, and there are large areas of coal lands which are not yet in the possession, by purchase or lease, of the railroads, but for all practical purposes the coal which is now being mined is almost wholly under the control of the railways of the country; they very largely fix the price to the consumers throughout the country, and they are very energetically pursuing the policy of securing the control of all the balance of the coal lands in the country.

But speaking of this particular area of coal land, I want to make this observation, that when you consider that there is a region of treeless prairie, where there is only an occasional cottonwood or willow on the banks of a stream, and all of that country is dependent upon coal for fuel, it becomes a great public responsibility for those of us who have to deal with this particular subject now—we will have to deal with the broader subject later—I say it becomes a matter of very deepest concern that we should not make any false step in the disposition of the coal in the Indian Territory.

The United States Government once owned this land, and we donated it or sold it or gave it to the Indians in exchange for their lands east of the Mississippi. In our rôle of guardian, looking out for the interests of the Indians, we ought not to forget that we are also guardians for the white people, and that the interests of the millions of farmers now out there and to be there ought to be looked after in connection with caring for this coal deposit, which will be the future coal supply of the men who will make homes in Oklahoma and the Indian Territory and northern Texas and Kansas and Wyoming, and all that other region over there. The Almighty has been very generous to us in this country in giving us the great blessing of fuel scattered broadcast almost, except on the South Atlantic coast. But this particular body of land being under our jurisdiction, and to be disposed of by lease, sale, or otherwise by us as guardians for the Indians, the question that presents itself to my mind is whether we ought not simply to withdraw this land from sale to anybody; let the United States appraise it and set apart a reasonable amount of purchase money, the interest on which shall be paid to the Indians, and hold this coal deposit in perpetuity, so as to furnish coal at reasonable price to the millions of people who will live in that region in the future, without having those people subjected to the levy of tribute by railroads and capitalists, who will certainly get control in one way or the other, just as they now absolutely control the anthracite coal fields in Pennsylvania, levying tribute upon the millions of people who have to use anthracite every day in their lives, and charging them a dollar to a dollar and a quarter or a dollar and a half a ton more than a reasonable and fair price. If we will do wisely we will buy these lands from the Indians and hold them by the United States Government, and let the Government lease them under such conditions as will afford to the millions who will live there fuel at a reasonable price.

Now, why do I say this? Among my numerous correspondents, who have buried me under letters of one kind and another, many of them unduly complimentary and laudatory of my patriotic efforts in endeavoring to help the President get a good railroad rate bill, I have one from the secretary of a farmers' association at Edmond, Okla., and listen to what he says. I will leave out the compliments to the cornfield lawyer. It would be in bad taste for me to read them. The Senator might read them if the letter came to him. I will merely go to the milk in the cocoanut in regard to coal:

> Now I am going to call your attention to the discrimination of the Santa Fe Railroad against our little town of Edmond. We are about halfway between Guthrie and Oklahoma City. We pay $8 a ton for coal and are only about 125 miles from the mines in South McAlester.

Eight dollars a ton for bituminous coal. The writer goes on to say:

> Now, the Santa Fe Railroad will not haul our coal 16 miles from Oklahoma City and will not receive it there from the Rock Island Railroad. But we are compelled to use coal from Colorado. Why? Because the Santa Fe gets the long-haul freight. Why don't you look after the Rock Island Railroad Company, who owns the old corporation which was the Choctaw, Oklahoma and Gulf Railroad?

Well, we are trying to look after the Rock Island, including the others

Mr. NEWLANDS. Mr. President——

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Nevada?

Mr. TILLMAN. Certainly.

Mr. NEWLANDS. Let me say right here that there may be one additional reason for the insistence on the part of the Santa Fe Railway Company that the coal should be delivered from Colorado, and that is the fact that the Santa Fe Company, according to my recollection, is a very large stockholder in the Victor Coal Mining Company, in south Colorado——

Mr. TILLMAN. Undoubtedly.

Mr. NEWLANDS. The corporation referred to by the junior Senator from Colorado the other day as holding a very large area of land in south Colorado which twenty or thirty years past was the property of the entire people of the United States as public lands.

Mr. TILLMAN. Yes; and we sold it or gave it away.

Mr. NEWLANDS. Gave it away.

Mr. TILLMAN. Corporations now own it, corporations which levy tribute on this farmer and every other farmer in that region, and then this particular corporation refuses to make connecting rates with the line that runs to South McAlester, a hundred and twenty-five miles away, which would enable it to haul domestic coal to the people living in the neighborhood, but brings it six or seven hundred miles from its own mines in Colorado, and says to these people, to this cornfield—not lawyer, but farmer—"What are you going to do about it?" and he writes to me. I want to ask the Senate, What are you going to do about it?

Let me go on:

> Don't you know they virtually own all the coal lands on their line in the Indian Territory?

These very lands about which the Senator from Wisconsin has been telling us and which we are talking of leasing and selling and turning Mr. Hitchcock loose under the House provision and the conference report, if we were to adopt it. He says:

They surveyed the coal beds before they located the road, and leased all the coal lands from the Indians and Government officials, and with all the watchfulness of the Secretary of the Interior they are still so held.

If the junior Senator from Wisconsin could go a little further and get all the facts, he would find that instead of out of the hundred and thirty coal leases only fifty or sixty, whatever the figures are, about half, being in possession of the railroads, I will bet you—no; I will take that back; I will not bet here; but still I would be willing to put up some money to back my judgment—that the railroads to-day, by one instrumentality or another, by transfer or lease, or by having some bogus lessee who is their friend and ally, control all of those lands, and if they do not actually control them they control the output and the price, and the private operators, if there be any, are to-day as helpless as the private operators are in West Virginia.

Mr. LA FOLLETTE. Mr. President——

The VICE PRESIDENT. Does the Senator from South Carolina yield to the Senator from Wisconsin?

Mr. TILLMAN. Certainly.

Mr. LA FOLLETTE. If I was understood as saying that the 52 leases out of the 130 were all the leases that are controlled by the railroads, I did not express myself clearly. Fifty-two of the worked leases are controlled by the railroads. That they control unworked leases, I have some indubitable evidence in my possession. I have one complaint from a citizen in Howe, in the Indian Territory, in which it is stated that near that town there are four of these leases, each lease covering something over 960 acres of land. A little less than a thousand acres of land is taken in under each lease. There are four of those leases near the town of Howe, in the Indian Territory. Three of them are not worked at all. One of them is worked. They are all of them controlled and owned by railroad companies. Three of them are not worked; one of them is worked.

The figures I gave of the fifty-two leases included those now being mined. Of the unworked leases I am unable to say how many are under the control of the railroads

Mr. TILLMAN. I will repeat my parliamentary phrase. I will bet, if you could get at the bottom facts, you would find that practically every one of those leases is to-day controlled directly or indirectly by the railroads.

Let us proceed with my cornfield friend:

It is thought by the people living here that H. C. Frick had a large interest in the deal of the sale of the Choctaw, Oklahoma and Gulf Railroad to the Rock Island. Those things are just what the American people think or have no means of finding out the real status of affairs. The cornfield lawyer is always awake, however—

He means himself—

and with all of Uncle Sam's school-learned lawyers they allow such fellows as McMurray Cornish and other small fry to get nearly $1,000,000 in fees.

Hoping you will have success in your new rôle, and that your State may keep you in the Senate,

For my fellow-farmers, I remain,

Respectfully, yours,

S. W. MURPHY,
Corresponding Secretary.

Now, here is a man, and there are just about seven or eight millions like him, I should say, good Republicans and Democrats all over this country, who are loyal to their party, loyal to their country, taxpayers, patriots, appealing to the Senate of the United States to give them such a law in regard to railroad management and regulation as will put a stop to the outrages of which he speaks in connection with this coal business.

I do not hesitate to repeat what I have said once or twice before, for it ought to be repeated until the country begins to take notice of it, that the fuel supply of the United States is to-day largely in the hands of railroad corporations, who monopolize it, and they are continuing to reach out to get the balance, and unless Congress takes some steps to stop, to prevent, to punish, if need be, the combination of the production of coal and its transportation by any hocus-pocus or hook or crook, nobody knows what will come, because if another anthracite coal strike comes in the winter, comes when the people are freezing, and these thirty or forty millions of people off East and Northeast and around here to Canada who use anthracite coal are confronted by their inability to get coal to keep their families warm, gentlemen, there will be something doing in the United States.

Mr. SPOONER. Mr. President, only a few moments. I understand that this report is to go back to the conference committee, and therefore while the Senate is not to vote upon it, it is not improper for Senators to give expression to the views they entertain upon the subject, perhaps in a way for the guidance of the Senate conferees, provided it is entitled to weight in future deliberations upon this bill.

It was clearly understood when the bill passed the Senate, I think it was almost the unanimous sentiment in the Senate, that for several reasons these coal lands ought not to be sold. The proposition which was reported from the Committee on Indian Affairs, and which was much debated here and to which amendments were proposed, was one authorizing the sale of these lands and an attempt to protect the trust estate and the public interests by restrictions to be wrought into the conveyance.

It is almost impossible, as I said in a single sentence in that debate, efficiently to protect the public interest by limitations upon the power of alienation. It is difficult to conceive, if it be possible to conceive, of restrictions which would not be easily susceptible of evasion, and practically, except perhaps here and there a case, inoperative. The proposition that the Secretary of the Interior shall be permitted, without limitation other than that contained in the House bill, to lease these lands is one, I think, from the present standpoint, inadmissible in the public interest.

In the first place, Mr. President, this is a trust. The Government of the United States does not own these lands. The Government holds these lands in trust for these tribes and their posterity. The Government may become a trustee. It was so held years ago in the Tuckerman case as to the State of Michigan, and it was held that as a trustee the State was bound by the rules which govern trustees generally and differed from no individual trustee, except that being a sovereign it could better administer the trust. As a trustee, Mr. President, no reason could be given why these lands should be sold. They will constantly increase in value. Owned by a great estate they would not be for sale. No better property can be found to hold. They should not be sold, nor should they be unrestrictedly leased at anybody's will.

As the law stands to-day, what restrictions may the Secretary lawfully put in the leases? Whether these lands shall be leased to corporations or whether they shall be leased to one man or another with reference to his connection with corporations is not a question which Congress has committed to any executive official. That is a matter for Congress to provide for by legislation conserving high public policy. The only method by which they should be disposed of is the lease, for the reason that the lease can be controlled, and efficiently controlled. Prohibition upon the assignment of any lease without the consent of the Secretary of the Interior or the approval of the President is entirely within the constitutional capacity of Congress. The reservation of the right to forfeit for breach of any condition of the lease is entirely within the constitutional capacity of Congress, and it may be so framed as to be easily exercised and to afford quick and adequate protection. Nobody except those who are otherwise interested wants this great body of fuel to pass into the hands or under the control of transportation companies.

So I think, if the conferees on the part of the Senate are not satisfied in framing appropriate legislation restricting the lease and safeguarding the public interest as well as the interests of the cestui que trust, they should entirely withhold their agreement from the proposition in any form. It is not easy——

Mr. CLAPP. I should like to ask the Senator if he could, with all his acknowledged skill, frame a provision that would effectually and practically prevent in the last analysis transportation companies from getting hold of the property?

Mr. SPOONER. I am afraid if I say it can be done, the question will be followed up by a request for me to do it. I think it can be done. One thing is very certain. If it can not be done those lands ought neither to be sold nor leased, because the Government is not helpless. The lands are not subject to taxation. The Government is under no pressure to make haste in disposing of these lands; not at all. There is no overwhelming public necessity which calls upon the Congress this year or next winter or for many winters to come to dispose of these lands. No one thinks, I take it, that with the lapse of time the consumption of coal in other parts of the country the lands will diminish in value. Short leases of these lands, with the privilege of renewal under certain restrictions, would go a long way to protect them if the execution and administration were honest and efficient. But, Mr. President——

Mr. TILLMAN. Mr. President——

Mr. SPOONER. No; the Senator will excuse me. I wish to conclude.

Mr. TILLMAN. I merely wish to give the Senator something along the line he is just discussing.

Mr. SPOONER. I will yield.

Mr. TILLMAN. I have made a rough calculation, and if the junior Senator from Wisconsin is correct as to the immense

amount of coal, and I have no doubt he is, there have been found enough lands to produce 665,000,000 tons of coal, and I do not think there is going to be any dearth of coal around there the next forty years.

Mr. SPOONER. I do not understand the necessity for haste about it. The lands will be there next year and years hence. I think that Congress ought to take its time about this matter, which is very grave and in some respects involves great interests.

But I rose really to call attention to section 19. It is very much as the Senate passed it. But as it is in conference with a house penitentiae, I should like to say a few words about it. I used to know something about the Indians. I saw some things among them that made me think they were devils incarnate, and I saw some things among them that taught me to know that they were human also. They have been treated as wards of the Government. They have been treated during all these years as incapable of managing their own affairs in competition with white men. I think it was a great mistake to make citizens of them. It was not at all necessary, in order to make allotments of land to the Indians and to put each Indian upon a tract of land which he owns, that he should be taken out from the guardianship of the Government at all. The Indian was no more fit to be a citizen of the United States when he had become the owner of a hundred and sixty acres of land than he was before.

The laws under which that was brought about treated the Indian as unable at this day efficiently to protect his property interests, because the allotments and the patents issued upon the allotments contain a restriction upon the power of alienation. You can by law make an Indian a citizen of the United States, but you can not by law change Indian nature. You can not by an act of Congress make a man prudent, thrifty, able to attend successfully to business affairs, to deal on an even plane with the experienced, educated, and rapacious white man. Whether making them citizens operates to remove from the patents which have been issued to them the restrictions upon alienation has not been determined. It could not have been the purpose of Congress. I would not be willing to impute to Congress any such purpose.

But I notice that every time an Indian bill has come into the Senate during the last few years it has contained proposition after proposition, taking pages of the bill, removing the existing restrictions upon the power of alienation. This bill is inconsistent upon that subject. Notwithstanding citizenship, it still assumes the power of guardianship. It will be an unhappy day for the Indians, the members of a vanishing race, if the court shall hold that citizenship destroyed these limitations upon the power of alienation. The Indians will become the prey of the white man everywhere, and it will not be long until relatively few Indians will own the lands which had become theirs under the system of allotment. The Congress ought to legislate upon the basis that citizenship and allotment have made no difference with the Indian nature or with the power of the Government to protect the Indians against their own weaknesses and against spoliation by white men.

I wish to call attention to section 19. It reads:

"That all restrictions upon alienations and leasing of lands of Indians [citizens of the Choctaw, Chickasaw, Cherokee, Creek, and Seminole Nations] of less than full blood are, except as to homesteads, hereby removed."

Why "except as to homesteads?" Why prohibit American citizens, made capable by law of protecting their property interests, of looking after the future of their families, from conveying, with the concurrence of the wife, these homesteads? All citizens have that right in the States as to homesteads.

Mr. TELLER. Not all.

Mr. SPOONER. Well, they do in my State. This reservation of a restriction as to homesteads implies a legislative theory that these people still need the care of the Government, and every Senator here knows that they do.

Mr. BACON. It also involves a recognition of our right to control them.

Mr. SPOONER. Certainly. I think we have a right to control them.

Mr. CLAPP. That is the reserved right. It does not involve the recognition of our power to control wherein it has ceased to have it. This provision still continues to reserve the power.

Mr. SPOONER. I think the Senator is correct. There is a distinction and a very clear distinction. But let us not go beyond the line which this policy, which I think was a mistaken one, has clearly drawn. Certainly I think it must be true that as to those to whom lands were patented with these restrictions prior to becoming citizens the restrictions hold. I am not sure but that it would hold now by the doctrine of estoppel. Where a deed is accepted containing a restriction the grantee might be estopped to repudiate the restriction.

Mr. BACON. As I understand the suggestion of the Senator from Minnesota [Mr. CLAPP], while it is true that that distinction exists, the power of reservation as to the remainder has not been surrendered by us.

Mr. CLAPP. When the Senator gets a little further on he will find that we do attempt in this bill—and the bill passed the Senate in that form—to now reach out and withdraw the grant we previously made of alienation. I wish in this connection to call the attention of the Senator from Wisconsin to the fact that a different rule obtains in different reservations. Undoubtedly where the Government is buying the land, and the court has so decided, the Government can attach these restrictions. In the Indian Territory, outside of the reservations in the northeast part of the Territory, this property was the property of the Indian when the several laws were passed. We simply passed laws to distribute what already belonged to us. That might make a difference in our legal attitude, of course.

Mr. SPOONER. What distinction is there as to the power of the Government to create restrictions upon alienation between a half-blood citizen of the United States and a full-blood citizen of the United States?

Mr. CLAPP. There is none as to that, but there is a difference between the working of the doctrine of estoppel where you grant something and the party takes it with that restriction and where you are simply distributing what already might belong to us. That is the point I was making.

Mr. SPOONER. That is true.

Mr. President, why remove the restriction upon alienation and leave a restriction upon the power to lease? What is the theory of that?

Mr. TELLER. There can not be any, I think.

Mr. CLARK of Wyoming. That was fully explained by the Senator from Minnesota [Mr. CLAPP] when I asked the question.

Mr. SPOONER. The restrictions ought to be left upon the power of alienation, and the power of leasing ought not necessarily to contain any restriction whatever. That would protect the Indians, if it is within the constitutional capacity of Congress now to do it. Leave the restriction upon the power to alienate. The Indian may make an improvident lease, but the fee still belongs to him, and when the term of the lease shall have expired he has his land and the power to release it if he chooses, or the power to occupy it. But when you remove the restriction from the power to alienate, to convey, you make him the victim of every scoundrel who cares to make him drunk in order, while he is irresponsible, that he may beguile from him his patrimony. That danger does not exist except to a trifling extent in the exercise of the power to lease.

This is plain to me. I can not see any reason, certainly none in the interest of the Indian, that restricts this temporary alienation of land, but permits him without restriction to forever part with the title and dominion. If any change is made in this language, it should be to take out of it the provision which removes restrictions upon alienation and leaves the Indian where he can be despoiled.

Mr. TELLER. Mr. President, I wish the Senator from Wisconsin was a member of the Committee on Indian Affairs.

Mr. SPOONER. What have I done that the Senator should wish that?

Mr. TELLER. Many of us have been considering difficult Indian questions for several weeks in that committee, and if the Senator had been on the committee I do not think he would know any more than he does now about them; and I think he would be ready to admit that he did not know much about it.

Mr. SPOONER. I am ready to admit that now.

Mr. TELLER. It is a problem pretty difficult to solve. There are 90,000 Indians in the Indian Territory. Twenty-four thousand is supposed to be about the number of half-bloods. Then there are all grades from a quarter blood and an eighth to the full white man. There are men and women there who claim to be Indians by descent and who are as white as any member of this body. There are men and women there who are as perfectly competent to take charge of their affairs as anybody here. Yet they are Indians. I do not mean that they are Indians now, but they were Indians under the law.

I made a trip some years ago through the Indian Territory with a committee. We spent a month down there. It has been my fortune to live in the neighborhood of Indians ever since I can remember. When I was a boy living in New York I lived by the side of an Indian reservation. I know something about the Indians, and I know something about their character.

About twenty-five years ago, or a little more, there arose in this country great interest in the Indians, especially amongst people who had never seen an Indian and knew nothing about

him. They organized societies for their culture and education. It suddenly struck somebody that really what these Indians needed was a title to a piece of land. The impression went out very strongly, I think, amongst the benevolent people who were really desirous of doing good that all you had to do was to give them a piece of land and civilization would follow.

We had tried that before. Five thousand patents were issued at one time in the State of Michigan, with a limitation of five years. It did not civilize the Indians. It is said that a year after the five years expired there was not a single piece of the large section of country that had been allotted to them and patented to them that was held by an Indian.

I think about four years ago, by a bill called the "Curtis bill," it was supposed that we had really settled the Indian problem. That bill provided that when an Indian took an allotment he then became a citizen of the United States. That was not enough. At a subsequent time we provided that on the 4th of March, 1906, all Indians in the Indian Territory should become citizens of the United States.

So, Mr. President, there we are met with that proposition. These people were our wards and we made a very sorry mess of it in trying to take care of them. Well-intentioned good people have come here repeatedly and sought legislation that was perfectly hostile to the Indian and calculated to destroy him. With the best possible intention they insisted upon and secured such legislation. I said once here years ago that an association of as good people as there was in the country, calling themselves the Indian Association, had done more harm to the Indians than any other class of people I knew anything about. If you should entitle all the legislation that has been passed in twenty-five years by Congress "a bill to destroy the Indian," I think more than half of it would be accredited as an absolutely perfect description not of the purpose but of the effect.

The 24,000 Indians who are now in the Indian Territory are not competent to take care of their own affairs. A considerable number of those who are citizens but are not full blood are not capable, but there are thousands of men there who are capable of taking care of their affairs.

The Committee on Indian Affairs, since I have been a member of it, for about four years, has been anxious to relieve the class of men who were capable of taking care of their own affairs, and so at every session we have put in the bill, on such evidence as we could get, that so and so, naming them—sometimes they were white people, absolutely white, Indians by adoption, surely Indians by intermarriage—might sell their land. We put in a provision that the half bloods might sell, and occasionally we have allowed a full blood to sell when the evidence was positive that he could take care of himself, because there are exceptions. There are full bloods who can do that. You can not draw a line upon the blood. I have known magnificent Indians, Indians of great ability, men, I suppose, representing those Indians in the olden times like Red Jacket and Tecumseh and that class of Indians, who in their native state, without any education, could take care of themselves without any trouble. But they are the exception. All native wild people have an appetite for drink. Everybody knows that.

Mr. TILLMAN. And some civilized.

Mr. TELLER. And some civilized, the Senator says. Very few wild people have any idea of the accumulation of property. They live for to-day; to-morrow takes care of itself, so far as they are concerned, and they will not be prudent. It will take four or five generations, I suppose, to make them prudent. But if anybody will take the pains to go back to the Anglo-Saxon history he will find the same condition existed then. The Anglo-Saxon's lust for land, which you talk about, did not exist in the early history of the Anglo-Saxon race. If it existed at all, it only existed when they made a foray on some other country and wanted somebody else's land, which they held in common for generations, just as the Indian held his in this country.

I know it is heresy to say it, Mr. President, but I am one of those people who have believed for many years that if the doctrine prevailed that the land belonged to the man, and to him only, who occupied it and cultivated it—and that is the Indian law—we would be better off than we are to-day, save and except, perhaps, in our cities where conditions made it necessary in order that vast improvements could be made that there should be a title.

There is in the State of New York an Indian tribe that to-day owns its land in common. I will guarantee to show a well-built house, a well-built barn, a well-conducted farm held by a title that has been in the Indian family for three or four generations; and yet, if the occupant should move out of that house and abandon the barn and the farm, some other Indian would walk in and make just as good title to it as he had when he ceased to occupy it. He may transfer it if he chooses to some of his own people. He may sell any possession. He could make an arrangement that another man should take it and occupy it, but no man could hold it if he did not occupy it and make it useful. There are no broad acres that were not open to every Indian.

That is one of the troubles we have been dealing with down in the Indian Territory. When the white men were let in there, an Indian would take a white man and go out and lay off a piece of ground, 160 acres if he wanted it, or 500 acres if he wanted it, and he would say, "Now, you go and cultivate this land; pay me so much for it; I will give you authority to go on it." And the white man went on the land. One day I said to a distinguished Indian down there, a full-blooded Indian, a man really who would grace this body if he sat in it, "They tell me that you have 130 farms. Is not that more than your share?" He said, "I guess I have got about that number; it may be it is more than my share if the division should take place; but look at these broad acres out here. If any Indian wants land there it is; he has no business to complain because I have got this under cultivation." I declared that his logic was perfect; that I myself could not complain; that it was better the land should be cultivated even by a tenant; and these were white tenants, remember, that we and the Indians together had let in there.

Now, that is the way they hold the land. Take some of the freedmen regarding whom provision is made in this bill? The freedmen were entitled to 40 acres of this Indian land and their descendants were entitled to 40 acres. The bill cuts off their descendants.

Mr. President, you could find down there in the Indian Territory a freedman, a colored man, a former slave, with pieces of land cultivated in an excellent shape, in some sections as high as 300 or 400 acres. The freedmen had to give that up and take 40 acres for himself and his wife and children. The children born since that distribution, however, get nothing whatever. That is one of the things they are complaining of here. As stated, they took their lands, I think, six or eight years ago. I do not remember just when. These were not Indians. They were colored citizens of the United States. I repeat, and this is what makes the trouble with me to-day, these Indians down there who, as the Senator says, are not fit to be turned loose, and we must still continue our guardianship over them, are citizens of the United States. Some of them have been citizens for four or five years. I should like any constitutional lawyer to tell me where the authority comes to Congress to touch the property of a citizen of the United States. If he has taken his deed with a limitation, as the Senator says, there may be a doctrine of estoppel; he may be compelled to hold it until the restriction expires.

We were met with this question. We knew that the limitations were not long enough (everybody knows that who knows anything about it) if you mean to hold the land in the Indian possession. When they had become citizens of the United States, when they had taken their lands with a restriction in the deed, could we extend that limitation in the deed and say, "Your deed or patent says you shall hold this land without sale for five years; we add five years more to it?"

Some of the members of our committee would like to have done that. I voted for it last year in committee upon the theory that these men were the wards of the Government. I was ignorant when I first went on that committee that the Curtis Act had made citizens of these people. When it was stated to me then that they were citizens of the United States I said, "You can not increase that limitation or restriction;" and I defy anybody who knows any law at all to assert the contrary.

Now, there are 90,000 citizens of the United States there, and the trouble is they are without educational facilities. They are there as they never were even when they had their tribal relations and were running their council. They are worse off to-day. While nominally to-day the tribal relation exists, the question is presented, "How are you going to maintain a tribe of Indians when they are citizens of the United States?" It is a mere fiction that there is a tribe there. It has ceased actually. While in law it may be useful to hold that they are a tribe in order that the lands may not be taken from them or appropriated by a railroad company that claims a grant, still when you come to deal with them, Mr. President, you are without the power.

We could do something for these Indians if we wanted. We could provide for schools or we could incorporate that section of the Indian Territory into a State, and it might be done in an hour, if we were not charged here with the encumbrance of attaching that new State to two Territories that do not want to be admitted, and there are many members of the Senate

say they ought not to be admitted either as one State or as two.

If the Territory of Oklahoma had been off the bill, if it had passed through the House without that encumbrance and the Indian Territory had been provided for last year, it would have been a State now and all the appliances of a State could have been used for the education of the Indians and the white men who are in the Indian Territory, who are absolutely without educational facilities. There is a necessity that we would do something. There is a greater necessity that we should do somethere.

The only way to settle this difficulty, in my judgment, is to make a State of Oklahoma and the Indian Territory. It is true that we have got to do it by a violation of all the treaties that have ever made with those Indians, but, Mr. President, treaties are not so sacred but that they may be undone after they cease to be of value. They have ceased to be of any value to the Indians now, and it is our duty, in my opinion, notwithstanding the obligation we took upon ourselves to see that these Indians should never be incorporated into a State, to declare that they shall be incorporated into a State, that they shall become citizens of that State, and that they shall have the benefits that will flow from statehood.

If the Indian Territory can not be made into a State, then it will be incumbent upon us to provide some method of taking care alike of the Indian children and the white children there. I do not recognize any greater obligation on us to take care of the Indian children than of the white children in the Indian Territory. It is not a State. It belongs to the General Government. We can legislate for it. There are 700,000 white men there with families and no schools. I will venture to say that the chances are decidedly now that there will not be a State made of Oklahoma and the Indian Territory. There will not be unless the Senate shall recede from the action we took here when we declared that the admission of the two Territories as one State should not be a necessary part of the admission of Oklahoma and Indian Territory.

Mr. SPOONER. That comes from an omnibus bill.

Mr. TELLER. That comes, as the Senator from Wisconsin says, from an omnibus bill. Mr. President, I do not remember any other omnibus bill upon statehood since I have been in the Senate, and seven States have been admitted since I have been a member of this body.

I say that if Oklahoma had come here alone, there would not have been five votes against its admission as a State; and Oklahoma would have come here alone if it had not been believed by certain parties in a certain place that by the attachment of Arizona and New Mexico, in our desire to admit Oklahoma, they could force the admission of those two Territories as one State.

I perhaps have spoken with some warmth upon this subject, but the condition in the Indian Territory is absolutely disgraceful to this nation, and unless we are imbeciles we ought to take hold of it and put it to rights. It can be done now, in my opinion, in only one way. If we have made a mistake, as the Senator from Wisconsin has said we did—and I declare that I believe we did, Mr. President—it is too late to undo that. There is not any law and there is not any power under the Constitution to say to a man who is a citizen that he shall not be any longer a citizen. Whether fit or unfit for citizenship, citizenship lasts so long as he lives, unless he chooses to renounce it. He alone can deprive himself of the privileges and rid himself of the incumbrances which citizenship brings.

It is utterly impossible to so frame this bill that it will be fair to the Indians and fair to the white men in the Indian Territory. Somebody will be hurt; and it is not much worse to hurt 90,000 Indians than it is to hurt seven or eight hundred thousand white people down there, who are suffering as much, if not more, than the Indians.

Mr. President, so far as the sale of these coal lands is concerned, the money that comes from the sale will belong to the Indians. I myself was at first in favor of selling those lands; but after looking carefully into the matter, I made up my mind that we had better not sell them now, but wait for a time when better prices will be secured for them.

I do not know whether or not combinations have been made to secure those lands at a small price, but I do know that a great property like that can not be put upon the market in a few months or in a year and bring its full value. Those lands are, as the Senator from Wisconsin, sitting on the other side [Mr. SPOONER], has said, of immense value. They are the most valuable coal fields in the United States, with but few exceptions, and they are in a section of country where coal is needed, where there is now a market for it and will be for many years to come.

Now, Mr. President, if we have improvidently made citizens of the Indians, nevertheless we can not afford to cheat them out of that which belongs to them by their former relation to their tribes. We should keep a careful eye over them, which I believe the Supreme Court has indicated we may still do, by looking after and providing for these lands, even if their beneficiaries are citizens of the United States.

Mr. NEWLANDS. Mr. President, I wish to discuss this matter further, but if there is a disposition to adjourn, I will yield to a motion for adjournment, and postpone my remarks until to-morrow.

Mr. LODGE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Nevada yield to the Senator from Massachusetts?

Mr. NEWLANDS. I do.

Mr. LODGE. I was merely going to move an executive session.

Mr. NEWLANDS. I yield for that purpose.

Mr. LODGE. I move that the Senate proceed to the consideration of executive business.

Mr. HALE. Will the Senator withhold that motion for a moment, in order that I may make an inquiry?

Mr. LODGE. Certainly.

Mr. HALE. I inquire what is the status as to the conference report? Has it been withdrawn?

The VICE-PRESIDENT. Does the Chair understand the Senator from Minnesota to have withdrawn the conference report?

Mr. CLAPP. Mr. President, I had intended to do so, but the Senator from Colorado [Mr. PATTERSON] has raised a question regarding it, which he desires to bring up to-morrow, and so I will let the report lie on the table until then.

Mr. HALE. Do I understand it is the intention of the Senator from Minnesota to call up the conference report the first thing in the morning after the routine business?

Mr. CLAPP. Yes; I shall endeavor to do that.

EXECUTIVE SESSION.

Mr. LODGE. I now renew my motion that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were reopened, and (at 5 o'clock and 16 minutes p. m.) the Senate adjourned until to-morrow, Thursday, March 29, 1906, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate March 28, 1906.

PROMOTIONS IN THE ARMY.

Cavalry Arm.

Second Lieut. George H. Baird, Eleventh Cavalry, to be first lieutenant from March 27, 1906, vice Kirkman, Eighth Cavalry, dismissed.

Artillery Corps.

Lieut. Col. Harry R. Anderson, Artillery Corps, to be colonel from March 26, 1906, vice Hills, retired from active service.

Maj. Montgomery M. Macomb, Artillery Corps, to be lieutenant-colonel from March 26, 1906, vice Anderson, promoted.

Infantry Arm.

Maj. Edward E. Hardin, Seventh Infantry, to be lieutenant-colonel from March 23, 1906, vice Cooke (L. W.), Twenty-fifth Infantry, appointed brigadier-general.

Capt. William H. Sage, Twenty-third Infantry, to be major from March 23, 1906, vice Hardin, Seventh Infantry, promoted.

First Lieut. Alfred Aloe, Twelfth Infantry, to be captain from January 24, 1906, vice Jackson, First Infantry, retired from active service.

First Lieut. Thomas J. Healy, First Infantry, to be captain from February 17, 1906, vice Steelman, Eleventh Infantry, promoted.

First Lieut. Frank W. Rowell, Eleventh Infantry, to be captain from March 3, 1906, vice Cotter, Fifteenth Infantry, promoted.

First Lieut. Hugh A. Drum, Twenty-third Infantry, to be captain from March 23, 1906, vice Sage, Twenty-third Infantry, promoted.

First Lieut. John M. Campbell, Fifth Infantry, to be captain from March 24, 1906, vice Sivlier, Twenty-eighth Infantry, deceased.

CONFIRMATIONS.

Executive nominations confirmed by the Senate March 28, 1906.

ASSOCIATE JUSTICE OF ARIZONA.

Fletcher M. Doan, of Arizona, to be associate justice of the supreme court of the Territory of Arizona.

POSTMASTERS.

CALIFORNIA.

David Robinson to be postmaster at Sebastopol, in the county of Sonoma and State of California.

IDAHO.

Marcellus J. Gray to be postmaster at St. Anthony, in the county of Fremont and State of Idaho.

ILLINOIS.

Ulysses S. G. Blakely to be postmaster at Plainfield, in the county of Will and State of Illinois.

Lenthold C. Brown to be postmaster at Wheaton, in the county of Dupage and State of Illinois.

William G. Dustin to be postmaster at Dwight, in the county of Livingston and State of Illinois.

Henry C. Claypool to be postmaster at Morris, in the county of Grundy and State of Illinois.

Peleg A. Coal to be postmaster at Gibson City, in the county of Ford and State of Illinois.

J. H. Firebaugh to be postmaster at Abingdon, in the county of Knox and State of Illinois.

John T. Gantz to be postmaster at Oregon, in the county of Ogle and State of Illinois.

William F. Hodson to be postmaster at Delavan, in the county of Tazewell and State of Illinois.

John R. Marshall, to be postmaster at Yorkville, in the county of Kendall and State of Illinois.

Henry Mayo to be postmaster at Ottawa, in the county of Lasalle and State of Illinois.

George R. Palmer to be postmaster at Onarga, in the county of Iroquois and State of Illinois.

Jessie Ranton to be postmaster at Sheldon, in the county of Iroquois and State of Illinois.

Frank Yeager to be postmaster at Lanark, in the county of Carroll and State of Illinois.

IOWA.

Charles J. Adams to be postmaster at Reinbeck, in the county of Grundy and State of Iowa.

KANSAS.

Michael Delaney to be postmaster at Waterville, in the county of Marshall and State of Kansas.

Arthur F. Dunbar to be postmaster at Wellsville, in the county of Franklin and State of Kansas.

Nathan B. Needham to be postmaster at Clifton, in the county of Washington and State of Kansas.

Frank C. Scott to be postmaster at Valley Falls, in the county of Jefferson and State of Kansas.

MICHIGAN.

Stephen R. Allen to be postmaster at Homer, in the county of Calhoun and State of Michigan.

John E. Crawford to be postmaster at Milford, in the county of Oakland and State of Michigan.

George W. Dennis to be postmaster at Leslie, in the county of Ingham and State of Michigan.

George E. Hilton to be postmaster at Fremont, in the county of Newaygo and State of Michigan.

MINNESOTA.

John Kolb to be postmaster at Melrose, in the county of Stearns and State of Minnesota.

Edward V. Moore to be postmaster at Eagle Bend, in the county of Todd and State of Minnesota.

Charles E. Ward to be postmaster at Ada, in the county of Norman and State of Minnesota.

MISSOURI.

Mordecai Bell to be postmaster at Golden City, in the county of Barton and State of Missouri.

Washington D. Turrentine to be postmaster at Marionville, in the county of Lawrence and State of Missouri.

NEBRASKA.

Walter H. Andrews to be postmaster at Lexington, in the county of Dawson and State of Nebraska.

John C. Mitchell to be postmaster at Alma, in the county of Harlan and State of Nebraska.

George M. Prentice to be postmaster at Fairfield, in the county of Clay and State of Nebraska.

C. A. South to be postmaster at Butte, in the county of Boyd and State of Nebraska.

NEW JERSEY.

Ogden H. Mattis to be postmaster at Riverton, in the county of Burlington and State of New Jersey.

NEW YORK.

William C. Froehley to be postmaster at Hamburg, in the county of Erie and State of New York.

Frank E. Holmes to be postmaster at New Berlin, in the county of Chenango and State of New York.

George C. Silsbee to be postmaster at Avoca, in the county of Steuben and State of New York.

Ralph S. Tompkins to be postmaster at Fishkill on the Hudson, in the county of Dutchess and State of New York.

NORTH DAKOTA.

Victor A. Corbett to be postmaster at Kenmare, in the county of Ward and State of North Dakota.

Richard Daeley to be postmaster at Devils Lake, in the county of Ramsey and State of North Dakota.

UTAH.

James P. Madsen to be postmaster at Manti, in the county of Sanpete and State of Utah.

WISCONSIN.

Stephen L. Perry to be postmaster at Marion, in the county of Waupaca and State of Wisconsin.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *March 28, 1906.*

The House met at 12 o'clock noon.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of the proceedings of yesterday was read and approved.

HAZING AT THE NAVAL ACADEMY.

The SPEAKER laid before the House the bill (S. 3899) granting authority to the Secretary of the Navy, in his discretion, to dismiss midshipmen from the United States Naval Academy, and regulating the procedure and punishment in trials for hazing at said academy, with House amendments thereto disagreed to by the Senate.

Mr. VREELAND. Mr. Speaker, I move that the House insist on its amendments to this bill and agree to a conference.

The motion was agreed to; and the Speaker announced as conferees on the part of the House Mr. VREELAND, Mr. LOUD, and Mr. PADGETT.

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

Mr. DALZELL. Mr. Speaker, I submit the following privileged report from the Committee on Rules.

The SPEAKER. The gentleman from Pennsylvania submits a report from the Committee on Rules, which the Clerk will read.

The Clerk read as follows:

The Committee on Rules, to whom was referred the resolution of the House No. 383, have had the same under consideration and respectfully report in lieu thereof the following:

Resolved, That hereafter, in consideration of the bill (H. R. 16172) making appropriations for the legislative, executive, and judicial expenses of the Government, and for other purposes, in Committee of the Whole House on the state of the Union, it shall be in order to consider, without intervention of a point of order, any section of the bill as reported, except section 8; and upon motion authorized by the Committee on Appropriations it shall be in order to insert in any part of the bill any provision reported as part of the bill and heretofore ruled out on a point of order.

Mr. DALZELL. Mr. Speaker, on that I ask the previous question.

Mr. SULZER. Mr. Speaker, I should like to have some explanation in regard to this rule. It seems to be a very extraordinary departure from the general rules of the House.

Mr. DALZELL. I do not wish to discuss the rule until after the previous question is ordered, because any debate before the ordering of the previous question would cut off all debate thereafter.

The SPEAKER. The gentleman from Pennsylvania moves the previous question upon agreeing to the resolution.

The question being taken, on a division (demanded by Mr. DALZELL) there were—ayes 120, noes 71.

Accordingly the previous question was ordered.

The SPEAKER. The gentleman from Pennsylvania is entitled to twenty minutes, and the gentleman from Mississippi [Mr. WILLIAMS] to twenty minutes.

Mr. DALZELL. Mr. Speaker, I shall occupy but a very brief time in explanation of the rule.

The House is familiar with the fact that in the consideration of the legislative appropriation bill in Committee of the Whole a great many paragraphs have been stricken out by reason of an

to the rule of the House which prevents legislation on appropriation bills. The trouble has been mainly with respect to number of employees provided for in the bill and with respect to the salaries of employees. The point of order has been made that employees not provided for by existing law are provided in the bill and that salaries not provided for by existing law are included in the bill; and it is fair to say that it seems to me that in all cases the point of order has been well taken.

The difficulty with which the House is confronted arises out of the fact that the law fixing the number of employees and the salaries of employees in the various Departments is in many cases an old law, in some cases as old as thirty years, and of course, during the passage of those thirty years the business of the Government has largely increased, the necessity for new employees has arisen, and the necessity for changes in salary has arisen. Those changes ought to have been made by general law. The fault lies not wholly with the Committee on Appropriations, but largely with the various committees of the House, who ought to have secured the passage of general laws which would authorize the Committee on Appropriations to insert these provisions in the appropriation bill. A custom, however, has grown up during all these years not to make points of order upon items in the appropriation bill which were recognized by the House as appropriate under the circumstances, and the custom therefore has justified the Committee on Appropriations from year to year in putting into the appropriation bill these increases of salary and these increases of appropriation. As I say, the fault lies with the committees of the House, who ought to have provided general legislation. In illustration of that proposition, let me call your attention to what appears on two pages of the RECORD. An appropriation in this bill for the employees at New Orleans went out on a point of order because it infringed a provision of existing law on the subject. That provision was over thirty years old; nevertheless, during all these thirty years since its enactment, without any additional legislation, appropriations corresponding to this have been made by the sufferance of the House.

Now, on the opposite page of the RECORD, you will find a like appropriation for employees at New York, but that did not go out on a point of order, because there appears on the statute book this provision:

The assistant treasurer at New York may appoint from time to time, by and with the consent and approbation of the Secretary of the Treasury, such other clerks, messengers, and watchmen, in addition to those employed by him, as the exigencies of the business may require.

In other words, we ought to have, to avoid the confusion into which we have fallen in this case, such general legislation upon the statute books. It is apparent, however, that the House can not now stop the business of the country can not be held up, because of the lack of this general legislation. The Government needs must be met, and therefore the only way in which the present needs of the Government can be met is by the adoption of this rule.

The rule provides that these items which have already gone out on points of order may be inserted at the will of the House. In other words, it submits to the House the right to say whether or not upon the merits the items shall go into the bill. The rule also provides that, as to the items not yet reached, they shall be passed upon on their merits irrespective of the technical rule; all except section 8, which relates to superannuated clerks, so called. Your committee felt that that was a piece of legislation that was entitled to be considered by the House as a separate proposition, and therefore that is excepted from the operation of the rule.

Mr. CURTIS. Under the rule that section would be subject to a point of order?

Mr. DALZELL. Yes.

Mr. CURTIS. I think that provision unfair to the clerks who have devoted many years to the service, many of whom were Union soldiers, and it should be stricken from the bill.

Mr. JONES of Washington. The rule does not make anything in order that may be offered to be inserted by a Member?

Mr. DALZELL. No; it does not make anything in order except what was reported by the Appropriations Committee and an amendment to it which would be germane.

Mr. JONES of Washington. Does not the gentleman think that the Members of the House ought to be allowed to offer amendments to be considered on their merits?

Mr. DALZELL. They will have that privilege.

Mr. JONES of Washington. If subject to a point of order, they would go out.

Mr. DALZELL. They would go out anyway.

Mr. MANN. Under this rule the amendment which the Committee on Appropriations offers—that is, to increase the salaries—is in order.

Mr. DALZELL. If it is in the bill.

Mr. MANN. Whether it is in the bill or not, if the committee reports it it is in order.

Mr. DALZELL. Only as reported in the bill.

Mr. MANN. In that case, then, the amendments offered by any Member of the House to increase that amount would necessarily be in order.

Mr. DALZELL. But subject to a legitimate point of order, of course.

Mr. MANN. If the proposition offered by the Committee on Appropriations is in order, an amendment to that proposition is also in order.

Mr. DALZELL. I should say so.

Mr. NORRIS. I would like to ask the gentleman from Pennsylvania if the Committee on Appropriations puts in the bill an appropriation for a salary, for instance, greater than that allowed by existing law, it would not be subject to a point of order; but if a Member on the floor of the House offers an amendment that increases the salary in the bill greater than that allowed by existing law, that would be subject to a point of order?

Mr. DALZELL. Not if the amendment was to a paragraph in the bill that under the rule was not subject to a point of order.

Mr. NORRIS. So that the gentleman may understand my proposition, suppose it makes an appropriation for a salary that is in exact accordance with existing law, and a Member on the floor of the House offers an amendment to increase it beyond that limit, would that be in order?

Mr. DALZELL. I should think not; I should think it would be subject to a point of order. If the committee's proposition was in accordance with the law, and the amendment not in accordance with the law, I should think it would be subject to a point of order.

Mr. NORRIS. In other words, the committee can propose amendments that go beyond existing law, but Members of the House can not. This privilege exists only in favor of the committee. In other words, it is a rule that does not work both ways.

Mr. DALZELL. Not at all. It is a rule that allows the bill as reported by the Committee on Appropriations to be considered without being subject to points of order, except as to section 8. That is all it is.

Mr. WM. ALDEN SMITH. It is to be considered on its merits.

Mr. DALZELL. In other words, it submits to the House the bill as reported by the Committee on Appropriations on its merits. The committee may vote on each proposition without respect to points of order upon the merits of the proposition.

Mr. BROOKS of Colorado. Mr. Speaker, to be more specific on the question asked by the gentleman from Nebraska [Mr. NORRIS], then if the committee has reported an item which is entirely legal, or an amendment, and the House by amendment attempts to change that in any way, that proposition is open to a point of order.

Mr. DALZELL. Not unless it is against the law.

Mr. BROOKS of Colorado. In any way, so that it transgresses the rules.

Mr. DALZELL. For instance, if there is an amount named in the bill, that is subject to amendment.

Mr. BROOKS of Colorado. One further question. Then if the committee has reported an item which if objected to would go out on a point of order, that item may be further amended also in the direction that would have been, without the rule, open to a point of order.

Mr. DALZELL. I think so; yes.

Mr. FITZGERALD. Mr. Speaker, will the gentleman yield to a question?

Mr. DALZELL. Yes.

Mr. FITZGERALD. Did the Committee on Rules proceed upon the theory that the Committee on Appropriations was unanimously in favor of having considered in this way all of the legislative provisions excepting section 8?

Mr. DALZELL. I do not understand the gentleman's question.

Mr. FITZGERALD. Did the Committee on Rules proceed upon the assumption that the Committee on Appropriations was unanimous in desiring to have all of the legislative provisions considered in this way excepting section 8?

Mr. DALZELL. Why, we did not think anything about what the Committee on Appropriations wanted especially.

Mr. FITZGERALD. I think the gentleman did, because his rule provides that all the things reported in the bill by the

Committee on Appropriations shall be considered regardless of the rules, excepting section 8. Now, there are several other distinctively legislative provisions in the bill not excepted by the rule, but to which there was objection in the committee, about which notice was given that points of order would be interposed and which this rule takes out of the operation of the rules of the House. I would ask the gentleman to explain why the Committee on Rules singled out one legislative provision and not other legislative provisions equally offensive?

Mr. DALZELL. Because we thought that that one legislative provision was so radical in its character, so much more radical than any of the others, that it ought to have separate consideration in the ordinary way.

Mr. Speaker, I reserve the balance of my time. How much more time have I?

Mr. BARTLETT. Mr. Speaker, I would like to ask the gentleman a question.

The SPEAKER. The gentleman has seven minutes remaining.

Mr. DALZELL. Then, Mr. Speaker, I reserve the balance of my time. I can not yield any more.

Mr. WILLIAMS. Mr. Speaker, the object of this rule is to make points of order which are not in order under the rules of the House out of order under this rule. It is an apt illustration and object lesson, indeed, of the defectiveness of the rules of the House. I shall not consume the time of the committee by arguing that question. Others want to be heard, and I shall yield to them. I now yield five minutes to the gentleman from Illinois [Mr. PRINCE].

Mr. BARTLETT. Mr. Speaker, may I ask the gentleman from Mississippi a question before he sits down?

Mr. WILLIAMS. Mr. Speaker, I do not want to consume any time if I can help it. I desire to yield to others.

The SPEAKER. The gentleman from Illinois is recognized for five minutes.

Mr. PRINCE. Mr. Speaker, the whole trouble that the House is now in is due to paragraph 2 of Rule XXI of the House of Representatives, which is as follows:

> No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress; nor shall any provision changing existing law be in order in any general appropriation bill or in any amendment thereto.

The honorable gentleman from Pennsylvania [Mr. DALZELL], who has just taken his seat, says the points of order have been well taken. So much for the obstructionists. The points of order have been well taken. Now, what does the chairman of the committee say? On page 4281 of the CONGRESSIONAL RECORD of March 23, 1906, Mr. TAWNEY says:

> If this rule is to be enforced, then more than one-half of the provisions of this bill will have to go out.

Properly taken! More than one-half of it is to go out! What is the rule? "No appropriation shall be reported"—confessedly in order are these supposed obstructionists. "The points of order are well taken," says the gentleman from Pennsylvania. The chairman of the committee says that half of it will go out. Why did he knowingly, willfully, deliberately, and flagrantly violate the rules of this House to bring in a bill of which he himself says one-half would go out on points of order if they were made? Now, then, let us turn to the effect of the rule. Here is a rule that applies to one Committee on Appropriations. How many appropriation bills are there, gentlemen of the House?

Look at your Calendar of date March 26, 1906, and you find the following: Urgent deficiency; pensions; fortifications; Army; Indian; legislative, executive, and judicial; Post-Office; agricultural; diplomatic and consular; District of Columbia; general deficiency; Military Academy; naval; public buildings; rivers and harbors, and sundry civil appropriation bills—sixteen appropriation bills in this House. If this provision is good for one committee, why is it not good for every committee that passes appropriation bills in this House? [Applause.] Will you tell me? I say now, and wait for answer, if the Committee on Rules will make this special a general rule that will apply to every appropriation committee of this House I will vote for the rule now. Will you do it? What answer have you to make to these other committees that you single out one as against ten others?

What is your reply for doing it when you confessedly admit your bill is out of order, when you confessedly admit every point of order that has been made against the bill is in order and under the rules of this House? Now, who have passed upon the objections? Two honorable Members of this House, none higher in the estimation of this body than those two, sitting day in and day out in the chair as Chairman of the Committee of the Whole House on the state of the Union. The honorable gentleman from Pennsylvania [Mr. OLMSTED] held time after time that practically every one of those points of order are in order, and the provisions had to go out. They changed hands for a few minutes, and the distinguished Member from New York [Mr. PAYNE] took the chair, and he held likewise upon these very same provisions. Where is the obstruction? Now, gentlemen of the House, let me say this to you, that we all are here as Members. You have heard me ask the Committee on Rules if they will make this rule a general rule to apply to your committees on which you are serving and the committees on which I am serving. They have not said they would do it. What will you say to your constituents? Will you vote for a special rule which allows the increases of salaries, changes existing law, and enacts new and original legislation? What will you say to the committees of which you are members, over which have presided for more than a hundred years some of the most distinguished men who have sat in this body——

The SPEAKER. The time of the gentleman has expired.

Mr. PRINCE. I ask leave to extend my remarks if I so desire.

The SPEAKER. The gentleman from Illinois asks unanimous consent to extend his remarks in the RECORD. Is there objection? [After a pause.] The Chair hears none.

Mr. WILLIAMS. Mr. Chairman, I now yield five minutes to the gentleman from Missouri [Mr. DE ARMOND].

Mr. DE ARMOND. Mr. Speaker, I am one of those who are not opposed to suitable legislation upon an appropriation bill. I am opposed, however, to this way of getting at that legislation. It would be very easy, as matters now stand, to have every item in this appropriation bill considered by the committee and by the House. Of course, when the point of order is made it is the duty of the presiding officer to rule upon that point of order, under the rules. A point of order against new legislation on a bill like this is a good point, and, under the rules, the presiding officer has to sustain it. Now, when the point of order is sustained, if there be real occasion for the legislation proposed, what is the reason that the chairman of the subcommittee on appropriations, or the chairman of the Committee on Appropriations, or any other gentleman favoring the proposed legislation, should not frankly admit that the proposition is obnoxious to the rules, but that, owing to its merits, owing to the necessity for legislation at the time and of the kind proposed, the rule as to that item ought to be set aside and the particular matter proposed ought to be enacted into law? Upon that proposition, with a majority of those present sustaining it, the item would remain in or go into the bill. Now, that is a very much safer and a very much better way of proceeding than by a wholesale rule, an omnibus rule. While undoubtedly there are good provisions offered in this bill which are not in accord with existing law, it probably is not saying too much to say that there are also bad provisions offered, also not in accordance with existing law. In the case of a good provision, a necessary provision, upon appeal to the House it is reasonable to believe that the House would sustain the appeal, and would enact the good provision—would put it into the bill or retain it in the bill.

Every provision offered in the way of new law, everything obnoxious to the rules of the House, is protected and covered by this rule; everything suggested by the Committee on Appropriations and incorporated in the bill, including those items that were opposed and knocked out—all are legitimized. Provisions already eliminated are to be brought forward, and no point of order shall be tolerated against any of them or against anything in the bill except section 8, when, no matter how meritorious a proposition offered from the floor may be, the rules may be invoked against it; and if it be a change of existing law, or a proposed change of existing law, it must be denied consideration.

This rule is neither in the interest of good legislation, nor is it fair. Allow the rules to stand, if you will; you made them, made them without consideration, without giving opportunity for any particular consideration. When you see proper to set aside one of them, or any order of this House with reference to any particular piece of legislation, appeal direct to the judgment of the House, and if the judgment of the House sustains you the rules will be waived for the time being, and the meritorious piece of legislation will be incorporated in the bill; and let that apply not only to the Committee on Appropriations—that one committee to be singled out for favor over all other committees—but let it apply to all the other committees, and let it apply also to the entire membership of the House. Whenever a proposition is offered from anywhere and ruled out as new legislation, if the proponent of it, or anybody else, sees proper to ask the judgment of the House upon this proposition, and

If the majority see proper to incorporate it, let the rules be read and there set aside as to that matter, and let it be incorporated. There is neither necessity for nor propriety in this rule; it is dangerous in its tendency, and will be bad in its effect. [Loud applause on the Democratic side.]

Mr. WILLIAMS. I will ask the gentleman from Pennsylvania to consume some of his time.

Mr. DALZELL. I propose to close on this side.

The SPEAKER. The gentleman from Pennsylvania has seven minutes and the gentleman from Mississippi ten minutes.

Mr. WILLIAMS. I yield five minutes to the gentleman from Georgia [Mr. HARDWICK].

Mr. HARDWICK. Mr. Speaker, it is perfectly apparent that one of two things is true. Either the bill is wrong or the rule is wrong. If the rule is wrong, this bill ought to pass, and the rule ought to be repealed; and if the rule is wrong, then the rule ought to be repealed, so that any bill can pass.

I do not think, Mr. Speaker, that there has ever been in the legislative history of the country such a measure proposed as that contained in this rule. I want to make the statement here in my place that never before in the history of the American Congress has such a proposition been made to any House of Representatives as that contained in this rule. There are two or three precedents in which the Committee on Rules have taken some one single proposition and passed a rule to make a matter in order when a point of order would lie against it and had been urged against it. In the second session of the Fifty-second Congress such a provision was made by the Committee on Rules on one single proposition, namely, the creation of a commission to investigate the various Executive Departments of the Government. In the second session of the Fifty-eighth Congress we had another rule from the committee, authorizing the committee to consider an increase in the salary of the rural carriers, and we had the same proposition at the second session of the Fifty-seventh Congress on a bill providing for the levying of a personal tax in the District of Columbia. Each one of these propositions was segregated and distinct, and the House of Representatives understood what it was voting for. Now, in this proposition, by this omnibus rule, we are offered what? To make everything in order, involving forty-seven separate paragraphs, involving a general increase of appropriations; thirty-eight separate paragraphs, involving different amounts of increase of salary; in other words, in my humble judgment—and I have investigated it to some extent—you are proposing by this rule to legalize about seven hundred things that would not be legal if this rule did not pass.

No member of the Committee on Rules and no Member of this House who votes for this rule will know what on earth he is voting for. Now, if we are going to let the Committee on Appropriations have certain special rights to pass any legislation as riders on appropriation bills—new legislation—let us have the same rights for everybody. Why should we not? I want to call the attention of the House to the fact that during the progress of the consideration of the pending bill, the gentleman from Mississippi [Mr. HUMPHREYS] arose and asked that the House be allowed to vote on a simple proposition, viz, that the internal-revenue offices of the Government should be required to furnish certified copies of their records to any court, State or Federal, to be used as evidence, as to what licenses had been taken out for the sale of liquor. That proposition had been recommended by the unanimous vote of just as strong a committee as the Appropriations Committee, to wit, the Ways and Means Committee; and yet the gentleman from New York [Mr. LITTAUER], in charge of this bill, made the point of order against that and insisted upon it. Now, I say this is not fair. There are good reasons why riders putting new legislation on appropriation bills ought not to be allowed. Under the rules of the House 100 Members constitute a quorum in Committee of the Whole, and fifty-one Members may, if this sort of thing be kept up, enact all sorts of legislation. Indeed, I have seen thirty-six members of the Committee of the Whole decide a question, less even than a quorum of the committee. But even if the rules as to a quorum are invoked, fifty-one Members—less than one-seventh of the membership of the House—can decide a question in committee. There are good reasons back of Rule XXI and it ought to be enforced. I understand the Senate has no such rule, and it may be that when these propositions are meritorious they will be restored in the Senate. With that I am not concerned; but I say that our general rule is a good one and it ought to be enforced, and that it ought not to be varied simply because certain gentlemen want to pass legislation to suit themselves, or because a certain committee wants to do about seven hundred things that the law will not allow them to do, in their own way. [Applause.]

Mr. WILLIAMS. Mr. Speaker, I now yield three minutes to the gentleman from New York [Mr. DRISCOLL.]

Mr. DRISCOLL. Mr. Speaker, this is a very extraordinary method of attempting to pass a very ordinary bill. A measure similar to this, making appropriations for the legislative, executive, and judicial expenses of the Government, is passed every year without any unusual friction and without appealing to the Committee on Rules for assistance. This bill was debated during several days, and when the reading was commenced under the five-minute rule the Committee on Appropriations found itself in trouble. Subdivision 2 of Rule XXI of the Rules of the House of Representatives is as follows:

> No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress; nor shall any provision changing existing law be in order in any general appropriation bill or in any amendment thereto.

A few Members of this House on both sides of the Chamber examined the bill with considerable care and they found that this rule of the House was violated in almost every section; that many appropriations of small and large amounts were reported in the bill which were not previously authorized by law, and that there were in it several provisions changing existing law. These were all obnoxious to the rule and liable to be stricken out on points of order. The gentlemen who examined the statutes and this bill commenced to raise these points of order against increases of salaries and clerks and other provisions increasing expenditure, and also against the new provisions changing existing law. In my judgment, those gentlemen who have given much time and attention to this matter and have sat here day after day insisting that the rule be observed have been rendering a signal service, not only to the other Members of this House, but to the country. For their courage or temerity, if we may so describe it, they are entitled to great credit, because there is altogether too much of "you tickle me and I'll tickle you" in this appropriation business. That is why the expenditures increase from year to year, and it is practically impossible to keep them down. Not every Member, especially if there is in the appropriation bill some benefit for his district or constituents, wishes to object to any other appropriation, no matter how extravagant or unreasonable. Therefore these gentlemen are entitled to the thanks of the country for their courageous and unselfish action in behalf of the Treasury.

After a few objections of this character were made the distinguished chairman of the Appropriations Committee, in an able and vigorous speech, undertook to criticise and censure those gentlemen for objecting, and attempted to arouse public sentiment in the House against them. In this he failed, for they continued to raise points of order, which were sustained by the Chair. The gentleman from New York, who has charge of this bill, undertook to lash one of the objectors—the gentleman from Illinois [Mr. PRINCE]—into silence by twitting him about a little crumb of patronage in the form of a janitorship. This did not avail, and later on another member of the Appropriations Committee took the floor, raised the white flag of truce, and, in a most conciliatory address, sued for peace; and that failed to accomplish the object desired. Now, these gentlemen throw up their hands and surrender at discretion, and acknowledge that they can not pass an ordinary appropriations bill under the ordinary rule which has obtained for many years, and have applied to the all powerful Committee on Rules for a special rule or resolution giving them extraordinary powers and privileges. Why? Is it claimed that the Chairman of the Committee of the Whole House who presides during the consideration of this bill is unfair or partial? He has had before him the book of rules, and has ably and honestly applied them to each point of order raised; and a gentleman stands at his elbow who writes and revises the book, and who the Speaker said could give any man on the floor of the House cards and spades and beat him in parliamentary law. Now, what is the trouble? The gentlemen in charge of this bill do not assert that they have not received fair treatment in the consideration and application of the rule, and admit that a very large part of this appropriation bill will have to be stricken out if the rule be insisted on. The conclusion is forced on every Member of this House that the rule is a very bad one, or the bill is a very bad one. If the rule is insufficient and antiquated, let it be amended or repealed. If the rule is a good one, let it be applied. If the bill is an extravagant one, let it be trimmed down to come within the limitations of the law.

That is the best way to determine whether it is a good or bad measure. And the best way to determine whether a rule or law is good or bad is by its enforcement. Let the law be

applied. Let the rule be enforced. Let the balance of this bill be read, and let the gentlemen who are raising points of order continue to do so and hew to the line and let the chips fall where they may. When it is concluded the country at large will be informed how much of this bill is in violation of law, how much of it represents extravagance, and how much of it is padded, and the Members of this body will be enlightened as to the wisdom of maintaining the rule.

In ordinary proceedings in this House this rule is invoked more perhaps than any other, and we have from time to time been told that for the proper discharge of business and for the sake of economy and wise legislation, it is necessary and should be maintained in its full force and vigor. If any Member of the House suggested to the Appropriations Committee that the number of clerks in a bureau be increased or the salary of any employee be advanced, and it did not suit them, he was told very politely that it was unauthorized by existing law and would be stricken out on a point of order, and he subsided gracefully in deference to the rule. These gentlemen, who have disposed of so many applications by invoking the rule, should be the last to seek relief from the force of its application. They should be willing to take their own medicine.

There are perhaps fifteen other committees of this House who bring in appropriation bills and are expected to have them enacted into law. Why should this rule be suspended as to this committee and this appropriation bill and enforced as to all others? If a good rule, why should it not be enforced as to all? If a bad rule, why should it not be suspended as to all?

There are 386 Members of this House, and only 17 of them are on the Appropriations Committee. Under this special resolution or rule sought to be adopted here no further points of order can be raised. No objections can be made no matter how many appropriations there are in it which are unauthorized by existing law. Thus the Appropriations Committee will be permitted to submit to the consideration of the House all amendments they have inserted in the bill which will increase salaries and employees, while if any other Member offers an amendment for the same purpose it will be ruled out on a point of order. If you insist on suspending this rule in its application to the Appropriations Committee, why not suspend it in its application to all the Members and let each of them have the same privilege of offering amendments whether within the provisions of existing law or not? Why should not each Member have the privilege and opportunity of offering an amendment and having it considered on the merits without being ruled out on a point of order, which privilege and opportunity will be accorded the Appropriations Committee under this proposed resolution? The ordinary Member of the House is sufficiently hampered and circumscribed already. Many of you have been complaining and wincing under the application of the rules in force. If you adopt this resolution, you will surrender one of the prerogatives vouchsafed you. You will tie yourselves hand and foot and deliver yourselves bound and gagged into the power of the Appropriations Committee. So far as practical results go, you may as well go home and send so many wooden Indians in your places. [Applause.]

This proposed legislation should not be adopted. We should stand by the rule in force, which seems to have served its purpose pretty well in the past and avoided much unnecessary extravagance. This seems to be a "stand-pat" Congress. Only yesterday the distinguished gentleman from New York, chairman of the Committee on Ways and Means, in a very able and eloquent address, notified the Members of this House and the whole country that there will be no revision of the tariff schedules; that this House will stand pat. For the sake of consistency, for the sake of economy in the public service, and for the protection of our own rights and dignity as individual Members of this body let us "stand pat" on the existing rule and reject this resolution.

The SPEAKER. The time of the gentleman has expired.

Mr. WILLIAMS. I yield the two remaining minutes to the gentleman from New York [Mr. FITZGERALD].

Mr. FITZGERALD. Mr. Speaker, while I have no sympathy with the action of the gentlemen who have been taking matters out of the legislative bill without regard to their merits, yet I do not favor this rule. It is more sweeping in its character than I have been able to find in a search of the precedents. It makes it possible to keep in this bill indefensible increases of salary for favorites of some men in this House, while those who are without influence are ignored entirely. The committee, indeed, might be said to have been tyrannical in reporting this bill, because, in defiance of the rules, points of order submitted in committee were ignored, although the rules of the House are binding there, and matters that should not be in the bill are in it and are going to be continued in it under this rule. There are other legislative provisions equally indefensible, equally offensive, equally as important for separate consideration as section 8; and yet the Committee on Rules, without knowing what is in the bill, includes the good with the bad and compels the House to consider on this bill provisions with which few of the Members are familiar.

If this rule was framed so that these matters of importance—the matters that had real merit—would be considered in this way, I would gladly support this rule, but unless this rule is so framed that other committees with appropriating powers are permitted to report legislation and have it considered, the exception should not be made in this case.

This rule—Rule XXI, under which the points of order have been made—is of great importance and value, having originated in 1837, or else it is absolutely worthless. If it is worthless, it should be modified to meet the changed conditions. In my judgment, the action of these two gentlemen, of which complaint is made, while it has done great harm in some instances, yet they have effected considerable good in the position they have taken during the past few days. It would be an extraordinary thing to permit the Committee on Appropriations, of which I happen to be a member, to say that increases of salaries for certain persons should be considered in order on the legislative bill while increases for other men who have no friends could not be considered. [Applause.]

Mr. DALZELL. Mr. Speaker, I now yield the balance of my time to the gentleman from Ohio [Mr. GROSVENOR].

Mr. GROSVENOR. Mr. Speaker, the rule of the House which has been so often invoked by the gentleman from Georgia [Mr. HARDWICK] and the gentleman from Illinois [Mr. PRINCE] is an old and time-honored rule of the House. It was not made by a Republican House; it originated in a Democratic House. I found it in active operation when I came here twenty years ago, and it has been pretty effectually enforced ever since. On the present occasion I wish first to state, so that the Members of the House will not be misled, that the proposed rule operates upon provisions subject to a point of order made against them in the pending bill in this way: In the first place, it leaves exactly where we find it all that part of the bill which relates to aged or superannuated clerks that has gone out of the bill, and it is not proposed to put it back into the bill by the operation of this rule.

Mr. KEIFER. That provision has not yet gone out.

Mr. GROSVENOR. It has gone out under the rules as effectually as if it had never been put in. The various rulings of the Chair have that effect. Now, what next? The next operation is to make it in order that the other provisions of the bill, to which exceptions have been taken and which have been sustained by the Chairman, will still be in order, but subject to the action of the House upon each one of these provisions separately. So that a majority of the Committee of the Whole House can either adopt one of these provisions, or amend one of these provisions, or reject it altogether. It simply affords the House the full opportunity to pass upon every one of these objectionable provisions.

Mr. Speaker, the Committee on Appropriations, after very careful study, apparently—and I think I may safely say so—have brought here a provision that looks to me, and, I think, looks to gentlemen even on the other side, as a proposition of great improvement, as it will completely reorganize certain of the clerical forces of the various Departments here. It is true it comes here without the sanction of the rule of the House. The gentleman from Illinois [Mr. PRINCE] seems to take it for granted that to bring a bill into the House with a paragraph or section in it obnoxious to the rule of the House is a sort of parliamentary crime, a crime for which the Committee on Appropriations ought to be indicted. Why, I have never known of an appropriation bill of any considerable length that did not have some provision in it that was held by the Chairman to be obnoxious to the rule that has been invoked here against provisions of the pending bill.

Mr. Speaker, here is what we have got to meet: We must abandon our proposition of reform and improvement and send a bill to the Senate that would be disgraceful to the House of Representatives—a bill that does not and would not provide for any considerable completeness in the appropriations—or else, having ascertained what ought to be done, we temporarily set aside this rule for the purpose of doing exactly what the House of Representatives will decide ought to be done. It is not a revolutionary proposition; it is a proposition looking to the action of the House itself, an action which they may just as well take in this form as to take it in some other form. How can you get this proposition before the House anywhere else during this session of Congress than in an appropriation bill and in this appropriation bill?

There is a large number of appropriations for salaries of clerks employed in the various bureaus of the Government that have gone out of the bill under the ruling of the Chair, which was a proper ruling and had to be made. Now, shall we stumble about here and act unwisely an inconsiderately, or shall we take up these amendments one by one and act wisely and judiciously and in keeping with a rule of the House that is higher than a written rule in the books? Gentlemen seem to think that this action in the House is in some way or other revolutionary. It is just as exactly and as completely in order and just as proper as it would be to create a new rule. Gentlemen say, "Send the rule back to the Committee on Rules and let them make a new rule." That is no more in consonance with good judgment and wise legislation than will be the correction of the difficulty by this action, this temporary action, upon this particular appropriation bill. Mr. Speaker, this is the shortest and best way to give to the House a fair opportunity to be heard upon every one of these propositions and to act intelligently and wisely. Therefore I think that gentlemen who have delayed this bill all these days ought not now to appeal to the House to destroy the bill and compel it to go back to the Committee on Appropriations to have a new investigation and a new bill. [Applause.]

The SPEAKER. The question is on agreeing to the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. WILLIAMS. Mr. Speaker, I demand a division.

Mr. SULZER. Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 169, nays 109, answered "present" 12, not voting 92, as follows:

YEAS—169.

Adams, Pa.	Dickson, Ill.	Keifer	Powers
Adams, Wis.	Dixon, Mont.	Kennedy, Ohio	Pujo
Alexander	Dovener	Ketcham	Ransdell, La.
Allen, Me.	Draper	Kinkaid	Reeder
Andrus	Dresser	Kiepper	Reynolds
Barchfeld	Dwight	Knapp	Rhodes
Bartholdt	Edwards	Knopf	Rives
Bates	Ellis	Lacey	Robertson, La.
Beidler	Esch	Lafean	Rodenberg
Bonnet, N. Y.	Fassett	Landis, Chas. B.	Samuel
Bingham	Fletcher	Le Fevre	Scott
Birdsall	Foster, Ind.	Lilley, Pa.	Scroggy
Blacklurn	Fosier, Vt.	Littauer	Shartel
Boyngo	Fowler	Longworth	Sibley
Burrell	French	Lorimer	Slemp
Bradley	Fulkerson	Loud	Smith, Cal.
Brick	Gaines, W. Va.	Loudenslager	Smith, Iowa
Broussard	Gardner, Mass.	McCreary, Pa.	Smith, Wm. Alden
Brown	Gardner, Mich.	McClavin	Smith, Pa.
Brownlow	Gardner, N. J.	McKinlay, Cal.	Southard
Buckman	Gillett, Cal.	McKinney	Sperry
Burke, S. Dak.	Gillett, Mass.	McLachlan	Stafford
Burleigh	Goebel	Madden	Steenerson
Burton, Del.	Graff	Mahon	Sterling
Butler, Pa.	Graham	Marshall	Sulloway
Calder	Greene	Martin	Tawney
Campbell, Kans.	Grosvenor	Michalek	Taylor, Ohio
Capron	Hale	Miller	Thomas, Ohio
Chaney	Hamilton	Moon, Pa.	Townsend
Chapman	Haskins	Morrell	Tyndall
Cocks	Henry, Conn.	Mouser	Van Winkle
Cole	Hepburn	Needham	Volstead
Conner	Hermann	Nevin	Vreeland
Cousins	Hill, Conn.	Norris	Waldo
Crumpacker	Hinshaw	Olcott	Watkins
Currier	Hoar	Olmsted	Welborn
Curtis	Hogg	Otjen	Wharton
Cushman	Howell, N. J.	Overstreet	Wilson
Dalzell	Howell, Utah	Palmer	Wood, N. J.
Darragh	Hubbard	Parker	Woodyard
Davey, La.	Huff	Payne	
Davis, Minn.	Hughes	Pearre	
Dawson	Jones, Wash.	Perkins	

NAYS—109.

Allen	Floyd	Johnson	Murphy
Bartlett	Gaines, Tenn.	Kahn	Page
Beall, Tex.	Garner	Kelliher	Patterson, N. C.
Bede	Garrett	Kennedy, Nebr.	Patterson, S. C.
Bell, Ga.	Gilbert, Ky.	Kitchin, Claude	Pou
Bowers	Gill	Kitchin, Wm. W.	Prince
Brantley	Gillespie	Knowland	Rainey
Brooks, Tex.	Glass	Lamb	Randell, Tex.
Burgess	Goulden	Lawrence	Reid
Burleson	Granger	Lee	Rhinock
Burnett	Gregg	Lester	Richardson, Ala.
Burton, Ohio	Griggs	Lever	Rixey
Byrd	Gudger	Lindsay	Roberts
Candler	Hardwick	Livingston	Rucker
Clark, Mo.	Hay	Lloyd	Russell
Cockran	Hayes	McLain	Ryan
Cooper, Wis.	Henry, Tex.	McMorran	Shackleford
Davis, W. Va.	Higgins	McNary	Sheppard
De Armond	Hill, Miss.	Macon	Sims
Driscoll	Hopkins	Maynard	Slayden
Field	Houston	Mondell	Smith, Ky.
Finley	Humphrey, Wash.	Moon, Tenn.	Smith, Tex.
Fitzgerald	Humphreys, Miss.	Moore	Sparkman
Flack	Hunt	Murdock	Spight
Stephens, Tex.	Thomas, N. C.	Wallace	Young
Sullivan, Mass.	Tirrell	Wiley, Ala.	
Sulzer	Towne	Williams	
Taylor, Ala.	Underwood	Wood, Mo.	

ANSWERED "PRESENT"—12.

Adamson	Cassel	Mann	Richardson, Ky.
Bishop	Dixon, Ind.	Meyer	Southwick
Bowie	Kline	Padgett	Watson

NOT VOTING—92.

Acheson	Dunwell	Law	Smith, Ill.
Aiken	Ellerbe	Legare	Smith, Md.
Allen, N. J.	Flood	Lewis	Smith, Samuel W.
Babcock	Fordney	Lilley, Conn.	Smyser
Bankhead	Foss	Little	Snapp
Bannon	Fuller	Littlefield	Southall
Bennett, Ky.	Garber	Lovering	Stanley
Bowersock	Gilbert, Ind.	McCall	Stevens, Minn.
Brooks, Colo.	Goldfogle	McCarthy	Sullivan, N. Y.
Brundidge	Gronna	McCleary, Minn.	Talbott
Burke, Pa.	Haugen	Mclermott	Trimble
Butler, Tenn.	Hearst	McKinley, Ill.	Van Duzer
Calderhead	Hedge	Minor	Wachter
Campbell, Ohio	Heflin	Madd	Wadsworth
Clark, Fla.	Hitt	Parsons	Wanger
Clayton	Holliday	Patterson, Tenn.	Webb
Cooper, Pa.	Howard	Pollard	Webber
Cromer	Hull	Robinson, Ark.	Weeks
Dale	James	Ruppert	Weems
Davidson	Jenkins	Schneebeli	Weisse
Dawes	Jones, Va.	Sherley	Wiley, N. J.
Deemer	Lamar	Sherman	Williamson
Denby	Landis, Frederick	Small	Zenor

So the resolution was agreed to.

The Clerk announced the following pairs:

For the session:

Mr. WANGER with Mr. ADAMSON.

Mr. SHERMAN with Mr. RUPPERT.

Until further notice:

Mr. FULLER with Mr. WEISSE.

Mr. POLLARD with Mr. PADGETT.

Mr. MANN with Mr. HOWARD.

Mr. BENNETT of Kentucky with Mr. RICHARDSON of Kentucky.

Mr. DALE with Mr. BOWIE.

Mr. CROMER with Mr. ZENOR.

Mr. WEBBER with Mr. VAN DUZER.

Mr. HEDGE with Mr. LEGARE.

Mr. FOSS with Mr. MEYER.

Mr. HOLLIDAY with Mr. BUTLER of Tennessee.

Mr. WADSWORTH with Mr. BANKHEAD.

Mr. FREDERICK LANDIS with Mr. DIXON of Indiana.

Mr. CAMPBELL of Ohio with Mr. SOUTHALL.

Mr. HITT with Mr. LITTLE.

Mr. SOUTHWICK with Mr. WEBB.

Mr. WATSON with Mr. SHERLEY.

Mr. DAWES with Mr. GARBER.

Mr. MUDD with Mr. TALBOTT.

Mr. HOLLIDAY with Mr. HEFLIN.

Mr. SMYSER with Mr. MCDERMOTT.

Mr. LOVERING with Mr. BRUNDIDGE.

Until April 6:

Mr. DEEMER with Mr. KLINE.

For this day:

Mr. BANNON with Mr. LEWIS.

Mr. SNAPP with Mr. SMALL.

Mr. WACHTER with Mr. STANLEY.

Mr. BABCOCK with Mr. AIKEN.

Mr. CALDERHEAD with Mr. ELLERBE.

Mr. SAMUEL W. SMITH with Mr. ROBINSON of Arkansas.

Mr. PARSONS with Mr. LAMAR.

Mr. LAW with Mr. JAMES.

Mr. JENKINS with Mr. HEARST.

Mr. DUNWELL with Mr. GOLDFOGLE.

Mr. COOPER of Pennsylvania with Mr. SMITH of Maryland.

Mr. SCHNEEBELI with Mr. JONES of Virginia.

Mr. DIXON of Montana with Mr. FLOOD.

Mr. MCCALL with Mr. SULLIVAN of New York.

Mr. MCKINLEY of Illinois with Mr. CLAYTON.

Mr. ALLEN of New Jersey with Mr. TRIMBLE.

For the vote:

Mr. BOWERSOCK with Mr. CLARK of Florida.

Mr. SMITH of Maryland. Mr. Speaker, I did not hear my name called.

The SPEAKER. Was the gentleman present and giving attention and listening when his name was called?

Mr. SMITH of Maryland. I was just called out to the door for a moment.

The SPEAKER. The gentleman was not present.

Mr. SMITH of Maryland. I was not in the House.

The SPEAKER. The gentleman does not bring himself within the rule.

The result of the vote was announced as above recorded.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

Sundry messages, in writing, from the President of the United States, were communicated to the House of Representatives by Mr. BARNES, one of his secretaries, who also informed the House of Representatives that the President had approved and signed bills of the following titles:

On March 26, 1906:

H. R. 484. An act granting a pension to William Mayer;
H. R. 628. An act granting a pension to David L. Finch;
H. R. 1569. An act granting a pension to Elizabeth Murray;
H. R. 1775. An act granting a pension to Alexander Kinnison;
H. R. 1803. An act granting a pension to George S. Taylor;
H. R. 1809. An act granting a pension to Lener McNabb;
H. R. 1857. An act granting a pension to Emeline Malone;
H. R. 1888. An act granting a pension to William T. Scandlyn;
H. R. 1912. An act granting a pension to Julia A. Powell;
H. R. 1977. An act granting a pension to Emma C. Anderson;
H. R. 2006. An act granting a pension to Florence B. Knight;
H. R. 2063. An act granting a pension to Sarah A. Pitt;
H. R. 2014. An act granting a pension to General M. Brown;
H. R. 2736. An act granting a pension to William Meredith;
H. R. 3584. An act granting a pension to Benjamin H. Decker;
H. R. 4704. An act granting a pension to Alice Rourk;
H. R. 6148. An act granting a pension to Henry P. Will;
H. R. 6921. An act granting a pension to Eliza B. Wilson;
H. R. 7478. An act granting a pension to George W. Jackson;
H. R. 7984. An act granting a pension to Henry R. Hill;
H. R. 8826. An act granting a pension to Elizabeth A. Mason;
H. R. 9563. An act granting a pension to Charles M. Priddy;
H. R. 9887. An act granting a pension to George Saxe;
H. R. 9955. An act granting a pension to James W. Baker;
H. R. 10753. An act granting a pension to Thomas B. Davis;
H. R. 10877. An act granting a pension to Maria Elizabeth Posey;
H. R. 10779. An act granting a pension to Helen P. Martin;
H. R. 10920. An act granting a pension to Mary Edna Cameron;
H. R. 11078. An act granting a pension to Rosa Zurrin;
H. R. 11625. An act granting a pension to William C. Robinson;
H. R. 12516. An act granting a pension to James S. Randall;
H. R. 12720. An act granting a pension to Sarah Duffield;
H. R. 12955. An act granting a pension to Lyman Critchfield, jr.;
H. R. 13161. An act granting a pension to Cynthia A. Embry;
H. R. 13165. An act granting a pension to Martin Nolan;
H. R. 13282. An act granting a pension to Lydia B. Bevan;
H. R. 13402. An act granting a pension to John Reynolds;
H. R. 485. An act granting an increase of pension to William J. Bandom;
H. R. 550. An act granting an increase of pension to Joseph E. Steel;
H. R. 1058. An act granting an increase of pension to Alphonso H. Harvey;
H. R. 1071. An act granting an increase of pension to William K. Keech;
H. R. 1137. An act granting an increase of pension to Abraham W. Kaufman;
H. R. 1205. An act granting an increase of pension to Samuel P. Bigger;
H. R. 1213. An act granting an increase of pension to John W. Burton;
H. R. 1331. An act granting an increase of pension to Roswell J. Kelsey;
H. R. 1440. An act granting an increase of pension to Matilda E. Lawton;
H. R. 1460. An act granting an increase of pension to Charles W. Rennel;
H. R. 1553. An act granting an increase of pension to Harvey J. Fulmer;
H. R. 1593. An act granting an increase of pension to Thomas Lowry;
H. R. 1685. An act granting an increase of pension to George W. Bedient;
H. R. 1742. An act granting an increase of pension to Jonathan Daughenbaugh;
H. R. 1787. An act granting an increase of pension to Joseph M. West;
H. R. 1911. An act granting an increase of pension to Harriet E. Grogan, formerly Preston;
H. R. 1962. An act granting an increase of pension to George C. Myers;
H. R. 1967. An act granting an increase of pension to Joseph Baker;
H. R. 1968. An act granting an increase of pension to John Monroe;
H. R. 1997. An act granting an increase of pension to Sanford C. H. Smith;
H. R. 2060. An act granting an increase of pension to John Farrell;
H. R. 2080. An act granting an increase of pension to Sydney A. Asson;
H. R. 2088. An act granting an increase of pension to Sewell A. Edwards;
H. R. 2100. An act granting an increase of pension to Hiram Wilde;
H. R. 2150. An act granting an increase of pension to William E. Smith;
H. R. 2151. An act granting an increase of pension to Lydia C. Wood;
H. R. 2244. An act granting an increase of pension to Fred Dilg;
H. R. 2245. An act granting an increase of pension to Troy Moore;
H. R. 2264. An act granting an increase of pension to Robert McAnally;
H. R. 2344. An act granting an increase of pension to Selden C. Clobridge;
H. R. 2443. An act granting an increase of pension to George W. Mower;
H. R. 2705. An act granting an increase of pension to Henry W. Perkins;
H. R. 2749. An act granting an increase of pension to Agnes Flynn;
H. R. 2763. An act granting an increase of pension to Anthony Sherlock;
H. R. 2766. An act granting an increase of pension to Horace E. Brown;
H. R. 2982. An act granting an increase of pension to Ansel K. Tisdale;
H. R. 2991. An act granting an increase of pension to Henry F. Landes;
H. R. 3225. An act granting an increase of pension to William B. Philbrick;
H. R. 3255. An act granting an increase of pension to Isaac N. Ray;
H. R. 3284. An act granting an increase of pension to Jeremiah Callahan;
H. R. 3297. An act granting an increase of pension to Nicholas Chrisler;
H. R. 3418. An act granting an increase of pension to John Snouse;
H. R. 3435. An act granting an increase of pension to Thomas W. Sallade;
H. R. 3452. An act granting an increase of pension to Jacob McGaughey;
H. R. 3553. An act granting an increase of pension to Levi Pick;
H. R. 3557. An act granting an increase of pension to James B. Wilkins;
H. R. 3685. An act granting an increase of pension to James O. Tobey;
H. R. 3698. An act granting an increase of pension to Joseph E. Miller;
H. R. 3811. An act granting an increase of pension to James White;
H. R. 3981. An act granting an increase of pension to John McKeever;
H. R. 4219. An act granting an increase of pension to John C. Keener;
H. R. 4257. An act granting an increase of pension to Alice M. Durney;
H. R. 4596. An act granting an increase of pension to John J. Hughes;
H. R. 4616. An act granting an increase of pension to William W. West;
H. R. 4759. An act granting an increase of pension to Jane B. Bullard;
H. R. 4810. An act granting an increase of pension to Jerome Goodsell;
H. R. 4816. An act granting an increase of pension to John A. Sherwood;
H. R. 4823. An act granting an increase of pension to John G. C. Macfarlane;
H. R. 4832. An act granting an increase of pension to Henry W. Yates;
H. R. 4989. An act granting an increase of pension to Dominick Arnold;
H. R. 5026. An act granting an increase of pension to Asa Tout;

H. R. 5215. An act granting an increase of pension to Jennie Leslie;

H. R. 5383. An act granting an increase of pension to John W. Davis;

H. R. 5553. An act granting an increase of pension to Oliver L. Kendall;

H. R. 5564. An act granting an increase of pension to Albert G. Clark;

H. R. 5615. An act granting an increase of pension to John Coonan, jr.;

H. R. 5616. An act granting an increase of pension to Edgar S. Wooders;

H. R. 5724. An act granting an increase of pension to William C. Gillespie;

H. R. 5727. An act granting an increase of pension to William T. Harris;

H. R. 6066. An act granting an increase of pension to Albert H. Lewis;

H. R. 6177. An act granting an increase of pension to John Beck;

H. R. 6395. An act granting an increase of pension to Daniel Ward;

H. R. 6453. An act granting an increase of pension to William H. Marsden;

H. R. 6507. An act granting an increase of pension to James M. Busby;

H. R. 6508. An act granting an increase of pension to John P. Moore;

H. R. 6918. An act granting an increase of pension to Heinrick Brundick;

H. R. 6936. An act granting an increase of pension to William Miller;

H. R. 6988. An act granting an increase of pension to Seymour Cole;

H. R. 7208. An act granting an increase of pension to Thomas G. Massey;

H. R. 7223. An act granting an increase of pension to George Blair;

H. R. 7229. An act granting an increase of pension to Slater D. Lewis;

H. R. 7396. An act granting an increase of pension to John E. Ball;

H. R. 7412. An act granting an increase of pension to Isaiah Collins;

H. R. 7547. An act granting an increase of pension to George W. Allison;

H. R. 7615. An act granting an increase of pension to Joseph D. Tate;

H. R. 7622. An act granting an increase of pension to Hermann Liebb;

H. R. 7631. An act granting an increase of pension to Joseph W. Foster;

H. R. 7765. An act granting an increase of pension to George Gaylord;

H. R. 7770. An act granting an increase of pension to Burgess Cole;

H. R. 7815. An act granting an increase of pension to Thomas C. Covell;

H. R. 7827. An act granting an increase of pension to William D. Fuller;

H. R. 7883. An act granting an increase of pension to Daniel Pelts;

H. R. 8048. An act granting an increase of pension to William P. Bottoms;

H. R. 8063. An act granting an increase of pension to Mary Cowarn;

H. R. 8161. An act granting an increase of pension to Alonzo Douglas;

H. R. 8176. An act granting an increase of pension to Thomas L. Bishop;

H. R. 8202. An act granting an increase of pension to Henry Coy;

H. R. 8207. An act granting an increase of pension to Daniel A. Proctor;

H. R. 8208. An act granting an increase of pension to Eli Reinhard;

H. R. 8218. An act granting an increase of pension to Mary C. Spangler;

H. R. 8275. An act granting an increase of pension to Robert Adcock;

H. R. 8289. An act granting an increase of pension to Isaac J. Hart;

H. R. 8376. An act granting an increase of pension to Mary J. McConnell;

H. R. 8607. An act granting an increase of pension to Arthur Haire;

H. R. 8642. An act granting an increase of pension to Henry Crandell;

H. R. 8739. An act granting an increase of pension to Frank N. Gray;

H. R. 8836. An act granting an increase of pension to Elizabeth C. Howell;

H. R. 8917. An act granting an increase of pension to James Hines;

H. R. 9127. An act granting an increase of pension to Isaac L. Roriek;

H. R. 9235. An act granting an increase of pension to Kate H. Kavanaugh;

H. R. 9248. An act granting an increase of pension to James T. Butler;

H. R. 9249. An act granting an increase of pension to Richard S. Cromer;

H. R. 9267. An act granting an increase of pension to William Cook;

H. R. 9447. An act granting an increase of pension to John L. Edmundson;

H. R. 9860. An act granting an increase of pension to Joseph H. Hirst;

H. R. 10047. An act granting an increase of pension to George W. Elicott;

H. R. 10166. An act granting an increase of pension to Elizabeth Morgan;

H. R. 10217. An act granting an increase of pension to William A. Barnes;

H. R. 10271. An act granting an increase of pension to Stephen G. Smith;

H. R. 10322. An act granting an increase of pension to Edgar W. Calhoun;

H. R. 10399. An act granting an increase of pension to John H. H. Sands;

H. R. 10478. An act granting an increase of pension to William McGowan;

H. R. 10632. An act granting an increase of pension to Samuel Preston;

H. R. 10723. An act granting an increase of pension to Benjamin French;

H. R. 10724. An act granting an increase of pension to David Bruce;

H. R. 10725. An act granting an increase of pension to Etta D. Conant;

H. R. 10817. An act granting an increase of pension to William J. Morgan;

H. R. 10827. An act granting an increase of pension to Frank Crittenden;

H. R. 10886. An act granting an increase of pension to Martha S. Campbell;

H. R. 10894. An act granting an increase of pension to William J. Riley;

H. R. 10897. An act granting an increase of pension to Isaac Deems;

H. R. 10914. An act granting an increase of pension to John Hamilton;

H. R. 11000. An act granting an increase of pension to Martha J. Wilson;

H. R. 11052. An act granting an increase of pension to John P. Vance;

H. R. 11065. An act granting an increase of pension to Joseph Pollard;

H. R. 11071. An act granting an increase of pension to Allen E. Williams;

H. R. 11107. An act granting an increase of pension to William E. Fritts;

H. R. 11196. An act granting an increase of pension to William H. Joslyn;

H. R. 11259. An act granting an increase of pension to Barnes B. Smith;

H. R. 11335. An act granting an increase of pension to Thomas Chandler, alias Thomas Cooper;

H. R. 11353. An act granting an increase of pension to Isaac M. Woodworth;

H. R. 11408. An act granting an increase of pension to George W. Reed;

H. R. 11416. An act granting an increase of pension to Lizzie Belk;

H. R. 11435. An act granting an increase of pension to Victoria Bishop;

H. R. 11516. An act granting an increase of pension to Marquis D. L. Staley;

H. R. 11557. An act granting an increase of pension to Clinton A. Chapman;

H. R. 11687. An act granting an increase of pension to Matt Fitzpatrick;

H. R. 11689. An act granting an increase of pension to Bayard H. Church;

H. R. 11742. An act granting an increase of pension to Charles H. Culver;

H. R. 11745. An act granting an increase of pension to James D. Billingsley;

H. R. 11849. An act granting an increase of pension to Robert M. Young;

H. R. 11886. An act granting an increase of pension to Solomon R. Trueblood;

H. R. 11927. An act granting an increase of pension to Calvin D. Weatherman;

H. R. 12000. An act granting an increase of pension to Mary M. Stark;

H. R. 12229. An act granting an increase of pension to Reuben I. Turckheim, alias Joseph Adler;

H. R. 12275. An act granting an increase of pension to Verelle S. Willard;

H. R. 12289. An act granting an increase of pension to Joseph C. Grissom;

H. R. 12292. An act granting an increase of pension to George T. Hill;

H. R. 12351. An act granting an increase of pension to John Foltz;

H. R. 12354. An act granting an increase of pension to Tillman T. Herridge;

H. R. 12391. An act granting an increase of pension to J. Frederick Edgell;

H. R. 12396. An act granting an increase of pension to James Hutchinson;

H. R. 12494. An act granting an increase of pension to John H. Crane;

H. R. 12565. An act granting an increase of pension to Jeremiah Kincaid;

H. R. 12963. An act granting an increase of pension to Daniel T. Ferrier;

H. R. 12948. An act granting an increase of pension to Frederick Bierley;

H. R. 13035. An act granting an increase of pension to Maggie D. Russ;

H. R. 13166. An act granting an increase of pension to William Evans;

H. R. 13348. An act granting an increase of pension to Nancy F. Shelton;

H. R. 13611. An act granting an increase of pension to William Clough;

H. R. 13643. An act granting an increase of pension to Davis W. Hatch;

H. R. 13796. An act granting an increase of pension to John R. Stalcup;

H. R. 14123. An act granting an increase of pension to Gottlieb Spitzer, alias Gottfried Bruner;

H. R. 14358. An act granting an increase of pension to William H. Morrow;

H. R. 14719. An act granting an increase of pension to Hannah A. Preston;

H. R. 1056. An act granting a pension to Galon S. Clevenger; and

H. R. 9216. An act granting an increase of pension to Catharine R. Mitchell.

On March 27, 1906:

H. R. 4736. An act for the relief of the county of Custer, State of Montana;

H. R. 13194. An act to authorize the Secretary of the Interior to reclassify the public lands of Alabama; and

H. R. 16381. An act leasing and demising certain lands in La Plata County, Colo., to the P. F. U. Rubber Company.

On March 19, 1906:

H. R. 122. An act to require the erection of fire escapes in certain buildings in the District of Columbia, and for other purposes;

H. R. 4459. An act authorizing the Commissioners of the District of Columbia to make regulations respecting the rights and privileges of the wharf;

H. R. 4469. An act authorizing the Commissioners of the District of Columbia to make regulations respecting the public hay scales;

H. R. 8107. An act extending the public-land laws to certain lands in Wyoming;

H. R. 10101. An act authorizing and directing the Secretary of the Interior to sell and convey to the State of Minnesota a certain tract of land situated in the county of Dakota, State of Minnesota; and

H. R. 13548. An act to authorize the commissioners' court of Baldwin County, Ala., to construct a bridge across Perdido River at Waters Ferry.

On March 20, 1906:

H. R. 11783. An act for the establishment of town sites, and for the sale of lots within the common lands of the Kiowa, Comanche, and Apache Indians in Oklahoma.

On March 21, 1906:

H. J. Res. 97. Joint resolution authorizing assignment of pay of teachers and other employees of the Bureau of Education in Alaska; and

H. J. Res. 115. Joint resolution amending joint resolution instructing the Interstate Commerce Commission to make examinations into the subject of railroad discriminations and monopolies, and report on the same from time to time, approved March 7, 1906.

On March 22, 1906:

H. R. 15085. An act to set apart certain lands in the State of South Dakota, to be known as the Battle Mountain Sanitarium Reserve; and

H. R. 15649. An act extending the time for the construction of the dam across the Mississippi River authorized by the act of Congress approved March 12, 1904.

On March 23, 1906:

H. R. 4. An act to amend section 3646, Revised Statutes of the United States, as amended by act of February 16, 1885;

H. R. 6009. An act to regulate the construction of bridges over navigable waters; and

H. R. 14515. An act making it a misdemeanor in the District of Columbia to abandon or willfully neglect to provide for the support and maintenance by any person of his wife or his or her minor children in destitute or necessitous circumstances.

MESSAGE FROM THE PRESIDENT.

The SPEAKER laid before the House the following message from the President; which was read, referred to the Committee on Foreign Affairs, and ordered to be printed:

To the House of Representatives:

In response to the resolution of the House of Representatives of the 8th of March, 1906, I transmit herewith a communication from the Secretary of State, accompanied by a report made by Herbert H. D. Peirce, Third Assistant Secretary of State, of the result of his inspection of the consulates of the United States in the Orient.

THEODORE ROOSEVELT.

THE WHITE HOUSE, *March 28, 1906.*

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

On motion of Mr. LITTAUER, the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 16472—the legislative, executive, and judicial appropriation bill—Mr. OLMSTED in the chair.

Mr. BROOKS of Colorado. Mr. Chairman, when the committee rose last night the item that was under consideration was the item on page 69 of the bill, and an amendment that was offered thereto, under which the item——

The CHAIRMAN. Without objection, the Clerk will again report the amendment.

The Clerk read as follows:

In lines 7 and 8, page 69, strike out the word "seventy-five" and insert "one hundred and fifty" in lieu thereof.

Mr. BROOKS of Colorado. Mr. Chairman, speaking to that amendment, I desire to call the committee's attention briefly to the amount proposed in the bill before the committee, the estimates of the Director, and the appropriation for this item in the bill of last year. Last year that item was carried at $115,000. That was based upon the Director's estimate before the mint had actually started and upon the most careful data then obtainable. In the estimates of the Director for this year the item is carried at $150,000, and the committee in its wisdom cut it in two and made it $75,000. The item in this bill for this year for expenses of workmen and employees is only $75,000, and that is for a mint with an employee force of over a hundred men on its rolls, exclusive of the executive force of the mint. Now, gentlemen of the committee, we do not for a moment think or suggest that there could be any possible discrimination at the hands of this great committee against this institution, although this appropriation is reduced just exactly 50 per cent. On the other hand, we think that the action of the committee must have been based upon a very serious and absolute misconception of the facts as they exist. Now, it is true and we admit that of the appropriation for last year when the committee made this estimate only about $40,000 had been expended, but it is also true that on the 1st of July, according to the statement of the Acting Director, there will be only $40,000 left of the $115,000, and that, on the assump-

tion of operations for a full year, because the new mint will have been running on July 1 only about five months, would mean an expenditure of about $118,000. Now, that is not exactly correct, because, of course, before the mint started coining there was a considerable amount of expenditure for workmen and labor, which was properly chargeable to this fund, but it is true that the rate of expenditure to-day demands and warrants an appropriation even larger than $150,000.

Now, we understand it is possible that an excuse for this reduction may be sought to be made because the mint has not been running the full year, because it was not in operation last summer, and that it has only been running for a matter of five months. Well, that is very easily explained. The present coiner was appointed April, 1905. He was appointed under the statement of the Director to the Treasury officials that the mint would begin operations on July 1, 1905, and that statement and that belief was then warranted. The mint machinery was made in 1904, and was a part of the Government exhibit at St. Louis in that year. It was taken to Denver in the winter of 1904 and 1905, and that was about the time when the coiner was appointed and the executive force installed. Now, when the coining machinery was put in it was found there was an error in the contract work, and through the fault of the contractors the concrete that was laid on the floor of the press room had to be relaid and part had to be relaid a second time. The result of that was that not until December, 1905, could the operations of the mint be started at all except in the assay rooms and in the rooms of the melter and refiner, which of course run all the time.

The force for the melter and refiner and for the assayer was employed and was started to work about the time the new mint was occupied, in September or October, 1904, and that work has been going on all the time thereafter. Now, I am advised by the Director, and I want the committee to bear this fact in mind, that if the proposed appropriation is carried in this bill, the present force of men can not be carried for more than six months. In other words, gentlemen, if you cut us down to $75,000 you will stop the Denver mint on the 1st of January, 1907. I do not believe this committee intends to do that thing. I do not believe that it intends to cripple this institution in that way. The only explanation is that you have not understood, and do not understand what the result will be.

Now, there is no consideration of economy in the matter. The committee should understand what the results will be upon the working force. Every new man employed in the institution must be taken from the civil service. These employees have fitted themselves for this work, many of them with the intention of making it a life work, and they will have been at work on the 1st of July only about five months, less than a year in January, 1907; and when they are dismissed, as they must be, they will be forced to go back to other means of livelihood. Many of them will then be unable to get other positions, and there will be great hardship entailed—a hardship that is unwarranted, unnecessary, and unjust. There is, as I say, no possible consideration of economy.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BROOKS of Colorado. I ask unanimous consent for a few minutes more, so that I may explain the proposition.

The CHAIRMAN. The gentleman from Colorado asks unanimous consent that his time be extended for five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. BROOKS of Colorado. There is no possible economy in this proposition. There are $33,000,000 in bullion in the vaults of that mint now, and it is increasing about $2,000,000 a month. They can not coin that bullion in that mint with the amount of money given by the committee, and if you send it away from there it will cost $74,000 to transport that amount to Philadelphia, or rather the amount that will be there on the 1st of July. It will cost $60,000 and more to transport what is there now.

Mr. LIVINGSTON. The gentleman must remember the fact that the Denver mint is employed and the Philadelphia mint is idle.

Mr. BROOKS of Colorado. I do not think that the Philadelphia mint is idle.

Mr. LIVINGSTON. I do not mean that. I mean that it is comparatively idle.

Mr. BROOKS of Colorado. You mean comparatively idle. The Philadelphia mint is working on outside coinage in addition to doing a portion of the coining for this country. It is doing custom work for other countries, making smaller coins. But I want the gentleman to understand we are not attacking the Philadelphia mint or any other mint. What I am arguing for is our own.

Mr. PALMER. I want to ask the gentleman whether he is aware of the fact that for two months last year 500 employees were laid off at the Philadelphia mint; and I would ask him what he thinks would be the consequences if he got what is proposed? Would not the Philadelphia mint be idle for a greater length of time?

Mr. BROOKS of Colorado. I would not think that. The gentleman must remember that the coinage last year was about $90,000,000, and with the present gold production the amount of coinage will probably be increased very considerably next year. Of this the Denver mint proposes to coin only about $30,000,000 or $40,000,000. Therefore there will be more than enough for both the Denver and Philadelphia mints to do. I can not see that there is any consideration in the light of economy in the proposed reduction, because the Government would lose more practically than the amount which would be saved in the expense of transportation to Philadelphia.

Mr. GAINES of Tennessee. Is it not a fact that a great deal of the money coined at Philadelphia is from bullion brought clear across the continent to Philadelphia, going by the Denver mint and San Francisco mint?

Mr. BROOKS of Colorado. I think it is.

Mr. LITTAUER. Have you any facts to that effect?

Mr. GAINES of Tennessee. I want to state to the gentleman that I have favored in the Coinage Committee and legislation on the floor of this House coining the money at San Francisco and Colorado and other places out there as against Philadelphia, not that I was against Philadelphia, but to save the transportation clear across the country to Philadelphia and back at the the expense of the Government and individuals who have to haul it back. A few days ago the gentleman from New York cut out of one of our appropriation bills the money to pay for hauling our silver coin to the country, and the banks down my way are kicking about it.

Mr. BROOKS of Colorado. In reply to the gentleman from Tennessee, and also the gentleman from New York, I will state that I understand that the mints at Boise City and Seattle are both now shipping to Philadelphia for coinage purposes.

Mr. LITTAUER. Shipping bullion?

Mr. BROOKS of Colorado. Shipping bullion for the purpose of coinage. The gold and silver which is shipped from the gold and silver producing countries to the mints for coinage has to be transported back again for circulation, because the coin is circulated more largely in those sections, and that is another strong reason for maintaining coinage operations at Denver.

Mr. GAINES of Tennessee. Is not this also a fact: By having this mint wide open in Colorado, it induces the gold that comes from Alaska to come into the United States and be coined into our money rather than go to the British possessions and be coined into English money?

Mr. BROOKS of Colorado. I should think that would be the case.

Mr. GAINES of Tennessee. That proof was made in the Committee on Coinage about eighteen months or two years ago.

Mr. LITTAUER. The gold coming from Alaska comes to Seattle and is sent from Seattle to Philadelphia under the prevailing rule.

Mr. GAINES of Tennessee. No; I feel sure that the gentleman from New York is mistaken.

Mr. BROOKS of Colorado. I want for a moment to compare the reductions that this bill proposes with the estimates of the Director. The estimates of the Director for the Denver mint for this year are $150,000 for workmen and $50,000 for the contingent expenses. The bill carries $75,000 for workmen and $30,000 for contingent expenses, a reduction of 50 per cent in the workmen's allowance and a reduction of 40 per cent in the contingent allowance.

For the Philadelphia mint the estimates are $400,000 for workmen and $85,000 for contingent expenses. The allowance in the bill is $400,000 for workmen, no discount, and $75,000 for contingent, a discount of less than 12 per cent.

Mr. PALMER. Are you not aware of the fact that the Philadelphia mint was reduced $50,000 from last year?

Mr. BROOKS of Colorado. From the appropriation of last year; yes. That was a reduction by the Director and not by the committee. I am speaking now of the treatment that this mint is receiving at the hands of this committee.

For the San Francisco mint the recommendation in the estimates was $165,000 for workmen and $50,000 for contingent expenses, and the reduction is fifteen thousand in workmen—less than 10 per cent—and ten thousand in contingent, or 20 per cent; and this is just half the percentage of reduction on the same item for Denver. In other words, out of a total reduction of $135,000 in this appropriation bill for these mints $95,000 is taken from one single institution. I want the committee to

appreciate that fact. Out of a total reduction of $135,000, in round numbers, nearly three-quarters are taken from the Denver mint.

Mr. LITTAUER. Will the gentleman tell the committee how much of the amount appropriated for the current year will not be used at Denver, the single institution where the reduction to which you referred takes place?

Mr. BROOKS of Colorado. I have already answered that question. The statement of the superintendent is that there will be about $40,000 unexpended out of this item of $115,000 on the 1st day of July, and that is on a coinage operation of only five months. Now, as I said before, computing the operations for twelve months on that basis, it equals an expenditure of about $180,000, or $30,000 more than the Director asks you to appropriate.

Mr. SOUTHARD. Will that $40,000 be available for next year?

Mr. BROOKS of Colorado. Not at all. The $40,000 and also any excess in the contingent fund will be covered back into the Treasury. And by the way, the Director and also the Superintendent of the Mint inform me that the contingent fund will be entirely exhausted before that date.

There is no warrant, gentlemen, in fairness or in economy, and there is no warrant in reason, for the reduction that the committee have ill advisedly made. I do not say they have intended to strike this mint down. I do not suppose for one moment that they intend to injure that institution. I do not suppose that they are discriminating in favor of one mint as against another, but the result of it is exactly that, for it will shut up the Denver mint for six months in the year, and shut it up unjustly.

Now, if there is any section of this country that is entitled to the consideration of the Appropriations Committee in the matter of coinage it is the great gold-producing section of the country. Last year we produced in this country, in round numbers, in gold $85,000,000, and in silver about $29,000,000, or about $114,000,000. Of that sum more than 25 per cent was produced in the single State of Colorado, with a gold output of over $25,000,000 and a silver output of over $6,000,000, and the States that are directly tributary to Denver, from whence the gold comes to that mint—Utah, South Dakota, and New Mexico—swell that total to $37,000,000 in gold and $7,000,000 in silver, or about $44,000,000. In other words, the part of this country that is producing the gold, and the part of this country where the men producing it have the right, under the statute, to take their gold, bring it to the mint, and receive the coin for it, is where this mint is located. Every consideration, therefore, of locality, every consideration of fairness, every consideration of economy, and, we think, every consideration of legislative propriety demands that this mint should receive at least fair treatment at your hands. We do not make any special plea for this section; we do not make any special plea because we are Colorado or because we are near South Dakota or because we are near Utah or Wyoming, but we make the plea because the Congress of the United States has said that a mint should be located there and that gold should be coined there for all comers by the Government and because we have a new mint there which is the finest mint in the United States, and possibly the finest mint in the world—a mint where there are administrative economies in operation that can not be approximated anywhere else. In the single item of the melter and refiners' room there are electrical devices that almost absolutely obliterate the waste and loss occasioned at the older mints.

In the annealing and coining rooms there are new devices and new machinery that very much reduce the cost of operation and that give an extraction very much higher than the older institutions can give, and the gold coin output bears a much higher percentage to the bullion consumed than you can get in the older mints. Do you want to shut down the mint where the work is being done in that way? Do you want the newest plant you have to be closed, the plant where you have the machinery which you took to St. Louis to show to the whole world as your finest product? Do you want to strike an institution of that sort and close its doors for six months in the year? I do not believe this committee will do that, if they understand what they are doing.

Mr. LITTAUER. Mr. Chairman, I will attempt to present to the committee the facts through which the Committee on Appropriations was led to submit the items as they stand in the bill. I will state in the outset that in considering matters of expenditure at the mints we have ever before us the fact that while the United States has in operation four mints, one mint would be sufficient to turn out all the coinage necessary for the country.

A year ago, when the Director of the Mint presented to us the facts regarding the establishment at Denver, he stated by the 1st of July, 1905, that mint would be in operation as a mint. Members of the committee must bear in mind that we have had an assay office at Denver for many years past. On the statement of the Director that the assay office would be turned into a mint, for which a most elaborate building and most complete machinery had been furnished, we increased the organization of that old assay office, which had cost annually $15,250 for many years, by adding an additional expenditure for organization alone of $23,000.

We added that amount to the appropriation on the basis that the service of these men would be needed for the purpose of conducting the mint after the 1st of July, 1905. To the wages for workmen, which for the assay office in previous years had been allowed $27,000, we added the large sum of $88,000 for the purpose of conducting the operations of the mint in addition to the former and usual provision of $27,000 for the wages of the workmen in connection with the assay office. And then, in the incidental expenditure, we increased from $10,500, which had been allowed the assay office, to $40,000, under the idea that the mint was to begin the first of the fiscal year. That sum total means that we added last year to the appropriation $140,500 for the purpose of opening and conducting this mint to the appropriation previously made of $52,750 when it was conducted as an assay office.

Mr. BROOKS of Colorado. You do not mean to say that the appropriation would not have been needed if the mint had started at the time it was intended?

Mr. LITTAUER. No; that was the estimate given to us, and it seemed reasonable, if the establishment was to begin as a mint on the 1st of July, and we recommended that in the appropriation.

Mr. BROOKS of Colorado. How would the fact that only some $40,000 of the labor item would be unexpended on July 1 out of the $115,000 after only five months' operation warrant the committee in making an appropriation of but $75,000 for twelve months' operation?

Mr. LITTAUER. I will come to that shortly and see if I can convince the committee. Members will bear in mind that we appropriated $140,000 over the previous appropriation for the assay office. Now, we have been continually met with expectations unrealized in connection with the Denver mint. The hearings on this topic took place on the 13th of February of this year. At that time, even, the Director of the Mint stated:

We expect to be in complete operation during the coming fiscal year.

My question to him was, "What are your expectations based on—is your machinery installed?"

Yes; we are doing coinage there to-day.

We were advised that the coinage practically begun on the 1st of February. We felt that the expectations unrealized the previous year had cost the Government a large sum of money, especially for salaries of those in the organization of this mint.

Mr. BROOKS of Colorado. How would it be a cost to the Government when the unexpended portions of the items for labor and for the contingent expenses would be covered back into the Treasury?

Mr. LITTAUER. I am referring to the organization, not to labor. I must admit that the labor cost would not be any different, but the gentleman stated that there would be a balance of $40,000 at the end of this year. There are no facts before us which would lead us to the belief that there will not be $60,000 left over the amount appropriated for wages, for we found out that during the first six months of the year, when a certain amount of labor was used for the installment of machinery, that there was but $27,000 out of $115,000 appropriated for the fiscal year unexpended at the end of the first six months.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. LITTAUER. Mr. Chairman, I ask for five minutes more.

The CHAIRMAN. The gentleman from New York asks that his time be extended five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. BROOKS of Colorado. The gentleman, of course, understands that the present wage roll is $8,000 a month there?

Mr. LITTAUER. I have no information to that effect. The information given to us on February 13 of this year is that the work of coinage has started. How rapidly it started we were unable to find out. We do know, however, that coinage has started, and that it will probably progress, and that there will be a large sum or a large part of the amount appropriated for coinage left on hand at the end of the year.

Mr. BROOKS of Colorado. Will the gentleman allow me to put in the RECORD an excerpt from a letter from the Acting Director of the Mint, dated March 20?

Mr. LITTAUER. The Acting Director of the Mint here?

Mr. BROOKS of Colorado. Yes.

Mr. LITTAUER. I would be quite content to have the gentleman read the letter, but do not want him to read it in my time. Now, we have to take a comprehensive view of the entire coinage problem in determining upon the amounts to appropriate at one place and another. The mint at New Orleans has been reduced to the lowest figures to which any mint could possibly be reduced and still keep in operation. The mint at San Francisco, one of our old mints, has had an appropriation up to the present year of $175,000 for the purpose of paying the wages of coinage. Now, when we come to the consideration of that mint I asked the Director of the Mint, "Do you expect to do as much work at Denver during the coming fiscal year as you have been doing at San Francisco?" Bear in mind that San Francisco in the past has had appropriated $175,000 for this purpose. The estimates for this year were $165,000. We recommend in this bill $150,000. His answer is, "No; we do not." Now, if the amendment of the gentleman from Colorado [Mr. BROOKS] should prevail there would be as large a provision for coinage purposes proper at Denver as has been made for San Francisco.

Mr. BROOKS of Colorado. Oh, that is an error.

Mr. BONYNGE. The committee has appropriated $165,000, has it not, for San Francisco?

Mr. LITTAUER. We have in this bill $150,000, and it will be reached in the next paragraph or two.

Mr. BROOKS of Colorado. While the gentleman is right on that point, will he yield to a question?

Mr. LITTAUER. I should be pleased to yield, but I would like to make my statement first.

Mr. BROOKS of Colorado. The question has relevance to what the gentleman is saying now.

Mr. LITTAUER. The gentleman may put his question.

Mr. BROOKS of Colorado. Will the gentleman tell the committee why it is that they elected to cut the Denver mint appropriation in two as compared with the estimates and cut the others about 10 or 15 per cent?

Mr. LITTAUER. Because at San Francisco during the current year $175,000 will be expended for wages. The force is there. It is employed, and the gentleman's own argument that he made a few moments ago will bear directly on this point—that there is the mint with an organization of experienced men now employed, and we propose to cut that appropriation from $175,000 to $150,000, taking off one-seventh. At Denver the appropriation for this year was $115,000. The gentleman stated that $40,000 of that will not be expended, so that there could have been expended there only $75,000, and of that amount $27,000 would naturally go to the wages of those engaged in the assay office.

Mr. BROOKS of Colorado. But that is, of course, on the basis of five months' operation.

Mr. LITTAUER. It is on a basis of what was performed this year and under the organization that is there. Now, again, at Philadelphia $450,000 has been the appropriation for wages for workmen for a number of years. We have not work to do. Our silver is all coined. All the work we have is this gold coinage, and bear in mind that during the past year these mints could not have been employed were it not for the fact that we made one-fifth as many pieces of gold and silver for foreign countries or for our dependencies, as we did for the uses of the United States, or nearly one-fifth. Out of a total coinage of about 85,000,000 pieces of gold and silver, 18,750,000 were for other governments than the United States.

Mr. SOUTHARD. Mr. Chairman, will the gentleman yield?

Mr. LITTAUER. Yes.

Mr. SOUTHARD. I wish to call the gentleman's attention to the fact that the expense of coinage was increased by reason of that over and above the amount stated by the gentleman from New York.

Mr. LITTAUER. The expenses of coinage were increased by a small amount. In other words, the appropriations for the Philadelphia mint were altogether $577,550, and I believe a total of $632,000 was expended at the mint, the balance being obtained through the payments of other countries for work performed.

Mr. SOUTHARD. In the year 1905, the total expenditures of the Philadelphia mint were $686,462.82.

Mr. LITTAUER. That is not on account of coinage alone. There were other operations on that. Six hundred and thirty-two thousand dollars or thereabouts is the figure that I have before me. Now, I find this, that the concentration of coinage means economy. The Philadelphia mint turned out 55,000,000 pieces of gold and silver, and 103,000,000 pieces of copper and nickel at a cost of $632,000.

Mr. GAINES of Tennessee. How much does it cost the Government in transportation to haul the bullion from Denver to Philadelphia?

Mr. LITTAUER. I believe no bullion has been transported from Denver to Philadelphia since 1904.

Mr. GAINES of Tennessee. It costs $1.86 a thousand. Can the gentleman from Colorado tell me how much?

Mr. BROOKS of Colorado. Sixty-one thousand dollars on the gold now stored.

Mr. LITTAUER. Does that answer the question?

Mr. BROOKS of Colorado. Yes. Sixty-one thousand dollars on the gold now stored, and if the estimates of the superintendent are carried out and there be forty millions there on the 1st of July, it will be $74,000, or within $1,000 of this amount they propose to save to the Government by this cut, but which the Government will pay out again to the express companies.

Mr. LITTAUER. To what are you referring, the rate of expressage on bullion or on coin?

Mr. BROOKS of Colorado. On bullion.

Mr. LITTAUER. Now, then, if that coin were transferred to the East, it would cost so much more, and if coined at Denver and then transferred to the East, where the Acting Director of the Mint advised us the greatest amount of our gold coinage was put into circulation and was stored for the purpose of issuing gold notes, then the expenditure would be on the other side of the ledger.

Mr. BROOKS of Colorado. And the consignee would pay it, and not the Government.

The CHAIRMAN. The time of the gentleman has expired.

Mr. LITTAUER. I would like to ask unanimous consent to continue two minutes longer.

The CHAIRMAN. The gentleman from New York asks unanimous consent that he may continue two minutes longer.

Mr. BROOKS of Colorado. I will ask that he be given five minutes if he will answer one more question.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. LIVINGSTON. I would suggest that debate, however, on the paragraph has been exhausted.

Mr. BROOKS of Colorado. Is it not true the expressage on the coins as they leave the mint is paid by the consignees and not by the Government?

Mr. LITTAUER. It is not true in custom. The coin is transferred from San Francisco direct to Philadelphia for the purposes of the Government and paid for by the Government.

Mr. BROOKS of Colorado. Well, that is only when Government exigencies demand it.

Mr. LITTAUER. They are generally such as to make such a demand for transportation.

Mr. BROOKS of Colorado. The fact is, although in shipping gold from one mint to another the Government pays the cost, a party sending gold to a mint pays the expense of shipment, and the man who goes to that mint and gets the coined gold to circulate in any other locality also pays the expense to the point of distribution.

Mr. LITTAUER. Yes; but in practice that is not the fact.

Mr. GAINES of Tennessee. Why not in practice?

Mr. LITTAUER. Simply because the Government necessities have demanded the transportation of coin from our mints in the far West and frequently from our mint at New Orleans.

Mr. GAINES of Tennessee. And it is a governmental transfer?

Mr. LITTAUER. To where it is demanded.

Mr. GAINES of Tennessee. Do you not think it is a very wholesome policy to open up these western mints and let the money be minted there which we pour out into this big sink hole in the Philippines rather than to send it to Philadelphia—transferring it from Hell Gate to the Golden Gate, you might say?

Mr. LITTAUER. A great part of the coinage for the Philippines was made at San Francisco.

Mr. GAINES of Tennessee. And a great deal of it was made at Philadelphia; in fact, the most of it.

Mr. LITTAUER. Now, gentlemen, the total expenditure, in round numbers, for coinage has been a million dollars a year. How are we going to continue to expend this amount of money for the smaller amount of coinage needed was the problem we had before us. Where were we going to get the work for all these mints? We felt it was necessary to cut down these expenditures. We have reduced the submissions for the coming year from the appropriations for the current year, $60,000 at Philadelphia, $35,000 at San Francisco, and the item that we submit for Denver is $90,000 more for the purposes of coinage than was formerly expended there when only an assay office. Now, we claim in the interest of economy and good governmental

management that we have made a fair proposition and submit a fair appropriation here.

Mr. BUTLER of Pennsylvania. Was the reduction at Philadelphia made on the advice of the Director of the Mint?

Mr. LITTAUER. In part only, that part in connection with the wages of workmen. But bear in mind, gentlemen, the work in Philadelphia could only be continued for ten months. That old and well-organized establishment, turning out satisfactory and superior work, could not be continued because of the lack of work for more than ten months. Now, had the Denver mint been running all this time probably Philadelphia would have to remain idle many months.

Mr. BUTLER of Pennsylvania. May I ask the gentleman another question?

Mr. LITTAUER. Yes.

Mr. BUTLER of Pennsylvania. Did the committee make any further reduction than that suggested by the Director of the Mint?

Mr. LITTAUER. We made a further reduction of $10,000 in incidental expenditures, but not in wages for workmen.

Mr. MOON of Pennsylvania. Mr. Chairman——

Mr. BURLESON. Mr. Chairman——

The CHAIRMAN. Does the gentleman from New York yield to the gentleman from Texas?

Mr. MOON of Pennsylvania. Is it not true——

Mr. BURLESON. Mr. Chairman, I want to be recognized in my own right to submit a few observations on the bill.

Mr. MOON of Pennsylvania. Is it not true during the past year in the mint at Philadelphia there was installed new machinery for the manufacture of blanks for nickels and 1-cent pieces?

Mr. LITTAUER. Yes; and a great saving to the Government arises from this installation and manufacture there.

Mr. MOON of Pennsylvania. And will not that saving to the Government involve an expenditure of nearly a hundred thousand dollars additional for labor in Philadelphia during the current year? I am so informed.

Mr. LITTAUER. Well, that machinery was installed and the copper and nickel pieces turned out during the past year, and they turned out a hundred and three million pieces.

Mr. MOON of Pennsylvania. May I ask the gentleman a further question? Is it not true the profits from the modern machinery of the Philadelphia mint alone last year in the manufacture of those pieces amounted to nearly $2,000,000, or enough to pay the running expenses of all the mints in the United States?

Mr. LITTAUER. I had not given attention to that phase of the problem.

Mr. MOON of Pennsylvania. I am informed that that is true.

Mr. LITTAUER. We were looking to making a proper expenditure without regard to the income.

The CHAIRMAN. The gentleman from Texas is recognized as first addressing the Chair.

Mr. BURLESON. Mr. Chairman, to my mind, this is a simple problem, and one that should be very easy of solution. The issue is, Shall we increase the item which provides for wages of workmen at the Denver mint? We have four mints in this country that are doing the coinage to meet the necessities of commerce in our country. It will cost to do this work properly a given sum of money. Your committee gave the matter most careful consideration and reached the conclusion that $667,800 was sufficient money to provide for the wages of workmen at the four mints to provide the necessary coinage for our country. Making up this sum the committee allotted $42,800 to New Orleans for wages of workmen, which is the smallest amount, as stated by the chairman of the subcommittee, that is possible for us to allow and continue the mint at that point. We allotted $400,000 for this purpose at the mint at Philadelphia; we allotted $150,000 to the mint at San Francisco, and $75,000 for the mint at Denver, aggregating $667,800, a sum which we contend is fully ample to pay the wages of all workmen at the four mints to meet all demands for coinage.

Now, gentlemen, if you increase the amount of appropriation for wages of workmen to be expended at the Denver mint, unless you propose to wantonly throw the money away, you ought to reduce the appropriations for wages of workmen to that extent or for an equal amount at the Philadelphia mint or at the other mints; and you can not escape the conclusions. We ought to appropriate enough money to meet the necessities of this service; we ought to give ample funds for the purpose of providing for necessary coinage. But, gentlemen, if you increase the appropriation at Denver for wages of workmen, then you ought to either decrease the appropriation at San Francisco or New Orleans or Philadelphia to an amount equal to the increase at Denver——

Mr. BUTLER of Pennsylvania. That answers the question I wanted to ask the gentleman.

Mr. BURLESON. You can not possibly escape that conclusion, unless we propose to merely fritter the public money away. Now, personally, and I want to be perfectly candid in dealing with this situation, I think the gold and silver bullion should be principally coined at the Denver mint. I favor the Denver mint because of the saving of cost of transportation of the bullion, which is in a large measure found in that section. But we might just as well look the situation in the face. Unless you propose to close the Philadelphia mint three months in the year, and probably for a longer period, by decreasing the appropriation for wages of workmen at that mint, then you must necessarily vote down the amendment offered by the gentleman from Colorado. If you vote up his amendment, or adopt it, then if you are careful guardians of the people's money, you are bound to reduce the amount to be given to Philadelphia. To increase the appropriation at Denver without making a like decrease in the appropriation for wages of workmen at Philadelphia is to simply throw away the people's money for a useless purpose.

Mr. BUTLER of Pennsylvania. May I ask the gentleman a question?

Mr. BURLESON. Certainly.

Mr. BUTLER of Pennsylvania. Would it necessarily be reduced at the other points?

Mr. BURLESON. It could not be reduced at New Orleans, because the appropriation for wages of workmen there is just as low as possible, if we are to carry on the mint there. To make a further reduction means to close the mint.

Mr. BUTLER of Pennsylvania. How about San Francisco?

Mr. BURLESON. It would be unwise to cut down the appropriation for San Francisco, because of the great volume of gold coming from that immediate section and from the Klondike, which is geographically tributary to that point. Now, gentlemen, you can not dodge the situation. If you want to be perfectly just and fair to the people who bear the burden of paying these appropriations, you have either to take off this amount from the Philadelphia appropriation, proposed by the gentleman's amendment, and add it to the Denver appropriation, or——

Mr. BROOKS of Colorado. Will the gentleman allow me to ask him a question?

Mr. BURLESON. Certainly.

Mr. BROOKS of Colorado. If I am correct in my figures, the total appropriation for labor and contingent expenses in all the mints and assay offices in the United States amounted, in round numbers, to $1,100,000. This sum was carried in your bill.

Mr. LITTAUER. This year.

Mr. BROOKS of Colorado. Your proposed saving is $135,000 over last year. That amounts to 12½ per cent. Now, why will you take 50 or 40 per cent of the current estimates from Denver and practically nothing from these others?

Mr. BURLESON. If I could have my way, I would not do it, as I have already stated, but the majority of the members of the committee thought it wise to permit the Philadelphia mint, that is thoroughly equipped to do all our coinage, so far as that is concerned, to do the bulk of the work, as it has been doing in the past. The Philadelphia mint has an organized force at present in the employ of the Government, and that was the reason that controlled the committee in its efforts to apportion this work. But, as far as that is concerned, I say, without multiplying words about this question, putting this proposition in a nutshell, it will take so much money to do the necessary and needed coinage of our country and this aggregate sum necessary for this work has been apportioned between the four mints; now, if you increase the amount to be expended at one of them, then you ought to decrease the amount to be expended at the other points, unless you are disposed to wantonly throw the money away. Surely you don't want to make an appropriation of money beyond an amount necessary to do this work.

Mr. BROOKS of Colorado. The gentleman has interjected an element into this discussion that I very much regret, because we have no desire to reduce the appropriation for the Philadelphia mint or the New Orleans mint or the San Francisco mint.

Mr. BURLESON. Of course not; but that is the situation you have confronting you, and you might just as well face it, as far as I am concerned, because I will not vote to increase the cost of mintage at Denver unless you assure us you will aid in reducing the appropriation at Philadelphia.

Mr. BROOKS of Colorado. Is it not true that if the Denver item should stand where the Director left it, the saving in coinage over last year would still be $41,000?

Mr. BURLESON. I will not take issue with you on that

proposition, because it is a matter of no consequence and has no bearing on the issue before us. Hence it is not necessary for me to take issue with you. However, I will say to the gentleman that the subcommittee, of which the distinguished gentleman from New York [Mr. LITTAUER] is chairman, having the making up of this bill, gave most careful and painstaking consideration to this question, and reached the conclusion that $667,800 was ample to provide the wages of workmen to do the necessary coinage of our country. Having reached that conclusion, the committee then apportioned the sum among the four mints. The gentleman from Colorado, by amendment, proposes to increase the amount allowed for this purpose to the mint at Denver. If you do so, if your committee was right in its estimate of the amount necessary to do this work, then you must reduce the amount appropriated for this purpose at the Philadelphia mint.

Mr. BROOKS of Colorado. The $667,800 include only wages of workmen.

Mr. BURLESON. Yes; but that is the item you propose to increase, and consequently I do not complicate the issue by discussing the others.

Mr. BROOKS of Colorado. The Denver item could remain as estimated for by the Director, and the other items could stand as carried in the bill, and still there would be a reduction of $41,000 from last year's appropriation.

Mr. LITTAUER. But the gentleman has admitted a number of times that all of the appropriation for the current year would not and could not be used at Denver. You have stated over and over again that there will be a balance of $40,000 unexpended at Denver. Consequently, though the totals would be reduced, the actual expense would not be reduced.

Mr. BROOKS of Colorado. That unexpended balance in Denver is only due to the fact that the mint did not start until February, and hence will not have been operated half the current fiscal year.

Mr. LITTAUER. Unquestionably so.

Mr. GAINES of Tennessee. I want to say a word or two by way of giving some information, as I stated a while ago in a colloquial way. A couple of years ago, or at all events in the last Congress, we had up and under a hot fire in the Coinage Committee room the metric system, and that has also been up at this session. In the course of taking testimony on that subject a gentleman who lived in British America appeared as one of the witnesses, and in the course of his evidence he stated that the British Government was establishing assay offices in the corner of British Columbia for the deliberate purpose of catching all of the gold possible that comes from Alaska and having it stamped with the British stamp, thus inviting it into the markets and commerce and monetary arteries of British America. Now, that is an indisputable fact. I remember it distinctly. The gentleman from Washington [Mr. CUSHMAN] was a member of the committee and happened to have an assay bill pending before the committee, and I was glad to develop that fact in behalf of his bill, because I thought then and I think now that it is a wise policy to keep wide open our assay offices in the northwestern portion of our country particularly, in order that we may catch all of the gold possible coming from Alaska, and, if possible, invite gold from the British possessions to the mints and the money-making machinery of the Federal Government.

Mr. LITTAUER. I call the gentleman's attention to the fact that the assay office at Seattle was established in 1900.

Mr. GAINES of Tennessee. Why did you do it?

Mr. LITTAUER. In order to draw to that assay office the gold coming from Alaska and to keep it from going to British Columbia.

Mr. GAINES of Tennessee. Exactly; and I was instrumental. I am glad to say, in having that done; and I am just as interested now, Mr. Chairman, in not having any one of these western mints minimized in order to build up Philadelphia or any other eastern mint. Philadelphia is not in the gold and silver producing territory; it is thousands of miles away from where the gold and silver come from, and I want to say to my friend from Texas [Mr. BURLESON] that I am just as economical as he is.

Mr. BURLESON. Yes; but the Philadelphia mint is the most expensive mint we have in this country.

Mr. GAINES of Tennessee. Why should it be?

Mr. BURLESON. It is competent to do all the minting for the whole United States.

Mr. GAINES of Tennessee. Why should it be more expensive than Denver or San Francisco? The transportation—hauling bullion to it and coin from it—must make it a costly mint. Certainly it is not the most important geographically. Now, I do not want to strike Philadelphia at all; I do not want to lay heavy hands on her. Legislation should not be for the benefit of Philadelphia and Denver and New Orleans and San Francisco; it should be for the benefit of all the people of this country; and we should keep open the mints—build them up close to the gold and silver fields. The easterners come from Connecticut, Massachusetts, Pennsylvania, and Maine, and bring their cotton machinery to the cotton fields of the South, where they know that they can make the goods cheaper than they can to ship raw cotton to the New England States and send the goods back South and elsewhere.

Yet in the wisdom of this great committee, headed by the distinguished gentleman from Minnesota aided by the distinguished gentleman from New York, they have minimized the importance of these western mints, cut down San Francisco, cut down Denver and are building up Philadelphia, which is thousands of miles away from where the raw gold comes to the shores of this country.

Mr. BINGHAM. If the gentleman will allow me——

Mr. GAINES of Tennessee. Why certainly, my dear sir.

Mr. BINGHAM. While Philadelphia may not be in the center of the gold-producing section, it is in the section of the East where the great bulk of the money of the country is expended.

Mr. GAINES of Tennessee. I want to say to my good friend that if money was used as my good friend from Philadelphia uses it, we should not have as much money troubles in the world as we have to-day. [Laughter.] He treats his fellowmen fairly and remembers the golden rule.

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

Mr. GAINES of Tennessee. Mr. Chairman, I would like five minutes more.

The CHAIRMAN. The gentleman from Tennessee asks unanimous consent that his time be extended five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. GAINES of Tennessee. Now, Mr. Chairman, we have coined a great deal of money for the Philippine Islands, mostly at Philadelphia. Why, in the name of heaven, was the raw bullion hauled from Nevada and Colorado and California, carried to Philadelphia, unless it was to increase railroad tolls at the expense of the Government? Why was it hauled to Philadelphia with the great high tariff paid the railroads, and then coined—I do not care at what expense; of course, it was legitimate—then hauled back to the Golden Gate and shipped to the Philippine Islands?

Why was it not coined at San Francisco? Why was it not coined at Colorado? Why not now build up these mints, that we may save the railroad tolls against which we are standing here to-day as a great unit trying to regulate them? Why cut down Denver and New Orleans to the minimum, as the gentleman from Texas says? Silver comes from Mexico, gold comes from Mexico; the farmers of Texas and the farmers of the Southwest want silver and they want gold and they want money. Why not build up that mint, too? I have fought that nine years, to keep Congress from shutting up the mint at New Orleans. There is some one always trying it shut it up. Why thus oppress New Orleans, historic city, sacred place, where Jackson told the enemy when they came again to see us to leave their swords behind them. [Applause.] Geographically it is splendidly situated to catch the gold and silver from the West; geographically it is splendidly situated to catch the gold and silver coming from Mexico and from South America, if you please, where we are now about to dig a ditch if we can get honest men to do it, and I thank God that we have got one, the Secretary of War, Judge Taft, and I believe he will do it.

Now, Mr. Chairman, why be penny wise and pound foolish about Denver. I never expect to be there. Denver is nothing to me except a beautiful little city that has risen up in the great Sahara, that is a monument to her people and our country. It will be cheaper than railroad transportation, cheaper than to bring the gold from California and Nevada and coin it in the East, and then ship it back to San Francisco again. Now, we expect to find gold in the Philippine Islands. I have been told, possibly to draw me away from my anti-imperial devotion, for I believe that the Constitution follows the flag, and I don't want the flag to go anywhere that the Constitution does not go—possibly they told me there was gold in the Philippines for that purpose. If it was all gold, I should want to bring back the American eagle and the flag and the dust of those honored heroes that have died there under the flag in that disease-breeding and un-American country.

Mr. Chairman, I am glad that I came into the House when you were about to be penny wise and pound foolish. I love Philadelphia. I go over there sometimes and have a glorious——

A MEMBER. Time.

Mr. GAINES of Tennessee. Opportunity. [Laughter.] And

I am satisfied if I should ever have the opportunity of facing my charming friend, the gentleman from Pennsylvania, General BINGHAM, I would have the time of my life, and I hope it won't be long. [Applause.]

Now, Mr. Chairman, I do not know what the gentleman from Colorado [Mr. BROOKS] wants. He always wants something. It is the general complaint with the gentleman from Colorado that he wants something, and I want to say, even if it is to get some rubber-neck machinery, that he usually is right. In his rubber matter he was in part wrong, and I opposed him. In this he is entirely right, because he wants to keep Congress from destroying that mint, and I am aiding him. I am not going to vote to cut down these mints in the West. It is unwise—a bad policy. We can also save railroad tolls if we do this. I am opposed to it because I want to catch all the gold coming from Alaska possible and stamp the American eagle on it. I want to build up that place and to save the railroad tolls in hauling the bullion and in hauling it to the Philippines, and pay our soldiers out West at a small expense. Why not coin it there and take it out to the soldiers and give them clean money—and I am for clean metal money and clean paper money for the humble soldiers, too. So I say it is a mistaken policy to refuse to cut down the Philadelphia mint, because they say if you cut down the Philadelphia mint you cut it down to build up the mint at Denver. Do right, though the heavens fall. I say Denver geographically is more important to this country now as a mint center than Philadelphia is or can be. San Francisco is of more importance, you might say, than Denver is, because it is closer to the Philippine Islands, where we are obliged to take our silver money to pay off our governmental expenses in that country.

Mr. BONYNGE rose.

Mr. LIVINGSTON. Mr. Chairman, I make the point of order that under the rule debate is exhausted on this paragraph.

Mr. BONYNGE. Mr. Chariman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Colorado moves to amend the amendment by striking out the last word, which is in order under the rules.

Mr. BONYNGE. Mr. Chairman, the gentleman from New York [Mr. LITTAUER], in charge of the bill, opened his remarks by stating that one mint would do all the coinage that was necessary for the country. With all due respect to the eminent gentleman who is in charge of this bill and to the Appropriations Committee that has added so much legislation to an appropriation bill, permit me to say to the gentleman from New York, and to call the attention of the Members of the House to the fact, that Congress, by an act signed by the President, has determined that there shall be four mints doing coinage for the United States, and not the one mint that the gentleman from New York refers to. In a letter that I received the other day from the Secretary of the Treasury there is this statement as to the amount of money that has been expended for constructing and equipping the mint at Denver: The cost of the site and of the construction of the mint building at Denver was $800,000, and the amount appropriated for the equipment of the same, with machinery, appliances, and furniture, was $345,000; making a total of $1,145,000 for the construction and equipment of that institution. That amount has just been expended, Mr. Chairman, and the mint was not completed until last year. It opened for actual coinage purposes on the 1st day of February, 1906. It has, therefore, been engaged in actual coinage since the 1st of February—just about two months.

Now, after the Government has expended more than $1,000,000 there for the erection and equipment of that mint, we are met with a proposition by the chairman of the Committee on Appropriations, or by the gentleman in charge of this bill, that we shall not appropriate any money to operate the mint for which the Government has expended that amount. The Director of the Mint, in making his estimate to the Appropriations Committee, based it upon the amount of coinage that would be done at the Denver mint during the next fiscal year. He states that fact in the letter to which I have called attention, and from which I desire to read the following:

> To conduct active coinage operations at the mint in Denver during the fiscal year 1907, it is estimated by the Department that the sum of $150,000 would be required for wages of workmen and $50,000 for incidental and contingent expenses.
>
> This estimate is based upon the probable coinage at Denver of thirty to forty millions of dollars in gold, and from one to three million dollars in silver per annum.

The estimate of the Director of the Mint for the wages of workmen was $150,000. This committee, without taking any testimony to find out how much it would cost for the wages of workmen for the next fiscal year to coin the gold that is now in the vaults of the Denver mint, arbitrarily cut that estimate in two and make it $75,000?

Mr. LITTAUER. Will the gentleman please state what necessity there is for coining the gold now in the Denver mint?

Mr. BONYNGE. Yes; very gladly; and it was the next proposition I was coming to; because it gives just this choice, Mr. Chairman: Either you will coin that gold that is now in the vaults at the Denver mint—and, remember, there are $33,000,000 of gold bars in the Denver mint—or else you will take these gold bars and ship them to the Philadelphia mint at an expense to the Government of just exactly, or practically the same amount, as we ask for as an increased appropriation to-day to do that work at the Denver mint. That is the whole proposition in a nutshell. It will not save the Government of the United States $1,000, whether you coin it at Denver or ship from Denver to Philadelphia. If you coin it at Denver you make use of a plant for which the Government has paid over $1,000,000, and the amount expended is paid in wages to American workmen. If you coin it at Philadelphia you pay the same amount to railroad and express companies.

Mr. LITTAUER. But what would you do with it after you coin it?

Mr. BONYNGE. You will issue your gold certificates against the gold.

Mr. LITTAUER. Or else transport the coin to the East, where it may be distributed.

Mr. BONYNGE. The Secretary of the Treasury states in this same letter that it is very probable that that gold will remain in the vaults of the Denver mint, and here is his language.

Quoting his exact language he says:

> It is probable that the greater part of the gold coined at Denver mint will remain in the vaults of that institution, especially if the practice of paying depositors who desire it in eastern exchange be continued.

And if it should be sent to the East the consignees would pay the expense for shipping the gold coin and not the Government of the United States.

The CHAIRMAN. The time of the gentleman from Colorado has expired.

Mr. LITTAUER. Provided it was shipped to a consignee.

Mr. KEIFER. Mr. Chairman, I ask that five minutes more time be granted to the gentleman from Colorado.

The CHAIRMAN. The gentleman from Ohio asks unanimous consent that the gentleman from Colorado may be allowed five minutes additional time. Is there objection?

Mr. LIVINGSTON. Mr. Chairman, I will not object to unanimous consent with the distinct understanding that after the five minutes are exhausted we have a vote on this paragraph.

Mr. BONYNGE. Mr. Chairman, I do not want to take time under that condition, because the chairman of the Committee on Coinage, Weights, and Measures desires to be heard upon this proposition.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. BONYNGE. Then, Mr. Chairman, I will yield to the gentleman from Ohio, if he can take the five minutes.

Mr. SOUTHARD. Mr. Chairman, this motion applies merely to this mint, as I understand it.

The CHAIRMAN. Under the five-minute rule, according to the rules, it is not in order for a gentleman to yield his time to another.

Mr. KEIFER. But he is entitled to take it himself.

Mr. BONYNGE. Now, then, Mr. Chairman, it appears that there are at present in the vaults of the Denver mint the $33,000,000 in gold bars. In addition to the amount that is now in the vaults it is estimated that there will be deposited in this mint during every month of the next fiscal year two and a half millions in gold bars. It may perhaps be necessary to ship some of that gold to Philadelphia, because even if we get the amount that we are asking for by this amendment it would not pay for the wages of the necessary workmen to coin all the gold that will be deposited in the Denver mint during the next fiscal year. Some comment has been made upon the fact that we did not use all of the appropriation that was made to us for the fiscal year ending June 30, 1906. Of course we did not, gentlemen of the committee, because we were disappointed in not having the mint ready for coinage the 1st day of July, as we had anticipated, and now we are charged with having been negligent as I understand the argument of the gentleman from New York because we did not use up all the appropriation that the committee made to us last year. We feel, Mr. Chairman, that it is an evidence of economical management of the mint at Denver that notwithstanding the fact that this committee had appropriated for our use last year $115,000 the management of that mint at Denver was so careful of the interests of the Government that it did not employ all of the workmen it had an-

thority to employ and for whose wages appropriations were made?

Mr. LITTAUER. How else could you have spent any more money?

Mr. BONYNGE. Why we had authority of law to engage the workmen, but we did not engage them until their service were necessary.

Mr. LITTAUER. Authority of law under the direction of the Director of the Mint.

Mr. BONYNGE. Yes; but we did not employ workmen until the work was ready, which was on the 1st day of February.

Mr. LITTAUER. But you must admit that you had salaried officers drawing large salaries before there was any use for them.

Mr. BONYNGE. No; not before there was any use for them. There were officers appointed. The Secretary of the Treasury and Director of the Mint requested their appointment. Their services were necessary, for the reason that the force at the mint was being organized at Denver, and before we could commence the operations of the mint there had to be somebody in charge of the preliminary arrangements for the opening of the mint and in charge of the placing of the machinery and making all the necessary arrangements for its actual opening as a coinage mint. When the President sent those nominations to the Senate it was because, in his judgment, it was necessary that these men should be appointed at that time. They were appointed, but the workmen were not engaged until February of this year. Now, Mr. Chairman, I do not know there is very much more I can say upon this proposition. It resolves itself into the question whether or not Congress is now going to make use of the plant which it has erected and equipped at great expense. We have the gold, we have the workmen, and we have the machinery. We have the latest and most improved machinery, and it is a fact that can be demonstrated that we can coin at less expense at the Denver mint than we can coin elsewhere. I want now to call attention to one fact brought out by the gentleman from Texas. He contended if we make this increased appropriation for Denver we ought to cut down the appropriation for some other place. Let me call attention, Mr. Chairman, to the fact that the total amount appropriated last year for the four coinage mints was $976,000. If this committee should approve of this amendment and increase the amount to $150,000 and give us what I shall ask for contingent expenses, the total amount appropriated for the four mints will be $40,000 less this year than it was last year. So that it does not involve the question of an increase in the expenditure of the Government for the coinage that will take place at these various mints. I submit, Mr. Chairman, that no argument has been advanced whatsoever even to show that there will be a saving to the Government by refusing to give us the appropriation we ask for, and every consideration of economy, of good management, and of sound business principles in connection with the coinage of the United States is in favor of increasing the appropriation to the amount asked for by this amendment.

Mr. HILL of Connecticut. Mr. Chairman, I shall vote for the bill as it is, although I regret to see that there has been no change made with reference to the mint at New Orleans. We understood last year when this bill was under consideration that no more appropriations would be proposed for that establishment. It seems to me there are two questions, and only two, which should enter into the consideration of the maintenance and support of mints: First, the character of the coinage, and that over and above all others; second, the distribution of the money when coined. So far as the coinage is concerned, it is admitted by every other country, I believe, as well as by the Treasury officials of this country, that it would be more nearly perfect and less easily counterfeited if it was all done in one place, and that is where the best machinery and the best facilities are provided. There is no question but that would be in Philadelphia if that was the only consideration, but there is another. This country is one of large area, and the question of the distribution of the money when coined is one of great importance. We have multiplied assay offices; we have multiplied mints. We have discontinued one or two mints, and I know from the testimony taken before the Coinage Committee when I had the pleasure of being a member of that committee that it is the view of the Treasury Department that the wisest method of distribution would be to maintain the mints at Philadelphia, Denver, and San Francisco, and that all of the others, including the assay offices, should be ultimately discontinued in the interest of economy and good management, and that the Government should rely on these three. Waiving the question of excellency of coinage and considering only the cost of transportation and distribution, we should rely on these three for the future work of the Government, and it would be the best for all concerned.

Now, in my judgment, it would be a mistake to increase any of these appropriations. Acting in accord with what I have said to be the view of the Director of the Mint, I think it would be wise to cut off New Orleans. It was certainly understood in the debate last year here that the appropriation then proposed would be the last one that would be made for New Orleans, and that this year the bill would be confined to these three. I am going to vote even for the New Orleans proposition, Mr. Chairman, this year, in the hope and expectation that the desire of the officers of the Mint Bureau will be considered next year and that the general plan which they have laid out of maintaining the three mints, and these three only, will be provided for by the Appropriations Committee next year.

Let me show to the House just for a moment the unwisdom of the course we are pursuing now in regard to assay offices. I listened with much pleasure to the remarks of the gentleman from Tennessee [Mr. GAINES]. I want to say to him, as far as the establishment of these assay offices is concerned, in my judgment they did not have one particle of effect upon the accumulation of gold. But aside from that, the cost to the Treasury should be considered. Look at the expense for Carson City. They paid $10,435 expenses and earned $812. The gentleman from New York [Mr. PAYNE], who is, in my judgment, acting wisely in trying to reduce the expenses of unremunerative custom-houses, might well give his attention to this proposition as well. At Boise City we pay $13,000 to earn $3,000; in Helena, $23,000 to earn $4,000; in Charlotte, $4,000 to earn $1,000, and in St. Louis, $1,000 to earn $770. All of these assay offices should be dispensed with, and we ought to concentrate the assaying and all other work of this kind in these three mints in Philadelphia, Denver, and San Francisco, for it costs no more to transport the bullion than it does to ship the coin, and a concentration of the work would result in great saving to the Treasury.

Mr. LITTAUER. Mr. Chairman, I move that all debate on this paragraph and amendments thereto close in eight minutes.

Mr. HOGG. I would like to be heard.

Mr. LITTAUER. And that the gentleman from Ohio have five minutes and the gentleman from Colorado three.

The CHAIRMAN. The gentleman from New York moves that all debate on this paragraph and amendments close in eight minutes.

The question was taken, and the motion was agreed to.

Mr. SOUTHARD. Mr. Chairman, it seems to be a question, and the only question seems to be, whether this mint at Denver ought to be kept running throughout the year or not. They have a force there of about 51 workmen.

Mr. BONYNGE. One hundred and two now.

Mr. SOUTHARD. I thought it was about 50.

Mr. BONYNGE. It was that some time ago.

Mr. SOUTHARD. They have an accumulation of $23,000,000 of gold in the vaults. It is coming in at the rate of about $2,000,000 or $2,500,000 per month. The Director of the Mint states that there will be sufficient work there to keep the mint running during the year, provided the gold coming into that mint is coined there. Now, the question is, Ought it to be kept running or ought it to stop after the expiration of six months? He estimates (and I presume there is no question about it) that in order to keep that mint running full time it will take practically the whole of this amount.

Mr. LITTAUER. To keep it running at what rate? At its full capacity?

Mr. SOUTHARD. At the capacity at which it is now running.

Mr. LITTAUER. The gentleman said here that it only took $8,000 a month to pay the force as now organized.

Mr. SOUTHARD. I will say that the Director of the Mint stated to me yesterday that possibly this mint could be kept running during the entire year for the sum of $125,000, but that, in his judgment, the force would have to be somewhat curtailed in order to get through the year with that sum. So I assume that the Director has paid some attention to this matter and that the figures he has given are substantially correct.

We have four mints in this country—one at Philadelphia, one at San Francisco, one at Denver, and one at New Orleans. It has been stated time and again by the Treasury Department, by the Secretary of the Treasury, and by the Director of the Mint that we have more mints than are necessary; and yet not more than a couple of years ago the Committee on Coinage, Weights, and Measures, after listening to the arguments in favor of a new mint (those arguments being based largely on the question of transportation), were convinced that it would be economy for the Government to establish a new mint at the city of Seattle, in the State of Washington. I do not think the chairman of the committee was convinced, but I say that the

Committee on Coinage, Weights, and Measures seemed to have been convinced, because they reported favorably a bill providing for the establishment of an additional mint at Seattle. The argument was that the Government would save a large amount in transportation; that it costs practically $2 per thousand to transport gold or bullion to and from the mints where it is coined. Now, I apprehend that gold and silver are a good deal like wheelbarrows—that they go where there is a demand for them—and that there is very little in this question of transportation. It costs as much in this case to transport the coin as it does to transport the bullion, and, I take it, practically as much to transport the bullion as it does to transport the coin; but I am getting away from the question. The question is simply this: Should this mint be kept running the whole year through, or should it be stopped after the expiration of six months? The Director of the Mint believes it should be kept running the entire year, and why? One of the reasons he gives is this: You have a large force of skilled men there, employed in coining the gold and silver. If you stop that mint, you scatter your men, you lose them, and when you start your mint again you have got to start with an inferior force; you have got to go to the trouble of collecting your men and organizing them anew each year. And, further, when the mint lies idle a part of the time, your machinery deteriorates; so, on the whole, he believes it to be economy and a wise proposition to keep this mint running throughout the year. That is all I have to say with reference to this question.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. GROSVENOR having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had agreed to the amendments of the House of Representatives to the bills of the following titles:

S. 5204. An act to authorize the construction of a bridge or bridges across the Yellowstone River in Montana; and

S. 5211. An act to authorize the construction of a bridge across the Snake River, at or near Lewiston, Idaho.

The message also announced that the Senate had passed bills of the following titles; in which the concurrence of the House of Representatives was requested:

S. 4825. An act to provide for the construction of a bridge across Rainey River, in the State of Minnesota; and

S. 536. An act amending the act of August 3, 1892, chapter 361, entitled "An act fixing the fees of jurors and witnesses in the United States courts in certain States and Territories" (27 Stat. L., p. 347).

The message also announced that the Vice-President appointed Mr. BACON as one of the conferees on the bill (S. 1345) to provide for the reorganization of the consular service of the United States, in place of Mr. MORGAN, excused from further service, on his own request.

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

The committee resumed its session.

Mr. SIBLEY. Mr. Chairman——

The CHAIRMAN. The gentleman from Colorado [Mr. HOGG] is entitled to the floor for three minutes.

Mr. HOGG. Mr. Chairman, and gentlemen of the committee, it is not my purpose to take any considerable time in discussing this question. I have been very much interested in the plea that has been made here for Philadelphia. I understand that one of the principal reasons given why this should be done is that the mint should be where the money is to be distributed. Now, I can well conceive, from the investigations that are going on, why in that view of the case Philadelphia should need a mint. [Laughter.] And also why our friends from New York are so anxious to have a Government mint where the money may be distributed. But I am quite sure that after these investigations are concluded there will not be so much necessity for the distribution of money there. [Laughter.] But I am inclined to think that all this difficulty that we are now experiencing as to the Denver and the Philadelphia mint, is hardly a proper subject for discussion in connection with this question. There is only one thing to determine. The Government has seen fit to establish this mint at Denver. It has paid out a million and a quarter of dollars for that purpose. Now, the only question left is, Shall the mint be operated? If so, how much money will it take to operate that mint?

I have a list of these statements as to the different estimates. There is only one question left untouched, I think, and that is as to the monthly pay roll that is necessary to run the mint as it is being run at the present time. I have a statement here from the melter of the mint, who states that the present pay roll is in excess of $10,000 a month. That will be required to carry on the operations of the mint under the present force, and with the increased activity of the mint additional employees will have to be used. Ten thousand dollars a month would be $120,000 a year. This committee has seen fit in their wisdom to allow $75,000 for the purpose of carrying on the business of that mint. I do not think this is a matter, gentlemen, that ought to be determined by locality. I think, as my friend has stated, this mint ought to be operated, being placed as it is, in the region where gold is produced, where a saving can be made to the Government as to transportation.

Mr. SIBLEY. Mr. Chairman——

The CHAIRMAN. The Chair will state that the gentleman from Ohio, being on his feet, asked for five minutes and the gentleman from Colorado three minutes. The gentleman from New York moved, and the committee agreed to the motion, that debate close at the end of eight minutes.

Mr. LITTAUER. Mr. Chairman, I ask unanimous consent that the gentleman from Pennsylvania be allowed to continue for five minutes.

The CHAIRMAN. The gentleman from New York asks unanimous consent that the gentleman from Pennsylvania be allowed five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. SHACKLEFORD. Mr. Chairman, are we proceeding by unanimous consent?

The CHAIRMAN. Under the motion which was to close debate the debate was exhausted, and the gentleman from New York has asked unanimous consent that the gentleman from Pennsylvania may be allowed five minutes.

Mr. SIBLEY. Mr. Chairman, it is unfortunate that the question of locality should have entered into the issue to any extent. It seems to me the question should be this: Are the facilities already existing, whether it be at San Francisco, Philadelphia, New Orleans, or Denver, adequate to all the necessities of the Government in the way of coinage? It is held by the Director of the Mint that Philadelphia is already equipped, that it has the perfected machinery, it has a trained corps of experts, and that there is not enough business to keep the labor of the Philadelphia mint employed.

Colorado is singularly fortunate in having as its Representatives a solid delegation that perhaps is unrivaled by any sister Commonwealth. If there are three stronger men from any one State where there are but three Representatives from that State, I have never seen them. [Laughter.] Their persuasive eloquence was such the other day that they took away from Philadelphia the coinage of subsidiary coin, duplicating machinery, entailing expense for other facilities at a cost more than ample for the coinage, more than ample for all the subsidiary minor coin of the country; and yet, my friends from Colorado became so eloquent, their powers of persuasion were such that when it came to a vote there were only three Members of the whole House who voted against it. We from Pennsylvania did not dare to stand up against their persuasive eloquence.

Mr. BONYNGE. If the gentleman will allow me, I want to say that the gentleman is mistaken in saying that we took away the coinage of subsidiary coin.

Mr. SIBLEY. Well, minor coinage.

Mr. BONYNGE. Neither did we take away the coinage of the minor coin from Philadelphia; we simply amended the law so that we might take away some of the minor coin from Philadelphia, some of the pennies and nickels, and coin them at Denver, while they might coin some at Philadelphia.

Mr. SIBLEY. That is merely duplicating. My friend from Colorado is an example of what I was saying about persuasiveness of the Members from Colorado. We recognize Denver as a beautiful city, none more beautiful. It has as many fine homes as any city on this continent. I am sure that our regard for the Representatives from that State is such that it would lead us to expend some considerable portion of the Government's revenues in the duplication of machinery and processes already more than adequate and more than ample for the purpose of the coinage of the United States. Therefore, if I vote against this amendment this time, it will be because I have recovered from the eloquence with which the gentlemen stampeded this House on a recent occasion, when they took the subsidiary coinage, or that portion of it which they will have, from Philadelphia, under the measure which passed this House. I believe the committee has fairly considered this, and I hope the House will stand by the action of the committee.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Colorado.

Mr. GILBERT of Kentucky. Mr. Chairman, I ask unanimous consent that the amendment may be again reported.

The CHAIRMAN. Without objection, the Clerk will again report the amendment.

The Clerk read the amendment.

The question was taken; and on a division (demanded by Mr. LITTAUER) there were—ayes 86, noes 56.

Mr. SIBLEY. I demand tellers, Mr. Chairman.

Tellers were ordered; and the Chair appointed as tellers the gentleman from Colorado [Mr. BROOKS] and the gentleman from New York [Mr. LITTAUER].

The House again divided; and the tellers reported that there were—ayes 82, noes 61.

So the amendment was agreed to.

The Clerk read as follows:

For incidental and contingent expenses, including melter and refiner's salaries and loss on sale of sweeps arising from the manufacture of bullion for coinage and wastage and loss on sale of coiner's sweeps, $50,000.

Mr. BONYNGE. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

In line 12, page 69, strike out the word "thirty" and insert in lieu thereof the word "fifty."

Mr. LITTAUER. Mr. Chairman, I will state that that is a necessary amendment in order to take care of the expenses that the increased amount for wages and workmen will produce.

The CHAIRMAN. The question is on the amendment.

The question was taken; and the amendment was agreed to.

The Clerk read as follows:

Mint at New Orleans, La.: For superintendent, $3,500; assayer, melter and refiner, and coiner, at $2,500 each; assistant assayer, assistant melter and refiner, and assistant coiner, at $1,900 each; chief clerk and cashier, at $2,000 each; bookkeeper, $1,600; assistant cashier, $1,200; private secretary to superintendent, $900; one clerk, $1,200; one messenger, $900; one elevator conductor, $800; in all, $27,300.

Mr. SOUTHARD. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Page 69, strike out line 13 and all following, down to and including the word "dollars," in line 5, page 70, and in lieu thereof substitute the following:

"Mint at New Orleans, to be hereafter conducted as an assay office: For assayer in charge, $3,000; assistant assayer, $1,500; one clerk, $1,000; in all, $5,500.

"For wages of workmen and watchmen, $7,500; for contingent expenses, $3,000."

Mr. CRUMPACKER. Mr. Chairman, I reserve the point of order to that amendment until it is explained.

The CHAIRMAN. The Chair will call the attention of the gentleman from Ohio to the fact that his amendment is to strike out two paragraphs which have not yet been read. The gentleman can move to strike out one paragraph, which has already been read, and give notice that he will move to strike out the other.

Mr. SOUTHARD. Mr. Chairman, the purpose of this amendment is to strike out that portion of the bill described in the amendment and yet to preserve——

The CHAIRMAN. The Chair understands the gentleman from Indiana to reserve the point of order?

Mr. CRUMPACKER. Yes.

Mr. SOUTHARD. And yet to preserve the situation there as an assay office. It is possible that there would be some work for an assay office at New Orleans. There is very little to commend it as a mint. The earnings of the institution last year, by recollection is, were something like $2,000, and the total coinage of the mint amounted to something over $2,000,000. The appropriation for the maintenance of this mint year after year has been about $90,000 for this small amount of coinage. Year after year the Secretary of the Treasury and the Director of the Mint have recommended the discontinuance of the mint operations at New Orleans until, evidently tired and weary, they have ceased to mention it altogether.

Mr. LITTAUER. The gentleman is aware that the provision for a mint at New Orleans went out two years ago in the House.

Mr. SOUTHARD. I was about to call attention to that. Two years ago the legislative appropriation bill contained three paragraphs, a copy of which is embodied in this amendment which I have just sent to the Clerk's desk. This was contained in the legislative appropriation bill of two years ago, and my recollection is that the provision remained in the bill, went to the Senate, and was stricken out in the Senate, and the old provision continuing the mint was restored to the bill. So that there may be no misunderstanding about it, I will read that provision from the bill of two years ago:

"Mint at New Orleans, to be hereafter conducted as an assay office: For assayer in charge, $3,000; assistant assayer, $1,500; one clerk, $1,000; in all, $5,500.

"For wages of workmen and watchmen, $7,500; for contingent expenses, $3,000.

The report of the Director of the Mint for the year 1905 shows that the standard weight and value of gold and silver coin deposited at New Orleans, La., during the fiscal year 1905 was $1,725,000. There were purchased over the counter eight hundred and forty-six and a fraction standard ounces of uncurrent domestic gold coin; in all, valued at about $15,000. Now, I submit, Mr. Chairman, that it is not economy, it is not good business, it is contrary to the recommendation of the Secretary of the Treasury and to the recommendations of the Director of the Mint, and contrary to good business judgment, to maintain a mint at New Orleans.

Mr. LITTAUER. Mr. Chairman, I would like to ask the gentleman a question. He says it is contrary to the recommendations of the Secretary of the Treasury.

Mr. SOUTHARD. I say the director of the mint, and, if I am properly advised, the Secretaries of the Treasury, time and again have recommended the discontinuance of mint operations at New Orleans.

Mr. LITTAUER. I can give the gentleman just an absolute fact, and that is that when this item was so amended in the bill that passed this House as to make provision for an assay office instead of a mint it went over to the Senate, and while under consideration there the Secretary of the Treasury recommended to me, one of the conferees, that it be continued as a mint.

Mr. SOUTHARD. I will say my recollection is that before the Committee on Coinage, Weights, and Measures the director of the mint has stated time and again that it was not profitable, and that, in his judgment, it would be advisable to discontinue the mint at New Orleans. Now, I will not say that I have had any direct communication with the Secretary of the Treasury in reference to it, but the argument has been that we have a superfluity of mints; that we have more mints than we ought to continue in operation. If that is so, here is a mint that is being conducted at a loss, at an extravagant expenditure, considering the amount of work done.

Mr. CRUMPACKER. Mr. Chairman, I have no special interest in the mint at New Orleans, but from what is said by the gentleman from New York who has charge of this bill, if the mint should be, by action of the House, converted into an assay office, it would in all probability be restored at the other end of the Capitol, and I feel this way about it, that it is, perhaps, a matter of too much importance to be taken up and disposed of under the five-minute rule in the Committee of the Whole. The Committee on Appropriations, having investigated this question exhaustively, and, of course, having before it the history of the mint at New Orleans, reports the appropriation for it and makes no recommendation for its discontinuance or conversion into an assay office, although the bill contains numerous items of new legislation. Therefore, Mr. Chairman, I shall insist upon the point of order and I think it is well taken, because the amendment expressly provides for the conversion of the mint into an assay office. It provides for a superintendent of the assay office at an increased salary, etc.

Mr. SOUTHARD. Mr. Chairman, I desire to be heard upon the point of order.

Mr. GAINES of Tennessee. Mr. Chairman, I desire to be heard.

The CHAIRMAN. Does the gentleman from Ohio desire to be heard upon the point of order?

Mr. SOUTHARD. Yes. The employees are precisely the employees as those mentioned in the present bill. Their salaries are not increased—perhaps I am wrong about that. The amendment simply reduces expenditures, it may change the name in the bill of an employee, but it is simply reducing the amount appropriated and does not necessarily change existing law. The effect of it would not be to change existing law.

Mr. CRUMPACKER. Let me ask the gentleman——

Mr. SOUTHARD. The effect would be simply to reduce the amount of appropriation by reducing the number of employees without changing their salary.

Mr. CRUMPACKER. Now, a suggestion, if the gentleman pleases. The bill provides for a superintendent at the mint at New Orleans, La., at $3,500?

Mr. SOUTHARD. Yes.

Mr. CRUMPACKER. And the amendment provides for a superintendent of assay office, I believe, at $3,500?

Mr. SOUTHARD. For an assayer in charge.

Mr. CRUMPACKER. At $3,500. That is a new office altogether. The law says that the superintendent of the mint shall be entitled to a salary of $3,500 a year, but now it is proposed to create another office with different duties and functions—that is, an assayer in charge, and provide that he shall be paid $3,500 a year for different duties, different responsibilities, and different functions. I think there can be no doubt it is a change of existing law.

The CHAIRMAN. The Chair is ready to rule. The Chair will state to the gentleman from Ohio that he will have to move

to modify his amendment so as to confine the striking out to the paragraph which has been read, which embraces the part between lines 15 and 24, inclusive, on page 69. The gentleman can give notice that if his amendment shall be adopted he will move to strike out the other two paragraphs.

Mr. SOUTHARD. Very well.

The CHAIRMAN. The Chair understands the amendment to be so modified, and without objection it will be so considered. The paragraph proposed to be amended appropriates for the mint at New Orleans and for a superintendent of the mint and for refiners, coiners, etc. The amendment provides that the mint at New Orleans shall be hereafter conducted as an assay office. That seems to the Chair to change the purpose of the establishment at New Orleans as now defined by law. The proposed amendment then provides, not for a superintendent of the mint, but for an assayer in charge, a different office, the salary being the same, possibly the person filling the office being the same, but apparently an office and a title different from anything known to the existing law governing this mint. It seems to the Chair that this is a change of existing law upon an appropriation bill, in violation of clause 2 of Rule XXI, and that the point of order must be sustained.

The Clerk read as follows:

For wages of workmen and adjusters, and not exceeding $10,920 for other clerks and employees, $42,800.

Mr. SOUTHARD. Mr. Chairman, I move to strike out the paragraph.

The CHAIRMAN. The gentleman from Ohio moves to strike out the paragraph. Does the gentleman desire to be heard?

Mr. SOUTHARD. For just a moment. It seems to me that the location of this mint, the cost of its maintenance, the fact that no gold and silver is actually tributary to New Orleans except, as I understand it, a little which comes from Central America, and the fact that its discontinuance has been recommended by those who are best able to judge of its value as a mint, ought to induce us to cut out these expenditures and save a good portion of this $90,000 per annum which it costs to maintain it. I am advised that most of the metal which is coined into money is shipped from localities at the expense of the Government from the localities where it is produced to the city of New Orleans for coinage; that this expense, as I have already said, is borne by the Government; that its operations are unduly and unnecessarily expensive, when this same work can be carried on at the other mints at greatly reduced cost. Now, we have been talking a great deal about reducing expenses. Here is an opportunity to reduce expenses, to economize, and I want to see how many Members present are ready to vote to economize when they have a real opportunity.

Mr. LITTAUER. Mr. Chairman, if the amendment of the gentleman from Ohio should prevail, the mint at New Orleans would be discontinued, nor would there be any assay office there. The amendment would entirely do away with this establishment. Now, I agree with him that the mint at New Orleans is an extravagance, but no more so than the mint at Denver. The mint at New Orleans is not needed; the mint at Denver never was needed, and never ought to have been constructed if simply economical interests were considered.

Mr. SOUTHARD. We have a mint at Denver.

Mr. LITTAUER. We have a mint at Denver and we have a mint at New Orleans. I do not see why we should not give a little gratuity, so to speak, to one section of the country as well as to the other. I believe an assay office ought to be at New Orleans. I believe, Mr. Chairman, that that section of the country should be served as well as the section about St. Louis, where there is also an assay office.

Mr. SOUTHARD. Will the gentleman allow me to ask him a question?

Mr. LITTAUER. Yes.

Mr. SOUTHARD. Is not the percentage of cost as compared with the product at New Orleans out of all proportion when compared to any other mint?

Mr. LITTAUER. I used to think so; but the little examination I have given to this subject this year makes me feel to the contrary. We found at New Orleans this year there were 4,088,000 pieces coined, at a total expense of $80,000, and at San Francisco there were 26,450,000 pieces coined, at an expense of $402,000. So that the difference is not a great amount in the actual proportionate cost. There are incidental expenses, however, in connection with the New Orleans mint, in shipping bullion there to be coined and shipping the coins back again, just as I believe there are expenses in connection with the Denver mint. But it seems to me that we must have, or we ought to have, an assay office at New Orleans, and that we should not cut this matter out entirely. With the opening of the Panama Canal at some future day, we may then be receiving a larger amount of silver and perhaps gold than now comes to New Orleans.

Mr. SOUTHARD. I will call the attention of the gentleman to the fact that we already have an assay office at St. Louis, which is running, as I understand, at an actual loss.

Mr. LITTAUER. We have a number of assay offices running at an actual loss, and they ought to be cut out just as much as this St. Louis office.

Mr. SOUTHARD. That negatives the necessity for so many assay offices as we now have.

Mr. LITTAUER. And the original necessity of as many mints as we now have. We could cut out the one the gentleman supported a minute ago as well as we could leave out this one.

Mr. SOUTHARD. Does not that rather negative the gentleman's statement that we ought to have an assay office at New Orleans?

Mr. LITTAUER. No; I think the amount of bullion coming in from Mexico and coming in from South America by the shipping that finds its port at New Orleans demands an assay office there.

Mr. SOUTHARD. For the operating and refining the charges amount to only about $2,000 at St. Louis.

Mr. LITTAUER. It shows that there is not a great amount of work there.

Mr. GAINES of Tennessee. Mr. Chairman, the same argument I made a few minutes ago as to the Denver and San Francisco mints applies with equal force to the New Orleans mint. I have no interest in any one of these mints, save that any private citizen should have, except as my duty here as a Member of Congress. I think I alluded to New Orleans in the course of what I said as to the other two mints.

For nine years the gentleman from Ohio [Mr. SOUTHARD] knows that some one has been trying to destroy by *strangulation—withholding appropriations*—the New Orleans mint. The gentleman from Ohio says that the Director of the Mint has time and again recommended the discontinuance of this mint at New Orleans. The gentleman from Ohio has been chairman of the Coinage Committee, that has that matter in charge, for nine years, and yet no sort of a bill has ever been reported to this House to repeal the law that established the New Orleans mint. Not one. That would have been the regular and proper way to discontinue this mint. During this entire session of Congress the gentleman from Ohio [Mr. SOUTHARD] has been trying to foist upon the American people the metric system, which would cost the manufacturers and people of this country untold millions and cause them great financial distress.

Instead of following the recommendation of the Director of the Mint on the New Orleans mint, the gentleman has spent his time and that of his committee in this metric matter, which no Director of the Mint has ever recommended to Congress, and no one wants but a few interested, harping theorists. The gentleman has neglected the recommendation of the Director of the Mint to close the New Orleans mint. He has neglected his duty as the chairman of that great committee in that respect, and now he comes here and makes an attack on the New Orleans mint, in the face of the fact that the gentleman knows that this House and the Senate and the President of the United States have approved appropriations time and again for the continuation of that mint, and in spite of the fact that he knows that the Republican party and the Democratic party and the Republican President, and the great Secretary of War are trying to open up a "ditch" down here across the Isthmus of Panama which will make it absolutely necessary for us to keep this mint in operation at New Orleans.

Mr. SOUTHARD. Where is the bill to which the gentleman refers?

Mr. GAINES of Tennessee. The New Orleans mint is what you are trying to strike out of this bill. Why didn't you strike out the "mint at Carson City, Nev.?"

Mr. SOUTHARD. I thought the gentleman referred to some other bill.

Mr. GAINES of Tennessee. The gentleman refused to strike out of this bill the item "Mint at Carson, Nev.," yet he jumps on the mint at New Orleans with all his might, and tries to smother it by taking this money away from it. Mr. Chairman, if the New Orleans mint was ever a necessity (and the gentleman knows the Republican and Democratic parties have perpetuated it) *it certainly is a necessity now that we are building the Panama Canal*, and the gentleman from New York [Mr. LITTAUER] said only a moment ago we will need this mint at New Orleans. Only a few minutes ago the gentleman from Georgia [Mr. HOWARD] said to me that his banks were now complaining about having to pay freight on silver dollars. So are mine.

Mr. SOUTHARD. Will the gentleman yield?

Mr. GAINES of Tennessee. Please excuse me a moment. I will ask the committee to give you time.

The CHAIRMAN. The gentleman declines to yield.

Mr. GAINES of Tennessee. Do not interrupt me, please.

Mr. SOUTHARD. Does not the gentleman know that there are no mint operations carried on at Carson?

Mr. GAINES of Tennessee. Then, why don't you strike out the words "mint at Carson, Nev.?" It has misled me. The gentleman swells at a gnat and swallows a giraffe.

Now, Mr. Chairman, only a few days ago, in the so-called "wisdom" of this committee, they put the onus on the banks to pay the transportation charges on silver coin sent out through the country. The banks all over the country are complaining. I opposed this change, and have for nine years done so. Is it not the height of wisdom to relieve the banks and the people of the burden of having to pay the transportation charges on that money by having as many mints as we can, of course economically operated and *wisely located and administered*, to lessen the oppressive rates of the express companies? With the law repealed which provided for the free transportation of the silver dollars and small coins the gentleman now wants to smother the mint at New Orleans that is to supply the South and Southwest and our Panama demand; yet I understand he voted a few moments ago to continue the mint at Denver. So did I. A healthy public policy demands that that mint at San Francisco should be maintained, and if that is so, then certainly we ought to continue this mint at New Orleans, at the very head of the Panama Canal, where the Government will send its money by the shipload, practically, for years to come—yea, long after we have erected a shaft almost as high as the clouds and as white as alabaster in memory of the impartial and distinguished Chairman of the committee, who stands smiling, with gavel in hand, ready to call me down.

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

Mr. MEYER. Mr. Chairman, the proposition of the gentleman from Ohio [Mr. SOUTHARD] to strike out the paragraph providing appropriation for the New Orleans mint and to reduce that establishment to a mere assay office is by no means a new one. Similar motions have been made time and again on the floor of this House. Yet in every Congress since I have had the honor to be here they have been rejected, and when on one occasion this House refused to do so, the Senate restored the provision and it was accepted here. It is true that since the final coinage of the bullion purchased under the Sherman law the work of that mint has diminished considerably, yet a great deal has been done, as the report will show. A great deal of bullion comes to that mint from some of the Central and South American States, from Mexico, and elsewhere, and as it is the only mint in the South affording facilities to its tributaries, the purpose of the Appropriations Committee in incorporating it in this bill ought to be sustained. I see no reason why the magnificent machinery which has been installed there, and which does its work more cheaply, I have no hesitation in asserting, than almost any other mint in this country, should not be operated.

The silver and gold from this mint at New Orleans can be distributed at a much cheaper cost than any other mint in this country. At present, while the operations may not be as extensive or as large as in some other mints, I think it is due to the South and that section of the country to maintain the only establishment of the kind that they have. The same arguments that have been made here to-day have been made ever since I have been in Congress and in the years prior to it.

This mint was established in 1835, and since that period, with few intermissions, has usefully contributed to the coinage of our metallic money.

Mr. SOUTHARD. Will the gentleman yield?

Mr. MEYER. Certainly.

Mr. SOUTHARD. If we have a superfluity of mints, how long would the gentleman think we ought to maintain a mint which employs fifty-one people, which earns only about $2,000, and the total coinage of which only amounts to about $2,000,000 a year?

Mr. MEYER. I do not think these figures apply to the establishment in question—its work during the past few years shows a far greater aggregate than this. Further, I beg to call the gentleman's attention to his own bill and report in which he recommends this mint as one of those to coin the subsidiary coins and nickels—how can this be done if abolished?

Indeed, in my judgment, we ought to maintain such a mint as long as there is any work for it to do. Some years perhaps, it may not be as remunerative as others. As has been said by the gentleman who preceded me, the completion of the construction of the Panama Canal will place us in closer intercourse with the Central American states, and in many of these our citizens have been given mining concessions, and in a short time they expect to produce a large quantity of gold and silver, which will most readily find its way to the Gulf cities.

Mr. SOUTHARD. Is it not a fact that the most of the metal required to keep it running is shipped from Omaha, or from up in that locality, at the expense of the Government?

Mr. MEYER. The trade with the South American republics, with the West Indies, and above all with Mexico, is to us a matter of gravest consequence. New Orleans is the nearest large city to grasp this trade. Her connections by rail and steamer, both inland and with the countries lying south of her, are superior. The influx of the precious metals from these countries should be encouraged, and in answer to the gentleman's question I will say I find that the greater part of the metal used has been shipped to the New Orleans mint from Colombia, Honduras, Nicaragua, and some other South American states during the last year. It is quite likely that the volume of that will increase.

Now, it has been stated with some force and truth that we could do all the coinage required at this time in fewer mints. That may be true. The mint in Philadelphia might be able, perhaps, to do it all for the present year, possibly for some years to come; but that is no good reason why the mints at San Francisco, Denver, and New Orleans should be abolished and all the work concentrated at that one place. It is not consistent with the policy which we should pursue in this country, and I submit, Mr. Chairman, that it would be unfair and unpatriotic to abolish this institution when there are others that are just as little needed that are to be continued.

Indeed, if we had no mint at New Orleans, it would be our duty to establish one capable of meeting all the wants for a commerce which is growing daily to a degree surpassing every other nation.

To sum up briefly, I urge the reasons why the New Orleans mint should be maintained to be—

First. It is the only mint south of Mason and Dixon's line.

Second. It is a distributing point for the South and Southwest by numerous railroads and a grand water system, and distributed at a smaller cost to the Government than any other.

Third. Its workmanship compares favorably with the other mints, and its coinage is as economical, and frequently more so.

Fourth. It is central to a large silver-using section of the Union.

Fifth. The building and square of ground were a donation from the city of New Orleans to the General Government, to be used as a mint, and as such has been regarded for over seventy years as a fixed public institution.

Sixth. With the enactment into law of the bill introduced and favorably reported by the gentleman from Ohio [Mr. SOUTHARD], chairman of the Committee on Coinage, Weights, and Measures, authorizing the coinage of subsidiary coins and nickels by this mint, it operations will necessarily be much enlarged and demonstrate again its usefulness as a permanent institution. [Applause.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

For incidental and contingent expenses, including new machinery and repairs, expenses annual assay commission, melters' and refiners' wastage, and loss on sale of sweeps arising from the manufacture of ingots for coinage, and wastage and loss on sale of coiners' sweeps, and purchase not exceeding $500 in value of specimen coins and ores for the cabinet of the mint, $75,000.

Mr. JOHNSON. Mr. Chairman, I move to strike out the last word. I would like to inquire of the gentleman having the bill in charge if the Committee on Appropriations did not go carefully into the question of the amount necessary to be appropriated to carry on the mints of the country?

Mr. LITTAUER. We certainly did.

Mr. JOHNSON. Then does not the gentleman think that inasmuch as the amount provided in this bill for Denver has been increased by $75,000 it would be proper to reduce the amount for Philadelphia by $75,000?

Mr. LITTAUER. I do not, and for this reason: I believe it should be left with the Director of the Mint to spend the money for wages for workmen carrying on the coinage where he believes it can be done at the best advantage. I do not believe there will be in the year 1906-7 enough work to take up more than two-thirds of the amount appropriated.

Mr. JOHNSON. This money is appropriated in a lump sum?

Mr. LITTAUER. A lump sum to be paid out for work actually performed for per diem wages.

Mr. JOHNSON. And if they have not work enough to use up the money, the unused fund will lapse into the Treasury?

Mr. LITTAUER. It will lapse back into the Treasury.

Mr. JOHNSON. Mr. Chairman, I withdraw the pro forma amendment.

The Clerk read as follows:

For wages of workmen and adjusters, and not exceeding $57,500 for other clerks and employees, $150,000.

Mr. HAYES. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Page 71, line 16, strike out the words "thirty-seven" and "five hundred" and insert in lieu thereof, before the word "thousand," the word "forty."

In line 17 strike out the word "fifty" and insert in lieu thereof the word "sixty-five."

Mr. HAYES. Mr. Chairman, I desire only to say that the committee has seen fit in this item to cut down the estimates for the mint in San Francisco $15,000 for adjusters, coiners, and workmen. I just desire to call the attention of the committee to the fact that no cut has been made in the estimate of the coiners, adjusters, and workmen for the mint at Philadelphia. Yet the gentleman from Pennsylvania, a day or two ago, admitted that the mint in Philadelphia was not running. The mint in San Francisco is running and has plenty of bullion to run on during the whole of the year, and I hope that the committee will amend this bill in accordance with the amendments I have offered, so as to meet the estimates of the Director of the Mint.

Mr. LITTAUER. Mr. Chairman, the amendments offered by the gentleman from California [Mr. HAYES] are in accordance with the estimate by the Director of the Mint for provision for the coming year. The appropriation for the current year was $10,000 more than the gentleman proposes in his amendment. The appropriation for the mint at Philadelphia was reduced from $450,000 to $400,000, and in addition thereto we were advised that during the present year, when $450,000 was allowed for Philadelphia, the workmen had to be laid off for two months. With an appropriation of $400,000 they probably would have to be laid off three months. We felt, under such circumstances at Philadelphia, that there should be a proper reduction also at San Francisco and at Denver. We felt that the reduction of the estimates from $175,000 to $165,000 was hardly a proper proportion and recommended a sum that we felt was liberal and fair and a sum that we believe as large or even larger than could be expended for the coinage that would take place during the coming year.

Mr. KAHN. Mr. Chairman, the Book of Estimates shows that the estimate for the Philadelphia mint for this year was $400,000.

Mr. LITTAUER. That is for next year.

Mr. KAHN. And that the appropriation for last year, closing with the 30th of June of this year, was $450,000. In other words, the Director of the Mint estimates that $400,000 would be required this year, and the committee in the bill appropriated the $400,000. In a speech in this House a few days ago the gentleman from Pennsylvania, in speaking of the Philadelphia mint, admitted they were not working there with a full force of men, admitted that they had practically nothing to do. The mint in San Francisco is not in that condition. The mint at San Francisco is running with a full force of men.

Mr. LITTAUER. Why is it not in that condition?

Mr. KAHN. Because they have the gold bullion there to coin.

Mr. LITTAUER. That gold bullion can be sent to Philadelphia just as well as it can be used in San Francisco. Operations are going on at San Francisco simply because the Director of the Mint declares such should be the case.

Mr. KAHN. Not at all. San Francisco is closer to the Alaskan gold fields and to the gold fields of the world, and the gold naturally drifts to San Francisco.

Mr. LITTAUER. Oh, it does not have to be coined there.

Mr. KAHN. It should be, because it is closer. Otherwise it probably would go into other countries altogether. It might be sent into Canada and sent across the country and coined in London.

Mr. LITTAUER. You could ship the bullion east just as well as you could ship the coin east.

Mr. KAHN. That would be an expense to the producer of the bullion.

Mr. LITTAUER. Not at all; the Government pays that expense.

Mr. KAHN. I do not so understand it at all.

Mr. LITTAUER. And I am positive of the fact.

Mr. KAHN. Nevertheless the committee has not seen fit to reduce the estimates in Philadelphia, and it has seen fit to reduce them in San Francisco. There is no reason for the reduction of the estimates in San Francisco, and I hope the amendments will pass.

The CHAIRMAN. Without objection, the amendments offered by the gentleman from California will be considered [After a pause.] The Chair hears no objection. The question is on agreeing to the amendments.

The question was taken; and on a division (demanded by Mr. KAHN) there were—ayes 24, noes 44.

So the amendment was rejected.

The Clerk read as follows:

Assay office at Helena, Mont.: For assayer in charge, $2,250; melter, clerk, $1,800; clerk, $1,400; in all, $5,450.

Mr. JOHNSON. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. JOHNSON. To offer an amendment to that paragraph. I move to strike out, in lines 24 and 25, page 72, the words "for assayer in charge, $2,250."

The CHAIRMAN. Does the gentleman desire to be heard on the amendment?

Mr. JOHNSON. Yes. I see in the evidence taken before the Committee on Appropriations that the so-called "assayer" is not in fact an assayer.

Mr. TAWNEY. Is not that the evidence with reference to Boise, Idaho? Is the gentleman not mistaken in the place?

Mr. JOHNSON. No. That testimony came out in the Boise case, but the appropriation bill has dropped the assayer at that office. This is the first assay office where the assayer has been provided for. The testimony of the Director of the Mint is to the effect that the chief clerk was really the man in charge, the responsible man, the man who really was the assayer. He says that the person who wears that title is appointed by the President, and is such gentleman as some Representative or Senator may want to provide a position for.

In other words, the so-called assayer is an ornamental gentleman who does not do any assaying, but his subordinate, chief clerk, or assistant, by whatever title he is called, is the man who does the work. I see the Committee on Appropriations very wisely at these other assay offices which we have just passed have provided that the chief clerk or assistant assayer shall be a melter and the man in charge. In other words, you have dispensed with the office of the assayer, as such, at all these other offices.

Mr. LITTAUER. I hardly think that part of the gentleman's statement is correct. There is an assayer at Charlotte, N. C.——

Mr. JOHNSON. He is something else. He is an assayer and melter. In other words, he is the first man and the second man, too. If you had provided an assayer simply the second man there would have been called a melter; but you make one man fill both places. This is the first place that the committee have provided for an assayer simply and the Director of the Mint states, on page 305 of the testimony, that these men are merely ornamental gentlemen appointed at the instance of some Representative or Senator, and that the next man below them really does the work.

Mr. LITTAUER. And that was a general remark that applied to all these assay offices.

Mr. JOHNSON. I think so.

Mr. LITTAUER. But the gentleman is mistaken, I think, in one statement, and that is this: Where there are other duties in connection such duties may call for a practical man. Now, then, look at the item for assay office at Boise, Idaho. For assayer, who shall also perform the duties of melter, $2,000. Now, that individual was the very one toward whom the remarks of the Director of the Mint were directed, to that very individual who also performs the duties of melter.

Mr. JOHNSON. I understand; but if the gentleman please, the Director of the Mint makes a statement on page 305 which bears out my statement. It is true that you were interrogating him about that particular office.

Mr. LITTAUER. And the particular man.

Mr. JOHNSON. But he stated the broad proposition that the men who wore the title not only at that office, but at all of them, were simply ornamental gentlemen, or language to that effect.

Mr. LITTAUER. I suppose it applied to every assay office where the head man is not a practical working assayer, but the second or third official, considered by the amount of compensation paid; but the head of the establishment is the responsible man. He, I believe, is a Presidential appointee, and he is responsible for whatever takes place there even though his title be a wrong one.

Mr. JOHNSON. I want to ask the gentleman a question.

Mr. LITTAUER. Yes.

Mr. JOHNSON. Have you not met the difficulty at these other assay offices by simply making the head man a melter?

Mr. LITTAUER. No; that does not change the status of matters at all. That man called an "assayer," who shall also perform the duties of melter, I do not believe performs any such work as head of the institution, because you will bear in mind that all these other assay offices, beginning with Boise, Idaho, which has an assayer who shall perform the duties of melter; next at Charlotte, N. C., assayer and melter; next at Deadwood, assayer in charge, who shall perform the duties of melter; next at Helena, assayer in charge; but the remark of the Director of the Mint, referred to by the gentleman from South Carolina, on page 305, contains this: "The man who wears the title of assayer is not the assayer in any of these offices." This is plural and covers all offices to which I referred. Well, it seems that Helena is the only place where this assayer, or the man who carries the title of assayer, has not some other duty to perform, according to the designation of the statute.

Mr. JOHNSON. Well, then, as a matter of fact——

The CHAIRMAN. The time of the gentleman from South Carolina has expired.

Mr. JOHNSON. Mr. Chairman, I would like to have a minute more, because this is a business proposition.

The CHAIRMAN. The gentleman from South Carolina asks unanimous consent to continue his remarks for five minutes.

Mr. LITTAUER. I would ask unanimous consent, Mr. Chairman, that the debate on this paragraph end in five minutes.

The CHAIRMAN. The gentleman from New York asks unanimous consent that debate be concluded on this paragraph in five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. JOHNSON. I want to ask the gentleman from New York a question before he takes his seat. Is not the man who is designated as chief clerk, on page 73, the man who does the work at that Helena office?

Mr. LITTAUER. I think that is so, but they have a chief clerk and clerk at Deadwood, just the same as the assistant assayer at Charlotte, N. C., where the smallest business of any assay office is carried and which has the same employees as Boise and all these places. The head of the office does not do the work.

Mr. JOHNSON. Does not the gentleman think it is time for us to knock out some of these useless officers?

Mr. LITTAUER. The question is whether they are useless. They are the responsible heads, and if we take out one we ought to take them all out.

Mr. JOHNSON. It seems to me that we ought to make the man who has some work to perform the responsible head.

Mr. LITTAUER. It is about the same way where any Government work is carried on; it seems to be administered as economically as any of these offices.

Mr. JOHNSON. The Director of the Mint shows very clearly that these gentlemen have not much to do.

Mr. LITTAUER. But they do more business at the Helena office than either the Deadwood or other offices.

Mr. DIXON of Montana. I would like to ask the gentleman why he moves to strike out the Helena office and not apply it to the smaller offices.

Mr. JOHNSON. I made the motion at the first office that provided an assayer, because the testimony went to show that the men who wear that title do no work.

Mr. DIXON of Montana. But the gentleman will remember that the Helena, Mont., office is probably the second largest office in the United States. Nearly $5,000,000 in gold went to that assay office in the last year, besides a large quantity of the gold coming in from the Klondike.

Mr. LITTAUER. About twenty times as much as the Charlotte, N. C., assay office.

Mr. JOHNSON. I am simply trying to get rid of officers that the Director of the Mint says have nothing to do. That is all there is about it.

Mr. DIXON of Montana. But I would say to the gentleman, by explanation, that I am reliably informed that the Helena office does twenty times the amount of work that is done at the Charlotte, N. C., office.

Mr. JOHNSON. No use talking to me about Charlotte—that is not my baby.

Mr. DIXON of Montana. I will say to the gentleman that the Helena, Mont., office is mine [laughter], and I hope that the amendment will be voted down.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from South Carolina.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

Assay office at St. Louis, Mo.: For assayer in charge, $2,000; clerk, $1,000; in all, $3,000.

Mr. JOHNSON. Mr. Chairman, I move to strike out the words "for assayer in charge, $2,000."

The Clerk read as follows:

Page 74, lines 5 and 6, strike out the words "for assayer in charge, $2,000."

Mr. JOHNSON. Mr. Chairman, I have already stated, in relation to the Helena, Mont., office, the reason why this officer ought to be taken out of this bill. It is simply some gentleman who wears the title and draws the salary who has nothing to do.

Mr. BARTHOLDT. I want to say this is my baby [laughter], and the argument made by the gentleman from South Carolina with respect to the assayer in Helena, Mont., does not apply to the assayer in St. Louis. He is an assayer in fact. He does the work. He is there from morning to night. He is charged with the hundreds and thousands of dollars' worth of valuable material that is being brought to that assay office, and he is responsible for every cent and every dollar of it. He has no assistant; he has to do the work himself. As the gentleman will find, if he will read the next line of this bill, there is no one to assist him except a clerk and workman and a janitor; and, in fact, the workman is the janitor.

I want to say, Mr. Chairman, with respect to this item, that St. Louis is geographically so located that an assay office is an absolute necessity. Of the largest cities in the country, St. Louis is nearer to the gold fields than any other. Its business, if you permit me to say so, has increased 500 per cent during the last four years. Ever since it has become generally known that there is an assay office in St. Louis—for it has not been known until recently—business has increased phenomenally, and there is good prospect that within a very few years the St. Louis office will rank amongst the biggest and largest in the country.

Mr. JOHNSON. May I interrupt the gentleman? The gentleman has made a very interesting talk. I want to say to him I am heartily in favor of paying people who work. The gentleman has assured this House that the assayer in that particular office earns his salary. That being so, I am willing, with the permission of the committee, to withdraw the amendment.

The CHAIRMAN. Without objection, the amendment will be considered as withdrawn.

The Clerk read as follows:

Office of the Surgeon-General: For chief clerk, $2,000; law clerk, $2,000; thirteen clerks of class 4; eleven clerks of class 3; twenty-six clerks of class 2; thirty-two clerks of class 1; ten clerks, at $1,000 each; anatomist, $1,600; engineer, $1,400; assistant engineer, for night duty, $900; two firemen; skilled mechanic, $1,000; twelve assistant messengers; three watchmen; superintendent of building (Army Medical Museum and library), $250; six laborers; chemist, $2,088; principal assistant librarian, $2,088; pathologist, $1,800; microscopist, $1,800; assistant librarian, $1,800; four charwomen; in all, $161,686.

Mr. SLAYDEN. I want to ask the gentleman what in the world they want of a law clerk in the office of the Surgeon-General of the Army?

Mr. LITTAUER. There is a considerable amount of testimony in the hearings on that topic.

Mr. SLAYDEN. I have read that.

Mr. LITTAUER. We were impressed with the fact that the testimony showed——

Mr. SLAYDEN. Did you find that testimony convincing?

Mr. LITTAUER. Sufficiently to induce us to increase the salary of an $1,800 clerk to $2,000. This clerk devotes his time, in large part, to the solution of law questions and the determination of whether or not contracts are properly drawn. We thought the increase of $200 was proper and that the man's services were worth it.

Mr. SLAYDEN. I think the office of the Surgeon-General is as efficiently administered as any that I know of in any of the Departments of the Government, but I do not believe this is dealing frankly with the House or with the country. They do not need a law clerk in such an office as that, and if they want to increase the compensation of any employee of the office, I believe it would be better to be frank about it and say that that is the purpose of the amendment.

Mr. LITTAUER. We understood clearly that it was to increase the salary of a clerk from $1,800 to $2,000, and the reason for it is given in the words of the Surgeon-General:

I have a most valuable man, who has been there for a number of years, and who has charge of the legal propositions and questions about the expenditure of appropriations and the bills that come there, whether or not they are chargeable to an appropriation. He is very conversant with the decisions of the Comptroller.

Then later on I asked him:

Is he not really more of a contract clerk than a law clerk?

Mr. SLAYDEN. That is what he seems to be.

Mr. LITTAUER. The Surgeon-General answers:

You might call him that. There are questions in connection with laundry work. Our general appropriation pays for laundry work at posts, and there are questions constantly arising. I can not go into

the minutiæ, but I know he seems to be working on questions of that kind, which we take to be law questions, all the time.

The items submitted with reference to that office generally call for a reduction rather than an increase.

Mr. SLAYDEN. Would it not be just as proper to call this man a "laundry clerk" as to call him a "law clerk?" [Laughter.]

Mr. LITTAUER. Oh, no; I think not.

The CHAIRMAN. If there be no objection, the formal amendment will be considered as withdrawn.

The Clerk read as follows:

Office of the Bureau of Insular Affairs: For chief clerk, $2,000; eight clerks of class 4; three clerks of class 3; eight clerks of class 2; fifteen clerks of class 1; thirteen clerks, at $1,000 each; fourteen clerks, at $900 each; two messengers; two assistant messengers; five laborers; two charwomen; in all, $82,900.

Mr. LITTAUER. Mr. Chairman, I offer an amendment which I send to the Clerk's desk.

The Clerk read as follows:

On page 87, in line 10, after the word "for" insert "law officer, $4,500."

In line 15, strike out "eighty-two thousand nine" and insert "eighty-seven thousand four."

Mr. HAY. Mr. Chairman, I reserve the point of order.

Mr. LITTAUER. The current law carries provision for this law officer at $4,500. He has been connected with the Bureau of Insular Affairs at that compensation for many years.

The Secretary of War stated that he was using this law officer in part for questions in connection with isthmian canal affairs, and the problem before the committee was how we should divide his salary; whether part of it should not be chargeable to the isthmian canal and part of it to the work of the law officer of the Bureau of Insular Affairs. We left out the provision in this bill, but the Secretary of War wrote that the services of this man were essential to him, and that he felt with the number of irons he had in the fire at this time that we should continue this law officer.

Mr. FITZGERALD. Where is the man provided for now?

Mr. LITTAUER. In the current law, in this very place, under the Bureau of Insular Affairs. He has been there for many years past. Judge Magoon, now an Isthmian Canal Commissioner, formerly occupied the position.

Mr. FITZGERALD. Who is the law officer now?

Mr. LITTAUER. I do not know the law officer's name.

Mr. SHACKLEFORD. Does this law officer draw any other salary from the Government except this?

Mr. LITTAUER. I am quite positive he does not.

Mr. SHACKLEFORD. All he gets is provided in this particular place.

Mr. LITTAUER. As far as I know, and I believe it can be stated as a fact that he only draws $4,500, but he does much work for the Secretary of War in connection with isthmian affairs.

Mr. FITZGERALD. But draws no salary for that?

Mr. LITTAUER. None at all. The question with us was how we could divide the salary, paying part of the compensation out of the isthmian canal fund and part out of this, and we thought the smoothest way and possibly the most satisfactory way was to make the provision in this place as it had been made before.

Mr. SMITH of Kentucky. What change do you make?

Mr. LITTAUER. We reinstate the same provision that is in the current appropriation bill for the law officer in the Bureau of Insular Affairs, the compensation being the same as in the current law, $4,500.

Mr. FITZGERALD. Is this man there to advise the present Secretary of War on questions of law?

Mr. LITTAUER. Yes.

Mr. FITZGERALD. Does the gentleman think that a man who is a possible candidate for the Supreme Court of the United States needs the advice of a law officer?

Mr. LITTAUER. Unquestionably, in order to have such matters examined into thoroughly and presented to him for determination.

Mr. MANN. He will get more advice on law questions after he goes on the Supreme bench than he gets now. [Laughter.]

Mr. HAY. I merely reserved the point of order for an explanation.

The CHAIRMAN. The Chair understands that the gentleman from Virginia does not make the point of order. The question is on agreeing to the amendment offered by the gentleman from New York [Mr. LITTAUER].

The amendment was agreed to.

The Clerk read as follows:

For postage stamps for the War Department and its bureaus, as required under the Postal Union, to prepay postage on matters addressed to the Postal Union countries, $500.

Mr. JOHNSON. Mr. Chairman, I move to strike out the last word. I want to ask the gentleman in charge of the bill if the general provision, usually found in appropriation bills, as to the purchases of supplies in excess of $200 shall be advertised, is in this bill?

Mr. LITTAUER. There is a provision in the Army bill, I believe, that permits the purchase of supplies up to a certain amount without advertising.

Mr. JOHNSON. I am familiar with that provision, but I want to know if that law applies to the appropriations carried in this bill?

Mr. LITTAUER. It does not. For all the little expenses of the Department here in Washington purchases can only be made after proper advertisement, submission of proposals, etc., although it was suggested by the Assistant Secretary that we should give him that privilege to purchase articles up to the value of $100 without advertisement we did not see fit to incorporate that provision in the bill.

Mr. JOHNSON. Mr. Chairman, I withdraw the pro forma amendment.

The Clerk read as follows:

DEPARTMENT OF THE INTERIOR.

Office of the Secretary: For compensation of the Secretary of the Interior, $8,000; First Assistant Secretary, $4,500, and for additional compensation while the office is held by the present incumbent, $1,500; Assistant Secretary, $4,500; chief clerk, $2,500, and $500 additional as superintendent of the Patent Office building and other buildings of the Department of the Interior; additional to one member of board of pension appeals, acting as chief of the board, $500; nine members of a board of pension appeals, to be appointed by the Secretary of the Interior, at $2,000 each; twelve additional members of the board of pension appeals, to be selected and appointed by the Secretary of the Interior from persons not now or heretofore employed in the Pension Office and without compliance with the conditions prescribed by the act entitled "An act to regulate and improve the civil service," approved January 16, 1883, for the fiscal year 1907, at the end of which year said employments shall cease, at $2,000 each; three additional members of said board of pension appeals, to be appointed by the Secretary of the Interior and to be selected from the force of the Pension Office, at $2,000 each; special land inspector, connected with the administration of the public-land service, to be appointed by the Secretary of the Interior and to be subject to his direction $2,500; five special inspectors, Department of the Interior, to be appointed by the Secretary of the Interior and to be subject to his direction, at $2,500 each; custodian, who shall give bond in such sum as the Secretary of the Interior may determine, $2,100; seven clerks, chiefs of division, at $2,250 each, one of whom shall be disbursing clerk; four clerks, at $2,000 each; private secretary to the Secretary of the Interior, $2,500; sixteen clerks of class 4; fourteen clerks of class 3; twenty-five clerks of class 2; thirty-six clerks of class 1, two of whom shall be stenographers or typewriters; returning office clerk, $1,200; female clerk, to be designated by the President, to sign land patents, $1,200; six clerks, at $1,000 each; one clerk, $900; twelve copyists; two copyists or typewriters, at $900 each; switchboard telephone operator; nine messengers; seven assistant messengers; eighteen laborers; two skilled mechanics, one at $900 and one at $720; two carpenters, at $900 each; plumber, $900; electrician, $1,000; one laborer, $600; six laborers, $480 each; one packer, $660; two conductors of elevator, at $720 each; four charwomen; captain of the watch, $1,200; forty watchmen; additional to two watchmen acting as lieutenants of watchmen, at $120 each; engineer, $1,200; assistant engineer, $1,000; seven firemen; one clerk, to be appointed by the Secretary of the Interior, to sign, under the direction of the Secretary, in his name and for him, his approval of all tribal deeds to allottees and deeds for town lots made and executed according to law for any of the Five Civilized Tribes of Indians in the Indian Territory, $1,200; in all, $342,390.

Mr. LITTAUER. Mr. Chairman, on page 108, line 14, I move to strike out the word "two;" so that it will read "three hundred and forty thousand three hundred and ninety dollars."

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York.

The question was taken; and the amendment was agreed to.

The Clerk read as follows:

General Land Office: For the Commissioner of the General Land Office, $5,000; Assistant Commissioner, to be appointed by the President, by and with the advice and consent of the Senate, who shall be authorized to sign such letters, papers, and documents and to perform such other duties as may be directed by the Commissioner, and shall act as Commissioner in the absence of that officer or in case of a vacancy in the office of Commissioner, $3,500; chief clerk, $2,500; chief law clerk, $2,500; two law clerks, at $2,200 each; three inspectors of surveys general and district land offices, at $2,000 each; recorder, $2,000; eleven chiefs of division, at $2,000 each; two law examiners, at $2,000 each; ten principal examiners of land claims and contests, at $2,000 each; two examiners of mineral claims and contests, at $2,000 each; thirty-seven clerks of class 4; sixty-four clerks of class 3; sixty-seven clerks of class 2; sixty-nine clerks of class 1; fifty-seven clerks, $1,000 each; sixty copyists; two messengers; ten assistant messengers; six skilled laborers, who may act as assistant messengers when required, at $660 each; sixteen laborers; one laborer, $480; one packer, $720; one depositary acting for the Commissioner as receiver of public moneys and also as confidential secretary, $2,000; librarian for the law library of the General Land Office, to be selected by the Secretary of the Interior wholly with reference to his special fitness for such work, $1,000; in all, $560,100.

Mr. BARTLETT. Mr. Chairman, I move to strike out the last word. There is evidently an increase of salaries and officers in the General Land Office, not only an increase in salaries but an increase in the number of clerks. Here is a law clerk, $2,500. I know this would have been subject to a point of order

but for the extraordinary performance we had this morning in having an extraordinary rule applied to an ordinary appropriation bill. I think more information is due the House than is given in the very meager report made on this subject by the committee as to why the Appropriations Committee felt called upon to make this increase—not only an increase in the number of clerks, but an increase in the larger salaries amounting to as high as $2,500.

Mr. LITTAUER. I would state that the provisions for the General Land Office include these changes from current law: The chief clerk's salary is made $2,500, an increase of $250. The chief law clerk, at $2,500, is added to the force, and four copyists are stricken out.

Mr. BARTLETT. No; you provide for the copyists.

Mr. LITTAUER. We provide for sixty copyists, but the current law provides for sixty-four. The necessity for the chief law clerk is due to the fact that the two law clerks now provided for are wholly occupied in daily examination of cases involving questions of law regularly arising in the transaction of the ordinary business coming before the office on appeal from the various local land offices and otherwise.

Mr. BARTLETT. May I ask the gentleman is it not a fact that these offices are created and that the present officers, the clerks, are to be advanced at once into these new places?

Mr. LITTAUER. I did not quite hear what the gentleman said.

Mr. BARTLETT. Is it not the purpose of this bill, to be plain about it, to provide places wherein men who now perform these duties at lower salaries are to be advanced to these positions with a higher salary?

Mr. LITTAUER. I do not think that that would apply in this particular case. I believe that the law clerks already provided for would remain where they are, and that there would be a chief law clerk who would attend to the special questions coming before the Department and who ought to be entitled to a salary of $2,500.

Mr. TAWNEY. I will say to the gentleman from Georgia that this particular clerk is performing the duties of chief law clerk of the law division of the Land Office. It is for the purpose of giving him a legal designation that this change is made. He is performing the duties of reviewing officer, reviewing the decisions of the other law clerks, and to that extent relieves the Assistant Commissioner. He is the chief law clerk and has greater responsibilities and has to do more work than any other law clerk in the whole division.

Mr. BARTLETT. And generally runs the Land Office.

Mr. TAWNEY. His designation was changed and his salary was increased.

Mr. BURLESON. And the necessity for it was advocated by the Department officials.

Mr. BARTLETT. I understand. I thought I would find out where it was. Now, then, it is a fact that this increase of salary is intended for some particular man?

Mr. TAWNEY. Some particular man?

Mr. BARTLETT. Yes; some particular man who is now working at a less salary.

The CHAIRMAN. The time of the gentleman has expired.

Mr. TAWNEY. Mr. Chairman, I move to strike out the last word for the purpose of answering the gentleman. It is not for any particular man, but it is for the man who fills this office either now or hereafter who is required to discharge the duties of chief clerk of the law division of the Land Office. That is for whose benefit this increase is made. It is made for the benefit of the man who performs the duties, whoever he may be. There is such a distinction between the duties performed by this officer and the other law clerks in the Department as entitles him to greater remuneration. His duties are more onerous and his responsibilities greater. He is the man who stands between the law division in the reviewing of all opinions and decisions rendered and the Assistant Commissioner of the Land Office.

Mr. JOHNSON. Mr. Chairman, I would like to ask the gentleman in charge of the bill a question. In view of the fact that the chief clerks in the War Department and the Navy Department and all the other bureaus are getting $2,000, are not the gentlemen on the committee apprehensive that at the very next session of this Congress the heads of these Departments will be down upon them, asking that their chief clerks be raised to $2,500?

Mr. LITTAUER. That is very true. We find that when we raise one all the rest want to go up.

Mr. JOHNSON. Because they do not know any way of equalizing salaries except to put them up.

Mr. LITTAUER. Up to the top level; that is right.

Mr. JOHNSON. Now, as sure as you make this clerk's salary—I don't know whether he is worth that or not—but as sure as you make his salary $2,500 a year the other chief clerks will be here at the next session of Congress and the next, claiming that their duties are just as arduous, and that unless you give them $2,500 there is an inequality.

Mr. LITTAUER. This was one of the last matters passed upon by the Committee on Appropriations before reporting this bill. The Assistant Commissioner of the Land Office appeared before us, detailed the services of this man, and stated they were rather extraordinary. He is a particularly well-fitted official. He not only did the ordinary work of chief clerk in overlooking the other clerks, but he also did some of this work of reviewing the work that came in from the field from the men connected with the service in the field, and a particularly strong appeal was made by the General Land Office to have this man's service recognized by an addition of $500.

Mr. JOHNSON. And that strong appeal will be followed up by an equally strong appeal from other divisions and bureaus.

Mr. TAWNEY. The appropriation bill for 1892 and 1893 carried this salary at $2,500, $250 more than is provided for in this bill.

Mr. PALMER. Mr. Chairman, ought not this whole business of employing law clerks in these Departments to be changed, and ought not the Attorney-General's Office or the Department of Justice to have control of all the law business, and ought not everyone of these bureaus and subbureaus——

Mr. LITTAUER. Oh, Mr. Chairman, I do not think that would work well in practice at all.

Mr. PALMER. Well, now you have got about 150 or 200 law clerks scattered around in these bureaus, and everyone of them is a law unto himself.

Mr. LITTAUER. Yes; and when we have agents of the Department of Justice in the various departments, solicitor's offices, we find a large force gradually necessary and more and more law business to be transacted. The Department of Justice has no supervision whatever over the work they perform.

Mr. PALMER. Would it not be far better for the Department of Justice to have complete supervision over all of this work, and whenever any Department of the Government desires to have information on any question of law ought not it to be referred to the Department of Justice, so that there would be some kind of a harmonious ruling? Now you have 150 law clerks, so called, some of them lawyers and some of them laundry clerks, as I understand. Of course their views of the law are very diverse.

Mr. LITTAUER. Well, these law clerks that the gentleman refers to are really contract clerks—clerks that pass upon contracts entered into by the Departments and the bureaus, to determine that they are in proper form and to arrange for the ordinary contracts made for purchases, and so on.

Mr. PALMER. They pass upon the questions of law, do they not?

Mr. LITTAUER. Well, they pass upon questions of law and formulate contracts.

Mr. PALMER. There is nobody responsible for their decision except the clerks themselves?

Mr. LIVINGSTON. Mr. Chairman, may I say to my colleague that this law clerk is particularly needed here, and used in connection with the contracts between the Government and the Indians?

Mr. PALMER. I am not making any criticism of this particular office, but I am saying that the whole system, it seems to me, is upside down. The Department of Justice ought to have control of all these matters. We ought to have a homogeneous and harmonious system, by which the head of some Department would be responsible for the decisions that are made. Now you have about 150 sources from which decisions come, and some of them are law and some of them are not law.

Mr. LIVINGSTON. Let me say to the gentleman, Mr. Chairman, that perhaps there are a thousand small legal questions arising in the different Departments in a week. If you should send all those up to the Department of Justice they would have to have five or six hundred more law clerks to answer these little detail departmental legal questions which come up in the Departments of the Government. That would blockade and handicap the Department of Justice to the extent that they could do no work at all.

Mr. JOHNSON. Mr. Chairman——

Mr. BARTLETT. Mr. Chairman, who has the floor? I believe I have the floor. I would like to ask the gentleman which one of these clerks is new, then?

Mr. LITTAUER. Which is that?

Mr. BARTLETT. Law clerks, General Land Office.

Mr. LITTAUER. It is the chief law clerk that is new. There are four law clerks in the office under current law.

Mr. BARTLETT. The gentleman ought to read the bill. In line 16, "chief law clerk, $2,500," and then "chief law clerk, $2,500." Which one is new?

Mr. LITTAUER. The chief law clerk, $2,500, is new, and two law clerks at $2,200 each are in the current law, and also below that two law examiners, at $2,000 each.

Mr. BARTLETT. But the gentleman has not answered my question yet. In line 16, "chief law clerk, $2,500?"

Mr. LITTAUER. That is new.

Mr. BARTLETT. Then "chief law clerk, $2,500." Is that new?

Mr. LITTAUER. That is new.

Mr. BARTLETT. Both of them?

Mr. LITTAUER. No; there is a chief clerk, at $2,500, and the other is a chief law clerk.

Mr. BARTLETT. All right; but the chief law clerk is new?

Mr. LITTAUER. Yes.

Mr. MONDELL. Mr. Chairman——

The CHAIRMAN. Will the gentleman from Georgia yield to the gentleman from Wyoming?

Mr. LIVINGSTON. What is it the gentleman from Wyoming wishes to ask?

Mr. MONDELL. I wish to discuss the matter under discussion.

The CHAIRMAN. The time of the gentleman from Georgia has expired. The Chair will recognize the gentleman from Wyoming.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word. This, to my mind, is a very important matter, and this chief law clerk is badly needed in the General Land Office. It should be remembered that in the first instance the law officers of the General Land Office pass upon legal questions connected with every land entry in the United States, that these men pass upon in the course of a year probably more cases of importance to individual settlers on the public domain and to individual citizens than any other class of law clerks or law examiners or law officials of any department of the Government. The General Land Office has now two law clerks and two law examiners. Matters coming from the various divisions of the General Land Office—swamp-land division, preemption division, homestead division, contest division—passed upon and initialed in those divisions, come to the law clerks and are passed upon by them before going to the Commissioner or Assistant Commissioner, as the case may be.

Mr. PALMER. Mr. Chairman, I would ask the gentleman who appoints these clerks?

Mr. MONDELL. Why, they are appointed under civil service.

Mr. PALMER. To whom do they report? Who is responsible for their decisions?

Mr. MONDELL. Their decisions are passed upon finally by the Assistant Commissioner or Commissioner.

Mr. PALMER. Then the Department of Justice of the United States has nothing to do with them?

Mr. MONDELL. The Department of Justice has nothing to do with them and can not have anything to do with them.

Mr. PALMER. Do you not think it would be better for the Department of Justice to be responsible for all the law that is peddled out in these Departments?

Mr. MONDELL. Why, Mr. Chairman, it would be utterly impossible for the Department of Justice, without revolutionizing the system that we adopted at the foundation of the Government, to pass upon these questions relative to the rights of entrymen that have always been passed upon by the officials of the General Land Office. They pass through the divisions of the General Land Office to these law examiners; are reviewed by them; they are taken to the Commissioner or Assistant Commissioner, and, then, if the entryman is not satisfied, he may appeal to the Secretary of the Interior.

Mr. PALMER. Do I understand the gentleman to say that these lawyers were appointed by the Civil Service Commission, or that they take a civil-service examination?

Mr. MONDELL. They are appointed under civil-service rules, I understand.

Mr. PALMER. Do you understand that a lawyer has to submit himself to a civil-service examination before he can get an appointment in one of these bureaus?

Mr. MONDELL. I am not responsible for the civil-service law; it is on the statute books.

Mr. PALMER. I understand the gentleman perfectly as to that. I am only asking, as a matter of fact, about the appointment of these lawyers. You say that they are appointed under the civil-service rules. I am asking you if a lawyer must submit himself to an examination by the Civil Service Commission before he can get an appointment in one of these bureaus?

Mr. CRUMPACKER. He has.

Mr. MONDELL. I understand that to be the fact.

Mr. KEIFER. I understand the gentleman to say that the clerks are not in any way under the Department of Justice that that has been the condition of things from the earliest times in this country. I want to know of him whether, if a party feels wronged by any action of the Land Office or anywhere else, he may not appeal on a legal question not only to the Secretary, as the head of that Department, but also to the Attorney-General and Department of Justice, and at last whether all of these officers are under the general direction of the Department of Justice?

Mr. MONDELL. That is a very large question, Mr. Chairman. The fact is that in the matter of settling titles to the public lands my understanding is that it has been held that there is no appeal in ordinary cases from the decision of the Secretary of the Interior.

Mr. KEIFER. But is there not now, under a ruling of the Department, where you may go, after a decision has been made by the Secretary of the Interior, and have the question passed upon by the Attorney-General?

Mr. MONDELL. I know of no such ruling.

Mr. LITTAUER. I move that the committee do now rise.

Mr. BARTLETT. A parliamentary inquiry. This section is subject to amendment, is it not?

The CHAIRMAN. The Chair understands that it is.

The motion that the committee rise was then agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. OLMSTED, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had further considered the bill H. R. 16472—the legislative, executive, and judicial appropriation bill—and had come to no resolution thereon.

OPENING KIOWA, COMANCHE, AND APACHE RESERVATION.

Mr. STEPHENS of Texas. Mr. Speaker, I ask unanimous consent for the present consideration of a joint resolution to amend the bill (H. R. 431) to open for settlement 505,000 acres of land in the Kiowa, Comanche, and Apache Reservation in Oklahoma Territory.

The SPEAKER. The gentleman from Texas asks unanimous consent for the present consideration of a joint resolution, which the Clerk will report.

Mr. WILLIAMS. Mr. Speaker, I dislike very much to do it. After 5 o'clock, usually, the House is so thin and there are so few people here I have felt it right that no unanimous consent should be gotten after 5; and without waiting to hear what the bill is, so that I may not even appear to have opposed the bill, I shall object.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill and joint resolutions of the following titles; when the Speaker signed the same:

H. R. 6216. An act granting an increase of pension to Stephen D. Hopkins;

H. J. Res. 127. Joint resolution to correct abuses in the public printing and to provide for the allotment of cost of certain documents and reports; and

H. J. Res. 128. Joint resolution to prevent unnecessary printing and binding and to correct evils in the present method of distribution of public documents.

The SPEAKER announced his signature to enrolled bills of the following titles:

S. 5211. An act to authorize the construction of a bridge across the Snake River at or near Lewiston, Idaho;

S. 4833. An act to amend an act entitled "An act permitting the Washington Market Company to lay a conduit and pipes across Seventh street west," approved February 23, 1905;

S. 5204. An act to authorize the construction of a bridge or bridges across the Yellowstone River in Montana;

S. 5184. An act to authorize the construction of a bridge across the Missouri River between Walworth and Dewey counties, in the State of South Dakota;

S. 4628. An act providing that the State of Wyoming be permitted to relinquish to the United States certain lands heretofore selected and to select other lands from the public domain in lieu thereof; and

S. 4198. An act granting permission to Prof. Simon Newcomb, United States Navy, retired, to accept the decoration of the order "Pour le Mérite, für Wissenschaften und Kunste."

SENATE BILL REFERRED.

Under clause 2 of Rule XXIV, Senate bill of the following title was taken from the Speaker's table and referred to its appropriate committee, as indicated below:

S. 536. An act amending the act of August 3, 1892, chapter

911, entitled "An act fixing the fees of jurors and witnesses in the United States courts in certain States and Territories" (27 Stat. L., p. 347)—to the Committee on the Judiciary.

REORGANIZATION OF THE CONSULAR SERVICE.

Mr. ADAMS of Pennsylvania. Mr. Speaker, I submit a conference report on Senate bill 1345, in order that it may be printed in the RECORD.

The SPEAKER. The conference report and statement will be printed in the RECORD.

CHANGES OF REFERENCE.

By unanimous consent, reference was changed on House resolution 376 from the Committee on Claims to the Committee on the Judiciary.

On bill (H. R. 17412) for acquiring by condemnation for Government reservations certain triangles on Sixteenth street, in the city of Washington, from the Committee on the District of Columbia to the Committee on Public Buildings and Grounds.

PUBLIC SCHOOLS OF THE DISTRICT OF COLUMBIA.

Mr. FOSTER of Vermont. Mr. Speaker, I ask unanimous consent for a reprint of the bill (H. R. 11641) for the improvement of the public schools of the District of Columbia.

Mr. WILLIAMS. I will have to object to unanimous consent.

Mr. FOSTER of Vermont. It is merely the reprint of a bill.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

Mr. LITTAUER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

Accordingly (at 5 o'clock and 3 minutes p. m.) the House adjourned.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred by the Speaker as follows:

A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination of St. Johns River, Florida—to the Committee on Rivers and Harbors, and ordered to be printed.

A letter from the Acting Secretary of the Treasury, transmitting a copy of a letter from the Acting Secretary of Commerce and Labor submitting an estimate of appropriation for lighting Ambrose channel, New York Bay—to the Committee on Appropriations, and ordered to be printed.

A letter from the Acting Secretary of the Interior, transmitting, with a letter from the Acting Director of the Geological Survey, a draft of a bill for the lease of certain lands and the covering of the proceeds into the reclamation fund—to the Committee on Public Lands, and ordered to be printed.

A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination of Maurice River, New Jersey—to the Committee on Rivers and Harbors, and ordered to be printed, with accompanying illustrations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. GILLETT of California, from the Committee on the Judiciary, to which was referred the bill of the Senate (S. 2286) to confer jurisdiction upon the circuit court of the United States for the ninth circuit to determine in equity the rights of American citizens under the award of the Bering Sea arbitration of Paris and to render judgment thereon, reported the same with amendment, accompanied by a report (No. 2674); which said bill and report were referred to the House Calendar.

Mr. PALMER, from the Committee on the Judiciary, to which was referred the bill of the House (H. R. 11273) to incorporate The National German-American Alliance, reported the same with amendment, accompanied by a report (No. 2675); which said bill and report were referred to the House Calendar.

Mr. GRONNA, from the Committee on the Public Lands, to which was referred the bill of the House (H. R. 16954) providing for the reappraisement of certain suburban lots in the town site of Port Angeles, Wash., reported the same with amendment, accompanied by a report (No. 2676); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. JENKINS, from the Committee on the Judiciary, to which was referred the House resolution (H. Res. 375) requesting the Attorney-General to inform the House of name and date of every appointment made under the act of Congress to carry into effect the stipulations of article 7 of the treaty between the United States and Spain, reported the same with amendment, accompanied by a report (No. 2677); which said resolution and report were referred to the House Calendar.

Mr. FOSS, from the Committee on Naval Affairs, to which was referred the bill of the House (H. R. 16858) to establish a naval militia and define its relations to the General Government, reported the same with amendment, accompanied by a report (No. 2680); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. PRINCE, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 15675) for the relief of Harry A. Young, reported the same with amendment, accompanied by a report (No. 2669); which said bill and report were referred to the Private Calendar.

Mr. SLAYDEN, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 13917) to remove the charge of desertion from the military record of Robert W. Liggett, reported the same without amendment, accompanied by a report (No. 2670); which said bill and report were referred to the Private Calendar.

Mr. PRINCE, from the Committee on Military Affairs, to which was referred the bill of the Senate (S. 584) for the relief of David H. Moffat, reported the same without amendment, accompanied by a report (No. 2672); which said bill and report were referred to the Private Calendar.

Mr. YOUNG, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 5842) to correct the military record of Charles F. Deisch, reported the same with amendment, accompanied by a report (No. 2678); which said bill and report were referred to the Private Calendar.

Mr. MONDELL, from the Committee on the Public Lands, to which was referred the bill of the House (H. R. 16521) directing the Secretary of the Interior to convey a certain parcel of land to Johnson County, Wyo., reported the same with amendment, accompanied by a report (No. 2679); which said bill and report were referred to the Private Calendar.

ADVERSE REPORTS.

Under clause 2, Rule XIII, adverse reports were delivered to the Clerk, and laid on the table, as follows:

Mr. PRINCE, from the Committee on Military Affairs, to which was referred the bill of the Senate (S. 497) to authorize the President to revoke the order dismissing William T. Godwin, late first lieutenant, Tenth Infantry, United States Army, and to place the said William T. Godwin on the retired list with the rank of first lieutenant, reported the same adversely, accompanied by a report (No. 2671); which said bill and report were ordered laid on the table.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS INTRODUCED.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. BABCOCK: A bill (H. R. 17451) to amend section 653 of the Code of Law for the District of Columbia, relative to assessment life insurance companies and associations—to the Committee on the District of Columbia.

Also, a bill (H. R. 17452) to provide for payment of damages on account of changes in grade due to the elimination of grade crossings on the line of the Philadelphia, Baltimore and Washington Railroad Company—to the Committee on the District of Columbia.

By Mr. PAYNE: A bill (H. R. 17453) for the withdrawal from bond, tax free, of domestic alcohol when rendered unfit for beverage or liquid medicinal uses by mixture with suitable denaturing materials—to the Committee on Ways and Means.

By Mr. GILL (by request): A bill (H. R. 17454) to amend the statutes relating to patents—to the Committee on Patents.

By Mr. BUCKMAN: A bill (H. R. 17455) permitting the building of a dam across the Mississippi River at or near the

village of Clearwater, Wright County, Minn.—to the Committee on Interstate and Foreign Commerce.

By Mr. RHODES: A bill (H. R. 17456) making appropriations for the improvement of the Mississippi River at Clearyville, Mo., and other points in Perry County, Mo.—to the Committee on Levees and Improvements of the Mississippi River.

Also, a bill (H. R. 17457) making appropriations for the improvement of the Mississippi River at Hughs Landing, near Crystal City, Mo., and other points in Jefferson County, Mo.—to the Committee on Levees and Improvements of the Mississippi River.

By Mr. BENNET of New York: A bill (H. R. 17458) to authorize the United States Government to participate in the international exposition to be held at Milan, Italy, during the year 1906, and to appropriate money in aid thereof—to the Committee on Industrial Arts and Expositions.

By Mr. ANDREWS: A bill (H. R. 17459) to set apart certain lands in the Territory of New Mexico as a public park, to be known as the New Mexico Cliff Dwellers National Park, for the purpose of preserving the prehistoric caves and ruins and other works and relics therein—to the Committee on the Public Lands.

Also, a bill (H. R. 17460) to improve the grounds about the Federal building at Santa Fe, N. Mex.—to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 17461) to authorize an issue of bonds by the Territory of New Mexico for the enlargement of the Territorial Insane Asylum—to the Committee on the Territories.

By Mr. SULLIVAN of Massachusetts: A bill (H. R. 17462) to abolish the Spanish Treaty Claims Commission—to the Committee on the Judiciary.

By Mr. SMITH of Texas: A bill (H. R. 17463) to provide for investigation of and report upon the medicinal and therapeutic value of the mineral waters at Mineral Wells, Tex.—to the Committee on Interstate and Foreign Commerce.

By Mr. BROWNLOW: A bill (H. R. 17464) to amend section 647 of the Code of Law of the District of Columbia—to the Committee on the District of Columbia.

PRIVATE BILLS AND RESOLUTIONS INTRODUCED.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. BURLEIGH: A bill (H. R. 17465) granting an increase of pension to George G. Spurr, jr.—to the Committee on Pensions.

By Mr. CALDER: A bill (H. R. 17466) granting an increase of pension to James P. Hall—to the Committee on Invalid Pensions.

By Mr. CAMPBELL of Kansas: A bill (H. R. 17467) granting a pension to George R. Bathe—to the Committee on Invalid Pensions.

By Mr. CAPRON: A bill (H. R. 17468) granting an increase of pension to Duty Place—to the Committee on Invalid Pensions.

By Mr. DAVIS of West Virginia: A bill (H. R. 17469) granting a pension to Lucretia L. Flick—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17470) granting an increase of pension to John M. Collins—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17471) granting an increase of pension to Leonard Wile—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17472) granting an increase of pension to John K. Whitford—to the Committee on Invalid Pensions.

By Mr. DE ARMOND: A bill (H. R. 17473) granting a pension to Malinda S. Close—to the Committee on Pensions.

Also, a bill (H. R. 17474) granting an increase of pension to William M. Cooper—to the Committee on Invalid Pensions.

By Mr. DRESSER: A bill (H. R. 17475) granting a pension to Charles Wesley Hall—to the Committee on Invalid Pensions.

By Mr. FOSTER of Vermont: A bill (H. R. 17476) granting an increase of pension to Henry Ballard—to the Committee on Invalid Pensions.

By Mr. FULKERSON: A bill (H. R. 17477) granting an increase of pension to George N. Davis—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17478) granting an increase of pension to Stephen J. Lansdown—to the Committee on Invalid Pensions.

By Mr. GARDNER of New Jersey: A bill (H. R. 17479) granting an increase of pension to James J. Lamb—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17480) granting an increase of pension to Charles P. Lord—to the Committee on Invalid Pensions.

By Mr. GILL: A bill (H. R. 17481) granting a pension to Eliza F. Wadsworth—to the Committee on Invalid Pensions.

By Mr. HALE: A bill (H. R. 17482) granting an increase of pension to John W. Sherman—to the Committee on Invalid Pensions.

By Mr. HOWELL of New Jersey: A bill (H. R. 17483) granting an increase of pension to William H. Loyd—to the Committee on Invalid Pensions.

By Mr. HUGHES: A bill (H. R. 17484) granting an increase of pension to John E. Gillispie, alias John G. Elliott—to the Committee on Pensions.

By Mr. McGUIRE: A bill (H. R. 17485) granting an increase of pension to Stillman Goodno—to the Committee on Invalid Pensions.

By Mr. McMORRAN: A bill (H. R. 17486) granting an increase of pension to Rudolph Papst—to the Committee on Invalid Pensions.

By Mr. MILLER: A bill (H. R. 17487) granting an increase of pension to George A. Stewart—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17488) granting an increase of pension to Teresa McNulty—to the Committee on Invalid Pensions.

By Mr. POWERS: A bill (H. R. 17489) granting an increase of pension to Henry H. Archer—to the Committee on Invalid Pensions.

By Mr. REID: A bill (H. R. 17490) granting a pension to Alice George—to the Committee on Invalid Pensions.

By Mr. SAMUEL W. SMITH: A bill (H. R. 17491) granting an increase of pension to Thomas Howard—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17492) granting an increase of pension to William Palmerton—to the Committee on Invalid Pensions.

By Mr. SPARKMAN: A bill (H. R. 17493) to permit Richard H. Whitehead, of Manatee County, Fla., to purchase certain lands herein mentioned—to the Committee on the Public Lands.

By Mr. STEVENS of Minnesota: A bill (H. R. 17494) granting an increase of pension to Peter Theren—to the Committee on Invalid Pensions.

By Mr. SULLIVAN of Massachusetts: A bill (H. R. 17495) granting an increase of pension to George H. Nye—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17496) granting an increase of pension to Jeremiah Keefe—to the Committee on Invalid Pensions.

By Mr. WILLIAMS: A bill (H. R. 17497) for the relief of Maj. James W. Watson, United States Army—to the Committee on Indian Affairs.

By Mr. KAHN: A bill (H. R. 17498) for the relief of Robert A. Malloy—to the Committee on War Claims.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of bills of the following titles; which were thereupon referred as follows:

A bill (H. R. 15178) granting an increase of pension to Matilda Morrison—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 15179) granting an increase of pension to J. W. Hathaway—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 15180) granting an increase of pension to Amanda Pittman—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 17025) granting a pension to Lavinia Ray—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 2317) granting a pension to Lottie B. Galleher—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER: Petition of Cattle Raisers' Association of Texas, for classified census of live stock each five years—to the Committee on Agriculture.

Also, petition of Cattle Raisers' Association of Texas, for proper classification of public lands—to the Committee on the Public Lands.

Also, petition of Cattle Raisers' Association of Texas, for stifling of trusts—to the Committee on the Judiciary.

Also, petition of Davenport Academy of Science, for creation of Mesa Verde National Park—to the Committee on the Public Lands.

Also, petition of Delaware Valley Naturalists' Union, for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

By Mr. ADAMS of Pennsylvania: Petition of Lydia Darrah

Council, No. 110, Daughters of Liberty, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of Naval Post, No. 400, Department of Pennsylvania, for bill H. R. 3814 (previously referred to Committee on Invalid Pensions)—to the Committee on Naval Affairs.

By Mr. ALEXANDER: Petition of Good Citizenship League, Flushing, N. Y., for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

By Mr. BOWERSOCK: Petition of Garnett (Kans.) Club, for investigation of industrial condition of woman—to the Committee on Appropriations.

By Mr. BROWN: Petition of Wisconsin Farmers' Institute, for Heyburn pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of Farmers' Institute of Wisconsin, against seed distribution—to the Committee on Agriculture.

By Mr. BURNETT: Petition of The Item, against tariff on linotype machines—to the Committee on Ways and Means.

By Mr. BUTLER of Pennsylvania: Petition of State Federation of Pennsylvania Women, for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

Also, petition of State Federation of Pennsylvania Women, for Norris law and preservation of forests of White Mountains—to the Committee on Agriculture.

By Mr. CAPRON: Paper to accompany bill for relief of Duty Pence—to the Committee on Invalid Pensions.

By Mr. DALE: Paper to accompany bill for relief of John Dorew—to the Committee on Military Affairs.

By Mr. DAVIS of West Virginia: Paper to accompany bill for relief of J. K. Whitford—to the Committee on Invalid Pensions.

By Mr. DAWSON: Petition of citizens of Iowa, against bill H. R. 7067—to the Committee on Indian Affairs.

By Mr. DEEMER: Petition of Excelsior Council, No. 4, Daughters of Liberty, Pennsylvania, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of citizens of Pennsylvania, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. DRAPER: Petition of Robert S. Waddell, against powder monopoly—to the Committee on Military Affairs.

By Mr. DRESSER: Petition of citizens of Pennsylvania, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of citizens of Pennsylvania, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. DUNWELL: Petition of Horticultural Society of New York, against free garden seeds—to the Committee on Agriculture.

By Mr. ELLIS: Paper to accompany bill for relief of Fredrick Rice (previously referred to Committee on Military Affairs)—to the Committee on Invalid Pensions.

By Mr. FOSTER of Vermont: Petition of citizens of Vermont, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. GILLETT of Massachusetts: Petition of Northfield (Mass.) Grange, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. GOULDEN: Petition of Buffalo Credit Men's Association, for national bankruptcy law (previously referred to Committee on Banking and Currency)—to the Committee on the Judiciary.

By Mr. HASKINS: Petition of Waterbury Grange, No. 237, and Washington Grange, No. 266, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. HAYES: Petition of citizens of San Jose, Cal., for relief of landless Indians of northern California—to the Committee on Indian Affairs.

Also, petition of M. C. Cutler, for pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of Woman's Club of San Jose, Cal., to investigate industrial condition of women—to the Committee on Appropriations.

Also, petition of J. A. Harliss, for pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of Marble Workers of San Francisco, against bill H. R. 12973—to the Committee on Foreign Affairs.

Also, petition of citizens of San Jose, Cal., against bill H. R. 12973—to the Committee on Foreign Affairs.

Also, petition of citizens of San Jose, Cal., for relief of landless Indians in California—to the Committee on Indian Affairs.

By Mr. HENRY of Connecticut: Petition of citizens of Connecticut, for bill H. R. 4549—to the Committee on the Post-Office and Post-Roads.

By Mr. HOWELL of New Jersey: Paper to accompany bill for relief of Laura B. Ihrie—to the Committee on Pensions.

Also, paper to accompany bill for relief of Mary D. McChesney—to the Committee on Invalid Pensions.

By Mr. HUBBARD: Petition of citizens of Iowa, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. KAHN: Petition of A. S. Paré, for bill H. R. 6035, relative to patents—to the Committee on Patents.

Also, petition of the General Federation of Women's Clubs of San Francisco, for investigation of industrial condition of women in the United States—to the Committee on Appropriations.

Also, petition of Buckingham & Hecht, against anti-injunction bill—to the Committee on the Judiciary.

Also, petition of A. H. McDonald, for bill H. R. 10561—to the Committee on Education.

Also, petition of Japanese and Korean Exclusion League, for present Chinese-exclusion law—to the Committee on Foreign Affairs.

Also, petition of Peter D. Martin, et al., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of Local Union No. 46, International Association of Steam Fitters, against Foster bill—to the Committee on Foreign Affairs.

Also, petition of Golden West Lodge, No. 73, for the anti-injunction bill—to the Committee on the Judiciary.

Also, petition of Prof. Frank Soule and Hon. George C. Pardee, University, Cal., for bill S. 1031—to the Committee on the Public Lands.

Also, petition of German Roman Catholic Statesbund of California and St. Joseph's Benevolent Society, against bill H. R. 7067—to the Committee on Indian Affairs.

Also, petition of California Miners' Association et al., for reclamation of swamp and overflowed land along Sacramento River—to the Committee on Irrigation of Arid Lands.

Also, petition of F. F. G. Harper & Co., San Francisco, against licensing custom-house brokers—to the Committee on Ways and Means.

Also, petition of Pacific Coast Baker and Confectioner, against tariff on linotype machines—to the Committee on Ways and Means.

Also, petition of First National Bank of San Francisco, Cal., and Bank of California, for bill H. R. 15846, relating to bills of lading—to the Committee on Interstate and Foreign Commerce.

Also, petition of Sierra Club, of California, for White Mountain forest preservation—to the Committee on the Public Lands.

By Mr. KELIHER: Petition of First Baptist Church of Boston, against state of affairs in Kongo Free State—to the Committee on Foreign Affairs.

By Mr. KENNEDY: Paper to accompany bill for relief of George Trussell—to the Committee on Invalid Pensions.

By Mr. WILLIAM W. KITCHIN: Paper to accompany bill for relief of Agnes S. Ball—to the Committee on Invalid Pensions.

By Mr. LAFEAN: Petition of True Blue Council, No. 186, Daughters of Liberty, East Prospect, Pa., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. LAWRENCE: Petition of Plainfield Grange, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. LINDSAY: Petition of Robert S. Waddell, against powder monopoly—to the Committee on Military Affairs.

Also, petition of Horticultural Society of New York, against free distribution of seeds—to the Committee on Agriculture.

Also, petition of Jennie Fowler Willing, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of Moran Towing Company, against unjust pilotage laws—to the Committee on the Merchant Marine and Fisheries.

Also, petition of New York Produce Exchange, against clause on tonnage dues in subsidy bill—to the Committee on the Merchant Marine and Fisheries.

By Mr. LITTLEFIELD: Petition of citizens of Maine, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. LLOYD: Petition of citizens of Indian Territory, for statehood—to the Committee on the Territories.

Also, paper to accompany bill for relief of John T. McKee—to the Committee on Military Affairs.

By Mr. MARSHALL: Petition of National Grange, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of the Commercial Club, Grand Forks, N. Dak., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. MURPHY: Paper to accompany bill for relief of Sarah Osborn—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of Edward Goodwin—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of Calvin Holt—to the Committee on Invalid Pensions.

By Mr. NEEDHAM: Petition of Central Labor Council of San Joaquin County, for the present Chinese-exclusion act—to the Committee on Foreign Affairs.

By Mr. RIXEY: Paper to accompany bill for relief of William Burley—to the Committee on War Claims.

Also, paper to accompany bill for relief of estate of E. A. W. Hore—to the Committee on War Claims.

By Mr. RYAN: Petition of Good Citizens' League of Flushing, N. Y., for pure-food bill—to the Committee on Interstate and Foreign Commerce.

By Mr. WM. ALDEN SMITH: Petitions of The Herald Publishing Company and The Degree of Honor Review, Belding; The Anchor, Holland; The Times, Grand Rapids; The Observer, Coopersville; The Wave, Lake Odessa; The Germania, Grand Rapids; The Standard, Ionia; The Pewamo News, Pewamo; The Charlotte Tribune, Charlotte; The Lyons Herald, Lyons; The Michigan Poultryman and The Michigan Artisan, Grand Rapids; The De Wachter, Holland, and Morley's Magazine, Grant, against tariff on linotype machines—to the Committee on Ways and Means.

Also, petition of Grangers of Sanilac County, Mich., for retention of present 10 cents per pound tax on imitation butter—to the Committee on Agriculture.

Also, petition of Grangers of Sanilac County, Mich., for Hepburn railway-rate bill (H. R. 10099)—to the Committee on Interstate and Foreign Commerce.

Also, petition of Grangers of Sanilac County, for a parcels-post law—to the Committee on the Post-Office and Post-Roads.

Also, petition of Resort Grange, No. 841, Petoskey, Mich., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of Grangers of Sanilac County, for bill H. R. 180 (good-roads bill)—to the Committee on Agriculture.

Also, petition against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of L. De Wilde et al., Grand Rapids, for increasing import duty on wooden shoes—to the Committee on Ways and Means.

By Mr. STEPHENS of Texas: Petition of Texas Cattle Raisers' Association, for the railway rate bill and the twenty-eight-hour law extending time of live stock in cars in transit—to the Committee on Interstate and Foreign Commerce.

Also, petition of citizens of Texas, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. STEVENS of Minnesota: Petition of Farmers' Association of Carleton County, Minn., for Government aid of highways—to the Committee on Agriculture.

Also, petition of citizens of St. Paul, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of John A. Logan Regiment, No. 2, Union Veterans' Union, of St. Paul, Minn., against attacks on the flag of United States—to the Committee on Military Affairs.

By Mr. SULZER: Petition of Horticultural Society, against free distribution of seeds—to the Committee on Agriculture.

Also, petition of New York Produce Exchange, against imposition of tonnage duties in ship-subsidy bill—to the Committee on the Merchant Marine and Fisheries.

By Mr. TAYLOR of Alabama: Petition of citizens of Mobile County, Ala., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of The Thomasville Echo, against names being printed on stamped envelopes—to the Committee on the Post-Office and Post-Roads.

By Mr. THOMAS of North Carolina: Petition of citizens of North Carolina, for improvement of navigation of Bay River—to the Committee on Rivers and Harbors.

By Mr. TOWNSEND: Petition of citizens of Michigan, for passage of bill H. R. 9 (Dalzell bill)—to the Committee on Invalid Pensions.

By Mr. WADSWORTH: Petition of Chamber of Commerce, New Haven, Conn., for forest reserves in White Mountains—to the Committee on Agriculture.

By Mr. WILEY of Alabama: Petition of Luverne Journal and Greenville (Ala.) Advocate, against printing names on stamped envelopes—to the Committee on the Post-Office and Post-Roads.

By Mr. WOOD of New Jersey: Petition of National Metal Trades Association, Cleveland, Ohio, against the metric system—to the Committee on Coinage, Weights, and Measures.

SENATE

THURSDAY, *March 29, 1906.*

Prayer by the Chaplain, Rev. EDWARD E. HALE.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. NELSON, and by unanimous consent, the further reading was dispensed with.

The VICE-PRESIDENT. The Journal stands approved.

LEASING OF PUBLIC LANDS.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Interior, transmitting the draft of a proposed bill prepared by the Director of the Geological Survey to authorize the Secretary of the Interior to lease certain lands for grazing purposes, and to provide for covering the proceeds derived thereby into the reclamation fund, etc.; which, with the accompanying paper, was referred to the Committee on Public Lands, and ordered to be printed.

FINDINGS OF COURT OF CLAIMS.

The VICE-PRESIDENT laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of John T. Plunkett, heir at law of Thomas S. Plunkett, deceased, *v.* The United States; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

He also laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of E. T. T. Marsh *v.* The United States; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

He also laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of Fred B. McConnell, heir at law of Rufus S. McConnell, deceased, *v.* The United States; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1345) to provide for the reorganization of the consular service of the United States.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolutions, and they were thereupon signed by the Vice-President:

S. 4198. An act granting permission to Prof. Simon Newcomb, United States Navy, retired, to accept the decoration of the order "Pour le Mérite, für Wissenschaften und Kunste;"

S. 4628. An act providing that the State of Wyoming be permitted to relinquish to the United States certain lands heretofore selected and to select other lands from the public domain in lieu thereof;

S. 4833. An act to amend an act entitled "An act permitting the Washington Market Company to lay a conduit and pipes across Seventh street west," approved February 23, 1905;

S. 5184. An act to authorize the construction of a bridge across the Missouri River between Walworth and Dewey counties, in the State of South Dakota;

S. 5204. An act to authorize the construction of a bridge or bridges across the Yellowstone River in Montana;

S. 5211. An act to authorize the construction of a bridge across the Snake River at or near Lewiston, Idaho;

H. R. 6216. An act granting an increase of pension to Stephen D. Hopkins;

H. J. Res. 127. Joint resolution to correct abuses in the public printing and to provide for the allotment of cost of certain documents and reports; and

H. J. Res. 128. Joint resolution to prevent unnecessary print-

ing and binding and to correct evils in the present method of distribution of public documents.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented a petition of Local Union No. 58, American Federation of Musicians, of Fort Wayne, Ind., praying for the enactment of legislation to prohibit Government musicians from competing with civilian musicians; which was referred to the Committee on Military Affairs.

He also presented a petition of the Cattle Raisers' Association of Fort Worth, Tex., praying for the enactment of legislation to preserve the grazing lands of the Western States and Territories; which was referred to the Committee on Public Lands.

Mr. PLATT presented a petition of Bendit, Drey & Co., of New York City, and a petition of Jennie Fowler-Willing, of New York City, praying for the removal of the internal-revenue tax on denaturized alcohol; which were referred to the Committee on Finance.

He also presented a petition of the Woman's Republican Club of New York City, praying for the enactment of legislation providing for the better protection of women and children employed in the industries of the United States; which was referred to the Committee on Education and Labor.

He also presented petitions of sundry members of Empire Council, No. 28, Junior Order United American Mechanics, of Greensport, N. Y., praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

Mr. NELSON presented a petition of the Garfield Republican Club, of Minneapolis, Minn., praying for the enactment of legislation to restrict immigration; which was referred to the Committee on Immigration.

Mr. CULBERSON. Mr. President, I present a memorial in the shape of a resolution adopted by the Cattle Raisers' Association of Texas, in reference to the rate bill, and a letter from the attorney of the association giving a short history of that association and its purposes. I ask that the letter and memorial be read.

There being no objection, the letter and memorial were read, and ordered to lie on the table, as follows:

WASHINGTON, D. C., *March 29, 1906.*

Hon. CHARLES A. CULBERSON,
United States Senate.

MY DEAR SENATOR: I present to you herewith a resolution of the Cattle Raisers' Association of Texas, with the following suggestions:

The Cattle Raisers' Association of Texas is a Texas institution only in name. It embraces the cattle raisers to a great extent in all of the Territories and in a number of States like Kansas, Colorado, South Dakota, Montana, etc., and is the strongest organization of its kind in the world. Its members number nearly 2,000 and own over 4,000,000 cattle. Their vast interest arises from the fact that, beginning in 1887, the railroads, by concert of action, have in the four years next following so advanced rates on live stock from the great producing country of the Southwest that to-day it costs about $18 per car more to ship to any market or elsewhere to the North or East than it did in 1886, 1897, 1896, or on the average for ten years previous to 1899, and this has caused the live-stock shippers to pay a gross sum of over $10,000,000 in six years last past above what they would have paid on the basis of previous rates.

The last advances—March 5, 1903—have been held by the Commission to be unjust and unreasonable, and that amounts to over a million dollars per annum to the live-stock shipper from the Southwest. It affects not only Texas and the Southwestern States and Territories, but the States of Iowa, Illinois, Indiana, Ohio, and Michigan, which are stocking their feed lots with cattle raised in Texas and the Southwestern Territories, which they ship up as calves or yearlings. Even New York receives cattle to feed and fatten from Texas. It affects all of the range States, like Kansas, Nebraska, Colorado, Utah, South Dakota, Wyoming, Montana, and Idaho, all of which receive much of their cattle from the Southwest breeding ground. The American National Live Stock Association has passed similar resolutions.

In this connection it may be truthfully said that the live-stock interests, which are coextensive with the farming interest in all these States, have been for years interested in demanding adequate legislation which would give them a fair show with the railroads in the struggle for existence. The Senate owes a duty to the country, and this is one of the demands for its performance.

No organization in this country possesses a membership of more conservative, intelligent, and reasonable men, and its leaders are among the foremost men of the Southwest.

Yours, very truly,

S. H. COWAN,
Attorney for the Association.

RESOLUTION RECOMMENDED BY THE EXECUTIVE COMMITTEE.

Whereas the Cattle Raisers' Association of Texas and the other live-stock associations of the West and many organizations of shippers throughout the country have for years petitioned Congress to so amend the interstate-commerce act that the Interstate Commerce Commission shall have the power to prescribe such rates, regulations, and practices to be observed by the railroads as will secure to the shippers just, fair, and reasonable rates, and will prevent undue discriminations and preferences and otherwise provide that the Commission's orders shall be made promptly effective; and

Whereas, through the various forces at work in behalf of the people's interests, the House of Representatives of the present Congress has passed the Hepburn bill with practical unanimity; and

Whereas, after due consideration of the provisions of that bill, this association considers that it meets the requirements which this association has been urging upon Congress; and

Whereas the great powers of the opposition to such legislation render it extremely difficult to secure such legislation and, as we are informed and believe, are now attempting to defeat the passage of this bill in the Senate of the United States by every subterfuge which it is possible for them to command by proposed amendments intended either for the purpose of preventing the passage of the bill or in other instances to render the bill valueless if it is passed; and

Whereas we believe it is a duty which the Senate of the United States owes the people to pass this legislation in the shape that the bill now is in order to make certain that the remedies provided by the bill will be enacted into law; and

Whereas if it shall appear after the law has been put into operation that it need amendment, Congress convenes again within eight months of this date and can then take up the matter of such amendments as may seem to be needful; and

Whereas if this course is not pursued there may be grave danger of the bill not being passed at all; and

Whereas we believe it to be our right to call upon our Senators from the various Western States in which the members of this association reside and do business, and particularly the Senators from the State of Texas, to urge them to consider our interests in this matter; and

Whereas the amount of the unjust rates which we are being compelled to pay for the want of an adequate law affording a remedy such as is provided by the Hepburn bill against such unreasonable rates is costing us millions of dollars: Now, therefore, be it

Resolved by the Cattle Raisers' Association of Texas in annual convention assembled at Dallas, Tex., March 19 to 21, 1906. That we urgently request the Senate of the United States, and particularly our Senators from the State of Texas, to use their efforts and best endeavors to secure the passage of the Hepburn bill in the form in which the same has passed the House, with such minor corrections as may appear to be necessary, without an attempt to so amend it as to endanger its passage.

Adopted by the Cattle Raisers' Association of Texas in convention assembled.

JNO. T. LYTLE, *Secretary.*

Mr. SCOTT. On the subject of the bill regulating the hours for the retention of cattle in cars I present a petition from the humane societies of my State. The petitioners ask that the petition may be printed in the RECORD. I make that request.

There being no objection, the petition was ordered to be printed in the RECORD, and to lie on the table, as follows:

[Our Fourfooted Friends, March, 1906.]

The opinion of Mr. E. H. Whitehead, of Denver, Colo., on the attempt to increase the time allowed by law to carry cattle without food, rest, or water is worth quoting. It comes from a man who has made careful observation. He says:

"In making investigations not less than fifty stockmen of all kinds, shippers, commission men, and railroad men have been interviewed, and without a single exception have admitted that twenty-eight hours is long enough. The statements of stockmen who favor the extension to thirty-six hours are unreliable, and often apparently designed to mislead. The whole matter of animal protection is regarded by them as a joke, and they do not feel the same responsibility for their statements as they would about other matters.

"Members of Congress and others are likely to be deceived by what are really absurd and often ludicrous misrepresentations; for instance, the statement to Secretary Wilson that cattle are now loaded loosely in cars, so that a third can lie down and rest all the time. Those who made this statement presumed on Secretary Wilson's lack of practical information and made him believe it, with the result that his Department issued an order 'based on this fact.' The Department has been the laughingstock of the West ever since, and especially of men who duped the Secretary into the error.

"The claim of stockmen that they should be the judges of what is best for stock, and that self-interest will insure right care of same, ought to be true, but as a fact the business is conducted on the penny-wise-and-pound-foolish principle. There is no other business in which brutality to animals and suffering so generally prevails. According to the census of 1900 the number of range cattle was 29,000,000. At the present time there are literally millions starving on the ranges. They will starve slowly until spring, and hundreds of thousands will die. This happens every year. Stockmen count regularly on a certain percentage of loss from starvation, thirst, and cold. If 5, 10, or 15 per cent starve to death there is still a margin of profit. Are the owners of stock the best judges of what is best?

"The statement of stockmen that transportation conditions are improved, railroads making larger, and therefore more comfortable, cars, provided with feed racks and to some extent with watering troughs, is untrue as applied to 90 per cent of the live-stock shipments west of the Missouri River. Larger cars do not conduce to the comfort of cattle, but rather the reverse, as more cattle are put in. Feed racks and watering troughs are not in the cars, and could not be used if they were. Range cattle are often driven long distances and then loaded for the journey without rest, food, or water. The reason why cattle are not fed and watered before being loaded on cars is to avoid making the floor slippery and harder for the animals to keep their feet on, as an animal once down, unless immediately gotten up, will be mutilated and perhaps destroyed. Food racks and watering troughs can not be used unless each animal has a separate stall. Few cattle will eat on the cars, and food is not so necessary as rest and water. Stock suffers most from fatigue, next from thirst, last from hunger. Cinders, sand, or common dirt are spread on the floor of the cars to help cattle keep their feet, and are not intended for cattle to lie on, as they can not lie down without mutilation."

Photographs in Mr. Whitehead's possession show the outside and inside of a palace stock car. Thirteen steers in this car were trampled to death—the paunches trampled into mere bags, horns knocked off, and eyes knocked out and ribs broken. The car had come 120 miles. Not being loaded tightly enough, in switching one animal fell or lay down and was immediately trampled and soon killed; there being more room, others soon fell and suffered the same fate. The only animals left alive, or not so badly injured as to need immediate killing when the car reached Denver, were those that kept their feet. This is what happens when they are not packed tight. This was one of the comfortable cars described by stockmen in which cattle can take turns in lying down on their soft beds, arising when refreshed and eating the good hay in the imaginary racks and drinking deep drafts of water from the imaginary troughs.

It must be insisted on that lying down, eating, and drinking on cars are impossible, except for race horses and pedigreed stock, where cost does not count. Cattle must be packed as tight as they can stand for their own protection. They can not be watered on cars, as their excrement befouls the water. They can not be made to face one way.

Individual members of stock associations have privately admitted that twenty-eight hours is long enough and too long for the poor, half-starved range stock. Any extension of the twenty-eight-hour law would be cruel and inhuman, and the time should be reduced rather than extended.

Mr. SCOTT. I have a communication here from a former mayor of Huntington, W. Va., who is now a resident of the Isle of Pines. I should like to have the paper read and have it go into the RECORD.

Mr. LODGE. I suggest that matters relating to the treaty are certainly executive business. The paper can be presented in executive session, I will say to the Senator.

Mr. SCOTT. I will say to the Senator from Massachusetts that it does not refer at all to the treaty. It refers to property rights.

Mr. LODGE. It is all connected with the treaty, I think. I have no desire to prevent it from being read, but I think it should be presented in executive session.

Mr. SCOTT. I will withdraw it and offer it in executive session.

The VICE-PRESIDENT. The communication is withdrawn.

Mr. PENROSE presented a petition of the Iris Club, of Lancaster, Pa., praying for the enactment of legislation to prevent the destruction of Niagara Falls on the American side by the diversion of the waters for manufacturing purposes; which was ordered to lie on the table.

He also presented petitions of True and Loyal Council, No. 177, Daughters of Liberty, of Shamokin; Federal Council, No. 19, Daughters of Liberty, of Philadelphia; Pride of Washington Council, No. 182, Daughters of Liberty, of Washington; Silver Crescent Council, No. 3, Daughters of Liberty, of Philadelphia; Excelsior Council, No. 4, Daughters of Liberty, of Williamsport; True Blue Council, No. 186, Daughters of Liberty, of East Prospect; Keystone Council, No. 107, Daughters of Liberty, of Cressona; Friendship Council, No. 41, Daughters of Liberty, of Eden; Elite Council, No. 169, Daughters of Liberty, of Schuylkill Haven; Young America Council, No. 69, Daughters of Liberty, of Philadelphia, and Star of Oberlin Council, No. 155, Daughters of Liberty, of Oberlin, all in the State of Pennsylvania, praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

Mr. CULLOM presented a petition of the Illinois Chapter of the American Institute of Architects, praying for the removal of the duty on works of art; which was referred to the Committee on Finance.

He also presented a petition of sundry citizens of Illinois, praying for an investigation into the industrial conditions of the women of the country; which was referred to the Committee on Education and Labor.

He also presented a petition of the executive officers of sixteen commercial schools in Illinois, Iowa, Indiana, and Missouri, praying for the enactment of legislation relative to postage on college publications; which was referred to the Committee on Post Offices and Post-Roads.

Mr. GALLINGER presented petitions of the Woman's Club of Henniker, N. H., and a petition of the General Federation of Women's Clubs of the State of New Hampshire, praying that an appropriation be made for a scientific investigation into the industrial conditions of women in the United States; which were referred to the Committee on Education and Labor.

He also presented a petition of Granite State Lodge, No. 235, Brotherhood of Railroad Trainmen, of Manchester, N. H., praying for the enactment of legislation to restrict immigration; which was referred to the Committee on Immigration.

He also presented a petition of the Board of Trade of Washington, D. C., and a petition of the Bureau of American Ethnology, of Washington, D. C., praying for the enactment of legislation providing for the purchase of certain land adjacent to Rock Creek Park, in the District of Columbia; which were referred to the Committee on the District of Columbia.

Mr. TELLER presented a petition of the Methodist Episcopal Missionary Society of Fort Collins, Colo., praying for the enactment of legislation to prohibit the sale of intoxicating liquors in all Government buildings, grounds, and ships; which was referred to the Committee on Public Buildings and Grounds.

He also presented a petition of Gold Coin Division, No. 375, Order of Railway Conductors, of Canon City, Colo., praying for the passage of the so-called "employers' liability bill;" which was referred to the Committee on Interstate Commerce.

He also presented a petition of the Colorado Federation of Women's Clubs, praying for the enactment of legislation to create the Mesa Verde National Park; which was ordered to lie on the table.

He also presented a petition of the Farmers' Congress of Denver, Colo., praying for the enactment of legislation to preserve American antiquities; which was referred to the Committee on Forest Reservations and the Protection of Game.

He also presented a memorial of the Trades and Labor Assembly of Denver, Colo., remonstrating against the repeal of the present Chinese-exclusion law; which was referred to the Committee on Immigration.

He also presented a petition of the Colorado State Commercial Association, of Denver, Colo., praying for the enactment of legislation providing for the construction and maintenance of a permanent exhibition hall on Ellis Island, New York, for the benefit and education of immigrants landing at that port; which was referred to the Committee on Immigration.

He also presented a petition of the Seventh Biennial Convention of Denver, Colo., praying for the enactment of legislation to restrict immigration; which was referred to the Committee on Immigration.

He also presented a petition of the Presbyterian Missionary Society of Fort Collins, Colo., and a petition of the Methodist Episcopal Missionary Society of Fort Collins, Colo., praying for the enactment of legislation to prohibit the sale of opium except in medical prescriptions; which were referred to the Committee on Finance.

He also presented petitions of the Woman's Club of Denver, of the Colorado Federation of Women's Clubs, and of the Woman's Club of Leadville, all in the State of Colorado, praying that an appropriation be made for a scientific investigation into the industrial conditions of women in the United States; which were referred to the Committee on Education and Labor.

He also presented a petition of Local Union, American Federation of Musicians, of Pueblo, Colo., praying for the enactment of legislation to prohibit Government musicians from competing with civilian musicians; which was referred to the Committee on Military Affairs.

He also presented a petition of the National Guard of Denver, Colo., praying for the enactment of legislation to increase the efficiency of the militia and to promote rifle practice; which was referred to the Committee on Military Affairs.

He also presented a petition of the Woman's Christian Temperance Union of Elbert, Colo., praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah; which was referred to the Committee on Privileges and Elections.

He also presented a petition of the Inter-Denominational Missionary Union of Denver, Colo., praying for the passage of the so-called "Littlefield-Dolliver bill" to limit the interstate transportation of intoxicating liquors; which was referred to the Committee on Interstate Commerce.

Mr. GAMBLE presented a petition of S. M. Lindley and 45 other citizens of Bonesteel, S. Dak., praying for the removal of the internal-revenue tax on denaturized alcohol; which was referred to the Committee on Finance.

Mr. RAYNER presented petitions of the Eutaw Methodist Protestant Christian Endeavor Society, of Baltimore, Md., of the Woman's Home Missionary Society of the Methodist Episcopal Church of Harlem Park, Md.; of the Methodist Ministers' Association, of Cleveland, Ohio, and of the Methodist Episcopal Church of Ridgely, Md., praying for the enactment of legislation to prohibit the sale of intoxicating liquors in all Government buildings; which were referred to the Committee on Military Affairs.

He also presented a petition of the Maryland State Grange, Patrons of Husbandry, of College Park, Md., praying for the removal of the internal-revenue tax on denaturized alcohol; which was referred to the Committee on Commerce.

He also presented a petition of Liberty Council No. 6, Daughters of Liberty, of Baltimore, Md., praying for the enactment of legislation to restrict immigration; which was referred to the Committee on Immigration.

He also presented a petition of the Woman's Club of Kensington, Md., praying that an appropriation be made for a scientific investigation into the industrial conditions of women in the United States; which was referred to the Committee on Education and Labor.

He also presented a petition of the Methodist Ministers' Association of Cleveland, Ohio, praying for the enactment of legislation providing for the closing of the Jamestown Exposition on Sundays; which was referred to the Select Committee on Industrial Expositions.

He also (for Mr. GORMAN) presented sundry papers to accompany the bill (S. 2129) for the relief of the Vestry of St. Paul's

Protestant Episcopal Church, situated near Point of Rocks, Md.; which were referred to the Committee on Claims.

Mr. CLARK of Montana presented a petition of Anaconda Lodge, No. 614, Brotherhood of Railroad Trainmen, of Anaconda, Mont., praying for the enactment of legislation to restrict immigration; which was referred to the Committee on Immigration.

REPORTS OF COMMITTEES.

Mr. DILLINGHAM, from the Committee on Immigration, to whom was referred the bill (S. 4403) to amend an act entitled "An act to regulate the immigration of aliens into the United States," approved March 3, 1903, reported it with amendments, and submitted a report thereon.

Mr. MALLORY, from the Committee on Commerce, to whom was referred the bill (S. 411) to extend the limits of the port of entry of New Orleans, reported it without amendment, and submitted a report thereon.

Mr. CLAY, from the Committee on Post-Offices and Post-Roads, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 13154) for the relief of John T. Irion;

A bill (H. R. 7709) for the relief of Joseph Crow;

A bill (H. R. 3649) for the relief of Zenas Parker; and

A bill (H. R. 8717) for the relief of Jacob Pickens.

Mr. BACON, from the Committee on the Judiciary, to whom was referred the bill (H. R. 12843) to amend the seventh section of the act entitled "An act to establish circuit courts of appeals and to define and regulate in certain cases the jurisdiction of the courts of the United States, and for other purposes," approved March 3, 1891, reported it with amendments, and submitted a report thereon.

Mr. MARTIN, from the Committee on Commerce, to whom was referred the bill (H. R. 15259) to authorize the North Mississippi Traction Company to construct dams and power stations on the Bear River on the northeast quarter of section 35, township 5, range 11, in Tishomingo County, Miss., reported it without amendment.

Mr. PILES, from the Committee on Commerce, to whom were referred the following bills, reported them severally without amendment:

A bill (H. R. 11026) to authorize the counties of Holmes and Washington to construct a bridge across Yazoo River, Mississippi; and

A bill (H. R. 16140) to authorize the maintaining and operating for toll an existing structure across Tugaloo River, known as "Knox's bridge," at a point where said river is the boundary between the States of South Carolina and Georgia.

Mr. PILES, from the Committee on Commerce, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (H. R. 14591) to authorize the construction of a bridge across the Cumberland River in or near the city of Clarksville, State of Tennessee; and

A bill (H. R. 14592) to authorize the construction of two bridges across the Cumberland River at or near Nashville, Tenn.

LIGHTS ON BOATS AND RAFTS IN TOW.

Mr. FRYE. From the Committee on Commerce I am about to report several bills, and as it will take but a minute to pass each of them, and there being no possible objection, I shall ask for their present consideration. It has been recently decided by the circuit court that inspectors can not enforce the law so as to require lights on rafts in tow. The bills simply amend the existing law by adding the words "or in tow."

The VICE-PRESIDENT. The reports will be received.

Mr. FRYE. First, I report back from the Committee on Commerce, without amendment, the bill (S. 5385) to amend an act entitled "An act to adopt regulations for preventing collisions upon certain harbors, rivers, and inland waters of the United States," approved June 7, 1897, and I submit a report thereon. I ask for its present consideration.

The VICE-PRESIDENT. The bill will be read for the information of the Senate.

The Secretary read the bill, as follows:

Be it enacted, etc., That clause "d" of article 9 of the act entitled "An act to adopt regulations for preventing collisions upon certain harbors, rivers, and inland waters of the United States," approved June 7, 1897, be, and the same is hereby, amended by inserting, after the word "river" and before the word "shall," the words "or in tow;" so that the same shall read as follows:

"Rafts or other water craft not herein provided for, navigating by hand power, horse power, or by the current of the river, or in tow, shall carry one or more good white lights, which shall be placed in such manner as shall be prescribed by the Board of Supervising Inspectors of Steam Vessels."

Mr. CULBERSON. What is the number of the bill?

Mr. FRYE. Senate 5385. It simply inserts the words "or in tow."

Mr. CULBERSON. I was about to ask the Senator from Maine what connection it has with Senate bill 5384, which is to amend rule 12 of section 4233?

Mr. FRYE. That bill makes the same amendment. The circuit court has just held that the inspectors have no right to compel lights on these vessels. This is simply to give them the right to require white lights on rafts in tow.

Mr. CULBERSON. The bills are companion measures?

Mr. FRYE. Yes; there are three separate bills to correct the existing law.

The VICE-PRESIDENT. Is there objection to the present consideration of the bill just read?

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. FRYE. I report back from the Committee on Commerce without amendment the bill (S. 5384) to amend rule 12 of section 4233 of the Revised Statutes of the United States, relating to lights on water craft, and I submit a report thereon. I ask for the present consideration of the bill.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It proposes to amend rule 12 of section 4233 of the Revised Statutes of the United States by inserting after the word "river" and before the word "or" the words "or in tow;" so as to read as follows:

Rule 12. Coal boats, trading boats, produce boats, canal boats, oyster boats, fishing boats, rafts, or other water craft navigating any bay, harbor, or river by hand power, horsepower, sail, or by the current of the river, or in tow, or which shall be anchored or moored in or near the channel or fairway of any bay, harbor, or river, and not otherwise provided for in these rules, shall carry one or more good white lights, which shall be placed in such manner as shall be prescribed by the Board of Supervising Inspectors of Steam Vessels.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. FRYE. From the Committee on Commerce, I report back without amendment the bill (S. 5386) to amend an act entitled "An act to regulate navigation on the Great Lakes and their connecting and tributary waters," approved February 8, 1895, and I submit a report thereon. I ask for the present consideration of the bill.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It proposes to amend rule 10 of the act approved February 8, 1895, by inserting after the word "river" and before the word "or" the words "or in tow;" so as to read:

Rule 10. Produce boats, canal boats, fishing boats, rafts, or other water craft navigating any bay, harbor, or river by hand power, horse power, sail, or by the current of the river, or in tow, or which shall be anchored or moored in or near the channel or fairway of any bay, harbor, or river, and not otherwise provided for in these rules, shall carry one or more good white lights, which shall be placed in such manner as shall be prescribed by the Board of Supervising Inspectors of Steam Vessels.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ADJOURNMENT TO MONDAY.

Mr. HALE. I move that when the Senate adjourns to-day it be to meet on Monday next.

The motion was agreed to.

EULOGIES ON THE LATE REPRESENTATIVE JOHN W. CRANFORD.

Mr. PLATT. I am directed by the Committee on Printing, to whom was referred the joint resolution (H. J. Res. 11) for the publication of eulogies delivered in Congress on Hon. John W. Cranford, late a Representative in Congress, to report it favorably without amendment, and I ask for its present consideration.

There being no objection, the joint resolution was considered as in Committee of the Whole. It directs that the eulogies delivered in the Senate and House during the third session of the Fifty-fifth Congress on the late Hon. John W. Cranford, a Representative in Congress from the Fourth district of Texas, who died but a short time before the end of the Fifty-fifth Congress, and the eulogies on whose life and character were delivered in the Senate and House before the adjournment of said Congress, but for some unknown reason were never published and under the law can not now be published except by joint resolution, be published in the form and manner usually followed in the publication of eulogies in Congress on deceased Members, to the number of 1,000 copies to be distributed by the

Representative from the First district of Texas and the regular number bound in the usual style for the family of the deceased. The usual number shall not be printed.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

LIFE-SAVING STATIONS ON COAST OF WASHINGTON.

Mr. PILES. I am directed by the Committee on Commerce, to whom was referred the bill (S. 5027) providing for the establishment of three life-saving stations on the coast of Washington, between Cape Flattery and Grays Harbor, to report it with an amendment in the nature of a substitute, and I submit a report thereon. I ask for the immediate consideration of the bill.

There being no objection, the bill was considered as in Committee of the Whole.

The amendment of the Committee on Commerce was to strike out all after the enacting clause and insert:

That the Secretary of the Treasury be, and he is hereby, authorized to establish on the coast of Washington, between Cape Flattery and Grays Harbor, at such points as the General Superintendent of the Life-Saving Service may recommend, three life-saving stations, or such less number for which suitable sites can be found.

SEC. 2. That the Secretary of the Treasury is hereby authorized to construct a telephone line from some point at or near Cape Flattery, State of Washington, along the coast line of the Pacific Ocean to some point on the north side of Grays Harbor, in said State, said line to be operated under his direction for the use of the Life-Saving Service.

SEC. 3. That the Weather Bureau shall be entitled to the use of said line under such regulations as may be agreed upon by the Secretary of the Treasury and the Secretary of Agriculture.

SEC. 4. That for carrying out the purposes of this act there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $60,000, or so much thereof as may be necessary.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill providing for the establishment of life-saving stations and for the construction of a telephone line on the coast of Washington between Cape Flattery and Grays Harbor, in aid of the preservation of life and property."

ST. JOSEPH RIVER DAM IN MICHIGAN.

Mr. CLAY. I am instructed by the Committee on Commerce, to whom was referred the bill (H. R. 16671) permitting the building of a dam across the St. Joseph River, near the village of Berrien Springs, Berrien County, Mich., to report it favorably without amendment.

Mr. BURROWS. May I ask unanimous consent for the present consideration of the bill?

The VICE-PRESIDENT. The bill will be read for the information of the Senate.

The Secretary read the bill; and, there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

SURVEY OF PASSAIC RIVER, NEW JERSEY.

Mr. GALLINGER, from the Committee on Commerce, to whom was referred the concurrent resolution submitted by Mr. KEAN on the 26th instant, reported it without amendment, and it was considered by unanimous consent, and agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, authorized and directed to cause to be made a survey and examination of the Passaic River, New Jersey, beginning at the Montclair and Greenwood Lake Railroad bridge to the present head of navigation at the city of Passaic, with a view to providing suitable navigation facilities for the needs of the city of Passaic.

SALE OF POULTRY IN THE DISTRICT OF COLUMBIA.

Mr. GALLINGER. On the 22d day of the present month I reported favorably from the Committee on the District of Columbia the bill (S. 4982) relating to the sale of poultry in the District of Columbia. Some very excellent citizens of the District request a hearing on the bill; and I move that it be recommitted to the Committee on the District of Columbia.

The motion was agreed to.

ISSUE OF DUPLICATE GOLD CERTIFICATE.

Mr. ALLISON. From the Committee on Finance I report back without amendment the bill (H. R. 5954) to authorize the Secretary of the Treasury to issue duplicate gold certificate, in lieu of one lost, to Lincoln National Bank, of Lincoln, Ill.; and I ask unanimous consent that it may be considered.

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. CULLOM introduced a bill (S. 5432) granting an increase of pension to John Kinnee; which was read twice by its title, and referred to the Committee on Pensions.

Mr. PENROSE introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 5433) granting an increase of pension to Joseph Gregson; and

A bill (S. 5434) granting a pension to Theophilus Snyder.

Mr. PENROSE introduced a bill (S. 5435) providing for the retirement of noncommissioned officers, petty officers, and enlisted men of the Army, Navy, and Marine Corps of the United States; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. KEAN introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Public Buildings and Grounds:

A bill (S. 5436) to provide for the enlargement of the Government building at Trenton, N. J.; and

A bill (S. 5437) to provide for the enlargement of the post-office building at Hoboken, N. J.

Mr. KEAN introduced a bill (S. 5438) to establish a light and fog signal in New York Bay at the entrance to the dredged channel at Greenville, N. J.; which was read twice by its title, and referred to the Committee on Commerce.

He also introduced a bill (S. 5439) granting an increase of pension to George W. Dunlop; which was read twice by its title, and referred to the Committee on Pensions.

Mr. SCOTT introduced a bill (S. 5440) to remove the charge of desertion from the name of Anderson Walker; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Military Affairs.

Mr. NEWLANDS. I introduce a bill and ask that it may lie on the table.

The bill (S. 5441) authorizing the President to reserve coal and lignite underlying public lands for future disposal was read twice by its title, and ordered to lie on the table.

Mr. McCUMBER (by request) introduced a bill (S. 5442) granting a pension to Frances E. Taylor; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

He also introduced a bill (S. 5443) granting an increase of pension to James D. Merrill; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. KNOX introduced a bill (S. 5444) granting an increase of pension to Isaac H. Rocap; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. RAYNER introduced a bill (S. 5445) for the relief of Jill Moats; which was read twice by its title, and referred to the Committee on Claims.

Mr. WARNER introduced a bill (S. 5446) for the relief of John Hudgins; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Post-Offices and Post-Roads.

Mr. FORAKER introduced a bill (S. 5447) granting an increase of pension to Oliver H. Hibben; which was read twice by its title, and referred to the Committee on Pensions.

AMENDMENT TO ARMY APPROPRIATION BILL.

Mr. PENROSE submitted an amendment providing that the expert accountant, Inspector-General's Department, shall have the rank and pay of captain mounted, intended to be proposed by him to the Army appropriation bill; which was referred to the Committee on Military Affairs, and ordered to be printed.

ACCOUNTS OF POSTMASTERS IN ILLINOIS.

Mr. CULLOM submitted the following resolution; which was referred to the Committee on Post-Offices and Post-Roads:

Resolved by the Senate, That the Secretary of the Treasury be, and he hereby is, directed to report to the Senate, from their registered returns in the office of the Sixth Auditor, the salaries of former postmasters at post-offices in the State of Illinois whose names are stated in Senate resolution No. 85, Fifty-seventh Congress, stated by commissions for the terms of service stated therein, said report to include every account in which the salary by commissions exceeds by 10 per cent or more the salary paid, such excess to be shown in each reported account, and to conform in all respects to the public order of the Postmaster-General for stating such accounts of February 17, 1884, and the Postmaster-General is hereby directed to turn over to the Sixth

Auditor in aid of the report herein ordered all data in his hands pertaining to such salary accounts of former postmasters named in said Senate resolutions.

CHOCTAWHATCHEE POWER COMPANY IN ALABAMA.

Mr. PETTUS. I ask for the present consideration of the bill (H. R. 14808) authorizing the Choctawhatchee Power Company to erect a dam in Dale County, Ala.

The VICE-PRESIDENT. The bill will be read for the information of the Senate.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

REORGANIZATION OF THE CONSULAR SERVICE.

Mr. LODGE submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1511) to provide for the reorganization of the consular service of the United States, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its amendments numbered 1, 37, 42.

That the Senate recede from its disagreement to the amendments of the House numbered 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 15, 17, 18, 19, 20, 21, 22, 24, 25, 26, 27, 28, 29, 31, 32, 34, 35, 37, 38, 40, 41, 43, 44, 45, 46, 47, 49, 50, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 74, 75, 76, 77, 78, 79, 80, 81, 82; and agree to the same.

Amendment numbered 12: That the Senate recede from its disagreement to the amendment of the House numbered 12, and agree to the same with an amendment as follows: Insert in lieu thereof:

"Class two, six thousand dollars—Manchester."

And the House agree to the same.

Amendment numbered 13: That the Senate recede from its disagreement to the amendment of the House numbered 13, and agree to the same with an amendment as follows: In lieu thereof insert the word "three;" and the House agree to the same.

Amendment numbered 14: That the Senate recede from its disagreement to the amendment of the House numbered 14, and agree to the same with an amendment as follows: Insert in lieu thereof the word "four;" and the House agree to the same.

Amendment numbered 16: That the Senate recede from its disagreement to the amendment of the House numbered 16, and agree to the same with an amendment as follows: In lieu thereof insert the word "five;" and the House agree to the same.

Amendment numbered 23: That the Senate recede from its disagreement to the amendment of the House numbered 23, and agree to the same with an amendment as follows: In lieu thereof insert the word "six;" and the House agree to the same.

Amendment numbered 30: That the Senate recede from its disagreement to the amendment of the House numbered 30, and agree to the same with an amendment as follows: In lieu thereof insert the word "seven;" and the House agree to the same.

Amendment numbered 36: That the Senate recede from its disagreement to the amendment of the House numbered 36, and agree to the same with an amendment as follows: Insert, after the word "Sandakan," the word "Seville;" and the House agree to the same.

Amendment numbered 39: That the Senate recede from its disagreement to the amendment of the House numbered 39, and agree to the same with an amendment as follows: In lieu thereof insert the word "eight;" and the House agree to the same.

Amendment numbered 48: That the Senate recede from its disagreement to the amendment of the House numbered 48, and agree to the same with an amendment as follows: Strike out, after the words "Sault Sainte Marie," the word "Seville," in line 9, page 4; and the House agree to the same.

Amendment numbered 51: That the Senate recede from its disagreement to the amendment of the House numbered 51, and agree to the same with an amendment as follows: In lieu thereof insert the word "nine;" and the House agree to the same.

Amendment numbered 73: That the Senate recede from its disagreement to the amendment of the House numbered 73, and agree to the same with an amendment as follows: Strike out the two last words in said amendment and insert in lieu thereof the words "one year;" and the House agree to the same.

H. C. LODGE,
S. M. CULLOM,
A. O. BACON,
Managers on the part of the Senate.

ROBT. ADAMS,
EDWIN DENBY,
CHAS. A. TOWNE,
Managers on the part of the House.

The report was agreed to.

ACCOUNTS OF MAINE POSTMASTERS.

Mr. FRYE. I offer the resolution which I send to the desk, for which I ask immediate consideration.

The VICE-PRESIDENT. The resolution will be read.

The Secretary read the resolution, as follows:

Resolved, That the Secretary of the Treasury be, and he is hereby, directed to have stated in the Sixth Auditor's Office the salary accounts of former postmasters, named on annexed memorandum schedule, who served at post-offices in Maine in terms between July 1, 1864, and July 1, 1874, and who applied to the Postmaster-General prior to January 1, 1887, for payment of increased salary under the act of March 3, 1883, such salary accounts to be stated upon the registered returns of each postmaster for each term of service, and by the method and rule laid down by the Postmaster-General for the statement and payment of salary accounts of former postmasters under the act of March 3, 1883, in his public order of February 16, 1884; and the Secretary of the Treasury is hereby directed to report to the Senate such stated salary accounts of former postmasters as soon as they can be made ready.

The VICE-PRESIDENT. Is there objection to the present consideration of the resolution?

Mr. GALLINGER. Mr. President, the difficulty that confronts me in regard to this resolution is the fact that I have been receiving a great many letters concerning the settlement of accounts of such postmasters in New Hampshire. It seems to me we ought to have a resolution covering the entire subject, dealing with the States as a whole. These accounts, I think, exist in every State. The claim is made that the Government owes these postmasters some money which they ought to have. I do not know anything about the merits of the case, but I suppose I could look up the New Hampshire matter, follow the example of the distinguished Senator from Maine [Mr. FRYE], and have the New Hampshire cases acted upon; but if we could have a general resolution covering this matter I think it would be very much better.

Mr. FRYE. I prefer to have my own resolution passed.

Mr. GALLINGER. I have no objection to it, of course.

Mr. CULLOM. Mr. President, I merely want to say that I introduced a resolution on this same subject and had it referred to the Committee on Post-Offices and Post-Roads.

Mr. FRYE. And the Senator from Colorado [Mr. TELLER] had one passed a few days ago in the exact terms of this one.

The VICE-PRESIDENT. Is there objection to the present consideration of the resolution?

Mr. CULLOM. I will not object to the resolution, Mr. President, but I think, as the Senator from New Hampshire [Mr. GALLINGER] has stated, it ought to be general and cover the whole country.

The resolution was considered by unanimous consent, and agreed to.

Mr. ALLISON subsequently said: I wish to enter a motion to reconsider the vote by which the resolution submitted by the Senator from Maine [Mr. FRYE] in reference to the accounts of postmasters was agreed to. I hope the Senator from Maine will allow the matter to be looked into a little. The settlement of such accounts may involve an expenditure of two or three million dollars.

The VICE-PRESIDENT. The motion to reconsider will be entered.

REGULATION OF RAILROAD RATES.

Mr. TILLMAN. Mr. President, I ask unanimous consent that the unfinished business may be now considered.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission.

Mr. CLAY. Mr. President, while the discussion on rate legislation has taken a wide range, the pivotal point of difference is not a serious one. I have read most critically the different bills pending before this body for rate legislation, especially the House bill, the Knox bill, the Culberson bill, and the Tillman bill. It has been charged on the floor of the Senate that the Hepburn-Dolliver bill was drawn by some shrewd railroad lawyer and in the interest of railroads. I can not join those who contend for any such position. If this bill should pass, it

certainly would be a great improvement upon present conditions and in the interest of the people. So would the Culberson bill, and so would the Tillman bill, and, I say with the same freedom, so would the Knox bill. What is the history of the Hepburn-Dolliver bill? Where did it originate? What support has it received and what change will its passage make in present conditions, and what is the real difference between the Hepburn-Dolliver bill and the Knox bill? The Culberson bill is probably more drastic than any other measure pending before the Senate. The history of the Hepburn-Dolliver bill condemns the idea that this measure was drawn in the interest of railroads. The high character and standing of the men responsible for this measure overwhelm such an argument. The contents of the bill refute any such position. What I want is effective legislation that will cure existing evils and that will inflict wrong upon no one. I repeat, What is the history of the Hepburn-Dolliver bill? Both Democrats and Republicans are responsible for this measure. The Committee on Interstate and Foreign Commerce in the House is composed of twelve Republicans and six Democrats, consisting of Hon. WILLIAM P. HEPBURN, of Iowa; Hon. JAMES S. SHERMAN, of New York; Hon. IRVING P. WANGER, of Pennsylvania; Hon. JAMES R. MANN, of Illinois; Hon. WILLIAM C. LOVERING, of Massachusetts; Hon. FREDERICK C. STEVENS, of Minnesota; Hon. CHARLES H. BURKE, of South Dakota; Hon. JOHN J. ESCH, of Wisconsin; Hon. FRANCIS W. CUSHMAN, of Washington; Hon. CHARLES E. TOWNSEND, of Michigan; Hon. JOSEPH H. GAINES, of West Virginia; Hon. JAMES S. KENNEDY, of Ohio, Republicans; and Hon. ROBERT C. DAVEY, of Louisiana; Hon. WILLIAM C. ADAMSON, of Georgia; Hon. WILLIAM H. RYAN, of New York; Hon. WILLIAM RICHARDSON, of Alabama; Hon. CHARLES L. BARTLETT, of Georgia; Hon. GORDON RUSSELL, of Texas, Democrats.

This bill was thoroughly considered by the committee, amended in various ways, and received the unanimous support of that committee. The debate lasted for weeks, and the bill passed the House of Representatives by a vote of 346 to 7. The 7 votes recorded against this bill were against any legislation on this subject. Five of the Democratic Members of this committee are personally known to me and two of them are from Georgia. Mr. ADAMSON has had an experience of ten years in Congress, is an able lawyer, and a faithful representative of the people. Mr. BARTLETT has been a Member of Congress for ten years, was judge of the superior court of the circuit where he resided before he was elected to Congress, and is a very able member of the bar. I believe one of the ablest speeches that I have read in favor of rate legislation was delivered by Mr. RUSSELL, of Texas. Mr. RICHARDSON succeeded General Wheeler in Congress, and Mr. DAVEY has been a Member of Congress for a number of years and was the author of the Davey bill, and both of these gentlemen have labored earnestly in behalf of effective rate legislation. The membership of that entire committee refutes the idea that this measure was prepared in the interest of railroads. Mr. HEPBURN is recognized as one of the ablest Members of Congress, and his long and valuable service and devotion to the public interest overwhelm the idea of collusion in favor of railroad interest as against the interest of the American people. I have been informed that this bill was most critically examined by the minority leader in the House, and that he gave it his active support. The Hepburn-Dolliver bill is a product of the House of Representatives, representing 80,000,000 people, and was not drawn with the view of advancing the railroad interest of this country. This bill came to the Senate, was referred to the Committee on Interstate Commerce, and was there considered for days and weeks, and received favorable consideration at the hands of that committee, every Democrat voting in favor of a favorable report and three Republicans joined with them in such favorable action, and the Senator from South Carolina [Mr. TILLMAN] became the stepfather of the House bill, and I beg the Senator to give decent and proper treatment to his stepchild. We have always been taught that stepfathers are not considerate of the interest and welfare of their stepchildren, but I am sure the Senator by his conduct will demonstrate in this instance that such a charge is without foundation. Now, what change will be made in the event we pass the Hepburn-Dolliver bill, and what is the real difference between this bill and the Knox bill?

The Interstate Commerce Commission time and again has recommended to Congress the passage of legislation identical with the House bill. The real meat in the bill is to be found in section 15, which is as follows:

SEC. 15. That the Commission is authorized and empowered, and it shall be its duty, whenever, after full hearing upon a complaint made as provided in section 13 of this act, or upon complaint of any common carrier, it shall be of the opinion that any of the rates or charges whatsoever demanded, charged, or collected by any common carrier or carriers, subject to the provisions of this act, for the transportation of persons or property, as defined in the first section of this act, or that any regulations or practices whatsoever of such carrier or carriers affecting such rates, are unjust or unreasonable, or unjustly discriminatory, or unduly preferential or prejudicial, or otherwise in violation of any of the provisions of this act, to determine and prescribe what will, in its judgment, be the just and reasonable and fairly remunerative rate or rates, charge or charges, to be thereafter observed in such case as the maximum to be charged; and to make an order that the carrier shall cease and desist from such violation to the extent to which the Commission finds the same to exist, and shall not thereafter publish, demand, or collect any rate or charge for such transportation in excess of the maximum rate or charge so prescribed, and shall conform to the regulation or practice so prescribed. Such order shall go into effect thirty days after notice to the carrier and shall remain in force and be observed by the carrier, unless the same shall be suspended or modified or set aside by the Commission or be suspended or set aside by a court of competent jurisdiction.

This is the feature of the bill that gives rate-making power to the Commission, which it does not now possess. Now, let us see what provision of the Knox bill corresponds with this provision of the Hepburn-Dolliver bill which I have read. The third section of the Knox bill provides:

SEC. 3. That any person, firm, corporation, or any representative association, mercantile, agricultural, or municipal society, or any body politic or municipal organization, complaining of anything done or omitted to be done in violation of the provisions of this act, or the acts named in section 1 of this act, by any common carrier subject to the provisions of this act, either by said carrier alone or in connection with some other carrier, corporation, or person using, owning, or controlling any instrumentality or facility of commerce subject to the provisions of this act, may apply to the Interstate Commerce Commission by petition, stating concisely the facts in regard to the matter complained of, and thereupon the Commission shall forward to such common carrier and others complained of a copy of the petition, with direction to answer the same in writing within a reasonable time, to be specified by the Commission.

Section 4 provides:

SEC. 4. That whenever, after full hearing upon such complaint, the said Commission shall determine that any existing rate or rates or practice whatsoever affecting the same, or any regulation or practice whatsoever as aforesaid, relating to any of the aforesaid services or transportation or incidents thereto, to be unjust, unreasonable, or unjustly discriminatory, or unduly preferential or prejudicial, or otherwise in violation of any of the provisions of this act or acts named in section 1 of this act, it shall be the duty of the Commission to declare and order what, in its judgment, will be a just, reasonable, and fairly remunerative rate or rates, charge or charges, practice, or regulation to be charged, imposed, or followed in place of the rate or rates, charge or charges, regulation, or practice declared by it to be unjust, unreasonable, unjustly discriminatory, or unduly preferential under the provisions of any act referred to in section 1 hereof: *Provided*, That when the Commission shall order a rate reduced such reduced rate shall be the maximum to be observed by the carrier, and when the Commission shall order a practice to be changed its order shall be observed by the carrier.

The bill also provides that—

The orders of the Commission shall take effect within such reasonable time as shall be prescribed by the Commission, unless sooner set aside by order of a court in a suit to test the lawfulness of said order.

The Knox bill gives the carrier and the shipper the right to go into a court of equity and test the lawfulness of the order of the Commission; that is, the Knox bill gives the carrier and the shipper the right to go into existing courts and test the lawfulness of such order. The Hepburn-Dolliver bill provides that the Commission shall have the right to petition the courts and enforce obedience to such orders as the Commission may issue, and upon the hearing, if it appears that the order was regularly made and duly served, that the courts shall enforce obedience to such order by writ of injunction.

The Knox bill provides for a review of the action of the Commission and limits the review to the lawfulness of the rate. The Hepburn-Dolliver bill authorizes the Commission to enforce its findings by mandamus and writ of injunction and limits the jurisdiction of the court to the regularity of the order of the Commission. This is the only real difference between those two measures. Both bills provide that the rate fixed by the Commission shall go into effect and remain in force unless suspended or set aside by a court of competent jurisdiction. This is a statement of the difference between the two bills. Much has been said about the right of the carrier to have reviewed by a court the rate fixed by the Commission. Some contend that this right should be expressed in the bill and others claim that such right would be implied. Under the decisions of the court the carrier has the right to go into the courts and contest the lawfulness of the rate fixed by the Commission—that is, to have determined whether or not the rate so fixed is confiscatory or not compensatory for the services performed. It has been held by our highest court that where the legislature of a State passes a law creating a State commission and giving it the power to make reasonable and just rates and the Commission goes beyond its power and fixes a confiscatory rate, notwithstanding the law creating the Commission does not provide for any review by the courts, the constitutional right exists to go into the courts and determine whether or not the rate fixed by the State commission was confiscatory or not compensatory for the services performed.

Several cases deciding this identical question can be found,

and I presume this principle will not be denied. The legislature of a State can not authorize a commission to fix any other rate than a just and reasonable one, and if the commission exceeds its powers and makes a rate that destroys the property of the carrier, then the carrier is protected by the Constitution of the United States, and can have set aside such a rate. Neither Congress nor the legislature of a State, directly or through a commission, can make a rate that does not give to the carrier what the services performed are reasonably worth. These rights can be enforced in a court of equity regardless of any provision for review by the courts. If Congress should pass a bill that simply authorizes the Commission to fix reasonable and just rates and to enforce its findings and was to stop there, then the carrier could exercise the right of going into a court of equity, setting forth that the rate fixed was confiscatory or not compensatory for the services performed, and the court would set aside such rate if the allegations were found to be true. I am in favor of expressing in the bill the powers we give to the court to review the rate fixed by the Commission. The court should not have the right to hear and determine the whole question, as did the Commission, but should simply have the right to determine whether or not the rate fixed by the Commission was a lawful one, and whether or not such rate violated the Constitution of the United States. If the Commission fixes a reasonable rate, that rate ought to stand, and the court should have no right to set it aside. The court might be of the opinion that the rate ought to be higher than the one fixed by the Commission, but unless the Commission has violated the instructions of Congress and put in operation an unconstitutional rate, then the rate ought to be left where the Commission fixes it.

Courts should be slow to interfere with the acts of Congress, and the Commission represents Congress, and a rate fixed by an intelligent body of men, devoting their lives to this kind of work, should not be set aside unless the case made by the carrier is a strong one.

Mr. NEWLANDS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from Nevada?

Mr. CLAY. Certainly.

Mr. NEWLANDS. I would ask the Senator from Georgia whether, in his judgment, this bill does deprive the carrier of the opportunity of going into court? As I understand it, this bill in a proceeding brought by the Commission itself to enforce its orders provides that the court, in such proceeding, shall only inquire into the regularity of the order; but does that prevent the carrier from instituting a suit prior to that brought by the Commission and immediately getting an order against the Commission to enjoin the Commission from enforcing that order? Would not the carrier, in such a case, having declared that the order deprived the corporation of its property without due process of law and without just compensation, and that the enforcement of the order would work irreparable injury to the corporation, have that remedy left to it by this bill?

Mr. CLAY. Mr. President, the friends of the measure—those who drafted the bill—claim that such right still exists, notwithstanding the fact that when the shipper attempts to enjoin the order of the Commission, the bill provides that the carrier shall have no right except that of testing the regularity of the order. The friends of the measure claim that this feature does not in any way impair the general power of the court to review the rate on the ground that it is a confiscatory rate, or on the ground that it does not give just compensation for the services performed.

Mr. ALDRICH. Mr. President——

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from Rhode Island?

Mr. CLAY. In one moment, Mr. President, I was going on to state that if this bill intends to limit the carrier to testing the regularity of the order, and not to give the court jurisdiction to hear anything except as to the regularity of the order, then the carrier would be deprived of the right of contesting the lawfulness of a rate.

Mr. NEWLANDS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from Nevada?

Mr. NEWLANDS. I ask whether this bill does deprive the carrier of his remedy?

The VICE-PRESIDENT. The Senator from Rhode Island [Mr. ALDRICH] has requested permission to interrupt the Senator from Georgia. Does the Senator from Georgia yield to the Senator from Rhode Island?

Mr. CLAY. I will yield to either Senator or both Senators, Mr. President.

Mr. ALDRICH. I understand it to be the contention of some of the friends and supporters of the House bill that the only question that can go to the court would be the question whether the Commission had fixed what, in their opinion, was a just and reasonable rate. The Senator from Iowa [Mr. DOLLIVER], in his speech the other day, in answer to the Senator from Texas [Mr. BAILEY], said the test is not whether the rate fixed by the Commission is a just and reasonable rate, but whether it is a just and reasonable rate in the opinion of the Commission. I do not know whether the Senator from Nevada [Mr. NEWLANDS] agrees with the Senator from Iowa or not.

Mr. DOLLIVER. I have expressed no such opinion.

Mr. ALDRICH. The Senator stated that in his speech.

Mr. DOLLIVER. I beg the Senator's pardon.

Mr. ALDRICH. I will refer to the RECORD, if there is any dispute about it. I have stated it as I have read it in the RECORD.

Mr. CLAY. Mr. President, I should be glad to yield to either or both of the Senators, but I do not want to take up too much of the time of the Senate.

Mr. NEWLANDS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from Nevada?

Mr. CLAY. I yield to the Senator.

Mr. NEWLANDS. Of course Senators will understand that it is not my purpose at all in supporting any bill to deprive any corporation of its remedy in court or to do any irreparable injury to its property, involving the deprivation of its property or a failure to give it just compensation, but I wish to call the attention of the Senator to the fact that there is nothing in this bill to prevent the carrier from bringing an action in equity to enjoin the Commission from enforcing its order.

Mr. SPOONER. Will the Senator allow me to ask him a question?

Mr. NEWLANDS. Certainly.

Mr. SPOONER. If there were anything in this bill to prevent the carrier from bringing such a suit, would it be valid?

Mr. NEWLANDS. No; that would be absolutely void; but the act itself might be valid.

Mr. CLAY. I wish briefly to state my idea of the law, Mr. President.

Mr. NEWLANDS. Let me say to the Senator right here in this connection——

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from Nevada?

Mr. CLAY. Certainly.

Mr. NEWLANDS. I simply wish to say in this connection that I would regard the act of the Commission just as I would an act of Congress. If Congress to-day should pass a statute fixing the rates for interstate commerce, classifying them, and fixing the compensation, in my judgment it would be absolutely unnecessary to provide for any review. The courts themselves would take hold of that matter, would adjust their own jurisdiction under their constitutional obligation, and would protect the corporation against any deprivation of its property. It would be no more necessary for us in such a statute to provide for a review by the courts than it would be in any statute which affects the rights of the individual.

Mr. CLAY. Now, Mr. President, I want to state briefly my idea of the law. Congress can not delegate to a commission power to make any other rate except one that gives to the carrier just compensation for the service performed; if Congress delegates to the Commission the power to fix a rate that gives just compensation for the service performed the carrier can not be deprived of the right to go into the court and test the question of the rate fixed being just and reasonable. The Constitution of the United States gives to the carrier the right to go into court and determine whether or not the rate fixed is one that gives just compensation for the service performed.

Take the legislatures of the different States. The legislature of my own State has passed a bill creating a State commission. The courts have held that where that Commission fixes a rate that is not compensatory, that is confiscatory, notwithstanding the fact that the law is silent on the question of review, the railroad has the right to go into the existing courts and have determined whether or not the rate is a confiscatory rate.

Congress can not pass a law, Mr. President, depriving the carrier of that right. Congress ought not to pass a law depriving a carrier of that right. In my opinion, if the bill gives the power to the Commission to fix a rate and is silent so far as review by a court is concerned, and provides that the standard fixed by Congress shall be a just and reasonable one, then the carrier would have the right to go into existing courts and have determined the question whether the rate fixed is a constitutional and compensatory rate.

A good deal has been said about review, and there are only two pivotal points of difference between us——

Mr. CLAPP. Mr. President——

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from Minnesota?

Mr. CLAY. Certainly.

Mr. CLAPP. Before the Senator leaves the point which he has been just discussing, I understand him to maintain—and I am not asking this in any spirit of criticism at all, because the rest of us are not in accord—that if the bill simply authorized the fixing of a rate and left it there, the carrier would have a right to go into court to resist the unlawful taking of his property?

Mr. CLAY. I do not think there is any question about that.

Mr. CLAPP. No. I understand the Senator feels that the language in section 16, which provides for the bringing of an action by the Commission, is restrictive of that right?

Mr. CLAY. Well, I am not certain of that. I think it is very doubtful.

Mr. CLAPP. I want to call the Senator's attention to the purpose in the minds of those who have perhaps been somewhat active in framing this bill. In that section, if the Senator will read it, is the following language:

> If any carrier fails or neglects to obey any order of the Commission, other than for the payment of money, while the same is in effect.

In other words, if the carrier does not, under the broad power of the court and the constitutional right of the citizen, apply to a court to have this order vacated or suspended, but allows the order to go into effect, it is only in that case that the action provided for on page 16 is applicable; and then, presumably, the carrier having not cared to test his rights under the equity power of the court, the remedy is limited to the question of the regularity of the order. It is a sort of supplemental proceeding designed to give the Commission authority, after the carrier has allowed the order to go into effect by declining to oppose the effect of the order, to bring the suit. I want to call the Senator's attention to what was the purpose at least of that provision.

Mr. CLAY. I catch the point of the Senator. I understand the Senator to claim that this provision of the bill applies after the order has already gone into effect.

Mr. CLAPP. Entirely.

Mr. CLAY. And it is to enable the Commission to enforce the order. Now, I want to understand——

Mr. CLAPP. Not to enforce the order, but to enforce—it may seem like a technical distinction—to enforce obedience to the order, the time having passed away within which the carrier might have resisted the order.

Mr. CLAY. I accept that statement. Then the Senator claims that so far as the right of reviewing the rate on constitutional grounds is left silent, and the general law——

Mr. CLAPP. Not silent by any means.

Mr. CLAY. Where is there a provision especially providing for a review? I have not found it.

Mr. CLAPP. It is not, perhaps, especially provided for, but it is contemplated. I do not think it is necessary.

Mr. CLAY. The bill provides that the rate fixed by the Commission shall remain in force until suspended or set aside by the Commission or until suspended or set aside by a court.

Mr. CLAPP. Of competent jurisdiction.

Mr. CLAY. Of competent jurisdiction.

Mr. CLAPP. It then provides for venue, and then provides for expediting the cause.

Mr. ALDRICH. Mr. President——

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from Rhode Island?

Mr. CLAY. Yes.

Mr. ALDRICH. To show that I was not incorrect in my statement as to what some of the friends of this bill claim, I desire to read from the CONGRESSIONAL RECORD, page 4172, a statement made by the Senator from Iowa [Mr. DOLLIVER]:

> If the Senator from Texas will observe—
>
> I ask the attention of the Senate to this language——

Mr. CLAY. Mr. President——

Mr. ALDRICH. This is directly upon the point which the Senator is now discussing as to whether, under this bill, any question can go to the courts, except as to whether the order was regularly made by the Commission. It is directly upon the point. The Senator from Iowa said:

> If the Senator from Texas will observe, the test of the rate fixed by the Commission in the House bill is not the question whether the rate will be just and reasonable and fairly remunerative, but what, in the judgment of the Commission, would be a just, reasonable, and fairly remunerative rate.
>
> In other words, the sole question that could be considered by the court under that construction of the law would be whether this order was regularly made.

Mr. DOLLIVER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from Iowa?

Mr. CLAY. With pleasure.

Mr. DOLLIVER. That was a discussion of fragmentary character with the Senator from Texas [Mr. BAILEY]. I have stated on this floor not less than ten times that my opinion was that under this bill the court could review this order from the standpoint of whether it deprived the carrier of its property under the Constitution of the United States, and in reviewing that question I certainly have not intended to leave the impression that the only question involved was the regularity of the order.

Mr. ALDRICH. I am quite willing to leave that question with the language which I have just read. This whole discussion seems to be fragmentary in the sense that sometimes one contention is made by one friend of the bill and sometimes another contention is made by another friend of the bill.

Mr. CLAY. Now, let us settle that question. Why can not we settle it and legislate, and get through with this measure?

In the first place, everyone agrees—I do not believe there is a lawyer in this body who does not agree to the proposition—that the carrier has the right to go into court, regardless of whether the bill says so, and have reviewed the rate, to see whether or not it gives just compensation for the service performed. If we all agree that the carrier possesses that constitutional right, why not say so directly in the bill and get through with it? I can not see any objection to it.

Mr. TILLMAN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from South Carolina?

Mr. CLAY. I want to get through with one point more before I yield.

I believe, though, that the question of review ought to be confined to the question as to whether or not the rate fixed by the Commission is a constitutional rate and gives just compensation for the service performed. I do not believe that the court ought to have the right to go into the whole case.

The court may have a different idea about a reasonable rate from that of the Commission, but unless the Commission has violated the express will of Congress, unless the Commission has fixed a rate that takes the property of the carrier without just compensation, then the rate ought to stand. But if the Interstate Commerce Commission has fixed a rate that is confiscatory, that violates the Constitution of the United States, the courts have a right to review that question; and why not give it and say so and not hesitate about it?

Mr. TILLMAN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from South Carolina?

Mr. CLAY. Certainly.

Mr. TILLMAN. I wish the Senator to make it clear as to whether, in his judgment, the right of review embraces the right of the court to determine whether the order gave just compensation, or whether he means the right of review, which he contends we can not take away and do not want to take away, is on the constitutional side of it. In other words, in the difference between a just and reasonable rate and a confiscatory rate there is considerable latitude of determination, because it might get pretty close to confiscation and it might get pretty close to just and reasonable and not be exactly either. The question we want to determine here is the right of the courts to go over the case on the question of reasonableness and justness. If the Senator contends that we can not confiscate, I agree with him; and the court would recognize that it had the power, and would enforce the power, to review the case if we took the property without just compensation.

But there are two phases of this subject here, and I wish the Senator would elaborate those two points and tell us the line of demarcation between them and tell us where he stands on the two.

Mr. CLAY. I thought I made myself understood. I will go over it again in a minute.

When the Interstate Commerce Commission fixes a rate—they are a body of able men, lawyers and business men—they hear all the facts, all the circumstances; they go over the situation. Then the Commission fixes what, in its judgment, is a just and reasonable rate. If there is an attempt to review that rate in the court—and I am clear that the right exists—the court ought to be confined to the question whether or not the Commission has violated the legislative will of Congress and fixed a rate that is confiscatory or that does not give just compensation for the services performed by the carrier.

Do you know that when the Commission acts it is Congress? We delegate to the Commission the right to act. We fix a standard for the Commission—that the rate must be reasonable and just—and we say to the Commission, "You must not go beyond that standard," and when the Commission has acted, it is the act of Congress; and the courts ought to be slow to set aside a rate fixed by the Commission unless there has been a flagrant violation of the law.

Mr. TILLMAN. Not only slow, but ought they not to be forbidden to do so?

Mr. CLAY. They ought to be forbidden to set aside a rate unless that rate is not a just and compensatory rate. There may be different degrees of reasonableness, as there are different degrees of justice. I have seen men who had higher ideas of justice than others.

Mr. TILLMAN. That was a difference in the men, not in the justice.

Mr. CLAY. I do not know about that, but I will say to the Senator that I have seen some judges who had a higher ideal of justice than others. But I was going to say this: I do not insist that the review shall do anything more than give the carrier the rights it would have under the Constitution, whether we give them or not.

Mr. TILLMAN. Why give it, then? If the carrier would have the right anyhow, why say anything about it?

Mr. CLAY. I prefer a bill that gives the Interstate Commerce Commission the power to hear complaints, the power to fix a reasonable and just rate, and to enforce its findings, and stop there, and under the decisions of our Supreme Court the carrier then could go into court and test the question whether the rate fixed took its property without due process of law.

But, Mr. President, I have been asked a question, and I can not answer it. If I have any rule in my life it is frankness. I have been asked, "If you concede that under the Constitution the carrier has the right to go into court and contest a rate that is confiscatory, a rate that does not give just compensation for the services performed, if you concede that that right exists, then why are you unwilling to insert it in the bill?" And I can not answer the argument.

Mr. FULTON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from Oregon?

Mr. CLAY. Yes.

Mr. FULTON. I should like to ask the Senator a question for information. It is not for the purpose of combatting his position.

I agree with him that the simple fact that there is no provision in a statute for a review will not invalidate the statute. But I understand the Senator to say that he is opposed to any review except such as will permit the carrier to test the constitutionality of an order or to protect itself against the invasion of its constitutional rights. I understood him to say that the carriers have that right under the bill or under any bill which does not specifically deny it to them. The Senator says now if they have that right, why not give it to them in explicit terms? I ask the Senator, If they have that right what is the necessity of giving it to them?

Mr. CLAY. I will answer the question.

Mr. FULTON. The Senator will allow me to go a little further.

Mr. CLAY. Yes.

Mr. FULTON. Particularly in view of the fact that when you begin to frame provisions for regulating the extent to which the review may go, it is a difficult and somewhat complex proceeding, I submit. But if the bill, standing as it does, not denying the party the right to go into court to contest his purely constitutional rights, is valid, why enter upon the complex and difficult proceeding of framing a provision that will limit him to just exactly what you say the bill as it stands gives him?

Mr. CLAY. The argument of the Senator from Oregon would be unanswerable if there was nothing in this bill in regard to review. If this bill was silent about the courts, and I clearly understood what it meant—and probably the Senator from Minnesota is correct—if it was absolutely silent and simply gave the Commission the power to hear complaints and fix rates and enforce its findings, and stopped there, I would have made no complaint. The carrier then could go into a court of equity, into existing courts, and file a bill and secure all of its constitutional rights.

Mr. NEWLANDS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from Nevada?

Mr. CLAY. Yes.

Mr. NEWLANDS. I should like to ask the Senator from Georgia why it would not be better to amend the bill by striking out all reference to the courts rather than to attempt to shape in this bill the jurisdiction of the courts? Let me call his attention to the fact that the fixing of rates involves purely a matter of legislative discretion, and the discretion exercised is a legislative discretion. Will there not be danger, if we attempt to shape the provision for review by the courts, that there will be an effort made to turn over to the judiciary a part of that legislative discretion?

Would it not be better to leave to the judiciary itself the shaping of the remedy that is to apply to a case involving the deprivation of property or failure to give just compensation? Is not the judiciary more likely to confine itself to its purely judicial power under those circumstances than if we shape provisions for review which may expressly or by implication turn over to the judiciary part of the legislative discretion? I do not object to review. I object to the expressions in the proposed amendments regarding review, and I object to them because I fear that the result of the proposed act will be to turn over to the judiciary review of the legislative discretion of the Commission, and not simply to confine itself to its judicial power of condemning a rate that fails to give just compensation.

Mr. CLAY. I think if nothing was said in this bill about a court of review, it would have the same effect as the kind of review I have been discussing. If we said nothing about a review, in my opinion the carrier would have the right to go into court and have determined the question whether the rate was a just and compensatory one for the services performed. In my opinion if you have a review, it ought to be confined to that question, and without any serious trouble it can be confined to that question. If I am not mistaken, the Knox bill provides that the court shall have the right to test simply the lawfulness of the rate. That is my recollection. I am not certain about it. That is immaterial. So far as I am concerned I have no objection to expressing in this bill the right of review and describing what power we give the courts. I have no objection to it because it exists under the Constitution. But if we provide for a review, I would expressly say that the courts should not review anything except the question whether or not the Commission exceeded its power and fixed a rate that was contrary to the Constitution and contrary to the law.

Mr. ALDRICH. Mr. President——

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from Rhode Island?

Mr. CLAY. I want to get through.

Mr. ALDRICH. I merely wish to ask a simple question. I suppose the Senator would be in favor of extending the same rights to the shippers as against an extortionate or unreasonable rate?

Mr. CLAY. I was just coming to that.

Mr. ALDRICH. I beg the Senator's pardon.

Mr. CLAY. I would not only give the carrier the right to go into court to have determined whether or not its constitutional rights had been violated, whether or not a rate had been fixed that was confiscatory (and our courts have held that the word "confiscatory" and the words "just compensation" practically mean the same thing), but I would give the shipper the right to go into court and make a contest and see whether or not the rate fixed by the Commission was too high and violated the rights of the citizen.

Mr. DOLLIVER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from Iowa?

Mr. CLAY. Certainly.

Mr. DOLLIVER. What possible remedy could there be in such a case? The only jurisdiction of the court is to vacate the order, and it is hard to imagine a shipper going into court because the rate had not been reduced to suit him.

Mr. CLAY. The court could enjoin the enforcement of a rate that was too high.

Mr. DOLLIVER. But the only jurisdiction of the court would be to vacate the order.

Mr. CLAY. The shipper could go into court where the rate was extortionate, unreasonably high, as he can do now under the common law, and he could ask the court to enjoin the enforcement of the rate, and the railroads could be denied the right to enforce that rate in the future.

Now, again, I want to say this: The Interstate Commerce Commission may not always be in favor of the American people. I have seen the time in the history of some States where the railroad commission was not always in favor of the rights of the people. When the power is given to the Interstate Commerce Commission to make rates—and the power to make rates ought to be given to it—the Commission may some time be under

the influence of the railroads. Such conditions exist to-day in some of the States. If such conditions should ever arise in the United States as to the Interstate Commerce Commission, I do not wish to leave the people helpless.

Mr. ELKINS. I wish to ask the Senator from Georgia one question.

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from West Virginia?

Mr. CLAY. Certainly.

Mr. ELKINS. The Senator says he is willing that localities and communities shall have the right to go into court to secure a review of the orders of the Commission. The junior Senator from Iowa [Mr. DOLLIVER] denies positively that any power is conferred by this bill upon the Commission to make rates between localities. I ask the Senator from Georgia if he agrees to that.

Mr. DOLLIVER. My honored friend, the Senator from West Virginia, ought not to say that about me.

Mr. ELKINS. I understood the Senator to say it. I beg his pardon if it is not the case. Did he not say yesterday on this floor that the Commission under this bill has no power to determine relative rates between localities and communities?

Mr. DOLLIVER. I expressly said it had the power as between localities on the same line.

Mr. ELKINS. On different lines.

Mr. DOLLIVER. I did. I said it had no power to determine port differentials, because——

Mr. ELKINS. I ask the Senator from Iowa and the Senator from Georgia this question: Do you believe that the Hepburn bill confers upon the Commission power to determine relative rates between communities and localities situated on different lines?

Mr. DOLLIVER. I do not.

Mr. ELKINS. You say it does not confer this power?

Mr. DOLLIVER. I expressly tried to so state yesterday.

Mr. ELKINS. I then ask the Senator from Georgia why he is willing to give the courts power to review the orders of the Commission as to rates between localities and communities?

Mr. DOLLIVER. There are communities on a given line of railroad.

Mr. ELKINS. Oh, Mr. President, everybody knows that, and there are communities not on a given line, and I call the attention of the Senator to the Maximum Rate case, to the Wichita and Omaha case, where the Commission undertook to fix rates between communities on different lines.

Mr. DOLLIVER. The Wichita case was on the same line.

Mr. ELKINS. The Senator has said over and over again that this bill does not confer on the Commission the power to determine relative rates between communities on different lines, has he not?

Mr. DOLLIVER. I have.

Mr. ELKINS. And you say so now?

Mr. DOLLIVER. I do.

Mr. ELKINS. Why does the Senator from Georgia want that power conferred?

Mr. CLAY. I did not say I wanted to have it conferred.

Mr. SPOONER. May not the Commission, on the complaint of the chamber of commerce or the board of trade of one city on a line, fix a rate which might be ruinous to another city on the same line——

Mr. ELKINS. I agree with that.

Mr. SPOONER. Utterly discriminatory.

Mr. ELKINS. I agree with that entirely.

Mr. SPOONER. If you are legislating upon the theory that the Commission is fallible as to railroad companies, why do you legislate upon the theory that it may not be fallible as to cities on the same line?

Mr. ELKINS. The Senator misunderstood me. I agree with the Senator. I believe the bill confers upon the Commission the power to do the thing which is denied by the Senator from Iowa, one of the framers of the bill, but I do not believe it can constitutionally do this without the right of review by the courts. The power is clearly conferred by the Hepburn bill on the Commission to determine relative rates between communities, and if it is conferred, I believe in these communities having the right just as much as the individual to go into court and have the orders of the Commission reviewed.

But here is one of the troubles we find: The Senator from Iowa, who I believe is the chief spokesman in behalf of the bill, denies this, and he has denied it over and over again. The trouble is we can not get any agreement between the framers of the bill as to just what it does mean. There was no agreement in the House and there is none here.

Mr. NELSON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from Minnesota?

Mr. NELSON. Will the Senator yield to me a minute?

Mr. CLAY. Yes. I am occupying entirely too much of the time of the Senate, though.

Mr. NELSON. I want to say to the Senator from West Virginia that the trouble is not among the friends of the bill, but the trouble seems to be among those opposed to it. One class are opposed to it on high, constitutional grounds; others on the ground that it does not afford the right of review; and others, again, are opposed to the right of regulation at all.

Now, coming to the point suggested by the Senator from Iowa a minute ago, the Commission is only incidentally authorized to pass upon relative rates between towns. The only question they are authorized to decide is whether a given rate complained of is a just and reasonable rate. Now, such a decision may possibly affect the relative rates between towns——

Mr. ALDRICH. Mr. President——

Mr. NELSON. But the express power of fixing relative rates between towns is not conferred, and the Commission upon that, as an independent proposition, have no right to act.

Mr. ALDRICH. What about the third section?

Mr. NELSON. To illustrate: If complaint is made that the rates as between Chicago and Milwaukee to the seaboard are relatively not correct, are relatively not right, the Commission would not have the right to pass on the question. But if the complaint is made that the rate from either of those points to the seaboard is not a just and reasonable rate, the Commission have the power to pass on it, and it might incidentally affect the relative rates between Chicago and Milwaukee.

Mr. ELKINS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from West Virginia?

Mr. CLAY. I will, but after that I must proceed.

Mr. ELKINS. The Senator will allow me to answer the Senator from Minnesota. I will not trouble him again.

The Senator from Minnesota does me injustice when he says or intimates, if he did, that I am not a friend of this bill. I am the best friend it has here, because I want to amend it and make it a stronger bill and a better bill that can be understood, a bill about which there will be no differences after we vote on it. The trouble is, the bill does not go far enough. It does not attempt to afford a remedy for the abuses that oppress the people most. The Senator states that relative rates might be affected by the decision of the Commission, but I go further than he does. I say the Commission, under the language by "any rule, practice, or regulation affecting rates," confers the broadest possible power, and the Senator from Iowa can not possibly find it with a microscope in the bill which he helped to frame, and I claim he did not make the bill strong enough. If I raise these questions, I do not want it to be understood that I am not a friend of the bill. I favor the bill. I will vote for it, and have always intended to do so, but prefer to amend it and make it a better bill. I am just as good a friend of it as the Senator from Minnesota, and, I think, a better friend than the Senator from Iowa, because he does not know how to construe the bill, nor does the Senator from South Carolina, when they say it does not confer the power on the Commission. I claim it does. I think the clear weight of authority is against both of them upon the construction of this bill. I insist again and again that the language is so broad that there can be no doubt about its conferring the power on the Commission to fix the rate between communities and locations on different lines of railroad.

The question is whether or not we should confer this power. Can we do it constitutionally or not, and if we can do it constitutionally, is it, as a practical question, right to do it?

I thank the Senator from Georgia. I will not interrupt him again.

Mr. CLAY. Mr. President, I do not know where I was. I was going to say that, in my opinion, the Senator from Iowa has done faithful work in the preparation of this bill, and I agree fully with him in regard to the construction that he has placed on that feature of the bill we are discussing. I shall vote for his bill as it stands if I can not improve it and make it stronger. Every amendment I suggest will make it more effective and in the interest of the American people.

I must decline to be interrupted. I wish to complete my remarks, and these interruptions break my line of thought.

One other question I wish to discuss. The Knox bill and the Hepburn-Dolliver bill, except on one point, are the same thing. In fact, they are the same thing in every respect except on the question of review. The Senator from Pennsylvania provides in his bill that the rate fixed by the Interstate Commerce Com-

sion shall go into effect and remain in force until suspended or set aside by the Commission or suspended or set aside by the court in a suit to test the lawfulness of the rate. That is the Knox bill as I understand it.

The Hepburn-Dolliver bill provides that the rate fixed by the Commission shall go into effect and remain in force until suspended or set aside by the Commission, or until suspended or set aside by a court, and stops there. Both of them provide that the court shall have a right to suspend the rate. Both provide that the rate shall stay in effect until set aside or suspended by a court. There is no difference between the bills on this point.

Now, Mr. President, I am willing, as far as I am concerned, to get rid of one trouble, and I believe the Senator from Iowa will concede that it is not a serious trouble. I am willing to provide that the constitutional right to review the rate shall be put in the bill. I hardly think the Senator from Iowa would object to it, as he insists that that right exists now. If it exists now, then no harm can be done by putting it in the bill.

But, again, the question that has given me more trouble in regard to this measure than any other is the constitutional question. It is almost impossible to find three great lawyers who have the same constitutional views about any question. I heard the Senator from Ohio [Mr. FORAKER] make a most ingenious argument, and his speeches are always able. He contended, with earnestness and ability, that Congress could not fix a standard and delegate to the Commission the power to fix rates, and that the Supreme Court would declare such a law unconstitutional. Yesterday I heard one of the great lawyers of the Senate, the Senator from Pennsylvania [Mr. KNOX], deliver a magnificent legal argument, and he said that in his opinion Congress could fix a standard and clearly delegate to the Commission the power to find what is a reasonable and a just rate.

Mr. FORAKER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from Ohio?

Mr. CLAY. With pleasure.

Mr. FORAKER. I hope the Senator understands how both of us can be and are right.

Mr. CLAY. I can understand how both are honest, but I can not understand how you are both right.

Mr. FORAKER. Then I will tell the Senator, if he will allow me.

The proposition I advanced and contended for was that it is competent for Congress to confer on a commission power to make rates, provided it creates a standard that is intelligible and in accordance with which rates can be made, as they were, for instance, under the Iowa statute, by mere calculation or by the exercise of some administrative duty.

What the Senator from Pennsylvania said yesterday, as I understood him, was that it is competent for the Congress to establish a standard, and then commit to the Commission the duty of making rates in accordance with the standard. But he did not go on to say what the standard should be. I imagine he would say, if interrogated, that it would have to be an intelligible standard that there could be some conformity to.

Mr. CLAY. I may have misunderstood the Senator from Ohio. I understood the Senator to say in his previous argument that he did not believe Congress possessed the power to make rates, and if Congress is without power to make rates, then how could Congress delegate this power to the Commission?

Mr. FORAKER. Mr. President, that is entirely true. I did say that, but I said, as a second proposition, if I should be in error about it, and it should be held that the Congress has power to fix rates, then the next question is whether it could confer that power on the Commission. I contended that it could, but that the duty assigned to the Commission would have to be administrative instead of legislative.

Mr. CLAY. But I was illustrating how great lawyers will differ about constitutional questions, and in fact great judges differ. If I remember correctly, on the constitutional question involved in the Porto Rican tariff five judges thought one way and four another. That does not reflect on the integrity of the court, however. If I remember correctly, in the income-tax cases five judges thought one way and four another. On great constitutional questions lawyers will differ, and the only way we can have those questions determined is to present them in such a way that the court may pass upon them, and when the court does pass upon them then that is an end.

As I said, there is one other question that I have not been able to settle satisfactorily. I have not been able to find any decision of the Supreme Court that settles to my satisfaction the point to which I have just alluded. We all agree that the Commission should be given the rate-making power, or at least a large majority of the Senate agree to this proposition, that the Commission shall also be given the power to prevent undue discriminations as between persons and places and unjust preferentials. The rate fixed by the Commission, indirectly speaking, is the rate fixed by Congress. When the Commission corrects any undue discrimination or unjust preferential, its action, indirectly speaking, is also the act of Congress. Congress not having the time to devote to these details has delegated to the Commission the power to act in the premises. When the Commission has acted, the presumption is that the rate fixed by the Commission is both reasonable and just, and this rate ought to go into effect until set aside or reversed. The controlling question that seems to be dividing Senators is, "Ought or can Congress deprive the courts of the right of temporarily enjoining the rates fixed by the Commission until a final hearing?" To my mind, as a question of policy or justice, this is easily answered. If Congress has provided a Commission of able and impartial men to hear disputed facts and ascertain what are reasonable and just rates, then ought these rates so ascertained and fixed be set aside and a rate substituted therefor by the railroads until the case is fully heard and disposed of?

Ought any court to be permitted without notice and without hearing to set aside the solemn act of Congress through its Commission? As a matter of justice and right, I would say "No." The presumption is that the Commission has acted honestly, intelligently, and that its findings are just both to the roads and the shippers, and the railroads and the people ought to abide by these rates until there is a full and complete hearing, and a reversal of the findings of the Commission. When a suitor goes into court contesting the acts of Congress such suitor ought to be bound by such acts of Congress until the same are set aside.

If there were no constitutional objections in the way, I would say, by all means, that the rates fixed by the Interstate Commerce Commission ought not to be disturbed in any way until a final hearing, and until set aside by a court on final hearing. But the question presents itself to my mind, Can Congress limit the power of the courts so as to deprive the carrier of the right to go into equity and restrain a rate alleged to be unconstitutional?

Can we deprive the courts of the power to grant temporary injunctions setting aside the rate fixed by the Commission? Where the Constitution provides that no person shall be deprived of his property without due process of law, and the carrier alleges that a rate has been fixed whereby such carrier is being deprived of his property without due process of law, for the reason that the rate is a confiscatory rate, then can Congress deny to the carrier the right to go into a court to prevent the Commission from enforcing such a rate? In other words, where a citizen is given a constitutional right and courts have been created for the purpose of enforcing that constitutional right, can Congress deprive the citizen for any length of time of a court where such constitutional right can be enforced? If no constitutional right was involved, the question could be easily answered. We clearly give the court the power to finally determine as to whether or not the rate fixed is a constitutional rate, and to set aside the rate in the event it is found to be unconstitutional.

Having given the court jurisdiction of the subject-matter, can we deprive the court of the power of exercising the right of granting temporary injunctions or interlocutory orders, restraining rates until the question can be fully determined? I am fearful that such a provision would be declared to be unconstitutional, and I would not be willing to vote for any such provision unless it could be drafted in such a way so that the constitutionality of such provision could be passed upon without in any way affecting the remainder of the bill. I believe the weight of the decisions of the courts, presented during this debate, would indicate that we can not deprive the court of any such power.

I am clear in my mind that Congress can regulate the practice in granting or refusing injunctions. A court with ordinary intelligence and a proper appreciation of the rights of parties would not grant a temporary order restraining a rate fixed by the Commission without notice and a hearing. The exercising of the power of granting temporary or interlocutory orders, interfering with the laws of Congress and the rights of litigants without notice and a proper and full hearing, is a power that ought not to be exercised except in extreme cases. I am sure, after a most thorough investigation, that Congress can provide that no temporary injunction or interlocutory order shall be granted by the courts, restraining or enjoining rates fixed by the Commission, without proper notice and a full hearing. As to whether or not Congress can deprive the courts of the right of enjoining a rate, until the case is finally disposed of, is a question of grave doubt. If we provide in the bill that the

rate fixed by the Commission shall not be suspended by any temporary interlocutory order or injunction, but shall be enforced until reversed or set aside on final hearing, then such provision should be so framed that the constitutionality of such a provision can be passed upon without in any way involving the remainder of the bill.

Whether or not Congress can prohibit the courts from granting such a temporary injunction, to my mind, is not a settled question. The ablest lawyers in this Senate, after a most thorough investigation, have taken different views as to the constitutionality of such a right. Such a provision can be inserted and its constitutionality determined without in any way affecting the remainder of the bill. By no means should such a provision be interwoven with the remainder of the bill so as to affect other features of this legislation in the event such provision should be declared to be unconstitutional. The people expect us to give them a bill that will stand the test of the courts and we can not afford to take any chances whereby this entire legislation may be declared unconstitutional. I believe the amendment introduced by the Senator from North Carolina [Mr. SIMMONS] would, to a large extent, remedy the evil of which we complain. I ask to insert this amendment as a part of my remarks.

Amendments intended to be proposed by Mr. SIMMONS to the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission, viz:

On page 11, after the word "effect," strike out "thirty" and insert "forty."

Add after the words "this act," in line 14, page 12, a new section, as follows:

"SEC. —. That any shipper or carrier being a party to a proceeding under section 4 of this act may, within fifteen days after notice of an order by the Commission prescribing a rate or rates, and not afterwards, apply by an appropriate proceeding in equity to any circuit court of the United States of competent jurisdiction under existing law for an order to restrain the enforcement of such rate or rates upon complaint and affidavit, which shall be accompanied with a certified copy of the proceedings, together with the evidence had before the Commission, setting forth the day when said rate or rates will go into effect, and alleging that unless the enforcement of said rate or rates is restrained his or its property will be taken without just compensation. Upon the filing of this application the court shall issue a notice or summons to the Commission, returnable before said court at chambers, to appear within ten days and answer said application. If said shipper or carrier shall desire to apply for a preliminary or interlocutory order to suspend said rate or rates until final decree, he or it shall upon the return day of said summons or notice file a written notice to that effect, and either said shipper, carrier, or the Commission may within ten days thereafter submit to the court, upon affidavit or otherwise, as the court may direct, such additional evidence as they may desire to offer, and thereupon the court, upon consideration of said additional evidence, together with the order, proceedings, and evidence made and taken by and before the Commission, which shall be taken as prima facie establishing the fact that said rate or rates are just and reasonable, proceed to pass upon and decide said application, granting or refusing the same."

Mr. PATTERSON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from Colorado?

Mr. CLAY. With pleasure.

Mr. PATTERSON. A question has been suggested to my mind by one of the statements made by the Senator from Georgia, and I should like his attention.

Mr. CLAY. Yes, sir.

Mr. PATTERSON. When a shipper complains to the Interstate Commerce Commission it is upon the ground that the rates of the railroads are unjust; that they may be extortionate. The Interstate Commerce Commission makes its finding. It finds that the rates of the railway companies were unjust or were extortionate, and fixes what it claims are just compensatory rates. They go into court and they ask the court to temporarily enjoin the enforcement of that rate fixed by the Commission. The court for good causes issues the injunction. Now, what is the result? The shipper, and all the shippers of the country who are using that road and are required to pay those rates, observing the schedule, are sent back to a rate or schedule that has been declared by the Commission to be unjust, and it may be highly extortionate. So when you get an injunction against the Commission and suspend the operation of the rates fixed by the Commission the shipper is sent back to a rate that has been declared to be extortionate, unjust, and unfair. That is the necessary result. Now, there is no relief in that proceeding for the shipper.

Mr. CLAY. There is no difference between the Senator from Colorado and myself upon that point.

Mr. PATTERSON. Then why should not the rate fixed by the Commission be sustained by the court until there is a final adjudication of it?

Mr. CLAY. I have said, and I do not want to be misunderstood, because this is a most important point——

Mr. PATTERSON. It is one which has given me more trouble than anything else.

Mr. CLAY. I have said to the Senate that I am in favor of abridging the right of injunction in every way I can that is constitutional. If I were clear in my mind that we could shut off injunction and prevent the rate from being interfered with until there is a final hearing, I would be willing to do it. In fact, I am anxious to do so, because justice demands that the rate fixed by the Commission shall stand till set aside after a full hearing.

Mr. PATTERSON. Mr. President, asking the Senator from Georgia another question, is it not the fact that if an interlocutory injunction is prohibited by this bill the only thing the Supreme Court can do when that question is brought before it is to declare that that provision of the bill is unconstitutional? Under those circumstances, why might we not put the provision in the bill for the sole purpose of asking the decision of the Supreme Court upon it?

Mr. CLAY. I have said to the Senate, in language which can not be mistaken, that I favor such provision, if inserted in such a way that its constitutionality can be passed upon without interfering with the rate-making power given in the bill. I have said that I have grave doubts as to whether or not it will be sustained; but I will support it if we leave it where it can be passed upon by the courts without destroying the rate-making power. There is no difference between the Senator and myself in regard to that matter; but I tell you now that after reading authority after authority upon this subject I find the weight of authority clearly against depriving the court of that right.

Mr. OVERMAN. May I interrupt the Senator from Georgia?

Mr. CLAY. With pleasure.

Mr. OVERMAN. Suppose there is a doubt about it.

Mr. CLAY. I would give the doubt in favor of the people.

Mr. OVERMAN. Is it not the duty of the Supreme Court in construing an act of Congress to solve all doubt in favor of the act of Congress? Has that not been the rule since the memory of man runneth not to the contrary?

Mr. CLAY. That is true, but I do not care to discuss that question any further. There are many different views here in regard to it. Eminent lawyers differ.

Mr. PATTERSON. Just a single question. The Senator will admit, then, that the only way to get a decision of the Supreme Court upon that very important question is by incorporating a provision of that kind in the bill.

Mr. CLAY. That is true. That is true beyond any question.

Mr. TILLMAN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from South Carolina?

Mr. CLAY. Certainly.

Mr. TILLMAN. The Senator having mentioned about the income tax and the opinion of two able lawyers, I want to remind him that the Supreme Court has been on both sides of that question itself. So it is no wonder that these lawyers who are depending on the opinions of that court are befuddled.

Mr. CLAY. The Senator and myself are warm personal friends, and I esteem him most highly. I do not know a man in the Senate I esteem more highly. But when the Senator and myself get to discussing some courts we may have the same opinion. I expect we do. However, on the general proposition, I am frank to say, I have faith in the integrity of most of the courts.

Mr. TILLMAN. I have faith in their integrity, but not in their infallibility.

Mr. CLAY. None of us are infallible. We are all liable to error.

Now, Mr. President, I believe I have discussed the two points about which there is a difference.

Mr. SIMMONS. Mr. President, will the Senator from Georgia allow me to ask him a question?

Mr. CLAY. Certainly.

Mr. SIMMONS. The Senator from Georgia had taken occasion to discuss an amendment which I offered on Tuesday, I think, to the pending bill, and at the same time he was discussing the question of the constitutionality of any provision which might in any way interfere with the right or power of the courts to restrain the action of the Commission pending a review. I wish to ask the Senator from Georgia if he means to be understood as saying that the amendment which I introduced would be obnoxious to any constitutional objection whatsoever?

Mr. CLAY. Clearly not. It is a different question as to whether you can deprive a court of the power of exercising the right of issuing an injunction. Your amendment is simply regulating the practice; that is all, and nothing more.

Mr. KNOX. Mr. President——

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from Pennsylvania?

Mr. CLAY. Certainly.

Mr. KNOX. I wish to ask the Senator if his attention has been drawn to the case of Brown *v.* Kalamazoo Circuit Judge, reported in 75 Michigan? It is a case to which I had intended to refer yesterday, and, indeed it is referred to in my printed remarks. I think it is a most illuminating decision upon this question, as to the power of Congress to disturb or interfere in any manner with the power of a court of equity. If I may take a moment of the Senator's time, I should like to bring it to his attention.

Mr. CLAY. I yield to the Senator, but I am anxious to get through.

Mr. KNOX. In that case it appears that the legislature of Michigan passed a statute which provided that the questions of fact in equity cases should be tried by a jury instead of being passed upon by the chancellor, as has been the chancery practice from time immemorial. A man named Brown began a proceeding in equity and the chancellor referred the questions of fact in his case to a jury. Brown made an application to the Supreme Court of Michigan for a mandamus to compel the chancellor to go on and try the questions of fact himself, squarely raising the question as to the constitutionality of the law which took away from the court of chancery the right to pass upon a question of fact and delegated that to a jury.

After calling attention to the fact that by virtue of her long Territorial existence Michigan had fashioned her system of jurisprudence after that of the United States, the court said:

This leads to the inquiry whether it is competent for legislation to bring about any such radical change as is here attempted. We think it is not. The decisions of the United States Supreme Court, before referred to, do not bind State practice, but they nevertheless to some extent indicate the real difficulty. That tribunal did not decide that under the United States Constitution there could be no change in equitable procedure, because the whole body of chancery practice has been repeatedly amended and simplified by that court. Their rulings mean neither more nor less than that there are various kinds of interests and controversies which can not be left without equitable disposal without either destroying them or impairing their value.

And here comes the nub of the whole decision—

It is within the power of a legislature to change the formalities of legal procedure, but it is not competent to make such changes as to impair the enforcement of rights. In rude times, when there is no business and no variety of property rights, very simple remedies are sufficient. But where the ordinary remedies have become inadequate to deal with more extended or peculiar interests, such as multiply in all civilized countries, different methods and different tribunals become necessary. The universally recognized basis of equitable jurisprudence, found in statutes and constitutions as well as in the reports and text writers, is the inadequacy of the common law to deal with these subjects. A principal basis of that inadequacy was the nature of the tribunal passing on the facts. In common-law issues fact and law can be readily separated, but in the great majority of equity proceedings it is impossible to make any such separation.

Now, the court sums up the general proposition in these words:

The functions of judges in equity cases in dealing with them is as well settled a part of the judicial power and as necessary to its administration as the functions of juries in common-law cases. Our constitutions are framed to protect all rights. When they vest judicial power, they do so in accordance with all of its essentials, and when they vest it in any court they vest it as efficient for the protection of rights, and not subject to be distorted or made inadequate. The right to have equity controversies dealt with by equitable methods is as sacred as the right of trial by jury.

I regard that as a most significant opinion.

Mr. CLAY. My attention had been called to that decision by the senior Senator from Texas.

Mr. McLAURIN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from Mississippi?

Mr. CLAY. I will yield, but I wish to finish.

Mr. McLAURIN. Well, it will take more than a minute to reply to what has just been stated by the Senator from Pennsylvania [Mr. KNOX], if the Senator from Georgia will permit me to do so.

Mr. CLAY. Certainly.

Mr. McLAURIN. Mr. President, so far as I have had an opportunity to read the case which has just been read by the junior Senator from Pennsylvania [Mr. KNOX], I think the real nub of the case, as it is called by the Senator, was decided long before the court reached the academic question that was presented to the court in that case, as the court stated, to obtain a ruling on a statute of Michigan enacted in 1887. The real point upon which the court decided that case was that the act was impracticable; that it was impossible for a jury to try all the issues that were presented to the court in a case in chancery as they could try simply one issue ordinarily presented to a court, if not universally presented to a court—a common-law court—and for that reason the court held that the statute, being impracticable, was void.

The court then went on to state its opinion, which, in my judgment, was obiter dictum. It is an opinion that is academic. I want to read, in answer to that opinion, what was said in a case that was not obiter dictum, that came before a court in Texas. In the case of the Austin and Northwestern Railway Company *v.* Cluck, Judge Stayton, speaking for the Texas supreme court, said:

If it is claimed that in the court, as a court of equity, under that clause [of the Constitution], the power existed, it must be replied that the district court, whether as a court of law or a court of equity, had only such power as the Constitution gave it. There is no such thing as the inherent power of a court, if by that be meant a power which a court may exercise without a law authorizing it. That clause of the Constitution empowered district courts to exercise all the power given, whether the procedure necessary to accomplish that purpose be such as pertains to a court of law or a court of equity; but it in no manner conferred upon such courts the power to exercise any and every power which at any time may have been exercised by courts of chancery in England or elsewhere.

The constitution of the State of Texas, so far as this question was concerned, was practically what the Constitution of the United States is, and the court held that "there is no such thing as the inherent power of a court."

Mr. CULBERSON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Georgia [Mr. CLAY] yield to the Senator from Texas?

Mr. CLAY. I had yielded to the Senator from Mississippi [Mr. McLAURIN], and I will yield to the Senator from Texas.

Mr. CULBERSON. I rise simply to say that the Senator from Mississippi [Mr. McLAURIN] is mistaken in saying that the constitution of Texas is the same in this respect as the Constitution of the United States. In Texas we have the code system, and the distinction between law and equity does not prevail there.

Mr. McLAURIN. May I read the constitution that is referred to in this case?

Mr. CLAY. Yes.

Mr. McLAURIN. Article 5, section 8 of the constitution of Texas defines the jurisdiction and powers of the district courts in the following language:

The district court shall have original jurisdiction * * * of all suits, complaints, or pleas whatever, without regard to any distinction between law and equity, when the matter in controversy shall be valued at or amount to $500 exclusive of interest.

Then the court proceed to say:

And the legislature has defined the jurisdiction of the district courts in the same language. The common law was adopted by the Congress of the Republic by enactment embraced in the following article, 3258, of the Revised Statutes of 1895: "The common law of England (so far as is not inconsistent with the constitution and laws of the State) shall, together with such constitution and laws, be the rule of decision and shall continue in force until altered or repealed by the legislature." Whatever may be the powers of courts of other States, there can be no doubt that the courts of Texas must look to the constitution of this State, the enactments of the legislature, and the common law for their authority to proceed as requested in this case; and if the authority did not exist at common law, and has not been conferred by the constitution nor by the statutes of the State, then no court in Texas has the power to force any citizen to submit to a physical examination under such circumstances.

This is a case where Cluck was suing the railroad company for damages inflicted upon him. An application was made to the court to compel him to submit to a physical examination by physicians, that they might testify to the extent of his injury.

In the case of Messner *v.* Giddings (65 Tex., 309) a judgment of the district court, which had assumed to exercise authority over the estate of minors, was under review. It was claimed that the authority was given by the constitution, wherein it conferred on the district court all the powers of courts of equity.

There it is stated that the constitution of Texas does confer upon the district courts all the powers of equity. Speaking by Judge Stayton, the supreme court of Texas said, in answer to this very question, that "there is no such thing as the inherent power of a court," because that power is given by the constitution—and it was conferred by the constitution of Texas—the power of equity. But he says, as I have read before:

If it is claimed that in the court, as a court of equity, under that clause (of the constitution) the power existed, it must be replied that the district court, whether as a court of law or a court of equity, had only such power as the constitution gave it.

The Constitution has given all the powers of equity—

There is no such thing as the inherent power of a court, if by that be meant a power which a court may exercise without a law authorizing it. That clause of the Constitution empowered district courts to exercise all the power given, whether the procedure necessary to accomplish that purpose be such as pertains to a court of law or a court of equity; but it in no manner conferred upon such courts the power to exercise any and every power which at any time may have been exercised by courts of chancery in England or elsewhere.

That is what I contend for, that in the Constitution of the United States it is claimed that the language that "the judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish," confers a power that can not be controlled by legislation; and here is the constitution of the State of Texas that exactly does the same thing with reference

to the district courts, and this court held that this power must be exercised according to law.

Mr. SPOONER. Will the Senator allow me to ask him a question?

Mr. McLAURIN. Certainly.

The VICE-PRESIDENT. The Senator from Georgia [Mr. CLAY] is entitled to the floor. Does he yield to the Senator from Wisconsin?

Mr. CLAY. Having yielded to other Senators, of course I can not decline to yield to the Senator from Wisconsin.

Mr. SPOONER. Did the Texas court in that case go any further than to hold that it was not inherent judicial power to require a man to submit his person to examination, and that to exercise such a power would require statutory authority? It was not obiter as to that.

Mr. McLAURIN. The court in Texas held that it was not the inherent power of the court to do that which the Senator suggests, and held that there is no such thing as the inherent power of a court, if it is meant by that that the court has power outside of the law.

Mr. CLAY. Time will not permit me to engage in any further discussion on this line. Let us briefly discuss the merits of this legislation. What are we trying to do? What is the old law? What is the evil complained of, and what remedy are we seeking to provide? The old law gives the Commission the power to ascertain what rate is reasonable and just, but of what benefit is this to the shipper if the Commission is left without power to make effective its findings? The evil consists in the want of power to compel the carrier to obey its orders. The remedy is to grant the necessary power to the Commission to compel the carrier to obey the orders of the Commission. We all agree that the Commission, under the present law, is without power to put in operation and to give effect to its findings, but can only use persuasion with the carrier to bring about a reduction of rates in accordance with its findings. Under the present law, if the Commission finds that the rate is unreasonably high it can do nothing to relieve the shipper. Power is lodged in neither the Commission nor the court to say what is a reasonable and just rate as between shippers and carriers and enforce it. I have never contended that any rate should be fixed except one that gives to the carrier just compensation for the services performed. If Congress should fix a rate itself or give to the Commission power to fix a rate that did not give to the carrier just compensation for the service performed the carrier can go into equity and enjoin such rate.

Under the common law, if the carrier fixes a rate that is unreasonably high and unjust to the shipper, the shipper has the right to go into court and enjoin the enforcement of such rate. This power has been exercised by courts of equity from time immemorial. But what substantial change will be made in the law in case we pass this bill and empower the Commission to hear the complaints of shippers or the carriers and ascertain what rates are reasonable and just and enforce its findings? The only additional power that will be given to the Commission will be the power to make effective its findings. The Commission will not be empowered to make any other rate except one that is reasonable and just both to the shipper and carrier, and one that is compensatory to the carrier for the services performed. If the Commission should abuse the power given it by Congress and fix a rate that was either confiscatory or not compensatory to the carrier for services performed, such a rate certainly could be enjoined in a court of equity. While by the pending legislation power is given to the Commission to fix rates, this power must be exercised in pursuance of the will of Congress expressed in the statute. What kind of instructions by the passage of this bill will Congress give the Commission? How must it exercise this power? Can this power be exercised either to oppress the roads or the shippers? Can this power be exercised either to wrong or injure the carrier or the shipper? Can this power be exercised in any other way than as pointed out by Congress? How can the property of any railroad be unduly injured by this legislation? The Commission is not authorized and empowered to make and enforce a rate except on complaint, and it is not authorized to reduce the rate under any circumstances, unless it be an unjust and unreasonable rate. Who will say this is not right? This power is not delegated to the Commission to in any way cripple the railroad industry of our country. It is delegated to the Commission for no other purpose except to force the carrier to do right. Who will contend that the Commission heretofore has ever attempted to exercise this power oppressively?

Have not the railroads in this country been prosperous since the creation of the interstate-commerce law? Is it not true that if this bill passes and the Commission is entitled to exercise this power, in reviewing rates, with a view of finding what is a reasonable and compensatory rate, that the power necessarily must be exercised in such a way as to carry out in every particular the express legislative will of Congress? Can the Commission fix a rate confiscatory? Can the Commission fix a rate that would prevent the railroads from making operating expenses and denying to them just compensation for the services performed? I answer, "No." If the Commission attempted to fix such a rate and put it in operation, clearly, under the law, the carrier would have a right to go into equity and enjoin it, because such a rate would deprive the carrier of its property without due process of law and without just compensation. The friends of this measure are not seeking to do any wrong to the railroads. They are not seeking to cripple and retard the railroad growth of this country. The object of this legislation is to give fair and equal treatment to every American citizen and to the carriers. The object and purpose of this legislation is to make railroads do right and to make shippers do right. The object of this legislation is to clothe a tribunal already in existence with power to settle the disputes and differences between shippers and carriers without expense to either, that no one may be wronged and that every individual shall have equal and a fair chance in transacting business with public carriers. If the contention of the Senator from Ohio be a sound one, that neither Congress, directly itself or through a Commission, can regulate interstate freight rates, then what is the situation? Indeed, a most serious and appalling one! Many billions of dollars have been invested in railway corporations paying annually more than $2,000,000,000 per year in freight and passenger fares, and under the control of half a dozen systems whose traffic managers dictate to the American people such rates as the traffic managers of these systems may think proper, and the American people are bound to acquiesce in such rates, whether reasonable or just.

Never before have I heard this power questioned until I listened to the ingenious arguments of the Senator from Ohio. If such be true, the American people ought to know it. If Congress is helpless and can not grant adequate relief, then the framers of our Constitution have not acted with that wisdom characteristic of their lives. If such position be true, the American people ought to know it, and if the courts are going to place such construction upon the Constitution of the United States, thus eliminating the power of Congress on a subject of paramount importance, then the American people ought to know it, and they will call upon their representatives to change the Constitution so as to protect the interest of the American people. If Congress is without power to regulate interstate freight rates, what, indeed, is the situation? We know the power of organized capital. With more than $10,000,000,000 invested in railway lines largely under the control and influence of a few men, they are to become the sole judges as to what burdens commerce shall bear for all time to come. Shall not the farmers, the merchants, and the manufacturers have some voice in determining what is a just and reasonable rate to be paid for the transportation of farm products and merchandise from one State to another? Shall this important matter be left entirely in the hands of the railway systems, with their traffic managers the sole judges as to what rates shall be charged? What will become of the business interests of this country with such a situation? What will such results lead to? Are not the American people to have a tribunal, clothed with ample power, to protect them against extortion? Shall the traffic managers be allowed to put in operation excessive rates, that will cripple and destroy the business interests of this country, and is the American shipper, the farmer, and the manufacturer to be left without any remedy?

Did the framers of our Constitution act so unwisely as to leave the American people without any remedy from so great an evil? Ample power, in my opinion, is left with Congress to regulate interstate freight rates, either directly or through a commission. More than half of the States in this Union have already passed statutes creating commissions or boards of transportation and providing that such commissions or boards of transportation shall have power to put in operation reasonable and just rates within the States. In every instance these acts have been upheld and are now in operation.

It is true that Congress can not deal with railroad rates exclusively within a State, but Congress has special jurisdiction to regulate commerce and to deal with interstate freight rates. Congress exercises the same power over interstate freight rates that the legislatures of the different States exercise over rates within a State, and ample power is given to the State legislatures to protect the people within the respective States, and Congress has been clothed with all the power necessary to protect them against excessive and unjust rates of transportation between the States. I am not hostile to corporations. They are

essential to the growth and development of the country. They build cities, develop the value of farms, give employment to labor, and deserve equal and fair treatment with any other interest of the country, but where large aggregate wealth is practically under one control, and where corporations have been created for the benefit of the public, such corporations must be held to a strict account, and must be kept under the control and regulation of the Government in such a way as to prevent them from doing any injustice to the individual citizen.

Corporations organized and doing business exclusively within a State must be controlled by the legislatures of the States, but the States have no jurisdiction over those engaged in interstate traffic; Congress alone can regulate their conduct. It becomes the duty of the law-making power to scrutinize most carefully the conduct of corporations and to hold their officers and managers to a strict compliance with the terms of their charters. Never so much before in the history of this Government has the public realized the importance of vigilance upon the part of State legislatures and Congress in holding to a strict accountability the management and control of corporations. Public sentiment has almost crystallized on this subject, and the eyes of the American people are now turned toward the American Senate. Thoughtful men view with alarm the situation.

The conduct of great insurance corporations in the city of New York has attracted the attention of thoughtful men everywhere. These insurance companies were organized for the purpose of carrying on the insurance business, and it was the duty of every officer, director, and trustee of such companies to hold in trust for the policy holders every dollar of their surplus. The American Congress and the legislatures of the different States can not be too vigilant in probing into the affairs of corporations and in requiring their officers and managers to use the funds of the corporations for no other purpose except for the benefit of the stockholders. Every dollar appropriated by the officers and managers of any insurance company, or any railroad company, or any other corporation for the purpose of controlling either city, State, or national elections was without authority of law and against the interests of the American people. No president of an insurance company, no director of an insurance company, no trustee of an insurance company, no president of a railroad, no director or trustee of a railroad has any legal or moral right to take the funds of a corporation for which he is an officer and apply it for any purpose except the legitimate business of the corporation.

Every dollar used for the purpose of controlling legislation, or given for the purpose of aiding the candidate of any political party in any campaign, either city, State, or national, was dishonestly and corruptly used, and the rights of the stockholders of such corporation were openly violated. It ought to be an indictable offense for any president of a railroad, for any officer of a railroad, for any officer or trustee of an insurance company to take the funds belonging to the stockholders of such corporation and apply them for any such purpose. Again, corporations ought to engage in no business except that for which they were created. Recently we are told that the stockholders in three great railway systems own a majority of the coal fields in West Virginia and a large part of the coal fields in Pennsylvania. They haul their own coal in preference to the coal of the private citizen. The independent operator is left without cars because the roads are anxious to develop their own mines and to destroy all competition. Such an abuse of power deserves condemnation at the hands of Congress. It is a fact that the consolidation of railroads, which has practically destroyed competition, has produced in this country a feeling of unrest in both the industrial and political world. The business man with small means has been unable to meet his more favored competitor. These conditions ought to be viewed by Congress as a danger signal.

It has been truly said that the railway corporations, the steel trust, and standard oil have grown so enormously wealthy that they are able to dominate and control wherever they go. It has been well said that these great corporations can make or unmake property, no matter how vast. They can destroy a competitor's business in a day with their enormous wealth. They can control national campaigns, elect governors, and State legislatures. The people when aroused are more powerful than all the insurance companies, steel, and railroad corporations combined. Public sentiment is waking up to a stern reality of this growing evil. Let us give every American citizen a fair chance, and let us encourage in every way possible honest competition, under which we have grown great and powerful. We know that the item of freight becomes a great factor in the success or ruin of individuals or citizens. It has been truly said that he who pays, under similar conditions, more than his neighbor to reach the market must in the end go down in his business. A discrimination in a railroad rate affects the price of the product of the farm and factory—indeed, affects the whole scale of living. It is the duty of Congress to protect the weak against the strong and the powerful.

These common carriers were created for the public good. They get their life from the States. They must carry on their business in such a way as to do even justice to every shipper and every community, and there must be power lodged somewhere to force them to conform to this rule—such a rule that guarantees to every American citizen equal and fair treatment at the hands of railroads. Under American institutions we have guaranteed to every American citizen equal and fair treatment. We must not allow combined capital to cripple and destroy the business of the humblest citizens of the land. We are proud of American institutions. Americans have been taught that this is a Government of justice, a Government of law, where every man shall have an equal and fair chance in the race for wealth and honor. Why hesitate about this legislation? It is of paramount importance and will meet the approval of an overwhelming majority of the American people. I have followed with some degree of interest the decisions of the courts reversing the rules and findings of the Commission heretofore made, and I have read with pleasure the dissenting opinions of that learned judge, Mr. Justice Harlan, giving his construction of the interstate-commerce act, as originally drafted and passed by Congress. Mr. Justice Harlan said, in construing the long and short haul clause of the interstate-commerce act:

The Commission was established to protect the public against improper practices of transportation companies engaged in commerce among the several States.

The distinguished jurist said:

After this decision the Commission has been left power, it is true, to issue protest.

And he could have said this was the only power left it.

It has been shorn of power—

Said the learned judge—

by judicial interpretation to do anything of an effective character. It is denied many of the powers, which, in my judgment, were intended to confer upon it. Besides the acts of Congress are now so construed as to place communities on the line of interstate commerce at the mercy of competing railroads engaged in such commerce.

Then follows another dissenting opinion where the distinguished judge disagreed with the majority of the court construing the power conferred by the act of commerce creating that body relating to rates. The same great judge delivered a dissenting opinion prophetically observing that the position taken by the court might well be regarded as recognizing the authority of competing railroad companies, when their interest will be subserved thereby to build favored centers of population at the expense of the community at large. How prophetic is this language! Large centers of population have been gradually building up and similar towns have suffered, and the rural population has gradually drifted to the large centers, and a greater evil could not befall this country. The distinguished jurist said:

The Commission has been robbed of all power.

The railroads since that decision have controlled the situation and any effort upon the part of Congress to review the rates fixed by their traffic managers meets with hostile opposition. I sometimes hear it charged that the Commission does not do its duty. The Commission, in my opinion, is an able body. It has combated in every possible way excessive rates and discriminations and undue preferences. But what can the Commission do? What power has it in the premises? Under the decisions of our Supreme Court it is helpless. The railroads are authorized and empowered to fix any rate, either just or unjust, and the Commission is without any power to remedy the situation.

I hold in my hands a synopsis of a speech said to have been made by Chairman Knapp, an able lawyer and a conscientious man, that sums up the situation. Mr. Knapp said, in a speech delivered before a meeting of the Men's Club of the Assembly Presbyterian Church, March 6, in substance as follows:

This is a subject which outranks all others in importance. Why is it that the Government should be allowed to interfere with the rates charged by the railroads? In original times pathways existed; but the change from settled to nomadic conditions and the acquisition of private property made public highways necessary. The duty of providing this highway is one of the functions of government, and the individual's right to use the highway has never been questioned. The right to equal use of the public highway has been named the "political right inalienable," and the nature of this right has not been altered by the fact that commerce has moved from the dirt road to the steel rail.

Mr. Knapp said:

I consider that it was almost providential that the Constitutional Convention of 1785 declared that "the Congress shall have the power to regulate commerce with foreign nations, between the States, and among the Indian tribes." This now stands forth as the most important clause in constitutional law, and its three great fundamental principles are that all rates shall be just and reasonable, that there shall be no discriminations between persons, and that there shall be no dis-

criminations between localities or articles of traffic. Discriminations and rebates—

Said Mr. Knapp—

originated in the intense rivalry between the numerous railway systems which came into existence soon after the close of the civil war, and it is a well-known fact that the greatest fortunes of the country have been built upon systematic, long-continued, and excessive rebates, which have enabled their owners to secure command of the markets. And to this—

He adds—

is due the menacing growth of the trusts. In every country—

Says Mr. Knapp—

except the United States there is governmental ownership or complete governmental supervision of the railroads. The former is not yet popular with our people, but the latter is much desired. Congress can not personally supervise the railroads, but it can enact laws for their government. It can seek to preserve private enterprise and protect public welfare and to regulate railroad interests, but not to acquire them. There should be required from the railroads a sworn annual statement of the business done and a complete disclosure of their financial operations. A public statement of rates and charges should be made by them. It should be made a criminal misdemeanor to give rebates, while the schedule of rates should be made by such a body as may be designated by Congress. The vital question of the day is whether this last power should be judicial or legislative in its nature.

Chairman Knapp says:

The total valuation of 220,000 miles of railways in this country amounts to $11,250,000,000, and their daily earnings are $5,500,000. These lines may be divided into eight large systems, as follows: The Vanderbilt, Hill, Harriman, Atchison, Pennsylvania, Atlantic Coast, Southern, and Rock Island systems. These systems—

Mr. Knapp says—

can be said to control 70 per cent of the entire mileage and three-fourths of the traffic, of the earnings, and of the valuations of the country's railroads. And it is found that a man dominant in one system is directly interested in others. Another disconcerting fact is that those who control the railroads are at the head of the steel, oil, and other great industries, as well as the great banking and trust institutions, and that all this control has a common center in New York. The real problem—

Says the chairman—

of the day is far deeper than rate legislation; it is the problem of wealth control. Is the country to be governed from Washington or from Wall street? Should the wealth of the country be allowed to rule it? We must meet under modern conditions the proper distribution of wealth. We have almost settled the administrative questions of government. Can we settle the economic question before us? That is the problem.

He sums up the situation well, and this statement, made by the chairman of the Interstate Commerce Commission, whose ability is recognized and appreciated throughout the country, is calculated to cause those who legislate for the nation to act promptly and effectively.

I repeat, the decisions of the highest court in our land have settled the question that Congress can not authorize a commission to make any rate except one reasonable, just, and fairly compensatory. The decisions also settle the question that no court can rearrange and prescribe a rate to operate in the future. All the court can do is simply to decide whether or not a rate put in operation by the Commission is reasonable and just, and either enjoin it or refuse to interfere. The court can not decide what is a reasonable and just rate and prescribe that that rate shall go into effect in the future.

In the case of Smith *v.* Ames (169 U. S., p. 466) can be found a decision that settles the former question, which says that a State enactment, or regulations made under the authority of a State enactment, establishing rates for the transportation of persons or property by railroad that will not admit of the carrier earning such compensation as under all the circumstances is just to it and to the public would deprive such carrier of its property without due process of law and deny to it the equal protection of the laws, and would therefore be repugnant to the fourteenth amendment of the Constitution of the United States.

The idea that any legislature, either State or Federal, can conclusively determine for the people and for the courts that what it enacts in the form of law, or what it authorizes its agents to do, is consistent with the fundamental law is in opposition to the theory of our institutions, as the duty rests upon all courts, Federal and State, when their jurisdiction is properly invoked, to see to it that no right secured by the supreme law of the land is impaired or destroyed by legislation. The reasonableness or unreasonableness of rates prescribed by a State for the transportation of persons and property wholly within its limits must be determined without reference to the interstate business done by the carrier or the profits derived from that business. The State can not justify unreasonably low rates for domestic transportation considered alone upon the ground that the carrier is earning large profits on its interstate business, over which, so far as rates are concerned, the State has no control; nor can the carrier justify unreasonably high rates on domestic business upon the ground that it will be able only in that way to meet losses on its interstate business. A railroad is a public highway, and none the less so because constructed and maintained through the agency of a corporation deriving its existence and powers from the State. Such a corporation was created for public purposes. It performs a function of the State. Its authority to exercise the right of eminent domain and to charge tolls was given primarily for the benefit of the public. It is, therefore, under governmental control, subject, of course, to the constitutional guaranties for the protection of its property. It may not fix its rates with a view solely to its own interests and ignore the rights of the public; but the rights of the public would be ignored if rates for the transportation of persons or property on a railroad were exacted without reference to the fair value of the property, for the public, or of the services rendered, and in order simply that the corporation may meet operating expenses, pay the interest on its obligations, and declare a dividend to stockholders.

A corporation maintaining a public highway, although it owns the property it employs for accomplishing public objects, must be held to have accepted its rights, privileges, and franchises subject to the condition that the government creating it, or the government within whose limits it conducts its business, may by legislation protect the people against the exaction of charges for the services rendered by it; but it is equally true that the corporation performing such public service and the people financially interested in its business and affairs have rights that may not be invaded by legislative protection of property. This decision practically decided that a commission can not be authorized to make any rate that is not reasonable both to the carrier and to the shipper and that is not compensatory to the carrier. The decision says that the duty rests upon all courts, Federal or State, when their jurisdiction is properly invoked, to see to it that no rights secured by the supreme law of the land is impaired or destroyed by legislation.

In the case of Reagan *v.* Farmers' Loan and Trust Company (154 U. S., p. 362) the court says:

It is within the power of a court of equity in such case to decree that the rates so established by the Commission are unreasonable and unjust and to restrain their enforcement; but it is not within its power to establish rates itself or to restrain the Commission from again establishing rates.

An overwhelming line of authorities could be produced demonstrating conclusively that Congress can not empower a commission to make a rate that is confiscatory or that would not be fairly remunerative or compensatory for the service performed by the carrier in behalf of the shipper.

This bill contemplates that the rate fixed by the Commission shall be a just and a reasonable one. It is pretty well settled by the authorities that, in the event the Commission fixes a rate that the carrier thinks is unjust and confiscatory or not fairly compensatory, that the carrier can go into a court of equity and have the question determined as to whether or not the Commission has exceeded its power. Hence it may be conceded that by the passage of this bill the carriers will not be deprived of their right to go into equity and make complaint, as they have done heretofore, charging that the rate fixed by the Commission is an unlawful one and unreasonably low and not compensatory for the service performed. The court would have the right to determine that question. The rate fixed by the Commission is presumed to be reasonable and just and in pursuance of the legislative will of Congress, and ought to stand until set aside by a court of equity. So far as an appeal to the courts is concerned, existing courts are ample to guarantee all those rights.

The Commission, in fixing a just and reasonable rate, must be guided to a large extent by business principles and common sense, and our Supreme Court has laid down rules that will aid the Commission in arriving at such a rate. The court says:

The basis of all calculations as to the reasonableness of rates to be charged by a corporation maintaining a highway under legislative sanction must be the fair value of the property being used by it for the convenience of the public; and in order to ascertain that value the original cost of construction, the amount expended in permanent improvements, the amount and market value of its bonds and stock, the present as compared with the original cost of construction, the probable earning capacity of the property under particular rates prescribed by statute, and the sum required to meet operating expenses are all matters for consideration, and are to be given such weight as may be just and right in each case.

The court says:

What the company is entitled to ask is a fair return upon the value of that which it employs for the public convenience; and, on the other hand, what the public is entitled to demand is that no more be exacted from it for the use of the public highway than the services rendered by it are reasonably worth.

This standard ought to be satisfactory to both the shipper and the carrier. (See Ames *v.* Smyth, p. 468, 169 U. S.)

After mature deliberation I have reached the following con-

gestions, and my vote shall be cast to put into law these conclusions if I have an opportunity to do so:

First. I believe that ample power is conferred upon Congress to regulate and control interstate freight rates and that Congress can prescribe a standard of rates that is just and reasonable, and then delegate to the Interstate Commerce Commission authority to ascertain what rates will come up to the standard fixed by Congress and empower the Commission to put such rates in operation.

Second. Congress must fix a standard that is just and reasonable, that will give to the carrier reasonable compensation for the service performed, and empower the Commission to fix rates in accordance with that standard.

Third. That the rates put in operation by the Commission are, in effect, rates fixed by Congress, and that such rates express the legislative will of Congress, and should be put in operation within a reasonable time after such rates are prescribed by the Commission, and should remain in operation until set aside by a court on constitutional grounds, after notice and hearing, namely, that such rates are not compensatory for the services performed. I do not believe that the legislative will of Congress should be interfered with by interlocutory orders and temporary injunctions, at least without notice and a full hearing. The courts should be slow to interfere with rates fixed by an impartial and intelligent commission. This Commission represents Congress, and the rates fixed by the Commission are presumed to be just and reasonable and should not be enjoined or set aside without notice and a full and complete hearing in court. The rates fixed by the Commission are presumed to be correct and should not be interfered with until set aside on constitutional grounds. The carrier and the shipper should both be given the right to go into existing courts and have determined the question as to whether or not the rate fixed gives just compensation for the service performed. The right to review should be limited to this question. If the rate is confiscatory and does not give just compensation to the carrier, it ought to be set aside. If, on the contrary, the rate is too high and gives more than just compensation to the carrier, the shipper should have the right to have this question determined and to have the rate set aside. If the circuit court should determine that the rate fixed by the Commission is a reasonable and just one and should decline to interfere with it, the right should be given to go directly to the Supreme Court and the rate put in operation by the Commission should remain in effect until the final disposition of the case in the Supreme Court.

Fourth. Railroads should not be permitted to engage in any other business except that of common carriers. The officers and directors of these corporations should not be permitted to engage in the coal, oil, or any other business whereby such common carriers come in competition with the private citizen engaged in the same business. The idea that a common carrier can buy up timber lands, oil and coal fields, and haul its products to the detriment of private citizens who are competitors is wrong and vicious and should be prevented by statute.

These conclusions are reached after careful thought, and when put into a statute will protect both the carriers and the shippers in the enjoyment of their just rights. Such legislation will have my hearty approval.

Mr. CARMACK obtained the floor.

Mr. WARREN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Tennessee yield to the Senator from Wyoming?

Mr. CARMACK. Certainly.

Mr. WARREN. I want to appeal to the Senator in charge of the pending measure to lay it aside temporarily that I may call up a bill that has been twice before the Senate, the consideration of which I am very desirous of concluding. It is the bill (S. 1529) to increase the efficiency of the Medical Department of the United States Army.

Mr. TILLMAN. I should like very much to accommodate the Senator, but I understand the Senator from Tennessee [Mr. CARMACK] wishes to make a speech—a short one he tells me—on the pending measure, and I would be obliged to the Senator from Wyoming if he would withhold his request for a few minutes.

Mr. CARMACK. It depends upon how long the Senator's bill will take. I only wish to occupy a very few minutes.

Mr. WARREN. So far as I am concerned, it will take no considerable time. The duty would naturally devolve upon me to respond in some brief way to whatever might be said on the other side in opposition to the bill. Therefore I can not say how long it will take. I want to say, Mr. President, in this connection, that I realize the unfinished business is before the Senate; I realize that the Senator in charge of that bill has the right to insist upon proceeding, but I call his attention to the fact that those of us who have business in the morning hour, or before 2 o'clock, have not insisted upon even trying to proceed with that business, but have permitted the unfinished business to come up to suit the pleasure of those who wish to address the Senate. I find no fault with this, but I should feel very much obliged if we could proceed this afternoon with the measure I have in charge.

Mr. TILLMAN. I am entirely willing to do whatever the Senator wishes in this matter, but I am sort of between two friends here, and I do not know which one to accommodate. The Senator from Tennessee is compelled to leave the city.

Mr. WARREN. I understand that the pending measure has the right of way, and I will not insist upon taking up the Medical Department bill at this time, but shall do so later. I desire, of course, to yield to the Senator from Tennessee [Mr. CARMACK] under the circumstances.

Mr. CARMACK. Mr. President, I shall attempt no elaborate discussion of the pending bill, but content myself with a very brief statement of my own views. I do not wish to obtrude any partisan matter into this debate or to say anything that might disturb the era of good feeling which recent events have done so much to promote. When the big stick is confederate with the pitchfork, surely the halcyon days of political peace and concord have come. It is a happy omen of future tranquillity when the Senator from South Carolina appears on this floor as the special champion of the Administration's most favored measure, especially chosen for that purpose by a committee of the President's friends. Yet there is nothing at all singular or incongruous in the fact. As the Administration got its policy from the Democratic platform, it is but fitting that it should choose its spokesman from the Democratic party. Again and again has the Democratic platform demanded the legislation now proposed, and it did so in the last campaign. I am informed on most excellent authority that a similar plank was offered to the Republican committee on platform at the last national convention, and that, with vociferous unanimity, it was rejected. There was no hint of such legislation in the Republican platform or in any of the utterances of the Republican nominee for President from the first to the last of that campaign. The Democratic party alone had the courage to shoulder the responsibility for such a declaration and to encounter the antagonisms thereby aroused. But it has triumphed even in its defeat. The stone which the builders of the Republican platform rejected has become the head of the corner.

The Senator from Iowa in his very able and interesting speech says the best service the Democratic party can render is to stand on guard and see that the Republican party does right.

It is no mean or ignoble task, and I will add that it is by no means an easy one. It has often happened that the party in opposition has imposed its views upon the party in power; but when before was it ever known that a party just routed at the polls has seen its platform so soon appropriated by its victorious adversary? The Ephraimite who could not pronounce the word "shibboleth" was in a safe and happy situation as compared to the Republican member of Congress who can not swear loyalty to the Democratic platform. So, Mr. President, I cheerfully take my stand by the side of the Senator from South Carolina to perform the double duty of upholding the principles of the Democratic party and acting as guide, philosopher, and friend to this Administration.

In regard to the general object of the pending measure, Mr. President, it seems to me that its opponents have very little excuse for seeking to make it appear as a wild and perilous experiment. The power to fix rates was a power universally supposed to have been conferred upon the Commission by the act of 1887, and was exercised by that body for years without doubt or question. The Commission itself never doubted that it possessed such power, and it was only after years of experience that such a doubt was painfully excogitated by the subtle intellects of railroad lawyers. The prophets of calamity had their day when the act of 1887 was proposed; but now they stand discredited in advance. The Commission did actually wield for years the very power which now creates so much alarm, and while it did so the railroads were prosperous and the people were satisfied. The demand for the present legislation is the result of experience under the law as it was first understood and under the law as finally interpreted by the Supreme Court.

The demand for this legislation does not come from mischief-making agitators or professional corporation baiters, but from practical, conservative men of affairs who, as a class, are most strongly averse to radical changes in existing law. We have

been warned that this measure will be far-reaching in its consequences. I hope and believe that this is true. I believe that in its practical workings it will remedy evils of which the people justly complain and without bearing harshly or unjustly upon the business of railroad transportation. I believe that it will remove a great source of popular discontent and that the fears of the railroad companies will prove to be nothing but horrible imaginings. If such shall be the result, this measure will be not only far-reaching, but universally beneficent in its effects. But if this measure is defeated or is craftily deformed so as to obstruct the perfect administration of the law and disappoint the just expectations of the people the consequences will be found more far-reaching, and those who now complain of radical legislation may live to see some that is radical indeed.

The necessity for effective government regulation of the rate-making power exercised by the great transportation companies of the country is, to my mind, so apparent as to need no argument. Of all the business in the country, that of railway transportation is least affected by competition. Even at so-called competing points competition has become purely nominal, and at intermediate points, of course, there is none at all. Except where it is affected by water transportation, the business of railroading is to all intents and purposes a perfect and complete monopoly. If one man possessed the exclusive right to exact unlimited charges for travel and carriage on a public turnpike or ferriage across a river or the right of passage across a bridge, the monopoly would be not more complete and the opportunities for extortion and discrimination not greater than would be possessed by any railroad company in the country whose charges are unregulated and unrestrained by law. Of all the powers possessed by government the power of taxation is the power that needs to be most vigilantly guarded and is the one most often prostituted to purposes of injustice. But no government ever wielded so great a power of taxation as that which goes with the fixing of freight charges by the great carriers of the country. There is hardly a commodity in the country that does not reach the consumer burdened with the cost of railway transportation, whether actually transported or not. We may admit, as I do admit, that the old days when the railroad companies were conducted with cynical contempt for the rights of the public and shortsighted disregard for their own best interests have passed, and that there is among the railroad managers of to-day a genuine effort and desire to promote a better feeling between the railroads and the people. But there has been no radical change in human nature. It has been said that the greatest of all devils is opportunity, and human nature, individually or incorporated, can never be trusted to forego opportunities to profit by injustice. Can we afford to leave the great carriers of this country to exercise without efficient restraint the power to tax every commodity and every product of human labor? The question, it seems to me, must be answered with an emphatic negative.

When we come to the question of means and instrumentalities through which this restraint is to be imposed I know of no better way than through a commission especially chosen for that purpose and for that alone—chosen by the Chief Executive of the nation under the full sense of responsibility which rests upon him to select men fitted by character, intelligence, and experience for the duties imposed upon them by the law.

No human instrumentality can be perfect. There will always be lapses from absolute rectitude where human nature must be relied upon, for perfection is not to be found in man, whether clothed in ermine or in homespun. I believe the very fact, so often insisted upon, that the duties to be performed under this bill are of the most delicate and important character is an invincible argument for confiding them to a body of men especially chosen for this purpose alone. I will add that in my opinion the experience we have had with the present Commission amply justifies this view. The liberal and intelligent spirit with which they have administered an admittedly imperfect law and the beneficent results of their administration have settled that question so far as my own views are concerned.

The arguments offered by the Senator from Ohio that the power to make rates does not go with the power to regulate interstate commerce, while presented with great force and ingenuity, do not appeal to me. The fixing of charges in every business affected by a public interest was an old principle and practice under the British Government and is a power which belongs inherently to every State in the Union. That power goes with the power to regulate interstate commerce which was delegated to the Federal Government. The Senator from Ohio, I believe, is the first lawyer of eminence who has ever taken this view.

Nor do I believe that he is right in contending that the conferring upon the Commission of power to fix a maximum rate is a delegation of legislative power. Without going into an extended argument, it seems to me that that question has been effectively settled by repeated decisions of the courts and it is no longer open to question.

The bill now before the Senate, though reported by a majority of the Committee on Interstate Commerce, does not come with the unqualified indorsement of that committee. It was reported with reservations, mental and expressed. The committee sent it here with all its imperfections, such as they may be, upon its head, to be beaten and hammered into more perfect form in the forge of open debate. Yet I am inclined to think that as it now stands it is a better bill than it is likely to be.

There has been much discussion here upon the question of a judicial review, if that be the proper term, of the acts of the Commission. My opinion, in brief, is that the railroad companies already possess under the Constitution all the rights that need be or can be given them by Congress. Wherever the rates fixed by the Commission are so low as to amount to the taking of property without due process of law or the taking of private property for public use without just compensation, such a rate may be attacked in the courts and overthrown. We could not, if we would, deny the railroad companies this right, and we need not, and, in my judgment, should not, attempt to confer a right which already exists by virtue of the Constitution and which we can neither abridge nor take away.

My judgment, in brief, is that we should clothe the Commission with power not only to compel the discontinuance of a rate found to be unjust and unreasonable, but to compel the substitution of a rate which it finds to be just and reasonable, and leave the railroads to their rights under the Constitution. On the other hand, there should be nothing in the bill that would seem to deny the railroads their constitutional right of appeal to the courts for protection.

I do not like the words "fairly remunerative" in this bill. They are at best a needless addition to the words of the present law, which may tend to confuse and mystify its meaning. The very fact that they have been carefully added may give them more than their proper significance. It will be an indication that Congress was not satisfied with the words "just and reasonable," which have received judicial interpretation. Just what the words "fairly remunerative" may be construed to mean or what may be the measure of fair remuneration no man can guess.

This is but a brief and hurried statement of my views upon this question. That it is a question of vast importance there can be no doubt; but that the powers conferred by this bill are radical and revolutionary it seems to me little short of ridiculous to assert. We hope to accomplish by this bill what we tried to do and thought we had done nearly twenty years ago. So far from striking out upon a new path, we are but returning to the old path from which we were diverted by an unexpected decision of the Supreme Court after we had followed it contentedly for years. The people want this law because it is right. The railroads themselves ought to want it for the same reason, and for the additional reason that a people disappointed of their just demands may become more conscious of their wrongs than of their rights, and then passion instead of justice will make the law.

Mr. NEWLANDS. Mr. President, as I took part in the somewhat desultory discussion this afternoon in the time of the Senator from Georgia, I wish to add a few words in explanation of the position I then took and not with a view to elaborately arguing this bill.

As I understand, it is contended by the Senator from Pennsylvania [Mr. KNOX] that this bill practically deprives the railroads of the opportunity to attack a rate which is alleged to be confiscatory, and that the only recourse of the railroad is to deny, when the Interstate Commerce Commission brings a suit to enforce its order, that the order was regularly made; that the only issue that can be made by the carrier is as to the regularity of the order, and not the question as to whether the rate gives just compensation.

Now, that is not my understanding of this bill, and if it does mean that, it should be amended. My understanding of the bill is that the Commission is first called upon to hear and then determine; that its action is administrative, while the form of procedure is judicial; that it announces its determination and makes an order, which is not to go into effect for sixty days, and after the sixty days, if meanwhile the carrier does not bring an action to restrain the Commission from enforcing its order, the only defense that the carrier can make when the Commission brings its suit to enforce the order is that it was not regularly made.

It seems to me it is incumbent upon the carrier, immediately after the conclusion of the hearing and after the order is made, to move. It has prepared its case during the entire hearing.

it has marshaled its facts. It has presented its law. It certainly ought, within a period of sixty days, to be able to present its case to a court in equity and to obtain equitable relief, if it is entitled to it. And remember that there is no attempt made in this bill to restrain in any way whatever the full exercise of the equity powers of the court. There is no attempt whatever made in this bill to prevent the court from issuing a preliminary injunction or an interlocutory injunction if it deems it wise to do so.

Now, then, the carrier has its opportunity—sixty days within which to shape its case and present it to the court and ask for a restraining order.

Mr. ALDRICH. Mr. President——

The VICE-PRESIDENT. Does the Senator from Nevada yield to the Senator from Rhode Island?

Mr. NEWLANDS. Certainly.

Mr. ALDRICH. I do not think it is important, probably it is not important from the Senator's point of view in the discussion, but I suppose he means thirty days when he says sixty days.

Mr. NEWLANDS. My impression was that the bill provides that it shall be sixty days before the order goes into effect.

Mr. ALDRICH. The Senator has some other bill in mind, probably.

Mr. NEWLANDS. Then thirty days; and I should say thirty days is sufficient, inasmuch as the carrier has already prepared its case during the hearing before the Commission.

If the carrier does not get a restraining order, the Commission can not institute its suit to enforce the order. If it does not, then the Commission can; and the only defense in that suit is as to the irregularity of the order. But the case in equity, if it is pending, goes on to a conclusion, and ultimate judgment is rendered upon all the facts presented.

I stated that the effect of almost all these amendments is apparently to enlarge the powers of the court and to trench upon the legislative discretion conferred upon this Commission. For that reason I am very cautious in considering any amendment whatever that gives a power of review. I believe that the courts will, in the future, as they always have done in the past, apply the law to the case, and that there is no danger whatever of any carrier being deprived of a remedy to which it is entitled.

Throughout the entire history of the litigation upon this subject we have never seen a time when a carrier whose rights were invaded had not the opportunity under existing law to go into the courts and assert its constitutional rights, whether in an action at law or an action in equity, and the jurisdiction of the courts under existing law has been ample to enable those courts to apply their judicial power to the remedy of any injury alleged. And I fear that in these various amendments that are proposed certain language will be used which will force upon the courts a duty not judicial, but purely legislative, and the tendency will be to substitute for the discretion of the legislature the discretion of the court.

Mr. ALDRICH. Have the courts in the past ever afforded any relief, either to the railroads or to the shippers, with respect to the evils which have been complained of?

Mr. NEWLANDS. I understand that the railroads contend that in nine-tenths, I think it is, of the cases they have brought attacking the orders of the Interstate Commerce Commission they have been successful, and one of the indictments which they present against the Commission is that in nine-tenths of the cases presented to the courts the Interstate Commerce Commission has been wrong. Of course, in making that statement they entirely ignore the number of righteous decisions which have been rendered and which have been acquiesced in by the carriers. But the very fact that the railroads insist upon it that in almost all of the contested cases judgments have been rendered in favor of the carriers and against the Commission is proof conclusive that the courts, under existing law, give an ample remedy upon this question. So far as I am concerned, if the existing law did not give the carrier ample opportunity to vindicate its constitutional rights in the courts, I would seek to amend this bill.

With reference to this question I find that the amendment of the Senator from Pennsylvania [Mr. KNOX] is, perhaps, not so obnoxious as some others. Most of these amendments give the courts the right to review not only the action of the Commission regarding the rate, but all their orders relating to practices and regulations. The bill presented by the Senator from Pennsylvania simply gives the carrier the right to go into court and allege a violation of its rights. Now, I object to that phrase. I do not know what it means in legal phraseology—rights, legal rights, constitutional rights, moral rights, rights as a matter of discretion, rights as a matter of fairness, or rights as a matter of legal or constitutional obligation. It seems to me very easy, if the only purpose is to give the courts the power to protect the carrier against deprivation of its property or unjust compensation, to use language which may not be twisted into an attempt to confer upon the courts a part of the discretionary power of Congress.

I must confess, Mr. President, that I am somewhat in doubt as to the question of the delegation of power to the Commission and as to whether the bill provides a sufficient standard for the exercise of administrative power by the Commission. The standard which the Senator from Pennsylvania says is a sufficient one is a standard that the rates must be just and reasonable. I must confess that I hardly regard that as a standard. The only power that Congress has is to fix just and reasonable rates, and when it confers that power upon the Commission it confers upon the Commission all the powers that it has. It can not confer the power to fix unjust or confiscatory rates or anything but just and reasonable rates.

It seems to me, then, that the bill must be defended in this particular, not upon the ground that it fixes a standard for the exercise of a purely administrative power conferred on the Commission, but that Congress has the clear right to delegate its full power and its full discretion in the matter to an administrative board, for under this bill, in my judgment, the Commission is to exercise all the power and all the discretion that Congress has under the Constitution so far as rates are concerned.

Now, whether such a complete and ample and full delegation of power is constitutional or not I am not prepared to say, but I can not see that in providing that the rates shall be just and reasonable Congress fixes any standard. If Congress were to provide that the Commission should make a valuation of the property, and the rates should be fixed so as to yield to the carrier 4 or 5 or 6 or 7 per cent upon that valuation, I would regard it as a standard, for then the Commission would be called upon to adjust the rates so as to yield this particular return upon valuation. But there is no such provision in this bill.

I also believe that we have no right to penalize a corporation for going into court, and if this bill is subject to criticism in that particular it ought to be amended. I do not believe we have the right to burden any litigant who applies to a court for relief and to make the penalties so high as to terrorize him in the exercise of his legal rights. I am not prepared as yet to say whether the bill does that. If it does, it is clear to me that it ought to be amended.

Mr. President, I do not intend to speak at any length at this time. As I expected, the discussion thus far has been on legal lines. It is necessary that it should be. It is necessary that the atmosphere should be cleared as to these legal and constitutional complications. But I hope that at some time in the debate the Senate will come down to the economic question involved, and when that time comes I will be glad to discuss the economic phases of this question. I contend that inasmuch as interstate commerce constitutes three-fourths of the commerce of the country, and as railroads are the machines through which both interstate and State transportation is conducted, the greater sovereignty should create the machine that is to do that business rather than the lesser sovereignty; that these artificial beings should be created by a sovereignty as broad as interstate commerce itself, and that the act providing for them should also provide for their use in State commerce, with a proper regard for the police power of the States, and with a proper regard for the powers of the State respecting purely State commerce. But I believe that the corporation itself should be created by a congress, containing representatives from each one of the States affected, and I believe it is only through a legislative body of that kind that there can be had proper control over the capitalization and the taxation and the profits of such corporations.

I believe that unless we simplify the whole system of transportation in this country by frankly recognizing that railroads are inherently monopolies, that consolidation is desirable rather than undesirable, that it results in economy rather than in economic waste, and unless we create these great monopolies by a sovereign capable of dealing with them and controlling them fully and adequately, the country will endeavor to obtain some other simplification of this problem, and it will move irresistibly toward government ownership.

Now, in that connection I wish to say that I have no alarm regarding national ownership. National ownership is the irresistible tendency of the age. Outside of the United States very much the larger proportion of the railroad mileage of the world is now owned by nations, and there is not a nation that has advanced upon the work that is willing to retire from it. We have an illustration of this in Japan. Only recently, after the

stress of the late great war, it has passed an act in its Parliament providing for the condemnation and nationalization of all the railroads that are now in private ownership in that country, the whole enterprise involving an expenditure of $250,000,000. I therefore have no alarm regarding national ownership, but I regard national incorporation as better, because——

Mr. CULBERSON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Nevada yield to the Senator from Texas?

Mr. NEWLANDS. Certainly.

Mr. CULBERSON. Without expressing any opinion myself, as it is wholly unnecessary, I desire to ask the Senator from Nevada if he does not recognize that because of our form of government in the United States—a Federal Government and forty-five State governments—governmental ownership of railways in the United States would be far more difficult of consummation than in some, at least, of the European countries to which he has referred?

Mr. NEWLANDS. I do not think so, but I do not propose now to give my reasons, for it would lead to an elaborate argument. I am called from the city, and on my return on Wednesday next, if the business of the Senate will permit, I will address the Senate upon the economic phases of national incorporation as opposed to national ownership. And I will, in that connection, show the economic waste that results from our present practically uncontrolled system of transportation, with the railroads in the ownership——

Mr. MALLORY. Mr. President——

The VICE-PRESIDENT. Does the Senator from Nevada yield to the Senator from Florida?

Mr. NEWLANDS. In just a moment—with the railroads in the ownership of State corporations, grown into great national systems, each railroad operating in ten or twelve States outside of the State of its creation, a foreign corporation as to those States, and practically uncontrolled regarding its capitalization and return upon capitalization.

Now I yield to the Senator from Florida.

Mr. MALLORY. I did not exactly understand the gist of the remark made by the Senator from Nevada in reference to national incorporation. Am I right in understanding the Senator as saying that by a national incorporation act he expects to confine railroads to interstate commerce and to exclude from interstate commerce railroads that are not incorporated under the national act?

Mr. NEWLANDS. I will state that it is not my purpose to confine the national railroads to interstate commerce, but to permit them to engage in State commerce just as the State corporations are now permitted to engage in interstate commerce.

Mr. MALLORY. It would not interfere with the interstate business of railroads that are incorporated only by the States?

Mr. NEWLANDS. It would not interfere unless Congress determined to interfere and deemed it wise to use not simply persuasive measures tending toward national incorporation, but coercive methods—such methods as those taken with reference to State banks, when a tax was imposed upon their circulation, thus practically forcing them into the national system.

Those are more details. Congress can indulge in coercion, if it pleases, and absolutely prevent these great corporations from engaging in interstate commerce at all, or it can make national incorporation so attractive by the simplicity of the scheme, the fairness of the scheme, the fairness of the capitalization, the fairness of the return, and the protection given to the property against popular clamor and popular violence that they may be gradually drawn in under the shelter of a national incorporation act. Of course in that case it would have to be done with the consent of the States. Congress can not seize upon a State corporation and force it into a national incorporation. But I assume that just as the States now by special acts permit corporations organized under the laws of other States to traverse and do business in States outside of their incorporation, the States will not seek to hamper a national incorporation, which represents not a single State, but the entire nation, when it is created by the legislative action of Senators and Representatives voicing the sentiment of every State in the Union.

Mr. President, I do not want to be drawn into the details of this question now. I give notice that on Wednesday next, at the close of the morning business, I will discuss this question if the business of the Senate will permit.

Mr. TILLMAN. I ask that the unfinished business may be laid aside for the day. The Senator from Wyoming [Mr. WARREN] wishes to bring a bill before the Senate.

The VICE-PRESIDENT. Without objection, it is so ordered.

MEDICAL DEPARTMENT OF THE ARMY.

Mr. WARREN. I ask leave to call up the bill (S. 1539) to increase the efficiency of the Medical Department of the United States Army.

The VICE-PRESIDENT. The bill is in the Senate and open to amendment.

Mr. HALE. Mr. President, the bill, as Senators who are interested in it will remember, has been once before the Senate and the process of bringing it to a conclusion was interrupted, so that it is difficult to take it up and consider it in a proper way without repetition. Yet I do not, for one, desire to take up the time of the Senate by going over all the matter that was brought before the Senate two or three weeks ago or more, at which time the mind of the Senate appeared to be alive to the subject. The Senator from Iowa [Mr. ALLISON] and the Senator from Wisconsin [Mr. SPOONER] were interested in the bill and indicated that there were amendments which they desired to offer. They are not here now, but have been sent for. I hope they will soon appear in the Chamber, and if they have amendments to offer that they will offer them. Both the Senator from Wyoming [Mr. WARREN] and I have been kept here for days waiting for the deliverance of this bill, and therefore, thin as the Senate is, I think we had better go on and try to attract the attention of the few Senators who are here and finally have it submitted.

It is, Mr. President, as was brought out very fully the other day, one of the bills for the increase of the Army. My fundamental opposition to it is that I do not think now, under present conditions, the Army or any part of it should be increased. I do not think anything should be added to the burden of the Treasury by extending any branch of the Army in its operations. I do not expect in that to have the sympathy of Army men or of men who run in the direction of increasing that establishment. The province which the Army man or the naval man naturally assumes is that the Government is run for his branch of the service. I do not think that that is the popular feeling. I think the popular feeling—and I do not mean by that the popular clamor and prejudice, but the settled popular conviction—is that as we get away from any war the people of this country do not want the military establishment increased; they want it decreased. That is the rule we have always followed after every war. After the colossal conflict between the two sections of the country, the country was so tired of war that upon both sides more than a million men were sent to their homes and the establishment razed, cut down, reduced from year to year, until at last we had nothing but an Army of 25,000 men. Indian wars were upon us, but every attempt that was made then to increase the Army, either in terms applying to the whole establishment or to any branch of it, not only met no favor outside, but was defeated in Congress whenever tried.

I for one am profoundly convinced that at present, with the Army we have of 60,000 or 65,000 men, with all its branches moving in so far as I know in a proper sphere, without being crippled, it is not good legislation to increase that force either in total or in detail as will be attempted and has been attempted at the present session of Congress.

The Senator from Wyoming in charge of the bill, the chairman of the Committee on Military Affairs, has claimed that substantially this is no increase. We went all over that the other day. All the different higher ranks are increased—the colonels from 8 to 16, the lieutenant-colonels from 12 to 24, the majors from 60 to 110, and the increase in the number of captains is large.

The committee, in order to make this proposition less objectionable and more palatable, has provided that the corps of contract surgeons shall be abolished and that a smaller number of regular officers, captains in rank, shall be substituted for them. Making figures as to what is the full pay of all the contract surgeons and the pay of the officers who are substituted for them the committee is able to make out a proposition that the increase is not large.

I called attention the other day to the fact that one, and perhaps the most objectionable, feature in the bill is the increasing of the force that in the end increases the retired list. I do not think the country and I do not think Senators appreciate the extent to which already we have legislated, and which, by act of the Department, has immensely increased the retired list of the Army.

I have here the figures showing the retired list of this Army of 65,000 men: Three lieutenant-generals, 21 major-generals, 215 brigadier-generals, 76 colonels, 70 lieutenant-colonels, 226 majors, 169 captains, and then first lieutenants, 55, and second lieutenants and chaplains between 30 and 40 more.

Mr. SCOTT. If I will not interrupt the Senator——

The VICE-PRESIDENT. Does the Senator from Maine yield to the Senator from West Virginia?

Mr. HALE. Certainly.

Mr. SCOTT. The Senator from Maine will probably admit that the large number of retired officers in the higher grades has been brought about by an act that we passed a year or two ago permitting veterans of the late war to go on the retired list with one grade higher. That now has been virtually completed; there are no more of those veterans of the civil war to be retired. Consequently the increase will not be as great in the future as it has been in the immediate past.

Mr. HALE. Congress is not wholly bloodguiltless as to this matter of increase. It did pass in the act of April 23, 1904, a provision that—

> Any officer of the Army below the grade of brigadier-general who served with credit as an officer or as an enlisted man in the regular or volunteer forces during the civil war prior to April 9, 1865, otherwise than as a cadet, and whose name is borne on the official register of the Army, and who has heretofore been, or may hereafter be, retired on account of wounds or disability incident to the service, or on account of age or after forty years' service, may, in the discretion of the President, by and with the advice and consent of the Senate, be placed on the retired list of the Army with the rank and retired pay of one grade above that actually held by him at the time of retirement.

Mr. PROCTOR. I should like to ask the Senator from Maine if substantially that same provision was not the law applicable to the Navy for quite a number of years before the passage of the act of April 23, 1904?

Mr. HALE. Yes; but it has never been worked so hard as it has in the Army.

Mr. WARREN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Maine yield to the Senator from Wyoming?

Mr. HALE. Certainly.

Mr. WARREN. I presume the Senator from Maine would like to complete the record. The Senator from Maine—the able chairman of the Committee on Naval Affairs—successfully piloted through the Senate the personnel bill of the Navy, which provided for placing officers of the civil war on the retired list at one grade higher than that in which they served. After some years Congress took up the matter for the Army and did precisely what the Senator from Maine asked us to do for the Navy. Now, notwithstanding the figures which the Senator from Maine has submitted, the total number of retired officers on the Army list is but about 903, while the total of the Navy is about 711. Of course these figures change almost daily, as new members are added and old ones pass away.

Now, the Navy has at times been only a fraction as large as the Army; and at no time has it been, I believe, two-thirds as large. So the cost for the retired officers of the Navy is very much more than that of the Army, proportionately. It costs for the entire retired list of the Army about $2,300,000. It costs slightly less than $2,000,000 for the Navy, according to the official estimate book for the next fiscal year.

As to whether the passage of the act of April 23, 1904, was the proper thing to do or not, I leave to the Senators who are hearing this debate. In my opinion it was the least that a generous country could do for those veterans who had served in the civil war and had served since in Indian wars and in the Spanish war, to give them the advantage the Senator from Maine claimed for a part of them; and so, following his example, we all fell in line and placed the balance—that is, the veterans of the Army—on the same basis.

I might say in completing my statement that the Navy has two years' advantage over the Army, because the enforced retirement of a naval officer is at the age of 62, while that of an officer in the Army is at 64 years.

Mr. HALE. I am not here going into the question of the relative importance of the two services. I have not been wholly content with the disposition to unduly swell the naval establishment. We have a very great and powerful navy. We have, in increasing its number of ships, provided for a naval force that, when the ships now authorized and building are completed, will make what I believe is an effective, powerful, and, if need be, a destructive navy, the second in the world; not so numerous as the French navy, but as an engine of war in time of war, I believe, a superior navy to the French, and it would be so found. I hope it never will be found. It is all of comparatively new structure, built in the modern way, and with our men and officers and our gunners practiced I would pit it against any navy in the world except that of Great Britain; and it would be folly, admitted by everybody, for us to try to rival Great Britain, situated as she is, an insular power with responsibilities upon her almost everywhere that the foot of man treads.

That being the case in the Navy, I would go slow in increasing the force of that establishment, and I would only build new ships to take the place of ships that become obsolete by the lapse of time. This country is more interested in the increase of the establishment or the maintenance of a powerful navy than it is in the increase of the establishment and maintenance of a powerful army. The two do not stand on the same basis. The needs for additional men and officers in the Navy have increased every year for ten years, because we have been adding more ships. No such condition applies to the Army. There have been no conditions and no new demands as there have been in the Navy for the increase of the establishment.

Mr. WARREN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Maine yield to the Senator from Wyoming?

Mr. HALE. Certainly.

Mr. WARREN. If the Senator will indulge me right there, he is making a proposition whereby, in this great military trust of his, on which he reposes the defense of the United States, he makes the Navy the preferred stock or first-mortgage bonds, while the Army he leaves to be the common stock. Of course I do not assent to that.

Mr. HALE. That is rather a pertinent or happy illustration. I should say, if you take those phrases as illustrative of the relative importance of the two, it is about as the Senator has put it. The preferred stock is the Navy.

Mr. WARREN. Mr. President, I should think very little of the Senator from Maine, who has so successfully handled his committee and so successfully handled the Senate in his position as chairman of the Naval Committee, if he did not stand for the Navy and consider that it was better than the Army.

Mr. HALE. I do not.

Mr. WARREN. I have known a great many men to contend that their horse was a faster horse than that of any other man. I do not differ with the man as to his self-confidence or horse-confidence; I do not expect him to think otherwise; but I may differ with his judgment as to his horse. I do not consent to this common-stock Army as compared with a preferred-stock Navy. However, I did not rise to make that particular point just now, but another point: The Senator says that he is desirous of increasing the Navy——

Mr. HALE. No; I did not.

Mr. WARREN. He stated that new ships are being provided for.

Mr. HALE. Yes.

Mr. WARREN. Now, I want right there to call attention to the fact, in connection with the matter of retired officers, that the Navy goes further in another direction than the Army as to retirements, for the Navy forces the retirement at one grade higher rank than that to which they belong of men who have not served in the civil war, simply to reduce the number each year. In one grade forty men, in another fifteen, in another thirty-three. I am not positive as to all of the numbers; the Senator knows the exact numbers.

Mr. HALE. I have got them all.

Mr. WARREN. Yes. The naval establishment, instead of being as economical as the Army establishment is, proposes to have the best men, and is getting the best men. It proposes to force out from the Navy on each grade each year a certain number. Instead of retiring them in the grade in which they are in active service, they retire them, if I understand the law correctly, at one grade higher, notwithstanding the fact that they did not serve in the civil war, and notwithstanding the fact that they are not veterans who have distinguished themselves, but, on the contrary, that they are the worst of the lot—the Navy retiring them in that way in order to get rid of them.

Mr. HALE. That is a very small item. The trouble with the Army is that the undue swelling of the retired list is almost all in the upper ranks. I should have never agreed, if I had exercised proper vigilance—and I take to myself some reproach about it—to that provision in the act of 1904, if I had known what would have eventuated from it. We have been too much in the habit, I think, and the committees are too much in the habit, of taking the say so of the Departments that they represent, and embodying those suggestions—the say so of the Department—into law. We trust the committees, and a great deal of legislation that has been passed for the Army in the last half dozen years has not received very much scrutiny by Congress. I have not followed it as I ought to have followed it. I would not have been an intruder on this subject if I had not had my attention called—I have been pretty busy in other directions, and am not a member of the Military Committee—to the fact that there was a series of bills being reported by the Military Committee for swelling up the Army in almost every branch of it; and when I came to examine copies of those bills I found that this is true. That is the reason I am trying to do something to stem the current.

I did not have as much information when that provision crept

in, but if I had known that under that wholesale promotions, with service of but one day or three days, to be followed by another pushing up, would be the result of that provision, I should never have agreed to it, although I might not have been able to stop it. It has never operated in that way in the Navy. I have not given the list, although I have the list of the higher officers of the Navy; they are not altogether many, but it has not operated in the Navy to the extent that it has in the Army. I do not want to see anything done in this Congress, if I can help it, that will swell the retired list either of the Army or of the Navy.

As against the 266 major-generals and brigadier-generals in the Army, we have now got in the Navy 103 retired rear-admirals—a very slight number compared with the Army, although the Navy has been constantly increasing by reason of the ships requiring more officers and more men. But I want that stopped.

Mr. PROCTOR. How many major-generals did the Senator say were on the retired list?

Mr. HALE. Two hundred and sixty-six major-generals and brigadier-generals, I think, is the number.

Mr. PROCTOR. And how many admirals?

Mr. HALE. One hundred and three; and I want them both restrained. I do not think it is a good feature now. I have had the curiosity to examine this bill, and I find that it provides for all these additional colonels, lieutenant-colonels, majors, captains, and so on. I sent to the Department to-day to get a list of the retired force in this one corps alone, which is to be very greatly added to if we substitute regular officers in the Army, with the retired privilege, for contract surgeons who do not have that privilege. There are to-day on the retired list of this corps alone 23 brigadier-generals, 13 colonels, 10 lieutenant-colonels, 15 majors, 15 captains, and 4 first lieutenants.

Mr. WARREN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Maine yield to the Senator from Wyoming?

Mr. HALE. Yes.

Mr. WARREN. I think the Senator desires to make the record complete as he proceeds. I have here a list of the retired officers of the Navy, which amounts to one more in the Medical Corps of the Navy than in the Medical Corps of the Army—rear-admirals 15, commodores 2, captains 15, commanders 9, lieutenant-commanders 7, lieutenants 18, lieutenants (junior grade) 11, ensigns 2—total, 79.

Quite a number of these rear-admirals—in fact, all of them—are receiving more pay than any of the officers of the medical staff of the Army. The total retired pay of the Navy is more than the retired pay of the Army, notwithstanding the Army is so much larger than the Navy.

Mr. HALE. That, to me, is not any answer.

Mr. WARREN. Mr. President——

Mr. HALE. My objection to this bill is not that it is undue as compared with the Navy. I want to stop these increases in both quarters. I do not think it is the time now to increase any military establishment. I am not captious about it. Of course there will be found in the Army, just as I have found in the list I have given, an inordinate increase of the retired list in the Army of the higher officers.

Mr. WARREN. And in the Navy, also.

Mr. HALE. No; not in the Navy.

Mr. WARREN. It is because of legislation retiring those who served in the civil war; but that will soon decrease, because nearly all the civil-war veterans have been retired, while, on the other hand, grim death is constantly pressing its claims.

Mr. FORAKER. May I interrupt the Senator?

The VICE-PRESIDENT. Does the Senator from Maine yield to the Senator from Ohio?

Mr. HALE. Certainly.

Mr. FORAKER. Is it not true that there is in the Navy a different system from that which obtains in the Army as to retiring officers by the process of elimination, on account of which many more officers of lower rank, below the rank of admiral, are retired in the Navy than in the Army?

Mr. HALE. I think, on the whole, it is rather a better process.

Mr. FORAKER. I think it is better; but I mean is it not true that the list was larger as to the higher ranking officers—I mean in the Army—and is smaller as compared with the Navy as to the lower ranking officers?

Mr. HALE. I was just calling attention to that fact. In the Army their process swells the upper ranks—the higher officers—and, as the Senator says, the process in the Navy is better. But, Mr. President, the expense of the retired lists of both establishments is very great.

I have been reading from some of the hearings that have been going on in the Military Committee on the Army appropriation bill. At one stage, after going into details, this question was asked by the Senator from Florida:

> Senator TALIAFERRO. What would that make the total retired list?
> Secretary TAFT. That would make the total retired list $5,900,000. If you took the lowest age at which they would retire, it would be $5,310,419.

Then he makes a comparison with the Crozier bill, as to which I do not know the distinction.

Mr. WARREN. Mr. President, without discussing the hearings, I will say that the reply the Senator quotes was upon a hypothetical case of what would be the result of certain legislation after a certain number of years. That legislation, however, has not been entered upon, and this bill is no part of it. The entire Army retired list at present costs about $2,300,000, and will cost less and less, notwithstanding we may pass the medical bill, because of the advanced age of a very large number of the retired officers, especially those of high rank.

Mr. HALE. Secretary Taft says:

> It would add to the cost of the military establishment, after things got down to the normal operation under the bill, $2,821,941.

That is without additional legislation by bills which are now projected and which are favored by the War Department.

Mr. LODGE. Mr. President, the bill which was being discussed at that time is what is known as the "elimination bill."

Mr. HALE. Yes; I have referred to that.

Mr. LODGE. There were several bills, and among them was the bill prepared by General Crozier. Under his bill it was shown by his proposition as to the pay that the process of elimination would result in making no increase at all. I think it is the purpose of the bill—which, of course, has not been acted upon by the committee in any way—to endeavor to bring about what the Naval Committee intended to bring about, and that is to decrease the retirements at the very top of the list. That is what the Army system is now.

Mr. HALE. It is to increase the retirements at the top of the list.

Mr. LODGE. No; to decease the retirements at the top of the list; to retire the officers earlier.

Mr. HALE. That is the naval policy.

Mr. LODGE. Yes. That is the elimination bill that was before the committee.

Mr. HALE. But that has never been acted upon.

Mr. WARREN. The Secretary of War was before the committee of the Senate in the hearings on that measure. He did not advocate the bill there which the Senator——

Mr. LODGE. I thought that the hearings were before our committee.

Mr. WARREN. Yes; but the Secretary advocates the so-called "Crozier bill," which does not increase——

Mr. LODGE. Those are our own bills.

Mr. WARREN. They are not part of the hearings of yesterday.

Mr. HALE. I have not got those; but I have the last hearings that have been printed.

Mr. WARREN. Possibly.

Mr. HALE. I am reading from those.

Mr. WARREN. But since then, in his appearance before the committee, the Secretary takes the ground that the bill as proposed by General Crozier is better adapted for the purpose than any of the others. As the Senator from Massachusetts says, it will not increase the retired pay.

Mr. LODGE. That is what I said when the Senator interrupted me, that the Crozier bill was the one which the Secretary thought was the better bill, and I think he so impressed the committee that it would have that effect and would not add to the increase at all.

Mr. HALE. I hope, Mr. President, that will be a good result of scrutiny and of investigation. I hope the course hereafter of the Military Committee will be a conservative course. I think it is much more likely to be so than it has been heretofore. I think, without finding fault in a querulous way, that the committee has heretofore not scrutinized the plans of the Army officers closely enough and has not kept them down.

There is another feature of this bill to which I desire to call the attention of the Senate. It provides that there shall be a medical reserve corps—a corps of men appointed from the outside to get ready for war. The provision is:

> SEC. 7. That for the purpose of securing a reserve corps of medical officers available for military service the President of the United States is authorized to issue commissions as first lieutenants therein to such graduates of reputable schools of medicine, citizens of the United States, as shall from time to time, upon examination to be prescribed by the Secretary of War, be found physically, mentally, and morally qualified to hold such commissions, the persons so commissioned to constitute and be known as the Medical Reserve Corps.

There is no limitation. It is building up as a feature what I may call the "civilian branch" of the Army—the medical corps; not the fighting corps, but the doctors' corps—a reserve without limit; so that we may have before we know it a very large added civilian force in this corps to become a part of the military force.

Mr. WARREN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Maine yield to the Senator from Wyoming?

Mr. HALE. Certainly.

Mr. WARREN. Of course at that point the Senator will acknowledge that there is not a dollar's expense connected with the reserve corps. Its members are not entitled to retirement; they are not entitled to pay unless called into service. They will cost the Government nothing whatever. The reserve corps will simply constitute a list of officers who have passed the proper examination and who have commissions, so that in case of necessity they can be called into service.

Mr. HALE. I do not think there is any need of that.

Mr. WARREN. Whether there is need or not, it must be granted that it costs nothing and is a good precautionary measure.

Mr. HALE. I never knew of any provision of this kind, started on the assumption that it would cost nothing, that did not begin the second year of its operation to cost something, and the third year to cost still more; and when you get a reserve medical corps, taken from the outside by the President without limit, you will find necessarily some kind of duty will be arranged or provided for it, and it will begin to add to the expense. It is a part and parcel of the general scheme.

Mr. DANIEL. Mr. President——

The VICE-PRESIDENT. Does the Senator from Maine yield to the Senator from Virginia?

Mr. HALE. Certainly.

Mr. DANIEL. I observe in the bill that the colonels, majors, and captains in the Medical Department are to correspond in rank with the similar grades in the cavalry arm of the service. I ask the Senator why is it that the Army medical officers are rated according to the cavalry arm rather than any other arm of the service?

Mr. HALE. I am not responsible for the bill. I know why that is, but the Senator in charge of the bill, the chairman of the committee, will explain it.

Mr. WARREN. Mr. President, if the Senator from Maine will permit me, the pay of the cavalry officers includes what is called "mounted service." It is $200 more for the young surgeon—that is, instead of a first lieutenant, unmounted, drawing $1,600, he draws mounted pay, $1,800. It simply fixes the salary of the medical officers of the rank of lieutenant at $1,800.

Mr. HALE. That is, it adds so much to what he gets now without the bill?

Mr. WARREN. That is incorrect. He simply goes into the service as a mounted officer, the same as he would go into the cavalry.

Mr. HALE. Does he not get additional pay? Do not cavalry officers have the advantage of $200 a year?

Mr. WARREN. They get as first lieutenants $1,800.

Mr. HALE. But without it they get $1,600.

Mr. WARREN. But there is no "without it" about it either in the cavalry or medical service. That is the regular pay and always has been.

Mr. HALE. That is, a medical officer must be a mounted officer?

Mr. WARREN. He must receive the pay of a mounted officer.

Mr. HALE. He receives the pay of a mounted officer.

Mr. LODGE. He has to be a mounted officer.

Mr. HALE. No; he is given the pay that a mounted officer in the cavalry has, although he is not a mounted officer himself.

Mr. PROCTOR. He is a staff officer and has to have transportation.

Mr. HALE. Well, yes; I suppose he has to have a kind of transportation, but he is not mounted as cavalry is mounted in contradistinction to infantry. The cavalry is mounted service all the time. Of course a medical officer and an officer of the pay corps must have transportation in getting around.

Mr. PROCTOR. All staff officers have to be mounted.

Mr. DANIEL. All field officers above the rank of captain are mounted in all arms of the service—cavalry, infantry, or artillery. As to lower officers, of course, there may be some difference. The medical officer, who is a captain or a first lieutenant, might also be mounted when the corresponding rank in the line was not mounted; but I presume there is some difference in pay, and perhaps that caused the selection of the cavalry as the basis for compensation.

Mr. WARREN. Right there allow me to say that a man who enters the cavalry or who enters the infantry or the artillery gets his education at West Point under pay of the United States. The man who becomes a medical officer must educate himself, and must have a diploma from some medical college or designated and accepted institution of learning for medical students. The cost to that student for his medical education runs anywhere from $1,500 to $8,000. When a man is ready to go into the cavalry he has been under pay for four or five years, and has received his later and special education in the meantime; but the man who goes into the medical service has expended a large amount of money, and his pay only commences after he has been examined and enters the service. Hence he is entitled to the higher pay, without regard to whether he is mounted or unmounted. He has earned the pay of a mounted officer. That has always been done, and is done in all armies.

Mr. HALE. Undoubtedly. That is not a new consideration. The Medical Corps is taken from the outside. As the Senator says, medical officers are not educated at West Point, but the Medical Corps has certain advantages, which are very great. It has promotion; it has large pay. It is also true that there are always a great number of ambitious young surgeons who are desirous of entering the Army. I have applications of that kind, and I presume every other Senator has. It is considered a favorite branch, because it is favored in various ways.

Mr. WARREN. Right there may I interrupt the Senator?

Mr. HALE. Yes.

Mr. WARREN. As a matter of fact, what the Senator says is not exactly true in the present situation. It might have been once. While true that many applications may have been made, it is nevertheless true that since the present method was inaugurated in the Medical Corps, the flow of promotion being slight and the other inducements not great, there are not applicants enough for these places to keep the ranks full. During the last year they lost thirteen from that corps, and were only able to get four. The consequence is that the corps is not full, even with the small regular number now provided, because young men with sufficient education—and the requirements of the examination are high—to pass that examination are not willing to enter on small pay and with small prospect of promotion, when they can turn immediately to the Navy, which gives them much greater chances of promotion and which requires them to remain but three years as lieutenants before they are made equal to Army captains, while in the Army it requires five years as lieutenants. Hence the ranks can not be filled now, and there is not a large number of applicants. There are not enough to fill the ranks, because the inducements are not great enough.

Mr. HALE. I am glad the Senator has made that statement. It is a very important one; but I think it does not change in any way my statement, as affected by my own experience. I do not know how many of these young surgeons who apply are competent and are admitted; but if it is true that under the present arrangement the numbers in the different ranks in the Medical Corps are not full, it is a very poor time for legislation making the number of officers still larger. If they have not been able to get men to fill the numbers in the present grades, certainly there is no cause for increasing the number of officers in the grades that can not be filled as they are. At any rate, we had better wait until these ranks are full before we increase the number.

Mr. WARREN. The Senator knows they are now full, except at the bottom.

Mr. HALE. That is what I am talking about. That is where the young surgeons come in.

Mr. WARREN. And the reason they do not come in is because of competition with the Navy and competition with civil life and practice. There are greater inducements in other directions. What is the result? Our Army is poorly officered in this respect and we have to go out into the market and hire whom we may for the time being.

Mr. HALE. That is what I think is a very good feature. I think the contract-surgeon system, elastic as it is, is an extremely good feature. Bright young men who become contract surgeons are not obliged to be put into the regular establishment. You may have a contract surgeon for a year or two years or three years; he gets the benefit of the practice of surgery; he returns to his profession, and is a more competent and safer practitioner. It has always been with me a belief, and it is to-day, that the elastic contract-surgeon system is much better than to make every man who is appointed a Regular Army off-

cer with the right of retirement. I do not like the abolition in this bill of the contract-surgeon system.

Mr. WARREN. Yet the Senator does not introduce it into the Navy.

Mr. HALE. I do not need to.

Mr. WARREN. He does not even recommend it for the Navy.

Mr. HALE. There is no need to. As was said the other day, the conditions in the Navy are different.

Mr. WARREN. Of course, one is in name the Navy, and the other is in name the Army, and that is the only difference.

Mr. HALE. Take the long cruises in the Navy. Ships are frequently out for three years, or even more.

Mr. WARREN. It is just as easy to make a contract for three years as it is to make it for one year.

Mr. HALE. Yes; but that is an entirely different thing. The contract in the Army is for a period of one year. That is the beauty of the system.

Senators do not seem to take much interest in this bill, and I do not know but that the Senate is ready to vote for this increase. I propose to test it, at any rate, as I shall hereafter on any bill or any provision in any appropriation bill or elsewhere for the increase of the Army. I shall try to get the sense of the Senate as to whether this is a good time in which to do it.

Mr. LODGE. Mr. President, my service on the Military Affairs Committee has been an extremely brief one. I went on the committee only at the present session, and I therefore speak with some hesitation in regard to subjects on which special knowledge is more or less required. I have been startled, I confess, by the magnitude of the retired list and by the practice which has grown up of taking men from lieutenant-colonels or colonels and making them brigadiers for one day's service. I have been surprised at the extent to which that has been carried, and there is legislation in a House bill which will very largely put a stop to that practice. However, I do not think that that bears directly on this bill.

The Senator from Maine represents a series of bills coming out of the Military Committee for the increase of the Army. I know only of this one, the dental bill, which was reported last year, and a bill for the increase of the Coast Artillery.

Mr. WARREN. And it has not yet been reported from the committee.

Mr. LODGE. It has been reported, but is in committee. The ordnance bill we passed, but I think it carried little or no increase.

Now, as to this bill, my experience in regard to applicants has been different from the Senator's. I think we all have applications for almost every kind of Government office, but that of Army surgeon is one of the positions for which I do not now recall ever having received an application——

Mr. KEAN. The Senator must be the lone exception.

Mr. LODGE. Except during the period of the Spanish war. Of late years I should say I have not received any applications for that service. The indications, to my mind, are that it is not a particularly popular service. We now carry it on with contract surgeons.

I disagree with the Senator from Maine that that is a desirable way to carry it on, and my reasons are these: The contract surgeon is necessarily either a very young man just out of medical school who wants to get something that will tide him along for a year or two, a man without any experience whatever, or else he is an elderly man who has failed in his profession. I do not think you get good service by the system of contract surgeons, and the House, moreover, sends over this year a bill with a large increase in the number of contract surgeons.

This bill, I understand, makes a very slight increase in the additional expense, nominal at first. Subsequently I think it will reach the amount of about $48,000 a year. The chairman will correct me if I am wrong.

Mr. WARREN. At the maximum and after about six years.

Mr. LODGE. Yes; at the maximum and after about six years it will amount to about $48,000 a year, and it will give us a very much better service.

I am no more in favor of increasing high-grade retirements than is the Senator from Maine, especially in the Pay Corps and Medical Corps, and I think we have given to those corps in many respects far too much rank. But I do think that in the interest of good and economical service—I mean economy in the long run—the proposed revision of the Medical Corps for which this bill provides is wise.

I do not want to enter upon any extravagant appropriations for the Army. The Army is one of the few departments of the Government which of late years has made large reductions. Since the Spanish war it has brought the appropriation down from $115,000,000, I think, to $70,000,000. The bill this year as it comes from the House is less than it was last year, and even with such amendments as the Senate may find it necessary to make we shall not go over the appropriations of last year. The Secretary has cut the estimates to the bone. The first revision that took place by the Assistant Secretary reduced the estimates of the bureaus some $20,000,000, and then the Secretary himself cut it over $20,000,000 more. Other Senators may be familiar with all these facts. I have learned them in service on the committee.

Nothing is more obvious than the fact that the present Secretary has cut the estimates to the lowest possible point, with the result certainly that the bill as it comes from the House is less than it was last year, and I do not think as it finally passes it will be more than it was last year.

But, Mr. President, it is false economy to save money in certain directions. We have at great expense and very wisely—I think it is more essential to the defense of the country than anything else—established coast fortifications. They are not complete, but many of our great cities are now well defended, and in those fortifications are placed guns which have cost a great deal of money. They are perfectly useless unless we have men who can handle them. They are suffering from need of men actually to take care of them. It takes about six months, perhaps, to supply a soldier for the infantry and a year for the cavalry. It takes nearly two years to train a man to use those large guns; and to have these great guns unmanned and in these great fortifications useless as defense if war should come, because there would be nobody to handle them, and going to ruin perhaps from lack of sufficient care now, does not strike me as good economy.

I merely mention that as an illustration that it does not follow because some additions are extravagances which ought to be stopped that all additions are. There are some refusals of money which are more extravagant than an additional expenditure, and I think that is certainly the case and has been proved to be the case in regard to coast artillery. This matter of a medical corps is not a very serious one; it is not a very large increase, at the outside, and I think it does make for better service.

REGULATION OF RAILROAD RATES.

Mr. CARMACK. I should like to offer at this time an amendment to the railroad rate bill, and ask to have it read and printed.

Mr. WARREN. I yield to the Senator from Tennessee, as I understand he is about to leave town.

The VICE-PRESIDENT. The Senator from Tennessee proposes an amendment to the railroad rate bill, which will be read.

The SECRETARY. It is proposed to insert between sections 8 and 9, on page 26, the following:

(37) That any common carrier, railroad, or transportation company receiving property for transportation from a point in one State to a point in another State shall issue a receipt or bill of lading therefor and shall be liable to the holder thereof for any loss, damage, or injury to such property caused by its negligence or the negligence of any common carrier, railroad, or transportation company to which such property may be delivered or over whose line or lines such property may pass, and no contract, receipt, rule, or regulation shall exempt such common carrier, railroad, or transportation company from the liability hereby imposed: *Provided*, That nothing in this section shall deprive any holder of such receipt or bill of lading of any remedy or right of action which he has under existing law.

SEC. —. That the common carrier, railroad, or transportation company issuing such receipt or bill of lading shall be entitled to recover from the common carrier, railroad, or transportation company through whose negligence the loss, damage, or injury shall have been sustained the amount of such loss, damage, or injury as it may be required to pay to the owners of such property.

The VICE-PRESIDENT. The amendment will be printed and lie on the table.

Mr. CARMACK. If the Senator from Wyoming will permit me, I will state that the amendment was unanimously agreed upon in committee, and I think there will be no objection to it. I should like to have the amendment agreed to by the Senate now.

The VICE-PRESIDENT. The rate bill is not now before the Senate.

Mr. CARMACK. Very well. I will let it go over.

MEDICAL DEPARTMENT OF THE ARMY.

The Senate resumed the consideration of the bill (S. 3590) to increase the efficiency of the Medical Department of the United States Army.

Mr. WARREN. Mr. President, there is a very great deal that I could say on the subject of this bill and that I would like to say, but rather than fatigue the Senate further, I am ready to take a vote.

The VICE-PRESIDENT. The Chair did not hear the suggestion of the Senator from Wyoming.

Mr. WARREN. I simply remarked that I am ready to let the bill go to its final consideration and passage.

Mr. HALE. If no other Senator desires to speak, I will ask for the yeas and nays on the passage of the bill. I want to see how the Senate stands.

The VICE-PRESIDENT. The question is, Shall the bill be engrossed and ordered to a third reading?

The bill was ordered to be engrossed for a third reading, and was read the third time.

The VICE-PRESIDENT. The bill having been read three times, the question is, Shall it pass? upon which the Senator from Maine demands the yeas and nays.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. KITTREDGE (when his name was called). I have a general pair with the junior Senator from Colorado [Mr. PATTERSON]. In his absence I withhold my vote.

Mr. MORGAN (when his name was called). I am paired with the senior Senator from Iowa [Mr. ALLISON]. If he were present, I should vote "yea."

The roll call was concluded.

Mr. CLARK of Wyoming (after having voted in the affirmative). I am paired with the Senator from Missouri [Mr. STONE], and therefore withdraw my vote.

Mr. GAMBLE (after having voted in the affirmative). I will ask whether the senior Senator from Nevada [Mr. NEWLANDS] has voted?

The VICE-PRESIDENT. He has not voted.

Mr. GAMBLE. I have a pair with the senior Senator from Nevada, and therefore withdraw my vote.

Mr. DILLINGHAM. I have a pair with the senior Senator from South Carolina [Mr. TILLMAN], who, I see, is absent. If he were present, I should vote "yea."

Mr. MORGAN. I transfer my pair with the Senator from Iowa [Mr. ALLISON] to the Senator from Mississippi [Mr. MONEY], and will vote. I vote "yea."

Mr. CLARK of Wyoming. I transfer my pair with the Senator from Missouri [Mr. STONE] to the Senator from Michigan [Mr. ALGER], and will vote. I vote "yea."

Mr. GAMBLE. I transfer my pair to the senior Senator from Michigan [Mr. BURROWS], and will vote. I vote "yea."

Mr. WARREN (after having voted in the affirmative). I have a general pair with the Senator from Mississippi [Mr. MONEY], but under our arrangement I was permitted to vote. The Senator from Alabama [Mr. MORGAN] has now transferred his pair to the Senator from Mississippi [Mr. MONEY], who is detained from the Chamber by illness, and I will permit my vote to stand.

Mr. KITTREDGE. As I have stated, I have a general pair with the junior Senator from Colorado [Mr. PATTERSON]. On account of his absence I withheld my vote, but I take the liberty to transfer the pair to the junior Senator from Massachusetts [Mr. CRANE], and will vote. I vote "yea."

Mr. DILLINGHAM. I transfer my pair to the junior Senator from Louisiana [Mr. FOSTER], and will vote. I vote "yea."

Mr. DANIEL. I am paired with the Senator from North Dakota [Mr. HANSBROUGH], and therefore refrain from voting.

The result was announced—yeas 42, nays 5, as follows:

YEAS—42.

Aldrich	Dillingham	Knox	Perkins
Allee	Dolliver	Latimer	Pettus
Anthony	Dryden	Ledge	Piles
Bacon	Dubois	Long	Proctor
Clarkburn	Flint	McCreary	Scott
Bulkeley	Frazier	McCumber	Sutherland
Burnham	Fulton	Martin	Taliaferro
Clark, Wyo.	Gallinger	Morgan	Warner
Clay	Gamble	Nelson	Warren
Culloom	Heyburn	Overman	
Dick	Kittredge	Penrose	

NAYS—5.

Carmack	Kean	Spooner	Teller
Hale			

NOT VOTING—42.

Alger	Clark, Mont.	Gorman	Nixon
Allison	Clarke, Ark.	Hansbrough	Patterson
Beveridge	Crane	Hemenway	Platt
Berry	Culberson	Hopkins	Rayner
Borah	Daniel	La Follette	Simmons
Brandegee	Depew	McEnery	Smoot
Burrell	Elkins	McLaurin	Stone
Burrows	Foraker	Mallory	Tillman
Burton	Foster	Millard	Wetmore
Carter	Frye	Money	
Clapp	Gearin	Newlands	

So the bill was passed.

GOVERNMENT POWDER FACTORY.

Mr. HALE. I move that the Senate proceed to the consideration of executive business.

Mr. DANIEL. I ask the Senator to withhold the motion for a moment, in order that I may ask consent for the printing of a letter.

Mr. PETTUS. I ask unanimous consent for the present consideration of the bill (S. 2355) to organize the corps of dental surgeons attached to the Medical Department of the Army. It is the same bill——

The VICE-PRESIDENT. Does the Senator from Maine yield to the Senator from Alabama? The Senator from Alabama asks unanimous consent for the consideration of a bill.

Mr. HALE. What is the bill?

Mr. PETTUS. The dental bill, the passage of which the Senator had reconsidered.

Mr. HALE. No; I can not yield for that purpose.

Mr. DANIEL. Will the Senator from Maine withhold his motion for a moment in order that I may have a letter printed in the RECORD?

Mr. HALE. I can not yield to anything that will give rise to debate.

Mr. DANIEL. Not at all.

Mr. President, I send to the desk a letter from a gentleman, Mr. Peters, who represents the King Powder Company, of Cincinnati, Ohio. He contradicts a statement which I quoted from Mr. Robert S. Waddell, of Peoria, Ill., in some remarks which I made a few days ago. I ask, in justice to the King Powder Company, that this letter may be printed in the RECORD, omitting three words which I have penciled out because they are an expression not necessary to the sense of the letter and of which I do not care to be the vehicle of conveyance.

The VICE-PRESIDENT. Is there objection to the request of the Senator from Virginia?

Mr. CULLOM. I heard the Senator refer to Peoria. Is this letter from a gentleman in Peoria?

Mr. DANIEL. It is traversing a statement made by a gentleman of Peoria.

Mr. CULLOM. I make no objection to the request.

Mr. DANIEL. But it casts no reflection on the city of Peoria or on Illinois.

The VICE-PRESIDENT. Is there objection to the request of the Senator from Virginia? The Chair hears none.

The letter referred to is as follows:

THE KING POWDER COMPANY,
Cincinnati, Ohio, March 26, 1906.

Senator DANIEL,
United States Senate, Washington, D. C.

HONORABLE SIR: We notice from the papers that on the 23d instant you read before the United States Senate a letter from Mr. R. S. Waddell, president of the Buckeye Powder Company, Peoria, Ill., to the effect that when some years since we were competing with the Du Pont Company for Government business on black powder, our powder not receiving fair test, we took the Du Pont powder, which was accepted, put it in our kegs, and under our label furnished it for Government test. If Mr. Waddell made such statement, we wish to say that it is * * *, nothing of the kind ever having occurred or ever having been thought of by us.

We wish further to say in contradiction of Mr. Waddell's statement, as reported, that The King Powder Company does not belong, and never has belonged, to a "powder trust," and, furthermore, that we do not believe there is such a thing in existence as a "powder trust."

Justice to both companies involved would seem to require that you give to these corrections the same publicity that you gave to Mr. Waddell's statements. If you will do so before the incident passes out of the minds of the Senate or the public, we shall be very much obliged.

Very respectfully, yours, G. M. PETERS.

EXECUTIVE SESSION.

Mr. HALE. I renew the motion that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session, the doors were reopened, and (at 4 o'clock and 40 minutes p. m.) the Senate adjourned until Monday, April 2, 1906, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate March 29, 1906.

DISTRICT ATTORNEY.

William C. Bristol, of Oregon, to be United States attorney for the district of Oregon, who was appointed during the last recess of the Senate, vice Francis J. Heney, resigned.

COLLECTOR OF CUSTOMS.

Benjamin B. Brown, of Pennsylvania, to be collector of customs for the district of Erie, in the State of Pennsylvania. (Reappointment.)

CHIEF OF BUREAU OF YARDS AND DOCKS.

Civil Engineer Mordecai T. Endicott, United States Navy, to be Chief of the Bureau of Yards and Docks, in the Depart-

ment of the Navy, with the rank of rear-admiral, from the 4th day of April, 1906.

PROMOTIONS IN THE PORTO RICO PROVISIONAL REGIMENT OF INFANTRY.

First Lieut. Frank C. Wood, Porto Rico Provisional Regiment of Infantry, to be captain from March 25, 1905, to fill an original vacancy.

Second Lieut. Jaime Nadal, Porto Rico Provisional Regiment of Infantry, to be first lieutenant from March 25, 1905, vice Wood, promoted.

Second Lieut. Henry C. Rexach, Porto Rico Provisional Regiment of Infantry, to be first lieutenant from April 1, 1905, vice Patterson, appointed second lieutenant of infantry, United States Army.

POSTMASTERS.

CALIFORNIA.

Thomas C. Bouldin to be postmaster at Azusa, in the county of Los Angeles and State of California, in place of Thomas C. Bouldin. Incumbent's commission expired March 18, 1906.

George M. Francis to be postmaster at Napa, in the county of Napa and State of California, in place of George M. Francis. Incumbent's commission expires April 5, 1906.

William J. Hill to be postmaster at Salinas, in the county of Monterey and State of California, in place of William J. Hill. Incumbent's commission expires May 13, 1906.

Shelley Inch to be postmaster at Placerville, in the county of Eldorado and State of California, in place of Shelley Inch. Incumbent's commission expires May 13, 1906.

William D. Ingram to be postmaster at Lincoln, in the county of Placer and State of California, in place of William D. Ingram. Incumbent's commission expires May 13, 1906.

Kennedy B. Summerfield to be postmaster at Santa Monica, in the county of Los Angeles and State of California, in place of Kennedy B. Summerfield. Incumbent's commission expires April 5, 1906.

James C. Tyrrell to be postmaster at Grass Valley, in the county of Nevada and State of California, in place of James C. Tyrrell. Incumbent's commission expires May 16, 1906.

CONNECTICUT.

James P. Glynn to be postmaster at Winsted, in the county of Litchfield and State of Connecticut, in place of James P. Glynn. Incumbent's commission expires April 17, 1906.

Benjamin J. Maltby to be postmaster at Northford, in the county of New Haven and State of Connecticut, in place of Benjamin J. Maltby. Incumbent's commission expires May 26, 1906.

GEORGIA.

De Witt C. Cole to be postmaster at Marietta, in the county of Cobb and State of Georgia, in place of De Witt C. Cole. Incumbent's commission expired March 26, 1906.

ILLINOIS.

John W. Fornof to be postmaster at Streator, in the county of Lasalle and State of Illinois, in place of John W. Fornof. Incumbent's commission expired March 14, 1906.

John G. Seitz to be postmaster at Upper Alton, in the county of Madison and State of Illinois, in place of John G. Seitz. Incumbent's commission expired March 14, 1906.

William Wiese to be postmaster at Nashville, in the county of Washington and State of Illinois, in place of William Wiese. Incumbent's commission expired March 14, 1906.

INDIANA.

William A. Fordyce to be postmaster at Shelburn, in the county of Sullivan and State of Indiana. Office became Presidential January 1, 1906.

Miles K. Moffett to be postmaster at Connersville, in the county of Fayette and State of Indiana, in place of Miles K. Moffett. Incumbent's commission expires May 8, 1906.

IOWA.

Benjamin A. Nichols to be postmaster at West Liberty, in the county of Muscatine and State of Iowa, in place of Benjamin A. Nichols. Incumbent's commission expires May 27, 1906.

MAINE.

Joseph W. Gary to be postmaser at Caribou, in the county of Aroostook and State of Maine, in place of Joseph W. Gary. Incumbent's commission expires May 26, 1906.

George Downes to be postmaster at Calais, in the county of Washington and State of Maine, in place of George Downes. Incumbent's commission expires May 8, 1906.

MASSACHUSETTS.

Benjamin F. Brooks to be postmaster at Barre, in the county of Worcester and State of Massachusetts, in place of Benjamin F. Brooks. Incumbent's commission expires May 8, 1906.

Arthur G. Clapp to be postmaster at South Deerfield, in the county of Franklin and State of Massachusetts, in place of Arthur G. Clapp. Incumbent's commission expires April 17, 1906.

William R. Hall to be postmaster at Maynard, in the county of Middlesex and State of Massachusetts, in place of William R. Hall. Incumbent's commission expires May 9, 1906.

William Parsons to be postmaster at Rockport, in the county of Essex and State of Massachusetts, in place of William Parsons. Incumbent's commission expires May 9, 1906.

MICHIGAN.

Samuel Adams to be postmaster at Bellaire, in the county of Antrim and State of Michigan, in place of Samuel Adams. Incumbent's commission expires May 19, 1906.

Clayton L. Bailey to be postmaster at Mancelona, in the county of Antrim and State of Michigan, in place of Clayton L. Bailey. Incumbent's commission expired March 19, 1906.

J. Mark Harvey, jr., to be postmaster at Constantine, in the county of St. Joseph and State of Michigan, in place of J. Mark Harvey, jr. Incumbent's commission expires April 22, 1906.

Richard M. Johnson to be postmaster at Middleville, in the county of Barry and State of Michigan, in place of Richard M. Johnson. Incumbent's commission expires April 22, 1906.

Jay C. Newbrough to be postmaster at Greenville, in the county of Montcalm and State of Michigan, in place of Clark J. Drummond. Incumbent's commission expires May 19, 1906.

MINNESOTA.

Robert B. Kreis to be postmaster at Monticello, in the county of Wright and State of Minnesota, in place of Robert B. Kreis. Incumbent's commission expires May 19, 1906.

MISSOURI.

Ida Blackburn to be postmaster at Savannah, in the county of Andrew and State of Missouri, in place of Ida Blackburn. Incumbent's commission expired February 10, 1906.

E. E. Codding to be postmaster at Sedalia, in the county of Pettis and State of Missouri, in place of John M. Glenn. Incumbent's commission expired March 25, 1906.

Charles A. Crow to be postmaster at Caruthersville, in the county of Pemiscot and State of Missouri, in place of Charles A. Crow. Incumbent's commission expires May 19, 1906.

NEBRASKA.

Wesley J. Cook to be postmaster at Blair, in the county of Washington and State of Nebraska, in place of Wesley J. Cook. Incumbent's commission expired December 18, 1905.

Conrad Huber to be postmaster at Bloomington, in the county of Franklin and State of Nebraska, in place of Conrad Huber. Incumbent's commission expired January 20, 1906.

NEW HAMPSHIRE.

Ellsworth F. Pike to be postmaster at Franklin (late Franklin Falls), in the county of Merrimack and State of New Hampshire, in place of Ellsworth F. Pike. Incumbent's commission expires May 9, 1906.

John T. Welch to be postmaster at Dover, in the county of Strafford and State of New Hampshire, in place of John T. Welch. Incumbent's commission expires May 9, 1906.

NEW JERSEY.

William H. Pulis to be postmaster at Ramsey, in the county of Bergen and State of New Jersey. Office became Presidential October 1, 1905.

George H. Tice to be postmaster at Perth Amboy, in the county of Middlesex and State of New Jersey, in place of George H. Tice. Incumbent's commission expires May 14, 1906.

Peter F. Wanser to be postmaster at Jersey City, in the county of Hudson and State of New Jersey, in place of Peter F. Wanser. Incumbent's commission expires May 14, 1906.

NEW YORK.

William H. Bartlett to be postmaster at Amenia, in the county of Dutchess and State of New York, in place of William H. Bartlett. Incumbent's commission expires May 14, 1906.

Frederick Gorlich to be postmaster at Hastings upon Hudson, in the county of Westchester and State of New York, in place of Frederick Gorlich. Incumbent's commission expired December 17, 1905.

George T. Reeve, jr., to be postmaster at Riverhead, in the county of Suffolk and State of New York, in place of George T. Reeve, jr. Incumbent's commission expires May 14, 1906.

George Ripperger to be postmaster at Long Island City, in the county of Queens and State of New York, in place of George Ripperger. Incumbent's commission expired January 21, 1906.

PENNSYLVANIA.

Edward C. Burns to be postmaster at Reynoldsville, in the county of Jefferson and State of Pennsylvania, in place of Edward C. Burns. Incumbent's commission expires April 5, 1906.

Delazon P. Higgins to be postmaster at Lewisburg, in the

county of Union and State of Pennsylvania, in place of Delazon P. Wiggins. Incumbent's commission expires April 5, 1906.

William H. Michener to be postmaster at Ogontz, in the county of Montgomery and State of Pennsylvania, in place of William W. D. Yerkes, resigned.

George W. Schoch to be postmaster at Mifflinburg, in the county of Union and State of Pennsylvania, in place of George W. Schoch. Incumbent's commission expires April 5, 1906.

George W. Shaeff to be postmaster at Susquehanna, in the county of Susquehanna and State of Pennsylvania, in place of George W. Shaeff. Incumbent's commission expires May 2, 1906.

James W. Specht to be postmaster at Beaver Springs, in the county of Snyder and State of Pennsylvania, in place of Ammon M. Aurand, removed.

SOUTH CAROLINA.

B. J. Hammet to be postmaster at Blackville, in the county of Barnwell and State of South Carolina, in place of James A. Dayton, deceased.

TEXAS.

Thomas D. Bloys to be postmaster at Honey Grove, in the county of Fannin and State of Texas, in place of Thomas D. Bloys. Incumbent's commission expires May 8, 1906.

John B. Schmitz to be postmaster at Denton, in the county of Denton and State of Texas, in place of Charles T. Ramsdell. Incumbent's commission expired March 25, 1906.

VERMONT.

George T. Childs to be postmaster at St. Albans, in the county of Franklin and State of Vermont, in place of George T. Childs. Incumbent's commission expires May 19, 1906.

George H. Richmond to be postmaster at Northfield, in the county of Washington and State of Vermont, in place of George H. Richmond. Incumbent's commission expires May 14, 1906.

WASHINGTON.

King P. Allen to be postmaster at Pullman, in the county of Whitman and State of Washington, in place of King P. Allen. Incumbent's commission expired March 18, 1906.

WISCONSIN.

John C. Freeman to be postmaster at New London, in the county of Waupaca and State of Wisconsin, in place of John C. Freeman. Incumbent's commission expires May 19, 1906.

George R. Hall to be postmaster at Oconto, in the county of Oconto and State of Wisconsin, in place of George R. Hall. Incumbent's commission expires May 19, 1906.

Frank S. Moore to be postmaster at Lake Geneva, in the county of Walworth and State of Wisconsin, in place of Charles S. French. Incumbent's commission expired February 28, 1906.

John C. Outhwaite to be postmaster at De Pere, in the county of Brown and State of Wisconsin, in place of John C. Outhwaite. Incumbent's commission expired March 18, 1906.

CONFIRMATIONS.

Executive nominations confirmed by the Senate March 29, 1906.

CONSULS.

George Eugene Eager, of Illinois, to be consul of the United States at Barmen, Germany.

James W. Johnson, of New York, to be consul of the United States at Puerto Cabello, Venezuela.

RECEIVER OF PUBLIC MONEYS.

E. D. R. Thompson, of Salt Lake City, Utah, to be receiver of public moneys at Salt Lake City.

REGISTER OF LAND OFFICE.

Frank D. Hobbs, of Salt Lake City, Utah, to be register of the land office at Salt Lake City, to take effect April 21, 1906.

COLLECTOR OF CUSTOMS.

Joones E. B. Stuart, of Virginia, to be collector of customs for the district of Newport News, in the State of Virginia.

INDIAN INSPECTOR.

Walter B. Hill, of Concord, N. H., to be an Indian inspector (irrigation engineer).

POSTMASTERS.

ILLINOIS.

H. A. Fischer to be postmaster at Staunton, in the county of Macoupin and State of Illinois.

PENNSYLVANIA.

Harley J. Barns to be postmaster at Albion, in the county of Erie and State of Pennsylvania.

Ernest A. Hempstead to be postmaster at Meadville, in the county of Crawford and State of Pennsylvania.

Isidor Sobel to be postmaster at Erie, in the county of Erie and State of Pennsylvania.

HOUSE OF REPRESENTATIVES.

THURSDAY, *March 29, 1906.*

The House met at 12 o'clock noon.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of the proceedings of yesterday was read and approved.

REORGANIZATION OF THE CONSULAR SERVICE.

Mr. ADAMS of Pennsylvania. Mr. Speaker, I call up the conference report on the bill (S. 1345) for the reorganization of the consular service of the United States.

The SPEAKER. Does the gentleman ask that the statement be read in lieu of the report?

Mr. ADAMS of Pennsylvania. I ask that the statement be read in lieu of the conference report.

The SPEAKER. If there be no objection, it will be so ordered.

The conference report is as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1345) to provide for the reorganization of the consular service of the United States, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its amendments numbered 1, 33, 42.

That the Senate recede from its disagreement to the amendments of the House numbered 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 15, 17, 18, 19, 20, 21, 22, 24, 25, 26, 27, 28, 29, 31, 32, 34, 35, 37, 38, 40, 41, 43, 44, 45, 46, 47, 49, 50, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 74, 75, 76, 77, 78, 79, 80, 81, 82; and agree to the same.

Amendment numbered 12: That the Senate recede from its disagreement to the amendment of the House numbered 12, and agree to the same with an amendment as follows: Insert in lieu thereof:

"Class two, six thousand dollars—Manchester."

And the House agree to the same.

Amendment numbered 13: That the Senate recede from its disagreement to the amendment of the House numbered 13, and agree to the same with an amendment as follows: In lieu thereof insert the word "three;" and the House agree to the same.

Amendment numbered 14: That the Senate recede from its disagreement to the amendment of the House numbered 14, and agree to the same with an amendment as follows: Insert in lieu thereof the word "four;" and the House agree to the same.

Amendment numbered 16: That the Senate recede from its disagreement to the amendment of the House numbered 16, and agree to the same with an amendment as follows: In lieu thereof insert the word "five;" and the House agree to the same.

Amendment numbered 23: That the Senate recede from its disagreement to the amendment of the House numbered 23, and agree to the same with an amendment as follows: In lieu thereof insert the word "six;" and the House agree to the same.

Amendment numbered 30: That the Senate recede from its disagreement to the amendment of the House numbered 30, and agree to the same with an amendment as follows: In lieu thereof insert the word "seven;" and the House agree to the same.

Amendment numbered 36: That the Senate recede from its disagreement to the amendment of the House numbered 36, and agree to the same with an amendment as follows: Insert, after the word "Sandakan," the word "Seville;" and the House agree to the same.

Amendment numbered 39: That the Senate recede from its disagreement to the amendment of the House numbered 39, and agree to the same with an amendment as follows: In lieu thereof insert the word "eight;" and the House agree to the same.

Amendment numbered 48: That the Senate recede from its disagreement to the amendment of the House numbered 48, and agree to the same with an amendment as follows: Strike out, after the words "Sault Sainte Marie," the word "Seville," in line 9, page 4; and the House agree to the same.

Amendment numbered 51: That the Senate recede from its disagreement to the amendment of the House numbered 51, and agree to the same with an amendment as follows: In lieu thereof insert the word "nine;" and the House agree to the same.

Amendment numbered 73: That the Senate recede from its disagreement to the amendment of the House numbered 73, and

agree to the same with an amendment as follows: Strike out the two last words in said amendment and insert in lieu thereof the words "one year;" and the House agree to the same.

ROBT. ADAMS,
EDWIN DENBY,
CHAS. A. TOWNE,
Managers on the part of the House.

H. C. LODGE,
S. M. CULLOM,
A. O. BACON,
Managers on the part of the Senate.

STATEMENT.

The statement was read, as follows:

The bill as agreed to by the conferees, and which is now submitted to the House for its approval, is substantially in the same form in which it was passed by the House, the only changes made being in the grading of three consulates and in the extension of time from six months to one year during which consuls may be designated by the President, whenever, in his judgment, the good of the service requires it, to act as vice-consuls-general, deputy consuls-general, vice-consuls, and deputy consuls.

The consulates affected by the agreement are Manchester, England, changed from consulate-general to consul; Harput, Turkey, restored to $3,000; and Seville, Spain, increased from $2,500 to $3,000.

Mr. ADAMS of Pennsylvania. Mr. Speaker, I move the adoption of the conference report.

Mr. WILLIAMS. Mr. Speaker, before that is done, I will ask the gentleman to state what the bill is.

Mr. ADAMS of Pennsylvania. Mr. Speaker, in reply to the gentleman, I will simply state that this is the bill for the reorganization of the consular service. The Senate has agreed to all the amendments put in by the House except three. The main point of contention between the two Houses related to section 4, containing the provision, put in by the Senate, allowing the President the right to transfer consuls in the same class from one post to another. The House struck out that section, feeling sure that it would not meet the approbation of the country. In conference the Senate insisted with some force on the retention of that section, but finally yielded. About thirty amendments placed in the bill by the House were agreed to by the Senate; all, in fact, except three which the Senate insisted on, and we thought that was a very fair compromise.

Mr. WILLIAMS. What were those three?

Mr. ADAMS of Pennsylvania. We reduced the salary at Harput to $2,500, and in conference restored that salary to $3,000, as fixed by the Senate. At Seville, Spain, the salary was increased from $2,500 to $3,000. We changed Manchester, England, from the rank of a consulship to a consul-generalship. The Senate insisted that it should remain a consulship.

Mr. WILLIAMS. With those three exceptions, then, the Senate came to the position of the House?

Mr. ADAMS of Pennsylvania. Entirely.

The conference report was agreed to.

PURE-FOOD BILL.

Mr. HEPBURN. Mr. Speaker, I ask unanimous consent that Senate bill 88, for preventing the manufacture, sale, or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes, may be made the special order for Tuesday, the 10th day of April, and that it may be the continuing special order until disposed of, not to interfere, however, with appropriation bills or other privileged subjects.

The SPEAKER. The gentleman from Iowa asks unanimous consent——

Mr. DALZELL. Is that the pure-food bill?

The SPEAKER. The Clerk will report the title of the bill.

The Clerk read the title of the bill.

The SPEAKER. The gentleman from Iowa asks unanimous consent that this bill may be made the special order for Tuesday, April 10, not to interfere with appropriation bills, conference reports, or other privileged matters. Is there objection?

Mr. BARTLETT. Mr. Speaker, reserving the right to object, I will inquire of the gentleman from Iowa what suggestion he has to make with reference to the time for debate? This is an important bill.

Mr. HEPBURN. I did not suppose it would be competent to arrange such a matter at this time; but I will say, for my own part, recognizing it as a matter of very grave importance, in which a great many gentlemen in this House are interested, I think there should be ample time for debate.

Mr. HENRY of Texas. What time would the gentleman call ample time?

Mr. HEPBURN. Well, I should say one day, at least.

Mr. HENRY of Texas. We ought to have at least three days' debate.

Mr. BARTLETT. I have no desire, Mr. Speaker, to object to the consideration of the bill, but I feel constrained to object unless we can have some sort of an understanding as to the time for general debate and the opportunity to offer amendments. In other words, I would object to any arrangement that would prevent a full consideration under general debate and a full opportunity to offer amendments. I have introduced a bill myself, and the minority have been presented on this bill, and we offer a substitute for both the Senate and the House bill. Now, I am not willing to agree to any arrangement by which a full opportunity to present that matter to the House would be prevented. I want a full understanding about it, and must have it, before I consent to the arrangement.

Mr. SULZER. Mr. Speaker——

The SPEAKER. Does the gentleman from Iowa yield to the gentleman from New York?

Mr. HEPBURN. I will yield to the gentleman from New York.

Mr. SULZER. In my opinion, Mr. Speaker, when the bill comes up on the 10th of April, we can rely, I think, on the assurance of the gentleman from Iowa, that ample time will be allowed for debate and for amendment. I trust there will be no objection to the gentleman's request. I want to see legislation along the lines of this bill enacted into law ere this session adjourns.

Mr. HEPBURN. Mr. Speaker, under this request the bill will be considered under the rules of the House with ample opportunity for amendment and debate. I have never known before such a request as the gentleman from Georgia presents at this time.

Mr. ADAMSON. Mr. Speaker——

The SPEAKER. Does the gentleman from Iowa yield to the gentleman from Georgia?

Mr. HEPBURN. I will yield to the gentleman from Georgia.

Mr. ADAMSON. I wish to say to the gentleman from Iowa that from statements made to me on the subject I think we shall desire at least four or five hours on this side. That would mean three days of debate. Now, I concur with the gentleman from Georgia and the gentleman from Texas as far as their report goes, but I occupy the attitude of absolute opposition to this bill, always have and always shall, when we come to consider it.

The SPEAKER. Is there objection?

Mr. BARTLETT. Mr. Speaker, I am constrained without some further arrangement to object.

Mr. HEPBURN. Mr. Speaker, I shall endeavor to get some other method of accomplishing the result.

Mr. SULZER. Make the motion.

Mr. HEPBURN. Mr. Speaker, is a motion in order at this time?

The SPEAKER. In the opinion of the Chair this can only be handled at this time by unanimous consent.

SETTLEMENT OF LANDS IN OKLAHOMA TERRITORY.

The SPEAKER. The Chair lays before the House the following message from the President of the United States, which it is proper to say was received in the legislative day of yesterday, but owing to the business of the House it was not convenient to lay it before the House at that time.

The Clerk read as follows:

To the House of Representatives:

In compliance with the resolution of the House of Representatives of the 26th instant (the Senate concurring), I return herewith House bill No. 431, entitled "An act to open for settlement 505,000 acres of land in the Kiowa, Comanche, and Apache Indian reservations, in Oklahoma Territory.

THEODORE ROOSEVELT.

THE WHITE HOUSE, *March 28, 1906.*

Mr. STEPHENS of Texas. Mr. Speaker, I offer the following resolution in reference to the same matter and ask unanimous consent for its present consideration.

The SPEAKER. The gentleman from Texas asks unanimous consent for the present consideration of the resolution which the Clerk will read.

The Clerk read as follows:

Be it resolved by the House of Representatives (the Senate concurring), That the action of the Speaker of the House of Representatives and of the Vice-President of the United States and the President of the Senate in signing the enrolled bill H. R. No. 431, entitled "An act to open for settlement 505,000 acres of land in the Kiowa, Comanche and Apache Indian reservations, in Oklahoma Territory," be, and hereby is, rescinded, and that in the reenrollment of the said bill H. R. 431 the following amendments be made, viz:

In section 3, page 2, line 3, strike out the words "one dollar and fifty cents" and insert in lieu thereof the following words, viz: "five

...:" and at the end of the bill add a new section to read as follows, viz:

"SEC. 6. That the Secretary of the Interior shall allot 160 acres of land to each child of Indian parentage born since June 6, 1900, whose father or mother was a duly enrolled member of either the Kiowa, Comanche, or Apache tribes of Indians and entitled to an allotment of land under the act of June 6, 1900, opening said Kiowa, Comanche, or Apache reservations to settlement, said allotments to be made out of the lands known as the pasture reserves in said reservations."

So that the bill as amended will read as follows, viz:

Be it enacted, etc., That all of that part of article 3 of section 6 of the act of Congress of date June 6, 1900, entitled 'An act to ratify and confirm an agreement with the Indians of the Fort Hall Indian Reservation in Idaho,' and making appropriations to carry the same into effect, which reads as follows, to wit: 'That in addition to the allotments of lands to said Indians as provided for in this agreement the Secretary of the Interior shall set aside for the use in common for said Indian tribes 480,000 acres of grazing land to be selected by the Secretary of the Interior either in one or more tracts, as will best subserve the interests of said Indians,' be, and the same is hereby, repealed.

SEC. 2. That the 480,000 acres of land set apart in the Kiowa, Comanche, and Apache Indian reservations, in Oklahoma Territory, by the Secretary of the Interior, referred to and mentioned in section 1 of this act, and the 25,000 acres of land set apart as a wood reservation in the Kiowa, Comanche, and Apache Indian reservations, in Oklahoma Territory, by the Secretary of the Interior, shall be opened to settlement by proclamation of the President of the United States within three months from the passage of this act and be disposed of upon sealed bids or at public auction, at the discretion of the Secretary of the Interior, to the highest bidder, under the provisions of the homestead laws of the United States and under the rules and regulations adopted by the Secretary of the Interior, and such purchaser must be duly qualified to make entry under the general homestead laws: *And provided further*, That the money arising from the sale of said lands shall be paid into the Treasury of the United States and placed to the credit of said tribes of Indians, and said deposit of money shall draw 5 per cent interest per annum; and the principal and interest of said deposit shall be expended for the benefit of said Indians in such manner as Congress may direct: *And it is also provided*, That such sales shall be subject to any leases made for agricultural purposes prior to this act, the rentals accruing after such sale to belong to the purchasers under this act.

SEC. 3. That said lands shall be sold for not less than $5 per acre, and shall be sold upon the following terms: One-fifth of the price bid therefor to be paid at the time the bid is made, and the balance of the purchase price of said land to be paid in four equal annual installments; and in case any purchaser fails to make such annual payment when due all rights in and to the land covered by his or her purchase shall at once cease and any payments theretofore made shall be forfeited and his or her entry shall be canceled. And no title to said land shall pass to the purchaser, nor any patent of the United States issue to the purchaser, until the purchaser shall have in all respects complied with the terms and provisions of the homestead laws of the United States.

SEC. 4. That the Secretary of the Interior is hereby vested with full power and authority to make such rules and regulations as to the time of notice, manner of sale, and other matters incident to the carrying out of the provisions of this act as he may deem necessary.

SEC. 5. That all lands remaining undisposed of at the expiration of five years from the taking effect of this act shall be disposed of for cash under rules and regulations to be prescribed by the Secretary of the Interior.

SEC. 6. That the Secretary of the Interior shall allot 160 acres of land to each child of Indian parentage born since June 6, 1900, whose father or mother was duly enrolled member of either the Kiowa, Comanche, or Apache tribes of Indians and entitled to an allotment of land under the act of June 6, 1900, opening said Kiowa, Comanche, or Apache reservations to settlement, said allotments to be made out of the lands known as the pasture reserves in said reservation."

The SPEAKER. Is there objection?

Mr. PAYNE. Mr. Speaker, reserving the right to object, I would like to ask the gentleman from Texas where these amendments come from—who recommends them? It is rather an unusual way of making such substantial amendments to a bill.

Mr. STEPHENS of Texas. Mr. Speaker, I will state to the gentleman from New York [Mr. PAYNE] that the bill H. R. 431, returned to the House by the President on yesterday, passed the House a month ago, passed the Senate, and went to the President for his signature. The Interior Department raised objection to the signing of that bill and to its becoming a law in that form as passed by the House and Senate. They suggested two amendments. They said these Indian lands were worth more than $1.50 an acre. That was the minimum price fixed in the bill, and they asked that the minimum price be raised to $5 an acre. The land is to be sold in 160-acre blocks to the highest bidder, either under sealed bids or in the open market, as the President and the Secretary of the Interior may direct. A great deal of this land—I presume nearly all of it—will bring $5 an acre, and a great deal of it more than that, so we agreed in the Committee on Indian Affairs, to whom the matter was referred, to this amendment. The other amendment was to this effect: That all of the Indian children born in these different tribes of Indians, the Kiowa, Comanche, and Apache, since 1900, should be permitted to have allotted to each of them 160 acres of land out of these pasture reserves. With these two amendments the bill was satisfactory to the Interior Department and to the President and meets their approval. The matter was referred back, as I have stated, to the Committee on Indian Affairs, and that committee reported this resolution embodying these two points and asked for the passage of the bill in the form that it originally passed the Senate and went to the President, with the exception of these two amendments which we now offer under the resolution sent to the Speaker's desk.

Mr. PAYNE. Did the President when he returned the bill accompany it with a veto message?

Mr. STEPHENS of Texas. There was no message returned, except at the request of the House and of the Senate. There was a resolution passed requesting the President to return to the House this bill. It was a joint resolution. It was approved by the Senate, and the President has returned it for the purpose of these corrections, as understood between the President and the Interior Department, after full understanding of the whole matter.

Mr. LACEY. Mr. Speaker, I would like to suggest to my colleague on the committee that the matter was fully considered by the Committee on Indian Affairs, and they have reported and placed upon the Calendar a joint resolution intended to amend this bill, and this resolution now offered merely carries out what the committee has already unanimously reported; so that the old bill, with these two interlineations, would accomplish the purpose now proposed by the unanimous report of the Committee on Indian Affairs and also meet the views of the Executive, the Indian Commissioner, and the Secretary of the Interior.

Mr. KEIFER. Mr. Speaker——

The SPEAKER. Does the gentleman yield?

Mr. STEPHENS of Texas. Yes.

Mr. KEIFER. I understand the measure is not before the House now except by unanimous consent, and that objection has been reserved.

The SPEAKER. It is by unanimous consent.

Mr. STEPHENS of Texas. Has the gentleman some question to ask?

The SPEAKER. Does the gentleman yield to the gentleman from Ohio?

Mr. STEPHENS of Texas. Yes.

Mr. KEIFER. Now, Mr. Speaker, I may not be familiar with the history of this whole matter, but as I understand it, it is proposed now to make a law out of an old one by mere resolution, without going through the proper steps to pass an act.

Mr. STEPHENS of Texas. Will the gentleman permit me to correct him on that point?

Mr. KEIFER. Yes; if he can.

Mr. STEPHENS of Texas. A resolution has passed the Committee on Indian Affairs, and it has been regularly reported to the House—unanimously reported—favoring the passage of these two points suggested by the President and the Secretary of the Interior.

Mr. KEIFER. The gentleman's correction is a restatement of my position. That is, after a law was passed by both Houses, signed by both the Speaker of the House and by the Vice-President and went to the President of the United States, it comes back here and by resolution it is proposed to vacate the action of the Speaker and of the Vice-President and, I suppose, of the President, and bring the measure back for amendment.

Mr. WILLIAMS. Mr. Speaker, will the gentleman from Ohio yield to me for a moment?

Mr. KEIFER. Yes.

Mr. WILLIAMS. There is a point in the history of the case that perhaps the gentleman from Ohio has not noticed.

Mr. KEIFER. That might be.

Mr. WILLIAMS. And that is that the Senate and the House have both already passed a resolution asking the President to send the measure back. This does not come back with a message of veto from the President. There was a resolution of both Houses asking the President to send the matter back for this special purpose.

Mr. TAWNEY. Therefore it is not a law now.

Mr. WILLIAMS. And the House has acted upon it. It is not a law now.

Mr. KEIFER. I am perfectly willing that the statement should come in from the gentleman from Mississippi [Mr. WILLIAMS], but it is, according to my recollection, entirely unusual after a bill has passed both Houses, has the signature of the Speaker and the Vice-President, and after it has been bandied around the White House for a while and some of the Departments, to ask to bring it back in order to whip it into shape so that they will be pleased with it when they get it up there. So this resolution is a suggestion, which, I think, is very curious; is a suggestion that by resolution of the House of Representatives, or a joint resolution of the two Houses of Congress, we shall vacate the signature of the Speaker to the bill, vacate the signature of the Vice-President and any action of the President of the United States, and bring it back, not to reenact it as

a law, but by some resolution put something into it. I do remember, away back in the history of the Congress, that there was an attempt to pass a financial measure through the Forty-sixth Congress and before it had gotten quite through and as far along as this a distinguished gentleman on the other side of the House, since a Speaker of this House, offered a bill to repeal it before it got to be a law at all. We thought we criticised that somewhat at that time, but here is a case of trying to bring back a bill and put something into it without going through the form of passing a law such as we would have it if the bill is re-presented.

Mr. LACEY. Mr. Speaker, I would like to suggest to my friend from Ohio that this may not have been a common occurrence years ago, but its has been done a number of times in recent years in order to correct defects made by the United States Congress before a bill had been signed. This is an enrolled bill now only. We did this same thing in the last Congress.

Mr. KEIFER. You propose to bring back an enrolled bill and put into it what the Congress never did put into it by the usual steps.

Mr. WILLIAMS. Congress may put in anything or refuse to put it in.

Mr. STEPHENS of Texas. I will state to the gentleman that the Committee on Indian Affairs controlling the whole matter has acted by resolution upon this matter, and it was regularly reported from that committee.

Mr. KEIFER. The gentleman from Mississippi so stated, but that did not change the character of it. I am opposed to passing a bill and in this way making new law. That might be well in some small matter. I did not oppose this bill in the House, I do not expect to; but it will have to come in in the regular way, as I am opposed to legislation in this way.

The SPEAKER. The gentleman from Ohio objects.

PURE-FOOD BILL.

Mr. HEPBURN. Mr. Speaker, I understand the gentleman objecting to the request I made a little while ago is prepared perhaps to withdraw that objection.

The SPEAKER. Is there objection?

Mr. COCKRAN. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. COCKRAN. For the purpose of finding out what is going on.

The SPEAKER. If the Chair can have order, the Chair is trying to state that the gentleman from Iowa again submits a request for unanimous consent that the Senate bill, known as the "pure-food bill," be made a special order for Tuesday, the 10th of April, not to interfere with appropriation or revenue bills or other privileged matters. Is there objection?

Mr. BARTLETT. Mr. Speaker, will the gentleman from Iowa yield to me for a moment?

Mr. HEPBURN. I yield to the gentleman.

Mr. BARTLETT. Mr. Speaker, I want to say to the gentleman from Iowa I have no objection to the consideration of the bill, and if we can have assurances—that is all we ask from him and, of course, that is all we want—that there shall be at least two days' debate upon this bill, with ample opportunity to offer amendments—two or three days' debate—that will be satisfactory to those who occupy the position of opponents to the bill. There is no disposition to make a captious objection or to prevent the consideration of the bill.

The SPEAKER. Is there objection?

Mr. HEPBURN. Mr. Speaker, I desire to say I want to cooperate with the gentleman in securing ample time for full consideration of the bill.

Mr. BARTLETT. Will the gentleman permit me, then, to amend the gentleman's request?

Mr. HEPBURN. I would prefer not.

Mr. HENRY of Texas. Mr. Speaker, just one moment, if the gentleman will yield.

Mr. HEPBURN. It is to be considered in the Committee of the Whole. It is upon the Union Calendar, and will take the usual course of matters of that kind.

Mr. ADAMSON. Will the gentleman yield to me for a moment?

Mr. HEPBURN. I yield to the gentleman.

Mr. ADAMSON. Mr. Speaker, this bill has been in several Congresses considered under similar requests from the gentleman from Iowa, or some other member of the committee representing the committee, and the same order has been adopted substantially in every case, and in no case, as I remember, has there been less than three days' debate, and I have no idea, from conferences with my friend from Iowa, that we will get through with this bill in less than three days, and I shall not object.

The SPEAKER. Is there objection?

Mr. HENRY of Texas. Just one moment. I ask the gentleman from Iowa to yield to me.

Mr. HEPBURN. I yield to the gentleman from Texas.

Mr. HENRY of Texas. Having risen a moment ago for the purpose of objecting, and listening to the colloquy between the gentleman from Georgia and the gentleman from Iowa, I did not object, because the gentleman from Georgia did; but after talking to the gentleman from Iowa, I understand that he does not oppose at least two days' general debate on this bill, confined to the bill. In other words, that he is willing for us to have two days' general debate.

Mr. HEPBURN. Mr. Speaker, I have no doubt the bill will occupy two days or that there would be that length of time consumed. I certainly would interpose no objection. That is my view.

Mr. ADAMSON. Mr. Speaker, as there might be different understandings as to that, and it might be interpreted as meaning that it be cut off at the end of two days, I will state I am opposed to the bill, and under the rule suggested by the gentleman from Iowa I believe it will take a longer time to exhaust debate on the bill.

Mr. HENRY of Texas. Will the gentleman allow me to amend his request by making it that we have at least two days' general debate?

Mr. HEPBURN. Well, I have no objection to that.

The SPEAKER. The gentleman modifies his request so that there shall be not less than two days of general debate.

Mr. HEPBURN. On the subject.

The SPEAKER. On the subject.

Mr. ADAMSON. Mr. Speaker, the trouble about the request of the gentleman from Texas is, I fear, that it will be considered as a limitation.

Mr. HENRY of Texas. Oh, no.

The SPEAKER. The request is that there shall be not less than two days' general debate.

Mr. ADAMSON. If that is not considered as a limitation, I shall not object, because I expect that there will be more than three days' debate.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

SETTLEMENT OF LANDS IN OKLAHOMA.

The SPEAKER. The message laid before the House this morning from the President of the United States will be printed and referred to the Committee on Indian Affairs.

COMMUTATION FOR GOOD CONDUCT FOR UNITED STATES PRISONERS.

Mr. SULLIVAN of Massachusetts. Mr. Speaker, I ask unanimous consent for the present consideration of the following bill.

The Clerk read as follows:

A bill (H. R. 15910) to amend the act entitled "An act to regulate commutation for good conduct for United States prisoners," approved June 21, 1902.

Be it enacted, etc., That section 3 of the act entitled "An act to regulate commutation for good conduct for United States prisoners," approved June 21, 1902, is hereby amended so as to read as follows:

"SEC. 3. That this act shall apply to all sentences imposed subsequent to July 21, 1902, and to the sentences imposed prior thereto the commutation upon which is less than that provided in this act."

The SPEAKER. Is there objection?

Mr. PAYNE. Mr. Speaker, I would like to have an explanation of the bill.

Mr. SULLIVAN of Massachusetts. Mr. Speaker, this is a bill to amend the act approved June 21, 1902, to regulate commutation for good conduct for United States prisoners, and it is to carry out the purpose of that original act, so as to procure a uniform practice in the commutation of all Federal prisoners as far as the Constitution will permit. The act was made to apply solely to sentences subsequent to the passage of the act. It was feared that it could not be made to apply to all sentences imposed prior to the act. This makes it apply to no sentence imposed prior thereto except those the commutation upon which is less than that provided in the act of 1902. This is in order to provide for a uniform practice, and it has been unanimously reported by the committee.

The SPEAKER. Is there objection?

Mr. GILBERT of Kentucky. I want to ask the gentleman from Massachusetts if this bill has been reported by a committee?

Mr. SULLIVAN of Massachusetts. It has been unanimously reported by the Committee on the Judiciary.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

On motion of Mr. SULLIVAN of Massachusetts, a motion to reconsider the vote by which the bill was passed was laid on the table.

BRIDGE ACROSS SNAKE RIVER, WASHINGTON.

Mr. CUSHMAN. Mr. Speaker, I ask unanimous consent for the present consideration of bill S. 5181.

The title of the bill was read, as follows:

An act (S. 5181) to authorize the construction of a bridge across the Snake River between Whitman and Columbia counties, in the State of Washington.

Mr. HEPBURN. Mr. Speaker, there are three of these bills. They simply authorize the construction of bridges across navigable waters. They are in the usual form. They have all of the provisions for the safety of navigation, and I ask unanimous consent to dispense with their reading.

The SPEAKER. Are they similar to the bills that were reported at the last legislative day, or the day before that?

Mr. HEPBURN. Precisely; they simply change the name of the river.

Mr. PAYNE. Was the bill read to the House?

The SPEAKER. A similar bill was read to the House, the gentleman states.

Mr. SHACKLEFORD. I will ask the gentleman if three bills are included in the request?

Mr. CUSHMAN. Yes, sir; Senate bill 5181, Senate bill 5182, and Senate bill 5183.

Mr. SHACKLEFORD. What is the nature of the bridge to be constructed?

Mr. CUSHMAN. A railroad bridge in each case, to be constructed by the Milwaukee road, on its main line extension to the Pacific. The bills are exactly identical, all three of them, except that the three bills prescribe three separate places of crossings—two crossings being across the Columbia River, State of Washington, and the other being across the Snake River.

Mr. SHACKLEFORD. This is a private matter, in the interests of private corporations. I shall not object at this time, but I do believe that the people ought to have a chance, and until we can have a vote on Senate amendment No. 40 on the statehood bill, I give notice that——

The SPEAKER. Does the gentleman from Missouri object?

Mr. SHACKLEFORD (continuing). I shall demand the regular order.

The SPEAKER. Does the gentleman from Missouri object?

Mr. SHACKLEFORD. Not to this particular bill.

The SPEAKER. The Chair hears no objection to dispensing with the reading of the three bills mentioned, or to considering the same.

The Clerk will report the first bill.

The Clerk read as follows:

A bill (S. 5181) to authorize the construction of a bridge across the Snake River between Whitman and Columbia counties, in the State of Washington.

The amendments recommended by the committee were read.

The amendments were agreed to.

The bill as amended was ordered to a third reading; and it was accordingly read the third time, and passed.

The SPEAKER. The Clerk will report the next bill.

The Clerk read as follows:

A bill (S. 5182) to authorize the construction of a bridge across the Columbia River between Franklin and Benton counties, in the State of Washington.

The amendments recommended by the committee were read.

The amendments were agreed to.

The bill as amended was ordered to a third reading; and it was accordingly read the third time, and passed.

The SPEAKER. The Clerk will report the next bill.

The Clerk read as follows:

A bill (S. 5183) to authorize the construction of a bridge across the Columbia River between Douglas and Kittitas counties, in the State of Washington.

The amendments recommended by the committee were read.

The amendments were agreed to.

The bill as amended was ordered to a third reading; and it was accordingly read the third time, and passed.

On motion of Mr. CUSHMAN, a motion to reconsider the vote by which the several bills were passed was laid on the table.

TERMS OF UNITED STATES COURTS, NORTHERN DISTRICT OF ALABAMA.

Mr. UNDERWOOD. Mr. Speaker, I ask unanimous consent for present consideration of the House bill (H. R. 16802) to fix the regular terms of the circuit and district courts of the United States for the southern division of the northern district of Alabama, and for other purposes.

The Clerk read the bill, as follows:

Be it enacted, etc., That the regular terms of the circuit and district courts of the United States for the southern division of the northern district of Alabama shall be held at the city of Birmingham, in the county of Jefferson, twice in each year, on the first Mondays in March and September, and that said courts shall remain in open session for the transaction of business at least six months in each calendar year.

SEC. 2. That whenever the judge for the northern district of Alabama deems it advisable, on account of disability or absence, or of the accumulation of business therein, or for any other cause, that said court should be held by the justice of some other district or circuit court, he shall, in writing, request the presiding justice for the fifth judicial circuit of the United States to assign a judge to hold the term or terms of said court.

Mr. PAYNE. Mr. Speaker, reserving the right to object, I would like to inquire if this bill has been reported by the Committee on the Judiciary?

Mr. UNDERWOOD. It has. The object of the bill is to provide for a longer term of court, so as to dispatch the business.

Mr. PAYNE. I have noticed the large number of bills changing terms of courts and creating new districts and all that sort of thing, brought in by unanimous consent, reported by the Judiciary Committee, and the other day we had a veto message by the President on one of them. I am not willing to allow them to pass without more examination, and I object.

Mr. WILLIAMS. Only one word, Mr. Speaker. Does the gentleman understand that all this bill does is to extend the length of the term of the court?

Mr. PAYNE. I want to examine the bill to find out what there is about it.

The SPEAKER. The gentleman from New York objects.

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

Mr. LITTAUER. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 16472—the legislative appropriation bill.

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union, with Mr. OLMSTED in the chair.

The CHAIRMAN. The House is now in Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 16472—the legislative, executive, and judicial appropriation bill.

Mr. JOHNSON rose.

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. JOHNSON. I want to offer an amendment to the paragraph we were on yesterday afternoon when the committee rose. I move to amend on page 110, lines 16 and 17, by striking out the words "five hundred."

The CHAIRMAN. The gentleman from South Carolina offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 110, lines 16 and 17, strike out the words "five hundred;" so as to read: "Chief clerk, $2,000."

Mr. JOHNSON. Mr. Chairman, the purpose of the amendment that I have offered is to fix the salary of the chief clerk in the General Land Office at $2,000. We have fixed the salary of scores of chief clerks in the Treasury Department and in the Navy Department and in other Departments of the Government at $2,000.

Mr. TAWNEY. Is the gentleman not confounding the chiefs of divisions with the chief clerk? There is only one chief clerk in the Navy Department and one chief clerk in the Treasury Department. The chiefs of divisions receive $2,000.

Mr. LITTAUER. Yes; and even the chiefs of bureaus, like the chief clerk of the Comptroller of the Currency. If the gentleman will permit me. I will make the statement that the chief clerk of the General Land Office has under his supervision for the current year 432 employees, more than are in the entire Navy Department or the Department of Justice. His work is altogether of a more laborious and broader character in consequence of this very large division. The chief clerk of the Treasury Department receives $3,000 a year, and the chief clerks of many subdivisions of the Treasury Department receive $2,500 a year. It was in view of the large number engaged in the work of the General Land Office that we increased the salary of the chief clerk, under suggestions of the Department and strong recommendation, to $2,500. Another thing, until within a few years ago this salary had been appropriated for year by year at $2,500.

Mr. JOHNSON. I have read all this evidence. Every head of a Department that comes before the committee is a special pleader. He makes it appear to the committee that the people in his bureau have such vast and onerous responsibilities that the salary ought to be increased. The Director of the Census testified in perfect good faith that the employees in his Department and his chief clerk are the hardest worked people in the Government. The Secretary of War——

Mr. TAWNEY. If the gentleman will permit me to interrupt him, I will say that this increase was estimated for, and the Assistant Commissioner of the General Land Office came before the committee and did not make special reference in his testimony to the services rendered by the chief clerk; but he appeared subsequently, when the committee was making up the bill, stating the facts upon which the recommendation was made in the estimate.

Now, criticism by the gentleman in respect to the heads of Departments coming before the committee and making representations in regard to the increase of salary—I wish to make this observation: That out of the total increases recommended by the Department in the estimates and asked for by the heads of Departments the committee has not allowed 10 per cent of them. It is only in those cases where from the statement the committee was perfectly convinced that the services and duties of the office were entitled to a greater consideration and greater compensation than they were allowed. And in this particular case it was not only because of the responsibility for the people that he has under him, but also the fact that the chief clerks of bureaus in all the Departments are receiving $2,500 a year while the chief clerks in the Departments receive $3,000 a year.

Mr. LITTAUER. The only statement in the hearings on this subject is on page 429.

Mr. JOHNSON. Yes; I have the hearings. The trouble is that I can not get this committee to hear me. [Laughter.]

As I was stating when I was interrupted by the gentleman from Minnesota, the heads of the Departments come before the committee and constitute themselves special pleaders for the people in their Departments. I want to read a sample of the testimony taken by the committee:

> We feel that this man, after forty years' service, is entitled to an increase. He has not, probably, more than two or three more years to serve. He is entitled to be put on the same footing with other men who are chief clerks and who occupy corresponding positions.

[The time of Mr. JOHNSON having expired, by unanimous consent it was extended five minutes.]

Mr. JOHNSON. Now, if I may be permitted to proceed connectedly I will finish reading the extract.

> He will undoubtedly perform his duties just as well on $1,800 as at $2,000, but he deserves the increase.

Mr. LITTAUER. Will you please permit me a statement right there? You are not reading in reference to this chief clerk who is under consideration now.

Mr. JOHNSON. No, I am not, and if the gentleman will just let me proceed connectedly for one moment, I will show my purpose in reading this. The head of that Department was pleading for an increase in the salary of one of the employees. He put it upon the ground that the man's salary ought to be increased, in order to equalize him with other men who were getting larger salaries and doing like work. It is not in connection with this item, it is simply a sample of the testimony that you find all through the book.

Mr. LIVINGSTON. Did we grant the increase in that case?

Mr. JOHNSON. In this particular case that I am quoting the head of that Department candidly stated that the man would perform his work as faithfully at the lower salary as he would at the increased salary. My purpose in reading this is to show to this committee that if we go to fixing the salaries of chief clerks in this bill at $2,500 a year, then at the next session of Congress the heads of the other Departments and the other bureaus will be back here making the sort of argument that I have just read, and they will point to the fact that the chief clerk in the Land Office, and the chief clerk in some other office get $2,500; and as I stated yesterday, the people in those Departments know only one way to equalize salaries, and that is to put the lower man up to the higher one.

Mr. BURLESON. They equalize up and never down.

Mr. JOHNSON. They equalize up. They do not know that you can equalize a $1,200 clerk and a $1,800 clerk by splitting the difference and giving each of them $1,500. The only method that they pursue is to promote the $1,200 man up to $1,800.

As surely as this committee fixes the salary of the chief clerk at $2,500 (I do not know the man and I have no ill feeling against him or any person in any Department of the Government) you will put yourselves in the position at the next session of Congress where you will be asked to increase other salaries in order to equalize them. That is all there is about it.

The compensation of a chief clerk receiving $2,500 a year in the Departments is out of all proportion to the salary paid down here in the Southern Railway offices to the same kind of a man. They do not have any seven-hour day; they do not have any thirty days' leave of absence with pay, and thirty days' sick leave of absence with pay, and half holidays once a week during the summer months. The salaries that you are paying to these clerks are out of all proportion to the pay for the same work in the outside world; and if you continue to jump up the Department employees $250 and $400 and $500 in every appropriation bill, five years from now they will be getting more pay than Members of Congress.

Mr. LIVINGSTON. Mr. Chairman, the gentleman from South Carolina, in his remarks, in the first place, does an injustice to the heads of the Departments. I do not want the statement that he has made to go abroad as a matter of fact, that heads of Departments come to the Appropriation Committee as special pleaders. No head of a Department, Mr. Chairman, and gentlemen of the committee, ever comes to an Appropriation Committee and asks this unless he is sent for by that committee. In the first place, estimates are sent to the Committee on Appropriations. Those estimates cover all increases asked for. They cover everything. Now, we send for a head of a Department, and for what purpose? To know why that estimate came as it did, and the chairman of the committee has already stated that out of one hundred and more increases asked for we have not granted 10 per cent. I want another statement that the gentleman from South Carolina has made corrected, that chief clerks and other clerks have private secretaries. It only shows that the gentleman from South Carolina [Mr. JOHNSON] is not well acquainted with the administration of these Bureaus and Departments. The chief clerk is this kind of an officer: He is charged with a proper administration of the whole Bureau, or the whole Department, as the case may be. Every clerk of that Department is under him. He is responsible for their work; he is responsible for their time; he is responsible for the method and manner of work that they do. Really, he is the executive officer of that Department. Now, I desire to correct another statement the gentleman has made. This increase here is not an increase above the average of chief clerks in the Departments. It is below the average. Two thousand seven hundred and fifty dollars, $3,000, and $2,500 is the common run of salaries for chief clerks in the Departments. Here is a man with 432 employees under him. He is responsible for the work, the correctness of the work, the amount of work, and administration of affairs in the General Land Office.

Mr. JOHNSON. What does the Land Commissioner do, if you please?

Mr. LIVINGSTON. Well, now, I am not discussing that.

Mr. JOHNSON. But the gentleman says that this chief clerk is the whole thing. There is somebody above him with a salary of five or six thousand dollars.

Mr. LIVINGSTON. When you come to the Commissioner of the General Land Office, if the gentleman wants information, I think he can get it, but I think this House would like to do business straight—one thing at a time—and you will do well, then, to comprehend it. Now, what do I know about the Judiciary Committee and their proceedings? I have no opportunity to know in detail. I must take their statements when they come on this floor as gentleman sworn to do their duty—and give them credit at least for an intelligent and conscientious effort—and the gentleman from South Carolina [Mr. JOHNSON] insinuates that we have not done that. He insinuates that we have been bulldozed by the heads of Departments; that we are influenced by the heads of Departments, and that we—and he uses the word "committee"—are making up salaries and increasing salaries without any regard to a fair and square deal.

Mr. HAY. Mr. Chairman, will the gentleman yield?

Mr. LIVINGSTON. Yes.

Mr. HAY. Mr. Chairman, the gentleman stated that the average salary of the chief clerks in these Departments was $2,750.

Mr. LIVINGSTON. No; I did not do that. I said this man's salary I thought was below the average. Two thousand dollars is his salary and it is below the average of chief clerks.

Mr. HAY. I desire to call the gentleman's attention to the fact that the chief clerk in The Military Secretary's office of the War Department, which is one of the largest bureaus in the Government, receives a salary of $2,000; that the salary of the chief clerk of the Judge-Advocate-General is $2,000; in the Signal Office it is $2,000; in the Quartermaster-General's office it is $2,000; and in the Surgeon-General's office it is $2,000. Perhaps, if I had the time, I could go through all these bills——

Mr. LITTAUER. Will not the gentleman go a little bit further and show that the chief clerks to the four Assistant Postmaster-Generals also receive $2,500?

Mr. HAY. I was just showing what appeared in this bill.

Mr. LIVINGSTON. Mr. Chairman, my proposition is this: That the current salary of that man is far below the average, and I can show it from the law. His salary now is $2,000. The salaries of chief clerks run all the way from $3,000 down to $2,000. There are some clerks of class 4 acting as chiefs.

Mr. POU. Mr. Chairman, I would like to inquire if there has been any intimation that the service rendered for $2,000 has not been satisfactory?

Mr. LIVINGSTON. In this case, yes. I will come right down to that if I can get a chance. I am going to make a particular reference to it.

Mr. POU. There has been, the gentleman says, information before the committee that the service rendered heretofore has not been satisfactory, and that is the reason the committee is making the increase?

Mr. LIVINGSTON. Yes, sir; and I want to say, Mr. Chairman, in addition that there are very few increases in this bill, and wherever those increases were made by the committee we had good grounds upon which we can stand. Now, as to the chief clerk of the Bureau of Education, to whom the gentleman from Virginia referred, I want to say that that man's salary ought to have been raised, and I want to go further and say, in my opinion, if it had been brought to the attention of the committee it would have been raised; but not one single thing in the estimates suggested it, not one single person from the Bureau of Education brought it to our attention, and since this bill was made up and put into this House that matter was brought to my attention. Had it been brought to my attention in the committee room I should have insisted that the chief clerk should have gotten $2,000, and he is entitled to it, and if under the rules this bill could be amended I would make the motion to so amend it.

Mr. DIXON of Montana. Let me ask the gentleman from Georgia a question.

Mr. LIVINGSTON. Yes.

Mr. DIXON of Montana. Did not the Secretary of the Interior ask the Appropriations Committee to put every chief clerk in the Interior Department, no matter what bureau or division he was in, at $2,500?

Mr. LIVINGSTON. No, sir; he could not have done that. There is but one chief clerk in the Interior Department—only one.

Mr. DIXON of Montana. Will the gentleman from Georgia yield to me for just a couple of minutes?

Mr. LIVINGSTON. Yes.

Mr. DIXON of Montana. I would like to say especially to those gentlemen who have been attacking the salary of the chief clerk of the Land Office, you cited instances of the chief clerk in the Marine-Hospital Service, I believe, and you cited instances of the chief clerk in The Military Secretary's office, and some other cases where the chief clerk is purely and simply a clerical position. Now, I do not care anything about that——

Mr. LIVINGSTON. A kind of private secretary.

Mr. DIXON of Montana. A sort of private secretary. I care nothing about the personnel of the present chief clerk of the Land Office, but I do know, because nearly all of my business——

The CHAIRMAN. The time of the gentleman from Montana has expired.

Mr. LIVINGSTON. I move to strike out the last word.

The CHAIRMAN. Without objection, the gentleman is recognized for five minutes. [After a pause.] The Chair hears none.

Mr. DIXON of Montana. I know that my public business here in Washington is nearly all connected with the General Land Office. I know, gentlemen, that the chief clerk there is in charge of over 400 clerks. He has to be a lawyer to start with, and a pretty good one. In addition to that, he has 103 offices scattered all over this country, with from two to six employees in the different land offices. They have a whole corps of special agents in the field, and the chief clerk of the Land Office is the administrative officer of that department, in actual practice, and while other men draw $2,750 for purely clerical positions, the man who has been doing more work than two or three ordinary chief clerks, a man whom I personally know works an eighteen-hour shift in order to keep up the business of that office, you would hold him down to the old $2,250 salary.

Mr. POU. May I ask the gentleman a question?

Mr. DIXON of Montana. With pleasure.

Mr. POU. It has just been stated by the gentleman from Georgia that the reason that this increase has been given is because satisfactory service has not been heretofore rendered.

Mr. LIVINGSTON. I did not understand you to ask that question. I thought you asked me if the salary was satisfactory.

Mr. POU. No; I asked if the service was satisfactory.

Mr. LIVINGSTON. If you will excuse me, I will correct that answer now in the RECORD. I supposed you asked me the question if the salary was satisfactory, and I said no.

Mr. POU. No; I asked if the service rendered was satisfactory.

Mr. LIVINGSTON. The service is not only satisfactory, but more than satisfactory.

Mr. POU. If the service is entirely satisfactory, where is the necessity for an increase?

Mr. JOHNSON and Mr. DIXON of Montana rose.

The CHAIRMAN. To which gentleman does the gentleman from Georgia yield?

Mr. LIVINGSTON. To the gentleman on my right.

Mr. DIXON of Montana. I want to say further, with reference to what the gentleman from South Carolina said about the Southern Pacific Railroad would not pay a salary equal to this for like services for a chief clerk——

Mr. JOHNSON. I did not say the Southern Pacific——

Mr. DIXON of Montana. The Southern Railroad. I am a little out of the gentleman's immediate territory. I want to say with reference to the duties of the chief clerk of the Land Office, in addition to other duties I enumerated a while ago, that Department handles six to eight million dollars a year from receipts on public land sales. They handle the disposal of eight to ten million acres of public lands every year. A man in private life performing the same duties with the same tremendous responsibilities, the same amount of money passing through his hands, instead of being paid $2,500, would be entitled to $10,000 salary; and while I am certainly just as much in favor of economy in many of these Departments as any gentleman, in this special case I think it is one where there ought to be more salary than that which is now given.

Mr. LIVINGSTON. I now yield to the gentleman from South Carolina for a moment.

Mr. JOHNSON. I want to call attention to the evidence taken before the committee, on page 410 of the hearings.

Mr. LIVINGSTON. I want to interrupt the gentleman for a moment, right there. In this particular case we did not have the testimony—that is, as I understand, it was not taken down by the stenographer. Therefore the gentleman has got no testimony to talk about. The statement was made by the chief of the Department coming before the committee about the time that we were making up the bill, and therefore the hearings do not contain the evidence on which we made this increase; and therefore you have got nothing to which you can refer as hearings.

Mr. JOHNSON. This is the first time I have ever heard a lawyer argue a case and deny that his record is correct. I understand the record is not made up correctly.

Mr. LIVINGSTON. We will amend the record.

Mr. JOHNSON. The amendment is not here.

Mr. LIVINGSTON. Now I yield, Mr. Chairman, to the gentleman from Wyoming.

Mr. MONDELL. Mr. Chairman, I do not think that the gentleman from Georgia or the Committee on Appropriations need any defense with reference to this item. I think this is regarded as the correct thing to do. The committee, in the consideration of this bill, as I understand it, have granted increases where they found the increases were necessary, and not only where increases were requested; that they did not yield to the importunities of bureau chiefs, but when a case was presented of a Government official, confessedly intelligent, faithful, hard-working, and having very large responsibilities upon him, the committee very properly increased his salary to a limited extent only. The chief clerk of the General Land Office, as has well been said by the gentleman from Montana, is the administrative officer of that Office——

Mr. JOHNSON. May I ask the gentleman a question?

Mr. MONDELL (continuing). Under the Commissioner.

Mr. JOHNSON. I know nothing about the clerk; never saw him in my life, and there is nothing personal in this matter.

Mr. MONDELL. I understand.

Mr. JOHNSON. I want to know, if this chief clerk is the man who is responsible for everything up there and does everything, what the Commissioner of the Land Office and his Assistant do?

Mr. MONDELL. The gentleman evidently does not understand how important a bureau of the Government the General Land Office is; what an infinite amount of business, detail business, passes through that office; how important the work performed by that Bureau is, and how many things he has got to taken into consideration, and the importance of the volume of work done. The General Land Office force is generally paid less than any other set of clerks or employees in the Government. This clerk is not only worthy of this compensation, but from the duties and large responsibilities that are put upon him he committee would have been fully justified had they increased his salary $500 instead of $250, as they do in this case.

The CHAIRMAN. The question is on agreeing to the amendment of the gentleman from South Carolina.

The question was taken, and the amendment was rejected.

Mr. JOHNSON. I want to offer another amendment. In lines 17 and 18, page 110, strike out the words "five hundred."

The Clerk read as follows:

In lines 17 and 18 strike out the words "five hundred."

The CHAIRMAN. Does the gentleman from South Carolina desire to be heard?

Mr. BARTLETT. I want to amend the amendment by striking out of the same line——

The CHAIRMAN. Does the gentleman yield to the gentleman from Georgia for that purpose?

Mr. JOHNSON. I would like to say to the gentleman from Georgia, if he will allow me to proceed for two or three moments, I will withdraw my amendment and let him offer his.

The CHAIRMAN. The gentleman from Georgia will be recognized.

Mr. JOHNSON. Mr. Chairman, before I came to this body I practiced law for many years. I made it a rule never knowingly to misstate a fact to a judge or a jury. A few moments ago the gentleman from Georgia so far lost his usual good temper——

Mr. LIVINGSTON. Oh, bless your soul, I was in a perfectly good humor.

Mr. JOHNSON. As to insinuate that I had misstated the facts, I wish now to read a few questions and answers, so that the committee can determine for themselves whether these heads of Departments are special pleaders. As a sample of that special pleading, I will read from page 418:

Mr. LITTAUER. You ask for certain increases of salary. Just let me call your attention to your telephone operator, who is receiving $900, and now you ask for $1,200, and I believe in your notes you state the number of messages received.

Mr. TAWNEY. How many messages are received?

Mr. HITCHCOCK. From 300 to 600 a day.

Mr. LITTAUER. I want to call your attention to the telephone operator who connects your various telephones with the system about the city or in your Department. The telephone operator works at a switch board. Here comes the Secretary of the Navy, who advises us that he needs, also, an increase of force of telephone operators, and asks for an increase of his force from one to two at the rate of $600 a year. Then, in the same building, we come to the Secretary of State, and they want two telephone operators at $900 each. In the Navy Department they ask for two at $600 each, and now you ask that yours shall be increased to $1,200.

Mr. HITCHCOCK. But you must take into consideration the difference in the business. Secretary Root, I suppose, has a Department which has not one-fourth the number employed in the regular way during the hours of service.

Mr. RYAN. The reasons are stated in this note, and it shows that by a comparison with other offices this is a reasonable request.

Mr. TAWNEY. In your recommendation did you state the number of calls they have to answer a day?

Mr. RYAN. The following is a statement, I am advised, of salaries paid telephone operators in other Departments and bureaus, and the number of telephones:

"Treasury Department, $1,200, eighty-seven telephones; Post-Office Department, $1,000, eighty-eight telephones; Government Printing Office, $1,200, eighty-five telephones; Census Office, $1,000, twenty-eight telephones; Pension Office, $1,800, thirty-one telephones."

Mr. EVANS. Since this statement was prepared the $1,800 clerk who was detailed for that work in the Pension Office has been dismissed, and they have one there now at $1,200.

Mr. RYAN. The Interior Department, $900, and 109 telephones—the largest number of any, I think.

Mr. TAWNEY. Right here in this city telephone operators, who work eight hours a day and receive a maximum salary of $38 a month, have to answer incoming calls at the rate of 200 an hour, and they get very efficient people to discharge the duties. The operator in no Department of the Government can answer as many calls or make as many connections as operators in the central station here in the city. But that is the fact. That is not the outgoing calls. They receive on the average 200 calls an hour. You can not base the compensation on the number of telephones; it is the number of calls.

Mr. LITTAUER. Will the gentleman give the committee credit for the fact that they have sought to average the salaries paid to the telephone switch-board operators?

Mr. BURLESON. And instead of allowing $1,200 we have given $720.

Mr. JOHNSON. I thought the gentleman was a lawyer. He loses the force of my argument. I am not talking about the pay of the telephone girls. I am trying to demonstrate here that these people are special pleaders, and I say your evidence shows it. The gentleman from Georgia [Mr. LIVINGSTON] charged that I had misrepresented the facts. That is what I am talking about. They count the number of telephones in the various Departments, and they make demands according to number of telephones as compared with some other Department. My purpose in making these remarks is to substantiate what I said when I said that the heads of these bureaus and Departments were special pleaders for the people under them. I have nothing against them because they have the milk of human kindness in them. They are to be commended for that. From long association and friendship they become attached to these people and want to help them out; but, gentlemen, we represent the people of the United States. We have got to look to the proper and legitimate expenditure of the public money.

Mr. RUCKER. Will the gentleman permit a question?

Mr. JOHNSON. Certainly.

Mr. RUCKER. I want to ask my friend from South Carolina if he has any personal knowledge as to this particular clerk and his work and his efficiency?

Mr. JOHNSON. No, sir; I said in my opening remarks that I did not know the clerk. I never saw him in my life. I have no personal feeling in the matter. I am taking the position I would take if the clerk were my brother.

Mr. RUCKER. Then if the gentleman believed that the work performed by the clerk was worth $2,500, and that that was a reasonable compensation for it, would he not favor paying that clerk $2,500?

Mr. JOHNSON. I certainly would. I believe in paying people what their services are worth.

Mr. RUCKER. Well, I want to say to you that in this case the services of this clerk are worth $2,500.

Mr. JOHNSON. I withdraw my amendment.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. PALMER having taken the chair as Speaker pro tempore, a message from the Senate by Mr. PARKINSON, its reading clerk, announced that the Senate had passed without amendment bills and joint resolution of the following titles:

H. R. 16671. An act permitting the building of a dam across the St. Joseph River, near the village of Berrien Springs, Berrien County, Mich.;

H. R. 14808. An act authorizing the Choctawhatchee Power Company to erect a dam in Dale County, Ala.;

H. R. 5954. An act to authorize the Secretary of the Treasury to issue duplicate gold certificate, in lieu of one lost, to Lincoln National Bank, of Lincoln, Ill.; and

H. J. Res. 11. Joint resolution for the publication of eulogies delivered in Congress on Hon. John W. Cranford, late a Representative in Congress.

The message also announced that the Senate had agreed to the report of the committee on conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1345) to provide for the reorganization of the consular service of the United States.

The message also announced that the Senate had passed the following resolution; in which the concurrence of the House of Representatives was requested:

Senate concurrent resolution No. 20.

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, authorized and directed to cause to be made a survey and examination of the Passaic River, New Jersey, beginning at the Montclair and Greenwood Lake Railroad bridge to the present head of navigation at the city of Passaic, with a view to providing suitable navigation facilities for the needs of the city of Passaic.

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

The committee resumed its session.

Mr. LIVINGSTON. I ask the permission of my colleague to make one statement. The gentleman from South Carolina misunderstood me. I said that he had no facts to stand on, referring to the hearings; I did not mean that he misstated the facts, but this hearing came too late to be put in the printed volume, and in this particular case, therefore, he had no facts by which to be guided. I did not mean to charge that he misstated the facts or that he misrepresented them. I hope that statement will satisfy the gentleman.

The CHAIRMAN. The gentleman from South Carolina asks unanimous consent to withdraw the amendment. If there be no objection, it will be considered as withdrawn.

Mr. BARTLETT. I offer the amendment which I send to the Clerk's desk.

The Clerk read as follows:

On page 110, in lines 17 and 18, strike out the words "chief law clerk, $2,500."

Mr. TAWNEY. A parliamentary inquiry, Mr. Chairman. Did not the committee pass upon that last evening?

The CHAIRMAN. No; it was about being amended when the committee rose.

Mr. BARTLETT. I was cautious enough yesterday, Mr. Chairman, to ask the Chair if an amendment would be in order this morning. Mr. Chairman, this is a new office, one created by this appropriation bill. It is one that is placed in the bill solely by reason of the desire of the Committee on Appropriations to create this office and by the reason of the enforcement of the gag that was put upon the House yesterday by the passage and adoption of the extraordinary rule it remains in, although ordinarily subject to a point of order. In other words, here we have a new office created by this bill. It will not be

called, if this provision passes, that the man, the proposed beneficiary of it, is now known, and that this chief law clerk is already picked out and slated to walk into the office the very next day after it becomes a law. That sort of legislation, Mr. Chairman, does not meet with my approval. Let us see what they have done in this bill. They have abolished four clerks or copyists at $900 each, little fellows, men who get the small salaries, men who do clerical work and, I have no doubt, faithful work. After increasing the service in this office——

Mr. DIXON of Montana. Is the gentleman from Georgia aware——

Mr. BARTLETT. Yes; I am aware. [Laughter.]

Mr. DIXON of Montana. That the law clerks in the Land Office every year pass upon more litigation, in more cases, of more value of property than the entire litigation in the State of Georgia?

Mr. BARTLETT. I am not aware of any such thing.

Mr. DIXON of Montana. As a matter of fact they do.

Mr. BARTLETT. Does the gentleman know how much is involved in the litigation in Georgia?

Mr. DIXON of Montana. I know how much is involved in the Land Office. Does the gentleman know how much is involved in the Land Office?

Mr. BARTLETT. I will take the gentleman's word for it.

Mr. DIXON of Montana. I should estimate that there were 4,000 cases a year tried in the Departments.

Mr. BARTLETT. And in the supreme court for the State of Georgia there were in one court 1,000 cases decided last year. This is the court of last resort, and there are 137 counties in the State. Last year there were 1,000 cases decided in the supreme court of Georgia alone.

Mr. DIXON of Montana. And that is one-fourth of the number decided in the Land Office.

Mr. BARTLETT. But that is only for the court of last resort. There are 137 counties, in which there are thousands of cases tried. The gentleman from Montana ought to be sure of his facts when he makes a statement.

Mr. DIXON of Montana. I am.

Mr. BARTLETT. I do not think the gentleman has shown evidence of a knowledge of it.

Mr. DIXON of Montana. Let me suggest this: The law clerks in the Land Office are practically the supreme court of the Land Office. They hear all the appeals coming up from 115 land offices, scattered all over the United States.

Mr. BARTLETT. I understand that. We have for years been getting rid of public lands, disposing of them, and the cases now are of no greater number and of no greater importance than we have been having for past years.

Mr. RUCKER. Will the gentleman from Georgia yield to me for a question?

Mr. BARTLETT. Certainly.

Mr. RUCKER. Does not the gentleman believe that the chief law clerk of the Land Department should be a good lawyer?

Mr. BARTLETT. Yes; and I have an amendment to make him one.

Mr. RUCKER. Does not the gentleman believe that $2,500 is a moderate salary for a good lawyer?

Mr. BARTLETT. I think a good lawyer would be very loath to take a twenty-five-hundred-dollar salary in any office.

Mr. RUCKER. That is what I think. I think an amendment ought to be offered to make the salary $5,000.

Mr. BARTLETT. Well, anyhow they are anxious enough for it and insist that the committee put it in. Some are so anxious that they are here waiting for the passage of the bill.

The CHAIRMAN. The time of the gentleman from Georgia has expired.

Mr. BARTLETT. Mr. Chairman. I want a few minutes more, and then I am through.

The CHAIRMAN. The gentleman from Georgia asks unanimous consent for five minutes more. Is there objection? [After a pause.] The Chair hears none.

Mr. BARTLETT. I started, Mr. Chairman, to call attention to the fact when I was interrupted that this bill, according to the report of the Committee on Appropriations, cuts off the salary of four copyists at $900 each. It increases the salary of other officials, one by $250, and this law clerk at $2,500, so that there is an increase of $2,750 in the two offices. That is undertaken to be offset by the statement of fact that four little fellows, men who are copyists, are to be dispensed with. Now, as to this proposition to create this office, there is nothing stated in the report and nothing that I have been informed about to show the necessity of the creation of this office. The report of the committee on this bill does not state any reason why this new office should be created. Law questions are coming up, it is true; they have come up and been passed on in the past. I have made the motion to strike it out, because it has no place in this bill. This is not the place to create a new office, and without more apparent necessity than has been demonstrated, so far as I have been able to learn, I shall vote to strike out the provision.

Mr. RUCKER rose.

Mr. LITTAUER. Mr. Chairman, I move that the debate on this paragraph end in five minutes.

Mr. BARTLETT. Mr. Chairman, before that motion is put I desire to offer an amendment in case this amendment is not agreed to.

The CHAIRMAN. That opportunity will be given.

Mr. LITTAUER. And all amendments thereto.

The CHAIRMAN. The gentleman from New York moves that debate on this paragraph and all amendments thereto be closed in five minutes. Is there objection?

Mr. BARTLETT. Oh, Mr. Chairman, I shall object.

The CHAIRMAN. The Chair will then put the question.

Mr. LITTAUER. I will change that motion and make it eight minutes instead of five. We surely must draw this discussion to a close.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none. The Chair recognizes the gentleman from Missouri for five minutes.

Mr. RUCKER. Mr. Chairman, I am heartily in accord with my friend from South Carolina [Mr. JOHNSON] and my friend from Georgia [Mr. BARTLETT] on the general proposition of indiscriminate raising of salaries. I do not believe this committee ought to vote into this bill any salary that is not merited, but I want to appeal to my friends here to be fair and reasonable about these matters and to direct their guns against those items that ought to be eliminated and not against those that ought to be retained. The gentleman says there are hordes of clerks seeking these places at reduced pay. I would say to him also that there are plenty of men in this House now today, who are anxious to return here, who can make more than the salary they now receive in the law business at home; so that that argument has no application. I believe that the position of chief clerk in the Land Office is one of the most important clerical positions held in the city of Washington in any Department. In my judgment, the man competent to fill that place, and who now fills a similar place in the Land Office, is in every sense worthy of the salary proposed in this bill—a thoroughly good lawyer, a painstaking, earnest, devoted official, a man who earns $2,500 as thoroughly and as completely as any man in this House earns the salary he gets, and, I might say, without reflecting on any gentleman, that he is as clearly entitled to it as we are to the salaries we draw, because he works three hundred and sixty-five days in a year for the people of the United States having business in the Land Office.

Mr. SMITH of Kentucky. Oh, not three hundred and sixty-five in the year.

Mr. RUCKER. Oh, well, I mean to count out the Sundays. Of course, as he is a good man, he goes to church on Sundays. Mr. Chairman, I would say more on this subject, because I am interested in it, and I hope every gentleman on this side as well as the other side will support it, but I desire to yield now to the gentleman from Texas [Mr. BURLESON].

The CHAIRMAN. Without objection, that may be done.

Mr. BURLESON. Mr. Chairman, I will not question the sincerity of the gentleman from Georgia [Mr. BARTLETT] in his efforts to strike out this provision providing for a chief law clerk. I do not doubt that the sole motive or purpose behind the gentleman's motion is to economize in the expenditure of public moneys. But I do feel that if the gentleman from Georgia [Mr. BARTLETT] were really advised as to the duties and responsibilities that are to be placed upon this new official that is being created he would not object to the item. As a matter of fact, coming before the law clerks of the Land Office for their consideration are from four to six hundred letters each day, raising a large number of legal questions which frequently must be passed upon by those law clerks before they are construed or passed upon by the courts. Now, gentlemen, as a matter of fact, the Assistant Commissioner of the Land Office has been discharging in the main these duties until this time, and he pleads for the creation of this place in order that he may be relieved of some of the burden of this great work and some of the responsibility. Now, I want to read for the information of the House, and especially for the information of the gentleman from Georgia [Mr. BARTLETT], because I am sure no other motive is behind this amendment of his other than to economize in the expenditures of public money, what the Assistant Commissioner-General of the Land Office says in support of the action

your committee has taken. I read from the hearings. He says:

I would like to thoroughly explain what we have to do. For instance, we have anywhere from 400 to 600 letters and decisions going out every day. So far as the work of the office is concerned, I have been trying to take care of the legal part, and as far as the Commissioner is concerned he has been attending more particularly to the administrative features of it. Well, now, in answering so many letters every day I had to devise a scheme for having my attention called to every case in which the law clerks are in doubt and in every case in which there is a controversy arising between the law clerks themselves or between them and the writer of the opinion. Those cases come to me with their notes attached, setting forth their objections and authorities. I sift them out each day and go over them. With the attention I have to give to the public every day and the other matters of the office, no one man can do it without taking his work home at night. I have tried during the last three years, and I had some experience in the Land Office before I came here. I served four years as a law clerk, and I believe that in fairness to the officers, in fairness to the Commissioner and the Assistant Commissioner, and in justice to the business of the office, we ought to have this chief law clerk. We ought to have some man in whose ability we have confidence to handle these matters, who can go in and dig out these special matters.

I submit the matter to the House for its decision.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SULZER. Mr. Chairman, I ask unanimous consent that the gentleman's time be extended for five minutes.

The CHAIRMAN. The committee has just, by unanimous consent, limited debate on this paragraph and all amendments thereto to eight minutes, and the Chair understands that the gentleman from Georgia [Mr. BARTLETT] desires to offer a further amendment if this amendment be defeated, so as to have the three minutes on his second amendment. By unanimous consent, of course, the time of the gentleman may be extended. The gentleman from New York asks unanimous consent that the time of the gentleman from Texas be extended for five minutes. Is there objection?

Mr. LITTAUER. Mr. Chairman, I object.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Georgia.

The question was taken; and the amendment was rejected.

Mr. BARTLETT. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The gentleman from Georgia offers a further amendment, which the Clerk will report.

The Clerk read as follows:

In line 17, page 110, after "law clerk," insert "who shall be a lawyer who has been admitted to practice at least five years prior to his appointment."

Mr. LITTAUER. Mr. Chairman, I believe that motion is subject to the point of order.

The CHAIRMAN. Does the gentleman make the point of order?

Mr. LITTAUER. I do.

The CHAIRMAN. On that amendment the gentleman from New York makes the point of order that it changes existing law.

Mr. LITTAUER. That it is new legislation.

The CHAIRMAN. The Chair will ask the gentleman from Georgia if there is at present any law requiring service at the bar for any specified period in order to become a law clerk of that Department?

Mr. BARTLETT. No; this is a chief law clerk, Mr. Chairman. There is no such office as chief law clerk. We are now creating the office of "chief law clerk," and I apprehend the point of order can not be made to a proposition, which proposition is entirely a new one, when the House offers to amend the proposition. You understand there is no law upon the statute book now in reference to a "chief law clerk" in this Department. It has been admitted, and we have heard that the sole purpose, according to the gentleman from Texas, was to better the service; that there was no other purpose behind anybody, although we have been informed and seen the purpose is to have some particular man appointed, who is already slated for the office, which the gentleman from Texas virtually admits because he does not deny it. Now, it would be a very remarkable proposition, speaking to the point of order, Mr. Chairman, to say that the Committee on Appropriations could come in practically under a rule to enable them to legislate upon an appropriation bill, and then say that that legislation could not be amended. In other words, there is now no law upon the statute books fixing such an office as chief clerk of the Land Office, and this bill for the first time creates such office and fixes the salary. It occurs to me that the Chair very readily ought to draw a distinction which grows out of the peculiar situation in which we find ourselves by reason of the very extraordinary conditions under which we consider this bill; otherwise the Appropriations Committee could legislate at will, not permit an amendment to it, and there is no other way that we can legislate upon this now under the rule. The whole question of the chief clerk in the Land Office is new legislation, and ought to be subject to amendment.

The CHAIRMAN. The Chair will ask the gentleman from New York if it is conceded that this particular office is a new office created in this bill?

Mr. LITTAUER. Certainly; I concede that.

The CHAIRMAN. The Chair thinks that in that event, this being entirely a new provision creating a new office, it is in order to define the qualifications of the office thus created. The paragraph is in violation of Rule XXI, but being permitted to remain in the bill without a point of order urged against it, it is in order to perfect the paragraph by a germane amendment. The point of order is overruled.

Mr. BARTLETT. Now, I ask to insert "admitted to practice in a court of record."

The CHAIRMAN. Without objection, the amendment will be so changed and be again reported by the Clerk.

There was no objection.

The Clerk read as follows:

In line 17, page 110, after "law clerk," insert "who shall be a lawyer who has been admitted to practice in a court of record at least five years prior to his appointment."

The CHAIRMAN. The question is upon agreeing to the amendment of the gentleman from Georgia.

The question was taken; and the Chair announced the noes appeared to have it.

On a division (demanded by Mr. BARTLETT) there were—ayes 20, noes 43.

Mr. BARTLETT. Mr. Chairman, if we want to pass this bill we should have a quorum present, and I make that point.

The CHAIRMAN. The gentleman from Georgia makes the point that no quorum is present and the Chair will count. [After counting.] One hundred and six gentlemen are present, more than a quorum.

Mr. BARTLETT. Mr. Chairman, is it too late to call for tellers now?

Mr. LITTAUER. Too late.

Mr. BARTLETT. I did not ask you; I asked the Chairman.

The CHAIRMAN. The Chair is of opinion that it is still in order. The Chair thinks it is in order to demand tellers.

Tellers were ordered.

The CHAIRMAN. The gentleman from Georgia and the gentleman from New York will take their places as tellers.

The committee again divided; and the tellers reported—ayes 37, noes 74.

So the amendment was rejected.

The CHAIRMAN. The Chair desires to state that he made a ruling a moment ago, in order to save time, upon what seemed to him to be the proper principle, without referring to the precedents. He now finds that ruling sustained by the precedents, it appearing on page 693 of the Manual:

The right to demand tellers is not waived by the fact that the Member demanding them has just made the point of no quorum and caused the Chair to count the House.

Mr. JOHNSON. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. JOHNSON. I rise to ask unanimous consent, if I can submit a request.

The CHAIRMAN. The gentleman will state his request.

Mr. JOHNSON. It having developed from the debate that the Assistant Land Commissioner and the chief clerk assume all the responsibility——

The CHAIRMAN. The gentleman is not recognized to argue——

Mr. JOHNSON. I want to ask the gentleman in charge of the bill if he would not consent to reduce the salary of the Land Commissioner?

The CHAIRMAN. That is a request for unanimous consent of the gentleman from New York in charge of the bill which it is not in the province of the Chair to put.

The Clerk read as follows:

Pension Office: For the Commissioner of Pensions, $5,000; First Deputy Commissioner, $3,600; Second Deputy Commissioner, $3,600; chief clerk, $2,250; assistant chief clerk, $2,000; medical referee, $3,000; assistant medical referee, $2,250; 2 qualified surgeons who shall be experts in their profession, at $2,000 each; 32 medical examiners who shall be surgeons of education, skill, and experience in their profession, at $1,800 each; 5 chiefs of division, at $2,000 each; law clerk, $2,250; chief of board of review, $2,250; 55 principal examiners, at $2,000 each; private secretary, to be selected and appointed by the Commissioner of Pensions, $2,000; 10 assistant chiefs of division, at $1,800 each; 3 stenographers, at $1,600 each; 69 clerks of class 4; 85 clerks of class 3; 300 clerks of class 2; 370 clerks of class 1; 200 clerks, at $1,000 each; 94 copyists; superintendent of building, $1,400; 2 engineers, at $1,200 each; 3 firemen; 27 messengers; 12 assistant messengers; 20 messenger boys, at $400 each; 43 laborers; 10 female laborers, at $400 each; 15 charwomen; 1 painter, skilled in his trade, $900; 1 cabinetmaker, skilled in his trade, $900; captain of the watch, $840; 3 sergeants of the watch, at $750 each; 20 watchmen; in all, $1,741,950.

Mr. LITTAUER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

On page 114, line 11, strike out the word "five" and insert the word "nine;" and on page 115, line 8, strike out the word "forty-one" and insert "forty-nine."

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from New York.

Mr. WILLIAMS. Mr. Chairman, where is that amendment?

Mr. LITTAUER. I will ask the clerk to read it again.

The amendment was again reported.

Mr. WILLIAMS. I would like to have an explanation.

Mr. LITTAUER. For the current year there are ten chiefs provided, and the bill proposes to cut the number down to five. That was a mistake. The Commissioner said he could get along without one of the ten, and we now make it nine.

The amendment was agreed to.

The Clerk read as follows:

No vacancy existing in the clerical or other classified service of the Pension Office, or which may occur after March 1, 1906, and prior to July 1, 1907, shall be filled by original appointment or by transfer from any office or bureau of the Department of the Interior. Nor shall any transfers from said Pension Office existing March 1, 1906, be returned to said office.

Mr. LITTAUER. I offer an amendment.

The Clerk read as follows:

On page 115, line 10, after the word "vacancy," insert the word "now;" and in line 13, strike out the word "seven" and insert the word "six."

Mr. CRUMPACKER. I would like to know from the gentleman in charge of the bill something with reference to the reduction of the clerical force in the Pension Office. What is the fact about the reduction of the official force in the Pension Office?

Mr. LITTAUER. Now carried in this bill?

Mr. CRUMPACKER. Now carried in this bill.

Mr. LITTAUER. According to the law adopted last year, we dropped out 33 of the clerical force that were detailed to the Interior Department and took them up where they were detailed to. That accounts for 33 of the 166 places dropped in the Pension Office. The Commissioner of Pensions stated to us that he does not propose to fill any vacancy.

Mr. CRUMPACKER. What is the aggregate reduction in clerical force?

Mr. LITTAUER. With salaries of $161,300.

Mr. CRUMPACKER. One hundred and sixty-one thousand three hundred dollars.

Mr. LITTAUER. There is a reduction of 166 in the clerical force and a reduction in salaries of $161,300.

Mr. CRUMPACKER. As I understand, it is expected that, by the policy of not filling the vacancies, at the commencement of the next fiscal year the force will naturally be reduced to the point recommended by the Commissioner?

Mr. LITTAUER. To the point recommended by him and incorporated in the bill.

Mr. CRUMPACKER. And the effect of the amendment that is now pending is to change the paragraph so as to prevent the Commissioner from filling vacancies, only those vacancies that now exist; is it?

Mr. LITTAUER. We want to provide that vacancies that now exist shall not be filled, and also that clerks detailed away should not be put back in the interim.

Mr. CRUMPACKER. If this amendment should not be adopted, the law would then permit the filling of any vacancy that may occur in the next fiscal year?

Mr. LITTAUER. If this provision should be adopted, under the course that the Commissioner of Pensions desires to follow, clerks who are detailed away from the Bureau can not be returned.

Mr. CRUMPACKER. What I am trying to understand is——

Mr. TAWNEY. If the gentleman will permit me——

Mr. LITTAUER. The object of the amendment is this: The paragraph originally read:

No vacancy existing.

We want to make it positive, and so we propose to make it read:

No vacancy now existing.

Mr. CRUMPACKER. Let me call the attention of the gentleman to the significance of this amendment. The text now reads:

No vacancy existing in the clerical force shall be filled.

That would prohibit the Commissioner from filling any vacancy that might occur at any time during the next fiscal year; but with the amendment he is only prohibited from filling vacancies that now exist.

Mr. LITTAUER. That now exist, and that is the point of the amendment.

Mr. CRUMPACKER. I understand.

Mr. MANN. Does the amendment which the gentleman now offers make this relate to the current fiscal year or to the ensuing fiscal year?

Mr. LITTAUER. The current year.

Mr. MANN. Supposing a clerk drops out of a higher class by promotion? For instance, you have provided here for nine chiefs of division.

Mr. LITTAUER. Yes; but those provisions would only go into effect after July 1 next. The paragraph we are now discussing relates entirely to vacancies. Of course during the time that these vacancies exist the positions can not be filled.

Mr. MANN. So that there will be no opportunity for promotions in the Department.

Mr. TAWNEY. The amendment does not have that effect.

Mr. LITTAUER. Mr. Chairman, I desire to state to the gentleman from Illinois that I was wrong in my last statement. The bill will read:

No vacancy now existing * * * shall be filled by original appointment or by transfer from any other office or bureau of the Department of the Interior.

So that there will be no original appointment and there will be no transfer into the Department, but if a vacancy should occur to-day in a $2,000 place an $1,800 clerk might be promoted thereto. There is nothing in this provision that would prevent that.

Mr. MANN. That would depend——

Mr. LITTAUER. It would depend upon the action of the Commissioner.

Mr. MANN. That would depend upon what the term "original appointment" means. It is an original appointment in one sense for a man to be promoted from an $1,800 place to a $2,000 place.

Mr. LITTAUER. I believe the Commissioner would understand what the intention is. In fact, he was a party to the framing of this amendment.

Mr. MANN. I want to ask this, so as to cover the matter at least in the RECORD, whether it was the intention to provide that there could be no promotional appointments?

Mr. LITTAUER. That was not the intention at all.

Mr. MANN. But simply to prevent an addition to the number of clerks.

Mr. LITTAUER. Yes. We want the numerical strength to be kept as it is to-day.

Mr. MANN. Is the provision perfectly satisfactory to the Commissioner as the gentleman proposes to amend it?

Mr. LITTAUER. Entirely so; and, in fact, the amendments were proposed by the Commissioner.

Mr. MANN. Does the gentleman think the Pension Office has reached that point now where it can take care of the claims presented and at the same time properly decrease its force?

Mr. LITTAUER. The Commissioner states that the force can positively be decreased, and that he will continue to decrease it; that the work is practically, for the first time, current, and that he can take care of the work that is coming in with the force that he has now, and even with that force diminished by 100.

Mr. MANN. So it is not the intention by this provision in any way to delay the adjudication of pension claims?

Mr. LITTAUER. In no way; and there will be no delay.

The CHAIRMAN. Unless a separate vote is demanded, the question will be taken on the two amendments together.

The amendments were agreed to.

The Clerk read as follows:

For producing copies of drawings of the weekly issues of patents; for producing copies of designs, trade-marks, and pending applications; and for the reproduction of exhausted copies of drawings and specifications, $100,000.

Mr. TAWNEY. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Page 119, after the word "hundred," insert the words "and forty;" in line 3, after the word "dollars," insert "*Provided*, That the act of January 12, 1895, shall not apply to this and the preceding paragraph."

Mr. CRUMPACKER. Mr. Chairman, I wish the gentleman from Minnesota would explain the necessity for that amendment. In reading the preceding paragraph I was impressed with the notion that the publication of the Official Gazette was an expensive luxury, and I wondered if it was necessary that it be continued, or if the country was getting the full equivalent for the money that was invested in its publication and distribution. This paragraph seems to be a part of the other, and it seems that it costs $200,000 a year for the publication of that magazine.

Mr. TAWNEY. I will call the attention of the gentleman to the fact that the paragraph that has just been read does not

relate to the publication of the Gazette. This is for producing copies of drawings, designs, trade-marks, irrespective of the patents. The preceding paragraph is for photolithographing plates and illustrations for the Official Gazette, $70,000.

Mr. CRUMPACKER. Yes; for the Official Gazette, $130,000.

Mr. TAWNEY. The paragraph I am now amending is for producing copies of drawings for the weekly issue of the Patent Gazette, designs of trade-marks, and reproduction of exhausted copies of drawings and specifications, $140,000. I will say, in respect to the paragraph under consideration, that we supposed in making up the bill that $100,000, in view of the provision as to the manner in which this work was to be done, that it would not require more than $100,000. The estimate was $140,000. The Commissioner of Patents, as soon as the bill was printed and he discovered that we had allowed only $100,000, communicated at once with the committee and said that it was a mistake; that they would require at least $140,000. I have his letter here, and I will read that portion of it:

I beg to call your attention to the fact that the question of removal of the Official Gazette from the Government Printing Office would not affect the last item above quoted and for which an appropriation of $130,000 was made for the year ending June 30, 1906, and for which an increase of $10,000 was submitted. This item has been reduced to $100,000 in the bill as reported, and I am of the opinion that this amount will not suffice for the purposes of this office. The expenditures under this item have been as follows: For the year 1903–4, $129,999.97, the appropriation being $100,000 in the legislative appropriation bill and $30,000 in the general deficiency bill. The next year, 1904–5, $140,000 was appropriated and expended for this purpose, $100,000 being in the legislative bill and $40,000 in the deficiency bill. For the current fiscal year, 1905–6, $130,000 is provided by the legislative appropriation bill, and an increase has been submitted of $10,000 to bring this up to the amount expended the preceding year.

This does not involve the publication of the Gazette. The Gazette is not paid out of this appropriation at all.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Minnesota.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

Bureau of Education: For Commissioner of Education, $3,500; chief clerk, $1,800; statistician, $1,800; specialist in charge of land-grant college statistics, $1,800; translator, $1,800; collector and compiler of statistics, $2,400; specialist in foreign educational systems, $1,800; specialist in educational system, $1,800; two clerks of class 4; two clerks of class 3; four clerks of class 2; seven clerks of class 1; five clerks, at $1,000 each; six copyists; two copyists, at $800 each; copyist, $720; skilled laborer, $840; one assistant messenger; two laborers; three laborers, at $480 each; laborer, $400; in all, $54,940.

Mr. WILLIAMS. Mr. Chairman, I move to strike out the last word in order to get some information from the committee. I notice here that the chief clerk of the Bureau of Education is paid $1,800. I notice under the head of Patent Office the chief clerk is paid $2,500. I notice under the Indian Office schedule the chief clerk is paid $3,000, and another clerk, called a "financial clerk," is paid $2,250. I notice under the head of the General Land Office the chief clerk is paid $2,500. I notice that in the "office of Secretary," likewise under the head of the Interior Department, the chief clerk is paid $2,500. Going back of that, the chief clerk of the Bureau of Yards and Docks is paid $2,000. I will not go further back, as I intended only to follow it through the Department of the Interior.

The chief clerk here in the Bureau of Education is paid $1,800. I notice that several clerks under him—three of them—are getting the same salary, and it struck me that perhaps the fact that the chief clerk in the Bureau of Education was a Georgian, a Democrat, and had come up here in 1893, had made an excellent officer, serving all that time without being discharged even under a Republican administration, could not have had anything to do with this neglect of the committee to promote him while promoting all these other "chief clerks," or if it had anything to do with it the committee would inform me of it.

The chief clerk of the Bureau of Education is not only chief clerk, but acts as Commissioner of Education in the absence of the Commissioner, and has to act very frequently, because the Commissioner is away a good deal. I do not want to make any plea based upon the kind of plea that was made in one of Dickens's novels by a man who was running for warden on the ground that he had "seven small children and many orphans" depending on him, but this man's necessities are as great, his excellencies are as great, his ability is as great, and I do not know of any difference between him and the other "chief clerks," except that he is a Democrat. I thought I would move to strike out the last word in order to ask for some explanation.

Mr. LIVINGSTON. May I suggest to the gentleman from Mississippi that when we came to this item in the estimates of the Bureau of Education there wasn't a single thing asked for; there was no increase suggested by the head of the Bureau, and, as a matter of course, we just put the item in, it being current law. I want to say to the gentleman from Mississippi that I did not know that the chief clerk was a Democrat, and didn't know he was from Georgia.

Mr. TAWNEY. I will say further, in answer to the question, the Committee on Appropriations did not know what the politics of this gentleman was, nor did we ever inquire; and had we known that he was a Democrat, and the gentleman from Georgia had requested an increase on that ground, he might probably have secured an increase on that ground, which would, perhaps, have satisfied the distinguished leader of the minority on that side. [Laughter.]

Mr. WILLIAMS. Mr. Chairman, I did not mean seriously to charge the committee with having had knowledge of this gentleman's politics, and having for that reason left him out. I did mean to call the attention of the House and of the country, however, to the fact that where a fellow happens to be a Democrat he is not recommended for promotion; this with all your boasted civil-service impartiality.

Mr. TAWNEY. Mr. Chairman, will the gentleman permit me to give him some information?

Mr. WILLIAMS. Just one other word. I understand it to be true that the Secretary of the Interior recommended that all of the chief clerks in his Department be put up at $2,250, or be made uniform in their pay.

Mr. TAWNEY. The chiefs of divisions.

Mr. WILLIAMS. I have also understood that it was a part of the policy of the Committee on Appropriations—and a very just and proper policy, in my opinion—to equalize the salaries of people of the same classification as near as possible by reducing some that were too high and by increasing others that were too low, and making those of the same class or performing the same duties receive the same pay. I shall therefore ask to move that this gentleman's salary be placed at the lowest amount that is given the other chief clerk in that or any other Department, which, as near as I can find, is $2,250. Now, I yield to the gentleman from Minnesota.

Mr. TAWNEY. Mr. Chairman, the gentleman from Mississippi began his speech for the purpose of asking for some information.

Mr. WILLIAMS. Yes.

Mr. TAWNEY. And he seems to have concluded now and does not care for the information, but proposes to offer an amendment.

Mr. WILLIAMS. I am waiting for it now. Just as I received it I commented upon it, and I am ready to receive some more and comment upon that.

Mr. TAWNEY. I want to call the gentleman's attention to the fact that the Bureau of Education has in it twenty clerks. The Patent Office, with which he compares the Bureau of Education, has 740 clerks, presided over by a chief clerk, and the Patent Office collects $1,250,000 of revenue annually. It would naturally seem, therefore, to a reasonable minded man that a man who has that responsibility in respect to the handling of so many people and the collection of so much money would perform services that would be of very much greater value to the Government than the chief clerk of the Bureau of Education, who has only twenty clerks to look after, and who does nothing at all in the way of the expenditure of money except to supervise the expenditure of the small appropriation made by Congress for that Bureau.

The CHAIRMAN. The time of the gentleman has expired.

Mr. WILLIAMS. Mr. Chairman, I move to strike out the last two words as an amendment to the former amendment.

The CHAIRMAN. Without objection, the gentleman from Mississippi will continue.

Mr. WILLIAMS. Mr. Chairman, I have heard the explanation, and it contained a great deal of meat of information, but it does not account for the difference between $1,800 and $2,500. It might account for the fact that this gentleman might be paid somewhat less than $2,500, but I do not think that it quite accounts for this immense difference of $750 upon a basis of $1,800. So it seems to me that this chief clerk ought to get what the lowest salary of the chief clerks is—about $2,000. I did not propose to make him receive a salary of $2,500, equal with the clerk of the Patent Office.

Mr. JOHNSON. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS. I yield to the gentleman from South Carolina.

Mr. JOHNSON. I want to call the gentleman's attention to the fact that the hearings show that in one Department they ask for a chief clerk at $2,000, who had only six clerks under him.

Mr. LITTAUER. But that was not recommended in the bill.

Mr. WILLIAMS. I am very glad to get that information from the gentleman from South Carolina in one sense, because it reenforces my argument, and very sorry to get it in another

sense, because it also reenforces my idea of bad and partisan management in the Departments. Mr. Chairman, I withdraw the pro forma amendments, and now move to increase the salary of the chief clerk in the Bureau of Education from $1,800 to $2,000.

The CHAIRMAN. The gentleman from Mississippi offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 119, lines 13 and 14, strike out "one thousand eight hundred" and insert in lieu thereof the words "two thousand."

Mr. LITTAUER. Mr. Chairman, I must make the point of order against that amendment.

Mr. WILLIAMS. Oh, surely the gentleman is not going to treat me in that way.

Mr. LIVINGSTON. Oh, let the House vote upon it.

Mr. LITTAUER. Very well, I withdraw the point of order in deference to the distinguished leader on the other side.

Mr. WILLIAMS. Oh, I thought the gentleman would do that after a while, because we are all operating now under a rule without points of order on nearly everything.

Mr. LIVINGSTON. Mr. Chairman——

The CHAIRMAN. The gentleman from Georgia is recognized in opposition to the amendment.

Mr. LIVINGSTON. Oh, no, Mr. Chairman [laughter], I am in favor of the amendment, but I am going to offer an amendment to the amendment to strike out "eighteen hundred" and insert "two thousand." That raises him $200. Now, Mr. Chairman, there was not a word said in the committee about this clerk. There was nothing but a straight estimate made there, and on that estimate we had no hearings.

Mr. TAWNEY. The Chief of the Bureau of Education was before the committee, and he made no recommendation.

Mr. LIVINGSTON. I know; I said that.

Mr. LITTAUER. Does the gentleman, a member of the committee, think that we should act here without any recommendation at all from the Bureau chief or the Department?

Mr. LIVINGSTON. I am going to state just why we should do it. Now, neither the subcommittee nor the whole committee of the Committee on Appropriations had this matter before them at all, and I want to say, in reply to the gentleman from Mississippi [Mr. WILLIAMS], that I do not think I ever voted in the Appropriations Committee either to increase or reduce a salary knowing a man's politics or caring a thing about it. I did not know this man. I did not even know he was from my State.

Mr. WILLIAMS. I made no charge of that at all. I merely wanted the House and country to see how matters of recommendation for increases of salary—for promotion—comes before the committees.

Mr. LIVINGSTON. There was no recommendation coming; but, Mr. Chairman, in answer to the gentleman from New York, it comes to our knowledge now that here is a man who is called a "chief clerk," who is on the roll as chief clerk, and there is not another chief clerk in a single Department in Washington that I know of who is working for so little as $1,800 a year.

Mr. TAWNEY. Do you know now about the duties of this man's work—how wide his duties are?

Mr. LIVINGSTON. I do not.

Mr. TAWNEY. Then it does not seem to me——

Mr. WILLIAMS. But the gentleman from Georgia knows he is doing the work of a "chief clerk;" and I can tell you he came here in 1893, and he could not have stayed here under all these political vicissitudes unless it was that he did that work well.

Mr. TAWNEY. But I can tell you that the chief clerk of this bureau has received but $1,800 since 1877.

Mr. LIVINGSTON. I admit all that, Mr. Chairman; he has never received more than $1,800.

Mr. NORRIS. Will the gentleman permit an interruption?

Mr. LIVINGSTON. Not right now. The Committee on Appropriations has never investigated to see whether he was worth that or $900 or $2,000, and I take it for granted, and I think I am justified, that this man does clerical work and general correspondence throughout the country touching upon and relating to the question of education. I take it for granted he does that, and I know I am justified in that. Now, if he does that and nothing more I think he ought to have $2,000, and I hope the amendment of the gentleman from Mississippi will prevail.

Mr. TAWNEY. Mr. Chairman, it is a fact that the Chief of the Bureau of Education estimated for this man for the coming fiscal year at $1,800. That salary is all the salary he has received since the office was created, in 1877, and now the gentleman from Georgia admits that he does not know anything about what his duties are, what his responsibilities are, and in the face of the fact that he is entirely ignorant, according to his own statement, of the character of the services he is rendering, and in the face of the fact that the man has not asked for the increase, he proposes—I would not say because he was a Democrat—to increase the gentleman's salary from $1,800 to $2,000, and I hope the amendment will not prevail.

Mr. LIVINGSTON. If the chairman of the committee will permit me to make one suggestion, I think you have learned since the bill was made up that the man was too modest to make the request.

Mr. NORRIS. Mr. Chairman, I would like to suggest to the gentleman, from what he says and what we have heard here, that there are two things he did not know when they made up the bill. One is that this clerk is a Democrat, and the other is that he comes from the gentleman's State.

Mr. LIVINGSTON. I did not know either.

Mr. NORRIS. You did not recommend it in the committee, but since getting that information you recommend this increase of salary.

Mr. LIVINGSTON. I did not put it upon that ground.

Mr. CRUMPACKER. Mr. Chairman, I would like to hear some better reason than has been advanced so far in order to justify me in supporting this amendment. The only argument that has been made up to date in favor of increasing the salary of the chief clerk of the Bureau of Education is that he is a Democrat in politics.

Mr. SHACKLEFORD. Will the gentleman yield to me for a question?

Mr. CRUMPACKER. Yes.

Mr. SHACKLEFORD. Do you think that since this man's politics have been disclosed that he will be likely to hold his job long, anyway?

Mr. CRUMPACKER. I was wondering whether the gentleman from Mississippi did a real kindness to this official in advertising to the country the fact that he is a Democrat, when we remember the number of patriots who are willing to go into the public service. Now, I want to say this: I assume that differences are made in salaries in view of different character of services—different responsibilities which devolve upon the men holding the positions. Anyone, I think, can readily see that the chief clerk of the Patent Office requires more knowledge of an expert character than the ordinary clerical officer. The Bureau of Education is a statistical bureau at best. It contributes nothing whatever to the revenues of the Government, of course, as does the Bureau of Patents, and its work is purely statistical, and the work of the chief clerk must be purely of a clerical character. I suppose that a clerk out of class 4, perhaps, has been promoted to the dignity of chief clerk, and performs the service of chief clerk. The duties are purely clerical; no expert knowledge is required, no special skill is demanded for the position, and no recommendation has been made for the increase of salary. The incumbent of the office himself, so far as I know, has no desire, or rather expectation, of an increase of his salary; and it seems to me that the House can hardly support the amendment upon the ground solely that the incumbent is a Democrat.

Mr. WILLIAMS. Mr. Chairman——

The CHAIRMAN. Does the gentleman yield to the gentleman from Mississippi?

Mr. CRUMPACKER. Just a word, and I will yield. It may be that if the gentleman would offer an amendment providing that the salary shall be $200 in addition to that fixed by the law as long as the incumbent is a Democrat, that the amendment would command more consideration. It would at least disclose the real reason for the increase.

Mr. WILLIAMS. If the gentleman will allow me, simply to correct what he seems to think my position; I did not ask that he be promoted simply because he is a Democrat, but suggested that he had been left unpromoted simply because he was a Democrat. All these other fellows—"chief clerks"—have been promoted, or a good many of them, I have found out; and the gentleman from South Carolina informs me that in one instance a chief clerk is receiving $2,000 and has only six clerks under him. This is the Bureau of Education, and ought to be the most intelligent bureau and require the most expert knowledge.

Mr. CRUMPACKER. Now, Mr. Chairman, if the gentleman had investigated the question, he might have found some other reason for the distinction in salaries. He says he has found none. But perhaps he has made no investigation to determine whether they are of such a character as to justify this distinction.

Mr. SHACKLEFORD. Will the gentleman allow me to ask him a question?

Mr. CRUMPACKER. I yield to a question.

Mr. SHACKLEFORD. Is it not a fact, in connection with

the majority of this House, that it pays more attention to commercialism than it does to education?

Mr. CRUMPACKER. That is a proposition that I do not think I ought to be required to answer publicly; but I simply state that if this amendment prevails it is on account of the politics of the incumbent. I would a good deal rather have the provision made that it should be $2,000, so long as the incumbent is a Democrat than upon the ground of alleged discrimination. The assumption of the gentleman from Mississippi, that it is because of the officer's politics that he is discriminated against is not sufficiently established to the House to justify an increase of the appropriation. We ought to have something more than a mere assumption to justify it, in the absence of proof that a Democrat per se is worth that much more than an ordinary citizen.

Mr. PAYNE. Does not the gentleman think to put this language into the law "as long as filled by a Democrat" would encourage this individual to continue in wrongdoing?

Mr. CRUMPACKER. I am fearful it might.

Mr. WM. ALDEN SMITH. Oh, no; not at all.

The CHAIRMAN. The gentleman from Mississippi has offered an amendment that has been reported. The gentleman from Georgia offers an amendment which the Clerk will now report.

The Clerk read as follows:

Strike out of the proposed amendment the words "two thousand two hundred and fifty" and insert "two thousand."

Mr. WILLIAMS. That was my amendment. My amendment was $2,000, Mr. Chairman.

Mr. LIVINGSTON. I withdraw my amendment.

The CHAIRMAN. The gentleman from Georgia withdraws his amendment. The question is on agreeing to the amendment offered by the gentleman from Mississippi.

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. WILLIAMS. Division!

The committee divided; and there were—ayes 29, noes 54.

So the amendment was rejected.

The Clerk read as follows:

For salary, traveling, and other miscellaneous and emergency expenses, including a per diem in lieu of subsistence, not exceeding $4 per day, of confidential agents appointed by the Secretary of the Interior to make investigations and examinations in special cases, to be expended at his discretion and under his authority and approval, to be immediately available, $10,000.

Mr. WILLIAMS. Mr. Chairman, I move to strike out the last word, in order to ask for some information, and perhaps later to offer an amendment.

Mr. Chairman, some time ago we appropriated $500,000 to be used as a trust fund to prosecute trust formers—not to much effective purpose, I admit—and to execute the antitrust law. Later on we found we had a Secretary of the Interior who was executing the laws of the country out of a contingent fund without waiting for special prodding or special legislation, and doing it with magnificent courage, watchfulness, integrity, and success. The provision which has just been reported, Mr. Chairman, is for—

Salary, traveling, and other miscellaneous and emergency expenses, including a per diem in lieu of subsistence, not exceeding $4 per day, of confidential agents—

I ask attention of gentlemen to this—

appointed by the Secretary of the Interior to make investigations and examinations in special cases, to be expended at his discretion and under his authority and approval, to be immediately available, $10,000.

Now, under this appropriation the Secretary of the Interior has had indicted four members of the National Legislature, of this body and the other; two of them have been convicted and others are still undergoing trial. The Secretary of the Interior appeared before the Committee on Appropriations, and on page 423 of the hearings I find the following. The Secretary of the Interior said:

While we are on the subject, I have asked for a special appropriation of $10,000 for a contingent fund. My purpose is simply to do this: If any one of these men is sent around into a division and he is known to be there for special duty he can not get the information that is wanted.

Mr. LITTAUER. Have you not drawn upon the secret service?

Mr. HITCHCOCK. Yes, sir; not upon the secret service; we have drawn upon the contingent fund—the fund for the protection of the public lands. We have had to discharge some of these special agents in order to use the money where it was most necessary.

Mr. LITTAUER. Your comments apply strictly to the submission of $10,000, on page 209 of the bill?

Mr. HITCHCOCK. Yes, sir.

Mr. BURLESON. You need all this money for that purpose?

Mr. HITCHCOCK. Yes, sir; absolutely. The mistake I made was that I did not double the estimate. We have one case where parties have stolen 265,000 acres of land in California. We are working up that case. We have not enough money to-day, but we are doing the best we can do.

Mr. BURLESON. Could you use an appropriation of $20,000, instead of $10,000, in the apprehension of persons connected with land frauds?

Mr. HITCHCOCK. Yes, sir. You take the Indian Territory and you take another State and we ought to have three times that amount of money for just this detective work, which is absolutely necessary.

Mr. LITTAUER. In regard to the contingent expenses, wherein the law is becoming more stringent year after year, first as to apportionment and then as to expenditures, have you amply provided for what you believe to be the needs of your Department?

Mr. HITCHCOCK. With that exception. This sum of $10,000 for this special purpose is absolutely insignificant as compared with the hundreds of thousands of acres we have saved and will save by this service to the United States Government.

I skip down the line a little:

Mr. TAWNEY. Is he paid—

This refers to one of these special agents—

out of the fund for the protection of the public lands?

Mr. HITCHCOCK. Yes, sir.

Mr. TAWNEY. When you got this man did he have any special fitness for this particular work?

Mr. HITCHCOCK. He was recommended as having the qualifications, and he has demonstrated it beyond any question.

Mr. TAWNEY. Do you think it would have been possible to have gone to an outside agency and procured the services of a man equally as good?

Mr. HITCHCOCK. No, sir. I speak from experience. He knows his business up to the handle. He is a remarkable man, an exceptional man. He has been offered a great deal more money than we have been paying him, and he refused the offers because of his loyalty to the Department and because of the interest he has taken in this work. He has developed these frauds.

Mr. BURLESON. I want to revert to the $10,000 item. I understood you to say that if the amount could be doubled that you would be able to apprehend more persons who have been guilty of land frauds and save more public lands than if we should allow only the $10,000?

Mr. HITCHCOCK. Yes, sir.

Mr. LITTAUER. Do you now recommend that that estimate be increased more than $10,000?

Mr. HITCHCOCK—

This is your Secretary of the Interior, gentlemen, a man who has shown remarkable courage and ability in finding out crookedest things that are going on amongst your public servants; a man concerning whose integrity and enterprise as an officer in encouraging honesty and discouraging dishonesty no man has raised a voice of criticism. He says:

I respectfully ask for at least $20,000. I know the money can not be spent for a better purpose.

The committee gave him $10,000 instead of the $20,000 he asked. Now, Mr. Chairman, I withdraw the formal amendment with the consent of the committee, and I offer an amendment to strike out the word "ten," in line 6, page 122, and to substitute in lieu thereof the word "twenty," so that a Republican Congress can grant a Republican Secretary what he says he needs to hunt out, run down, and bring to condign punishment land thieves and depredators.

The CHAIRMAN. The gentleman from Mississippi offers an amendment which the Clerk will report.

The Clerk read as follows:

On page 122, in line 6, strike out the word "ten" and insert "twenty."

Mr. LITTAUER. Mr. Chairman, your committee was in grave doubt as to what was best to do, in connection with the statement of the Secretary of the Interior. We were in thorough accord with all of his purposes and his fearless, conscientious, and able conduct in looking into the investigations that have brought about that serious result. The reason we recommended the $10,000 in this bill, in view of the fact that the Secretary subsequently asked for $20,000, was that when we came to consider the matter we found there was a fund of $250,000 which was actually at the service of the Secretary of the Interior, provided in the sundry civil bill, for the protection of the public lands, and under that appropriation 100 agents, selected without reference to the civil-service regulations, were at the service of the Secretary of the Interior for practically the same kind of work.

Now, the Secretary has conducted the investigations which have led to the result to which the gentleman from Mississippi has referred without any appropriation whatever of this kind. He has simply found one or two men of exceptional ability whom he desired to join to his forces permanently, and therefore he suggests to us this appropriation. I do not believe that in his investigations in the past he has been to any extent curtailed by lack of funds.

Mr. WILLIAMS. The Secretary of the Interior says here, if the gentleman will excuse me, that he made a mistake in not asking for double the amount.

Mr. LITTAUER. I realize that.

Mr. WILLIAMS. He says that "he has not money enough," and that "we are doing the best we can," and he says he "needs $10,000 more;" and certainly he is better acquainted with what it costs to do this work than we are, and what work is to be done. He adds that he "is paying this out of the contingent fund."

Mr. LITTAUER. He is paying it out of the contingent fund,

and I believe also has drawn on this fund for the protection of the public lands against depredation; if not for this particular service, then for services in connection with the same investigation. Now, I do not want to oppose the gentleman's amendment at all——

Mr. WILLIAMS. Then let us pass it. Let us not discourage anybody who is engaged in prosecuting wrongdoers.

Mr. LITTAUER. We have no desire to discourage anybody who is engaged in this work.

Mr. NORRIS. I concur with the gentleman fully that we ought not to curtail the Secretary in making these investigations. As I understand, in these cases up to this time he has made the investigations without any appropriations in this bill, and what is the necessity of our appropriating any amount now, for he already has at his disposal all the money he needs?

Mr. WILLIAMS. I will tell you why; it is in the hearings. It is because we are beginning to question this use of funds at the direction of these officers.

Mr. NORRIS. There is no diversion there.

Mr. LITTAUER. There has been no real diversion of the funds.

Mr. WILLIAMS. I understand that. Here is this language. Mr. LITTAUER says that in regard to the contingent expenses wherein the law has become more stringent year after year as to appropriations and then as to expenditures, and the Secretary does not want any doubt as to the fact of his right to use those funds.

Mr. NORRIS. If that be true——

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. NORRIS. Mr. Chairman, I want to be recognized in my own right.

The CHAIRMAN. The gentleman from Nebraska is recognized.

Mr. NORRIS. If that be true the appropriation of $20,000 will be absolutely too low. I mean if he could not use any money except what is appropriated in this bill, $20,000 will not begin to be enough.

Mr. WILLIAMS. The gentleman misunderstands the situation.

Mr. NORRIS. I understand the gentleman to say the reason why we should appropriate is because of the stringency that is going on as to the use of funds.

Mr. WILLIAMS. Yes; but not all of this.

Mr. NORRIS. If there is any stringency that would prohibit him from using the other item of $250,000, if it is true, as the gentleman intimates, for the support of this amendment that he can not use the $250,000, then we ought to appropriate $10,000.

Mr. WILLIAMS. I think the gentleman does not understand the Secretary, or what I understand to be the position. There is no doubt about the use of the $250,000 for certain purposes—inspectors of public lands and various things; but what he wants of this is for a secret fund for a detective force.

Mr. NORRIS. He has under the other fund 100 men not selected through the civil service.

Mr. WILLIAMS. They are on the rolls of the Department carried over here, and what he wants is a detective force.

Mr. NORRIS. The gentleman read the testimony of the Secretary where he describes a man that he has selected himself.

Mr. WILLIAMS. His name was not disclosed?

Mr. NORRIS. His name was not disclosed.

Mr. WILLIAMS. He wants men whose names do not have to be carried on the rolls and who do not have to be disclosed.

Mr. MANN. If the gentleman will permit me, I understood the gentleman from Mississippi to read the testimony of the Secretary of the Interior that he had to lay off some of the agents employed under the large fund in order to utilize the money saved by those salaries.

Mr. NORRIS. I did not understand that. I did not hear anything of the kind. I do not dispute the gentleman from Illinois by any means, but if there was any such testimony I didn't hear it.

Mr. MANN. That is the way I understood the reading of the testimony; that he had saved money out of that fund by the dismissal of certain agents.

Mr. TAWNEY. Mr. Chairman, I trust that this amendment offered by the gentleman from Mississippi will not prevail. The Secretary of the Interior during the past few years has been conducting investigations into alleged land frauds and has discovered many frauds in the administration of our public land laws. He has secured by aid of testimony the indictment of a great many—I think some 600—and, if my memory serves me correctly, the conviction of a large number. All of that investigation has been conducted under existing law and paid for out of the appropriation made by Congress for the purpose of protecting the public domain.

In that investigation he has employed one secret-service man. All the rest of the investigation has been conducted by special agents and inspectors in the Interior Department. All that the Secretary estimated to be necessary for this particular service was $10,000. With that he has been able to secure all the secret-service men that he desired and all that is necessary. In his testimony before the committee, when he found that certain Members, as a result of the investigation, were in favor of appropriating more, and he found there was an opportunity perhaps to increase this appropriation, he gave testimony to the effect that he might utilize more men. I have no doubt the heads of Departments, if allowed a free hand in the matter of employing secret-service men, could employ a great many more than they do to-day.

I want to call to the attention of the committee the fact that under existing law the Secretary of the Interior has $250,000 available, if he sees fit to use it, for all the investigations necessary, or any investigation that he may deem necessary, in respect to these alleged land frauds. I read:

To meet the expenses of protecting timber on the public lands, and for the more efficient execution of the laws and rules relating to the cutting thereof, of protecting lands from illegal and fraudulent entry or appropriation, and of adjusting claims for swamp lands and indemnity for swamp lands, $250,000.

Now, I submit, Mr. Chairman, that if this is for the purpose of building up the secret service in connection with the Interior Department of our Government, then let the appropriation so specify, and also that there should be more reason given for extending and broadening the secret-service force of the Government than has been presented either before the committee or before the House for that purpose. There is absolutely no limitation upon the Secretary of the Interior with respect to the expenditure of this $250,000, no limitation or restriction whatever. These agents and inspectors can be employed, not under the civil service, but in the discretion of the Secretary, and I was unable to see, and am now, why it was necessary to make a specific estimate for the appropriation for the employment of secret-service men in view of the appropriation and the provisions of the appropriation in respect to the protection of the public domain which now exists on the statute books. I hope the amendment will not be adopted.

The CHAIRMAN. The time of the gentleman has expired.

Mr. GAINES of Tennessee. Mr. Chairman, I move to strike out the last word. I desire to make an inquiry or two of the gentleman from Minnesota. I would ask him if he objects to increasing the appropriation over what it has been heretofore because the Secretary of the Interior wants to employ a secret service?

Mr. TAWNEY. He has never had an appropriation for this service.

Mr. GAINES of Tennessee. Does the gentleman not think he needs it?

Mr. TAWNEY. I am willing to give him what he estimated to be necessary.

Mr. GAINES of Tennessee. How much was that?

Mr. TAWNEY. Ten thousand dollars; and we have reported in favor of his estimate.

Mr. GAINES of Tennessee. And now the contest is about increasing that $10,000 more, is it not?

Mr. TAWNEY. The amendment of the gentleman from Mississippi [Mr. WILLIAMS] is to increase it $10,000. But I say in reply to the gentleman from Tennessee [Mr. GAINES] that in view of the large amount that is available for the protection of the public domain there is no necessity for Congress increasing the amount beyond $10,000, that being the amount which the Secretary himself estimated was all that was needed for this particular service.

Mr. GAINES of Tennessee. I understand that the Secretary says that was a mistake in not asking for more and wants to correct this error and also because he needs the money. But let this be an error or not, Mr. Chairman, I want to say this, that the gentleman from Minnesota [Mr. TAWNEY] has already stated, and no one will dispute it, that the Secretary of the Interior has vigorously in the last year prosecuted these land frauds, and he has caused indictments to be had. If the gentleman would only come to the hearings before the Committee on Public Lands, of which I happen to be a member, when we have any particular matter before that committee, he will hear of more land frauds, more land thieves, than he has ever heard of before in his life. And all this is without the slightest dispute of the truth of the charge. A man makes an allegation about an individual or about these land frauds and nobody disputes it. The gentleman himself admits that the Secretary has caused to be had about 600 indictments already. It is also

stated in these Land Committee hearings that the law has not been enforced there *at any time until the last twelve months.*

Mr. TAWNEY. Will the gentleman from Tennessee permit an inquiry?

Mr. GAINES of Tennessee. Yes.

Mr. TAWNEY. Is the gentleman not aware of the fact that all of this development has been brought about by the force of special agents and inspectors in the employ of the Interior Department?

Mr. GAINES of Tennessee. I understand that.

Mr. TAWNEY. Which the Secretary of the Interior now has under his command?

Mr. GAINES of Tennessee. Exactly.

Mr. TAWNEY. Then why is it necessary for Congress to authorize an appropriation for the purpose of establishing a secret-service bureau in connection with the Interior Department of the Government?

Mr. GAINES of Tennessee. We do not say a secret-service bureau, but I am not going to stand back on $10,000 when the great Secretary of the Interior, who has proved himself an efficient officer, says he wants $10,000 more for a certain purpose, though it be a secret service to investigate these frauds. The work is not half completed, if half I hear is true. It is hard to ferret out these frauds. There are more rascals trying to get hold of these public lands than you ever dreamt of in your philosophy. Mr. Chairman, we did not find out very much about the trusts of this country until we appropriated $500,000 at the instance of the Democrats in this House and put that money in the hands of the Attorney-General to expend it in the execution of that law. As soon as we gave him that, then he proceeded to enforce the law more vigorously than ever before. Now, here, when a brother Cabinet officer, the Secretary of the Interior, comes here and asks Congress to give him $10,000 more, or $20,000, if you please, to employ a secret-service agency, to employ a sheriff, to employ an extra marshal, or to employ anything that he in his wisdom deems proper after an experience of twelve months of hard work with those people out there, with these land thieves and land frauds, why should we stand back here on that sum if by its use the Secretary can more fully and completely and successfully enforce the law?

Mr. TAWNEY. Mr. Chairman, will the gentleman permit another interruption?

Mr. GAINES of Tennessee. Yes.

Mr. TAWNEY. We have given him all that he asks for, and does not this bill carry exactly the amount he estimated to be necessary for that purpose?

Mr. GAINES of Tennessee. I understand that he wants $10,000 more.

Mr. TAWNEY. He has not estimated for $10,000 more.

The CHAIRMAN. The time of the gentleman has expired.

Mr. GAINES of Tennessee. Mr. Chairman, I move to strike out the last two words.

Mr. WILLIAMS. Mr. Chairman, it is true that the Secretary of the Interior did first ask for $10,000, or that got in his estimate, but it is also true, and the gentleman from Minnesota [Mr. TAWNEY], of course, does not deny it, that he appeared in person before the committee and asked for $10,000 more, and that he said he needed it, and he said he had to discharge a part of his other force or take the money that was intended for the balance of his other force in order to pay these men on the outside. Furthermore, if the gentleman from Tennessee will pardon me, as the gentleman from New York [Mr. FITZGERALD] will demonstrate in a minute (the gentleman from Minnesota did not read all the law), there is a restriction upon the use of that $250,000.

Mr. GAINES of Tennessee. What is it?

Mr. WILLIAMS. The gentleman from New York will read it after a moment. It limits so much a day to be paid, and he can not get skilled expert detectives such as are required for his purposes for the amount.

Mr. GAINES of Tennessee. Now, gentlemen of the committee, I had the pleasure of calling yesterday or the day before upon and talking with the Secretary of the Interior. He is struggling with all his might and main to enforce our laws against land frauds. He is a good officer, and if not he ought to be turned out of the Cabinet. We have gone by his recommendation heretofore. For twelve months he has been struggling out there with a great wilderness of land thieves, and after a year of experience in Congress and out of it he comes here and says, "I want more money; I want $10,000 more to execute this law more vigorously and in a different way than heretofore."

Mr. TAWNEY. Will the gentleman permit another question?

Mr. GAINES of Tennessee. Yes.

Mr. TAWNEY. You, as well as the Secretary of the Interior, well know that all estimates for appropriations under the law must be submitted by heads of Departments to the Secretary of the Treasury, who submits them to the House through the Speaker.

Mr. GAINES of Tennessee. Well, I did not know that the Speaker did that, I will say to the gentleman.

Mr. TAWNEY. And if the Secretary under the law deemed it necessary to appropriate $20,000 for this service, when he was making a submission of his estimates in accordance with the law, why did he put in $10,000 instead of $20,000?

Mr. GAINES of Tennessee. Did he not appear before the committee?

Mr. TAWNEY. He did.

Mr. GAINES of Tennessee. Well, he did not go by way of the Speaker and get permission, did he?

Mr. TAWNEY. The law expressly provides heads of Departments must submit their estimates for appropriations through the Secretary of the Treasury, and the Secretary of the Treasury submits them to Congress through the Speaker and the President of the Senate.

Mr. GAINES of Tennessee. After he, as the gentleman said, went to the Speaker and submitted his programme, something I never heard of before, after that, then your committee in its wisdom sent for this man; they saw what he had been doing and they saw the good work he had been doing, and they sent for him; he quits his great office and comes before your committee and says he wants $10,000 more for a particular purpose, and I for one am going to stand here and vote to give it to him.

Mr. FITZGERALD. Mr. Chairman, the Secretary of the Interior has been investigating gross frauds in the land offices, and in the course of his investigation he has found it necessary to employ men other than his regular force of inspectors. The regular inspectors of the Land Office have become so well known that it is impossible for them to do the detective work required. It appears that one or two men whom he has employed have been receiving $5 a day and one man $10 a day. He estimated that in order to continue this work he would require $10,000, and then he stated that that was a mistake, and he would require at least $20,000. It seems to me if he should have anything, Mr. Chairman, for work of this character, involving secret inspection, requiring detective skill of the highest character, that it would be proper to give him the entire sum asked. The $250,000 allowed for the prevention of land frauds and for the protection of the public domain restricts the per diem to be paid to these inspectors to $3 a day. It may be that in connection with this provision that it has been so construed that some of the necessary expenses incurred by these men of special skill exceeded $3 a day, and for that reason they could not be reimbursed out of this found. If that be the reason for this special appropriation, it seems to me that the Secretary should have all that he asks. If it be unnecessary, he should not receive anything. It is undoubtedly true that there have been greater frauds and greater scandals unearthed in connection with entries upon the public domain during the past two years than during the rest of the existence of the Government. The Secretary of the Interior has conscientiously performed the duties of his office. He has in a large degree stopped these frauds.

He stated to the committee that in a State in which it is not suspected fraud has been committed; the investigation there disclosed that more frauds in these land cases have been committed in that State than in any of the States already mentioned. These are matters that it is necessary should be kept confidential, and not disclosed to the public; to do so will prevent him unraveling wrongs and punishing the wrongdoers. If it be necessary that he should have in his office a skilled force of detectives to do this important work, it seems to me, while I dislike to disagree with the committee, that if the committee giving the ten thousand asked would have given $20,000. If that had been originally asked, upon the statement of the Secretary that he had made a mistake, and that he required the additional $10,000, there should be no hesitation whatever in granting this sum. It is necessary that this investigation be pursued now, and not at a future day, because under the laws of the country unless prosecutions are conducted within a certain time they are barred under the statute of limitation. If the Secretary has reason to suspect that there are frauds committed upon the people of the country to the enormous extent indicated by him in his statement, then there should be no hesitation in giving him every assistance and all the means required to bring the offenders to account and stop the stealing of the public land. The work should not be stopped nor impeded because the Government has not the funds nor the assistance required to prevent these frauds.

Mr. MANN. Mr. Chairman, I wish that the gentleman in

charge of the bill would see their way, or his way, toward the acceptance of this amendment. The Secretary of the Interior has been engaged for some time past, very successfully, in ferreting out land frauds. I do not know whether he needs a little more money or not—Congress perhaps may not know. It may be that the Committee on Appropriations in recommending the amount of $10,000 is correct; but the Secretary of the Interior has stated that he could use $20,000. Let it be remembered on our side of the House that we have the responsibility of government, and if we fail to place in the hands of our officials money necessary to ferret out fraud, which we may be responsible for, the country will properly say that we have failed in our duty.

The President confides to the Secretary of the Interior the duty of ferreting out these frauds. In my judgment it would be a serious mistake not to confer upon him both the money and the power with which to pursue his investigation. The gentleman from Minnesota——

Mr. LIVINGSTON. Will the gentleman permit me?

Mr. MANN. I yield to the gentleman from Georgia.

Mr. LIVINGSTON. I want to suggest, Mr. Chairman, to the gentleman that this $10,000 is a new item. The Secretary of the Interior has from another fund made a secret-service investigation out there that he was pleased with, and in his estimate he asked for $10,000. When he came into the committee room, and under the impulse of another atmosphere——

Mr. MANN. Mr. Chairman, I will have to decline to yield to the gentleman further unless I can have more time.

Mr. LIVINGSTON. I will get you the time. I only want to state the facts. It was suggested to him he might use more. He said: "Yes." I want to say to you candidly that this $10,000 was for the purpose of making an experiment.

Mr. MANN. Mr. Chairman, the gentleman, a very distinguished member of the Committee on Appropriations states, that impulsively, impulsively——

Mr. TAWNEY. That is right.

Mr. MANN. Impulsively the Secretary of Interior, in the Committee on Appropriations, increased the amount from $10,000 to $20,000. Mr. Chairman, I dare say that if there be a man in Washington who is not controlled by impulse, whose blood is as cold as that of a fish, it is the Secretary of Interior. [Laughter and applause.] And because he is cold he has pursued this investigation. No one can make me think that "impulsively," under the influence of the Committee on Appropriations, he raised the amount. Mr. Chairman, I can well understand how an impulsive man going into the Committee on Appropriations and feeling the ice water which they poured down his back would reduce the amount from $20,000 to $10,000, but no gentleman ever going into that committee has had the amount raised from impulse by contact with the members—the very careful members of that committee—and I think that is greatly to their credit.

Now, Mr. Chairman, the gentleman from Minnesota has stated that there was a fund of $250,000 which the Secretary of the Interior could use.

In a colloquy a few moments ago I called the attention of the House to the fact that the Secretary could not use any portion of that money without cutting off some special agents, and that was questioned; but I have the hearing before me in which the Secretary makes the statement. He said:

We have drawn upon the contingent fund, the fund for the protection of the public lands.

That is the fund to which reference was made.

Mr. TAWNEY. Not the fund to which I referred, however.

[The time of Mr. MANN having expired, by unanimous consent, at the request of Mr. GAINES of Tennessee, it was extended five minutes.]

Mr. MANN. He says:

We have had to discharge some of these special agents in order to get the money where it was most necessary.

In other words, the Secretary of the Interior, in the pursuit of the investigation of these land frauds, has had to discharge special agents whom he had employed by name in order to employ other special agents who were not known.

Now, Mr. Chairman, the amount is not large, but the principle is very important. Shall the Government, shall the House, give to the Secretary of the Interior, engaged in fighting the most tremendous frauds which have ever been attempted against the Government, the money which he says he needs, or shall we defend and protect the men who have been engaged in robbing the public domain?

Mr. GAINES of Tennessee. Is it not a fact that after this very same committee, that is now bringing in this bill, had made the usual appropriation for the Department of Justice, owing to the exigencies of the case, we appropriated here, without any opposition, $500,000 to enforce the antitrust law? And yet now they are kicking because we ask for an extra $10,000 for the Land Office.

Mr. TAWNEY. If the gentleman will permit me to correct him, the Committee on Appropriations did not report that bill.

Mr. GAINES of Tennessee. Then I excuse the committee from having reported it; but, as a matter of fact, we did pass the $500,000 appropriation.

Mr. MANN. Mr. Chairman, I have no criticism of the Committee on Appropriations. I think they made the appropriation here as large as they were warranted in doing. That was the amount of the estimate. That was all the Committee on Appropriations ought to bring before the House; but the House itself, knowing the circumstances of this particular case, ought, as it has in many other cases, to increase the amount because it is necessary. The Committee on Appropriations would have been subject to criticism if it had offered a larger amount; but the House has the right, and, in my opinion, it is the duty of the House to give to the Secretary of the Interior the money which he says he can use in further pursuit of these frauds.

Mr. TAWNEY. Mr. Chairman, in reply to the gentleman from New York [Mr. FITZGERALD], who says that there are certain limitations attaching to this appropriation of $250,000 which make it unavailable for the investigation of land frauds, I want to call the attention of the committee to the fact that there is no limitation whatever in the proviso which follows that portion of the section that I read, except as to the per diem allowance and for subsistence of the men employed under this provision. The proviso reads:

That agents and others employed under this appropriation shall be selected by the Secretary of the Interior and allowed per diem, subject to such rules and regulations as he may prescribe, in lieu of subsistence, at a rate not exceeding $3 per day each, and actual necessary expenses for transportation, including necessary sleeping car fare.

He may pay these special agents $25 a day if he sees fit. There is no limitation under the law making that appropriation that would restrict the right of the Secretary of the Interior to pay the agent any compensation that he saw fit; but his per diem allowance and traveling expenses are fixed by the statute. Beyond that there is no limitation whatever.

Now, Mr. Chairman, I realize as clearly as does the gentleman from Illinois [Mr. MANN] that this side of the House is responsible for legislation that originates here or that is passed by it, and I am not at all alarmed by the remarks of the gentleman with respect to that responsibility in this particular. The country knows full well that the magnificent results thus far achieved by the Secretary of the Interior have been secured by the employment of his regular force of inspectors and agents. But we have no evidence to show us that if this appropriation is withheld that that force of inspectors and agents will not be just as competent in the future to conduct these investigations as it has been to conduct the investigations in the past.

Here is a proposition to give the Secretary of the Interior $20,000, to be expended in the employment of the secret service force in connection with the Department of the Interior, to be used, not with reference to the land investigation alone, but without any limitation whatever. He can employ secret service men under this appropriation for any purpose he sees fit. If the appropriation is asked for in good faith and for the purpose of conducting this land-fraud investigation and is to be limited to that, then, Mr. Chairman, I offer as a substitute for the amendment offered by the gentleman from Mississippi the following.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Substitute for the amendment: On page 122, line 4, after the word "cases," insert "to protect public land from unlawful and fraudulent entry or appropriation;" and in line 6 strike out the word "ten" and insert the word "twenty."

Mr. WILLIAMS. That sounds as if it limited the purposes for which the appropriation could be used.

Mr. TAWNEY. It does limit it to investigation of land frauds.

Mr. MANN. That is what they want.

Mr. WILLIAMS. It limits it to that purpose, and it seems to me it prevents the Secretary of the Interior from doing what he wants to do, to wit: To get private detectives, skilled experts, and not men upon the regular force or on the field force. Now, if there was no occasion for that language when you appropriate $10,000, what is the occasion for putting it in when you make an appropriation for $20,000?

Mr. MANN. It ought to have been in under the $10,000 item.

Mr. TAWNEY. I think the limitation ought to have been put in. I will say to the gentleman that Congress has been

very careful in the past in respect to making appropriations for the Secret Service. So careful has Congress been to prevent appropriations from being used for any other purpose——

Mr. WILLIAMS. I know all about that.

Mr. TAWNEY (continuing). That in appropriating for the detection of counterfeiting, or alleged counterfeiting, Congress uniformly incorporates a provision that it shall not be used for any other purpose. Now, if you are going to increase the appropriations——

Mr. WILLIAMS. I am willing to accept the substitute, but I want to understand it. Would that amendment prevent the Secretary of the Interior from using this fund as a secret-service fund?

Mr. TAWNEY. It would not.

Mr. WILLIAMS. And the gentleman thinks he would be able to use it for that purpose?

Mr. TAWNEY. I think he would be able to use it for that purpose, although I do not believe it was necessary for him to come to Congress and ask for the appropriation.

Mr. WILLIAMS. I do not regret it; a sleuth hound is dangerous to no honest man. Now and then a sleuth hound is necessary when you are pursuing thieves. If the gentleman assures me that his limitation on the amendment does not prevent the use of the $20,000 as a secret-service fund in hunting out evidence to show violations of these land laws, then I am willing to accept the substitute. I ask unanimous consent that the substitute be reported once more.

The CHAIRMAN. Without objection, the Clerk will again report the substitute.

The Clerk again read the amendment offered by the gentleman from Minnesota.

Mr. WILLIAMS. Mr. Chairman, I believe that is broad enough to cover it all, and I ask unanimous consent to withdraw my original amendment and accept the one offered by the gentleman from Minnesota.

The CHAIRMAN. By unanimous consent, the amendment offered by the gentleman from Mississippi will be withdrawn, and the question now is on the amendment offered by the gentleman from Minnesota.

The question was taken, and the amendment was agreed to.

Mr. GAINES of Tennessee. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Insert a new paragraph on page 122, after line 6, as follows:

"It shall be the duty of the judges of the United States district courts, in those districts to which the public land laws apply, to charge the grand jury at each term of their courts to examine into the violations of the same and make true presentment of any person whom they shall find has violated any such laws."

Mr. LITTAUER. Mr. Chairman, I make a point of order against that amendment, or I will withhold it if the gentleman wishes to address the committee.

Mr. GAINES of Tennessee. I hope the gentleman will withdraw the objection. If the committee will indulge me, I shall seriously address myself to the proposition. In the hearings before the Public Lands Committee, my colleague who sits at my right [Mr. BURNETT] will bear witness to the fact that a few days ago I offered a similar amendment in that committee—that is, that the district judges should instruct the grand juries to investigate the violations of the proposed law—and the committee adopted the proposition. A few weeks ago I offered on the floor of this House a like provision, and it was adopted in a bill applying to the District of Columbia. It was a very important measure. One of the objections to this proposition being put in the bill before the Public Lands Committee was that requiring the judge to instruct the grand jury in this particular matter whenever it met was entirely different from all the other land laws, and therefore it ought not to be adopted. I said the land laws should so provide. Mr. Chairman, the reason why I have offered this amendment is to get the public land laws of this country not only enforced, but to get them vigorously enforced, and for the further purpose that these public land frauds may at each session of the United States district court be brought sharply to the attention of the grand juries of the country, that the rights of the people and of the Government of the United States may be better protected. It was also given out before that Committee on Public Lands, Mr. Chairman, and it is notorious——

Mr. CRUMPACKER. Mr. Chairman, may I ask the gentleman a question?

The CHAIRMAN. Does the gentleman yield?

Mr. GAINES of Tennessee. Yes.

Mr. CRUMPACKER. Does the gentleman from Tennessee believe it is within the power of Congress to enact a law to instruct or direct judges of the court respecting the discharge of their judicial functions? On the other hand, is it not an unwarranted interference on the part of Congress with respect to that which is essentially and necessarily judicial? It would be just as becoming, it seems to me, for the court in delivering an opinion to recommend legislation upon the part of Congress. Does the gentleman believe that any court would be bound to pay the least bit of respect to legislation of this character respecting the character of its instructions?

Mr. GAINES of Tennessee. I will answer the question, Mr. Chairman, that it is entirely in the power of Congress to pass such a law. We have such laws in the State of Tennessee, statute after statute, and so are a great many of the laws of the States of the United States, and I have heard judges obey such laws because the law so directed, and I think some of our Federal statutes now provide that the Federal judge must at each session of the grand jury instruct the grand jury on this or that particular thing. Otherwise it is within the discretion of the court, and the court may neglect or not want to act in the matter.

Unless Congress in creating a law says it shall be the duty of a judge to instruct the grand jury on the matter covered by the statute at each sitting of his grand jury it is entirely within his discretion.

Instead of interfering with the Executive, it seems to me that it is already the duty of the Executive, under the Constitution, to see that the laws are faithfully executed. That does not mean that the President shall go and instruct the grand jury himself or act himself on the offender. It means that he shall call the matter to the attention of the judges and to the district attorneys, and so on, and remove these attorneys if they fail to act. Now, we, the Congress, should say to the district judges in these land districts, "You charge your grand jury at each session of that great tribunal (that protects the morals of the people and brings the unrighteous before the bar of justice) *to investigate this matter*," and the court says, "Congress thinks it is of sufficient importance for me to instruct you so and so, and I do so instruct you." The court will not forget such a statute. The court must obey the law. Mr. Chairman, I confess I was shocked more than I ever was in my life about lawlessness—and I do not mean to speak unnecessarily discourteously or to reflect unnecessarily upon these land thieves [laughter] when I speak thus of them—I do not think I was ever more shocked in my life as to lawlessness than I have been at some of the developments at the hearings before the Committee on Public Lands.

I desire to say that it has come out before the Public Lands Committee that the law relative to land frauds "*has never been enforced.*" I asked: "Do not your judges direct the grand juries to investigate these matters?" And the witnesses and members said: "Only within the last eighteen months." That is since the President got behind the judges, since the President got behind the district attorney, since the President said: "You go and charge your juries to investigate these land thieves." What has been the result? About 600 have been indicted, and I believe there are that many thousand guilty ones.

The CHAIRMAN. The time of the gentleman has expired.

Mr. GAINES of Tennessee. Mr. Chairman, I ask unanimous consent to be permitted to proceed for three minutes more.

The CHAIRMAN. The gentleman from Tennessee asks unanimous consent that he may proceed for three minutes. Is there objection?

There was no objection.

Mr. GAINES of Tennessee. Now, I hope that my friend from New York [Mr. LITTAUER] will withdraw his point of order. This will make a good law—a better law.

Mr. LITTAUER. Why, Mr. Chairman, the gentleman from Tennessee [Mr. GAINES] ought really, on his own statement, withdraw his amendment.

Mr. GAINES of Tennessee. Why?

Mr. LITTAUER. Simply for the reason that matters of the great import to which he refers ought to be properly considered, and brought in here by a proper committee, and not put in as a rider on a legislative appropriation bill.

Mr. GAINES of Tennessee. That proposition is well written, I wrote it myself. [Laughter.] It is plain—easily understood.

Mr. LITTAUER. Unquestionably, but it is too broad for us to consider here. I am no lawyer——

Mr. GAINES of Tennessee. The gentleman is a good merchant and a good spokesman here for his bill, and I am a pretty good lawyer. I wrote that amendment. [Laughter.] I think it will make a good law, if you will give it a chance here and let us pass it.

Mr. LITTAUER. Surely the gentleman ought to withdraw it and not try to add such new legislation to this bill of the character that he describes when it has not even been considered by a committee.

Mr. GAINES of Tennessee. The gentleman has set me such a faithful example of obeying the rule——

Mr. LITTAUER. But we always examine our items in the committee room.

Mr. GAINES of Tennessee (continuing). That I feel I have a right to transgress once in a while, particularly to protect the great people of the West from the land thieves robbing them of their homesteads and their land rights under the law. I say this will make good law, and it should always have been part of the public land laws, and because it has not been thieves out West have been stealing the very top of the earth, if half the truth has been stated before our committee, and have gone below the surface for all that is in sight and out of sight.

You speak of the rule—a technical rule. Technicalities should be allowed to protect virtue only, and not vice, at any time.

The CHAIRMAN. The rule of the House which is invoked against this amendment declares that there shall not be in order upon any appropriation bill any provision changing existing law. The proposed amendment manifestly defines and limits the duty, or at least the discretion, of judges of the United States courts to an extent to which they are not regulated, limited, or controlled by existing law. It is, therefore, a change of existing law. The point of order must be sustained.

Mr. GAINES of Tennessee. I hope the Committee on Rules will give me a rule on it and I will introduce it as a bill.

The Clerk read as follows:

For pay of messengers, stationery, printing and binding, books of reference for office use, and other incidental expenses, $350,000.

Mr. JOHNSON. Mr. Chairman, I notice in the items we have just passed appropriations are made in lump sums. Are the clerks employed and paid in the discretion of the surveyors-general or are they under the classified service?

Mr. LITTAUER. They are not annual clerks. They are clerks that come by seasons and a lump sum is appropriated, subject to the discretion of the surveyors-general.

Mr. JOHNSON. And is in the discretion of the head?

Mr. LITTAUER. Entirely so, and for the simple reason it can be expended during certain seasons of the year.

The Clerk read as follows:

POST-OFFICE DEPARTMENT.

Office Postmaster-General: For compensation of the Postmaster-General $8,000; chief clerk, Post-Office Department, including $500 as superintendent of Post-Office Department building, $3,000; private secretary, $2,500; disbursing clerk, $2,250; bookkeeper and accountant, $2,000; two stenographers, at $1,600 each; appointment clerk, $2,000; one clerk, assistant to chief clerk, $2,000; one clerk of class 4; three clerks of class 3; six clerks of class 2; three clerks of class 1; three clerks, at $1,000 each; curator of museum, $1,000; three clerks, at $900 each; telephone switch-board operator; messenger in charge of mails, $900; one messenger; two assistant messengers; page, $360; engineer, $1,400; eight assistant engineers, at $1,000 each; electrician, $1,000; two assistant electricians, at $1,200 each; three dynamo tenders, at $900 each; one fireman, who shall be a blacksmith, and one fireman, who shall be a steam fitter, at $900 each; ten elevator conductors, at $720 each; fourteen firemen; carpenter, $1,200; assistant carpenter, $1,000; captain of the watch, $1,000; additional to two watchmen acting as lieutenants of watchmen, at $120 each; thirty-one watchmen; foreman of laborers, $800; thirty laborers; ten laborers and coal passers, at $500 each; plumber and awning maker, at $900 each; female laborer, $540; three female laborers, at $500 each; three female laborers, at $480 each; and thirty-two charwomen; in all, $147,650.

Mr. LITTAUER. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The gentleman from New York offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 130, in line 4, strike out "forty-seven" and insert "fifty-three."

Mr. LITTAUER. It is a mere correction of the total.

The question was taken; and the amendment was agreed to.

Mr. LITTAUER. Mr. Chairman, I offer a series of amendments and would ask unanimous consent that the text of the bill may be changed in accordance with the recommendations of the Postmaster-General. There is no change of appropriation, but many changes in reference to nomenclature of divisions, etc. I send the amendments to the desk.

The CHAIRMAN. The Clerk will report the amendments.

Mr. JOHNSON. What does it cover?

Mr. LITTAUER. It covers many sections under the Post-Office Department, if the gentleman will but listen.

Mr. SHACKLEFORD. Reserving the right to object, I will listen to the amendments.

The Clerk read as follows:

On page 131, in line 9, strike out the word "general;" in line 10, after the word "superintendent," insert "division;" in line 11, after the word "superintendent," insert "division;" in lines 12 and 13 strike out "of the correspondence division" and insert "division of correspondence."

On page 132, in lines 6, 7, 16, 17, and 19, after the word "superintendent," insert the word "division;" in line 20, after the word "clerk," insert "division of foreign mails;" and before the word "division" strike out the word "of;" in line 21 strike out the words "of contract division" and insert "division of contracts;" in line 22, after the word "chief," insert "division," and after the word "equipment" strike out the word "division."

On page 133, in lines 18 and 19, strike out the words "postage-stamp supplies and postmasters' accounts" and insert "division of stamps;" in line 20 strike out the words "of system of postal finance" and insert "division of finance;" and in lines 23 and 24 strike out the words "of system of postal finance" and insert "division of finance."

On page 134, in line 1, strike out the words "of classification division" and insert "division of classification;" in line 2 strike out "classification division" and insert "division of classification;" in line 3 strike out "of redemption division" and insert "division of redemption;" in line 4 strike out "of registry system" and insert "division of registered mails;" in lines 5 and 6 strike out "of registry system" and insert "division of registered mails;" in lines 15 and 16 strike out "of registry system" and insert "division of registered mails;" and in lines 21 and 22 strike out "classification division" and insert "division of classification."

On page 135, in line 2, strike out the words "classification division" and insert "division of classification;" in line 20 strike out the words "rural free-delivery service" and insert "division of rural delivery;" and in line 21 strike out the words "supervisor of rural free-delivery service" and insert "assistant superintendent division of rural delivery."

The CHAIRMAN. The Chair will state that the amendments proposed are changes in paragraphs not yet read. The gentleman from New York asks unanimous consent that the bill may be amended in the various particulars indicated.

Mr. SHACKLEFORD. Mr. Chairman, reserving the right to object, I want to make a few remarks about that. Now, it seems to me, Mr. Chairman, that these are matters that might well be referred to the Committee on the Post-Office and Post-Roads. We have a system of legislation going on here that when the Speaker abdicates the throne then this Committee on Appropriations does all the balance. I think it is a bad system. I think it leads to evil results——

Mr. LITTAUER. Is there legislation in these amendments?

Mr. SHACKLEFORD. And for that reason I shall insist that these matters should be considered by the Committee on the Post-Office and Post-Roads, where they belong.

Mr. TAWNEY. I do not think the gentleman wants that; it will merely change the phraseology; that is all.

Mr. SHACKLEFORD. That is what the gentleman says—that it has no legislative purpose. If it has a legislative purpose, why not allow it to go to the committee to which it belongs?

Mr. LITTAUER. It has no legislative purpose.

Mr. SHACKLEFORD. In other words, the point I want to make is that if this House wants to legislate it ought to proceed here in a decent manner. Here a committee comes in with seven or eight hundred violations of the rules of the House. They have reported a bill that is absolutely in violation of the rules of the House, and we are called upon in this House to accept the situation that when the Speaker does not legislate himself, the balance of the legislation shall be perpetrated by this Committee on Appropriations. I shall object.

Mr. LITTAUER. I would say to the gentleman that there is no legislation in this.

The CHAIRMAN. Objection is heard.

Mr. OVERSTREET. I would ask, Mr. Chairman, who made objection?

The CHAIRMAN. Objection is made by the gentleman from Missouri.

Mr. LITTAUER. I believe the first amendment is in connection with the paragraph just finished. If that is the case, I would offer it as an amendment.

The CHAIRMAN. The Clerk will report the amendment.

Mr. LITTAUER. I am mistaken. The first amendment does not apply to this paragraph.

The Clerk read as follows:

Division of post-office inspectors: Chief inspector, $4,000; chief clerk, $2,000; three clerks of class 4; seven clerks of class 3; twelve clerks of class 2; fifteen clerks of class 1; fifteen clerks, at $1,000 each; thirteen clerks, at $900 each; two assistant messengers; one page, and two laborers; in all, $87,220.

Mr. JOHNSON. Mr. Chairman, I want to get some information.

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. JOHNSON. I move to strike out the last word. I notice that the paragraph just read carries seventy-two employees, with aggregate salaries of $87,000. I would like to inquire of the gentleman from New York how many inspectors there are?

Mr. LITTAUER. I think that somewhere in the neighborhood of 500 of these inspectors are carried on the post-office and post-roads appropriation bill.

Mr. JOHNSON. My recollection is that there are about 150 rural delivery inspectors and about 150 post-office inspectors, and probably the post-office appropriation bill will provide for the consolidation of the two forces. But I do not think there will be over 300 people all told then.

Mr. TAWNEY. Four hundred and eighty now of rural free-delivery inspectors.

Mr. JOHNSON. Now, supposing that the proposed legislation of the Post-Office Committee should fail, would there be any necessity for such a large force under the chief inspector of the Post-Office Department?

Mr. LITTAUER. There is no increase in the force submitted in this bill over the force now at work in this inspector's office and doing the same work. We have not anticipated any legislation that may take place. This is exactly in accordance with the submission of the estimate by the Postmaster-General, and in the exact line of current law.

Mr. JOHNSON. Is there any increase in salaries?

Mr. LITTAUER. The chief inspector's salary is increased.

Mr. JOHNSON. What was the reason for increasing his salary?

Mr. TAWNEY. I will say the reason for increasing the salary of the chief inspector was this: He has a force under him who are receiving more salary than he is receiving under existing law.

Mr. JOHNSON. And the only way to equalize is to go up.

Mr. TAWNEY. Well, he has charge of the responsibility, the entire responsibility, of the force, and under this consolidation his responsibility will be greater than before.

Mr. JOHNSON. I understand that.

Mr. TAWNEY. And in order to equalize his compensation with the responsibilities of the office, why, the committee felt that it was due to the person who filled that position under this consolidation that he should receive that salary. He resides here in Washington, is located here in the Department, and receives no per diem allowance whatever. He gets nothing but straight salary, while the other inspectors have per diem and traveling expenses in addition to their salary.

Mr. JOHNSON. I withdraw the amendment.

The Clerk read as follows:

Office First Assistant Postmaster-General: For First Assistant Postmaster-General, $5,000; chief clerk, $2,500; general superintendent of salaries and allowances, $4,000; assistant superintendent of salaries and allowances, $2,250; chief of the correspondence division, $2,000; five clerks of class 4; six clerks of class 3; ten clerks of class 2; seven clerks of class 1; four clerks, at $1,000 each; ten clerks, at $900 each; one messenger; one assistant messenger; three laborers; one page, $360; in all, $73,650.

Mr. LITTAUER. Mr. Chairman, I offer the amendment which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from New York offers an amendment which the Clerk will report.

The Clerk read as follows:

On page 131, in line 9, strike out the word "general;" in line 10, after the word "superintendent," insert "division;" in line 11, after the word "superintendent" insert "division;" in lines 12 and 13, strike out "of the correspondence division" and insert "division of correspondence."

Mr. SHACKLEFORD. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. SHACKLEFORD. With very great reluctance I rise to make a point of order against that amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. SHACKLEFORD. That it changes existing law.

Mr. LITTAUER. Mr. Chairman, it is a mere matter of change of language and in no way changes existing law.

Mr. SHACKLEFORD. Mr. Chairman, if it adds nothing to the law as it now is and if it subtracts nothing from the law as it now stands, then it is a nullity. What is it done for? It is done to amend existing law, by whom? By this supreme committee that denies to every other committee and denies to every other Member the privilege which it claims.

Mr. LITTAUER. Will the gentleman kindly refer me to the statute that this provision changes?

Mr. SHACKLEFORD. I have not time to enlighten the gentleman. I want this bill to hurry along, so we can get to a vote on the statehood bill, and I have not time to stand here and enlighten the Members.

Mr. LITTAUER. I am glad the gentleman wants to hurry through the bill. I can assure him that there are others who are in the same frame of mind.

Mr. SHACKLEFORD. Let us drop these things that do not belong to this committee and get through with this bill, so that we can take up the question whether we will concur in the Senate amendments to the statehood bill.

Mr. LITTAUER. I suggest to the gentleman that we are trying to do properly our business here.

Mr. SHACKLEFORD. I submit that there is existing law fixing this salary already and that this provision changes it.

The CHAIRMAN. The Chair will be glad to have his attention called to the existing law upon the subject.

Mr. FITZGERALD. Mr. Chairman, I call the attention of the Chair to the fact that this does not change existing law. It merely improves the English language that is used in the bill, and there is no rule of the House that prevents amendments improving the language in which a bill is framed; and the least the House has a right to do is to legislate in pure English. I believe that the committee is to be encouraged in its efforts to improve the language of the laws enacted by Congress.

The CHAIRMAN. The Chair will ask the gentleman from New York [Mr. LITTAUER] if there is a division of salaries now existing, having reference to lines 9 and 10? The Chair understands the proposed amendment to change the language; that it now reads "general superintendent of salaries" and that it is proposed to make it read "superintendent, division of salaries."

Mr. LITTAUER. Yes.

The CHAIRMAN. The Chair asks now if there is a division of salaries?

Mr. LITTAUER. There is certainly a division of salaries to-day, and the provision in the bill, authorized by appropriation law only, reads "general superintendent of salaries and allowance," and we seek to change that to "superintendent of division, salaries and allowances."

Mr. TAWNEY. If the Chair will permit me——

Mr. SHACKLEFORD. It is to abolish one office and to create another.

The CHAIRMAN. The Chair is trying to find out what the existing law is.

Mr. TAWNEY. The proposition is merely to change the designation of the head of the division of salaries and allowances, and to make it more correctly designate the office which is filled by this man. It does not create any office; it does not change the duties of the man who is filling the office of chief of the salary and allowance division. It simply describes the office in more brief language than has heretofore been applied. That is the only purpose of it.

Mr. SHACKLEFORD. Mr. Chairman, the statement of the gentleman is to the effect that they propose by this amendment to change the statutory designation of an office heretofore created. They might just as well say that the Secretary of the Interior shall hereafter be called the Chief Sachem. What is the difference? You are changing absolutely the official designation which originally existed by statute to another designation.

Mr. LITTAUER. What statute, please?

Mr. SHACKLEFORD. The very one you have quoted.

Mr. LITTAUER. As carried in the appropriation bill; and, I believe that is not held here to be subject to the point of order. There is a division of salaries and allowances in the Post-Office Department.

Mr. SHACKLEFORD. How does that exist? By reason of law?

Mr. LITTAUER. By reason of appropriation law, not statutory law.

Mr. SHACKLEFORD. Appropriation law! That, as I understand it, is held to be above the laws of the country, in the estimation of the gentleman from New York.

The CHAIRMAN. If the Chair is correctly advised, there is now under existing law a division of salaries and allowances, and there is a superintendent of that division. He is perhaps incorrectly described in the pending paragraph. The amendment is intended merely to more correctly describe him by the title by which he is known in the Post-Office Department and under the law as it now stands. It simply changes the phraseology of the bill without, as far as the Chair can see or has been shown, changing existing law in any particular. The point of order is overruled. The question is on the amendment offered by the gentleman from New York.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

Division of city delivery: Superintendent of city delivery, $3,000; assistant superintendent of city delivery, $2,000; three clerks of class 3; two clerks of class 2; seven clerks of class 1; four clerks, at $1,000 each; two clerks, at $900 each; one messenger, and one laborer; in all, $28,300.

Mr. LITTAUER. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

On page 132, lines 6 and 7, after the word "superintendent," in each line, insert the word "division;" so that it will read: "Superintendent of city delivery," in line 6, and "assistant superintendent of city delivery," in line 7.

The question was taken, and the amendments were agreed to.

The Clerk read as follows:

Office Second Assistant Postmaster-General: For Second Assistant Postmaster-General, $4,500; chief clerk, $2,500; superintendent of

railway adjustments, $2,500; assistant superintendent of railway adjustments and law clerk, $2,250; superintendent of foreign mails, $2,000; chief clerk, $2,000; chief of division of inspection, $2,000; chief of contract division, $2,000; chief of mail equipment division, $2,000; eleven clerks of class 4; forty clerks of class 3; thirty-one clerks of class 2; stenographer, $1,600; twenty-four clerks of class 1; seventeen clerks, at $1,000 each; six clerks, at $900 each; messenger in charge of mails, $900; six assistant messengers; in all $207,970.

Mr. LITTAUER. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

On page 132, lines 16, 17, and 19, after the word "superintendent," insert the word "division;" in line 20, after the word "clerk," insert "division of foreign mails;" before the word "division" strike out the word "of;" in line 21 strike out the words "of contract division" and insert the words "division of contracts;" in line 22, after the word "chief," insert the word "division;" and after the word "equipment" strike out the word "division."

The CHAIRMAN. Without objection, the amendments will be considered together.

The question was taken, and the amendments were agreed to.

The Clerk read as follows:

Division of Railway Mail Service: For the following now authorized and being paid from appropriations for the postal service, namely: General Superintendent, $4,000; Assistant General Superintendent, $3,500; chief clerk, $2,500; assistant chief clerk, $1,800; five clerks of class 3; six clerks of class 2; five clerks of class 1; three clerks, at $1,000 each; two clerks, at $900 each; in all, $39,000.

Mr. OVERSTREET. Mr. Chairman, I move to strike out the last word. I would like the attention of the gentleman in charge of the bill. The paragraph the Clerk has just read never appeared before in the legislative bill, did it?

Mr. LITTAUER. It never did.

Mr. OVERSTREET. Will the gentleman state the reason for putting it in the bill now?

Mr. LITTAUER. It is inserted here at this time by particular recommendation of the Postmaster-General and the Second Assistant Postmaster-General.

Mr. OVERSTREET. Did the gentleman and his committee put into the bill all of the recommendations of that Department?

Mr. LITTAUER. I can not say that we put them all in.

Mr. BURLESON. In matters of that kind we have.

Mr. LITTAUER. This is the only matter of this particular kind in the bill. We felt that the Superintendent of the Railway Mail Service, situated here in Washington, reporting daily to the Second Assistant Postmaster-General, was properly within the sphere of this legislative bill, although the bill had never before carried it, and on the express recommendation of the Postmaster-General and the Second Assistant Postmaster-General we were led to believe that this was the right place to carry it.

Mr. OVERSTREET. Is the gentleman familiar with the expenses that pertain to this particular office—the official expenses in regard to traveling when away from the Department?

Mr. LITTAUER. We understand that the officials we are providing for in this item are stationed in Washington.

Mr. OVERSTREET. Is the gentleman familiar with the fact that there is a provision for expenses, and I will ask him whether or not he has provided for that expense account on this bill?

Mr. LITTAUER. We have not. All the contingent expenses have to come out of the contingent fund of the Department.

Mr. OVERSTREET. Mr. Chairman, I move to strike out, on page 133, all of the language included in lines 5 to 14, inclusive, and upon that I wish to be heard.

The CHAIRMAN. The gentleman from Indiana is recognized.

Mr. OVERSTREET. Mr. Chairman, ever since the position of the General Superintendent of the Railway Mail Service and the officials connected with that office were originally created, the items pertaining to their service have been carried on the appropriation bill controlled by the Committee on Post-Offices and Post-Roads. It is left for this Committee on Appropriations to reach out and take from another committee of the House items included in the provisions of their bill. This particular item would, in my judgment, be subject to a point of order, but for the protection of the rule, which in common with my colleagues I have helped to throw around the managers of this bill as a protection to the service. But if we are to permit the Committee on Appropriations to take over all of the items which it pleases them to assume control over, it will not be long before they have absorbed the jurisdiction of the other committees of this House, which, under the rules, have had given to them certain provisions for appropriation.

Now, Mr. Chairman, the gentleman from New York [Mr. LITTAUER] has stated that under the recommendation of the Second Assistant and the Postmaster-General they have inserted this provision here for the reason that these officials are a part of the Post-Office Department. It has not been left for the Appropriations Committee or for the Postmaster-General to determine whether or not these officials are a part of the Post-Office Department. That has been determined by the legal branch of the Government, and I cite the committee to a decision of an assistant attorney of the United States, which appeared in the report of 1905, on page 812, official opinion No. 922, rendered March 27, 1890. The syllabus of this opinion is in the following language:

> The position of General Superintendent of the Railway Mail Service was created by departmental regulations. Such superintendent is not an officer of the Post-Office Department, and is not entitled to appoint minor officers. His function is merely to superintend the Railway Mail Service.

Under that decision it is clearly found, as I believe, that this same official could be located in the city of Washington or in San Francisco equally well and still properly discharge the duties of the service under his immediate jurisdiction. In this same opinion the Assistant Attorney-General stated, speaking of the General Superintendent of the Railway Mail Service:

> He is not employed in the Post-Office Department proper. He holds no status as a bureau officer. He is not included in the organization of the Department.

At another part in the opinion he says:

> The practice has grown up of referring to and treating the office over which he presides as a bureau, or regarding it as a part of the inside workings of the Department, contrary, as I believe, to the original intent and to the spirit of subsequent enactments.

This particular official does nothing except superintend the Railway Mail Service, included within which are all of the railway-mail employees. The assistant superintendents of the general superintendent—some of them—have headquarters in the city of Washington at the Department. Why does this committee not include the assistant superintendents and not limit themselves to the general superintendents, because their duties are under him, and some of them retain their headquarters in the Department for months at a time and longer in many instances? I take it that this Committee of the Whole is not prepared to turn over to the Appropriations Committee the power to absorb from other committees of this House matters which from the period of their origin have been carried in other appropriation bills, and been carried properly.

The CHAIRMAN. The time of the gentleman has expired.

Mr. LITTAUER. Mr. Chairman, the Committee on Appropriations does not desire to have any controversy over this action which the chairman of the Committee on Post-Office and Post-Roads evidently regards as the equal of larceny. We find in the annual estimates, as submitted to the Committee on Appropriations, an estimate for this force. We find a statement in the annual report of the Postmaster-General wherein he states that he had made up his mind that there was conflict of authority and duplication of work by much of the organization of the Post-Office Department as it existed here in Washington, and he makes certain recommendations for the benefit of the service.

Mr. STAFFORD. Does he in those hearings state in any particular that there was any duplication of service so far as this particular branch of the service is concerned?

Mr. LITTAUER. I will come to what the Second Assistant Postmaster-General says.

Mr. STAFFORD. I would like to have the gentleman cite me to the page to support that position.

Mr. LITTAUER. The Second Assistant Postmaster-General, who has had in charge the Railway Mail Service for many years, testified with reference to the legal decision to which the chairman of the Committee on Post-Office and Post-Roads, the gentleman from Indiana [Mr. OVERSTREET], has just referred. I read from the hearings:

> Mr. TAWNEY. Under the decision of the Attorney-General, is he not a part of the Department?
>
> Mr. SHALLENBERGER. I have no knowledge of any such decision.
>
> Mr. TAWNEY. Some years ago there was a decision that the Superintendent of the Railway Mail Service was no part of the executive department of the Post-Office Department; the mere fact that he was housed here in Washington did not make him a departmental employee; that his duties pertained only and exclusively to the postal service and not to the Department.
>
> Mr. SHALLENBERGER. I think that must be a decision which I can not now recall, but I should assume that it must be in the same sense that the chief post-office inspector could not be a departmental officer, as he is in charge of the entire field of inspectors.

The committee will bear in mind that the chief post-office inspector has already been provided for in this bill. Mr. Shallenberger continues:

> As a matter of fact he is a departmental officer and has been so recognized.

Mr. STAFFORD. Mr. Chairman, will the gentleman yield for a question?

Mr. LITTAUER. Yes.

Mr. STAFFORD. Does the gentleman argue that because the chief post-office inspector is provided for in this bill, and that he has supervision of field work, therefore the Superintendent of Railway Mail Service and his office should be included? Also I would ask if there is not included in this bill the assistant superintendents of registry, who are exclusively occupied in field work, which should properly belong to the post-office supply bill, but which have never been appropriated for by the Post-Office Committee, as they have been provided for in the legislative bill?

Mr. LITTAUER. We do find that the legislative bill has for years provided for the chief post-office inspector and the superintendent of the rural delivery, because they are both stationed here in the city of Washington, although their work of supervision extends throughout the service.

Mr. STAFFORD. But they do not go out into the field as this general superintendent may, if occasion arises, and further provision is made for his expenses while in the field in the post-office appropriation bill.

Mr. LITTAUER. I am reliably informed that the General Superintendent does not go out in the field, and the Second Assistant Postmaster-General states the General Superintendent of the Railway Mail Service has been located for years in the Department and assigned to a bureau of the Department, reporting daily through that bureau to the Postmaster-General, just as all the others.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. OVERSTREET. Mr. Chairman, I would like to have five minutes further.

Mr. TAWNEY. If the gentleman from Indiana will yield just for a moment, I want to say one word in respect to this matter. When the Committee on Appropriations began the investigation of this reorganization of the Post-Office Department by the Postmaster-General there were no members of the committee who, I think, were in sympathy with the idea of providing for the Superintendent of the Railway Mail Service in the legislative bill. The investigation was conducted along the line of trying to convince the heads of departments that we had no right to do it and that it would not necessarily result in benefit to the service, but after the fullest investigation and the testimony of the Second Assistant Postmaster-General, as well as the Postmaster-General himself, the committee were unanimous that it would result in improving the efficiency of the service, lead to better administration, and, as they both testified before the committee, greater economy in the administration of that particular branch of the service.

Mr. OVERSTREET. Will the gentleman yield for a question?

The CHAIRMAN. Does the gentleman from Minnesota yield to the gentleman from Indiana?

Mr. TAWNEY. Yes.

Mr. OVERSTREET. Is it not a fact the Postmaster-General also recommends that the Appropriations Committee drop from its bill the assistant superintendent of registry, who was actually in the field?

Mr. TAWNEY. I think that is true.

Mr. OVERSTREET. And that your committee refused to do it?

Mr. TAWNEY. And I think the reason it was not done is due to the fact that the legislative bill has always heretofore carried this provision.

Mr. OVERSTREET. Exactly so.

Mr. TAWNEY. And the Committee on the Post-Office and Post-Roads would not, therefore, provide in their supply bill for this particular branch of the service.

Mr. OVERSTREET. May I ask another question? Is it not also true that the Postmaster-General recommended that you drop from the legislative bill the special agents of the classification division and you refused to do it?

Mr. TAWNEY. I do not recall any recommendation of the Postmaster-General on that point.

Mr. OVERSTREET. You seem to remember very particularly, however, this one recommendation.

Mr. TAWNEY. I do, because I was opposed originally to including it in this bill. The Committee on Appropriations has no pride of opinion in regard to this matter at all. We acted upon the recommendation of the Department when convinced, as we all were, that it would improve the service to do so.

Mr. GARDNER of New Jersey. Mr. Chairman——

The CHAIRMAN. Does the gentleman from Minnesota yield to the gentleman from New Jersey?

Mr. TAWNEY. In just one minute, if the gentleman from New Jersey will pardon me. The argument made by the Postmaster-General and the Second Assistant Postmaster-General in favor of doing this overcame the objections of the members of the Committee on Appropriations, and we inserted it with a view of submitting it to the House, with the testimony of the two men, as to whether or not it would lead to better administration and greater economy in the carrying on of the work of the Department than if this Bureau continued outside of the Department, as heretofore. There were reasons given by the Second Assistant Postmaster-General which, I think, if the gentlemen had the time to read the testimony, would lead them to the same conclusion to which we were led, although we were not originally in favor of the proposition, and it is not a matter of any consequence to the Committee on Appropriations whether it stays in or goes out. It is only a question as to whether or not this Bureau, which is located here in the Department and which reports to the Postmaster-General every day or to the Second Assistant Postmaster-General every day, should be treated separately and distinct from the departmental service and as a part of the field service in regard to the postal service of the country. That is the only question. I now yield to the gentleman from New Jersey.

Mr. GARDNER of New Jersey. Mr. Chairman, I wish, while the gentleman is on that feature, it could be stated how the efficiency and economy of an officer of the Department, as you claim, could be affected by the question of what bill he gets his pay from.

Mr. TAWNEY. I asked that same question. I asked the Second Assistant Postmaster-General. I can not refer to his testimony now, but I think the gentleman from New York has it, and he can answer the question; but my recollection is the Second Assistant Postmaster-General so stated.

Mr. LITTAUER. I would like to call the attention of the committee, with the permission of the gentleman, to the statement, in the hearings, of the Second Assistant Postmaster-General, in charge of this service. After describing its establishment, and after referring to the railway mail establishment, he continues in these words:

> At a later date the rural delivery was established in much the same way, and the clerical force of the superintendent having charge of the entire field service were on the postal-service bill. Later on the rural-delivery clerical force at headquarters was recognized on the legislative bill by act of Congress. Now, to make the organization complete and systematic, the Postmaster-General has felt, and is quite in earnest in that belief, that the General Superintendent of the Railway Mail Service, being the last remaining supervising official acting in the Department proper, should be recognized on the pending legislative appropriation bill. He has felt that it would be consistent with the organization already in fact secured.

Now, that was the reason we acted, and we acted in absolutely good faith, without any design of taking advantage of the Post-Office Committee or of any other committee.

Mr. GARDNER of New Jersey. Certainly the Committee on Appropriations have now opened their amendment to the point that it is new legislation. The Chairman says that somehow or other there is to be an economy and an efficiency to result from changing the authority for the pay of an official from one bill to another. Now, it goes without saying that that could not result without that change carried with it a difference of status, a difference of authority, and some new power. Now, the gentleman from New York rises and reads from the hearings, in which an officer of the Department attempts to show that the essential thing is that this officer, the Superintendent, be recognized by an act of Congress in the appropriation bill as a departmental official. That means, in brief, a statement that the purpose here is to overcome a ruling of the Attorney-General that this official is not a departmental officer, by having him recognized as such in the legislative, executive, and judicial appropriation bill, and that by authority of this legislation he is hereafter to be recognized as a departmental officer and to have a status and to have a power that he does not now possess. So that by the argument of the chairman, by so much of the hearings as is read by the gentleman from New York, they would establish the fact that the purpose is not only to take this official out of the post-office appropriation bill, but to change his status, thus making this a piece of far-reaching legislation which will make the officer a departmental official.

Mr. CRUMPACKER. If the gentleman will permit me to interrupt him, I have been listening to this debate with a view of getting some information about the question in controversy, and my feeling has been if it was simply a conflict between the fat-bellied Committee on Appropriations and the lean and hungry Committee on the Post-Office, my sympathies would seem to me to be with the Committee on the Post-Office. But the gentleman from New Jersey has undertaken to inform the committee that it affects a question of administration. If it does, of course it is important for the Committee of the Whole to know it. I would like to know to what extent the power of this officer would be increased by having the salary and expense carried in

the legislative bill over and above what would belong to it if it were provided for through the post-office bill? I do not understand where the increase of power and dignity comes from.

Mr. GARDNER of New Jersey. That is the very thing, Mr. Chairman, which I have been trying to make clear to the understanding of the gentleman from Indiana, and to impress upon the other members of the committee.

Mr. CRUMPACKER. The gentleman has simply made an assertion, without giving us the theory or the facts supporting his position. I am not willing, notwithstanding I have great confidence in the judgment and truthfulness of the gentleman from New Jersey, to take his statement. I think we ought to have something more than a blank assertion of fact.

Mr. GARDNER of New Jersey. Now, there has been no blank assertion. I fear the gentleman was not listening to the chairman of the Post-Office Committee, who read a decision of the Attorney-General that this is not a departmental official. That opinion is conclusive. The chairman of the Committee on Appropriations tells us this recognition in this bill is going to work economy and efficiency. That means he is going to have a different status or it could not occur. A case arose that was decided out of his attempt to appoint a subordinate, which the Attorney-General held that he could not do, because he was not a departmental officer. Everything read by the gentleman from New York about the importance of having him legislatively recognized as a departmental official was proof that he would have a different status. The purpose of recognition in this bill is to give a new and different status to the official to whom it applies. If the gentleman from Indiana has not understood that, it is not my fault.

Mr. TAWNEY. Will the gentleman from New Jersey permit an inquiry?

Mr. GARDNER of New Jersey. Certainly.

Mr. TAWNEY. Now, I want to consider this matter fairly and candidly, without any feeling of interfering with any other committee——

The CHAIRMAN. The time of the gentleman has expired.

Mr. TAWNEY. I want to ask the gentleman from New Jersey——

The CHAIRMAN. If there be no objection, the gentleman from New Jersey will be recognized for five minutes.

Mr. TAWNEY. I want to ask the gentleman from New Jersey whether, in his judgment, he thinks we are better qualified to determine what is for the best interests, in the matter of the details of the service, than the heads of the Departments, who are charged with the responsibility of administering the service? And if the heads of the Departments ask that this particular branch of the service be brought into the departmental service, in the interest of better administration, whether we are not justified in following their recommendations? And if we do it, what harm then can come to anybody? It matters not to the Committee on Appropriations, and I take it that it does not matter to the Committee on the Post-Office and Post-Roads, which committee reports in favor of this proposition.

Mr. CRUMPACKER. Let me ask the gentleman from Minnesota a question. Does this change enlarge the powers or increase the duties and responsibilities of this official?

Mr. LITTAUER. In no way.

Mr. TAWNEY. No; it limits the powers of the Superintendent of the Railway Mail Service in this. There is no other officer in the Post-Office Department who can detail clerks from any branch in the service. The Superintendent of the Railway Mail Service can detail any number of clerks, from any branch of the Department, into the Railway Mail Service. He may detail any number that he may see fit, for the reason that the law prohibiting the detailing of employees from one Department to another is not applicable to the Superintendent of the Railway Mail Service, as he has not heretofore been held to be a departmental officer; and that is one of the instances, as I now recall it, given by Mr. Shallenberger, where the service and the efficiency of it would be very greatly improved.

Mr. GARDNER of New Jersey. Mr. Chairman, in reply to the question asked by the chairman of the Appropriations Committee, as to who was best qualified to determine these things, of course, that is simply the old, old question, and carried to its logical conclusion it means that Congress ought not to determine anything, but leave the whole service to the discretion of the several Departments.

Mr. TAWNEY. I do not admit that, if the gentleman will pardon me. I submit, however, that in view of their recommendations the question ought to be considered on its merits, without reference to the jurisdiction of either committee.

Mr. GARDNER of New Jersey. Well, we are trying to consider it on its merits. Now, if it were not for the reservation in the rule the appropriation for every part of the Post-Office service, from the Postmaster-General to the carrier in Alaska, would have gone to the Post-Office Committee; but the rule reserved to the Appropriations Committee the executive, legislative, and judicial bill.

Mr. MADDEN. Will the gentleman allow me to ask him a question there?

Mr. GARDNER of New Jersey. One moment. Now, the question is, What ought to be in the bill? There was no absolute authority anywhere for drawing that line, but it was drawn between the things that appertained to the Department as created by statute and to the service. The question here is, To which bill does this officer belong? The Attorney-General holds that he does not belong to the Department. That is the law. If this bill operates to transfer him, then it is new legislation, originated in the Committee on Appropriations. Now, the gentleman asks, "What is the importance of it?" You may say there is none or you may say there is much. I do not care what answer you give, but that raises the question. For what are the rules created? If we are going to ride down the rule in this case, let us ride it down in every case where, in the judgment of gentlemen, it would work better if changed. I think I know how the members of the Post-Office Committee feel about this, and what they want to do is to enforce the rule—to allow this committee to appropriate for everything that belongs to it, and to leave to the Post-Office Committee the things which belong to it. The unvarying course of authorities from the desk is that the Departmental service belongs to these gentlemen and that the other part of the service belongs to the Post-Office Committee, and the Attorney-General holds that this official is not a departmental officer. That is the whole case.

Mr. LITTAUER. I move that debate on this paragraph and amendments close in five minutes.

Mr. OVERSTREET. I should like a little time.

Mr. LITTAUER. Then I make it ten minutes.

Mr. SHACKLEFORD. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. SHACKLEFORD. According to the rule, is not debate on this amendment exhausted?

The CHAIRMAN. Construing the rule strictly, it permits, upon an amendment, one argument in favor of it and one argument against it.

Mr. SHACKLEFORD. Have not those arguments been made already?

The CHAIRMAN. They have.

Mr. SHACKLEFORD. Then I make the point of order.

Mr. LIVINGSTON. I move to strike out the last word.

The CHAIRMAN. The gentleman from Georgia [Mr. LIVINGSTON] moves to strike out the last word.

Mr. SHACKLEFORD. I make the point of order that that is not germane to this amendment, and that there is an amendment pending.

The CHAIRMAN. The gentleman from Georgia is in order to move to amend the amendment. The gentleman from Georgia is recognized.

Mr. LIVINGSTON. Mr. Chairman, if I can get the attention of the committee for a moment, I want to suggest that this is not a question between the Committee on Appropriations and the Committee on the Post-Office and Post-Roads. We have no right to make that a question. The question before every man in this House is, What is best for the administration of the Department? As the gentleman in charge of the bill stated, we were utterly opposed to inserting this matter in this bill for the very reason that the gentleman from New Jersey [Mr. GARDNER] just stated—that it was not in line with our former conduct as to the legislative bill. The Postmaster-General himself and the Second Assistant Postmaster-General, who is specifically in charge of this Railway Mail Service, convinced us that they could administer the Post-Office Department, not only with more ease and facility, but with less expense and with fewer irregularities, if we would consent to take the statement and follow the recommendation of the Second Assistant Postmaster-General. Now, then, it is not for the Appropriations Committee to determine what is best in the line of administration for that Department or any other. Neither is it justifiable on the part of any man on this floor to come into this House and say that the Committee on the Post-Office and Post-Roads is the better committee to judge of it. The Department, through its official head, ought to determine this matter, and it did determine and convince the Committee on Appropriations that we ought to make the change. What are you going to do—take the quibblings and the reasons given on that side from the Committee on the Post-Office and Post-Roads, or the reasons given on this side by the Appropriations Committee? No. Take

the reasons given by the Department itself and settle this question and you have done your duty.

Mr. LITTAUER. The gentleman will agree with me in saying that they sought us to do this and that we were convinced against our inclination.

Mr. LIVINGSTON. The gentleman states the exact fact.

Mr. SMITH of Kentucky. I want to know how they convinced this committee that it would save so much to the Government by getting this through the legislative bill rather than through the Post-Office bill?

Mr. LIVINGSTON. By absolutely producing the facts to the committee like any other testimony is presented to the human mind and human judgment. That is the way it was done.

Mr. TAWNEY. If the gentleman from Georgia will allow me, I would like to read the answers to the questions put by the gentleman from Georgia [Mr. LIVINGSTON] to the Second Assistant Postmaster-General.

Mr. LIVINGSTON. I will yield to the gentleman.

Mr. TAWNEY. I read from the hearings:

Mr. LIVINGSTON. You began to give some reasons why the general superintendent should be put under the Department's control, and you mentioned the detailing or transferring of clerks from the field into the office, independent of the civil service and independent of your wishes or the wishes of the Postmaster-General. Is not that really the touchstone with him as to his objection? You stated a moment ago that the general superintendent was not in sympathy with this recommendation?

Mr. SHALLENBERGER. Yes, sir.

Mr. LIVINGSTON. And in answer to Mr. TAWNEY you stated one specific case and I supposed you would give others. The one illustration you gave him was that a man simply running on the line from Greenville to Atlanta could be transferred into the office here and that the civil service or nobody else could interfere with that; that he has absolute control and changes his clerical force in the building here under his immediate supervision as he desires. If he goes under the Department's control, as recommended by the Postmaster-General, that man would have to be transferred through the civil service?

Mr. SHALLENBERGER. Yes, sir.

Mr. LITTAUER. And that that was one abuse which this proposition might prevent?

Mr. SHALLENBERGER. I did not say it was an "abuse."

Mr. LITTAUER. Not an abuse, but a privilege which would be wiped out.

Mr. LIVINGSTON. Is there any other reason why that ought to be done?

Mr. SHALLENBERGER. There are several reasons. It would unify and systematize the methods prevailing in the Department with reference to the payment of employees. All our clerks are paid by the disbursing officer of the Department, for instance, on rolls which the Postmaster-General approves. Those rolls provide for so many clerks of this class and so many clerks of that class, and those clerks are responsive to the Postmaster-General in any one of the various bureaus or divisions of the Department, but when it comes to this particular class of clerks who are continuously employed in the office of the General Superintendent of the Railway Mail Service they are not included within that class, they are not on the roll paid by the disbursing clerk.

It is simply to bring the clerks employed here in the Department under the absolute control of the heads of the Department under the rules and regulations that govern and control the Department. It is upon that basis the head of the Department requested the Committee on Appropriations to take this action.

Mr. LIVINGSTON. Mr. Chairman, I commend to the gentleman from Kentucky [Mr. SMITH] that testimony. Any man who will take five minutes to go over it will be convinced, if he is an intelligent man, that the Committee on Appropriations did the right thing, notwithstanding in the early investigation we were utterly opposed to it. I hope, Mr. Chairman, that the amendment will not prevail.

Mr. STAFFORD. Mr. Chairman, the members of the Committee on the Post-Office and Post-Roads are quite willing that this question should be decided, not on jurisdictional grounds, but on its merits.

Mr. LIVINGSTON. That is where it should go.

Mr. STAFFORD. The question before the committee is not whether we should follow the recommendation of the Post-Office officials, but which committee of this House is better able to supervise their recommendations as to matters pertaining to the postal service. Can it be claimed by anyone, even by the distinguished gentlemen that constitute the Committee on Appropriations, that they are better versed in matters on post-office affairs, and therefore better able to pass intelligently on the needs of the service, than the committee whose sole province is postal matters? The inevitable conflict when the Appropriations Committee provides for service that belongs to the Post-Office Committee is evidenced in items in this very bill which have already been cared for in the post-office supply bill. And yet this condition must continue to confront the different committees if one committee is given the right to assume jurisdiction that belongs to another committee.

Mr. LITTAUER. Which bill was reported first?

Mr. STAFFORD. It is not a question which bill was reported first. It is a question which committee had the hearings first and which committee has heretofore provided for that service.

Mr. SLAYDEN. Mr. Chairman, will the gentleman yield for a question?

Mr. STAFFORD. I will for a short question, because my time is limited.

Mr. SLAYDEN. If we had not adopted the general 13-inch-gun rule under which we are operating the gentleman could have put this out of this bill on a point of order, could he not?

Mr. STAFFORD. Clearly so.

Mr. SLAYDEN. I will ask the gentleman if he voted for the rule?

Mr. STAFFORD. I voted for the rule, because I thought there were sufficient merits in the proposition to convince a majority of the membership of this House that it belonged to the Post-Office Committee rather than to the Appropriations Committee.

Mr. SLAYDEN. The gentleman put out of his own hands the ability to protect his own committee.

Mr. STAFFORD. We still have it in our hands and are going to leave it to a majority of this House, which is ample authority for us to stand on.

Mr. MADDEN. Mr. Chairman, will the gentleman yield?

Mr. STAFFORD. Yes.

Mr. MADDEN. Would the gentleman concede the right of the Postmaster-General to suggest a consolidation of the positions in his Department so that they could be brought under his immediate jurisdiction for the purpose of giving a better management of the Department than he was able to give under the method that was pursued prior to the consolidation of this position into the executive branch of the Post-Office Department?

Mr. STAFFORD. Mr. Chairman, there has been no showing made before the Committee on Appropriations that any added efficiency or any saving would result; in fact it has been shown that these very officials who are sought to be transferred, instead of getting a fifteen-day leave of absence, as provided for employees carried in the appropriation bill, will get a sixty-day leave of absence if they are transferred to the legislative bill. The gentleman from Georgia [Mr. LIVINGSTON] lays great stress on economy, and yet they appropriate for every one now employed in the service at the same salaries.

Mr. LIVINGSTON. I did not use the word "economy" in my speech at all.

Mr. STAFFORD. The gentleman from Minnesota [Mr. TAWNEY] did, and I will transfer that statement to him.

The CHAIRMAN. The time of the gentleman has expired.

Mr. OVERSTREET. Mr. Chairman, under the rule relative to jurisdiction of committees, it is provided that subjects relating to the Post-Office and Post-Roads, including appropriations for their support, shall be considered by the Committee on the Post-Office and Post-Roads. The general superintendent of the mails deals exclusively with the superintendence of the post-roads, and, under that rule, which I have just read, his particular duties would fall under the jurisdiction of the Committee on the Post-Office and Post-Roads.

But, Mr. Chairman, I wish particularly to call the attention of the Committee of the Whole House to this situation. The chairman of the Committee on Appropriations and the gentleman in charge of this particular bill have laid much stress upon the recommendation of the Postmaster-General for the transfer of this particular item to the legislative bill; but, sir, the same recommendation which went to the chairman of the Committee on Appropriations contained the further recommendation that the assistant superintendents of the registry division and of the classification division be dropped from the legislative bill and transferred to the bill controlled by the Committee on the Post-Office and Post-Roads. The gentlemen, as guardians of the appropriations of this House, think that it is entirely proper for them to assume the jurisdiction where it has been recommended, but they spurn the idea of releasing jurisdiction from their own committee, even though the same letter contained both recommendations.

This very item, in the very identical language as presented in this bill, which I seek to strike out upon proper motion, is contained in the bill providing appropriations for the postal service. I have not pursued the same practice which these gentlemen have, of undertaking to absorb these other provisions although the Postmaster-General has made the recommendation, because I think that kind of arrangement ought to be effected between the two committees without contest upon the floor. I offered this committee to make that exchange, if we might do it in a proper way, but it refused, and now they insist on retaining in this bill absolute jurisdiction not only of these items recommended by the Postmaster-General to be trans-

ferred from the legislative bill into the Post-Office appropriation bill, but also to absorb two items which I shall later call to the attention of the committee and put them in their bill as well.

Now, Mr. Chairman, the point is simply this: Is the Committee of the Whole, now representing the House, to permit by its vote the Appropriations Committee to assume this particular item, and others which will follow, or are we to pursue the ordinary methods of permitting some of the committees of this House to retain a part of the labor which has been imposed upon them by the rules of the House?

I hope, Mr. Chairman, the committee will strike from the bill the language which I have suggested.

The CHAIRMAN. The question is upon the amendment offered by the gentleman from Indiana.

The question was taken; and the Chair announced that the ayes appeared to have it.

On a division (demanded by Mr. LITTAUER) there were—ayes 58, noes 22.

So the amendment was agreed to.

Mr. LITTAUER. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. OLMSTED, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 16472—the legislative, executive, and judicial appropriation bill—and had instructed him to report that it had come to no resolution thereon.

ENROLLED BILL SIGNED.

Mr. WACHTER, from the Committee on Enrolled bills, reported that they had examined and found truly enrolled bill of the following title; when the Speaker signed the same:

H. R. 14808. An act authorizing the Choctawhatchee Power Company to erect a dam in Dale County, Ala.

CONCURRENT RESOLUTION REFERRED.

Under clause 2 of Rule XXIV, the following resolution was taken from the Speaker's table and referred to its appropriate committee, as indicated below:

Senate concurrent resolution No. 20.

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, authorized and directed to cause to be made a survey and examination of the Passaic River, New Jersey, beginning at the Montclair and Greenwood Lake Railroad bridge to the present head of navigation at the city of Passaic, with a view to providing suitable navigation facilities for the needs of the city of Passaic—

To the Committee on Rivers and Harbors.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States, for his approval, the following bills:

H. R. 11467. An act for the relief of Maj. George E. Pickett, paymaster, United States Army;

H. R. 125. An act regulating the retent on contracts with the District of Columbia;

H. R. 4463. An act to amend section 2 of an act entitled "An act to provide for the appointment of a sealer and assistant sealer of weights and measures in the District of Columbia, and for other purposes;"

H. R. 4470. An act to amend an act entitled "An act to provide for the appointment of a sealer and assistant sealer of weights and measures in the District of Columbia, and for other purposes," approved March 2, 1895;

H. R. 14813. An act to amend an act approved March 1, 1905, entitled "An act to amend section 4 of an act entitled 'An act relating to the Metropolitan police of the District of Columbia,' approved February 28, 1901;" and

H. R. 15842. An act to amend an act entitled "An act to incorporate the Eastern Star Home for the District of Columbia," approved March 10, 1902.

WITHDRAWAL OF PAPERS.

By unanimous consent, Mr. STERLING was granted leave to withdraw from the files of the House, without leaving copies, the papers in the case of Jeremiah E. Waldon, Fifty-ninth Congress, no adverse report having been made thereon.

Mr. ADAMS was granted leave to withdraw from the files of the House, without leaving copies, the papers in the case of Charles H. Frank, Fifty-ninth Congress, no adverse report having been made thereon.

WAR CLAIMS.

Mr. MAHON. Mr. Speaker, in order that the consideration of the pending appropriation bill may be concluded, I ask unanimous consent to substitute Saturday for to-morrow for the consideration of bills reported from the Committee on War Claims.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

PRINTING FOR COMMITTEE ON ELECTION OF PRESIDENT, VICE-PRESIDENT AND REPRESENTATIVES IN CONGRESS.

Mr. GAINES of West Virginia. Mr. Speaker, I ask unanimous consent for the present consideration of the following resolution.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

Resolved, That the Committee on Election of President, Vice-President, and Representatives in Congress be authorized to have printed and bound such papers and documents for the use of said committee as it may deem necessary in connection with subjects considered or to be considered by said committee during the Fifty-ninth Congress.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The question was taken, and the resolution was agreed to.

REPRINT OF BILL.

Mr. PAYNE. Mr. Speaker, I ask unanimous consent for the reprint of H. R. 17453, which I am told is exhausted.

Mr. WILLIAMS. That is the denaturized-alcohol bill?

Mr. PAYNE. It is the free-alcohol bill.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. LITTAUER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; and accordingly (at 5 o'clock and 3 minutes p. m.) the House adjourned to meet to-morrow, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred by the Speaker as follows:

A letter from the Acting Secretary of the Treasury, transmitting a copy of a letter from the Surgeon-General of the Public Health and Marine-Hospital Service submitting an estimate of appropriation for purchase of quarantine station at Portland, Me.—to the Committee on Appropriations, and ordered to be printed.

A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination of Sunflower River, Mississippi—to the Committee on Rivers and Harbors, and ordered to be printed.

A letter from the Postmaster-General, transmitting an answer to the inquiry of the House as to the status of the Indiahoma Union Signal, relative to admission to the mails—to the Committee on the Post-Office and Post-Roads, and letter only ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. BURKE of South Dakota, from the Committee on Indian Affairs, to which was referred the bill of the Senate (S. 980) to ratify an agreement with the Lower Brule band of the Sioux tribe of Indians in South Dakota, and making appropriation to carry the same into effect, reported the same with amendment, accompanied by a report (No. 2737); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. NEVIN, from the Committee on the Judiciary, to which was referred the bill of the House (H. R. 20) to change and fix the time for holding the circuit and district courts of the United States for the middle district of Tennessee; in the southern division of the eastern district of Tennessee at Chattanooga, and the northeastern division of the eastern district of Tennessee at Greeneville, and for other purposes, reported the same without amendment, accompanied by a report (No. 2739); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. COLE, from the Committee on the Territories, to which was referred the bill of the House (H. R. 12872) to amend an act entitled "An act to amend and codify the laws relating to municipal corporations in the district of Alaska," approved April 28, 1904, reported the same without amendment, accompanied by a report (No. 2741); which said bill and report were

referred to the Committee of the Whole House on the state of the Union.

He also, from the same committee, to which was referred the bill of the House (H. R. 14015) to establish a fund for public works in the Territory of Hawaii, and for other purposes, reported the same with amendment, accompanied by a report (No. 2743); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. LACEY, from the Committee on the Public Lands, to which was referred the bill of the House (H. R. 15335) for the protection of game animals, birds, and fishes in the Olympic Forest Reserve of the United States, in the State of Washington, reported the same without amendment, accompanied by a report (No. 2744); which said bill and report were referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. DRAPER, from the Committee on Pensions, to which was referred the bill of the House (H. R. 2796) granting a pension to Benjamin T. Oglorne, reported the same with amendment, accompanied by a report (No. 2682); which said bill and report were referred to the Private Calendar.

Mr. LONGWORTH, from the Committee on Pensions, to which was referred the bill of the House (H. R. 3333) granting a pension to William Simmons, reported the same with amendment, accompanied by a report (No. 2683); which said bill and report were referred to the Private Calendar.

Mr. AMES, from the Committee on Pensions, to which was referred the bill of the House (H. R. 4264) granting a pension to Frances E. Maloon, reported the same with amendment, accompanied by a report (No. 2684); which said bill and report were referred to the Private Calendar.

Mr. MACON, from the Committee on Pensions, to which was referred the bill of the House (H. R. 4594) granting an increase of pension to Joshua S. Ditto, reported the same with amendment, accompanied by a report (No. 2685); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 4595) granting an increase of pension to Thomas H. Talbant, reported the same with amendment, accompanied by a report (No. 2686); which said bill and report were referred to the Private Calendar.

Mr. RICHARDSON of Alabama, from the Committee on Pensions, to which was referred the bill of the House (H. R. 5822) granting a pension to Minor L. Braden, reported the same with amendment, accompanied by a report (No. 2687); which said bill and report were referred to the Private Calendar.

Mr. BENNETT of Kentucky, from the Committee on Pensions, to which was referred the bill of the House (H. R. 6578) granting an increase of pension to James B. McWhorter, reported the same with amendment, accompanied by a report (No. 2688); which said bill and report were referred to the Private Calendar.

Mr. MACON, from the Committee on Pensions, to which was referred the bill of the House (H. R. 8046) granting an increase of pension to James T. Brown, reported the same with amendment, accompanied by a report (No. 2689); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 9257) granting an increase of pension to Nathaniel M. Stukes, reported the same with amendment, accompanied by a report (No. 2690); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 9261) granting an increase of pension to William C. Herridge, reported the same with amendment, accompanied by a report (No. 2691); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 9578) granting an increase of pension to A. B. Menard, reported the same with amendment, accompanied by a report (No. 2962); which said bill and report were referred to the Private Calendar.

Mr. CAMPBELL of Kansas, from the Committee on Pensions, to which was referred the bill of the House (H. R. 9993) granting a pension to George W. Warren, reported the same with amendment, accompanied by a report (No. 2693); which said bill and report were referred to the Private Calendar.

Mr. AMES, from the Committee on Pensions, to which was referred the bill of the House (H. R. 10494) granting an increase of pension to Hannah C. Reese, reported the same with amendment, accompanied by a report (No. 2694); which said bill and report were referred to the Private Calendar.

Mr. RICHARDSON of Alabama, from the Committee on Pensions, to which was referred the bill of the House (H. R. 11366) granting a pension to Joseph Matthews, reported the same with amendment, accompanied by a report (No. 2695); which said bill and report were referred to the Private Calendar.

Mr. CAMPBELL of Kansas, from the Committee on Pensions, to which was referred the bill of the House (H. R. 12794) granting an increase of pension to William Wiley, reported the same with amendment, accompanied by a report (No. 2696); which said bill and report were referred to the Private Calendar.

Mr. MACON, from the Committee on Pensions, to which was referred the bill of the House (H. R. 13507) granting an increase of pension to Thomas Crowley, reported the same with amendment, accompanied by a report (No. 2697); which said bill and report were referred to the Private Calendar.

Mr. RICHARDSON of Alabama, from the Committee on Pensions, to which was referred the bill of the House (H. R. 14492) granting an increase of pension to Henry Gentils, reported the same with amendment, accompanied by a report (No. 2698); which said bill and report were referred to the Private Calendar.

Mr. DICKSON of Illinois, from the Committee on Pensions, to which was referred the bill of the House (H. R. 15459) granting an increase of pension to Drucillar A. Massey, reported the same with amendment, accompanied by a report (No. 2699); which said bill and report were referred to the Private Calendar.

Mr. MACON, from the Committee on Pensions, to which was referred the bill of the House (H. R. 15501) granting an increase of pension to Elizabeth Parks, reported the same with amendment, accompanied by a report (No. 2700); which said bill and report were referred to the Private Calendar.

Mr. DICKSON of Illinois, from the Committee on Pensions, to which was referred the bill of the House (H. R. 15539) granting an increase of pension to John McConnell, reported the same with amendment, accompanied by a report (No. 2701); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 14545) granting an increase of pension to Ellen L. Nixon, reported the same with amendment, accompanied by a report (No. 2702); which said bill and report were referred to the Private Calendar.

Mr. RICHARDSON of Kentucky, from the Committee on Pensions, to which was referred the bill of the House (H. R. 15653) granting an increase of pension to Harley Mowrey, reported the same with amendment, accompanied by a report (No. 2703); which said bill and report were referred to the Private Calendar.

Mr. BENNETT of Kentucky, from the Committee on Pensions, to which was referred the bill of the House (H. R. 15762) granting an increase of pension to Hiram Storms, alias Freeman, reported the same with amendment, accompanied by a report (No. 2704); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 15768) granting an increase of pension to Mary J. Halbert, reported the same with amendment, accompanied by a report (No. 2705); which said bill and report were referred to the Private Calendar.

Mr. McLAIN, from the Committee on Pensions, to which was referred the bill of the House (H. R. 15977) granting an increase of pension to Mary E. Ramsey, reported the same with amendment, accompanied by a report (No. 2706); which said bill and report were referred to the Private Calendar.

Mr. LOUDENSLAGER, from the Committee on Pensions, to which was referred the bill of the House (H. R. 15982) granting an increase of pension to Henrietta W. Wilson, reported the same with amendment, accompanied by a report (No. 2707); which said bill and report were referred to the Private Calendar.

Mr. CAMPBELL of Kansas, from the Committee on Pensions, to which was referred the bill of the House (H. R. 16279) granting an increase of pension to Edward E. Elliott, reported the same with amendment, accompanied by a report (No. 2708); which said bill and report were referred to the Private Calendar.

Mr. BENNETT of Kentucky, from the Committee on Pensions, to which was referred the bill of the House (H. R. 16400) granting an increase of pension to James McCracken, reported the same without amendment, accompanied by a report (No. 2709); which said bill and report were referred to the Private Calendar.

Mr. AIKEN, from the Committee on Pensions, to which was referred the bill of the House (H. R. 16526) granting an in-

crease of pension to James R. Hilliard, reported the same with amendment, accompanied by a report (No. 2710); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 16530) granting an increase of pension to William H. Gautier, reported the same with amendment, accompanied by a report (No. 2711); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 16540) granting an increase of pension to Sarah M. Evans, reported the same with amendment, accompanied by a report (No. 2712); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 16541) granting an increase of pension to Ambrose Y. Teague, reported the same without amendment, accompanied by a report (No. 2713); which said bill and report were referred to the Private Calendar.

Mr. RICHARDSON of Alabama, from the Committee on Pensions, to which was referred the bill of the House (H. R. 16547) granting an increase of pension to John Rutter, reported the same with amendment, accompanied by a report (No. 2714); which said bill and report were referred to the Private Calendar.

Mr. RICHARDSON of Kentucky, from the Committee on Pensions, to which was referred the bill of the House (H. R. 16563) granting an increase of pension to P. W. Cook, reported the same with amendment, accompanied by a report (No. 2715); which said bill and report were referred to the Private Calendar.

Mr. DICKSON of Illinois, from the Committee on Pensions, to which was referred the bill of the House (H. R. 16627) granting a pension to Delilah Moore, reported the same with amendment, accompanied by a report (No. 2716); which said bill and report were referred to the Private Calendar.

Mr. RICHARDSON of Kentucky, from the Committee on Pensions, to which was referred the bill of the House (H. R. 16717) granting an increase of pension to Sterling Hughes, reported the same with amendment, accompanied by a report (No. 2717); which said bill and report were referred to the Private Calendar.

Mr. RICHARDSON of Alabama, from the Committee on Pensions, to which was referred the bill of the House (H. R. 16828) granting an increase of pension to Georgia Ann Hughes, reported the same with amendment, accompanied by a report (No. 2718); which said bill and report were referred to the Private Calendar.

Mr. BENNETT of Kentucky, from the Committee on Pensions, to which was referred the bill of the House (H. R. 16991) granting an increase of pension to Stephen Vaught, reported the same with amendment, accompanied by a report (No. 2719); which said bill and report were referred to the Private Calendar.

Mr. MACON, from the Committee on Pensions, to which was referred the bill of the House (H. R. 16930) granting an increase of pension to Virginia A. Hilburn, reported the same with amendment, accompanied by a report (No. 2720); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 16936) granting an increase of pension to Sherwood F. Culberson, reported the same with amendment, accompanied by a report (No. 2721); which said bill and report were referred to the Private Calendar.

Mr. McLAIN, from the Committee on Pensions, to which was referred the bill of the House (H. R. 16985) granting an increase of pension to Gilson Lawrence, reported the same with amendment, accompanied by a report (No. 2722); which said bill and report were referred to the Private Calendar.

Mr. BENNETT of Kentucky, from the Committee on Pensions, to which was referred the bill of the House (H. R. 16992) granting an increase of pension to John R. Baldwin, reported the same with amendment, accompanied by a report (No. 2723); which said bill and report were referred to the Private Calendar.

Mr. DRAPER, from the Committee on Pensions, to which was referred the bill of the House (H. R. 16996) granting an increase of pension to Joseph Delisle, reported the same with amendment, accompanied by a report (No. 2724); which said bill and report were referred to the Private Calendar.

Mr. HOGG, from the Committee on Pensions, to which was referred the bill of the House (H. R. 17006) granting an increase of pension to Fountain M. Fain, reported the same without amendment, accompanied by a report (No. 2725); which said bill and report were referred to the Private Calendar.

Mr. AMES, from the Committee on Pensions, to which was referred the bill of the House (H. R. 17108) granting a pension to Edith F. Morrison, reported the same with amendment, accompanied by a report (No. 2726); which said bill and report were referred to the Private Calendar.

Mr. MACON, from the Committee on Pensions, to which was referred the bill of the House (H. R. 17144) granting an increase of pension to Jesse Wiley, reported the same with amendment, accompanied by a report (No. 2727); which said bill and report were referred to the Private Calendar.

Mr. RICHARDSON of Alabama, from the Committee on Pensions, to which was referred the bill of the House (H. R. 17231) granting an increase of pension to Rachel Allen, reported the same with amendment, accompanied by a report (No. 2728); which said bill and report were referred to the Private Calendar.

Mr. LOUDENSLAGER, from the Committee on Pensions, to which was referred the bill of the Senate (S. 1378) granting an increase of pension to Thomas Claiborne, reported the same without amendment, accompanied by a report (No. 2729); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 1910) granting an increase of pension to Theodore McClellan, reported the same without amendment, accompanied by a report (No. 2730); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 1952) granting an increase of pension to Jesse Alderman, reported the same without amendment, accompanied by a report (No. 2731); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 2552) granting an increase of pension to Louise J. D. Leland, reported the same without amendment, accompanied by a report (No. 2732); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 3618) granting an increase of pension to Martha E. Wardlaw, reported the same without amendment, accompanied by a report (No. 2733); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 3817) granting a pension to Margaret Lewis, reported the same without amendment, accompanied by a report (No. 2734); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 4288) granting an increase of pension to William E. Anderson, reported the same without amendment, accompanied by a report (No. 2735); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 4473) granting a pension to Hannah C. Peterson, reported the same without amendment, accompanied by a report (No. 2736); which said bill and report were referred to the Private Calendar.

Mr. CAPRON, from the Committee on Military Affairs, to which was referred the bill of the Senate (S. 1862) for the relief of Joshua T. Reynolds, reported the same without amendment, accompanied by a report (No. 2738); which said bill and report were referred to the Private Calendar.

Mr. YOUNG, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 12802) granting an honorable discharge to Seth Davis, reported the same with amendment, accompanied by a report (No. 2742); which said bill and report were referred to the Private Calendar.

ADVERSE REPORTS.

Under clause 2 of Rule XIII, adverse reports were delivered to the Clerk and laid on the table as follows:

Mr. PARKER, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 16951) to promote and retire Maj. John W. Dillenback, retired, reported the same adversely, accompanied by a report (No. 2740); which said bill and report were ordered laid on the table.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS INTRODUCED.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. BLACKBURN: A bill (H. R. 17499) to provide for a public building at Wilkesboro, N. C.—to the Committee on Public Buildings and Grounds.

By Mr. CURTIS: A bill (H. R. 17500) to amend an act entitled "An act granting to the Choctaw, Oklahoma and Gulf

Railroad Company the power to sell and convey to the Chicago, Rock Island and Pacific Railway Company all the railway property, rights, franchises, and privileges of the Choctaw, Oklahoma and Gulf Railroad Company, and for other purposes," approved March 3, 1905—to the Committee on Indian Affairs.

By Mr. CRUMPACKER: A bill (H. R. 17501) to amend section 169 of the Revised Statutes of 1878—to the Committee on the Judiciary.

By Mr. PRINCE: A bill (H. R. 17502) amending sections 10 and 11 of an act entitled "An act providing for an additional circuit judge in the seventh judicial circuit and for the appointment of an additional judge for the northern district of Illinois and for creating an additional district in the State of Illinois, to be known as the eastern district of Illinois, and for the appointment of a judge and other officers of said district and for changing the boundaries of the districts in Illinois and for establishing places for holding court in the several districts thus created," approved March 3, 1905—to the Committee on the Judiciary.

By Mr. BEALL of Texas (by request): A bill (H. R. 17503) to provide for the erection of an Army and Navy hospital at Dallas, Tex.—to the Committee on Military Affairs.

Also (by request), a bill (H. R. 17504) to provide for the erection of an Army and Navy hospital at Hubbard City, Tex.—to the Committee on Military Affairs.

By Mr. DUNWELL: A bill (H. R. 17505) for compensation and expenses of a delegate to represent the United States at an international congress—to the Committee on the Merchant Marine and Fisheries.

By Mr. SULZER: A bill (H. R. 17506) to provide for the erection of a bronze statue to the memory of the late Samuel J. Tilden at Washington, D. C.—to the Committee on the Library.

By Mr. STEPHENS of Texas: A bill (H. R. 17507) to open for settlement 505,000 acres of land in the Kiowa, Comanche, and Apache Indian reservations, in Oklahoma Territory—to the Committee on Indian Affairs.

By Mr. PALMER: A bill (H. R. 17508) to regulate the service of process in the circuit and district courts of the United States—to the Committee on the Judiciary.

By Mr. LAW: A bill (H. R. 17509) to place the names of certain officers who served during the war of the rebellion upon the retired lists of the Army and Navy—to the Committee on Military Affairs.

By Mr. HAMILTON: A bill (H. R. 17510) to provide for a reconnoissance and preliminary survey of a land route for a mail and pack trail from the navigable waters of the Tanana River to the Seward Peninsula, in Alaska, and for other purposes—to the Committee on the Territories.

By Mr. TAYLOR of Ohio: A bill (H. R. 17511) to regulate the keeping of employment agencies in the District of Columbia where fees are charged for procuring employment or situations—to the Committee on the District of Columbia.

By Mr. KNOWLAND: A bill (H. R. 17512) providing for the purchase of a site and the erection of a public building thereon at Berkeley, in the State of California—to the Committee on Public Buildings and Grounds.

By Mr. PEARRE: A bill (H. R. 17561) to authorize the restoration of the Cumberland road by the United States Government, and to provide for its reconstruction and maintenance—to the Committee on Interstate and Foreign Commerce.

By Mr. LITTLEFIELD: A resolution (H. Res. 385) providing for the consideration of the bill H. R. 5281—to the Committee on Rules.

By Mr. SIMS: A resolution (H. Res. 386) directing the House Committee on the Judiciary to formulate laws governing the municipal self-government for the city of Washington and District of Columbia—to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS INTRODUCED.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. ANDRUS: A bill (H. R. 17513) for the relief of Martha E. Terwilliger—to the Committee on Claims.

By Mr. BEALL of Texas: A bill (H. R. 17514) granting an increase of pension to Virginia C. Moore—to the Committee on Pensions.

Also, a bill (H. R. 17515) granting an increase of pension to J. J. Elliott—to the Committee on Pensions.

By Mr. BELL of Georgia: A bill (H. R. 17516) granting an increase of pension to Martha Barrett—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17517) granting an increase of pension to William M. Brown—to the Committee on Invalid Pensions.

By Mr. BLACKBURN: A bill (H. R. 17518) granting a pension to Tilman H. McCowry—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17519) granting a pension to George W. Howell—to the Committee on Invalid Pensions.

By Mr. BURLEIGH (by request): A bill (H. R. 17520) for the relief of Mrs. Albert C. Currier, of Center Montville, Waldo County, Me.—to the Committee on Military Affairs.

By Mr. BUTLER of Tennessee: A bill (H. R. 17521) for the relief of the heirs of Josiah Anthony, deceased—to the Committee on War Claims.

Also, a bill (H. R. 17522) for the relief of R. C. M. Cunnyngham and W. H. Cunnyngham, executors of the estate of Elvina Cunnyngham, deceased—to the Committee on War Claims.

By Mr. CALDER: A bill (H. R. 17523) providing for the payment to the New York Marine Repair Company, of Brooklyn, N. Y., of the cost of the repairs to the steamship Lindesfarne, necessitated by injuries received from being fouled by the United States Army transport Crook in May, 1900—to the Committee on Claims.

By Mr. CHAPMAN: A bill (H. R. 17524) granting an increase of pension to William Ewin—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17525) granting an increase of pension to John W. Leathers—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17526) granting an increase of pension to Richard Dunlap—to the Committee on Invalid Pensions.

By Mr. DAVIDSON: A bill (H. R. 17527) granting a pension to Caroline Whitcomb—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17528) granting an increase of pension to Edgar Slater—to the Committee on Invalid Pensions.

By Mr. DICKSON of Illinois: A bill (H. R. 17529) granting an increase of pension to John H. Allison—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17530) granting an increase of pension to William M. Sprinkle—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17531) to remove the charge of desertion from the record of William Brothers—to the Committee on War Claims.

By Mr. DOVENER: A bill (H. R. 17532) granting an increase of pension to Caleb Moore—to the Committee on Invalid Pensions.

By Mr. FOSTER of Indiana: A bill (H. R. 17533) granting a pension to Susan B. Comstock—to the Committee on Invalid Pensions.

By Mr. FULKERSON: A bill (H. R. 17534) granting a pension to Thomas P. Crouch—to the Committee on Invalid Pensions.

By Mr. GARDNER of Michigan: A bill (H. R. 17535) granting an increase of pension to Reuben M. Simmons—to the Committee on Invalid Pensions.

By Mr. GILBERT of Kentucky: A bill (H. R. 17536) for the relief of the estate of Leonidas Walker, deceased—to the Committee on War Claims.

By Mr. KEIFER: A bill (H. R. 17537) granting an increase of pension to Jerome B. Rowley—to the Committee on Invalid Pensions.

By Mr. KENNEDY of Nebraska: A bill (H. R. 17538) referring to the Court of Claims the claim of the heirs and legal representatives of John P. Maxwell and Hugh H. Maxwell, deceased—to the Committee on the Public Lands.

By Mr. KETCHAM: A bill (H. R. 17539) granting a pension to Ambrose D. Albertson—to the Committee on Invalid Pensions.

By Mr. KLINE: A bill (H. R. 17540) granting a pension to Orlanda M. Haas—to the Committee on Pensions.

By Mr. LAW: A bill (H. R. 17541) removing the charge of desertion from the military record of John Perdue—to the Committee on Military Affairs.

By Mr. McGAVIN: A bill (H. R. 17542) granting an increase of pension to John Cain—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17543) granting an increase of pension to Walter A. Fletcher—to the Committee on Invalid Pensions.

By Mr. McCREARY of Pennsylvania: A bill (H. R. 17544) for the relief of the heirs of Louis Tre Denick—to the Committee on Claims.

By Mr. MOUSER: A bill (H. R. 17545) granting an increase of pension to George Barne—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17546) granting an increase of pension to Samuel Cole—to the Committee on Invalid Pensions.

By Mr. PARKER: A bill (H. R. 17547) granting an increase

of pension to Florence L. M. Mentz—to the Committee on Invalid pensions.

By Mr. PAYNE: A bill (H. R. 17548) granting a pension to David J. Bentley—to the Committee on Pensions.

By Mr. SCROGGY: A bill (H. R. 17549) granting an increase of pension to William N. Sherman—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17550) granting an increase of pension to Thomas H. Roush—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17551) granting an increase of pension to Timothy Hixson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17552) granting an increase of pension to John F. Stall—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17553) granting an increase of pension to William H. Sellers—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17554) granting an increase of pension to Russell Rhoades—to the Committee on Invalid Pensions.

By Mr. STEPHENS of Texas: A bill (H. R. 17555) granting a pension to William Child—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17556) to correct the military record of William J. Simmons—to the Committee on Military Affairs.

By Mr. SULZER: A bill (H. R. 17557) granting an increase of pension to John W. Marshall—to the Committee on Invalid Pensions.

By Mr. TAYLOR of Alabama: A bill (H. R. 17558) granting a pension to Lizzie H. Prout—to the Committee on Pensions.

By Mr. THOMAS of North Carolina: A bill (H. R. 17559) for the relief of the heirs of Micajah Hardesty—to the Committee on War Claims.

Also, a bill (H. R. 17560) for the relief of the heirs of James Ward—to the Committee on War Claims.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of bills of the following titles; which were thereupon referred as follows:

A bill (H. R. 13188) granting a pension to Michael Burkhard—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER: Petition of Massachusetts State Board of Trade, against tax on hides—to the Committee on Ways and Means.

By Mr. ADAMS of Pennsylvania: Petition of Col. R. P. Dechert Council, No. 49, Daughters of Liberty, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. BEALL of Texas: Papers to accompany bill to establish Army and Navy Hospital at Dallas, Tex.—to the Committee on Military Affairs.

By Mr. BELL of Georgia: Paper to accompany bill for relief of Mary Rodgers—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of Martha Barrett—to the Committee on Pensions.

By Mr. BINGHAM: Resolution authorizing the United States to receive certain property from the American Flag House and Betsy Ross Memorial Association—to the Committee on Public Buildings and Grounds.

By Mr. BOWIE: Petition of the Brannon Printing Company and the Register, Talladega, Ala., against Post-Office Department printing name and address of writer on stamped envelopes—to the Committee on the Post-Office and Post-Roads.

By Mr. BURLEIGH: Paper to accompany bill for relief of Eulitus A. Wellman—to the Committee on Invalid Pensions.

By Mr. CAMPBELL of Ohio: Petition of Allied Board of Trade, Brooklyn, N. Y., for battle-ship construction in Brooklyn Navy-Yard—to the Committee on Naval Affairs.

Also, petition of General Federation of Women's Clubs, for investigation of industrial condition of women in the United States—to the Committee on Appropriations.

By Mr. CONNER: Petition of citizens of Boone, Iowa, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. COOPER of Wisconsin: Petition of Thomas Jenkins, of Kenosha, Wis., and Mr. H. E. Grace, Miss Metha Kass, Paul Westphal, Charles Ungembach, Chris Mortenson, and Susie Demler, against bill H. R. 12973—to the Committee on Foreign Affairs.

By Mr. DALZELL: Petition of citizens of McKeesport, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of Chamber of Commerce, New Haven, for forest reservations in White Mountains and Appalachian Mountains—to the Committee on Agriculture.

Also, petition of State Federation of Women's Clubs, McKeesport, Pa., for investigation of industrial condition of women in the United States—to the Committee on Appropriations.

By Mr. DAWSON: Petition of citizens of Iowa, against bill H. R. 7067—to the Committee on Indian Affairs.

By Mr. HENRY of Connecticut: Petition of Lady Unity Council, No. 51, Daughters of Liberty, Southington, Conn., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. HINSHAW: Petition of Fielding J. Stilson, for a new reservation for Campo Indians in San Diego, Cal.—to the Committee on Indian Affairs.

Also, petition of General Scott Post, No. 37, Grand Army of the Republic, Bluesprings, Nebr., for pension for soldiers' widows at $12 per month—to the Committee on Invalid Pensions.

By Mr. HOPKINS: Petition of Hurricane Council, No. 62; Log Lick Council; Denniston Council, No. 18; Mary Council; Green Valley Council, No. 93; Beattyville Council, No. 7; Sudith Council, No. 104; Olympia Council, No. 59; Paul Jones Council, No. 32; Beech Grove Council, No. 69; Blackwater Council; Carmel City Council, No. 49; Glencarium Council, No. 89; Lee City Council; and Paul Jones Council, Junior Order United American Mechanics, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. HOWELL of Utah: Petition of many citizens of New York and vicinity, for relief for heirs of victims of *General Slocum* disaster—to the Committee on Claims.

Also, petition of citizens of Utah, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. HULL: Petition of citizens of Iowa, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of citizens of Des Moines, Iowa, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of representative bodies of Charleston, S. C., for bill by Mr. HULL, increasing Coast Artillery—to the Committee on Military Affairs.

By Mr. KAHN: Petition of Haslett Warehouse Company, of San Francisco, for bill H. R. 11936—to the Committee on the Post-Office and Post-Roads.

Also, petition of William S. Bates, San Francisco, Cal., for bill H. R. 6035 (extension of patents)—to the Committee on Patents.

By Mr. LAMB: Petition of Lily Council, No. 3, Daughters of Liberty, Manchester, Va., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. LEE: Paper to accompany bill for relief of Hattie R. Hellings, heir of Cyrus Martin—to the Committee on War Claims.

By Mr. LINDSAY: Petition of Paul J. Donnelly et al., for appropriation for night inspection of customs—to the Committee on Ways and Means.

Also, petition of Harry Lee Post, No. 21, New York, against section 8 of legislative appropriation bill—to the Committee on Appropriations.

Also, petition of the Cahill Towing Company, against unjust pilotage laws—to the Committee on Merchant Marine and Fisheries.

By Mr. McCLEARY of Minnesota: Petition of St. Paul Credit Men's Association, against repeal of the bankruptcy act—to the Committee on the Judiciary.

By Mr. McMORRAN: Petition of Lafayette Schill et al., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. MARSHALL: Petition of General Federation of Women's Clubs, for investigation of industrial condition of women—to the Committee on Appropriations.

By Mr. NORRIS: Petition of Commercial Club, Nebraska, for 1-cent postage of letters—to the Committee on the Post-Office and Post-Roads.

By Mr. PEARRE: Petition of William S. Duvall et al., citizens of Maryland, against bill H. R. 14897—to the Committee on Interstate and Foreign Commerce.

By Mr. RHINOCK: Paper to accompany bill for relief of ———— —to the Committee on War Claims.

By Mr. TIRRELL: Petition of C. H. Foster et al, Herbert L. Hill, George A. Packard, and John J. Erwin, for repeal of

revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of A. H. Stowe and others, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. TOWNSEND: Petition of Ladies' Literary Club of Ypsilanti, Mich., for investigation of industrial condition of women—to the Committee on Appropriations.

Also, petition of General Federation of Women's Clubs, for investigation of industrial condition of women—to the Committee on Appropriations.

By Mr. VAN WINKLE: Petition of Pride of Loyal American Council, Daughters of Liberty, of Hoboken, N. J., and Brotherhood of Railway Trainmen, of Jersey City, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of citizens of Ninth Congressional district, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. WADSWORTH: Petition of E. R. Creveling & Sons, and 23 others, against a parcels-post law—to the Committee on the Post-Office and Post-Roads.

HOUSE OF REPRESENTATIVES.

FRIDAY, *March 30, 1906.*

The House met at 12 o'clock noon.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had passed bills of the following titles; in which the concurrence of the House of Representatives was requested:

S. 5381. An act to amend rule 12 of section 4233 of the Revised Statutes of the United States, relating to lights on water craft;

S. 5027. An act providing for the establishment of life-saving stations and for the construction of a telephone line on the coast of Washington between Cape Flattery and Grays Harbor in aid of the preservation of life and property;

S. 5359. An act to increase the efficiency of the Medical Department of the United States Army;

S. 5386. An act to amend an act entitled "An act to regulate navigation on the Great Lakes and their connecting and tributary waters," approved February 8, 1895; and

S. 5285. An act to amend "An act to adopt regulations for preventing collisions upon certain harbors, rivers, and inland waters of the United States," approved June 7, 1897.

SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 5381. An act to amend rule 12 of section 4233 of the Revised Statutes of the United States, relating to lights on water craft—to the Committee on Interstate and Foreign Commerce.

S. 5027. An act providing for the establishment of life-saving stations and for the construction of a telephone line on the coast of Washington between Cape Flattery and Grays Harbor, in aid of the preservation of life and property—to the Committee on Interstate and Foreign Commerce.

S. 5359. An act to increase the efficiency of the Medical Department of the United States Army—to the Committee on Military Affairs.

S. 5386. An act to amend an act entitled "An act to regulate navigation on the Great Lakes and their connecting and tributary waters," approved February 8, 1895—to the Committee on Interstate and Foreign Commerce.

S. 5285. An act to amend an act entitled "An act to adopt regulations for preventing collisions upon certain harbors, rivers, and inland waters of the United States," approved June 7, 1897—to the Committee on Interstate and Foreign Commerce.

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

Mr. LITTAUER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 16472—the legislative, executive, and judicial appropriation bill.

While the House was dividing the following occurred:

Mr. BEDE. Mr. Speaker, I voted "no"——

The SPEAKER. For what purpose does the gentleman rise?

Mr. BEDE. A parliamentary inquiry, Mr. Speaker. There were no ayes, and I voted "no." I just wanted to call up a bill from the Speaker's table if I had time before the House went into Committee of the Whole.

The SPEAKER. Well, a little later.

The motion was agreed to; and accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 16472—the legislative, executive, and judicial appropriation bill—Mr. OLMSTED in the chair.

The Clerk read as follows:

Office Third Assistant Postmaster-General: For Third Assistant Postmaster-General, $4,500; chief clerk, $2,500; superintendent postage stamp supplies and postmasters' accounts, $2,750; superintendent of system of postal finance, who shall give bond in such amount as the Postmaster-General may determine for the faithful discharge of his duties, $2,250; assistant superintendent of system of postal finance, $2,000; superintendent of classification division, $2,750; 4 special agents, classification division, at $2,000 each; chief of redemption division, $2,000; superintendent of registry sytem, $2,500; 6 assistant superintendents of registry system, at $2,000 each; 8 clerks of class 4; 21 clerks of class 3; 25 clerks of class 2; 42 clerks of class 1; 45 clerks, at $1,000 each; 7 clerks, at $900 each; 5 clerks, at $840 each; 1 clerk, $720; 1 messenger; 5 assistant messengers; 12 laborers; in all, $226,230.

Mr. LITTAUER. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The gentleman from New York offers an amendment, which the Clerk will report.

The Clerk read as follows:

On page 133, in lines 18 and 19, strike out the words "postage stamp supplies and postmasters' accounts" and insert "division of stamps;" in line 20 strike out the words "of system of postal finance" and insert "division of finance;" and in lines 23 and 24 strike out the words "of system of postal finance" and insert "division of finance."

The CHAIRMAN. Without objection, these several amendments will be considered together. The question is on agreeing to them.

The question was taken, and the amendments were agreed to.

Mr. LITTAUER. I offer the following amendment.

The Clerk read as follows:

On page 134, in line 1, strike out the words "of classification division" and insert "division of classification;" in line 2 strike out "classification division" and insert "division of classification;" in line 3 strike out "of redemption division" and insert "division of redemption;" in line 4 strike out "of registry system" and insert "division of registered mails;" in lines 5 and 6 strike out "of registry system" and insert "division of registered mails;" in lines 15 and 16 strike out "of registry system" and insert "division of registered mails;" and in lines 21 and 22 strike out "classification division" and insert "division of classification."

The CHAIRMAN. The amendments will be considered together.

The question was taken, and the amendments were agreed to.

Mr. OVERSTREET. I move to strike out the last word, for the purpose of inquiring of the gentleman from New York about this item. I wish to ask if the words "assistant superintendent of system of postal finance," in lines 23 and 24, on page 133, is a change of the phraseology or if it is a new position?

Mr. LITTAUER. It is not.

Mr. OVERSTREET. It is now carried?

Mr. LITTAUER. It is now carried and is nothing new.

Mr. OVERSTREET. Now, Mr. Chairman, I wish to ask at this point if the Postmaster-General has recommended the transfer from this legislative bill to the Post-Office appropriation bill of the provision for the special agents of the classification division and the assistant superintendent of the registry system, appearing on page 134?

Mr. LITTAUER. After the bill was reported to the House we had such a recommendation from the Postmaster-General, but that recommendation also included the recommendation which the gentleman from Indiana had stricken out of the bill last evening. All the reason he gave, or at least the only one I could comprehend, was that the provision which the Postmaster-General recommended should be inserted in this bill, and in accordance was inserted in the bill by the committee, was simply because it has always been carried in the service bill.

Mr. OVERSTREET. No.

Mr. LITTAUER. It is the only reason I could appreciate for your action.

Mr. OVERSTREET. I want to show him, and have the gentleman admit in committee, that on this particular item, on page 134, which he retains on the legislative bill, the same recommendation for transfer was made—to transfer the other item in this bill, and the gentleman gave consent to strike this out because they have been carried in this bill.

Mr. LITTAUER. My opinion and belief is that they ought to go in, and those you put out ought to go in.

Mr. OVERSTREET. I think so.

Mr. LITTAUER. And they would have been had your action been otherwise, and I know that would have been proper.

Mr. OVERSTREET. I believe so, and for that reason made the suggestion to the gentleman prior to yesterday, and he declined to do it.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

For the following employees now employed in the postage-stamp agency and appropriated for in the postal service appropriation: One clerk of class 3; one clerk of class 2; four clerks, at $900 each, and two clerks, at $840; in all, $7,440.

Mr. OVERSTREET. Mr. Chairman, I move to strike out on page 135 the language contained in lines 3 to 8, both lines inclusive.

The CHAIRMAN. Does the gentleman desire to be heard?

The Clerk read as follows:

Page 135, lines 3 to 8, both lines inclusive.

Mr. OVERSTREET. Mr. Chairman, this is the provision for what is known as the "stamp agency" of the service. Under the law the manufacture of stamps is under contract, and just now that contract happens to be with the Bureau of Printing and Engraving. It does not necessarily fall with that Bureau. The stamp agency is the check between the manufacturer and the Government, and this agency should be, and always is, located in the same place where the manufacture of stamps is carried on under the contract. If you transfer from the service bill providing for the general appropriation for the postal service these particular employees, and the next contract for manufacture, which falls next November, should go outside of the city of Washington, it would be necessary to create an entirely new corps of clerks in that agency to be located at the place of manufacture. This item has always been carried in the bill providing for the general postal service. It should be carried there.

Now, Mr. Chairman, I trust the members of the committee, as well as the members of the Committee of the Whole, will appreciate that there is nothing personal in my desire to strike this item out of this bill. I do not doubt but what the service would be equally well performed. But the orderly arrangement has been in the past for the Committee on the Post-Office and Post-Roads, having jurisdiction of what is known as the "service appropriations," to care for items of this character. It is true that the Postmaster-General has recommended a transfer of these items to the legislative bill; but, Mr. Chairman, that recommendation is upon the theory that the manufacture of stamps will continue to be performed by the Bureau of Printing and Engraving, which is located in the city of Washington.

Mr. LITTAUER. Would you continue these clerks, even though they have no work now to perform, where appropriated for, and are detailed to other work?

Mr. OVERSTREET. Oh, they are performing this work as a check between the manufacturer and the service, and it is my judgment, Mr. Chairman, that the next contract for the manufacture of stamps will not be held by the Bureau of Engraving and Printing. Now, we have provided in the Post-Office appropriation bill, which is now on the Calendar, and has been for some time, for these very identical employees, as they have heretofore been provided, and in the item appropriating for the expense of the manufacture of stamps we have carried the provision that hereafter that contract shall not be held by any bureau of the Government unless it shall be the lowest bidder. I believe this House will sustain the committee in its recommendation against the continuance of this contract by a Government bureau at a greater expense than private enterprise can perform equally good service. Now, I wish to emphasize the position which I occupy in seeking to strike this provision from this bill. The Committee on the Post-Office and Post-Roads has had full hearings upon these matters. It has considered this identical item in the bills in past years. It carries this identical item in the bill which it has already reported to this House, and I think that the Committee on Appropriations is having sufficient labor in its own field without turning over to it this additional item. I trust the committee will sustain the motion to strike this language from the bill.

Mr. TAWNEY. Mr. Chairman, I trust that the committee will not be influenced by the argument of the gentleman from Indiana to the effect that the Committee on Appropriations is seeking for more work to do or that it is attempting to infringe upon the jurisdiction of the Committee on the Post-Office and Post-Roads. Neither purpose actuated the Committee on Appropriations in inserting this provision in this bill. Members of this House are aware of the fact that the Postmaster-General has for many months been endeavoring to reorganize the postal service, especially the departmental service. In the reorganization that he has effected, and which will result in the conduct of that Department at a much less expense than has heretofore been required, he has seen fit to drop the stamp agency heretofore carried and provided for in the postal-service bill. That is the reason why that provision is carried here, providing for these clerks. There is in this bill an appropriation for these clerks in another department, which is exclusively within departmental jurisdiction.

Mr. STAFFORD. Mr. Chairman, will the gentleman yield for a question?

Mr. TAWNEY. Yes.

Mr. STAFFORD. Mr. Chairman, if the contract for the making of stamps is left to an outside——

Mr. TAWNEY. I know what the gentleman's question is going to be, and if he will wait a moment——

Mr. STAFFORD. I thought the gentleman yielded for a question. I was going to put a question.

Mr. TAWNEY. I know, but it is a question which does not relate to the point that I am discussing at this time. The Postmaster-General, I say, dropped the Washington stamp agency. That stamp agency was carried in the postal-service bill, as the gentleman from Indiana [Mr. OVERSTREET] states. It had in connection with it a number of clerks, and these clerks will be transferred by this provision into another department of the Post-Office Department which belongs exclusively to that department and is always provided for in the legislative appropriation bill. Now, if you drop the stamp agency entirely, it being in the judgment of the Postmaster-General unnecessary to the postal service, then there is nothing to be carried in the service bill in relation to the stamp agency. If you propose to continue the stamp agency with the force of clerks that is now employed here in Washington in connection with that agency, which I say the Postmaster-General recommends the discontinuance of, then I submit that the proper place to provide for those clerks who will be retained in the stamp agency is in the service bill. It is not therefore a question of jurisdiction, between the committees at all. There is not any desire on the part of the Appropriations Committee to take into this bill anything that belongs to the service bill; but this belongs here because, in the judgment of the Postmaster-General and in the judgment of the committee upon the testimony which he presented to the committee, this stamp agency here in Washington is useless and unnecessary, and it is proposed to abolish the office of agent entirely and take these clerks in the agency into the department of the Third Assistant Postmaster-General, and this provision makes appropriation for their compensation, and that is all there is in the proposition. It is one of the features incident to the reorganization of the Post-Office Department, which reorganization was instituted some months ago and has been completed by the Postmaster-General in the interest of better administration and greater economy in the public service.

Mr. CRUMPACKER. How much, if any, expense is saved by this arrangement?

Mr. TAWNEY. We abolish, under this system, the office of agent entirely; and that salary, which is not less than $2,000, is saved.

Mr. CRUMPACKER. You save the salary of that officer?

Mr. TAWNEY. Yes; and then in addition to that the clerks that are taken out of that division and transferred to the Third Assistant Postmaster-General's office will give him a force that we otherwise would have to provide for.

Mr. LOUDENSLAGER. What becomes of the agent?

Mr. TAWNEY. The office is abolished after the 1st of July, and I do not know what will become of it then.

Mr. OVERSTREET. May I ask the gentleman a question?

Mr. TAWNEY. Certainly.

Mr. OVERSTREET. Suppose the next contract for the manufacture of stamps, which must be made, under the law, next fall, should go to a contractor in New York or Chicago, would it not be necessary to have a corps of these agents?

Mr. TAWNEY. If it is necessary under that condition to continue the stamp agency or to provide for a stamp agency again it can be done. The gentleman is proceeding upon a supposition that certain things may happen in the future. The reorganization is made upon existing conditions, and if the Congress of the United States should take such action as to prevent the Bureau of Printing and Engraving supplying the Government with these stamps, and the agency then became necessary, it would be entirely competent for Congress to provide for such agency. But we are not legislating upon suppositions, we are not legislating upon what may or may not happen, we are providing for the service of the Government as it now exist under this reorganization and as it has been completed by the Postmaster-General.

Mr. OVERSTREET. One further question. The gentleman understands that the contract for the manufacture of stamps expires the 31st of next October. You are legislating for the fiscal year of 1907 and not for the present fiscal year.

Mr. TAWNEY. I understand that.

Mr. OVERSTREET. If the contract for the manufacture of stamps should go to a contractor away from Washington the 1st of next November, that would be for the last of the fiscal year of 1907. It is to that point that I make the inquiry of the gentleman from Minnesota.

Mr. TAWNEY. Now, let us suppose that the contract does not go away, then you have provided for an unnecessary service here in the city of Washington.

Mr. OVERSTREET. Not unnecessary.

Mr. TAWNEY. It is unnecessary under the present reorganization, and therefore the probability of this contract going or not going should not control the action of this committee at this time, because if it does not go away, then we have provided for an unnecessary service during the next fiscal year.

Mr. STAFFORD. Will the gentleman allow me?

The CHAIRMAN. Does the gentleman from Minnesota yield to the gentleman from Wisconsin?

Mr. TAWNEY. I do.

Mr. STAFFORD. The gentleman has said in reply to an inquiry that there would be a saving of $2,000 by discontinuing the employment of the chief clerk. Are you not providing in this bill, by a change of designation, for the same work to be performed in the Department by some official, under the name of assistant superintendent of the finance division, which has never before been carried in the legislative bill?

Mr. TAWNEY. The financial postal system has been carried in previous postal bills.

Mr. STAFFORD. The assistant superintendent of the finance division? Your hearings, at the bottom of page 528, disclose the contrary.

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

Mr. TAWNEY. Mr. Chairman, I ask unanimous consent that I may proceed for five minutes more.

The CHAIRMAN. The gentleman from Minnesota asks unanimous consent that he may proceed for five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. STAFFORD. This new office is created for the purpose of doing the work that was performed before by the chief clerk of the stamp agency. I will read from the hearings, if the gentleman will permit.

Mr. TAWNEY. Very well.

Mr. STAFFORD (reading)—

> Under the act, the date of which I do not recall, to relieve that situation the stamp agent was designated to act as assistant superintendent of the finance division, and such part of his time as is not necessary to be employed at his agency is employed now in the stamp division signing warrants; and it takes from one to five hours a day to do that.

Now, here you are providing——

Mr. TAWNEY. Go on and read the balance.

Mr. STAFFORD (reading)—

> Through the elimination of that agent we need some one to take the place and perform that service, and it is very necessary. It is the desire to have the position formerly known as "chief of the files and mails division" designated now as "assistant superintendent of the finance division" at the same salary—there is no change of salary—to perform this service.

Mr. TAWNEY. The gentleman has answered his own question by reading from the hearings.

Mr. STAFFORD. I have shown that the assistant superintendent of the finance division is to perform the same work that was performed by the other officer; that the work of the stamp agent will be performed by the man who has performed some work in the files and mails division, under the designation of "assistant superintendent of the finance division," at the same salary.

This hearing shows that from one to five hours daily is occupied by the chief clerk of the stamp agency in signing these warrants, and the rest of his time is occupied in the stamp-agency work proper; and here is some other official giving some attention to the files whose continuance is a doubtful question. We are going to transfer this work which was formerly done by the clerk of the stamp agency merely to another official under a new designation.

Mr. TAWNEY. That illustrates the manner in which the reorganization of the Post-Office Department is going to effect economies which the Postmaster-General shows that it will accomplish by consolidating these two positions—the position of stamp agent and the position of chief of the division of files and mails. If this provision remains in the bill, one man will do the work which both of these men have heretofore performed, which will save at least one salary.

Mr. STAFFORD. Is it questioned at all by the gentleman that there will be need for a stamp agency to do this work of supervision if the contract is let to a private party outside of the city of Washington?

Mr. TAWNEY. I don't know whether it will be necessary or not.

Mr. STAFFORD. The Third Assistant Postmaster-General has stated in the hearings before the Post-Office Committee that it would be necessary.

Mr. TAWNEY. I do know this, that in that event it will be necessary for the Government of the United States to have some supervision over the matter of the manufacture of stamps—the counting of them, checking of them—at the place where this work is done; but there is no necessity for this stamp agency in that event here in the city of Washington; and, as I said before, we have no evidence before us that an outside contractor is going to get this contract.

Mr. STAFFORD. But, if the gentleman will permit me, in the interim between the letting of this contract in October, 1906, and the assembling of Congress in the following December, what provision can be made by a delegation of clerks from the Department to a stamp agency that would be required for the protection of the Government, to supervise this very necessary and essential work, if this contract should be let to a contractor outside of Washington? Congress will not then be in session.

Mr. TAWNEY. The gentleman is aware of the fact that the Postmaster-General, if that service is needed outside of the city, whether the stamp agency exists or not, it will be entirely competent for him to provide for the service. He can detail men in the employ of the Government for that service.

Mr. STAFFORD. Oh, I beg to question the statement of the gentleman that the Postmaster-General has any authority whatsoever under existing law to detail clerks connected with the departmental service and provided for in the departmental bill for work in the postal service proper as distinguished from departmental work.

Mr. TAWNEY. Why, the gentleman knows that the Postmaster-General is detailing men frequently, constantly, almost daily, out of his Department to service in some other branch of the service.

Mr. STAFFORD. Not in detailing departmental clerks, and the law expressly forbids him to detail departmental clerks to work known as the "field service," which is provided for in the Post-Office supply bill.

Mr. TAWNEY. Mr. Chairman, I trust that the feeling manifested by the members of the Committee on the Post-Office and Post-Roads in this matter is not going to warp the judgment of Members of this House upon a question which pertains to the reorganization of the departmental service here in the city of Washington, which is calculated to and will have the effect of producing better administration and greater economy in the service of that Department. From the standpoint of committee jurisdiction, it matters not to the Committee on Appropriations a bawbee whether this remains in this bill or is carried in the service appropriation bill; but if we are to carry out these reforms that have been inaugurated by the head of this Department, if we are to improve the service and secure greater efficiency and greater economy in that service, then I trust that Members of the House will rise above the petty question of whether it should be in this appropriation bill or in that appropriation bill and determine the question according to their own best judgment as to what the service requires. Now, let me read from the testimony of the chief clerk of the Post-Office Department, Mr. Chance:

> Mr. LITTAUER. In the regular service bill, under the Third Assistant Postmaster-General, there appears "Pay of agent and assistants to distribute stamps," "Pay of agent and assistants to distribute stamped envelopes," and "Pay of agent and assistants to distribute postal cards." Those three provisions were submitted last year. If this additional force is taken into the legislative bill and covered into the civil service it would take care of some extra men, temporarily employed, which you now seek to eliminate from the service force?
>
> Mr. CHANCE. The entire stamp agency is located here in Washington. There is just one stamp agent here in Washington.
>
> Mr. LITTAUER. That stamp agent was carried in the service appropriation bill?
>
> Mr. CHANCE. Yes, sir; he is now. We want to transfer that force just as it stands, with the exception of the agent, and the chief of the stamp division will supervise the work.
>
> Mr. LITTAUER. What becomes of the agent?
>
> Mr. CHANCE. He is dropped out.
>
> Mr. TAWNEY. Is he now in the classified service?
>
> Mr. CHANCE. I do not know whether he is or not.
>
> Mr. LITTAUER. What will become of the clerks provided for last year?
>
> Mr. CHANCE. They are in the stamp division.
>
> Mr. LITTAUER. They will be promoted?
>
> Mr. CHANCE. This is a different crowd altogether—the agency itself. The others were people employed in the Department proper, but paid from the other roll.

"They were employed in the Department proper, but paid from the other roll," and what he means by that is that they

paid from the service roll, from the service appropriation, service outside of the city of Washington.

Mr. LITTAUER. What becomes of the force provided for there?

Mr. CHANCE. They are provided for in this appropriation, and it will be found in the same shape.

Mr. LITTAUER. Then in addition to the force provided for on page 8 of this bill this force provided for in the post-office appropriation bill to be added to the departmental service?

Mr. CHANCE. Yes, sir.

Mr. LITTAUER. That is in addition to the force on page 8?

Mr. CHANCE. Yes, sir. All the work comes over there. The work will be done in that division.

Mr. LITTAUER. Has it been done there in the past?

Mr. CHANCE. It has been done in the agency.

Mr. TAWNEY. What was the character of work they were doing in the stamp agency?

Mr. CHANCE. All requisitions for stamps go to that division, and they are looked up by the stamp agency before they are sent out to the offices.

Mr. TAWNEY. All requisitions for stamps come to the stamp division of the office of the Third Assistant Postmaster-General?

Mr. CHANCE. Yes, sir.

Mr. TAWNEY. Those requisitions are filled by the stamp division in the Third Assistant Postmaster-General's Office?

Mr. CHANCE. Yes, sir. The requisition is passed upon in the stamp division, approved, and sent over.

Mr. TAWNEY. Approved and forwarded——

Mr. CHANCE (interrupting). To the stamp agency.

Mr. TAWNEY. Does the stamp agency secure the stamps and ship them to the post-offices?

Mr. CHANCE. They transmit the requisitions to the Bureau of Engraving and Printing, and the stamps are checked up there and sent out. They are sent out by registered mail.

Now, the sum and substance of this whole proposition is simply this: We have here a stamp agency in the city of Washington that is examining the requisitions for postage stamps and checking them off and then sending them over to the Bureau of Printing and Engraving, where the stamps are manufactured. There we have another class of clerks who are again checking them and sending them out by registered mail to the postmasters throughout the country. In the reorganization of the Post-Office Department that work will be done within the division of the Department that exists there at this time, and this reorganization involves, therefore, the abolition or elimination of this particular stamp division. Now, if the Members of the House do not believe that the Postmaster-General is right in saying this service is unnecessary and that he can get along without it and that this stamp agency which to-day practically performs no function whatever that is essential to the public service, then they should strike this provision out of the bill, and this stamp agency with all of its clerks will be continued in the service appropriation bill as heretofore at the expense of the Government and for which the Government will receive nothing in return.

The CHAIRMAN. The time of the gentleman has expired.

Mr. GARDNER of New Jersey. Mr. Chairman, I hope that at least this one member of the Post-Office Committee will not exhibit any feeling in this discussion nor any concern about the mere question of from what committee an appropriation shall come. I want the Committee of the Whole to understand that that is not the question at issue here. The question is, Shall far-reaching legislation be accomplished in this guise by this transfer, confirming the reorganization and without any other reason given for it than that it conforms to organization and is within the recommendation?

Mr. Chairman, if this House wants to provide by legislation that the contract for making postage stamps and stamped envelopes shall always be given in the city of Washington, nobody would be more willing than I that the House should fairly consider that question on its merits. If this House, or the Committee of the Whole, wants to deliberately determine upon the unmixed proposition before it, that these things shall hereafter, contrary to existing law, be manufactured in the Bureau of Engraving and Printing, nobody is more willing than I that the committee and the House, after a discussion of that question shall determine upon it——

Mr. TAWNEY. Will the gentleman permit an interruption?

Mr. GARDNER of New Jersey. And I am not prepared to say I might not even vote——

Mr. TAWNEY. Will the gentleman permit a question?

Mr. GARDNER of New Jersey. Yes.

Mr. TAWNEY. Do you maintain that the elimination of this stamp agency here in Washington will necessarily result in terminating the manufacture of stamps in the Bureau of Engraving and Printing in this city?

Mr. GARDNER of New Jersey. That is what I am going to claim and try to demonstrate right now. You hit me just when I got to it. The permanent law provides that these stamps and envelopes shall be manufactured by contract. It came about at the last bidding that the Government, or a bureau of it, became a bidder against the industrial establishments of the country, and without going further into detail how it happened, it came about that that contract was given to the Bureau of Engraving and Printing. Now, the stamp agencies, which the gentlemen are seeking to destroy, or to transfer into the Department, are absolutely essential to the administration of the contract, for it is an inspection for filling of orders anywhere in the country outside of the city of Washington, and I want to say further that the same work, the same things, the same counting, the same checking, the same everything is just as necessary in the city of Washington as it would be in the city of New York or the city of Buffalo. But now it comes about that because they are being made right here on the ground the departmental officials say we can cover that stamp agency into the Department, and they ask for this legislation.

Now, suppose the Committee of the Whole keeps this provision in this bill and the House adopts it. The very purpose of the Department is fulfilled by legislation when this House was not even under the suspicion that it was passing legislation at all. Then the Third Assistant at the next bidding can say, "Why the law contemplates that this contract shall hereafter go to the Bureau of Engraving and Printing." Congress has transferred the employees from the field force to the Department; Congress has determined that the officials who look after this, who count the stamps and send them out, who check them, who do everything, shall be departmental officials and employees, and, more than that, Congress has taken away all the machinery for administering the contract in any other place than the city of Washington. I do not see how the Postmaster-General is going to give a contract hereafter in any other place because you take away the machinery for its administration; and let me add a sentence, that this is in effect a piece of far-reaching legislation, settling it that the work hereafter is to be performed in Washington, repealing or superseding the contract law as effectually as if it were a lengthy statute for that specific purpose.

Mr. CRUMPACKER. Mr. Chairman, we have heard from members of the Committee on Post-Office and Post-Roads reasons why the motion to strike this paragraph from the bill should be sustained. We have heard arguments from members of the Committee on Appropriations why the motion ought not to prevail. Now, I want to submit a few observations from the standpoint of an interested bystander, as a representative in a way of orderly government and of economic administration, having no choice between the personal controversies of these two great committees. Yesterday we struck out of the legislative appropriation bill a paragraph that the chairman of the Committee on the Post-Office and Post-Roads, on whose motion we struck it out, admitted that logically ought to have remained in the bill, and that the provision or paragraph was placed in the bill upon the recommendation of the Postmaster-General. And I helped to strike it out because when we came to hear the whole question it occurred to me there was not much of vital importance in the controversy, but here members of the Committee on Appropriations have stated to the Committee of the Whole House that by retaining this appropriation in the legislative bill there will be a saving of at least $2,500 a year, and therefore there is a substantial reason why this provision should remain in that bill. It involves the abolition of the office of stamp agent, and therefore, Mr. Chairman, I think the provision should remain in this bill. Gentlemen representing the Committee on the Post-Office and Post-Roads admit that the arrangement contained in the legislative bill will result in a saving of money to the Government. My friend from New Jersey [Mr. GARDNER], however, fears that it foreshadows a policy that will result in the permanent manufacturing of postage stamps by the Bureau of Engraving and Printing.

I do not know whether that should be the result or not; but it seems to me that is the place where postage stamps ought to be printed. It has been suggested to me that it costs the Government more to print them there than by contract with individuals. In what way? I can not see why it should cost more. In reckoning the cost, gentlemen include a relative share of the entire cost of maintaining the Bureau. If you strike this provision out, do you abolish the Bureau of Printing and Engraving? The public must still maintain that Bureau; they must maintain and pay the rest of the Superintendent and pay the staff surrounding the Superintendent of that Bureau; must pay the expense of lighting and heating, and these expenses have been going right along. The question is how much can be saved in making stamps in that Bureau. Eliminate the fixed element of cost and the stamps can be printed as cheaply, if not more cheaply, in the Bureau of Printing and Engraving as they could under private contract. If by making this change we could abolish the Bureau of Printing and Engraving and save the

cost of superintendence, heating and lighting, and other expenses of that Bureau it would be another question; but we have got to pay it anyhow, and why not let the Bureau print the stamps?

Now, Mr. Chairman, in the interest of economy, I propose to vote against the motion to strike out the paragraph. I have a great respect for both of these committees. They are both great legislative organisms, presided over by able and distinguished Members of this body; but I do not like to see members of committees wrangling with each other simply for the prestige of having control of this or that kind of legislation. I think the question ought to be, and I am sure it will be, determined solely upon the proposition as to whether there are any business reasons for the change. If there be business reasons for it, if it will save money to the Government to leave the provisions in the legislative bill, I am sure that the Members of the House will vote to leave it there. If it will not, if it is better economy, better business to transfer the provision to the post-office and post-roads appropriation bill, then I am sure the members of the Committee of the Whole House will vote to make the transfer. But from the arguments that have so far been made from the facts that have been presented to the committee, it seems to me there is but one course to pursue, and that is to vote down the motion to strike out the paragraph and save the Government at least $2,500 a year by doing so.

Mr. GOULDEN. Mr. Chairman, I am opposed to section 8 of the pending bill, as contrary to the practice and custom of this Government from its foundation to the present time, unless a service pension is provided for those who have passed the so-called "age limit." I shall oppose it as an injustice to a most deserving class of faithful public servants.

I recall the time when, as a member of the New York City board of education, I aided in the passage of a retirement law for those no longer able to perform their duties as teachers. It was found that many had been in the schools for more than forty years doing faithful work.

The women who had taught thirty years, and were incapacitated, were retired on half pay.

Thirty-five years were required for the men. We have to-day thoroughly capable and efficient men teachers, particularly, above the age of 70 years. No retirement is permitted unless the person is incapacitated, either mentally or physically.

This law has proven a grand success, relieving the schools of an incubus that was weighing it down, not on account of age, but of physical and mental disability, and at the same time placing faithful servants in a comfortable position for the remainder of their lives.

Many men and women at 70 are far more able and efficient than others at 60. I have in mind now the widow of an officer who was killed during the civil war, 82 years of age, a zealous and efficient clerk in the Treasury Department. This is not an exceptional case. There are many other notable cases of men and women above the age of 70 doing good faithful work in the various Departments.

If this proposition becomes law, or is ever seriously considered, it should exempt the brave men who so loyally served their country in the days of 1861 to 1865, and in the war with Spain. They are entitled to that much consideration at the hands of Congress. Let us hope that the nation has not forgotten their patriotic services. Failure in this respect is a sign of the decline of our Republic and of base ingratitude, for which the American people will not stand. You gentlemen of the Appropriations Committee will find it difficult to justify your recommendations before the people next fall, I apprehend.

If this proposition ever becomes law I shall have fears for the future of the Republic. In this connection I desire to read an original poem received from an old and brave soldier—Gen. Horatio C. King, of Brooklyn, N. Y., the secretary of the Society of the Army of the Potomac—written on this proposed legislation.

"GET OUT OF HERE AND DIE."—THE VETERAN'S LAMENT.

Well, Mary Ann, the jig is up;
  I've tramped the livelong day,
And not a friendly hand was raised
  To help me on my way.
"O give me work or I must starve,"
  I plead with tearful eye,
"Oh, you're too old—go drown yourself.
  Get out of here and die."

I wore my medal on my breast,
  That Congress gave, you know,
When I plunged in that fire of hell
  Near fifty years ago.
The General said I saved the day,
  For we were near beat out;
The reenforcements turned their flank
  And drove them in a rout.

The Government—I've tried that, too;
  But though it resolutes
To give the vet'ran preference,
  It does it when it suits
The district leader's surly views,
  That's mighty seldom, for
It's easier to throw us down
  With civil-service law.

So, Mary Ann, just pack my things;
  It ain't no use to try.
There's scarce a morsel in the house—
  If I stay here I'll die.
Perhaps the Soldiers' Home ain't full,
  Maybe they'll take me in;
And then good-by to home and friends,
  To country, and to kin.

I wish to include as a part of my remarks the able and patriotic letter of Comrade James Tanner, commander in chief of the Grand Army of the Republic, bearing on this subject and addressed to the chairman of the Committee on Appropriations.

[From the Grand Army Journal, March 17, 1906.]

MY DEAR MR. TAWNEY: In the report of the House Committee on Appropriations, submitting the legislative and judicial appropriation bill (Report No. 2171, current session, dated March 9, 1906), occurs the following, under the caption "Limitations with respect to the appropriations made in the bill and not heretofore imposed are recommended as follows:"

"SEC. 8. After June 30, 1906, there shall not be employed, in any Executive Department or other Government establishment in the District of Columbia, any person in the classified service who is 65 years of age and under 68 years of age at a rate of annual compensation exceeding $1,400, or who is 68 years of age and under 70 years of age at a rate of annual compensation exceeding $1,200, or who is over 70 years of age at a rate of annual compensation exceeding $840, and after June 30, 1912, no person in the classified service shall be continued in the employment of any such Executive Department or other Government establishment (*) who has attained 70 years of age."

(* The words "in the District of Columbia," omitted here, and not to judge from the context, because of any scarcity of ink.)

So far as indicated by anything in the report, this recommendation came from the full committee, yet, were the same rule to be applied to those in high as in low places, three members of your committee would have been debarred from signing it, the distinguished Speaker of the House, so active that many people fear he must be reckoned with in 1908, would have to withhold his approval unless you hurry the bill through before May 7, while of the thirteen members of the Senate Committee on Appropriations, who have the last guess at this bill, east of the White House, whose average age is 67, all but four, two Democrats and two Republicans, and they by a tight squeeze, would be recused from consideration of your automatic "time register," upon its arrival at the northern wing of the Capitol. A whole lot of people have been having trouble concerning time registers and the like lately. It has been handed down to me since before I began to read, that "he who is faithful in a few things shall be ruler over many," but you reverse all this and enact that the aged man may do great things but shall not be a hewer of wood nor a drawer of water. I think you'd better take water on this proposition, respecting which I have a few earnest words to say to you.

The operation of the proposed penalty for loyal and faithful service would fall so heavily upon those who bore the burden of the battle in the Union Army that I must treat it as if they were the sole beneficiaries. It is for them, my comrades, I speak. I am indignant to shirk this duty I owe them, and could not if I would. They stood with me when to stand meant victory then, that the Congress of the United States should meet ever since and now in Washington instead of Richmond; that the Stars and Stripes should float forever and always over all, emblematic of a united, prosperous, happy country. I venture to say that you won't find a Confederate soldier behind your bill. At this moment I indorsed an earnest request to our soldier President to honor a Confederate brigadier, whom your proposed "limitation" would remove from the waiting list, because, when having the power to promote or discharge a large number of my comrades he placed his recommendation in the hands of his superior if a single one of them was to be disturbed. They are holding down the same desks to-day, with exceptional ability, too; and a delegation of them have just left me filled with the gratitude common to all but republics.

To a proposition that shall provide for a fair reduction when, in individual cases, by the deterioration of his mental or physical faculties a man is incapacitated from measuring up to the full requirements of the service, I have no objection to present, but that condition is now amply provided for by existing law as you can make it. The Departments now have power to demote or discharge for incapacity or any other cause, or for no cause—a power, reviewable by no tribunal, that for a century and a quarter has been absolute. Under it old men and young are daily been assigned, both by promotion and reduction, to the duties for which best fitted. You propose that the almshouse shall be the veteran's refuge in life, and perhaps, after you've kicked him out to "rattle his bones over the stones," will deny him burial in consecrated ground; close against him the gates of Arlington.

When you make a rule arbitrary as this one would be, taking no account of the preservation of faculties and the ability to do full service more valuable to the Government by reason of long years of experience—I have serious objection to it; and when I consider this legislation with reference to my comrades of the Union Army, I have a most positive protest to register in advance of the consummation of the wrong.

According to the best estimate we can make, 75,000 of the Union Army are now living. Providence has blessed these men with a vast aggregation of sons and sons-in-law, and I can not be far out of the way when I assert that the survivors of "the vanishing army" and their allied domestic relations aggregate nearly or quite 5,000,000 voters in this land. Few of this number but directly or indirectly would be affected by the proposed legislation. Many, it is true, only remotely, but as to the veteran and his wife and dependents the reduction and dismissal from wage-earning work, not because of any lessening of wage-earning capacity, but because the old man of to-day was here long enough ago to help save his country in his country's hour of need comes directly home, so the humiliation will be felt by his children and his children's children so long as history endures.

My dear Mr. Chairman, there is a dead line in legislation respecting the saviors of the nation as perfectly marked as at Andersonville, around which no enemy may go. Let me beg you to pause before you attempt to cross it under the belief that the sentry is asleep, and to the only words of praise for the bridge that many times and oft carried you to safety, and, like the belfry in the market place of Ghent, "Thrice burned down and thrice rebuilded, still watches o'er the town."

You may pass this unjust, cruel, monstrous law while the stars remain in the flag and the memories of men and women are not stricken with paresis, but before you do I hope you'll hear Whitcomb Riley recite "Good-bye, Jim; tek keer o' yourself!"

The sage Epictetus once remarked that man never does an unusual thing without a motive. What, I pray you, is behind this mysterious attack upon the Union veteran at this peculiar juncture in affairs? It can not be from any supposed necessity, because, as I have shown, the departments now possess ample authority to prune for incapacity. Is it the copperhead section of the effete East allied to the few western States into which its overflow has wandered? Is it the abnormal, sick greed of young and comparative incapacity which sighs for the men's shoes? Is it playing politics with existing law and conditions? Is it retaliation for the just and humane order that age should be considered a rateable disability in adjusting pensions? Then you're striking the wrong man, although you couldn't hurt him worse than over the shoulders of the helpless veteran. If because the victims of this legislation are nearly all Union veterans, if they are the real and only objective, and because of their services, why not come out in the open and say so, or else say that is not your meaning by exempting them? Is it the dandruff from the sore heads of 1903? I have exhausted the list of possible explanations.

When the victorious columns of Grant, Sherman, and Sheridan marched down Pennsylvania avenue in 1865, they found swung across the Treasury a great banner bearing the legend, "The only debt this country can never repay nor forget is the debt it owes its defenders." Was this "Lest we forget?"

On March 3, 1865, almost forty-one years to a day from the action of your committee, when every nerve in this country was stretched to the breaking and every man and fragment of a man able to hold a gun was encouraged, even impressed, to hold it, when the whole world wondered if the pendulum would swing back again, the Congress at Washington adopted the following joint resolutions now enacted into the Revised Statutes, viz:

SEC. 1754. Persons honorably discharged from the military or naval service by reason of disability resulting from wounds or sickness incurred in line of duty shall be preferred for appointments to civil offices, provided they are found to possess the business capacity necessary for the proper discharge of the duties of such offices.

SEC. 1755. In grateful recognition of the services, sacrifices, and sufferings of persons honorably discharged from the military and naval forces of the country, by reason of wounds, disease, or the expiration of terms of enlistment, it is respectfully recommended to bankers, merchants, manufacturers, mechanics, farmers, and persons engaged in industrial pursuits to give them the preference for appointment to remunerative situations and employments."

There was an implied promise in this that no citizen would dare to disregard if made in his private business, and because of it, perhaps more than any other one cause, a million men went home from the field of war to the quiet, everyday pursuits of peace without disturbance or excitement. A grateful people, grateful then, promised even the disabled work and pay; you cast out the hale and halt alike; condemn the soldier for living—until now.

March 3, 1903, there was taken from the House Committee on Reform in the Civil Service, of which Mr. GILLETT of Massachusetts, now your committee, was chairman, and against his vigorous protest, the only measure so honored during the late lamented Speaker Henderson's term, a bill to amend section 1754, Revised Statutes, supra, so as to apply its provisions to all honorably discharged soldiers and sailors both in the matter of appointment and retention in civil offices and employments. Under suspension of the rules this bill was passed by an overwhelming majority of the House and sent to the Senate, where it failed by reason only of the confusion attending the closing hours of the session; but it marked the sentiment of the House of the Fifty-seventh Congress.

Chapter 287, act approved August 15, 1876, page 120, Supplement Revised Statutes, reads:

* * * *Provided*, That in making any reduction of force in any of the Executive Departments the head of such Department shall retain those persons who may be equally qualified who have been honorably discharged from the military or naval service of the United States, and the widows and orphans of deceased soldiers and sailors."

With the following all of us are familiar:

"EXECUTIVE ORDER.

"The attention of the Departments is hereby called to the provisions of the laws giving preference to veterans in appointment and retention. The President desires that whenever the needs of the service will justify it and the laws will permit preference shall be given alike in appointment and retention to honorably discharged veterans of the civil war who are fit and qualified to perform the duties of the places which they seek or are filling.

"THEODORE ROOSEVELT.

"WHITE HOUSE, *January 17, 1902.*"

When you reflect that all of the above statutes, Executive orders, and long practice would be repealed by your proposed section 8, I think I do not charge me with extravagance in characterizing the introduction thereto in your report, "Limitation not heretofore imposed," as the mildest-mannered expression ever used to scuttle the ship of state.

This letter is, of course, you understand, wholly impersonal. I happen to be the official representative of my comrades as you are of the powerful committee that, like "the hand that rocks the world," dominates the affairs of the nation.

I write not in anger but in deep sorrow, for it is my country and my comrades with whom I've so long touched elbows in whose name this wrong is being done. They counted not the cost in the days of their youth, health, and strength; now they're almost at the turn of the tide; nearly all in. For years they have given to the Government civil life the same earnest, hard-working, faithful, loyal service that they gave in time of war; for years to come their very experience will be of incalculable value. Your bill makes their superior competency an absolute disqualification because of the years taken to acquire it. In the civil service, as in the Army or Navy, it is the "man behind the gun" upon whom we lean most heavily; who does the things that get into general orders under some one else's name; but what would we do without him?

This subject is one which, by the very emphasis of our declining years, stands closer to the representatives of "the vanishing army" than any other obligation on earth except to our God and country. I shall be pardoned therefore, I am sure, for speaking long and feelingly.

Our comrades in the Government are, by the circumstances of their positions, powerless to defend themselves. I beg you to speak for instead of against them if you can not leave them alone.

With the assurance of my distinguished consideration, I have the honor to be,

Truly, your obedient servant,

JAMES TANNER,
Commander in Chief.

Hon. JAMES A. TAWNEY,
Chairman Committee on Appropriations,
House of Representatives, Washington, D. C.

Mr. LITTAUER. I move that debate upon this paragraph be closed in eight minutes.

The CHAIRMAN. The gentleman from New York asks the committee that debate upon this paragraph and amendments thereto be closed in eight minutes.

Mr. OVERSTREET. Make it ten minutes; I want to have a few minutes myself.

Mr. LITTAUER. I ask unanimous consent that debate be closed, Mr. Chairman, in ten minutes; that five minutes be occupied by the gentleman representing the Committee on the Post-Office and Post-Roads and five minutes by myself.

The CHAIRMAN. The gentleman from New York asks unanimous consent that debate upon this paragraph and all amendments thereto close in ten minutes; five minutes of the time to be occupied by the gentleman on the Committee on the Post-Office and Post-Roads and five minutes by the gentleman from New York. Is there objection? [After a pause.] The Chair hears none.

Mr. STAFFORD. I will ask to be recognized four minutes, reserving by agreement with the chairman of the committee one minute to him.

The CHAIRMAN. The gentleman will be recognized for four minutes.

Mr. STAFFORD. I wish at the outset, Mr. Chairman, to disclaim any feeling whatsoever on the part of the Committee on the Post-Office and Post-Roads as to retaining this legislation in the Post-Office bill, and stating without reservation that our duty purpose is for the best interest of the service. Here we have an item carried in the Post-Office appropriation bill of more than half a million dollars for the manufacture of postage stamps, and the great Committee on Appropriations, that seems to be so throughly versed in this subject, argues that because there may be a possible saving of $1,000 by the elimination of the chief clerk of this agency, this stamp agency should be abolished and the supervision of the manufacture of stamps, in case the contract is let during the coming year to a private contractor, and before the assembling of Congress, would be lacking. There is at present in the Post-Office supply bill provision for two other agencies of a like character, for the supervision of the postal cards and stamped envelopes manufactured at different places by private contractors.

Do away with this postal agency, according to the arguments made by the Committee on Appropriations, and the result is merely this: That it seeks to change the designation of the chief clerk of the stamp agency and with the clerks transfer them to the departmental service, and have them continue in the same identical class of duties without any other change. This contract for the manufacture of stamps runs for four years and will be let before the next assembling of Congress. If this agency is done away with, there will be no authority on the part of the departmental officials to detail any clerks to supervise the service, under half a million-dollar contract, in the manufacture of Government postage stamps, which is the same thing as Government money. And yet this committee, under the plea of economy, asks us to take that unheard-of step when we are on the brink of letting this contract for four years, and to discontinue this agency.

I say that, granting all possible strength to the argument made by the Committee on Appropriations and the gentleman from Indiana [Mr. CRUMPACKER], it would be well for this committee to hesitate until the next legislative session before discontinuing this stamp agency, and see whether this contract is going to be let to the Bureau of Engraving and Printing or to an outside concern. The Third Assistant Postmaster-General stated in the hearings before the Post-Office Committee that this contract may very likely be let to an outside private concern. The law to-day vests him with that privilege, to let it to the lowest bidder, whether a private contractor or public agency. If you are going to cut off this agency now and later let a contract for this work to a private concern next October, to run for three months without any supervision whatsoever, you are undertaking a step that is going to result not in economy, but perhaps in great recklessness and great possible

loss to the Government. It is false economy for the members of the Committee on Appropriations to say that there will be a saving when they are only detailing another official to do work that is now performed by the chief clerk. To safeguard the interests of the Government this stamp agency should be continued; and if so, it properly belongs to the postal service and should be carried in the Post-Office supply bill.

I yield the balance of my time to the chairman of the Committee on the Post-Office and Post-Roads [Mr. OVERSTREET].

Mr. LITTAUER. Mr. Chairman, I want to call the attention of the committee to a few facts. The manufacture of postage stamps has for a dozen years been carried on at the Bureau of Engraving and Printing, here in Washington. It has necessitated an increase of plant, and I believe some extension of the building. We have a well-equipped manufacturing plant now for making these stamps. I notice that the gentlemen of the Post-Office and Post-Roads Committee who are deriding our attempt to save money here submit in the bill that will shortly be considered by this House, not the provision for the manufacture of adhesive stamps and special-delivery stamps carried in their service bill last year, for which there was an appropriation of $420,000, but they seek this year to change existing law, and, from their statements, one would expect economy, for certainly there could be no other purpose in their proposal to change existing law. They submit as follows:

For the manufacture of adhesive postage stamps, special delivery stamps, and books of stamps, $550,000.

This year's appropriation, $420,000; next year's proposal, $550,000, but they add to this large increase for this purpose the proviso that is going to bring around the economy, and which of course changes existing law:

Provided, That no contract for the manufacture of adhesive postage stamps, special delivery stamps, or books of stamps, shall be made by the Government with any Department or Bureau of the Government at any higher rate than offered for the same work by any responsible private contractor; nor shall the bid of such Department or Bureau be at a price below the cost of such work to the Government.

Now, evidently these gentlemen are taking great care to see that this work of manufacturing postage stamps shall be, if possible, taken away from the Bureau of Engraving and Printing; and how the economy is coming about I can not understand, for here the Government stands with its plant, prepared to do this work, and the Bureau of Engraving and Printing evidently must have produced the stamps needed with the appropriation of $420,000 during the current year. Here comes the submission of a proposed item of $550,000 for next year for exactly the same work and, of course, all in the line of economy. Now, I know as a fact for years past the stamp agency has been of no use, and there have been repeated attempts made to get rid of the chief of this division.

Mr. OVERSTREET. Will the gentleman permit a question?

Mr. LITTAUER. Yes.

Mr. OVERSTREET. Why do you not provide for the pay for the manufacture of these stamps?

Mr. LITTAUER. I am addressing myself now to what is before the committee and not to anything that does not concern the legislative, executive, and judicial appropriation bill. The clerks have been transferred to other work in the Departments. The Department comes to us and says, "We do not need this chief. We can save $2,500 a year."

Mr. STAFFORD. I beg the gentleman's pardon—$2,000.

Mr. LITTAUER. Two thousand five hundred dollars, I have been told. Moreover, this $2,500 stamp agent is provided for in the postal-service bill in this indeterminate fashion:

For pay of agent and assistants to distribute stamps, and expenses of agency, $11,280.

A lump sum for the agency, including all salaries. We take it over in this bill on the advice of the head of this Department, so that it will result in a saving, realizing that the work of the stamp agency is not being performed. We submit it here, providing for these clerks, but providing for each one of them at a specific salary—one clerk of class 3, one clerk of class 2, four clerks at $900, and one clerk at $840—in detail, as the provision for such forces ought to be made. We put these clerks in the bill here to take the place of other clerks who otherwise would have had to be employed. We think that we are doing what is right, under existing circumstances. We do not look forward to a change of existing law under the postal-service bill.

Mr. LIVINGSTON. If the gentleman will permit me, there are two points that I wish the gentleman would make; one is that we have expended hundreds of thousands of dollars in a plant for this work; the other is that the last time we contracted for the manufacture of these stamps they were inferior and not by any means satisfactory.

Mr. LITTAUER. I feel that I have called the attention of the committee to the fact that we have an elaborate plate plant established here, where stamps are produced in a satisfactory way. I do not believe it can be good policy for us to throw obstacles in the way of turning out work where it is now going on in a satisfactory manner. The only object of continuing the agent is to provide for the contingency that would arise provided the contract was taken away from the Bureau of Engraving and Printing.

Mr. OVERSTREET. Mr. Chairman, just a word. It is immaterial where the stamps are manufactured. It is necessary, however, that wherever they are manufactured there should be some agency on the part of the Government as a check in the count of these stamps and save the Government harmless from any loss by fraud of the contractor. As a matter of fact, the agent and the clerks are not now in the Department. They are in a separate building in the city of Washington because the contract is in this city. If the contract should go away the agency would go away also.

It has been carried in this form for years in the bill providing for appropriations for the postal service, and for the first time in the history of the Government an attempt is made to pass upon this bill by the Committee on Appropriations. I sincerely hope the committee will sustain the motion and strike the language from the bill.

The question was taken; and on a division (demanded by Mr. OVERSTREET) there were—ayes 28, noes 53.

Mr. OVERSTREET. I ask for tellers, Mr. Chairman.

Tellers were ordered.

The Chair appointed as tellers Mr. OVERSTREET and Mr. LITTAUER.

The House again divided; and the tellers reported that there were—ayes 47, noes 55.

So the amendment was rejected.

Mr. LITTAUER. Mr. Chairman, I ask unanimous consent to return to the last paragraph read. In the confusion I omitted to offer some verbal changes in the line of others already adopted.

The CHAIRMAN. The gentleman from New York asks unanimous consent to offer an amendment to a paragraph which has already been passed.

Mr. OVERSTREET. What paragraph does the gentleman refer to?

Mr. LITTAUER. At the bottom of page 134, the previous paragraph to the one we have been discussing. I want to offer an amendment there in line with those already adopted; they are merely verbal changes.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 134, line 2, strike out the words "classification division," and insert "division of classification;" on page 134, lines 15 and 16, strike out the words "of registry system" and insert "division of registry mail;" lines 21 and 22 strike out "classification division" and insert "division of classification."

The amendments were considered and agreed to.

The Clerk read as follows:

Office Fourth Assistant Postmaster-General: For Fourth Assistant Postmaster-General, $4,500; chief clerk, $2,500; superintendent rural free-delivery service, $3,000; supervisor of rural free-delivery service, $2,000; 2 clerks of class 4; 4 clerks of class 3; 15 clerks of class 2; 41 clerks of class 1; stenographer, $1,600; stenographer, $1,200; 36 clerks, at $1,000 each; 42 clerks, at $900 each; page, $480; 3 messengers, 7 assistant messengers, and 6 laborers; in all, $202,900.

Mr. LITTAUER. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

In line 20, page 135, strike out the words "rural free-delivery service" and insert "division of rural delivery;" in line 21 strike out the words "supervisor of rural free-delivery service" and insert "assistant superintendent division of rural delivery."

Mr. LIVINGSTON. May I ask the gentleman what is intended by this amendment?

Mr. LITTAUER. It is just a change of verbiage.

Mr. LIVINGSTON. As I understood the amendment, it is to strike out the word "rural."

Mr. LITTAUER. This is the language which the Postmaster-General asks to insert.

Mr. LIVINGSTON. There are two deliveries—the rural free delivery and the city delivery.

Mr. LITTAUER. We have got this language exactly as the Postmaster-General recommended. It contemplates no change in the service whatever.

Mr. LIVINGSTON. Does it make the superintendent of the rural free delivery the superintendent of the city delivery?

Mr. LITTAUER. Mr. Chairman, I ask that the amendment be again reported.

The CHAIRMAN. If there is no objection, the Clerk will again report the amendment.

The Clerk again read the amendment.

Mr. LIVINGSTON. The amendment simply strikes out the word "free."

Mr. LITTAUER. That is all.

The amendments were considered, and agreed to.

The Clerk read as follows:

DEPARTMENT OF JUSTICE.

Office of the Attorney-General: For compensation of the Attorney-General, $8,000; Solicitor-General, $7,500; assistant to the Attorney-General, $7,000; 5 Assistant Attorneys-General, at $5,000 each; Assistant Attorney-General of the Post-Office Department, $4,500; solicitor of internal revenue, $4,500; Solicitor for the Department of State, $4,500; 2 assistant attorneys, at $3,000 each; 4 assistant attorneys, at $2,750 each; assistant attorney, $2,000; 2 assistant attorneys, at $2,750 each; 1 assistant attorney, $2,000; 1 assistant attorney, $2,000; assistant attorney in charge of dockets, $2,500; law clerk and examiner of titles, $2,700; chief clerk and ex officio superintendent of the building, $2,500; superintendent of buildings, $250; private secretary to the Attorney-General, $2,500; clerk to the Attorney-General, $1,600; stenographer to the Solicitor-General, $1,600; 2 confidential clerks, at $1,600 each; 2 law clerks, at $2,000 each; 1 law clerk of class 4; attorney in charge of pardons, $2,100; disbursing clerk, $2,750; appointment clerk, $2,000; 5 clerks of class 4; 9 clerks of class 3; 4 clerks of class 2; 8 clerks of class 1; telegraph operator and stenographer, $1,200; 1 clerk, $1,000; 11 clerks, at $900 each; chief messenger, $1,000; 2 messengers; 6 assistant messengers; 4 laborers; 3 watchmen; engineer, $1,200; assistant engineer, $900; 3 firemen; 2 conductors of the elevator, at $720 each; 8 charwomen. Division of accounts: Chief of division of accounts, $2,500; chief bookkeeper and record clerk, $2,000; 3 clerks of class 4; 5 clerks of class 3; 7 clerks of class 2; 6 clerks of class 1; 2 clerks, at $900 each; 1 packer, $840; in all, $220,360.

Mr. LITTAUER. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Page 140, line 5, after the word "thousand," insert the words "four hundred."

Mr. LITTAUER. Mr. Chairman, this is purely to correct a typographical error. We are simply restoring the salary to what it now stands in current law, but in the printing of the bill the words "four hundred" were omitted.

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

That clerks employed on June 30, 1905, under the appropriation "Insular and Territorial affairs, Department of Justice," may be, in the discretion of the Attorney-General, transferred to the places provided for them under the appropriation "Salaries, Department of Justice, 1907," without reference to the act entitled "An act to regulate and improve the civil service of the United States," approved January 16, 1883, and without reference to the rules and regulations promulgated thereunder.

Mr. FITZGERALD. Mr. Chairman, I offer an amendment to strike out that paragraph.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 141, strike out the paragraph beginning with line 12 down to and inclusive of line 21.

Mr. FITZGERALD. Mr. Chairman, if it had not been for the extraordinary rule adopted by the House I would have made a point of order against this provision. I was somewhat surprised that the gentleman from Ohio [Mr. GROSVENOR] should not have excepted this particular provision from the operation of the rule, recognizing his stanch friendship for the civil-service system of the United States. Some time prior to 1905, by reason of extraordinary conditions existing in the affairs of the Government, a temporary force of clerks was authorized and employed in the Department of Justice in the insular and territorial division. Since that time the necessity for these clerks has ceased. They are no longer utilized in the temporary employment for which they were obtained. They have been since that time utilized by the Department of Justice in the transaction of the ordinary affairs of that Department. I am unable to ascertain from the hearings the number of clerks that are to be covered into the service by this provision. This illustrates how the expenses of administration have grown so enormously during the past few years without Members of Congress having been able to keep track of them. Here is a force of clerks never estimated for by the Department for its ordinary work, never contemplated by Congress to be added to the ordinary force of the Department, but by this innocent provision covered into the civil-service force and permanently added to the regular force of the Government. This is not an isolated case. Two or three years back some sixty-six clerks obtained for temporary purposes in the War Department during the war with Spain by a similar provision, if I be not mistaken, in this legislative bill were also added to the permanent force of clerks in the War Department. These clerks have not been estimated for by the Department in the ordinary and usual manner as necessary for the transaction of its business. They were obtained because of great emergencies, because of extraordinary conditions that existed in connection with the obtaining of the insular possessions during the Spanish war.

When those conditions ceased these clerks should have been dropped from the service of the Government. Instead of doing that, the Department of Justice has worked these men into places in its regular force, so that it has increased its permanent force by this staff, which costs twenty-five thousand and some odd dollars.

Mr. Chairman, although it is a vicious way to increase the force of this Department without the committee giving some scrutiny or having an opportunity to investigate as thoroughly as if the Department had regularly estimated for them, I have still another objection to this provision. It takes men who were appointed to office through favoritism, influence—political influence—selected by men who had the opportunity to put them in office temporarily, and fastens them into the permanent clerical force of the Government, while the average candidate for a place in the Government—the citizen in my district, the citizen in the districts of every other Member of this House, unless with that peculiar influence that would obtain a place in this temporary force—is compelled to take the civil-service examination and to wait his turn.

Mr. LITTAUER. Mr. Chairman, will the gentleman permit me to ask him a question?

The CHAIRMAN. Does the gentleman yield?

Mr. FITZGERALD. Yes.

Mr. LITTAUER. How many places are transferred in this force?

Mr. FITZGERALD. I have just stated that the hearings do not disclose that.

Mr. LITTAUER. Let me tell the gentleman that there are nine and that five of them are exempt from civil-service regulations.

Mr. MANN. Mr. Chairman, will the gentleman from New York yield to allow me to ask a question?

Mr. FITZGERALD. Yes.

Mr. MANN. Is it not true that the President, by Executive order amending the civil-service rules, could transfer these clerks without the action of Congress?

Mr. LITTAUER. He could.

Mr. MANN. What is the object in having Congress direct the President to do something that he could do himself?

Mr. LITTAUER. This makes provision by action of Congress for these four men in the classified service. I suppose the President, by order, could hardly have covered any clerks into the service. He could cover them in, I suppose, if he wanted to classify them.

Mr. MANN. The President could use the same language in a rule which the committee uses here, and has frequently done so with reference to these temporary clerks. I think this is the first case where Congress——

Mr. LITTAUER. Oh, no, no.

Mr. MANN. These things have usually gone out on points of order, and the President has usually then made his Executive order.

Mr. LITTAUER. No; I think the temporary clerks in the War Department were transferred into the regular service by action of Congress.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. FITZGERALD. I ask that my time be extended for five minutes.

The CHAIRMAN. The gentleman from New York asks unanimous consent to proceed for five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. GAINES of Tennessee. Mr. Chairman, I want to ask the gentleman from New York a question on a little bit of ancient history in regard to temporary clerks. What has become of about 1,600 Spanish war temporary clerks, who were covered in, as it were, or made, by a sweeping provision in some one of the appropriation bills, a part of the permanent force of the Treasury Department?

Mr. LITTAUER. The Treasury Department?

Mr. GAINES of Tennessee. Well, some Department.

Mr. LITTAUER. I think you will find that the largest force of temporary clerks was in the War Department, and they were covered in after a number of years of elimination; that a large part of the temporary clerks was covered regularly into the service.

Mr. GAINES of Tennessee. They are still in?

Mr. LITTAUER. They are still in and will probably remain in.

Mr. GAINES of Tennessee. And the Spanish war is ended?

Mr. LITTAUER. I am not going to defend the practice in general, but let us come to the facts in this particular case.

Mr. GAINES of Tennessee. I wanted to find out about that because I protested against it, and the gentleman from New York is the gentleman who had it done. The record will show that.

Mr. LITTAUER. Oh, we did that after three years of calling the attention of the War Department to it and telling them to take out fifty clerks next year, and eliminating them in that number, and when we got it down to a basis that they said the services of these clerks were necessary and through experience they had become efficient, then we put the proposition to the House, and the House accepted it, and what was left of the temporary clerks were transferred into the permanent force.

Mr. GAINES of Tennessee. The House did not unanimously, for I stood up here and protested against it.

Mr. LITTAUER. I did not say unanimously.

Mr. GAINES of Tennessee. I stood up here and fought it not only on the parliamentary proposition, but on the merits of the case. Now, I presume, they are permanently foisted upon the Government, although we have peace.

Mr. LITTAUER. And we have no testimony before us at present that their services are not required.

Mr. GAINES of Tennessee. And you put them in after the war was over, too; changed them from the status of temporary to permanent clerks.

Mr. FITZGERALD. It did appear in this very session of Congress, Mr. Chairman, that the clerical force in the War Department is costing $60,000 more to-day than it did during the time of the Spanish war, when the greatest number of clerks was needed.

Mr. GAINES of Tennessee. And they are working day and night.

Mr. FITZGERALD. The gentleman from New York says this is a small matter; it only covered four clerks. Well, it happens in this instance that perhaps there are only four left. Fortunately it must be, indeed, for us, Mr. Chairman, that it does not cover forty-four, because I am confident that my colleague could plead just as eloquently for the forty-four as he does for these four clerks who have been covered. Nine places altogether, at an expense of $25,000.

Mr. LITTAUER. Sixteen thousand nine hundred dollars, please.

Mr. FITZGERALD. I read:

Mr. LITTAUER. On page 247 of the bill I see that the appropriations for the office of the Attorney-General for last year were $211,040, plus an additional amount of $25,000 carried in the sundry civil bill for insular and Territorial affairs.

Mr. LITTAUER. Oh, let me state to you, $25,000 was appropriated and but $16,900 used.

Mr. FITZGERALD. Well, then, whatever it may be, $16,600, at any rate, covered these four clerks. More fortunately, then, that the entire $25,000 had not been used; but I am opposed to this system, this method of increasing the force in the Departments. These clerks have never been estimated for in the ordinary and lawful manner provided by law. No estimate has been made for these clerks, but the request comes from the Department that they be covered into the service in violation of the law and in detriment to the interest of every clerk who is on the civil-service list waiting the opportunity to which he is entitled to be taken in in compliance with the law. Now, it is said——

The CHAIRMAN. The time of the gentleman has expired.

Mr. FITZGERALD. I will ask two minutes to conclude.

The CHAIRMAN. The gentleman asks unanimous consent that his time be extended for two minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. FITZGERALD. One of the reasons urged for this method of taking employees into the Government service is that they are peculiarly efficient; that the head of the Department originally having the right of selection, has exercised it in a manner that has resulted in better clerks than he could obtain through the civil-service law; that by reason of their experience they have become so efficient that the Government should not lose their service. That argument, Mr. Chairman, is urged by every head of a Department that comes before the committee asking for increases in the clerical force. If it it be not good, if the reasons be accurate, then the civil-service law should be repealed. If the civil-service system is proper, and the law is good, then it should be enforced without any favoritism and the permanent employees in the Government taken into the service under the operations of the law.

Mr. LITTAUER. Mr. Chairman, I will make a short statement with reference to this item. For a number of years, not prior to, but subsequent to the Spanish war, the sundry civil appropriation bill provided $25,000 for insular and territorial affairs of the Department of Justice. We found last year that this lump sum appropriation was being carried along from year to year and determined, and so instructed, that in the present year regular estimates of the force and salaries paid should be submitted to Congress. The Department called attention to the fact that it did not use the entire appropriation, but that there were nine assistant attorneys and law clerks and other clerks paid for out of this fund, aggregating, in all, salaries of $16,900, that the particular purposes of the bureau were not sufficient to keep the force employed, and they were doing general work, and the Department desired that these individuals should be covered into their regular force, there being necessity for their services during the coming year, as there had been in the past. They suggested to us that as so large a number of this force was subject to the civil-service regulations, only four of these being outside of the civil service, and these four having demonstrated that they were well able to conduct the work, that they were efficient clerks, and recommended that we transfer the entire force within the classified service. Now, it is true, that we do, as to these four clerks, violate proper civil-service regulations, but here are clerks performing this work, having performed it for a number of years satisfactorily to the Department, and we felt that it was but in the proper line of legislation to cover them in altogether, and so recommended.

Mr. MANN. Mr. Chairman, I have no doubt whatever that the clerks ought to be transferred. While it is contrary to the spirit of civil-service law, I have no doubt the recommendation the committee makes is for good government, so far as the transfer is concerned; but I do not believe that Congress ought to usurp the functions of the executive with reference to these regulations. The executive is responsible for the appointments. The executive is responsible for the fulfillment of their duties by these officials. The executive has the power, under the law as it now stands, to transfer these clerks by a mere order of the President; and these orders are not so few or far between that it would create a precedent to anybody's injury. There have been many orders issued by the President, properly enough, exempting certain persons from the provisions of the civil-service rules and providing for their transfer; and it will be an easy matter with these clerks for the executive to transfer these four clerks or forty clerks, if there were forty, without regard to the civil-service rule. Now, I notice here——

Mr. LITTAUER. Why should we appeal to the executive when we find a case that recommends itself to our own judgment?

Mr. MANN. Oh, why should the executive appeal to us? It is the Department that has appealed to you for the transfer. You are not appealing to the Department. The Department of Justice has asked you to make the transfer. I say the Department of Justice ought to appeal to the President or the Civil Service Commission, another branch of the executive, and not put the burden on Congress. Why, we go out of here and the Civil Service Reform League will say that Congress violates the law; that Congress does this and that in violation of the civil-service law; that Congress defies the spirit of the civil-service law, when in truth it is the executive department that is doing it.

The provision which we now have under consideration provides for a transfer, not from one Department to another, it is true, but from one position or one salary allowance to another. Under section 5 of the bill, which seems to me to be very objectionable, the committee proposes to restrict any transfer until after a person has served three years in a Department from which he desires to be transferred. While this provision now under consideration does not contravene the wording of section 5, it contravenes, to a certain extent at least, the spirit of it. I believe that Congress ought to make the appropriations for these officials; ought to prescribe the duties that they are to perform, and then to hold the executive responsible for their right performance of duty and for their proper official placement as provided under the civil-service law.

Mr. LITTAUER. Question, Mr. Chairman.

The CHAIRMAN. The question is upon agreeing to the amendment offered by the gentleman from New York [Mr. FITZGERALD].

The question being taken, the Chairman announced that the noes appeared to have it.

Mr. FITZGERALD. On that appearance, Mr. Chairman, I will ask for a division.

The committee divided; and there were—ayes 17, noes 36.

Accordingly, the amendment was rejected.

The Clerk read as follows:

For compensation at not more than $10 per day and actual necessary traveling expenses of special agents to investigate trade conditions abroad, with the object of promoting the foreign commerce of the United States, $30,000; and the results of such investigation shall be reported to Congress.

Mr. SLAYDEN. Mr. Chairman, I should like to submit a

question to the gentleman from New York. What are the particular functions that these gentlemen exercise?

Mr. LITTAUER. These gentlemen are special agents, sent abroad for the purpose of investigating the conditions of trade there and reporting them fully, with a view to trade extension. It is claimed that they have brought reports of some value. A good deal of the work of the Bureau of Manufactures is dependent upon the dissemination of intelligence brought home. These reports are similar to consular reports, but altogether more elaborate and specialized.

Mr. SLAYDEN. Mr. Chairman, the gentleman has stated exactly what I conceive to be the condition. The work done by these traveling inspectors is in the line of consular reports and consular work. It is a duplication, an unnecessary duplication, of work that has on the whole been very well done by our consular representatives, and, in my judgment, it is an inexcusable expense upon the people. The effort is being made from time to time to duplicate the work of various Departments of the Government. It has been alleged, with some show of truth, that the Department of Commerce and Labor and the Department of Agriculture are making duplicate reports with reference to crops. Here, on the admission of the gentleman from New York, we have a duplication of the work being done by the consular representatives. It has been brought to the knowledge of all Members of this Congress that a proposition is now pending before some committee to appoint a particular commission to go out into the world to hunt up trade, governmental drummers, I suppose they might be called. Mr. Chairman, in my judgment, having had some connection with the particular trade that this commission which it is intended to create will have to deal, I want to say that no matter how well they may discharge their commission they can not bring to the attention of that particular trade any facts which are not already well known to those engaged in it. Believing that this paragraph is a useless expense, I move, sir, that it be stricken out.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas.

Mr. PERKINS. Mr. Chairman, I should like to ask a question about this.

The CHAIRMAN. The Clerk will first report the amendment.

The Clerk read as follows:

On page 144 strike out lines 19 to 24, both inclusive.

Mr. PERKINS. I should like to know how many of these agents are appointed.

Mr. LITTAUER. I think three or four.

Mr. PERKINS. How many years have they been appropriated for?

Mr. LITTAUER. Last year was the first year.

Mr. PERKINS. How much are they paid?

Mr. MANN. Ten dollars a day.

Mr. PERKINS. In addition to that their expenses are paid, amounting in all to $30,000 a year.

Mr. LITTAUER. Oh, no; they are paid $10 a day—

For compensation at not more than $10 per day and actual necessary traveling expenses.

Mr. PERKINS. Then their salaries are $3,600 a year, and in addition to that their expenses. Does not the gentleman anticipate that there will be carried on the appropriation bill a permanent expenditure from year to year of $30,000 to provide for these three gentlemen to travel around the world just as long as they can get this appropriation continued? And is the gentleman in favor of it himself?

Mr. LITTAUER. I have not been able to come to a conclusion whether or not this service is worthy of enlargement. The Department of Commerce and Labor came to us this year and asked $100,000 instead of $30,000. Those in charge of the Bureau of Manufactures claim, and the Secretary of Commerce and Labor claims, that a great development in the way of manufactures in this country is coming through this sort of special agents' work to bring to the attention of our manufacturers information as to the requirements of foreign markets, and thus foster and promote our trade. It was stated to us that Germany expends a very large sum of money for this purpose. The Department of Commerce and Labor sought to have this appropriation increased, claiming that the daily reports sent out from the Bureau of Manufactures are of incalculable value to manufacturers of this country. I spent last evening reading letters from a great many manufacturers addressed to the Department of Commerce and Labor attesting the value of this work.

Mr. GAINES of Tennessee. The gentleman says that the reports of these drummers are published?

Mr. LITTAUER. Yes; and sent out by the Bureau of Manufactures. I have not realized personally any great benefit was to come from this work, but other governments do carry it on in an extensive fashion, much larger than we have ever attempted to do. Those in charge of the work are impressed with the fact that it has resulted in great benefit and that the demand for these reports will constantly grow.

Mr. GAINES of Tennessee. Does not the gentleman think that his committee should not go ahead with this unless it sees the good that comes from it?

Mr. LITTAUER. The committee was impressed with the statement made, but perhaps I was least convinced.

Mr. GAINES of Tennessee. I would like to ask the gentleman if it has benefited his business any?

Mr. LITTAUER. No; it has not.

Mr. GAINES of Tennessee. I ask the gentleman because I know he is a merchant and ought to know.

Mr. SLAYDEN. Will the gentleman yield?

Mr. LITTAUER. Yes.

Mr. SLAYDEN. Does not the gentleman know that any men traveling in the way these agents are are able to get letters addressed to Congress asking for the continuation of this thing and that thing and commending it?

Mr. LITTAUER. Oh, that is undoubtedly true.

Mr. SLAYDEN. And these letters are not impressive to men who know that fact.

Mr. LITTAUER. I think that if the attention of the committee were called to the letters mentioned in the Secretary's testimony about the report on Brazil and the report on Canada, as well as the report on China, accompanying which a great number of samples was forwarded—samples, for instance, of the character of the buttons used in China and the character and colors demanded in printed calicoes, which have been photographed and sent to chambers of commerce and to merchants all over the United States—they would be impressed by them. From these merchants they do receive letters testifying that this information is of value to them.

Mr. SLAYDEN. Does not the gentleman know that the manufacturers undertaking to engage in this trade will get that information for themselves?

Mr. LITTAUER. I felt so, but those in charge claimed not, and they do show letters which demonstrate their position based on facts that have been brought to them.

Mr. PERKINS. Mr. Chairman, I only yielded for a question, which has been answered. It seems to me that this appropriation should be stricken out. It is perfectly evident that the members of the committee do not believe in this appropriation. We all know that there is not a single branch of the Government that will not come before the Appropriations Committee and ask for $30,000, for $100,000, for any amount, and produce letters, which can be got for any appropriation, testifying to its utility. We have the same claim made in behalf of the Bureau of Statistics, with its great expense. We have agents employed in the consular government with agents superintending them, and here is a new branch of expenditure that merely duplicates other work. It is here now for its third year at $30,000 expense, asked to be increased to $100,000, when the committee themselves, by their representative here, as any one of us can see, have no faith or belief in it. I hope, Mr. Chairman, that the committee will strike out this provision.

Mr. MANN. Will the gentleman from New York yield for a question?

Mr. PERKINS. Certainly.

Mr. MANN. Has the gentleman investigated the work that these persons have done?

Mr. PERKINS. I know about the work; I receive the reports which are sent to us every day, and which we throw in the wastebasket, that somebody has written from somewhere in South Africa or in South America giving information that can be obtained from other sources.

Mr. MANN. Does the gentleman throw all of his reports in the wastebasket without reading them?

Mr. PERKINS. I have sometimes read them, and I base my action on past experience and throw them in the basket.

Mr. MANN. Then the gentleman is hardly qualified to speak of what they contain.

Mr. PERKINS. I have read many of them. Now, let me ask the gentleman from Illinois a question. Does the gentleman from Illinois think it is wise to add a new source of expenditure, a new bureau of employment in the shape of a traveling force, which every year will grow larger and larger, in order to perform for the Department of Commerce a duplicate of the work which we are supposed to have done by our consuls?

Mr. MANN. If the gentleman from Illinois can get the floor, in two minutes he will answer that question.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. GAINES of Tennessee. Mr. Chairman, I move to strike out the last word. Mr. Chairman, right in point with the argument of the gentleman from New York [Mr. PERKINS], I want to submit a few remarks indorsing what he has said. The gentleman from Illinois asked the gentleman from New York if he threw his reports in the waste-paper basket, reports that we receive every morning, including Sundays. I will tell the gentleman frankly that I do. I can not read over all the rot that the Government of the United States sends me to read. I would have no time to read the live matters that the people of this country expect me to read and that I must attend to every day here in the House and at home.

Mr. LIVINGSTON. How does the gentleman discriminate?

Mr. GAINES of Tennessee. In this way: This daily bulletin comes out in a consular book, which is bound and published every month or every six months, and everything that we get every morning before breakfast we get ultimately in a bound volume. So this bulletin is a direct and deliberate duplication of work and information.

Mr. PALMER. But what would be the good of it if you did not get it until six months after it was published?

Mr. GAINES of Tennessee. You can find the same identical matter in the bound consular reports that you find in this slip. If I happen to want to investigate something about foreign commerce I sit down and write to the Department and they send me the information, since it is the business of that Department to get up information on the particular point, and they answer it if they can. Instead of that we have here the whole face of Congressional territory blanketed with these unnecessary reports—I will not say unnecessary; they may be entirely necessary in a consular form, but I mean an unnecessary duplication. Our consuls are paid for this identical work, and these things we get before breakfast every morning are but brief statements of what the consul elaborately sets forth in his reports which are published. Now, that costs a great deal of money. They must have a printing bureau to print it. I will ask the gentleman from New York [Mr. PERKINS] if that is not the fact, or where is it printed?

Mr. PERKINS. I will state that this information first comes out in these daily reports that are sent out, and it then comes out in another form in the monthly and six-monthly reports of the Consular Bureau, and you can get it all by going to another branch of the Government and getting it from the Bureau of Statistics.

Mr. LITTAUER. Oh, no; the gentleman is mistaken.

Mr. PERKINS. There you will find this information published at great cost.

Mr. LITTAUER. Oh, no.

Mr. MANN. The gentleman is mistaken about that.

Mr. PERKINS. You will find the substance of it, but not the wording.

Mr. MANN. Nor the substance.

Mr. PERKINS. All these statistics are actually gathered in the Bureau of Statistics.

Mr. MANN. The gentleman is mistaken about that.

Mr. LITTAUER. These reports do not deal principally with statistics.

Mr. PERKINS. But the Bureau of Statistics deals in these things.

Mr. GAINES of Tennessee. Oh, Mr. Chairman, I can not stand more than one New York gentleman at a time. The gentleman from New York [Mr. PERKINS] will please answer my question. He is an expert as to printing burdens, and I will ask him where is this little morning slip—this commercial billet-doux—we get before breakfast printed?

Mr. PERKINS. It is printed by the Government and paid for by the Government.

Mr. GAINES of Tennessee. Where?

Mr. PERKINS. At the Government Printing Office.

Mr. LITTAUER. Yes; and we have a Bureau of Manufactures that edits it.

Mr. GAINES of Tennessee. Yes; I think it is edited there.

Mr. PERKINS. Yes; and we have printers for it and editors for it and collectors for it.

Mr. GAINES of Tennessee. Now, Mr. Chairman, our consuls do identically the work that these correspondents or drummers must themselves duplicate, and, if we have one international drummer now, next year we will have four or five and next year eight or ten, and where is this matter going to end, as the gentleman from New York [Mr. PERKINS] suggested? Our commerce is increased by selling the foreigner cheaper goods than we sell our own people? That is the drummer we are employing?

Mr. LIVINGSTON. Mr. Chairman, I would state that one of the purposes of these special agents is to broaden out our trade, and we are very anxious in the South to sell cotton goods to Japan and China and the Orient generally.

Mr. GAINES of Tennessee. Does the gentleman think it is the business of the Federal Government to go to Europe to drum up the cotton or any other trade?

Mr. LITTAUER. No; nor to drum up new varieties of cotton seed.

Mr. LIVINGSTON. The whole country is in favor of it, not only the rural districts, but the boards of trade and the Presidents are in favor of it, and this is asked by the boards of trade and the organizations of the South and West, to get broader markets for them for their cotton and sirup and other goods. This is the beginning of a process to bring that about. Does the gentleman object to that?

Mr. GAINES of Tennessee. As the gentleman puts it, yes, I object to the Government hiring an agent to transact my private business or yours. I say that the beef and eggs, even if they are goose eggs, or any other sort that come from my farm, etc., are my private business, and the Government has no business sending a drummer anywhere to attend to drum up a customer to buy them.

Mr. LIVINGSTON. Does the gentleman object to the morning bulletins?

Mr. GAINES of Tennessee. I do, because I think it is a waste.

Mr. LIVINGSTON. They give you the information thirty days earlier than the book that is bound does.

Mr. GAINES of Tennessee. Oh, I could get up, as I do, pretty early in the morning and breakfast by 7 o'clock and, as I have often done, write a letter to the Department and get the identical information I want inside of eighteen hours.

Mr. LIVINGSTON. But the gentleman gets it out of this pamphlet.

Mr. GAINES of Tennessee. No; I get it from Mr. Secretary Metcalf and the statistical bureau.

Mr. LIVINGSTON. There is no statistical bureau, except this one now.

Mr. GAINES of Tennessee. Oh, it is the same thing, it is the old one in a new form. I say the whole thing is an extravagance, this morning commercial billet-doux, because it is a duplication, and I think this commercial drummer is a superfluity and ought not to be allowed at the expense of the people.

Mr. MANN. Will my distinguished friend yield for a question?

Mr. GAINES of Tennessee. Yes.

Mr. MANN. Does not the gentleman think, after all, the Government might appropriate a little money for the purpose of extending commerce instead of appropriating quite so much for Farmers' Bulletins, to the extent of 15,000 for each Member of Congress?

Mr. GAINES of Tennessee. The Farmers' Bulletin is sent to the farmer who as a rule has no money, or very little. The great big boards of trade and great big manufacturers, the steel plants, armor-plate plants, the trust plants of this country, have untold millions to send out their drummers in order to extend their commerce to foreign countries, and do so, while the farmer can not.

Mr. MANN. The difference in principle to my friend is only the wealth of the person?

Mr. GAINES of Tennessee. And these Farmers' Bulletins are not duplicated either.

Mr. MANN. A good many Farmers' Bulletins are duplicated.

Mr. GAINES of Tennessee. No; I think the gentleman is mistaken, with all due respect to his great knowledge of departmental matters, but even if they are duplicated, they give information to the man who wants it, because he has no money to get it in any other form. They may be reprinted because the supply is exhausted, not duplicated, however.

Mr. BURLESON. Mr. Chairman, I must admit that the value and importance of the work provided for by this item did not make a serious impression upon me at the time it was presented to the subcommittee when it had its hearings. I do feel, though, that it is due the able gentleman at the head of the Department of Commerce and Labor that a full exposition of it should be laid before this committee. As a matter of fact, this item provides for the continued service of four special agents to promote the foreign commerce of the United States, at an expense not to exceed $30,000. One has been making investigations of trade conditions in China, another in Japan, another in Brazil, and another in Mexico and Canada. As I understand it, they have practically completed their labors and the result of their labors published in the Consular Reports, and it is claimed by the head of the Department of Commerce and Labor that these reports have attracted wide attention and are of great value to merchants and manufacturers. The par-

leather report submitted by Mr. Hutchinson concerning trade conditions in Brazil is the most comprehensive, the most valuable document of that kind ever submitted to the manufacturers of America, and will result to their great profit. The report of trade conditions in Mexico is about ready for publication and is said to be especially important, especially to merchants and tradesmen.

Mr. PERKINS. Will the gentleman answer a question?

Mr. BURLESON. Yes, sir.

Mr. PERKINS. By how many other chiefs of bureau who appeared before your committee has a similar claim been made in behalf of the work which they do?

Mr. BURLESON. No other chief of bureau is engaged in doing this character of work or is directing or controlling this character of investigation.

Mr. PERKINS. But how many claim the work they are doing, whatever it may be, is the most valuable work rendered to the Government?

Mr. BURLESON. They all exalt the importance of the work they are doing, and I think it is proper and desirable that they should exalt the importance of the particular work that they are engaged in doing. If they were not interested in their work, if they did not believe in its great importance themselves, I would be constrained to believe—in fact, would feel sure—that they were not proper selections to be placed in charge of the bureau. But that has no bearing upon the issue we are now discussing. These reports are beyond the scope of the ordinary reports, which are made by our consular officers and printed in the ordinary way. It is true these special reports are printed as consular reports are printed, being reviewed in the Bureau of Manufactures and distributed in the same way, but the Secretary of Commerce and Labor came before us and was so seriously impressed with the importance of the results already accomplished by these agents that he earnestly urged upon the subcommittee that the breadth and scope of the work be extended and an appropriation of more than double this amount be allowed. He insisted—earnestly insisted—that our manufacturers and merchants were insisting—yes, demanding—that this work should be continued. The German Empire is engaged in prosecuting endeavors along this same line, and unquestionably it has brought great results to the manufacturers of Germany. They have been able through this very instrumentality, or through work of this character, to extend, within the last few years, their trade as it has not been extended within decades and decades before.

Mr. SHACKLEFORD. Mr. Chairman——

The CHAIRMAN. Does the gentleman from Texas yield to the gentleman from Missouri?

Mr. BURLESON. Yes.

Mr. SHACKLEFORD. I would like to ask the gentleman from Texas whether the manufacturers themselves could at their own expense have secured the services of the very character of men upon whom they have heretofore been relying at Government expense?

Mr. BURLESON. Oh, I doubt not they could, and probably by reason of the vast accumulation of wealth they have been able to gather together under an oppressive tariff they could, independent of Government aid, secure this information; but it has been the policy of the Government to do this work through the consular officers, and the appropriation carried in this item has and proposes to broaden the scope of the work being done through the consular service. Now, I submit the question to you. In the light of these facts, considering the urgent insistence of the head of the Department of Commerce and Labor, would it be wise to now discontinue this service? You have the facts as best I can state them before you. Of course, if the result accomplished does not commend itself to the Congress, you can strike out the item. As I have stated to you, it did not commend itself very seriously to me, but the gentleman at the head of the Department earnestly favors it and many manufacturers and merchants of our country earnestly support this proposition. I thought they were entitled to have these facts before you when you act on the amendment.

Mr. GAINES of Tennessee. Now, Mr. Chairman, let me ask the gentleman a question.

Mr. BURLESON. Certainly.

Mr. GAINES of Tennessee. Does the gentleman think that inasmuch as the manufacturers have plenty of money to employ their own drummers, and do so, that Congress should also provide for them and deny our people river and harbor improvements and rural delivery?

Mr. LITTAUER. Who gives employment to the people?

Mr. GAINES of Tennessee. Why do you not create more jobs in this bill?

Mr. LITTAUER. Jobs!

Mr. GAINES of Tennessee. Why do you not create a whole lot—a hundred or a thousand more jobs? Why don't you give everybody a job? I have 350,000 people in my district who would like a job. Just drive up a Jersey cow to every man's front door twice a day. Drive them up and give them their feed—feed and maintain every person—thus do something for the people of the United States, instead of doing it all for the manufacturers.

Mr. LITTAUER. I move that all debate upon this paragraph and amendments close in five minutes.

Mr. SLAYDEN. I move to strike out the last word.

The CHAIRMAN. The gentleman from New York asks unanimous consent that debate upon the paragraph and all amendments be closed in five minutes.

Mr. LITTAUER. Ten minutes.

The CHAIRMAN. Ten minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. SLAYDEN. Upon what basis am I recognized, Mr. Chairman?

The CHAIRMAN. The gentleman is recognized for five minutes on his motion to strike out the last word.

Mr. SLAYDEN. Mr. Chairman, I want to say a few words in reply to the suggestion made by the gentleman from Georgia [Mr. LIVINGSTON]. I am as much in favor of doing everything which the Government properly can do to promote foreign trade as any man in the United States; and if we did not have an adequate representation of our commercial interests abroad in our consuls, I would favor not only the $30,000 which this committee has recommended for expenditures in the employment of these traveling agents, but the $100,000 which the head of the Bureau says he should have for that work. But, Mr. Chairman, I read these bulletins, I will say to my friend from Illinois——

Mr. MANN. So do I.

Mr. SLAYDEN. Nearly every morning, not from end to end, but I look to see if there is anything of interest, and frequently read them altogether, and my experience confirms the statement made here that it is a duplication of work, and in that respect an unnecessary expenditure of the public treasure.

Mr. LITTAUER. Now, my recollection is that the gentleman from Texas the other day, when the consular bill was up, said that some of the consuls were not competent, efficient men.

Mr. SLAYDEN. I stated at that time that the consular service was not bad generally, but that in some instances there were men in the service who ought to be out of it; and when a change of Administration comes, which we think there will, they will all be changed.

Mr. LITTAUER. I would like to ask the gentleman from Texas whether he believes our consuls to-day receive adequate salaries, either, for traveling around about the country in which they are stationed to such an extent as to present to the manufacturers of this country in their line any proper statement as to the conditions throughout the country to which they are appointed? The Secretary of Commerce and Labor on that very point has spoken in this way; and as I believe you desire to have all the facts, I would like to infringe upon your time while I read this statement. He said:

> I do not think that the consular service as now constituted can handle this subject at the present time. In the first place, our consuls are not paid an adequate salary. They have to perform clerical service. There is no fund with which to enable them to make independent investigations. I have a letter here, a portion of which I would like to read, on this subject. To my mind it is a very interesting letter, and it was written to me by Mr. R. J. Gross, second vice president of the American Locomotive Company, of Dunkirk, N. Y., taking up the subject of our consuls, and so on. [Reads:]
>
> "Relative to the commercial reports required by our Government from our consuls, complaints were made by some of those I met that in the effort to make these reports of greater value to our manufacturers, they were placed at a great disadvantage by the restrictive character of the Government regulations. In order to obtain full and reliable information on any given subject it is often necessary to make a personal investigation."

Mr. SLAYDEN. I wish to say in reply, I think the consulates have been so placed that they do not very fairly cover commercial requirements. If I have any more time left I yield it to the gentleman from Illinois.

Mr. MANN. Mr. Chairman, I do not think that the provision should be stricken from this bill myself. When this provision went into the bill last year it did not commend itself to me. There were propositions at that time to provide agents in the Department of Commerce and Labor and agents under the Secretary of State. In the consular-reform bill, which I believe has just been agreed to by Congress, there is a provision for consular agents under the Department of State. Very likely that was not called to the attention of the Committee on Appropriations. But, if it had been, I think they would have been justified in putting this provision in the bill. The Department of Commerce and Labor was created partly for the purpose

of aiding in the development of commerce. It will not do in this country to say, as suggested by my distinguished friend from Tennessee, that the Government shall give no aid to commerce, and that this whole work shall be left to the private interests. Why, Mr. Chairman, we devote large sums of money for the benefit of the rural constituents of our Members of Congress, and for the country, and I believe it is right to do so. We spend enormous sums of money for the development of the mining interests of this country, but up to the present time we have spent but little for the development of the commerce of the country. Now, everyone knows that the United States produces the cotton crop of the world; everyone knows that we have electric power and cheap coal power throughout the country going to waste to-day; everyone knows that the United States ought to be manufacturing and shipping abroad the cotton products of the world.

We can do so in South America; we can do so in China; we can do so in Japan; we can do so in Africa, if we develop the opportunities which present themselves before us. This is not mere consular work. The consul at any particular place can only review the conditions at that place. He can not understand the conditions over an empire or over an entire locality of country; but these agents, who travel from place to place, will learn the conditions in South America, will learn the conditions in China or Japan, and will present to the manufacturers and producers of this country information under which we will add to our foreign commerce many-fold. We have added to the agricultural products of the country many-fold through the Agricultural Department. We ought to add to our foreign commerce many-fold through the operations of the Department of Commerce and Labor. Here is a paltry sum of $30,000, for what? To obtain information which only a Government agent can obtain, which no private representative of a commercial body can obtain—to obtain information through a Government agency, information which is open only to him.

Mr. PALMER. Other countries spend money for this same class of work, do they not?

Mr. LITTAUER. Enormous sums.

Mr. MANN. Certainly.

Mr. PALMER. How can we expect to compete with these other countries commercially if we do not make use of the same agencies which they find so efficient?

Mr. MANN. The gentleman is right. Germany during the last four or five years has increased its foreign commerce in greater proportion than any nation in the world has ever done in the history of time, and she has done that through the aid of these commercial agents in foreign countries, who tell her people at home what is needed abroad, what can be sold abroad, and how to gain trade.

Mr. LIVINGSTON. And she is getting the trade, too.

Mr. MANN. To a very large extent. We want our share of that trade. This provision is as important to the commerce and manufactures and industries of the country as is the Department of Agriculture to the agriculture of the country, and I can not pay it a higher compliment than by saying that.

Mr. GAINES of Tennessee. Does the gentleman know—I mean has he official information showing that Germany pays out of her treasury for these commercial agents?

Mr. MANN. I have that information, Mr. Chairman. I investigated that matter at the time the Department of Commerce and Labor was created. Germany was then expending large sums of money with her foreign commercial agents, some of whom were in this country.

Mr. LITTAUER. She spends at least a million marks.

Mr. MANN. When they come, sources of information are opened to them out of national comity, which would not be open to any private agency.

Mr. GAINES of Tennessee. Are these gentlemen consuls?

Mr. MANN. They are not consuls; they are commercial agents. They are sometimes called "commercial attachés" when they are directly connected with the consular service, but some of them are not connected with the consular service at all and are simply commercial agents.

Mr. GAINES of Tennessee. And they are paid for out of the Government funds?

Mr. MANN. They are paid for out of Government funds.

The CHAIRMAN. The question is upon agreeing to the amendment of the gentleman from Texas [Mr. SLAYDEN].

The question was taken; and the amendment was rejected.

The Clerk read as follows:

For compensation and per diem, to be fixed by the Secretary of Commerce and Labor, of special attorneys, special examiners, and special agents, for the purpose of carrying on the work of said Bureau, as provided by the act approved February 14, 1903, entitled "An act to establish the Department of Commerce and Labor," the per diem to be, subject to such rules and regulations as the Secretary of Commerce and Labor may prescribe, in lieu of subsistence, at a rate not exceeding $4 per day to each of said special attorneys, special examiners, and special agents, and also of other officers and employees in the Bureau of Corporations while absent from their homes on duty outside of the District of Columbia and for their actual necessary traveling expenses, including necessary sleeping-car fares; in all, $125,000.

Mr. CHAIRMAN: The two paragraphs which have just been read in the pending appropriation bill cover the items for the Bureau of Corporations. The Bureau of Corporations was created at the time the Department of Commerce and Labor was created, for the purpose largely of investigating the great combinations of the country, usually called "the trusts." One of the greatest of these is the Standard Oil Company and its various offspring.

Mr. Chairman, I desire to occupy a few minutes of the time of the House in discussing some phases of the political activity of the Standard Oil Company, in the course of which I wish to insert some statements taken from newspapers, all of which I do not desire to read, but only enough to show their character, and for that purpose I ask leave to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. MANN. I notice that my young friend the gentleman from Kansas [Mr. CAMPBELL] has on several occasions manifested a decided curiosity concerning the affairs of the Standard Oil Company. He introduced the resolution in accordance with which the Bureau of Corporations has for some time past been investigating the methods of that company. He has proposed other measures hitting at the illegal practices and the unconscionable means adopted by that company to force railroad companies on their knees to it and to force independent dealers in oil out of business. Other members of Congress have proposed other measures aimed at monopoly in other quarters. It might seem apparent from recent proceedings in Congress and elsewhere in public that the people were having their innings and that the powerful combinations of capital were on the run.

STANDARD OIL WILL FIGHT.

I want, however, to warn my friend from Kansas that he will not do all the fighting and make all the moves. The Standard Oil crowd may seem perfectly quiet, but he will find out that Standard Oil can fight back. It is well to always be prepared for battle when you are engaged in war. Standard Oil has become the most powerful financial organization or group in the country. It will not tamely submit to continual attack. It never has fought in the open. It succeeded in the past by secret methods. It will not be ostensibly known in political fights, but I have recently discovered that it does not forget and does not forgive. And I am led to briefly tell the House some little experience of my own in order that gentlemen may be warned in advance.

BILLS OPPOSED BY STANDARD OIL.

Mr. Chairman, three bills have passed this House in the last few years which the Standard Oil Company has bitterly opposed. These bills were, first, creating the Bureau of Corporations in the Department of Commerce and Labor; second, prohibiting the payment of rebates in any form by railways; third, regulating railway rates. The first two became laws; the latter is now pending in the Senate. It has so happened that I have been somewhat prominent in the House in connection with all of them.

CREATION OF BUREAU OF CORPORATIONS TO INVESTIGATE STANDARD OIL.

On January 6, 1903, by direction of the Committee on Interstate and Foreign Commerce, I reported to the House the bill establishing the new Department of Commerce and Labor. That bill had originated in the Senate, which passed it on January 28, 1902. On December 19, 1902, I introduced in the House the bill (H. R. 16282) to establish the Department of Commerce and Labor. The bill, which was reported to the House on January 6, 1903, was nominally the Senate bill, but it was reported with a recommendation that all of the Senate bill after the enacting clause be stricken out and that there be inserted as a substitute the language of the bill which I had introduced December 19. One of the provisions of that bill was a section creating a Bureau of Corporations, in the following language:

That there shall be in the Department of Commerce and Labor a bureau to be called the Bureau of Corporations, and the chief of said Bureau shall receive a salary of $4,000 per annum. There shall also be in said Bureau such clerks and assistants as may from time to time be authorized by law. It shall be the province and duty of said Bureau, under the direction of the Secretary of Commerce and Labor, to gather, compile, publish, and supply useful information concerning such corporations doing business within the limits of the United States as shall engage in interstate commerce or in commerce between the United States and any foreign country, and to attend to such other duties as may be hereafter provided by law.

IMPORTANCE OF BILL IN CONFERENCE.

On January 19, 1903, the House passed the substitute bill, and the bill was returned to the Senate. The Senate in formal manner disagreed to the action of the House and asked for a conference between the House and the Senate. That was agreed to by the House, and the Senate named as the conferees Senators Hanna, NELSON, and CLAY. The House named the gentleman from Iowa [Mr. HEPBURN], the gentleman from Alabama [Mr. RICHARDSON], and myself.

The provision for a bureau of corporations which I had drafted was, I believe, the first proposition in any bill for a bureau of the Government which should gather, compile, publish, and supply useful information concerning corporations, and it was intended to be the first step toward controlling and regulating the great combinations of capital ordinarily termed "trusts." There had been much talk and many bills upon the subject, but here was a definite proposition to put a Department of the Government at work on the question.

When the bill passed the House with this provision in it and was sent to conference, it was at once recognized as a matter of tremendous importance. In legislative procedure a bill in conference occupies a commanding strategic position. A conference report is in order at any time. It can not be sidetracked. It must be considered. The only persons who can prevent consideration are the conferees themselves, who may refuse to report.

The House had inserted the provision for the Bureau of Corporations and the Senate had disagreed to all amendments to the bill before it went to conference, so that this particular provision was opened to amendment in any form.

INTEREST OF PRESIDENT ROOSEVELT.

All at once, in the midst of the cloud of legislative procedure, delays, juggling, and opposition, there appeared this golden opportunity to put upon the statute books a provision giving to a Government official authority to investigate fully the business methods adopted by the great corporations. At conferences between members of the House and Senate, and which extended to President Roosevelt, it was determined to make the effort to strengthen the provision creating the Bureau of Corporations. A new provision was drafted, which became known as the "Nelson amendment." This was intended as an additional provision to the section as I had originally drafted it.

The President had earnestly recommended legislation which might be used to curb the tremendous power and influence of the great combinations of capital, and he was very anxious that some legislation be enacted at that session of Congress.

TWO ADMINISTRATION MEASURES.

Out of the agitation and consideration of the subject it became suddenly the policy of President Roosevelt and the friends of his Administration in Congress to secure the enactment into law of two propositions at that session.

First. The section providing for a Bureau of Corporations as modified by the Nelson amendment.

Second. A bill forbidding railway rebates and extending the power of the courts by injunction to prevent railway preferences. A bill along these lines was prepared as a Roosevelt Administration measure, was introduced in the Senate by Senator Elkins, became known as the "Elkins antirebate bill," was passed by the Senate on February 3, 1903, sent over to the House and referred to the Committee on Interstate and Foreign Commerce. Members of that committee, including myself, were at once interviewed in reference to the bill, and it was stated publicly that the Elkins bill would likely be reported back to the House favorably, and be passed.

SITUATION FEBRUARY 7, 1903.

So that on February 6 and 7, 1903, the situation was like this: The Department of Commerce bill, carrying the Bureau of Corporations for the purpose of investigating the corporate trusts, was in conference, with a proposition to enlarge the powers of the proposed Commissioner of Corporations, and the Elkins antirebate bill had passed the Senate and was pending in the Committee on Interstate and Foreign Commerce of the House, with likelihood of favorable action.

PANIC OF STANDARD OIL CROWD.

Then seemed a prospect of actual legislation. Here seemed a chance that the House and the Senate would agree upon measures to be enacted into law which would not only probe the methods employed by the Standard Oil Company and some other trusts, but would take away from the Standard Oil Company the means by which it had fattened for years, the collection of rebates from the railways. Here, in the opinion of the Standard Oil crowd, was danger. They were alarmed. They suddenly awakened to the fact that the men in charge of legislation in Congress had gotten beyond the point of talk and were ready to do things. The Standard Oil crowd became panic-stricken. They hastened to do what they could to head off the proposed legislation. They adopted every known means to prevent the proposed action. I shall not attempt to describe in my own language what they did. I might be considered a biased witness in that regard, but I beg to remind you what some of the most noted and able newspaper correspondents in the country wrote at that time.

On the morning of February 8, 1903, the Washington Post, a great newspaper, and then an Administration paper, had this to say:

It can be stated by authority that unless antitrust legislation at least reasonably satisfactory to the Administration is enacted at the present session President Roosevelt, on the 5th of March, will call an extraordinary session of the Fifty-eighth Congress. The President himself has told Members of Congress of his desire and of his determination in this regard. It is understood that the announcement was direct and unqualified.

It is further stated that the determination of the President was reached only after careful consideration of the strenuous efforts that are being made to defeat any antitrust legislation by Congress. These efforts have covered a wide range. They were characterized yesterday by one prominent Republican leader, to quote him directly, "as the most remarkable of which I have had personal knowledge during my public life."

These efforts culminated during the past thirty-six hours. It is now declared, in direct appeal from the Standard Oil Company, through its president, Mr. John D. Rockefeller, to members of the Senate not to enact any antitrust legislation at this time. No less than six United States Senators have received telegrams signed "John D. Rockefeller," urging that no antitrust legislation be enacted. It has not been possible to obtain a copy of these despatches, which, it can be said, are practically identical. Substantially they read as follows:

[Telegram.—From Standard Oil Interests.]

"We are opposed to any antitrust legislation. Our counsel, Mr. ——, will see you. It must be stopped."

As stated, these telegrams (and it must be clear that only the substance, and not the exact wording, is here given) were signed "John D. Rockefeller." Friday morning one of the counsel of the Standard Oil Company arrived in Washington and called immediately upon the members of the Senate, as indicated in the telegrams.

* * * * * * *

Last night the efforts being made to defeat or emasculate pending antitrust legislation formed the basis of some animated conferences. Indeed, the subject is likely to be developed in some detail in Congress.

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On the morning of February 8 William E. Curtis made the following statement in the Chicago Record-Herald:

* * * This morning several gentleman appeared in Washington and several letters and telegrams were received urgently urging the emasculation of the antitrust measures which have originated at the White House and have been crowded upon the attention of Congress with so much energy by President Roosevelt. * * *

At least five of the most prominent and influential Senators on the Republican side, and perhaps more that I have not heard of, received long telegrams signed "John D. Rockefeller," requesting them to give their earnest consideration to the suggestions of his attorneys, and begging that no legislation whatever be enacted concerning the trusts.

And on February 9 Walter Wellman made the following statement in the Chicago Record-Herald:

With one blow straight from the shoulder President Roosevelt knocked out the Standard Oil Company. It was the President who gave to the public the news that representatives of the oil monopoly had been in Washington trying to defeat all antitrust legislation, and that telegrams had been received by Senators signed "John D. Rockefeller," urging that the antitrust act now pending be either emasculated or killed. * * *

On the morning of February 10 Mr. William E. Curtis made this statement in the Chicago Record-Herald:

* * * There is also a great deal of mystery about the telegrams which were received on Friday from Mr. Rockefeller by six different Senators, said to be Aldrich, Hanna, PLATT of New York, KNOX, LODGE, and FORAKER. A desperate effort is being made to convince people that they were forgeries and were intended to prejudice Congress against the trusts, but, unfortunately, whoever sent them was aware that the regular attorneys of the Standard Oil Company were on their way to Washington and notified the persons to whom they were addressed that those gentlemen would explain the objections to the publicity amendment. The attorneys appeared as announced, called upon several Senators, and made known the objections of Mr. Rockefeller to that part of the Nelson amendment which authorizes the proposed Commissioner of Corporations to compel the attendance of witnesses and the production of papers.

On the afternoon of February 9 the Chicago Daily News printed a dispatch from its staff correspondent in Washington, in which the following statement was made:

Members of the conference committee who favored the trust legislation feared the influence of the Standard Oil Company, and they brought their deliberations to a speedy close. The committee had been deadlocked by a disagreement between the House and Senate members over the inclusion of the Interstate Commerce Commission in the new Department. When the news of young Mr. Rockefeller's telegrams reached the committee rooms, the House members decided to accept the terms of the Senate conferees and permit the Interstate Commerce Commission to continue as an independent bureau rather than delay an agreement on the Nelson amendment until after the Senate has been mainly influenced by Mr. Rockefeller's telegrams.

* * * * * * *

President Roosevelt, however, has sufficient faith in the story to send out from the White House a semiofficial announcement that should Congress fail to pass satisfactory trust legislation he would call an extra session of Congress for that purpose. This action has already had

its effect. The Elkins antirebate bill, which was expected to die in the House as a result of Speaker Henderson's antagonism, will be taken up by the Interstate Commerce Committee and doubtless will be reported favorably, notwithstanding those who have studied this bill have also disappeared. The report of the conferees undoubtedly will be adopted.
* * *

CONFERENCE REPORT AGREED TO.

Dispatches of the same character were sent to all parts of the country. In legislative circles in Washington there was a lively buzz. Attorneys of the Standard Oil Company were thick in Washington. Lobbyists of all degrees and characters seemed at once to have new life put into them and possibly new resources furnished them.

On February 9 the three conferees on the part of the House on the Department of Commerce and Labor bill presented to the House the conference report. This conference report was agreed to in the House on February 10, and agreed to in the Senate on the next day.

As stated, the conference report was agreed to by the House on February 10, 1903. On February 12, by direction of the Committee on Interstate and Foreign Commerce, I reported back to the House the Elkins antirebate bill, with some amendments, recommending that the bill be passed. On February 13 the bill was passed by the House on a roll call with only 6 votes against to 250 for it, the amendments were agreed to by the Senate on the 14th, the bill was approved by the President on February 19, and became a law.

IT HAPPENED.

Mr. Chairman, in the passage of this legislation through Congress, various things happened which connected me with it in a somewhat marked degree.

It happened that I was the author of the section creating a Bureau of Corporations. It happened that I was directed by the House committee to write the report in favor of the passage of the Department of Commerce and Labor bill and to champion that bill on the floor of the House. It happened that I was one of the House conferees when that bill was in conference between the House and the Senate. It happened that I was directed by the House committee to write the report on the antirebate bill recommending its passage. It happened that these two bills were aimed at practices largely indulged in by the Standard Oil crowd, as the public believes. It happened that these two bills met the violent opposition of the Standard Oil crowd. It so happened that, although I was a very humble instrument of the House in connection with the passage of these laws, I incurred the violent displeasure of the Standard Oil crowd.

THE PEOPLE SOMETIMES FORGET THEIR FRIENDS, BUT STANDARD OIL NEVER FORGETS ITS ENEMIES.

At that time every possible effort was made by the Standard Oil crowd to bully the President and to bluff Congress. The men who constitute that little coterie seemed to forget ordinary prudence and openly and unblushingly dared to intimate that they could control the action of the greatest legislative body in the world. They were not able to move President Roosevelt from his determined resolution and honest purposes, nor were they able to influence in the slightest degree the action of the conference committee or the course of the legislation. With expressions of bitter hatred and with threats of vengeance, their attorneys and representatives left Washington.

Mr. Chairman, during those crucial days I was reminded that "the people sometimes forget their friends, but Standard Oil never forgets its foes."

I have reason to believe that there is truth in the latter part of the statement. I was told at that time that Standard Oil and its various connections exerted a strong influence in my Congressional district.

RAILWAY REBATES TO STANDARD OIL.

The influence which Standard Oil thinks it can exert, the various influences which it thinks it can control, the power it thinks it can wield are illustrated by some recent events.

During the past season the Bureau of Corporations has been investigating the methods of the Standard Oil crowd, and the officials of that Bureau were told in almost plain language that the Standard Oil crowd would not permit such an investigation to go on.

Hear what Raymond said in the Chicago Daily Tribune on December 28, 1905:

> At the outset of the investigation into the operations of the Standard Oil Company, now nearly concluded by the United States Government, there was discovered, of course, an intimate relationship between the production and transportation both of the crude and finished product. The Standard Oil Company could not live a day in opposition to any independent concern which would spring up, if it were not for its practical control of the transportation business.
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> This is the fact which was first brought to the attention of the Government agents, and they have been led to see that an attack on the Standard Oil Company can not hope for success unless, at the same time, almost every railroad line in the country is brought to book and made to see that a rebate to the Rockefeller combination is just as illegal as a cut rate to the Colorado Fuel and Iron Company or any other corporation.
>
> I have been informed that the investigations of the Department of Commerce and Labor have led in the direction of uncovering a gigantic system of railroad rebates which has been built up in almost every city of the United States. * * *

IMPUDENCE OF STANDARD OIL.

Raymond also said, in the Chicago Daily Tribune on December 29, 1905, the following:

> "We are bigger than the Government. Standard Oil is stronger than the United States. We own the Senate and the House. If you pursue your investigations beyond the point necessary to fool the public we will have you removed. We can secure the instant deposition of the Secretary of Commerce and Labor, Mr. Metcalf, and the Commissioner of Corporations, Mr. Garfield. If you persecute us in the slightest degree you will be out of your job, and if you keep at the business you will find out that what we say is absolutely true."
>
> This is the kind of talk which has been handed out to the agents of the Government at every stage of the game. The first thing they learned was that the Standard Oil Company, as has been truly said of it, was a great "system." They discovered, as I have said before, that the investigation of the beef trust was merely child's play as compared with an inquiry into the operations of the Standard Oil Company.

EXTRAORDINARY SECRET MACHINERY.

> Agents of the Government were confronted at the outset by evidences of the existence of extraordinary secret machinery of the Standard Oil Company. They discovered that it covers the United States and probably extends into foreign countries. It was organized and operated in the first place for the express purpose of preventing jobbers and peddlers from cutting prices. Contracts exist between the Standard Oil Company and various subsidiary companies and private firms for the disposal of the product of the united corporation.
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> This secret service is said to be more complete, more unscrupulous, and more far-reaching than anything which has ever been known before in this country. Government agents have been aghast at its extent. For a while they were stupified and frightened by its threats. Occasionally they ran across a big man, and he talked in such an alarming fashion that it became necessary to refer the substance of the conversation to the Secretary of Commerce and Labor, and even to the President himself. *At every stage of the investigation the agents of the Government have been thwarted by the malign influence of people who are not supposed to be associated with the Standard Oil Company, but who are none the less ready to do its bidding.*

TO THROTTLE THE LAW.

> At the outset it was discovered that this extraordinary secret service of the Standard Oil Company, which permeated every city and State, was in the beginning organized for the sole purpose of preventing dangerous competition. Later on it was diverted to other directions, and the agents of the Government realized that they were up against a system which, although organized to prevent the cutting of rates, could be used to stifle evidence, to pack juries, to corrupt minor officials, to divert public sentiment, and ultimately to prevent criminal prosecution.
>
> This system of spies and informers appears to have been organized on a definite basis. It is the same in every locality which shows the existence of a central head. Furthermore, it has been developed by the investigation of Government experts that these secret-service men are shifted from one part of the country to another, so as to render them absolutely independent of local influences.
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> * * * * * * *
>
> In the first place, it has been shown that the Standard Oil Company is the parent of a secret service which is far and away better and bigger than the secret machinery of the United States Government.
> * * *

THE MILEAGE AMENDMENT.

One of the reasons now offered for my defeat is that last year, when presiding over the House as Chairman of the Committee of the Whole, I ruled that it was in order, by appropriation in the general deficiency bill, to make available the sum of $190,000 for the payment of mileage of Members of Congress attending the regular session of Congress, beginning on the first Monday of December, 1903. It is said that I ought to have declared out of order an amendment proposing this mileage appropriation. In making the ruling I followed the parliamentary precedents of the House. For two days, on a former occasion, the same question had been argued on a point of order in the House before a distinguished parliamentarian then in the chair, and a decision was then rendered which was expected to be and was a guide for future decisions in the House. I followed that previous decision of the Chair as a guiding precedent. In addition to that decision and to other decisions of similar import, I did not then and I do not now have any doubt as to the correctness of the ruling as a parliamentary proposition. I think those who denounce me for my ruling forget that it is as much the duty of the person who is presiding over the House of Representatives to render his decisions in accordance with the law and the precedents as it is the duty of the honest judge of a court. The House of Representatives can not be presided over on the basis of a partisan chairman of a factional convention. I made the same sort of a decision which would have been made by any experienced Chairman, and I would have received and deserved the contempt of the parliamentarians in the House if I had ruled other than as I did.

The proposition which was presented was not, as most people seem to think, one to pay mileage to members of Congress. It was in substance a proposition to make available for the pay-

ment of mileage a certain sum of money. Before any member of Congress could have drawn his mileage he must have presented his account or statement to the Committee on Mileage for its approval. His account must have been certified to be correct by the Speaker of the House. The legality of the account must also have passed by the scrutiny of the Auditor and the Comptroller of the Treasury, the two accounting officers who determine whether expenditures are authorized by law or not.

Some of my Standard Oil friends are saying that as chairman I ought not to have ruled in order any item a part of which might subsequently come to me. The compensation of a Member of Congress, though provided by law, can not be paid to him unless appropriated by Congress. Mileage can never be paid unless an appropriation be first made by Congress. It is hence inevitable that a Member of Congress must every year be called upon to vote whether he will appropriate the money necessary for the payment of his salary, including mileage. This does not mean that he votes to pay himself any sum. He simply votes to make available that sum for the payment of something provided by law. Whether it is in fact provided for by law, so that he shall receive the money, depends upon the decision of the accounting officers of the Government. There is no other way of providing the money out of which the mileage or other compensation of Members of Congress shall be paid.

I voted for the appropriation of mileage, because I felt that the existing law provided for it. I have long been convinced that the best method of preventing "graft" in public places is to provide for public officials reasonable compensation for their services, and then to pay it to them.

I do not propose to go into a discussion of that subject at this time. I do not need to justify myself here. There is not a single Member of the House who believes that I would have stultified the record I have endeavored to make during the years while here by voting to myself as mileage the sum of $300. It is almost too silly to be mentioned here, but I shall have more to say out in my own district to my constituents, who have been told a number of things on this subject which are not so.

But whether I was right or wrong when I voted to appropriate a sufficient sum to pay mileage to those who were entitled to it under the law, I did it in the open, in the limelight, honestly and above board. I did not sneak around the corner to get a rebate. I did not attempt to crush a rival. I took my position as an honest man with an honest belief and dared to vote the way I thought.

It might well lie in the mouths of some men to criticise me for this action, on the ground not of dishonesty, but on the ground of belief in a wrong policy. But for the Standard Oil crowd and their representatives to hold up their hands in holy horror because of my honest vote on this occasion is enough to excite the derisive laughter of the solid rocks themselves.

THE ELKINS LAW HATED BY STANDARD OIL.

But if this argument against me, urged by Standard Oil, is ludicrous, what shall be said of the other argument which it urges? I am denounced because I reported into the House and urged the passage of the Elkins antirebate act. That act was aimed more at Standard Oil than anyone else. It hurt the Standard Oil crowd more than it did anybody else. Good judgment on their part would have caused them not to mention where the sore spot was, but their candidate can not resist their feeling of bitterness because of my activity to prevent the payment to them of rebates.

The Elkins antirebate act was distinctly an Administration measure, considered and urged by the Roosevelt Administration. It met with the approval of both Houses of Congress, notwithstanding the bitter enmity of the Standard Oil crowd. But Standard Oil in my district now is urging as one of the reasons for defeating me my part in connection with its passage through the House. No wonder. That law has stopped the payment of rebates to the Standard Oil companies. It has lost them millions. It hurts. They feel it. They hate it. They hate me for that.

Probably an additional reason which will be soon urged against me is the fact that I have been somewhat connected with the railroad rate bill, which recently passed the House. The Elkins antirebate law, the railroad rate bill when it is enacted into law, and the Bureau of Corporations in the Department of Commerce and Labor are likely to put out of business the practical monopoly so long enjoyed by the Standard Oil Company and its various offspring corporations in the handling of crude and refined oil in this country.

UNIVERSITY NOT TO BLAME.

It does not seem unnatural that they desire to make an example of me in the district where they claim, I believe falsely, to have such power. There are some members of the Standard Oil crowd who impudently think that when a donation has been made to the University of Chicago the gift binds to their interest both the bodies and the souls of the students and professors of the University of Chicago.

But the university in my district is founded upon grounds too broad; its chairs are filled by men too eminent; its halls are attended by students too earnest to be intentionally controlled and wielded and molded by any sordid, corrupt, or dishonest influences of the Standard Oil crowd.

I defend the integrity of the university against such an unjust imputation. I do not believe that Mr. John D. Rockefeller, who has contributed so liberally to the university, would himself be a party to, or in any way countenance, this present scheme of the secret service of Standard Oil. Whatever may be the outcome, I shall continue to believe that the position and conduct of persons, connected with the university on all political questions, are controlled from honest and patriotic motives in the spirit of intellectual freedom.

I expect to suffer personal abuse; I expect to be the object of slanderous statements; I expect the secret service of Standard Oil to accuse me of many kinds of dishonesty and to denounce me for many forms of corruption. I expect honest men to be misled into bearing false witness against me. Standard Oil has never hesitated at any means to accomplish the result desired. Many a good man and many a thriving business has been crushed by its methods.

The people of my district intend to do right. They want to be true to good government. They will decide according to their light in favor of what they think is the right. If, perchance, they should be misled by the superior cunning and the powerful secret service of Standard Oil into believing that I have been false to the trust which they reposed in me, I shall not indulge in any words of harsh criticism, but will remember that though evil and falsehood seem to gain a firm footing at times and to be temporarily successful, in the long run "truth is mighty and will prevail."

Mr. Chairman, in my public career I have never trimmed my sails to the passing breeze. I am not much of a politician and I fear usually not very politic. I often tread upon toes which possibly I might well avoid. I have never learned the art of doing a thing because it would be popular, or failing to do it because it would arouse the enmity of the powerful. I have never attempted to be the agent of special interests, either to prevent or to forward legislation. I have only known one sure guide, and that is, never to be hasty in forming judgment, but when one's own judgment is conscientiously formed, never be afraid to act upon it. Every man makes many mistakes, but I made no mistake three years ago when I did what little I could toward placing upon the statute books those provisions which prevent railway corporations giving preferences to the mighty as against the weak, building up the large and powerful dealers as against the poorer and weaker ones, and giving to a bureau of the Government authority to dig deep into the methods by which unscrupulous men have made themselves fabulously wealthy at the expense of their rivals in business and at the cost of the American public. Mr. Chairman, I do not know what the people in my district will do, nor do I care much. They can not take away from me my own knowledge that I endeavored to do right, nor can they remove from me my own self-respect. [Loud applause.]

The Clerk read as follows:

Bureau of Manufactures: Chief of Bureau of Manufactures, $4,000; assistant chief of Bureau, $2,500; chief of division, $2,100; two clerks of class 4; clerk of class 2; four clerks of class 1; two clerks, at $1,000 each; clerk, at $900; three assistant messengers; two laborers; in all, $24,780.

Mr. DALZELL. Mr. Chairman, I move to strike out of line 3, page 146, the words "two thousand five hundred" and insert the words "three thousand." The purpose of this would be to increase the salary or compensation of the assistant chief of the Bureau of Manufactures from $2,500 to $3,000.

Mr. MANN. Mr. Chairman, I reserve the point of order on that.

Mr. DALZELL. It is not subject to a point of order, is it?

Mr. MANN. I think it is. That item was carried in the urgent deficiency bill.

Mr. DALZELL. Suppose it is. If the paragraph has been removed from the operation of the rule that makes it subject to a point of order, this amendment is not subject to a point of order.

Mr. MANN. The item itself is not subject to a point of order because it is carried on the urgent deficiency bill.

Mr. DALZELL. Then the amendment is not subject to a point of order. I think the Chair will find that that has been so ruled. If the House sees fit to consider a paragraph which

would be subject to a point of order, if it takes it out from under the point of order, waives the point of order, then it certainly must allow that paragraph to be amended to suit the wishes of the House.

Mr. MANN. No doubt the gentleman is right about that. The only question is whether the paragraph is subject to a point of order. I do not think it is.

Mr. DALZELL. I thought the gentleman reserved a point of order.

Mr. MANN. I reserved the point of order to the gentleman's amendment.

Mr. DALZELL. If the paragraph is not subject to a point of order the amendment is not subject to a point of order.

Mr. MANN. If the paragraph is not subject to a point of order the amendment is subject to a point of order.

Mr. DALZELL. Did I understand the gentleman to say that there was any provision of law fixing the salary of this officer?

Mr. MANN. I think there is.

Mr. LITTAUER. This is a new office. The salary of the office was fixed in the urgent deficiency bill, which has passed the House.

Mr. DALZELL. But that is not a statutory provision?

Mr. LITTAUER. It is merely a provision on an appropriation bill.

Mr. MANN. Well, Mr. Chairman, that would go a long way. The law creating the Bureau of Commerce and Labor provided for such clerks as should thereafter be provided by Congress. We have covered this in an urgent deficiency bill, which passed the House in January.

Mr. DALZELL. But the gentleman does not contend that the provision in an urgent deficiency bill is such a provision of law as fixes the salary of this officer?

Mr. MANN. It did fix the salary in the deficiency bill.

Mr. DALZELL. It provided for a deficiency.

Mr. MANN. No; I beg the gentleman's pardon. It was a deficiency in one sense; it created the office. There was no deficiency.

Mr. DALZELL. Suppose we concede that. It is a provision for the current year, but not such a provision of law as would subject this to a point of order. If it were subject to a point of order it has been waived by the rule of the House, and then it is open to amendment without regard to the point of order, because the House has a right to dispose of it without regard to the provision in the bill.

Mr. MANN. That would be a very serious ruling if it should be adopted.

Mr. DALZELL. I think it has been so ruled.

Mr. MANN. The law creating the Department of Commerce and Labor——

Mr. LITTAUER. Did not provide for this office.

Mr. MANN. I do not know whether it did or not.

Mr. LITTAUER. I would call the attention of the committee to the provision in this bill which would have been subject to a point of order had we not adopted the resolution which we have adopted.

Mr. DALZELL. Certainly.

Mr. PALMER. Mr. Chairman, for the sake of information, I want to ask the gentleman a question. Your proposition is, because the rule waives the point of order as to the paragraph, therefore no point of order will lie to the amendment?

Mr. DALZELL. That is my point.

Mr. PALMER. I would like to have the Chair rule on that.

Mr. DALZELL. I think the Chair will find that where a bill subject to a point of order has been sent to the Committee of the Whole without any points of order reserved, it has been held that the bill is open to germane amendments without regard to points of order.

Mr. LITTAUER. All points of order were reserved on this bill.

Mr. MANN. If the gentleman will pardon me, I think the law creating the Department of Commerce and Labor contained a provision, as it does in most cases, that there shall be such other officers as may hereafter be provided by Congress. Now, Congress has provided for this office in the urgent deficiency bill, and hence it would not have been subject to a point of order on the ground that it was not provided for by law, because it was provided for by law in the urgent deficiency bill by Congress in the manner contemplated in the act creating the Department of Commerce and Labor.

Mr. DALZELL. Mr. Chairman, I can not lay my hand exactly on the ruling, but I am satisfied that it has been so ruled, and I have so ruled myself twice when in the chair. I await the ruling of the Chair.

The CHAIRMAN. The Chair would like to understand the facts a little more fully. Is it conceded that this office of assistant chief of Bureau, at $2,500, is created by this paragraph?

Mr. LITTAUER. No, Mr. Chairman; it was created in the urgent deficiency bill of this year, wherein there was a paragraph reading as follows:

Bureau of Manufactures: For assistant chief of Bureau, to be selected and appointed by the Secretary of the Department of Commerce and Labor, at the rate of $2,500 per annum during the balance of the fiscal year 1906, $1,142, or so much thereof as may be necessary.

That is the first recognition in legislation of this office. The organization of the Bureau simply calls for the chief of Bureau, together with a general provision for clerical assistance.

Mr. MANN. Now, Mr. Chairman, if I may be pardoned, this is a rather important matter, so far as the ruling is concerned. The act creating the Department of Commerce and Labor provides in section 5 that there shall be in the Department of Commerce and Labor a bureau to be called the "Bureau of Manufactures," and a chief of said Bureau, etc., and that there shall also be in said Bureau such clerical assistants as may from time to time be authorized by Congress.

Now, it seems to me that under that provision of the law Congress reserved to itself in the act the right to provide for the offices in an appropriation bill, and having provided for this office in the urgent deficiency bill that item is in order, irrespective of the special rule, because it is an assistant provided by Congress. Under the original act, if the original item is in order, then a proposition to increase the salary beyond the one already provided for, it seems to me, is subject to the point of order.

Mr. DALZELL. Surely, if it was in order in the deficiency bill, it is in order in this bill. The gentleman's proposition is that the appropriation of a particular salary in the deficiency bill (which was in order) for the current year is the permanent fixing of the salary of the officer, which certainly can not be true.

Mr. MANN. Whether it was in order in the deficiency bill or not cuts no figure. In the deficiency bill Congress provided for the office, as was contemplated by the original act.

Mr. DALZELL. And therefore the committee now has the right to provide for the salary.

Mr. MANN. But the salary was provided for at the time the office was provided for.

Mr. DALZELL. Oh, for the current year; yes.

The CHAIRMAN. The Chair is ready to rule. It appears that section 5 of the act of Congress approved February 14, 1903, creating this Department, provides that there shall be in it a chief of said Bureau who shall be appointed by the President and who shall receive a salary of $4,000 per annum, and that there shall also be in said Bureau such clerical assistants as may from time to time be provided by Congress. The Chair, without stopping to look up the urgent deficiency bill passed at this session, is advised and understands it to be conceded that it does provide for this officer—names him and appropriates $2,500 as his compensation for the current year. The amendment offered by the gentleman from Pennsylvania [Mr. DALZELL] proposes to appropriate $3,000 for the year covered by the pending bill and a point of order is made that the amendment changes existing law in violation of clause 2 of Rule XXI. It has been ruled repeatedly that where a paragraph which itself changes existing law is permitted to remain in a bill any germane amendment perfecting that paragraph is in order. If this were a new office, a new fixing of the salary without authority of law, or a change of law, the paragraph as it now stands would be in violation of that rule, but, as under the special rule adopted by the House yesterday it is permitted to remain in the bill, it would, in the opinion of the Chair, be subject to any germane amendment. But if this paragraph would not in any event have been subject to the point of order, if the salary is already fixed by law at $2,500, so that the paragraph in its present form does not offend against Rule XXI, then the amendment would not be in order, because it would be a change of existing law. The question therefore arises, Does the urgent deficiency bill recently passed and which is for the current year ending June 30, 1906, constitute existing law so as to fix the salary for subsequent years? Does it permanently establish the salary of this officer at $2,500? If so, this amendment is out of order. Now, it has been held repeatedly—so often that it is unnecessary for the Chair to refer to the decisions—that an appropriation bill for the current year does not afford an authority of law for a subsequent appropriation for a different period of time. Such an item in a general appropriation bill has over and over again been held to be law only for the year for which it appropriates. There has, however, been one exception made, as will appear by reference to the Manual, at page 355:

In the absence of a general law fixing a salary the amount appropriated in the last appropriation bill has been held to be the legal

salary, although in violation of the general rule that the appropriation bill makes law only for the year.

The Chair desires the committee distinctly to bear in mind that it has been ruled over and over and over again that an appropriation for the current year is not existing law so as to authorize an appropriation for the same object for another year. The only exception to it is found in this ruling which was first made in the Fiftieth Congress, and has been on five or six occasions followed, with great reluctance, by those who have occupied the chair. The present occupant of the chair, if the question were a new one, would be very much inclined to hold that the position taken in the ruling just cited was not the correct one. If an appropriation for the current year for an office not previously created by law does not constitute law beyond the year as to the office, it is difficult to understand upon what principle an appropriation for the current year of a compensation not previously fixed by law can be held to constitute permanent law as to the salary. If it expires with the appropriation year as to an office, why not as a salary? The Chair, however, does not feel at liberty to override a ruling which has been followed several times, but proposes to submit to the committee the question——

Mr. MANN. Mr. Chairman, it seems to me it would be a very unfortunate thing to have a parliamentary proposition decided upon the merits of a man, and I therefore withdraw the point of order, the Chair having stated it the way I argued it.

Mr. DALZELL. Mr. Chairman, it is apparent from the debate that has already been had here to-day that the committee regard the Bureau of Manufactures as one of the most important bureaus in the new Department of the Government.

Mr. MANN. What warrant has the gentleman for that statement? It has never done any work.

Mr. DALZELL. Well, I was relying upon the debate which took place upon the paragraph with respect to the traveling expenses of special agents abroad, and I was going to follow it up by saying one of the most important functions of the Bureau of Manufactures was to see that the results of those investigations got promptly to the American people. I think they do get promptly to the American people through the medium of the journal which is published daily by the Department of Commerce and Labor. One of the most important functions of that Department is the publication of that journal, and the publication of that journal in an economical way requires a great deal of skill and special talent. I am told that when the present chief of the Bureau of Manufactures was appointed, Maj. John M. Carson, who is an old and experienced newspaper man, he devoted his entire time and attention to the editing of the reports of these special inspectors and our consuls abroad, and that the manner in which he did it, by reason of his skill as a newspaper man, saved to the Government some seven or eight hundred dollars a month in the way of printing. Now that duty devolves in the present instance upon the assistant to the chief, a gentleman who is eminently adapted to perform the duties of the place, who is an old newspaper man, a man familiar with trade relations, a man familiar with statistics, and a man who is able to edit in an economical way this great mass of information which comes into the Bureau from day to day.

Mr. SLAYDEN. I was interested in your statement, but I failed to hear who the chief is.

Mr. DALZELL. The chief of the Bureau is Maj. John M. Carson.

Mr. SLAYDEN. He is the man whose salary you seek to increase?

Mr. DALZELL. No; I am seeking to increase the salary of the assistant.

Mr. GILLETT of Massachusetts. May I ask who fills the office of assistant?

Mr. DALZELL. Mr. Gibson, who was formerly on the editorial staff of the Philadelphia Press. I have no doubt gentlemen know him; he has been in Washington a great many years. Now, the assistant deputy commissioner of the Bureau of Corporations gets $3,500, which is more than I propose shall be given to the assistant in this Bureau, and it does seem to me that the services of a man competent to fill this place satisfactorily and with advantage to the public service can not be had for less than $3,000, and I trust the committee will see fit to advance the salary to that amount.

Mr. LITTAUER. Mr. Chairman, I regret that I can not agree with the gentleman from Pennsylvania. Here is a position that is just four weeks old. We were asked a little over a month ago to provide an assistant to the chief of the Bureau of Manufactures, and did so. Let me call the fact to the committee's attention that when the Department of Commerce and Labor was created a Bureau of Manufactures was provided for. For a year or two the policy of what that Bureau should do was not settled upon and no provision was made, or such provision as was made for clerical assistance was detailed to other work. Last year we found that the chief of the Bureau was busying himself simply in writing a few letters around about, and we determined to drop the provision for the entire Bureau, when the Department called our attention to the fact that the consular reports, which at one time were a division in the State Department, had been transferred to the Department of Commerce and Labor and placed in the Bureau of Statistics with the same force that formerly was employed in the work over in the State Department, and that they desired to have these reports edited by the Bureau of Manufactures. In the end it resulted that the State Department concluded that they could not dispense with the number of clerks transferred, so finally they received such accession to their own force. Thus it transpired that when we proposed to drop this entire Bureau of Manufactures there arose a real necessity for it, and we made provision for the current year for one chief and four clerical assistants. Now, what has this chief done? He has taken over the work of editing the consular reports, just that and nothing more, and I believe he has done the work in a much more satisfactory manner than it was formerly performed; but the same old consular force still exists, and we now propose to transfer it where the work is actually done—in the Bureau of Manufactures.

To-day all the force in that Bureau is nine men, under the Chief of the Bureau of Manufactures, with a salary of $4,000. He came before us and pleaded hard that he was an overworked man; he was editing these reports and finding that they were needed all through the country. I stated a few minutes ago in connection with the appropriation for traveling agents that I had never been deeply impressed with the results accomplished by that appropriation. Nevertheless, this editing is the way through which the information of these special agents is distributed broadcast through the country. This gentleman, so overworked, came before us and stated that he ought to have an assistant, and we gave him one. I want to refer to the fact that when the annual estimates came to us the submission was for a chief clerk, who would also be assistant, and be enabled to sign letters in the chief's absence, for which was estimated $2,000. It later developed that he wanted an assistant editor, and in the urgent deficiency bill, which passed four or five weeks ago, we provided for an assistant editor at $2,500. Now, I do not see why we should increase the salary of that assistant editor before he has really got settled down to his work, nor have I seen any recommendation that the clerk who wants to be chief clerk should have his salary increased.

Mr. DALZELL. Am I not right in assuming that the director or Cabinet officer at the head of this Department has recommended an increase in this salary?

Mr. LITTAUER. No; we have had no such recommendation.

Mr. DALZELL. I am so informed.

Mr. LITTAUER. We have nothing before us at all except the appropriation carried in the urgent deficiency bill for the balance of the current year. The chairman of the Committee on Appropriations informs me that the chief wrote to him a letter requesting that this salary be raised.

Mr. DALZELL. I so understood.

Mr. LITTAUER. Bear in mind that the chief of this bureau was only appointed the 1st of last July. He has only six or seven months at the work, but he was overworked, and came to us a few weeks ago and we gave him an assistant at $2,500 a year. Let us see what this assistant can perform during the coming year. Let us see whether he will relieve the work so that the chief of the bureau can devote himself to other necessary matters.

Mr. SLAYDEN. Did I understand the gentleman to say a few moments ago that there was a new chief clerk that was in charge?

Mr. LITTAUER. No; there is no chief clerk now.

Mr. SLAYDEN. He asked for a chief clerk or assistant?

Mr. LITTAUER. In the submission for this year in the Book of Estimates was an item for an assistant to the chief, who shall also act as chief clerk.

Mr. SLAYDEN. And subsequently you conceded it.

Mr. LITTAUER. No, no; we did not concede it. We conceded the appointment of this assistant to the chief, whose duty it is to edit these reports. We have now two editors, the chief editor and the assistant editor.

Mr. SLAYDEN. Who is really also the chief clerk?

Mr. LITTAUER. No; there are only seven clerks provided.

Mr. DALZELL. Now, I see that the necessity for the employ-

ment of this party is emphasized by what the gentleman has just said. This work has accumulated since the bureau has been established, and it has so accumulated that the head of the department has either to attend to that work alone and leave the rest unattended to or have somebody to take his place, so as to permit him to attend to the other duties for which the office was created. I still insist that it is out of the question to find a man of proper qualifications for such service as is required in that position at a salary less than the salary I suggest.

Mr. BURLESON. Mr. Chairman, I must confess my profound astonishment at the amendment that has been offered by the gentleman from Pennsylvania. The gentleman from Pennsylvania is one of the leaders on the other side; one of the most prominent men of his party, which is now in control of legislation, and hence chargeable with the duty and responsibility of conducting the affairs of the Government in an economical way. Yet, Mr. Chairman, we have the spectacle here of this leader of his party breaking all records in an effort to increase the salary of an employee who holds a position recently created, who would add to the salary of an officer whose place was created in the urgent deficiency bill passed here only a few weeks ago.

Mr. DALZELL. By $500.

Mr. BURLESON (continuing). Before this employee warms his seat; before he has discharged a single duty imposed upon him in the position he has been given; before he has so much as demonstrated that he has the efficiency to discharge these duties, the gentleman from Pennsylvania, one of the leaders of the dominant party, rushes to the rescue and offers this amendment to increase the salary of this newly appointed official. I will not charge that the gentleman from Pennsylvania does this because the person holding this office is from Philadelphia or Pennsylvania; I will not charge that it is because he is an old newspaper man; I will not say that he is prompted to this action because an affliction has been recently visited upon this man, which we all regret, which has impaired his usefulness as a newspaper man to such an extent that he is no longer employed as such, but I do assert that it is an unusual thing that a gentleman who is one of the foremost men of his party, and upon whom a weight of responsibility should rest, who should feel the responsibility of keeping down the expenses of the Government, has come here and now seeks in this extraordinary way to increase the expenses of the Government by increasing the salary of an employee who has hardly entered upon the discharge of his duty. I do sincerely hope that the gentleman from Pennsylvania will reconsider the matter and withdraw his amendment.

Mr. DALZELL. Mr. Chairman, of course I am very sorry to have astonished the gentleman from Texas. I made this suggestion neither because the gentleman was from Philadelphia nor from Pennsylvania nor for any other reason than that I believed that the adoption of the amendment would be in the interest of the public service, just as I suppose the gentleman from Texas believed that it would be in the interest of the public service when, a little while ago, he secured an amendment for an additional law clerk in the Land Office at $2,500 a year, who not only has not been long enough in that position to warm his feet, but who is not as yet in office. I suggest the amendment under full sense of my responsibility, and I shall vote for it in that way.

Mr. BURLESON. Mr. Chairman, if the gentleman's information with reference to the value of the assistant chief of the Bureau of Manufactures is as erroneous as his information about the facts in connection with the creation of the position of chief law clerk in the Land Office, then, indeed, I insist that every gentleman here ought to vote against his amendment. As a matter of fact—and no one will dispute this statement—the man who is to occupy the place as chief law clerk has occupied a position in the Land Office since the Cleveland Administration, and the Department officials now propose to promote him to this new and more important position, as is shown in the hearings, because of his efficiency and his ability, and for no other reason. Now, what substantial reason has the gentleman from Pennsylvania given why we should vote for this increase advocated by him in the salary of this new, very new, assistant chief of the Bureau of Manufactures? None whatever; absolutely none. This official is to engage in a work that the gentleman from Tennessee says is of such trivial value that he casts the fruit of it into the waste basket every morning without giving it a moment's notice. Other gentlemen here seem to doubt the wisdom of doing this work at all; and yet before this official attempts to discharge the duties of his position that has been so recently created the typical economist upon the other side seeks to increase his salary.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. DALZELL].

The amendment was rejected.

The Clerk read as follows:

Bureau of Navigation: For Commissioner of Navigation, $4,000; four clerks of class 4; additional to one clerk designated as deputy commissioner, $600; clerk to Commissioner, $1,600; one clerk of class 3; two clerks of class 2; four clerks of class 1; nine clerks, at $900 each; one messenger; one assistant messenger; in all, $22,660.

Mr. LITTAUER. Mr. Chairman, I move to amend. On page 152, line 8, strike out the word "twenty-two" and insert "twenty-eight."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 152, line 8, strike out the word "twenty-two" and insert the word "twenty-eight."

Mr. LITTAUER. It is merely to correct the total.

The amendment was agreed to.

The Clerk read as follows:

Bureau of Standards: For Director, $5,000; physicist, $4,000; chemist, $4,000; associate chemist, $2,500; 3 associate physicists, at $2,500 each; 1 associate physicist, $2,000; 3 assistant physicists, at $1,800 each; 5 assistant physicists, at $1,600 each; 1 assistant chemist, $1,600; assistant chemist, $1,400; 5 assistant physicists, at $1,400 each; 5 laboratory assistants, at $1,200 each; 6 laboratory assistants, at $1,000 each; six laboratory assistants, at $900 each; 2 aids, at $720 each; 2 aids, at $600 each; 3 laboratory apprentices, at $540 each; 4 laboratory apprentices, at $480 each; storekeeper, $1,000; librarian, $1,400; secretary, $2,000; 1 clerk of class 3; 1 clerk of class 2; 1 clerk of class 1; 1 clerk, $1,000; 2 clerks, at $900 each; 2 clerks, at $720 each; 3 messenger boys, at $360 each; 1 elevator boy, $360; chief mechanician, $1,600; mechanician, $1,400; 1 mechanician, $1,200; 2 mechanicians, at $1,000 each; mechanician, $900; 2 watchmen; skilled woodworker, $840; 2 skilled laborers, at $720 each; draftsman, $1,200; 2 assistant messengers; engineer, $1,800; 2 assistant engineers, at $1,000 each; assistant engineer, $900; 3 firemen; electrician, $900; 3 laborers; janitor, $660; janitor, $600; and 2 female laborers, at $300 each; in all, $110,440.

Mr. SLAYDEN. Mr. Chairman, I move to strike out the words "four thousand," in line 24, page 152, and insert the words "three thousand five hundred." Mr. Chairman, I want to submit a few observations on this paragraph, and I ask unanimous consent that I may have ten minutes.

Mr. LITTAUER. Mr. Chairman, from now on I must object. We want to finish the bill this afternoon.

Mr. SLAYDEN. I have not occupied sixty minutes of the time of the House in the entire Congress.

Mr. LITTAUER. I have no doubt of that, but we are nearly at the end of the bill, and we want to finish the bill this afternoon. There is some considerable work in going back——

Mr. SLAYDEN. Well, Mr. Chairman, I submit the request.

The CHAIRMAN. The gentleman from Texas asks unanimous consent that he may have ten minutes. Is there objection?

Mr. LITTAUER. Mr. Chairman, I object.

Mr. SLAYDEN. I am entitled to five minutes.

The CHAIRMAN. Undoubtedly. The Clerk will report the amendment.

The Clerk read as follows:

In line 24, page 152, strike out the words "four thousand" and insert the words "three thousand five hundred."

Mr. SLAYDEN. I understand, Mr. Chairman, why the gentleman from New York does not wish to grant an extension of time for the discussion of this item. He evidently does not want to see it exposed to the gaze of the House. I will try to do the best that I can in the way of explaining it in the limited time available under the rules.

If this paragraph did not lie under the protection of the 13-inch-gun rule brought into action two days ago—and a most extraordinary rule it is—you, Mr. Chairman, would be invited to consider a point of order against most of the items of appropriation which it contains, and I have no doubt, sir, that you would promptly put to sleep every one of them against which the rules would be invoked.

The act which created the Bureau of Standards was approved March 3, 1901. That act provided for fourteen employees, ranging from the head officer, called "Director," who was given an annual salary of $5,000, down to one laborer at an annual salary of $600. The first salary appropriation, that for the fiscal year ending June 30, 1902, and intended to pay the fourteen officials and employees just referred to, was $27,140. The salary appropriation for the current year is $99,660. It is a growth of nearly 400 per cent in expenses for salaries in five years. But, Mr. Chairman, we have not reached the end of this growth. The bill now under consideration provides for an increase of salary allowance up to $110,440. Since the passage of the act creating the bureau we have expended for apparatus over a quarter of a million dollars, and this bill asks for $40,000 more for the same purpose. As the bill of last year appropriated $40,000 for apparatus and that

under consideration calls for the same sum for that purpose. I think we may assume that that amount, at least, will be asked for annually. These bureaus of the Government never show a descending scale of expenses, and this, the youngest of the lot, seems an unusually robust infant. It has a marvelous appetite for appropriations. As I have stated, it started with fourteen employees and officers. It now has on its rolls eighty-seven people drawing salaries. An increase of ten was asked for and an increase of eight was allowed by the committee. I will not undertake at this time to read to the committee the table which shows the rapid and expensive growth of this bureau, but will avail myself of the courtesy of the committee to have it printed with my speech.

Appropriations for Bureau of Standards.

Year.	Salaries.	Apparatus.	Fuel, heat, etc.
1902	$27,140	$30,000	$5,000
1903	36,060	30,000	5,000
1904	74,700	110,000	10,000
1905	85,780	74,000	11,000
			[a] 1,400
1906	99,660	40,000	12,500

[a] Deficiency.

The bill under consideration (H. R. 16472) provides $110,440 for salaries; $40,000 for apparatus; $12,500 for heat, etc.; $1,000 for grading; $2,000 for travel expenses, and $2,750 for books.

The Bureau of Standards is, and very likely always will remain, a mystery to most of us. To men of just average intelligence and information it speaks in an unknown tongue about things which are not easily understood. However, the ray of light which occasionally penetrates the mysterious gloom of the report from the Bureau of Standards half inclines me to suspect that it is a mechanical repair shop masquerading behind scientific and learned phrases. Only one thing about it is perfectly clear, and that is its remarkable growth and insatiable appetite for appropriations.

Let us see what the report from the Director has to say about this institution. But before going into the report I want to turn for a moment to other sources of information and say something about the building occupied by the Bureau of Standards.

It is a new building in the outskirts of Washington, and has, so far, cost the taxpayers $325,000. Of course it was not intended to cost that much when the project was initiated. No bureau building ever is intended at its initiation to cost as much as is subsequently found necessary, and if the ultimate cost of the palace for the Bureau of Standards was in the minds of the officials and their friends they did not take Congress into their confidence. Like a good many other expensive buildings in other Departments of the Government, the original design was modest and economical compared to the ultimate cost. Congress, in the beginning, fixed $250,000 as the limit of cost. As usual, estimates submitted were found to be inadequate, and on appeal to Congress the limit of cost was increased by 30 per cent and up to $325,000. For the current year there was an appropriation of a thousand dollars for "repairs and alterations." Repairing and altering before the building is really completed suggests serious faults in design and construction.

Now, Mr. Chairman, let us turn to the report of the Director. What do we get for all this outlay? Do Members of the House generally know? How many of them if questioned by their constituents could tell what the Bureau of Standards is, what it does, what it costs, and what equivalent in service to the people it renders for this considerable outlay? A study of the report submitted by Director Stratton may enable them to answer any curious constituent who seeks light on this matter. It may *may* enable them to do so because a part of the report is so technical that its entire meaning is hidden from the layman. The first important fact that we learn is that all the buildings authorized by Congress have not been completed. The low-temperature laboratory, for example, is now building. It may arrive at the same moment with the coal strike.

The second important fact that we learn from the report of the Director is that the site of the Bureau of Standards is one of the most beautiful in the District of Columbia, and that its location is such that it will not require any considerable amount of grading, and it is the desire of the Bureau to retain the ground in a comparatively natural condition." And then we turn to this bill and learn that the amount appropriated for grading last year, which was $1,500, has been increased to $1,000.

Mr. Chairman, I am so much in love with the beautiful that I think we ought to gratify the Director in that matter of keeping his grounds in "a comparatively natural condition" despite his request for an appropriation of $1,000 to do this grading.

On the second printed page of the report we find a request for the purchase of more land. It is said to be "desirable" that the remaining portions of a certain block should be secured before other buildings are placed on it. It is not suggested that it is required or that the business of the Bureau may not be equally well done without it. It seems to be wanted because other buildings in the block would destroy or mar the beauty of the landscape.

What does the Bureau of Standards do? I asked several Members of Congress, and they were not only not able to tell me, but they did not even know of its existence. I then inquired of a scientific man connected with another bureau of the Government. He was not very positive, but said he thought it served a useful purpose, and on one occasion they had repaired some scientific instruments for him. When I asked him if that could not have been done just as well by the makers of the instruments he merely laughed.

They deal with weights and measures, two things that most men have a reasonable working knowledge of now. Under the heading "Measures of length" the Director tells us about some fine tools he has for measuring things, some of his apparatus being fixed with microscopes, and he promises to ascertain in the future whether the nickel-steel tapes used by the Coast and Geodetic Survey are suitable for measuring base lines. This opens up an avenue of possible trouble. Suppose that it should be found that they are not suitable for measuring base lines, may it not lead to a reopening of the boundary question between the United States and Canada and cause no end of trouble?

Mr. LITTAUER. I would like to ask the gentleman a question.

Mr. SLAYDEN. Certainly.

Mr. LITTAUER. Does the gentleman know that just such work was contemplated in the act that established this Bureau?

Mr. SLAYDEN. I do not think that justifies it if it was.

Mr. LITTAUER. Does the gentleman know of any bureau of the Government with a better foundation in law than this one has?

Mr. SLAYDEN. I know of none, Mr. Chairman, established with better foundation than the palace they have out there, or a more expensive one in proportion to the work that it is doing.

Mr. LITTAUER. Has the gentleman ever been out there?

Mr. SLAYDEN. Yes.

Mr. LITTAUER. The gentleman has seen it?

Mr. SLAYDEN. Yes. I have never been through it.

Mr. LITTAUER. The gentleman has seen the outside of it?

Mr. SLAYDEN. Yes.

Mr. LITTAUER. Does the gentleman call it a palace?

Mr. SLAYDEN. Well, it cost $325,000.

Mr. LITTAUER. And contains machinery probably the finest in the world.

Mr. SLAYDEN. But the expenses for the apparatus are separately set forth in all of these appropriations.

Mr. LITTAUER. And the work performed as well.

Mr. SLAYDEN. The gentleman ought not to seek to convey the impression that the expense for the building is the same as that for the machinery that equips the building.

The CHAIRMAN. The time of the gentleman has expired.

Mr. RANDELL of Texas. Mr. Chairman, I ask unanimous consent that my colleague may have five minutes more.

Mr. LITTAUER. Mr. Chairman, I dislike very much to object, but we have to finish this bill to-night.

Mr. GAINES of Tennessee. Oh, Mr. Chairman, I hope the gentleman will not cut down the time on this matter in which he is so much interested.

Mr. RANDELL of Texas. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The Chair will state that that motion will not be in order until somebody has been heard in opposition to the amendment.

Mr. RANDELL of Texas. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. RANDELL of Texas. Is not this an amendment in the first degree? It is not an amendment to an amendment, is it?

The CHAIRMAN. It is the gentleman's own amendment.

Mr. RANDELL of Texas. Is it not in order for me to offer an amendment to this amendment before somebody speaks against the amendment? I have the floor and the recognition of the Chair.

The CHAIRMAN. The Chair would feel bound first to recognize somebody desiring to be heard against the amendment,

after which it would be in order for the gentleman to make his amendment.

Mr. RANDELL of Texas. The Chair rules it is not in order for me to offer an amendment to the amendment?

The CHAIRMAN. The Chair stated that he would first feel bound to recognize some gentleman to speak against the amendment, and then it will be in order for the gentleman to move his amendment.

Mr. RANDELL of Texas. But I have the floor and nobody has offered to speak in opposition to the amendment.

The CHAIRMAN. No gentleman has yet been recognized, but if any gentleman desires to be heard he will be recognized.

Mr. SHACKLEFORD. Mr. Chairman, I desire to be recognized in opposition to the amendment. I move to amend the amendment of the gentleman from Texas [Mr. SLAYDEN] by striking out the last word.

The CHAIRMAN. The Chair will feel bound to first recognize the gentleman from Texas [Mr. RANDELL], who first offered an amendment of that character.

Mr. SHACKLEFORD. But, Mr. Chairman, I am opposed to the amendment, and I am the first man who said he was.

The CHAIRMAN. Does the gentleman desire to speak in opposition to the amendment?

Mr. SHACKLEFORD. I do.

The CHAIRMAN. The Chair will recognize the gentleman from Missouri.

Mr. SHACKLEFORD. Now, Mr. Chairman, the amendment offered by the gentleman from Texas is defective in this, that the last word is superfluous. I move that it be stricken out. I would like to hear a defense made in behalf of that word by the gentleman from Texas [Mr. SLAYDEN]. [Laughter.]

Mr. SLAYDEN. Mr. Chairman, I think if the gentleman from New York [Mr. LITTAUER] had permitted me to go on, I would have concluded my remarks by this time.

The CHAIRMAN. If there is no objection, the gentleman from Texas may proceed.

Mr. SLAYDEN. Mr. Chairman, I will deal frankly with the House. I have nothing to say, of course, with reference to the amendment offered by the gentleman from Missouri [Mr. SHACKLEFORD], except to say that I appreciate the courtesy with which it is offered. I will say, with the tolerance of the House, a few words more and leave the matter to the judgment of the Members. If it had not been for that rule I referred to a little while ago, a whole series of increases in expenses and multiplication of offices would have gone out under points of order. Mr. Chairman, I have diligently and earnestly and frankly sought to find an excuse for the existence of this Bureau and for the cost which it entails upon the people.

The whole report, Mr. Chairman, seems a plea for existence. Details of work that appear trifling and inconsequential when it is remembered that they are for the information of the National Congress are gravely told in this remarkable report. We are given a sort of a diary of the happenings at the Bureau. We are made aware of the fact that during the year the State sealers of weights and measures met at the Bureau and that they were shown a collection of balances, weights, and measures. How exciting! And how wonderful are the opportunities for education in Washington. Then comes a statement that the increase of routine testing is so great that a larger force is needed to keep up with the work. Measures of volume have been asked after for "private individuals, including several manufacturers," but no proof is submitted that it does not still take 5 quarts to make a gallon in certain trades.

The report lays great stress on the measurement of time and the investigation of timepieces. At noon each day the Bureau receives a wireless message from the navy-yard, and then a confirmation of that from the Naval Observatory, and thus this great Bureau, which spends so much time and money on the scientific measurement of time, knows absolutely when it strikes 12. Such learning and exactness is really marvelous. But the long suit of the Bureau is in the testing of thermometers. During the year more than 13,000 thermometers of various kinds were tested. This seems to be the real occupation of the Director and his eighty-six assistants. They have to do with pyrometers and with optics, with spectroscopy, which seems to have something to do with refracted light, prisms, apparitions, and other ghostlike matters. They have an instrument shop also, for which an increased force is asked. Indeed, here and there throughout the report, if Members will take the trouble to read it, they will find requests for more land, more money, and more employees. They look after water meters, speed indicators, and paper testers, and have carefully investigated the adhesive power of mucilage. I presume that the information they gather about paper, mucilage, and other useful articles of that sort will be given to the manufacturers of the country, but, Mr. Chairman, is not the Government going rather far afield in this matter of rendering assistance to business houses?

In a private conversation with a Member of this House I learned that the work of the Bureau has been useful to the great United States Steel Corporation in the determination of the tensile strength and other qualities of steel. Great heavens, Mr. Chairman, is it possible that the taxpayers of the country are to be forced to confer still other favors upon this huge monopoly? The steel corporation is already intrenched behind a wall of tariff which makes a successful assault from the outside impossible, and yet we are called upon to maintain for their benefit here in Washington, at the public expense, this Bureau of Standards. The same gentleman also told me that the Bureau of Standards, which seems to be one of his pets, had investigated electric lighting, the standard of illumination, and the manner of its measurement to the consuming public.

I had always been under the impression it was the duty of municipal governments that granted those franchises to protect their own citizens against incorporated robbers of that sort. I hope, sir, if this Bureau is continued that they may persevere in that particular line of reform.

Mr. LITTAUER. They do, and they come to this Bureau to find out how to do it.

Mr. RANDELL of Texas. Regular order, Mr. Chairman.

Mr. SLAYDEN. Do you think, sir, it is the duty of this Government to maintain a Bureau out here to promote the interests of the United States Steel Corporation, and do you not believe that great corporation, with all of its resources, can command the most technical skill the world offers?

Mr. LITTAUER. The act inaugurating this Bureau says it should do just that.

Mr. SLAYDEN. That is an additional reason why this Bureau should be reformed.

Mr. SOUTHARD. Mr. Chairman——

The CHAIRMAN. Does the gentleman from Texas yield to the gentleman from Ohio?

Mr. SLAYDEN. Yes; I yield to the gentleman.

Mr. SOUTHARD. Does the gentleman not know the United States Steel Corporation and very many other similar institutions or large institutions maintain at a very large expense physical laboratories to do the very things for themselves that this institution is intended to accomplish for the public?

Mr. SLAYDEN. I have been under the impression they maintain those people, and I am willing for them to go on maintaining them. I do not believe that it is properly a function of this Government, and I am very much inclined to believe that a mistake was made when this expensive Bureau was set up, and the sooner we check its extravagances the better. An outright repeal of the act of March 3, 1901, would, I believe, be in the interest of the people.

The CHAIRMAN. The gentleman from Texas asks unanimous consent to extend his remarks in the RECORD. Is there objection? [After a pause.] The Chair hears none. The question is on the amendment of the gentleman from Texas.

The question was taken, and the amendment was rejected.

Mr. GAINES of Tennessee. Mr. Chairman, I move to strike out the words "associate chemist, $2,500," and I desire now to address myself for a moment to the proposition. The law, the act of March 3, 1901, creates no such office, and hence this item is in the bill contrary to law I am sworn to obey.

The CHAIRMAN. Will the gentleman state a little more definitely the proposition?

Mr. GAINES of Tennessee. I move to strike out the words "associate chemist, $2,500," in line 25, on page 152, because the law allows no such expenditure and has created no such office.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 152, line 25, strike out the words "associate chemist, $2,500."

Mr. GAINES of Tennessee. Mr. Chairman, I desire now to be heard. I very much regret the chairman in charge of the bill, the gentleman from New York [Mr. LITTAUER], has shut off debate on this very important paragraph or its items. It carries too much money to be enacted in any such way. I, after a great deal of labor expended, have gotten data on this paragraph, which this House ought to well know and digest before action. There is not a man in this House who is familiar with this data, and I challenge the gentleman from New York to stand here now and give the amount of money by years that has been expended in this Bureau.

Mr. LITTAUER. I would state to the gentleman this: That this, an establishment——

Mr. GAINES of Tennessee. Oh, now you are looking at the book.

Mr. LITTAUER. I am going to answer your question, if you will wait long enough for an answer. I will say that they

have expended from one hundred and forty to a hundred and sixty dollars a year for two years; that prior to that time they were housed in a little place over here——

Mr. GAINES of Tennessee. But the gentleman did not answer my question——

Mr. LITTAUER. I beg your pardon——

Mr. GAINES of Tennessee. I have it right here. I knew the gentleman did not know it, and hence I asked the question. [Laughter.] No one in this House knows.

"The National Bureau of Standards" was established by act of March 3, 1901, this being the name given to "the Office of Standard Weights and Measures," as this act shows.

Under the old law, repealed by this act, the appropriations made were as follows:

1893.

Salaries	$4,190
Apparatus	500
Traveling expenses of delegates to International Commission	600
Total	5,290

1894.

Salaries	4,190
Apparatus	500
Traveling expenses of delegates to International Commission	475
Total	5,165

1895.

Salaries	4,190
Apparatus	500
Traveling expenses of delegates to International Commission	475
Total	5,165

1896.

Salaries	4,190
Apparatus	500
Traveling expenses of delegates to International Commission	475
Total	5,165

1897.

Salaries	4,190
Apparatus	500
Traveling expenses of delegates to International Commission	475
Total	5,165

1898.

Salaries	5,690
Apparatus	500
Traveling expenses of delegates to International Commission	475
Total	6,665

1899.

Salaries	5,690
Apparatus	2,000
Traveling expenses of delegates to International Commission	475
Total	8,165

1900.

Salaries	9,410
Apparatus	1,000
Traveling expenses of delegates to International Commission	475
Total	10,885

1901.

Salaries	9,410
Apparatus	1,000
Traveling expenses of delegates to International Commission	475
Total	10,885

1902.

Salaries	10,010
Apparatus	1,000
Traveling expenses of delegates to International Commission	475
Total	11,485

1902.

Building	27,140
Laboratory	10,000
Equipments	25,000
Contingencies	5,000
Total	67,140

1903.

Building, public building act, limit of cost	225,000
Salaries	50,060
Apparatus	50,000
Fuel	5,000
Total	71,060

1904.

Salaries	74,700
Apparatus	110,000
Fuel	10,000
Total	194,700

1905.

Salaries	$85,780
Apparatus	14,000
Fuel, etc	11,000
Deficiency	750
Total	111,530

1906.

Salaries	89,660
Apparatus	40,000
Repairs	1,000
Fuel	12,500
Grading	1,500
Total	144,660

1907.

[Recommended in pending bill.]

Salaries	110,440
Apparatus	40,000
Repairs	1,000
Fuel	12,500
Grading	4,000
Total	177,940

Had 71 employees in 1905 as against 14 in 1901, as the act of March 3 provided, and 87 employees in 1906, an increase of 16 people net, over 1905.

Employees added in 1906.

1 assistant physicist	$1,600
1 assistant chemist	1,600
1 physicist	1,800
1 laboratory assistant	1,000
2 aids, at $600 each	1,200
1 laboratory apprentice	540
2 messengers, $360 each	720
1 elevator boy	360
1 chief mechanician	1,600
1 skilled laborer	720
1 assistant engineer	1,000
1 fireman	720
1 laborer	630
2 laborers, at $360 each	720
Total	13,810

One employee was deceased, who was paid $360, thus making a net increase by additional employees in 1906 of $13,450.

Positions added by pending bill.

1 assistant physicist	$1,800
1 assistant physicist	1,600
2 assistant physicists, at $1,400 each	2,800
1 laboratory assistant	1,000
1 laboratory apprentice	540
1 clerk	1,000
1 clerk	900
1 clerk	900
Total	10,540

Total number new positions created, 9.

One of the above employees was dropped, who was paid $1,000, making a difference of $9,540.

This Department has increased from $5,290 under the old law, in the year 1895, to $13,450 under the present law, in 1906, and it is now proposed that the present bill shall carry $177,940.

Mr. Chairman, in March, 1901, when the gentleman from Ohio [Mr. SOUTHARD] got through the House the bill establishing this new Bureau by the mere skin of his teeth, so to speak, we created fourteen officers and appropriated $27,140 for them, and this bill to-day carries $177,000 and eighty-seven officers and employees.

Mr. LITTAUER rose.

Mr. GAINES of Tennessee. I can not yield. You shut off my liberty and shut off my opportunity of giving light and knowledge to the people of this House that they ought to have. [Laughter.] I have helped the gentleman whenever he was right and opposed him when wrong as now.

Mr. LITTAUER. I want to help you.

Mr. GAINES of Tennessee. I can not listen to the gentleman. The gentleman has outraged the American Treasury. Not satisfied, Mr. Chairman, with curtailing the right of free speech and a patriotic consideration of this matter, he is racing up a great engine here to put in operation the mettle bill, which may come soon before the House, of which bill he is the great father. [Laughter.] It was stated on the floor of this House in March, 1901, that the "fees" coming from the users of this Bureau would "largely" pay for running it.

How much were the fees last year? A little over $11,000, and half of it was for the use of the Government of the United States, and was, of course, free, making about $5,500 come. "The fees will largely run this Bureau!" That is what the gentleman from Ohio [Mr. SOUTHARD] said. Here is his speech. I will not take the time of the House to read it, but here it is, on the very day it passed in March, and now, under the wisdom of his great committee, we have gone to $177,940. Fourteen officers and $27,140 in salaries, Mr. Chairman, in the name of heaven, in 1901, to run this great public benefactor, now eighty-seven officers and $177,000! The gentleman from Ohio stated that England paid $80,000 a year to run its great benefactor,

and we are expending $177,000 in this bill. Mr. Chairman, I favor a proper bureau, but not this size or at this expense.

The CHAIRMAN. The time of the gentleman has expired.

Mr. GAINES of Tennessee. I move to strike out the last two words.

The CHAIRMAN. One moment. The gentleman will suspend a moment. The Chair, in order that there will be no misunderstanding, will read the rule on the subject of debate.

Mr. GAINES of Tennessee. I am sorry that the Chair did not get to read that before we got up this great fraud that shuts off all debate.

The CHAIRMAN. The Chair will read the rule.

Mr. GAINES of Tennessee. I have great respect for the Chair, and he knows it.

The CHAIRMAN. The Chair will read for general information of all Members:

When general debate is closed by order of the House, any Member shall be allowed five minutes to explain any amendment he may offer, after which the Member who shall first obtain the floor shall be allowed to speak five minutes in opposition to it, and there shall be no further debate thereon; but the same privilege of debate shall be allowed in favor of and against any amendment that may be offered to an amendment.

Now, if any gentleman desires the floor to be heard against the amendment the gentleman from Tennessee has offered, it is the duty of the Chair to recognize him before he can recognize anyone to offer an amendment to the amendment.

Mr. GAINES of Tennessee. A parliamentary inquiry.

The CHAIRMAN. The Chair can not recognize the gentleman to offer an amendment.

Mr. GAINES of Tennessee. I have no disposition to proceed out of order. I have the greatest respect for the Chair, as the Chair knows, but the gentleman from New York has got in his motion of cutting out debate.

The CHAIRMAN. Does the gentleman from Ohio desire to be heard in opposition to the amendment?

Mr. SOUTHARD. I desire to be heard in opposition to the amendment.

The gentleman from Tennessee has been very loud in his denunciation of this institution. I desire to say at the outset, if it has already become evident, that it is because he does not know anything about the institution of which he has been talking. [Laughter and applause.] I had the pleasure, during the Fifty-sixth Congress, of introducing a bill which resulted finally in the establishment of what is now called the "Bureau of Standards." It came into existence at the call of the manufacturing institutions of this country and it has served its purpose since that time as well as any Bureau in the Government service. The functions of the Bureau are stated in the law, where they are defined as consisting—

in the custody of the standards; the comparison of the standards used in scientific investigations, engineering, manufacturing, commerce, and educational institutions with the standards adopted or recognized by the Government; the construction, when necessary, of standards, their multiples and subdivisions; the testing and calibration of standard measuring apparatus; the solution of problems which arise in connection with standards; the determination of physical constants and the properties of materials, when such data are of great importance to scientific or manufacturing interests and are not to be obtained of sufficient accuracy elsewhere.

It will occur to anyone who has read that portion of the act, to understand it, that the functions of this Bureau are important, that its operations are broad, and that they require a very high order of talent to carry them out. You would not attempt to run a blacksmith shop without a blacksmith, nor a carpenter shop without a carpenter; and if the work of that blacksmith or carpenter had to be taken as a model, as a standard for the work of other blacksmiths and other carpenters throughout the nation, you would say that this blacksmith and this carpenter should possess a high order of talent in their respective trades, and that they should be compensated accordingly. Now, in order to be capable of performing the duties required, in order to carry out the functions of this Bureau, the men who are charged with those responsibilities must possess a very high order of talent, and they must be paid accordingly. You can not secure the services of a man for $2,500 a year when somebody else will give him more than that salary for the same services elsewhere.

There are one or two more things that I wish to say. I said that this Bureau came into existence at the call of the great manufacturing institutions of the country; not necessarily the great manufacturing institutions, but the great manufacturing industry of the country. A great many of the larger institutions maintain extensive physical laboratories in which they do some, if not many of the things, that this Bureau is called upon to perform. These are important things. The manufacturing industry of the country knows that this institution is needed, and when it was first suggested, the manufacturers from one end of this land to the other enthusiastically indorsed the proposition to establish this Bureau of Standards.

Those who know of the results accomplished by the institution known as the "Reichsanstalt," in Germany, of the work done by the great physical laboratory in England, and by the great bureau of weights and measures in France, will know that there was some object and purpose in the establishment of this institution. There is the same object and purpose in its maintenance. There are no more men employed there than the work of that institution demands, and their average salaries are much less than those of many scientific bureaus. You may go out there to-day, as my friend from Texas [Mr. SLAYDEN] did not do. He says he did, and he says he did not. He probably passed along the road by the side of which these buildings have been erected. I say, if you will go to that institution to-day you will find an institution conducted in an orderly way, performing what it is called upon to do by the Departments of this Government, and by those engaged in the great manufacturing industries of this country. The work which this Bureau is called upon to do is a valuable work; work which can not be performed elsewhere in the United States, for there is no other institution that has the extensive and varied equipment that this one has.

Mr. SLAYDEN. I hope the gentleman does not intend to create the impression that I have charged that the work they do is not well done. My contention is that it is an unnecessary expense, and one that the Government should not have gone into.

Mr. SOUTHARD. Until this Bureau of Standards was established all our standards went across the water to be standardized. The lamps used upon our naval vessels were sent over to the Reichsanstalt to be standardized there, because there did not exist in this country a recognized standard of light.

The work of the Bureau of Standards covers a wide range. Just now I understand they are engaged in the constructing of fundamental standards for electrical work. As I understand it, these are standard cells prepared for the purpose of testing the standards which are used throughout the country in measuring electric currents and electric pressures. Before we had the facilities provided by this Bureau we had to go to Germany and to the Reichsanstalt as a court of last resort in order to get real accuracy in measurements and standards. That was Germany's pride and our humiliation. I can not stop to mention the great impetus to manufacturing which it is universally contended that institution has given to Germany. It can scarcely be estimated in dollars and cents. Our Bureau of Standards is but a few years old. It had a small beginning, but it has had a remarkable growth and development. I have no doubt that it will prove to be to this country what the Reichsanstalt has been and is to Germany. A part of the expenses of running the Bureau are paid by charges made for work. The charges, however, are only nominal, and as yet have not contributed greatly to its support.

The CHAIRMAN. The time of the gentleman has expired.

Mr. KEIFER. I ask unanimous consent that the gentleman's time be extended five minutes.

Mr. GAINES of Tennessee. Mr. Chairman, I want to throw down the gates and have this matter debated for forty or thirty minutes on a side. I am only too glad to hear from the gentleman.

Mr. LITTAUER. I must object.

Mr. GAINES of Tennessee. Mr. Chairman, in reply to the distinguished gentleman from Ohio [Mr. SOUTHARD] who has just taken his seat——

The CHAIRMAN. The Chair understands the gentleman from Tennessee to move to amend by striking out the last word.

Mr. GAINES of Tennessee. Yes. The gentleman who has just taken his seat brought forth some millimeters of applause a few moments ago when he stated that I was against this paragraph because I did not know anything about it or the law. Well, I thank him for the compliment. I have kept track of the gentleman in the committee, and the law of March 3, 1901, came from a committee of which I was a member. Since then this Bureau has grown from $27,140 and fourteen officers and employees to $177,000 and eighty-one officers and employees in this bill. Let us see what the gentleman from Ohio knew in 1901. Let us see what he said in his speech when this bill passed the House. He was asked by Mr. OTJEN:

Isn't it true that this bill provides a system of fees which will pay the expenses of running the Bureau?

And the gentleman from Ohio replied:

It will be largely self-supporting.

The fees in 1905 were $4,956.31; $2,786.43 were pay fees; and the appropriation for this Bureau in this bill for the next year is $187,000, and the gentleman is going to vote for it. "Largely self-supporting," this! Again he says in his speech—he was

asked by that great watchdog of the Treasury, Judge Maddox, of Georgia:

What will be the annual cost?

And the gentleman from Ohio [Mr. SOUTHARD] said:

It is proposed when that is all completed to employ a force of twenty-six persons.

Now we have eighty-seven provided for in this bill, and the gentleman from Ohio is going to vote for it.

Mr. SOUTHARD. Mr. Chairman——

Mr. GAINES of Tennessee. I decline to yield, Mr. Chairman. Now, I will read a word or two to show what the gentleman knew who had the information in 1901 of a sanhedrim. [Laughter.] In reply to a further question by Judge Maddox, he said:

I suppose when that is done and the building is completed the total expense will be $314,009.

Now, we have spent about a million and a quarter on this project, including the money this bill carries for it—and here are the figures, $1,173,515—since the gentleman uttered those words in March, 1901.

Again he said:

I have already stated that Germany appropriates $100,000 for maintaining a similar institution, England $62,000, Austria $45,000, and Russia $46,000.

The present Speaker, Mr. CANNON, objected to the measure, and said it ought to be a part of the Geodetic Survey. Ah, did the gentleman from Ohio have *all the information* when he made *that* speech as to what it would cost and as to what the cost of running it would be? Wasn't all this an argument to his fellow-Members to induce them to support the bill on the ground that it would cost less than $100,000; or what England paid, $62,000? And here he stands back of a bill appropriating $177,000—$110,000 in salaries as against $21,000 when he uttered that Ciceronian speech on the floor of this House.

Hence, Mr. Chairman, I make my motion. There is no law for this office and I move to strike it out of the bill because there is no law for it. The law (March 3, 1901) provides for only one director, at $5,000; one physicist, at $3,500; one chemist, at $3,500; two assistant physicists, at $2,200 each; one laboratory assistant, at $1,400; one laboratory assistant, at $1,200; one secretary, at $2,000; one clerk, at $1,200; one messenger, at $720; one engineer, at $1,500; one mechanician, at $1,400; one watchman, at $720; one laborer, at $600; and here, Mr. Chairman, is a bill providing for eighty-one persons, when the law only provides for fourteen. The gentleman said it wouldn't cost more than $21,000 when he made that great speech that would have caused Demosthenes to turn over in his grave if he had heard it. [Laughter.] I make the point that there is no law for it. I have just read the list, copied literally—*the law* of March 3, 1901. Right in the face of the law this thing has gone on, Congress has been chloriformed with appropriation eloquence since this law has been passed with the results I have tried to make plain to you. The appropriation bills have been padded from fourteen officers up to now it is asked for eighty-seven, from $27,000 appropriated at first, it is now $177,000.

Mr. LITTAUER. Mr. Chairman, I move that all debate on this paragraph and the amendment thereto be closed in five minutes.

The CHAIRMAN. The gentleman from New York moves that all debate on the paragraph and the amendments thereto be closed in five minutes.

The motion was agreed to.

Mr. MANN. Mr. Chairman, when we created the Department of Commerce and Labor the Bureau of Standards was transferred from the Treasury Department to the new Department. In connection with the work in reference to that I made some investigation of the Bureau of Standards. I wish to say to my distinguished friends from Tennessee and Texas that before the Bureau of Standards was moved, with what slight knowledge I could bring to bear upon it, I made a very careful examination of the plant and the building directly south of me, and since the Bureau of Standards has been moved out on the road, with a spirit of curiosity, if nothing more, on several occassions I have gone through the Bureau from top to bottom, examining the work which they were doing; and I have no hesitancy in saying, Mr. Chairman, that there is no more important work being conducted by the Government in behalf of the people, apart from the ordinary governmental agencies, than is done by the Bureau of Standards. It is worthy of being placed alongside of the Bureau of Soils and other important bureaus in the Department of Agriculture.

The work done by this Bureau of Standards has resulted in saving a large sum of money to the manufacturing interests of the country, which before that were required to go to Germany to standarize their electrical instruments and other instruments that required careful and fine standards. It was impossible even—to take a simple illustration, one of the simplest that the Bureau of Standards deals with—it was impossible before the Bureau of Standards was created to obtain a thermometer in the country that could give the temperature to a correct degree. Now almost every manufacturer of thermometers in this country comes to the Bureau of Standards to obtain his standard of temperature. That is a simple illustration, but when you go out beyond the simple illustration into the domain of electrical science, into the domain of mechanical engineering, you reach a position which it is impossible for me to comprehend, except as I see the work done in the Bureau before me, and see that people are demanding that this work be done.

The increase in the force, Mr. Chairman, comes because of the increase of the work done. There is no work done at the Bureau of Standards that is not needed and not demanded; and these people provided for in this Bureau, permit me to say to the gentleman from Tennessee [Mr. GAINES], are not clerks sitting at a desk drawing fancy salaries. Most of them are workmen, most of them are skilled mechanics, skilled in professional experience, men who put on their overalls in the Bureau, men who work with mechanical instruments standardizing the instruments that are used throughout the country. This is not a fancy Bureau. It is no dress-parade Bureau. This is a working Bureau of the Government, just as some of the bureaus are in the Agricultural Department. My only regret is that we have not more bureaus of this kind under the Government supervision doing work which is needed, not merely for the benefit of the steel trust—they would be able to do their own work, perhaps—but this work goes out throughout the country. No manufacturer, no producer so poor but he may receive the benefit of the work of this Bureau of Standards.

Mr. GAINES of Tennessee. Mr. Chairman, the gentleman says that there is no one so poor that he is not able to get some benefit from this Bureau. I want to state to him that Doctor Stratton, the Director of this Bureau, says: "The effect of the fee is to prevent sending in things that ought not to be tested. The Bureau would be flooded with work if we did not charge a fee." He states somewhere here that he has done work for Mr. Carnegie and others. Does the gentleman think that that is a very fine Bureau for the "people," under those circumstances?

Mr. MANN. Mr. Chairman, let me say to the gentleman that a large share of the work that he refers to is testing thermometers; a very simple proposition, and, of course, the manufacturer of a thermometer if he can obtain an official statement from the Bureau of Standards that his thermometer is graded correctly, has a little advantage, and if he obtains that there is no reason why he should not pay for the work to do it. That is all there is to that.

Mr. UNDERWOOD. Where does this fee go?

Mr. MANN. To the Bureau.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Tennessee.

The question was taken; and the amendment was rejected.

Mr. GAINES of Tennessee. Mr. Chairman, I want to make a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. GAINES of Tennessee. I have a number of amendments here which I desire to make to this paragraph. I do not wish to burden the committee unnecessarily. I am perfectly earnest and sincere in all of this.

Mr. MANN. No one who knows the gentleman will doubt that.

Mr. GAINES of Tennessee. Absolutely so. I would not take up the time of the committee if under the rule which was adopted yesterday no amendment is in order. I understood the Chairman to say just now to me, privately, I will say, that no amendment is in order because of that rule.

The CHAIRMAN. Oh, no; the gentleman misunderstood the rule. Amendments are in order. A point of order will not lie against this paragraph. The gentleman can offer any amendment that he desires.

Mr. GAINES of Tennessee. Then a motion to strike out is in order?

The CHAIRMAN. Yes.

Mr. GAINES of Tennessee. I move to strike out the words "three associate physicists, at $2,000 each," in lines 1 and 2, page 153, because the law does not provide for or create such offices.

The CHAIRMAN. The Chair understands that debate is closed.

Mr. GAINES of Tennessee. This is my amendment.

The CHAIRMAN. The amendment is not debatable.

Mr. GAINES of Tennessee. I am merely stating my amendment. Now, let me state this, and I am done——

Mr. TAWNEY. Mr. Chairman, I make the point that no debate is in order.

The CHAIRMAN. Debate is not in order. The question is on the amendment offered by the gentleman from Tennessee.

The question was taken; and the amendment was rejected.

Mr. GAINES of Tennessee. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. GAINES of Tennessee. How is it that the Chair permitted debate upon the other amendments, one of which I made, and does not permit it on this?

The CHAIRMAN. Because debate was limited to ten minutes, and when the ten minutes had expired——

Mr. GAINES of Tennessee. But this is a new amendment.

The CHAIRMAN. But the House has voted to close all debate on this paragraph and all amendments thereto.

Mr. GAINES of Tennessee. Oh, I beg the pardon of the House. I did not so understand it—the confusion is so great.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

For fuel for heat, light, and power; office expenses, stationery, books and periodicals (subscriptions to periodicals may be paid in advance); traveling expenses; expenses of the visiting committee; expenses of attendance of American member at the meeting of the International Committee of Weights and Measures; traveling expenses of two delegates to the International Committee of Electrical Units and Standards, one of whom shall be an officer or employee of the Bureau of Standards; and contingencies of all kinds, $12,500.

Mr. GAINES of Tennessee. Mr. Chairman, I move to strike out the last word. Will the gentleman from New York [Mr. LITTAUER] tell the committee how much money has been expended upon this committee—these meteorological pilgrims who have been going around over the world—under such an appropriation, which has been carried in this bill for four or five years?

Mr. LITTAUER. Mr. Chairman, the gentleman refers to something that I do not understand.

Mr. GAINES of Tennessee. There is a provision in here, and has been since this law was created, providing for a delegate to go somewhere to see about something, and I want to know what the office of that delegate is and how much we have thus appropriated since this Bureau has been established. It runs up into the thousands of dollars.

Mr. LITTAUER. This representative is provided for by international treaty between the United States, France, and Great Britain, and, I believe, Germany and a number of other countries. The total amount of expense in connection with this conference, I think, is something less than a thousand dollars.

Mr. GAINES of Tennessee. Oh, the gentleman is mistaken, Mr. Chairman, about that. I have the amounts here, if I only had time to read them, but I do not want to take up the time of the committee; but I want to say to the committee, to be short, that it is away over a thousand dollars.

Mr. LITTAUER. How much is it?

Mr. GAINES of Tennessee. It is not done by treaty, and I think the original act provided something about these amounts.

Mr. LITTAUER. The statute carries out the treaty.

Mr. GAINES of Tennessee. I want to say, Mr. Chairman, every year we are sending—unnecessarily, I think—somebody abroad to see something about the metric system and weights and measures.

Mr. TAWNEY. Two hundred and forty-eight dollars is the amount expended last year.

Mr. GAINES of Tennessee. And before we get through with this session of Congress I will say, gentlemen, it will cost us over a thousand dollars.

Mr. LIVINGSTON. Regular order!

Mr. GAINES of Tennessee. I hope the gentleman from Georgia, who helped to report this bill and does not explain these matters, will give those who have a little desire to know something about these matters some little time, without calling for the regular order in my time.

Mr. LIVINGSTON. Make a motion to strike out or amend.

Mr. GAINES of Tennessee. I have done that, and I had the floor legitimately.

The CHAIRMAN. The gentleman from Tennessee has the floor, as his time has not expired.

Mr. LITTAUER. Mr. Chairman, is there an amendment before the committee?

The CHAIRMAN. There is an amendment to strike out the last word.

Mr. GAINES of Tennessee. Now, let us see about the traveling agents or committee. In 1893 it was $600; 1894, $500; 1895, $500; 1896, $500; 1897, $500; 1898, $500; 1899, $475; 1900, $475; 1901, $475; 1902, $475. I do not know how much is carried in this bill. Now, does that look like much less than a thousand dollars?

Mr. LITTAUER. A year. The cost is less than half the amount I stated.

Mr. GAINES of Tennessee. But the gentleman did not say a year.

Mr. LITTAUER. Assuredly you do not think I was going back over all the history of this treaty and state the total amount of cost since the beginning. I gave the annual amount expended. We deal here in annual figures.

Mr. GAINES of Tennessee. The gentleman should have said it was for the year only. I say this thing of giving somebody a summer trip to go to Mexico or to go to England and come back here and tell us we must establish the metric system, or any other system concerning the Bureau of Weights and Measures, every year, is an extravagance that ought to be stopped. [Applause.] That is what I say, and the facts bear me out. If he ever made a report, nobody has ever heard of it. I wish somebody would send that to me, instead of irrigation papers or the morning commercial billets-doux I get. [Applause.]

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Tennessee to strike out the last word. Without objection, the amendment will be considered as withdrawn.

The Clerk read as follows:

SEC. 5. It shall not be lawful hereafter for any clerk or other employee in the classified service in any of the Executive Departments to be transferred from one Department to another Department until such clerk or other employee shall have served for a term of three years in the Department from which he desires to be transferred.

Mr. PALMER. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. PALMER. Mr. Chairman, I rise to offer the following amendment.

The CHAIRMAN. The gentleman from Pennsylvania offers an amendment, which the Clerk will report.

The Clerk read as follows:

Add after line 18, page 162, the following:

"The heads of Departments, offices, and bureaus appropriated for by this act shall grade the clerical work to be performed in their respective Departments before the 30th of June, 1906, into as many grades as there are classes in the classified service of the United States, as provided under Rule XIII of the civil-service rules and promulgated by the President, and thereafter all employees included in said classification shall be employed only upon the grade of work corresponding with their respective classes. Every person employed in said classification service shall receive payment for the grade of work which he performs and no other."

Mr. LITTAUER. Mr. Chairman, I should like to ask the gentleman from Pennsylvania to explain this provision.

Mr. CRUMPACKER. Mr. Chairman, I desire to reserve the point of order on the amendment, on the ground that it is not germane.

Mr. PALMER. Mr. Chairman, one of the great complaints we hear from the Committee on Appropriations and one of the great complaints that exists is that the clerks in the Departments are not doing the service corresponding with their classification—that is to say, a clerk who gets $1,800 is doing work that would be appropriate to a clerk getting $900 a year, and a $900 clerk was doing work that would be appropriate to an $1,800 clerk—two clerks sitting at the same desk doing precisely the same work and paid a different rate of pay. One man gets $900, another gets $2,000. Well, of course, it does not take a philosopher or a sage to see that that state of things creates a great deal of dissatisfaction, and it is very subversive of discipline in the Departments. Now, this classification is desired by at least 90 per cent of all the clerks in the Departments. It is desired by a great many of the chiefs of Departments. It has been long desired by the Civil Service Commission. In their report for 1903 they recommend this classification. Now, there seems to be a disposition on the part of the Committee on Appropriations and on the part of Members of the House to meet this difficulty in some way if possible by this method of classifying the clerical work, requiring every clerk to do work appropriate to his class, making a $900 clerk do $900 work and an $1,800 clerk do $1,800 work. That seems to me to be a step in the right direction, and that is what the amendment proposes.

Mr. CRUMPACKER. Now, the gentleman knows, of course, that in many branches of the public service there are different rates of salaries for substantially the same kind of service. This is recognized throughout the country, in State and municipal service. We will perhaps be called upon in a very few days to vote on a bill concerning the salaries of the school-teachers, some of whom are paid $600 and up to $750 for doing

exactly the same kind of work, because the term of service is an element to be considered, and then the question of possible promotion and moral effect upon the civil service is a very important one to be considered. Now, the amendment proposed by the gentleman seems to me would involve a radical reorganization of the entire executive civil service. There are doubtless various clerks in different Departments doing substantially the same kind of work at different pay. Now, I have no doubt it is true; and I am sure that it is the effort of the civil service——

The CHAIRMAN. The Chair understands the gentleman from Pennsylvania to yield to the gentleman from Indiana?

Mr. PALMER. I have not yielded the floor; I supposed the gentleman from Indiana wanted to ask me a question.

Mr. CRUMPACKER. I started in with the view of asking the gentleman a question, but forgot about it. [Laughter.] I was diverted, and some thoughts came to me that I thought I would take occasion to express. But, in view, Mr. Chairman, of the great importance of this question and the radical effect it will have upon the public service, I shall have to insist on my point of order. I do not think that we ought to take the matter up.

Mr. PALMER. Mr. Chairman, there is no reform or amendment ever proposed that was not supposed to be radical by somebody. Now, in view of the importance of this subject, I suggest that by the time that this bill comes back again, if this amendment is allowed to go on, there will be an opportunity for the gentleman from Indiana, and for anybody who desires to do so, to investigate this subject. I have investigated it.

Mr. PERKINS. I would like to ask the gentleman a question and not make a speech. As I understand, in these different Departments it is conceded by all that there are clerks doing the same work who, in the War Department, for instance, get $1,200 and in some other bureau get $900; and so we have clerks all the time trying to get a transfer to the Department where they get the highest pay. That is the fact, is it not?

Mr. PALMER. I understand that to be the fact.

Mr. PERKINS. Do you think that evil would be reached and remedied by the amendment which you have offered?

Mr. PALMER. No; I do not think it would have anything to do with that.

Mr. LITTAUER. The amendment of the gentleman from Pennsylvania is not to the transfer section.

Mr. PERKINS. That evil would not be at all changed by this amendment?

Mr. PALMER. No.

Mr. LITTAUER. I understand your amendment to classify the individuals who do the same work, and that they shall receive the same pay, and it has no relation to the transfer provision?

Mr. PERKINS. I would like to suggest that it does seem to me that some step should be taken by the Committee on Appropriations, however laborious it may be, to look into the evil created by men in the various Departments doing the same work for different pay.

Mr. LITTAUER. As far as I understand the amendment of the gentleman from Pennsylvania, it is in that line. Whether it will accomplish it or not, whether it will not have disadvantages of its own, I am not sure.

The CHAIRMAN. The time of the gentleman has expired. Does the gentleman from Indiana insist upon his point of order?

Mr. CRUMPACKER. I insist upon my point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. CRUMPACKER. My point of order is that the amendment is not germane.

Mr. PALMER. If the Chair please, I should like to be heard on the point of order.

The CHAIRMAN. The Chair will hear the gentleman on the point of order.

Mr. PALMER. Section 5 provides that—

It shall not be lawful hereafter for any clerk or other employee in the classified service in any of the Executive Departments to be transferred from one Department to another Department until such clerk or other employee shall have served for a term of three years in the Department from which he desires to be transferred.

Now, there are two reasons why this amendment is in order. In the first place, it is a limitation on the appropriation. It provides that this money shall only be paid out in the manner prescribed—that is to say, before any clerk shall get any of this money he shall be classified, and his emolument shall depend upon his classification, and that he shall do the work for which he is classified. It seems to me that is a limitation on the appropriation and the expenditure of money and therefore in order.

The other point I wish to make is this, that under the rule which was adopted, all points of order on this bill were done away with. That is to say, you could not make a point of order on anything contained in the bill. Now, this provision of section 5 is new legislation, and as such it is subject to amendment. And if the section itself is not subject to a point of order, then the amendment to it can not be subject to a point of order.

Mr. CRUMPACKER. Mr. Chairman, the point of order is that the proposed amendment is not germane to the section. I understand that the section is new legislation; therefore anything that is germane to the section would be in order, notwithstanding it may change existing law.

Mr. TAWNEY. Will the gentleman from Indiana permit me to ask him a question?

Mr. CRUMPACKER. Yes.

Mr. TAWNEY. This section to which the gentleman from Pennsylvania offers the amendment relates exclusively to the transfer of clerks from one Department to the other, for the purpose—and it will undoubtedly, to some extent, have the effect—of equalizing the compensation of clerks doing the same class of work, and tend to bring about a classification. I understand that the purpose of the amendment offered by the gentleman from Pennsylvania is along that line. It relates to the classification of the clerks in the Departments, so as to discourage, if not to prevent, a clerk from desiring a transfer to some other Department; because if the heads of the Departments classify their work according to the classification made by law for the clerks in all the different Departments, then all the clerks of one class doing a certain grade of work will get one rate of pay, and, therefore, there would be no inducement for them to desire a transfer; and for that reason I think it is germane.

Mr. CRUMPACKER. The connection between the section and the amendment, according to the interpretation given the amendment by the gentleman from Minnesota, is entirely too remote. The section deals solely and entirely with the question of transfers of clerks from one Department to another. Under existing law there is a system of transfers, and this section simply provides that clerks shall not be transferred from a Department until they have served in that Department for three full years, that is all. It deals purely and simply with the question of transfers. Now, any amendment that is germane to the subject of transferring clerks from one Department to another would be in order to this section, but the amendment proposed by the gentleman from Pennsylvania has no possible connection with the subject of this section. In answer to a question from the gentleman from Minnesota, or the gentleman from New York, I do not remember which, he admitted that this amendment had nothing to do with the question of transfers. It has nothing to do with that question. If we could engage in speculation and hold propositions in order upon the fine-spun doctrine announced by the gentleman from Minnesota, the chairman of the committee, amendments would be in order to regulate the salaries of all the clerks in all the Departments, because it might make transfers more or less desirable.

Mr. HOAR. On the same theory an amendment relating to the number of hours that the clerks should work would be in order.

Mr. CRUMPACKER. As suggested by the gentleman, an amendment regulating the number of hours that clerks should work would also be in order. The whole subject would be open to legislation if this amendment were in order. I think it is clear that the amendment is not germane to the question of transfer.

The CHAIRMAN. The Chair will rule. It has often been held that where a paragraph changing existing law is permitted to remain in the bill it may be perfected by any germane amendment. By the operation of the rule adopted yesterday this section 5 is permitted to remain in the bill. The Chair is of the opinion that it does change existing law, and that it is therefore subject to be perfected by any germane amendment; and if the only objection were that the proposed amendment does change existing law, the Chair would overrule the point of order.

But the objection that the amendment is not germane to section 5 requires an examination and comparison. It appears that section 5 relates wholly to the transfers of clerks in the classified service from one Department to another, providing that no clerk shall be transferred until he shall have served at least three years in the Department from which he desires to be transferred. The amendment on the other hand relates not to transfers, but provides for a classification, not of clerks, but of the work which they are to perform and upon which they are to be engaged. It requires that they shall be employed upon no other work than upon the work so classified, each clerk according to the proper class. It applies not merely to clerks trans-

ferred or desiring to be transferred, but to all work done by clerks and to all clerks.

That seems to the Chair a change of existing law upon a subject different from that embraced in the pending section. Therefore, for the reason that it is not germane, the Chair will be compelled to sustain the point of order.

The gentleman from Pennsylvania urges that it is a limitation on the appropriation. It does not seem, however, to limit the appropriation. The appropriations have been made in previous sections. This amendment does not impose a condition upon the payment of that money. Furthermore, it is a principle well established that in order to be a limitation the provision must cover only the year for which the appropriation is made. This proposed amendment, as its language clearly indicates, is intended for permanent legislation. The Chair therefore sustains the point of order.

Mr. PALMER. Mr. Chairman, I move that amendment as a separate section, to be numbered section 6.

The CHAIRMAN. The gentleman from Pennsylvania offers as a separate section his amendment, which the Clerk will report.

The Clerk read as follows:

Add as a separate section:

"The heads of Departments, offices, and bureaus appropriated for by this act shall grade the clerical work to be performed in their respective Departments before the 30th of June, 1906, into as many grades as there are classes in the classified service of the United States as provided in rule 13 of the civil service rules as promulgated by the President, and thereafter all employees included in said classification shall be employed only upon the grade of work corresponding with their respective classes. Every person employed in the said classified service shall receive payment for the grade of work which he performs and no other."

Mr. CRUMPACKER. I desire to make a point of order to the amendment.

Mr. JOHNSON. Mr. Chairman, I have an amendment I wish to offer.

The CHAIRMAN. Before the amendment of the gentleman from Pennsylvania is in order it will be in order to perfect the paragraph, and the gentleman from South Carolina desires to offer an amendment.

Mr. JOHNSON. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

After the word "transfer," in line 18, page 162, add the following words: "Nor shall any clerk be transferred from one bureau or division to another bureau or division in the same Department at an increased salary, nor shall any clerk so transferred from one bureau or division to another bureau or division be promoted within one year."

Mr. LITTAUER. Mr. Chairman, I don't care to raise the question whether or not that is subject to a point of order. I believe an explanation would be sufficient to convince the House that it is impracticable.

Mr. KEIFER. I think a point of order would lie against that. I make the point of order.

Mr. CRUMPACKER. I raise the point of order against it.

The CHAIRMAN. The gentleman from Ohio first made the point of order.

Mr. KEIFER. I withdraw the point of order, if the gentleman wishes to be heard.

Mr. CRUMPACKER. I think the amendment is subject to a point of order.

The CHAIRMAN. What is the gentleman's point of order?

Mr. CRUMPACKER. That the amendment is clearly not germane because the question of promotion has no relation to the question of transfer.

Mr. LITTAUER. I think it is absolutely impracticable, and I think I can show the committee that it is in two minutes.

The CHAIRMAN. Section 5 relates to the transfer of clerks in the classified service from one Department or division to another Department or division, and declares that no clerk shall be so transferred until he has served three years in the Department from which he desires to be transferred. The proposed amendment seems to the Chair to be germane. It also relates to transfers in the classified service and nothing else. True it speaks of promotions, but only in cases of transfers. The Chair overrules the point of order.

Mr. JOHNSON. Mr. Chairman, it developed in taking the testimony before the committee that one bureau and one Department after another came before the Appropriation Committee asking for an increase in the salaries of their clerks and employees. One of the reasons given for asking for the increase was that unless the increase was granted they could not keep their forces. It developed, further, that these employees are not going out of the Government service, but that they are simply going from one bureau or one Department to another.

Mr. TAWNEY. Will the gentleman permit an interruption right there?

Mr. JOHNSON. Certainly.

Mr. TAWNEY. Is it not a fact that the testimony showed that the complaint of the heads of Departments was not on account of the transfer from one bureau to another in the same Department, but a transfer from one Department to another Department, and that is what this amendment is intended to correct?

Mr. JOHNSON. I did not read it that way.

Mr. LITTAUER. How can there be any complaint at the transfer of a clerk from one division to another division in the same Department, with one head in control over both divisions? The detail transfers between the different bureaus or departments come under the head of one Department, who controls them completely.

Now, is it practicable, or is it impracticable, to deny the right of detail from one bureau to another? Here we are now, on March, appropriating for the work of all the bureaus of the Departments here in Washington for the next year. We can not appropriate in such a way without giving them the maximum force that would ever be used, unless we give them the right to detail from one bureau to another bureau in the same Department.

The CHAIRMAN. The Chair understands that the gentleman from South Carolina yields to the gentleman from New York.

Mr. JOHNSON. Oh, yes, Mr. Chairman; I yield.

Mr. LITTAUER. Mr. Chairman, I believe the gentleman's purpose and mine are in the same direction. What we seek to do is to prevent one Department bidding against another Department, offering higher salaries for the same work in one Department than is paid in another Department. Clerks find this out quickly. They are on the alert, and naturally seek to get the highest salary possible. Of course, the heads of the different Departments want to get the best force they can, and one method of securing the best clerks is by coming to us with recommendations for new forces of the higher grades of compensation. The head of every bureau desires to keep the clerks who have proved efficient through experience, yet none refuse these transfers.

They simply say, "We do not want to prevent a man from bettering his condition." We claim that the experience gained in one Department should remain to the benefit of that Department until at least the official has remained there for three years. When you come to trying to curb the right of detail from one bureau to another bureau in the same Department, it is a dangerous thing. Take, for instance, the Treasury Department. If they had not the right of detail from one bureau to another, I dare say that the work in four or five of their great divisions to-day would be practically at a standstill. We must allow the right of detail, but I agree that promotion through detail is wrong and unwarranted.

Mr. JOHNSON. Mr. Chairman, as I was saying when interrupted by the gentleman from New York [Mr. LITTAUER], the testimony developed the fact that these bureau chiefs and superintendents at the head of the bureaus and divisions could not keep their forces together, for the reason that the chiefs of other bureaus and divisions were offering larger salaries, and these clerks were transferred.

The CHAIRMAN. The time of the gentleman has expired.

Mr. JOHNSON. Mr. Chairman, I ask for five minutes more.

The CHAIRMAN. The gentleman from South Carolina asks unanimous consent to have five minutes more. Is there objection?

Mr. LITTAUER. Mr. Chairman, I feel that I have interrupted the gentleman, and I will not object.

The CHAIRMAN. The Chair hears no objection.

Mr. JOHNSON. Now, Mr. Chairman, the ridiculous position that the Government is in is that numerous men in control whose duty it is to employ Government help are bidding against one another. Can you conceive the idea of the Pennsylvania Railroad Company or the New York Central Railroad Company permitting the men in their executive offices to bid against one another for the clerks they have to employ?

Mr. CRUMPACKER. Mr. Chairman, will the gentleman allow a question?

Mr. JOHNSON. Yes.

Mr. CRUMPACKER. I have heard the statement that Departments bid against each other for clerks. I understand that the salaries in all the classified service for the various classes of clerks is absolutely the same; that it is fixed by law.

Mr. LITTAUER. Oh, but there is a wide interpretation under that. I know that clerks in class 1 are doing the same work that clerks in class 4 are.

Mr. CRUMPACKER. That is what I want to understand. The salaries are all the same, but they offer better opportunities for advancement and promotion.

Mr. JOHNSON. Yes; a man may be working in one bureau at a salary of $1,200, and he finds that some other bureau will give him $1,800.

Mr. CRUMPACKER. That is, that will promote him, give him a higher class, put him in class 4, for instance?

Mr. JOHNSON. Yes; in class 4.

Mr. CRUMPACKER. And, therefore, it emphasizes the importance from that standpoint of the gentleman's amendment. It is all a question of promotion.

Mr. JOHNSON. I am in perfect accord with the provision incorporated in this bill by the committee. I have tried to study the situation as well as any man not on the committee could do it. I want to go further than they have gone. They have provided that transfers shall not be made from one Department to another. I want to provide that transfers shall not be made in one bureau of a Department to another bureau in the same Department. The gentleman from New York [Mr. LITTAUER] says that I want to cut off promotions. I do not. I want to see the clerks promoted from time to time as they deserve promotion, but I insist that the promotion shall come in the regular way in their own bureau or division. For instance, there is a vacancy in class 4, we will say, in a certain division or bureau. We are to promote some clerk from class 3 to that place; but with this transfer privilege, instead of promoting some clerk of class 3 in that division who has earned the promotion, they are at liberty to go into some other bureau and select some pet and bring him into the bureau and make him a class 4 clerk.

What I insist upon is that when a vacancy occurs in the higher grade of clerkship that vacancy should be filled by a promotion from that particular bureau; that the man immediately under him should have a chance. It does not cut off promotion; it does not even prohibit the transfer of a clerk from one bureau or division to another, but it does do this: It says that if you transfer from one bureau to another you must transfer a man to the same grade that he was in before transfer. If he was a class 3 clerk before being transferred, he must be a class 3 clerk when he is detailed to some other bureau, because if you do not put that provision in there he could be transferred as a class 3 clerk and the next day promoted to class 4, so I put in a provision that he shall not be transferred and immediately promoted.

The CHAIRMAN. The time of the gentleman has expired.

Mr. JOHNSON. May I have another minute?

Mr. LITTAUER. I must ask now that this debate close.

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Carolina.

The question was taken, and the Chair announced that the noes appeared to have it.

On a division (demanded by Mr. JOHNSON) there were—ayes 21, noes 72.

So the amendment was rejected.

The CHAIRMAN. The gentleman from Pennsylvania offers and amendment, which the Clerk will read.

The Clerk read as follows:

After line 18, page 162, insert:

"The heads of Departments, offices, and bureaus appropriated for by this act shall grade the clerical work to be preformed in their respective Departments before the 30th of June, 1906, into as many grades as there are classes in the classified service of the United States, as provided in Rule XIII of the civil-service rules as promulgated by the President, and thereafter all employees included in said classification shall be employed only upon the grade of work corresponding with their respective classes. Every person employed in the said classified service shall receive payment for the grade of work which he performs and no other."

Mr. KEIFER. I make the point of order against the amendment, Mr. Chairman.

Mr. CRUMPACKER. Mr. Chairman, I make the point of order against the amendment on the ground that it is new legislation and changes existing law.

Mr. PALMER. Will the gentleman reserve his point of order?

Mr. CRUMPACKER. I will.

Mr. KEIFER. And it does not come within the rule adopted day before yesterday.

Mr. PALMER. I understand the gentleman from Indiana reserves the point of order until I explain the case. Mr. Chairman, by the civil-service rules of 1889, which were promulgated by the President of the United States in the exercise of a power vested in him by the Constitution and the authority given to him by the seventeen hundred and fifty-third section of the Revised Statutes, he classified the clerical service of the United States under Rule XIII into several classes, as follows:

Class A. All persons receiving an annual salary of less than $720, or a compensation at the rate of less than $720 per annum.

Class B. All persons receiving an annual salary of $720 or more, or a compensation at the rate of $720 or more, but less than $840 per annum.

Class C. All persons receiving an annual salary of $840 or more, or a compensation at the rate of $840 or more, but less than $900 per annum.

Class D. All persons receiving an annual salary of $900 or more, or a compensation at the rate of $900 or more, but less than $1,000 per annum.

Class E. All persons receiving an annual salary of $1,000 or more, or a compensation at the rate of $1,000 or more, but less than $1,200 per annum.

Class 1. All persons receiving an annual salary of $1,200 or more, or a compensation at the rate of $1,200 or more, but less than $1,400 per annum.

Class 2. All persons receiving an annual salary of $1,400 or more, or a compensation at the rate of $1,400 or more, but less than $1,600 per annum.

Class 3. All persons receiving an annual salary of $1,600 or more, or a compensation at the rate of $1,600 or more, but less than $1,800 per annum.

Class 4. All persons receiving an annual salary of $1,800 or more, or a compensation at the rate of $1,800 or more, but less than $2,000 per annum.

Class 5. All persons receiving an annual salary of $2,000 or more, or a compensation at the rate of $2,000 or more, but less than $2,500 per annum.

Class 6. All persons receiving an annual salary of $2,500 or more, or a compensation at the rate of $2,500 or more per annum.

That is the official classification, and under that the pay of these clerks is fixed. I would like to know what sense there is in having a classification of clerks or salaries unless the work is also classified. What reason is there for giving a man who gets $750 a year the work which ought to be done by a clerk who gets $2,500 a year, and what reason or sense is there in having two men sitting at the same desk and doing the same work, one of them paid a thousand dollars a year and the other one eighteen hundred dollars a year? I want to say there is no business in this country that is so illy conducted as the business of Uncle Sam, except the Lord's business. In His business fifty agencies are often established in one town where three agencies could do the work. It is in the testimony before committees of this House that 33 per cent of the clerks in these Departments could be discharged and the efficiency of the service be increased 33 per cent.

Mr. TAWNEY. Twenty-five per cent.

Mr. PALMER. Well, 25 per cent; I do not care about the percentage. Here is a proposition that seems at least to be in the line of reform and economy, and yet the gentleman from Indiana thinks it his duty to insist on a point of order.

Mr. CRUMPACKER. Mr. Chairman, I think this appropriation bill has all the legislation that is due it already. I do not believe this measure ought to be considered at this time and under these circumstances. It is clearly new legislation.

The CHAIRMAN. The gentleman from Indiana makes the point that the proposed new section changes existing law in violation of the rule of the House upon that subject, and the gentleman from Ohio adds the additional point that it is not within the provision of the special rule adopted by the House yesterday and under which we are proceeding. The Chair understands that this is the same matter which was offered as an amendment to section 5. The Chair then said that it was not subject to the objection of changing existing law, because the section to which it was offered was open to the same charge. But it was ruled out because not germane to the section. It is now offered as an independent section, and is not aided by the fact that some other section offends. It manifestly changes existing law, and the Chair must sustain both points of order.

The Clerk proceeded to read section 8.

Mr. CHANEY. Mr. Chairman, I rise to a parliamentary inquiry. I want to know if section 8 has been taken out of this bill.

Mr. KEIFER. It has not been read.

The CHAIRMAN. Section 8 is still in the bill, but is subject to a point of order, not being within the protection of the special rule adopted yesterday.

Mr. KEIFER. I desire to make the point of order at the right time.

The Clerk read as follows:

SEC. 8. After June 30, 1906, there shall not be employed in any Executive Department or other Government establishment in the District of Columbia any person in the classified service who is 65 years of age and under 68 years of age at a rate of annual compensation exceeding $1,000, or who is 68 years of age and under 70 years of age at a rate of annual compensation exceeding $1,200, or who is over 70 years of age at a rate of annual compensation exceeding $840; and after June 30, 1913, no person in the classified service shall be continued in the employment of any such Executive Department or other Government establishment who has attained 70 years of age.

Mr. KEIFER. Mr. Chairman, I make the point of order that this is new legislation, in contravention of Rule XXI, paragraph 2.

Mr. LITTAUER. Mr. Chairman, I concede the point of order, and every Member of the House as well as myself has knowledge of the fact.

Mr. PRINCE. Does the gentleman make the point of order, or will he reserve it?

Mr. KEIFER. The hour is too late to have a discussion which will come to nothing, so I shall have to insist, and do insist, on the point of order.

The CHAIRMAN. The Chair understands the gentleman to make the point of order and insist upon it, and will therefore rule.

The second clause of Rule XXI, an ancient and time-honored rule, contains this provision:

Nor shall any provision changing existing law be in order in any general appropriation bill or in any amendment thereto.

The present law pays no regard to the ages of clerks. It provides for different salaries for different classes of clerks, but allows the same salary to all clerks in the same class, regardless of age.

Section 8 of this bill requires a classification based upon age, a basis of classification unknown to the present law. Its provisions can not be said to be purely in limitation of appropriations carried by the bill, which are for the year ending June 30, 1907. The language used clearly shows that permanent legislation is intended. It declares, among other things, that after June 30, 1913, no person who has attained the age of 70 shall be continued in the classified clerical service of the Executive Departments. The enactment of these provisions would certainly change existing law. It is perfectly clear, therefore, that the point of order must be sustained.

The Clerk read as follows:

SEC. 9. That all laws or parts of laws inconsistent with this act are repealed.

Mr. LIVINGSTON. Mr. Chairman, I gave notice——

Mr. LITTAUER. Before the gentleman proceeds, I would like to ask unanimous consent to correct the number of the last section, section 8 having gone out.

The CHAIRMAN. Without objection, the change will be made.

Mr. LIVINGSTON. I give notice to return to page 17, Mr. Chairman, for the purpose of complying with the resolution of the House raising the salary of the cloakroom men on that side of the House and on this side from $60 to $70; and I move, on page 17, in line 16, to strike out "sixty" and insert "seventy," in harmony with the resolution of the House.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Georgia.

Mr. PRINCE. A parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. PRINCE. I would like to know if the Committee on Appropriations, by resolution or otherwise, has authorized the doing of this, as required by the special rule of the House?

Mr. LIVINGSTON. I want to say that the House authorized it, and the Committee on Appropriations is now doing it through one of their members.

Mr. LACEY. I want to make inquiry of the gentleman from Georgia—who does this include?

Mr. LIVINGSTON. It includes the men specified in the resolution of the House.

Mr. LITTAUER. I understand this is covered by resolution No. 145.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Georgia.

The question was taken, and the amendment was agreed to.

Mr. LIVINGSTON. Now, Mr. Chairman, to make the bill in harmony with the change made, on page 19, line 25, I move to strike out "seven hundred and twenty" and insert "eight hundred and forty."

Mr. LITTAUER. That is simply in the totals.

Mr. LIVINGSTON. That is all.

Mr. LITTAUER. I will ask general consent for that later on.

Mr. LIVINGSTON. Let us correct this while we are at it.

The CHAIRMAN. Without objection, the change will be made.

There was no objection.

Mr. LIVINGSTON. On page 20 the same correction will have to be made, line 4—"seven hundred and twenty" will be stricken out and "eight hundred and forty" will be inserted.

The CHAIRMAN. Without objection, the change will be made as indicated by the gentleman from Georgia.

Mr. LITTAUER. Mr. Chairman, in accordance with the terms of House resolution 288, reported by the Committee on Rules and passed by this House on Wednesday last, I am authorized by the Committee on Appropriations to move to insert in this bill now pending all items stricken therefrom on points of order. I send to the Clerk's desk all of these items and move that they be taken up one after another.

Mr. TAWNEY. You mean to insert them in gross?

Mr. LITTAUER. Insert them in gross, and then consider them one after the other.

The Clerk read as follows:

On page 13, in lines 24 and 25, insert "Two laborers, at $820."

Mr. TAWNEY. Mr. Chairman, a parliamentary inquiry?

The CHAIRMAN. The gentleman will state it.

Mr. TAWNEY. Before we proceed to the consideration of these items that have gone out on a point of order, ought not the committee to vote to reinsert all of them in gross, and then take them up in order? From this it would appear that we are considering them before they have been reinserted. I think the procedure should be, and the motion of the gentleman from New York was, to reinsert them in gross, and then take them up seriatum and consider them one after the other and dispose of them.

Mr. LITTAUER. I believe the rule contemplates such insertion.

Mr. BARTLETT. Mr. Chairman, if we reinstate them in gross, then we shall have to move to strike them out. The rule, as I understand it, was that the Appropriations Committee could move to reinsert them and that they would not be subject to points of order.

The CHAIRMAN. The Chair will read the rule, so far as it relates to this matter:

Upon motion authorized by the Committee on Appropriations it shall be in order to insert in any part of the bill any provision reported as part of the bill and heretofore ruled out on a point of order.

It shall be in order upon motion to reinsert. The Chair therefore thinks that the motion must be made. By unanimous consent one motion can cover them all, but any gentleman desiring it is entitled to a separate vote on each.

Mr. LITTAUER. I ask unanimous consent that all these items be considered as reinserted in the bill. They can then be taken up by the committee one after another for determination by the committee.

Mr. BARTLETT. If you reinsert them there is no use in taking them up any further.

Mr. KEIFER. Why, they are only reinserted conditionally.

Mr. LITTAUER. Reinserted for the consideration of the committee, without being subject to points of order.

Mr. LIVINGSTON. They can not be considered unless they are reinserted. The motion simply puts them in shape so that the Committee of the Whole can handle them; that is all.

Mr. PRINCE. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. PRINCE. To make a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. PRINCE. The rule says that upon motion authorized by the Committee on Appropriations it shall be in order to insert in any part of the bill any provision. Now, if they are inserted in gross in the bill what is the use of disturbing——

The CHAIRMAN. The question is not open to argument at this time. The Chair has stated that except by unanimous consent they can not be reinserted in gross. The gentleman from New York asks unanimous consent. Is there objection?

Mr. HARDWICK. I object.

The CHAIRMAN. Objection is heard.

Mr. TAWNEY. The motion of the gentleman from New York was that they be reinserted in gross and taken up for consideration one after the other in the order in which they have been stricken out, just as in the original bill.

Mr. LITTAUER. Mr. Chairman, I did not ask unanimous consent; I made a motion to that effect.

Mr. LIVINGSTON. Mr. Chairman, if you will pardon me, the rule does not indicate whether they shall be reinserted separately or in gross. That is our business, to make the motion, and the House can agree to the motion if it wishes to.

The CHAIRMAN. The rule states that upon motion authorized by the committee, and so forth, it shall be in order to insert, in any part of the bill, any provision.

Mr. LIVINGSTON. Any of them. Now, we propose to insert all of them.

Mr. TAWNEY. That means that they can be inserted in gross, and when they are inserted they are inserted for consideration just as though they had not been stricken out of the bill. The purpose is simply to reform the bill as it was reported to the House, in order that these provisions may be considered separately.

The CHAIRMAN. The Chair does not so understand the rule.

Mr. LITTAUER. Then, Mr. Chairman, I move that the first item that was reported as a part of the bill and ruled out on a point of order be reinserted and adopted.

Mr. JONES of Washington rose.

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. JONES of Washington. I want to suggest that we have a new rule. [Laughter.]

Mr. GAINES of Tennessee. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. GAINES of Tennessee. I want to know if, inasmuch as the items were stricken out under the rules of the House which were approved by the House, it does not require legislative action to put them back?

The CHAIRMAN. The Chair was about to put the question to the committee so that it might, at its option, take that legislative action. The Clerk will read the first item.

The Clerk read as follows:

Page 13, lines 24 and 25, insert "two laborers, at $820 each," instead of "one laborer, at $820."

Page 15, line 2, insert "three laborers" instead of "four laborers."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

On page 14, line 14, after the word "dollars," insert "assistant clerk, $1,500."

The question was taken, and the amendment was agreed to.

Mr. CURRIER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. CURRIER. Is it not in order to offer an amendment to that paragraph now?

The CHAIRMAN. The Chair thinks not, except by unanimous consent.

Mr. CURRIER. Mr. Chairman, I ask unanimous consent to offer an amendment to that paragraph.

The CHAIRMAN. The gentleman from New Hampshire asks unanimous consent to offer an amendment. Is there objection?

Mr. LIVINGSTON. I object.

Mr. CURRIER. It is an amendment to make the clerk for the Committee on Patents an annual clerk instead of a session clerk. It is an amendment germane to the paragraph. Do I understand the Chair to rule that an amendment can not be offered from the floor to this bill, to the paragraph under consideration?

The CHAIRMAN. The Chair understands the gentleman to offer an amendment to the amendment?

Mr. CURRIER. No; to the paragraph.

The CHAIRMAN. The Chair thinks, except by unanimous consent, we can not go back to a paragraph that has been passed.

Mr. CURRIER. Not a paragraph that has been passed, but the paragraph in question, the one now under consideration, page 14, line 24.

Mr. BURLESON. That did not go out on a point of order.

The CHAIRMAN. The Chair will again state the special rule:

Upon motion authorized by the Committee on Appropriations, it shall be in order to insert in any part of the bill any provision reported as a part of the bill and heretofore ruled out on a point of order.

The Chair understands that the gentleman from New Hampshire is desirous of offering an amendment, not a matter authorized by the Committee on Appropriations and not on a matter which has been ruled out, but an entirely new amendment to a part of the bill which was not ruled out.

Mr. LIVINGSTON. We can not submit to that.

Mr. GROSVENOR. Mr. Chairman, the distinct understanding upon which that rule was drawn was that when the Committee on Appropriations proposed one of these amendments that was stricken out on a point of order, as we passed through the bill, an amendment thus offered would be subject to amendment under the rules of the House.

The CHAIRMAN. The Chair is in accord with that view, but understands that this is an entirely independent amendment and not something that was heretofore ruled out and not an amendment to anything that was ruled out.

Mr. GROSVENOR. The question of germaneness, of course, would remain.

Mr. LIVINGSTON. I understand the amendment does not refer to any matter which is being put back into the bill under the rule.

The CHAIRMAN. Without objection, the amendment will be reported.

Mr. LIVINGSTON. I reserve the right to object.

The Clerk read as follows:

Amend by inserting after the words "War Claims," in line 24, page 14, the words "Patents in lieu of session clerk authorized by law."

Mr. BURLESON. I understand the point of order is reserved on that.

The CHAIRMAN. This proposed amendment is directed to a portion of the paragraph to which no point of order was made when it was pending before the committee in the first instance. It is not authorized by the Committee on Appropriations, and it is not directed to that part of the bill covered by the rule at all. If this were to be opened to such an amendment it would open the whole bill that has been read to amendment.

Mr. CURRIER. It would open only the paragraph to which points of order were made.

The CHAIRMAN. The same principle would apply to every other paragraph.

Mr. CURRIER. I understand it would apply to those paragraphs which contain matters taken up by the Committee on Appropriations.

The CHAIRMAN. The Chair thinks the gentleman would be correct if the entire paragraph had gone out, but in this instance only two items went out on a point of order.

Mr. CHANEY. Mr. Chairman, may I ask a question? Is the paragraph only now complete, and when the paragraph is complete is it not subject to amendment when before the House?

The CHAIRMAN. The paragraph was completed with one item taken out of it on a point of order. It would not be possible to go back to that paragraph except by unanimous consent had it not been for the special rule which the House adopted, and this amendment is not protected by that rule. It is not a provision heretofore ruled out nor an amendment to such a provision. Had the whole paragraph gone out on a point of order, then, upon a motion to reinsert it, the whole paragraph would have been open for amendment; but in this instance only certain items were objected to and ruled out, and the amendment does not relate to them. The Chair, therefore, must sustain the point of order. The Clerk will report the next amendment.

The Clerk read as follows:

On page 15, lines 22, 23, and 24, and in line 1, page 16, restore the following words, "and shall be subject to removal by the Doorkeeper at any time after the termination of the Congress during which they were appointed," and omit the matter previously inserted by amendment.

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The CHAIRMAN. The Clerk will report the next amendment.

The Clerk read as follows:

On page 16, in line 11, after the word "Representatives," insert "$5,000."

The CHAIRMAN. The question is on agreeing to the amendment.

Mr. SULLIVAN of Massachusetts. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The Chair recognizes the gentleman from Massachusetts, who moves to strike out the last word.

Mr. SULLIVAN of Massachusetts. Mr. Chairman, I would like to ask the gentleman in charge of this bill what the salary of the Sergeant-at-Arms was last year?

Mr. LITTAUER. The Sergeant-at-Arms' salary was $4,500. We recommend $5,000, and do so for this reason: The Sergeant-at-Arms is compelled to give a bond which, I believe, costs about $300 a year. In addition thereto, the responsibility of the Sergeant-at-Arms has been considerably increased by the custom of Members of doing their banking business, paying their bills through his office. This is a custom that has grown up. Many Members do take advantage of it, and it entails a considerable amount of greater responsibility and work. In view of the bond provision, we felt that the salary should be raised to $5,000.

Mr. SULLIVAN of Massachusetts. Mr. Chairman, let me ask the gentleman, has a bond been required by law since the salary was fixed last year, or is it an old provision?

Mr. LITTAUER. The law has not been changed, nor has the compensation been changed for many years.

Mr. SULLIVAN of Massachusetts. Then there is no need for an increase, so far as the bond is concerned.

Mr. GROSVENOR. Mr. Chairman, the bond was required immediately following the defalcation in the Fifty-third Congress.

Mr. SULLIVAN of Massachusetts. So that the bond was required when the salary was fixed at $4,500.

Mr. LITTAUER. Yes; but the practice of having a surety bond, or a bond that has to be paid for, has only lately come into general vogue.

Mr. SULLIVAN of Massachusetts. So that disposes of the first reason for the increase. We will now come to the second reason, namely, the practice of the Sergeant-at-Arms in doing practically a banking business. Let me ask if that practice was not in existence when the salary was $4,500 a year?

Mr. LITTAUER. We were advised that this privilege has increased greatly in late years.

Mr. SULLIVAN of Massachusetts. By what reason? By reason of there being additional Members in the House?

Mr. LITTAUER. Not particularly so, but by more Members taking advantage of the facility granted by the Sergeant-at-Arms.

Mr. SULLIVAN of Massachusetts. But when the salary was $4,500 a year——

Mr. LITTAUER. The salary is now $4,500 a year.

Mr. SULLIVAN of Massachusetts. Yes; and with a salary of $4,500 a year, the banking privilege was availed of by Members to a large extent, of course.

Mr. LITTAUER. It has been growing lately, and we felt that because of that practice, together with the cost of the bond required, was reason enough for us to increase this salary to $5,000.

Mr. SULLIVAN of Massachusetts. The bond affords no reason for the increase, because the bond was required under the old law. Now, let me ask this question. Has there been a sufficient increase in the borrowing privilege to warrant the increase of $500 in salary?

Mr. LITTAUER. Mr. Chairman, I can only state that we believe that the Members of this House have taken advantage by a growing custom of doing their banking business through the Sergeant-at-Arms. Some men will draw from twenty-five to fifty checks at the beginning of the month in all kinds of amounts, which has entailed a good deal more work upon his office, and we felt that it was right that his compensation should be $5,000 a year.

The CHAIRMAN. Without objection, the pro forma amendment will be withdrawn. The question now is on the amendment offered by the gentleman from New York.

The question was taken, and the amendment was agreed to.

The CHAIRMAN. The Clerk will report the next amendment.

The Clerk read as follows:

On page 16, line 23, after the word "Doorkeeper," insert "$4,500."

Mr. SULLIVAN of Massachusetts. Mr. Chairman, I move to strike out the last word. I desire to ask the gentleman from New York what the Doorkeeper's salary was in the last appropriation bill?

Mr. LITTAUER. Three thousand five hundred dollars.

Mr. SULLIVAN of Massachusetts. And you have increased the compensation $1,000?

Mr. LITTAUER. We have submitted to the House an increase of $1,000, making this salary $4,500, and I will be pleased to give the reasons.

Mr. SULLIVAN of Massachusetts. Now, will the gentleman tell the House the reason for this increase of $1,000?

Mr. LITTAUER. The Doorkeeper is one of the executive officers of this body. We found that there were five clerical assistants connected with the force of this House who received more than $3,500. We felt that the duties of the Doorkeeper, covering the various forces of the document room, the folding room, the janitor service, messenger service, etc.——

Mr. LIVINGSTON. And elevator service.

Mr. LITTAUER. And general services of that kind, with which the House is thoroughly familiar, were worthy of a salary of $4,500. This salary has been $3,500 for many years. The present occupant of that position has been connected with the House for many years, promoted from an assistant's position to fill the important office of Doorkeeper. He fills it well. He came before us and described his work. We made comparisons with other services, and we felt we had a right conscientiously to report to the House a submission of $4,500 for this office, believing that the House, if its attention was called to it, would accept that figure.

Mr. SULLIVAN of Massachusetts. It is for the purpose of calling the attention of the House to it, and because of criticism of the committee that I make the suggestion. Now, let me ask the gentleman if this official will perform any more services for the $4,500 than he did for the $3,500?

Mr. LITTAUER. Every Congress places a larger force under the Doorkeeper.

Mr. SULLIVAN of Massachusetts. For what reason? Why does Congress provide a larger force each time?

Mr. LITTAUER. I suppose because of the increase of business.

Mr. SULLIVAN of Massachusetts. Now, will the gentleman tell me—the gentleman says that the Doorkeeper is raised a thousand dollars a year not because he performs a very much larger amount of service, but because he finds there are five clerks who get $3,500 and over?

Mr. LITTAUER. Oh, I said that was one of the reasons.

Mr. SULLIVAN of Massachusetts. Because the Doorkeeper ought to get a thousand dollars more than those men?

Mr. LITTAUER. I think the Doorkeeper's services should be recompensed at a higher rate than those clerical services to which I referred.

Mr. SULLIVAN of Massachusetts. What I wanted to ask was whether you think this kind of clerical service was worth $3,500?

Mr. LITTAUER. Well, I do not care to answer the question. I do not believe the rates of compensation here are altogether based upon the value of services.

Mr. SULLIVAN of Massachusetts. Yes.

Mr. GROSVENOR. Mr. Chairman, I want to ask the gentleman from New York, stating, as I do, I have not the slightest objection to the increase of a thousand dollars in the salary of the Doorkeeper and $500 for the Sergeant-at-Arms, making their salaries one $4,500 and one $5,000, why is the discrimination, wherein is the justification for discriminating against the Postmaster of the House, who only gets $2,500 a year, when his duties have increased quite as rapidly as have the duties of these other gentlemen?

Mr. LITTAUER. I believe his duties have increased, but they are of an entirely different character.

Mr. GROSVENOR. And his salary now is only 50 per cent of that of the Doorkeeper.

Mr. LITTAUER. I feel that the Postmaster's duties are not in the same category with the duties of either the Sergeant-at-Arms or the Doorkeeper.

Mr. GROSVENOR. Not in the same category——

Mr. LITTAUER. I mean by that his duties are of a routine character of work, whereas these other men have to use executive ability.

Mr. GROSVENOR. Are there any more routine duties on earth than the duties of the Sergeant-at-Arms of this House?

Mr. LITTAUER. I think there are.

Mr. GROSVENOR. What does he do?

Mr. LITTAUER. The gentleman knows what his duties are perfectly well.

Mr. GROSVENOR. I do. I know exactly what he does, and I do not object to the increase in his salary, but I do believe that is a discrimination against the lower-priced men, the smaller men under them, and these increases, I think, are not in a fair, square way of business. That is what I think.

Mr. NORRIS. Mr. Chairman, I move to amend by striking out the word "four," at the end of line 23, page 16, and inserting the word "three."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Line 23, page 16, strike out the word "four" and insert the word "three;" so as to read: "three thousand five hundred dollars."

Mr. NORRIS. Now, Mr. Chairman, it seems to me, from what explanation we have heard from the member of the committee having this bill in charge, that it must be evident that the present salary of $3,500 is ample for the Doorkeeper of this House. In the first place, there has been nothing brought to our attention to show any increase in his duties, any increased obligation. His duties are the same and will be the same as they have been in the past; and, in my judgment, it is not a sufficient reason for increasing his salary, to say that it is not in proportion to some other man's salary. It will not do to compare his salary with some one who is getting too much, and then say he is not getting enough.

The gentleman in charge of the bill has said that various other officers are under the control of the Doorkeeper. He gave that as one of the reasons, in answer to the gentleman from Massachusetts, as to why this salary should be increased. But, Mr. Chairman, he has nothing particular to do so far as the janitor work is concerned. He don't scrub any floors, he don't clean any spittoons. He has nothing to do, even with respect to those men who are under him, except to see that the work is done, and the work he performs, in my judgment, is well paid for at the price of $3,500 a year.

Mr. SULLIVAN of Massachusetts. May I ask the gentleman a question?

Mr. NORRIS. Just a moment. I believe, Mr. Chairman, that it is the observation of those who have taken any pains to look into the duties of this man's office, that about the only thing he performs is to hunt up good places for favorites, for those that are in the inner circle; and that is about all he does do. And it seems to me that $3,500 a year is enough for that; and the people who get the jobs ought not to insist upon getting an increase paid to this gentleman who does their bidding. Now I will yield to the gentleman from Massachusetts.

Mr. SULLIVAN of Massachusetts. Right on that point. If the gentlemen of the House are sufficiently active, and are successful in creating now places under this Doorkeeper, then, according to the reasoning, the gentleman from New York may rise in his place next year and ask that the salary be increased to $5,500, because there are more employees under him.

Mr. NORRIS. That would be a logical conclusion, I should think.

Mr. SULLIVAN of Massachusetts. And the inevitable consequence also.

Mr. NORRIS. Now, Mr. Chairman, it seems to me, reducing this matter to a business proposition, simply taking into consideration the duties pertaining to this office, is it not evident to every man that $3,500 a year is ample pay for it, and would not thousands of men competent to do it and carry on the work properly, be willing to undertake it for $2,500 a year? I believe the amendment ought to be adopted.

Mr. TAWNEY. Mr. Chairman, I wish to make one statement in addition to what has been stated by the gentleman from New York as a reason for reporting this increase. The Doorkeeper of the House, as he said, is receiving less compensation, although an elective officer of the House, than five clerks of the House. He might have added two more. In fact, there are seven appointive clerks who receive more than he, none of whom are required to, or do, remain in Washington after the close of the session. The Doorkeeper of the House has 200 men in his employ who are engaged under the rules or by authority of this House. There is no other elective officer of the House with as much responsibility in respect to the service rendered to the House itself as the Doorkeeper has. He is here every month in the year. He must be here once a month, at least, and he must be here the greater part of each month in order to look after the laboring force that takes care of that part of the Capitol which the House has put under his exclusive jurisdiction. He has under him the force in the folding room, that takes care of all of the documents of the House; he has under him the document room and the janitor service. He also has under him the pages and all the messenger service of this House; and now, by the action of the House, he is charged with the responsibility of looking after the janitor force the year around. If a janitor fails to perform his duty in the interim between the close of one session of Congress and the beginning of the next session or next Congress, the duty is imposed upon the Doorkeeper of the House to look after that janitor force and, if necessary, dismiss them provided they are not doing their work properly. In view of all these facts, Mr. Chairman, we felt that the dignity of the office required and the duties of the office justified more compensation than he is now receiving.

Mr. SULLIVAN of Massachusetts. Mr. Chairman, the only additional reason advanced by the chairman of the committee for this increase is because of the alleged dignity of the office of Doorkeeper. This seems to be a new doctrine.

Mr. TAWNEY. I beg the gentleman's pardon. I did not say that was the only one. I mentioned in detail the increased responsibilities growing out of the action of the House itself and the demands for increased service.

Mr. SULLIVAN of Massachusetts. Yes; but the responsibility was there before, and the only additional reason brought out by the gentleman was the dignity of the office of Doorkeeper. I never heard of this theory of the dignity of a Doorkeeper before, and I doubt if that gentleman is worth $1,000 more this year than he was last year on the ground that his dignity is greater this year than it was last year. Now, I do not know whether this small army of 200 employees ought to be employed regularly or whether the committee, acting within its duty, should cut down the army of 200 to 150.

Mr. LITTAUER. They are largely increased outside of the committee.

Mr. SULLIVAN of Massachusetts. I do not believe that we ought to justify every increase of salary because we find that other abuses exist. If we are going to regulate the compensation of all the officers of this Government according to the standard of the incompetent and the overpaid in the service, then let us do so boldly upon that theory and say so; but if we are going to adjust the salaries of Government officers according to the value of the services rendered, then we ought to legislate upon that theory. Now, I believe that what the committee has done in many of these cases is not to attempt to obtain economy, but only equality. We had an example of that in the equalization of the salaries of the Capitol police. It was found there were three grades there, all performing the same service; some getting $900 a year, some $960, and some $1,020. Now, the committee, instead of trying to find out what the proper wage was for those officers, made an average, as a jury does frequently, though wrongfully, and gave them each $1,020. They did not consider whether $1,020 was the proper measure of reward for the services performed, but only whether as a mathematical proposition $1,020 would not equalize the salaries of these gentlemen, and in accomplishing that result they actually increased the total appropriation for these Capitol police $480, cutting down some and advancing others. Now, I do not believe that this House ought to legislate for the purpose of making equality, and lifting all salaries up to the standard of the drones and the incompetents who are highly paid, but that the committee ought to exercise its power and find out what is actually earned by these officers of the Government, and pay them according to the work they perform.

Mr. JOHNSON. I want to suggest to the gentleman from Massachusetts in connection with the discussion about the great dignity of the position of Doorkeeper of the House of Representatives that the late Benjamin F. Butler, of Massachusetts, thirty years ago, in describing the dignity of that position, said that to be Doorkeeper of the House of Representatives was the next thing to being doorkeeper in the house of the Lord. [Laughter.]

Mr. SULLIVAN of Massachusetts. Now, Mr. Chairman, here is an officer who performs duties that are not particularly onerous, and it is seriously proposed to give him a salary of $4,500 a year, within $500 of what the Congressmen themselves are paid. Members of this House, having an office of at least equal dignity, and also having many difficult duties to perform, get $5,000 a year. It is solemnly proposed that the salary of this Doorkeeper shall be advanced so that he will get $4,500, or within $500 of the compensation of the Representatives of the people in this House.

[Here the hammer fell.] [Cries of "Vote!" "Vote!"]

Mr. COOPER of Wisconsin. Mr. Chairman, I should like to ask the gentleman from Minnesota, the chairman of the Committee on Appropriations [Mr. TAWNEY], if I understood him to say, or if I understood some other gentlemen to say, that there had been some reduction of salaries in this bill?

Mr. TAWNEY. Yes; there have been.

Mr. COOPER of Wisconsin. What officers or employees have had their salaries reduced?

Mr. TAWNEY. There are 64 reductions in salaries and the number of offices has been reduced 376.

Mr. COOPER of Wisconsin. Are there any reductions in the salaries of House employees?

Mr. TAWNEY. Yes.

Mr. COOPER of Wisconsin. In what House employees?

Mr. TAWNEY. In the police force.

Mr. CRUMPACKER. And messengers and janitors?

Mr. TAWNEY. The House reduced the salaries of the messengers. The committee did not recommend that reduction.

Mr. COOPER of Wisconsin. Is there any reduction in the salaries of the subordinate force of the Doorkeeper's department?

Mr TAWNEY. There is an equalization of salaries in the office of the Doorkeeper, in the document room, and in the folding room.

Mr. COOPER of Wisconsin. In the salaries of clerks and assistants under the Doorkeeper, what is the aggregate reduction?

Mr. TAWNEY. I am unable to say. There is no reduction in the gross amount appropriated for the service.

Mr. COOPER of Wisconsin. Do you mean that the reduction in the subordinates' salaries is made up by the increase in the Doorkeeper's salary?

Mr. TAWNEY. No, sir; I don't mean anything of the kind. There was so much appropriated for service in the document room, and that has been divided among certain clerks at different salaries doing identically the same work. We have raised the salary of some men in the folding room and reduced the salary of others, so that they do identically the same work, and the aggregate appropriation is about the same as heretofore for their service, and the same is true in the document room.

Mr. COOPER of Wisconsin. The reason I asked the gentleman the question was that it had been suggested to me that there was a reduction in the salaries of the subordinates and an increase in the salaries of the superior officers, so as to make the aggregate the same.

Mr. TAWNEY. There is nothing of the kind.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Nebraska to the amendment offered by the gentleman from New York.

Mr. SULLIVAN of Massachusetts. A parliamentary question, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. SULLIVAN of Massachusetts. What is the amendment to the amendment?

The CHAIRMAN. That is not a parliamentary inquiry; but without objection, the amendment to the amendment will be again reported.

The Clerk again read the amendment to the amendment.

The question was taken; and on a division (demanded by Mr. NORRIS) there were—ayes 21, noes 70.

So the amendment to the amendment was rejected.

The CHAIRMAN. The question recurs on the amendment offered by the gentleman from New York.

Mr. NORRIS. Mr. Chairman, I move that the amendment be amended by striking out "four thousand five hundred" and inserting "four thousand."

The CHAIRMAN. The question is on the amendment to the amendment offered by the gentleman from Nebraska.

The question was taken, and the amendment to the amendment was rejected.

The CHAIRMAN. The question now is on the amendment offered by the gentleman from New York.

The question was taken, and the amendment was agreed to.

The CHAIRMAN. The Clerk will read the next amendment.

The Clerk read as follows:

On page 19, line 11, after the word "clerks," insert "one thousand five hundred." After line 13 insert as a separate paragraph, "For stenographic and typewriting service, to be expended by the chairman of the conference minority, $600."

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from New York.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

On page 26, line 21, insert "stenographer and typewriter, $900."

The CHAIRMAN. The question is on the amendment.

The amendment was agreed to.

Mr. GROSVENOR. Mr. Chairman, I want to ask unanimous consent to return to page 20.

Mr. BURLESON. We have not reached that page yet.

Mr. LIVINGSTON. Mr. Chairman, I think that is a misapprehension. The paragraph that the gentleman from Ohio wants to amend we have passed.

Mr. GROSVENOR. I ask unanimous consent that we may return to page 20, and I move to amend lines 12 and 13 by striking out "two thousand five hundred" and inserting the words "three thousand." That is to increase the salary of the Postmaster of the House $500.

The CHAIRMAN. The gentleman from Ohio asks unanimous consent to return to the paragraph that has just been read for the purpose of offering an amendment which he suggests.

Mr. HARDWICK. I object.

Mr. GROSVENOR. I hope the gentleman from Georgia will not do that; we are trying to equalize some of these salaries.

The CHAIRMAN. Does the gentleman from Georgia withdraw his objection?

Mr. HARDWICK. I do not.

The CHAIRMAN. The Clerk will read the next amendment.

The Clerk read as follows:

On page 32, line 16, insert as a separate paragraph, "For assistant laborers, under the direction of the Joint Library Committee of Congress, $14,533.55."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

On page 34, lines 9 and 10, insert "three examiners, at $2,000 each;" in line 11, after the word "three," insert "twenty-two clerks of class 2."

The question was taken, and the amendments were agreed to.

The CHAIRMAN. The Clerk will report the next amendment.

The Clerk read as follows:

On page 35, line 1, after the word "dollars," insert "7 clerks, at $1,000 each;" and in line 3, after the word "messenger," insert "5 clerks, at $840 each;" and in line 4 insert "2 clerks, at $720 each."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken; and the amendment was agreed to.

Mr. HAUGEN. Mr. Chairman, I ask unanimous consent to return to page 10 for the purpose of offering an amendment.

The CHAIRMAN. The gentleman from Iowa asks unanimous consent to return to page 10 for the purpose of offering an amendment. Is there objection?

Mr. LIVINGSTON. Mr. Chairman, reserving the right to object, I would ask the gentleman for what purpose?

Mr. HAUGEN. To equalize the salaries between the police force and the messengers—to make the salary the same—to make the salary $1,100.

Mr. LIVINGSTON. Does the gentleman mean the messengers?

Mr. HAUGEN. Yes.

Mr. LIVINGSTON. Oh, we can not do that.

The CHAIRMAN. Is there objection?

Mr. LIVINGSTON. I object.

The CHAIRMAN. The gentleman from Georgia objects. The Clerk will report the next amendment.

The Clerk read as follows:

On page 35, line 7, after the word "board," insert "for one chief of division, $2,000."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken; and the amendment was agreed to.

The CHAIRMAN. The Clerk will report the next amendment.

The Clerk read as follows:

On page 36, in line 19, after the word "dollars," insert "clerk to the Secretary of State, $2,250."

The CHAIRMAN. The question is on the amendment.

The question was taken, and the amendment was agreed to.

The CHAIRMAN. The clerk will report the next amendment.

The Clerk read as follows:

On page 51, in line 16, after the word "thousand," insert the words "five hundred."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The CHAIRMAN. The Clerk will report the next amendment.

The Clerk read as follows:

On page 62, line 18, after the word "teller," insert the words "and change teller," and in line 21 insert the words "one bookkeeper, $1,800."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The CHAIRMAN. The Clerk will report the next amendment.

The Clerk read as follows:

On page 63, after line 6, insert the following:

"Office of assistant treasurer at Cincinnati: For assistant treasurer, $4,500; cashier, $2,250; assistant cashier, $1,800; bookkeeper, $1,800; receiving teller, $1,500; interest clerk, and 5 clerks, at $1,200 each; 2 clerks, at $1,000 each; clerk and stenographer, $720; night and watchman, $840; night watchman, $900; day watchman, $600; in all, $23,810.

"Office of assistant treasurer at New Orleans: For assistant treasurer, $4,500; chief clerk and cashier, $2,250; receiving teller, and paying teller, at $2,000 each; vault clerk, $1,800; two bookkeepers, at $1,500 each; coin clerk, $1,200; 6 clerks, at $1,200 each; 2 clerks, at $1,000 each; porter and messenger, $500; day watchman, $720; night watchman, $720; typewriter and stenographer, $1,000; in all, $28,800."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken; and the amendment was agreed to.

The CHAIRMAN. The Clerk will report the next amendment.

The Clerk read as follows:

At the end of page 65 insert:

"Office of assistant treasurer at Philadelphia: For assistant treasurer, $4,500; cashier and chief clerk, $2,500; paying teller, $2,000; coin and paying teller, $2,000; bond and authorities clerk, $1,600; vault clerk, $1,900; bookkeeper, $1,800; assorting teller, $1,800; redemption teller, $1,600; receiving teller, $1,700; 2 clerks, at $1,500 each; 3 clerks, at $1,400 each; clerk, $1,300; 6 clerks, at $1,200 each; superintendent messenger and chief watchman, $1,100; 6 counters, at $900 each; 7 watchmen, at $720 each; in all, $48,940."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken; and the amendment was agreed to.

The CHAIRMAN. The Clerk will report the next amendment.

The Clerk read as follows:

At the end of the paragraph just read insert:

"Office of assistant treasurer at St. Louis: For assistant treasurer, $4,500; cashier and chief clerk, $2,500; first teller, $2,000; second teller, $1,800; third teller, $1,600; assorting teller, $1,800; assistant assorting teller, $1,500; coin teller, $1,200; bookkeeper, $1,500; 9 clerks, at $1,200 each; 3 clerks, at $1,000 each; 3 day watchmen and coin counters, at $900 each; night watchman, $720; 2 janitors, at $600 each; in all, $36,820."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken; and the amendment was agreed to.

Mr. GROSVENOR. Mr. Chairman, I want to renew my request for unanimous consent. I think the objection will now be made, I am so informed, and I ask permission to propose an amendment to lines 12 and 13, on page 20.

The CHAIRMAN. The gentleman from Ohio asks unanimous consent to return to the paragraph he has indicated for the purpose mentioned. Is there objection? [After a pause.] The Chair hears none, and the Clerk will report the amendment.

The Clerk read as follows:

In lines 12 and 13, page 20, strike out "$2,500" and insert "$3,000."

The CHAIRMAN. Does the gentleman desire to be heard upon his amendment?

Mr. GROSVENOR. I do not; the House understands the proposition.

The question was taken, and the amendment was agreed to.

The CHAIRMAN. The Clerk will report the next amendment.

The Clerk read as follows:

At the end of the paragraph just read insert the following:

"Office of assistant treasurer at San Francisco: For assistant treasurer, $4,500; cashier, $2,500; bookkeeper, $1,800; chief clerk, $2,000; assistant cashier, $2,000; first teller, $2,250; assistant bookkeeper, $2,000; coin teller, and one clerk, at $1,800 each; clerk, $1,500; clerk, $1,200; messenger, $840; four watchmen, at $720 each; and two coin counters, at $900 each; in all, $28,670."

Mr. HAYES. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. HAYES. I desire to offer an amendment.

The CHAIRMAN. The gentleman from California offers an amendment to the amendment, which the Clerk will report.

The Clerk read as follows:

On page 67 strike out all after the word "dollars," beginning line 10, down to and including the word "dollars," in line 14, and insert in lieu thereof the following:

"Cashier, $3,000; bookkeeper, $2,250; chief clerk, $2,000; assistant cashier, $2,400; first teller, $2,250; assistant bookkeeper, $2,000."

Mr. HAYES. Now, Mr. Chairman, the purpose of that amendment is not to increase the salaries of these officials, but simply to retain them at their present rate. The committee has seen fit to reduce the cashier, the assistant cashier, the bookkeeper, and the assistant bookkeeper; the cashier by $500, the bookkeeper by $450, and the assistants to these two officials $400 each. I have here a letter from the subtreasurer stating that these officials are old and trusted employees. They have been there in the service of the Government from twelve to eighteen years. They have never had an increase of salary, although the business of the office has more than doubled since they have been in office. It seems to me a little unusual at this time, when the cost of living is higher than it has been for many years, to reduce the salaries of these four men, to pick them out of all the employees of the subtreasury. I believe this is the only instance where salaries have been reduced, and I hope that the committee will——

Mr. TAWNEY. They are higher now than in other subtreasuries——

Mr. HAYES. I hear the gentleman from Minnesota say these salaries are higher than they are in other subtreasuries. They are the same that they have been for many years, and the reason why they were made higher, I presume, is that the cost of living in San Francisco is more than it is in the East. I have lived in both places recently, and I know this to be a fact. In the West nearly all that we consume has to be carried across the continent, usually overland, and the freight on it paid. I think it is unjust to single out these four trusted employees—faithful, competent men—in this way. If they resigned their positions, it would be almost impossible to replace them. I do not think it is fair to reduce their salaries while at the same time you are increasing the salaries of similar employees in New York, and, I think, in some other city. The Government has always recognized that it costs more to live in San Francisco than in other cities, and I can state, as a matter of fact, that these men are receiving no higher salaries than they would receive as employees of a bank or other large interest where they had the same responsibility and the same duties to perform.

Mr. LITTAUER. Mr. Chairman, just one word of explanation. We found that the assistant treasurer at San Francisco claimed he needed more help. An investigation then led us into a comparison of forces. The assistant treasurer's office at Chicago is doing more than double the work that the office at San Francisco does. The compensation for total force appropriated for at Chicago is $68,000, whereas at San Francisco it is about $30,000. Now, the cashier at San Francisco has been paid $3,000, while this same officer, who performs double the amount of work, at Chicago only receives $2,500. The man occupying the same position at Baltimore gets $2,500; at Philadelphia, $2,500; at Boston he gets $2,500; and in Cincinnati and New Orleans, $2,250. We did not feel justified in continuing a salary at San Francisco higher than at these other places. Now, in respect to the bookkeeper at San Francisco, he receives $2,700, and at all the other places the salary is uniformly $1,800; and we recommended $1,800 again. This, in short, is the basis of our recommendation. Now, why a salary should be higher in San Francisco than in any other place I can not quite understand. I can not understand why the assistant treasurer's force should be paid a higher compensation and the joint force paid the same compensation at San Francisco in comparison with other cities. If one is entitled to a higher salary because of the cost of living, the other ought to be. I trust the committee recommendation will be adopted.

The CHAIRMAN. The question is on the amendment of the gentleman from California to the amendment of the gentleman from New York.

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. HAYES. Division, Mr. Chairman.

The committee divided; and there were—ayes 45, noes 11.

Mr. LIVINGSTON. Tellers, Mr. Chairman.

Tellers were ordered.

The CHAIRMAN. The gentleman from New York [Mr. LITTAUER], and the gentleman from California [Mr. HAYES], will take their places as tellers.

The committee again divided; and tellers reported—ayes 52, noes 37.

So the amendment to the amendment was agreed to.

The CHAIRMAN. The question recurs on the amendment as amended.

The question was taken; and the amendment as amended was agreed to.

The CHAIRMAN. The Clerk will report the next amendment.

The Clerk read as follows:

On page 68, line 25, after the words "warrant clerk," insert "assistant weigh clerk."

The question was taken, and the amendment was agreed to.

Mr. WILEY of Alabama. Now, I ask unanimous consent to go back to page 18, for the purpose of offering an amendment.

Mr. LITTAUER. I can not hear the gentleman.

The CHAIRMAN. The gentleman from Alabama asks unanimous consent to recur to page 18, for the purpose of offering an amendment, which the Clerk will report.

The Clerk read as follows:

Page 18, line 22, amend by striking out the word "two," where the word occurs in said line 22, and insert in lieu thereof the word "five."

The CHAIRMAN. Is there objection?

Mr. LITTAUER. I will have to object—at least I will reserve my objection.

Mr. WILEY of Alabama. The purpose of this amendment is to give to the special messengers of the House, Messrs. Sinnott and Felton Knight, $1,500. They each now get $1,200. That is the sole purpose of the amendment; it gives them $1,500 instead of $1,200.

Mr. LITTAUER. What do they do?

Mr. WILEY of Alabama. Theirs are very onerous duties.

Mr. LITTAUER. I do not believe it would be right to increase the compensation of these messengers; and I therefore object.

Mr. PAYNE. Has not the bill been read and the amendments agreed to?

Mr. LITTAUER. It has now been completed. I will finish by asking unanimous consent that the Clerk may correct the different totals in the bill according to the different amendments that have been made.

The CHAIRMAN. The gentleman from New York asks unanimous consent that the Clerk be permitted to correct the totals in accordance with the different amendments agreed to. Without objection, it will be so ordered.

There was no objection.

Mr. LITTAUER. Mr. Chairman, I move that the committee rise and report the bill to the House with a favorable recommendation.

Mr. BONYNGE. Before that is done, I ask unanimous consent that the last amendment be re-reported. I think there was an amendment to the last amendment.

The CHAIRMAN. Will the gentleman from New York give way for that purpose?

Mr. LITTAUER. If the gentleman can point out an error I would be glad, indeed pleased, to correct it.

The Clerk read as follows:

Page 68, in line 25, after the word "warrant clerk," insert "assistant weigh clerk."

Mr. BONYNGE. Now, Mr. Chairman, there was one in lines 21 and 22. "Weight clerk, $2,000," was stricken out on a point of order. It was not reported, I think.

Mr. LITTAUER. I think the gentleman is correct; and I believe the bill ought to be amended in that particular.

The CHAIRMAN. Does the gentleman offer that amendment?

Mr. LITTAUER. I do offer that motion.

The Clerk read as follows:

Page 68, lines 21 and 22, insert the words "weigh clerk, $2,000."

The CHAIRMAN. The question is on the amendment of the gentleman from New York.

The question was taken; and the amendment was agreed to.

Mr. LITTAUER. Now, Mr. Chairman, I renew my motion that the committee rise.

The CHAIRMAN. Without objection, the other corrections made necessary by the amendments will be considered as ordered. The question is on the motion of the gentleman from New York, that the committee do now rise and report the bill with amendments with a favorable recommendation.

The question was taken; and the motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. OLMSTED, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 16472—the legislative, executive, and judicial appropriation bill—and had instructed him to report the same back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

Mr. LITTAUER. Mr. Speaker, I move the previous question on the bill and amendments to final passage.

The previous question was ordered.

The SPEAKER. Is a separate vote demanded upon any amendment? If not, the vote will be taken in gross.

The amendments were agreed to.

The bill as amended was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

On motion of Mr. LITTAUER, a motion to reconsider the last vote was laid on the table.

HAZING AT THE NAVAL ACADEMY.

Mr. VREELAND. Mr. Speaker, I desire to present a conference report on the bill (S. 3899) granting authority to the Secretary of the Navy, in his discretion, to dismiss midshipmen from the United States Naval Academy and regulating the procedure and punishment in trials for hazing at the said academy, with an accompanying statement, to be printed in the RECORD under the rule.

The SPEAKER. The conference report and statement will be printed under the rule.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

H. J. Res. 11. Joint resolution for the publication of eulogies delivered in Congress on Hon. John W. Cranford, late a Representative in Congress;

H. R. 5954. An act to authorize the Secretary of the Treasury to issue duplicate gold certificate, in lieu of one lost, to Lincoln National Bank, of Lincoln, Ill.; and

H. R. 16671. An act permitting the building of a dam across the St. Joseph River near the village of Berrien Springs, Berrien County, Mich.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States for his approval the following bill and joint resolutions:

H. R. 6216. An act granting an increase of pension to Stephen D. Hopkins;

H. J. Res. 127. Joint resolution to correct abuses in the public printing and to provide for the allotment of cost of certain documents and reports; and

H. J. Res. 128. Joint resolution to prevent unnecessary printing and binding and to correct evils in the present method of distribution of public documents.

FORTIFICATION OF PURE SWEET WINES.

Mr. NEEDHAM, by direction of the Committee on Ways and Means, reported the bill (H. R. 15286) to amend existing laws relating to the fortification of pure sweet wines; which was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

INTERNATIONAL WATERWAYS COMMISSION.

Mr. BURTON of Ohio. Mr. Speaker, I ask unanimous consent for the printing, without the accompanying map, of 1,000 additional copies of the message of the President submitted on March 27 with the report of the American members of the International Waterways Commission, together with the accompanying letters and memoranda.

The SPEAKER. The gentleman from Ohio asks unanimous consent for the printing of 1,000 additional copies of the document to which he refers. Is there objection?

There was no objection.

Mr. LITTAUER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

Accordingly (at 6 o'clock and 1 minute p. m.) the House adjourned.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred as follows:

A letter from the Acting Secretary of the Treasury, transmitting a letter from the American Association of Commerce and Trade, of Berlin, relative to the advisability of placing woolen rags on the free list—to the Committee on Ways and Means, and ordered to be printed.

A letter from the Acting Secretary of the Interior, transmitting, with a copy of a letter from the Commissioner of Indian Affairs, a draft of a bill for reservation of Grahams Island, in Devils Lake, North Dakota, for use of the Turtle Mountain band of Chippewa Indians—to the Committee on the Public Lands, and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Secretary of State submitting an estimate of appropriation for participation in the Second International Peace Conference—to the Committee on Appropriations, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. GARDNER of New Jersey, from the Committee on Labor, to which were referred the House resolutions H. Res. 151 and 153, reported in lieu thereof a bill H. R. 17562, to authorize the Secretary of Commerce and Labor to investigate and report upon the industrial, social, moral, educational, and physical condition of woman and child workers in the United States, accompanied by a report (No. 2745); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. GROSVENOR, from the Committee on the Merchant Marine and Fisheries, to which was referred the bill of the Senate (S. 4094) to amend section 4426 of the Revised Statutes of the United States, regulation of motor boats, reported the same with amendment, accompanied by a report (No. 2746); which said bill and report were referred to the House Calendar.

Mr. ALEXANDER, from the Committee on the Judiciary, to which was referred the bill of the Senate (S. 535) to amend and reenact section 1 of chapter 77 of volume 27 of the United States Statutes at Large, being "An act to provide for a term of the United States circuit and district courts at Evanston, Wyo.," approved May 23, 1892, reported the same without amendment, accompanied by a report (No. 2748); which said bill and report were referred to the House Calendar.

Mr. BURKE of South Dakota, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the Senate (S. 4129) to regulate enlistments and punishments in the United States Revenue-Cutter Service, reported the same without amendment, accompanied by a report (No. 2749); which said bill and report were referred to the House Calendar.

Mr. BIRDSALL, from the Committee on the Judiciary, to which was referred the bill of the House (H. R. 10911) to amend an act entitled "An act to create the southern division of the southern district of Iowa for judicial purposes, and to fix the time and place for holding court therein," approved June 1, 1900, and all acts amendatory thereof, reported the same without amendment, accompanied by a report (No. 2750); which said bill and report were referred to the House Calendar.

Mr. BURKE of South Dakota, from the Committee on Indian Affairs, to which was referred the bill of the House (H. R. 17112) directing the Court of Claims to hear and determine the question of the restoration of the unpaid annuities of the Sisseton and Wahpeton bands of Sioux Indians, reported the same with amendment, accompanied by a report (No. 2751); which said bill and report were referred to the House Calendar.

Mr. JENKINS, from the Committee on the Judiciary, to which was referred the House resolution (H. Res. 376) requesting the Secretary of the Treasury to inform the House relative to claims allowed and pending under the Spanish Claims Commission, reported the same with amendment, accompanied by a report (No. 2752); which said resolution and report were referred to the House Calendar.

Mr. GILLETT of California, from the Committee on the Judiciary, to which was referred the bill of the House (H. R. 4478) to amend section 64 of the bankruptcy act, reported the same without amendment, accompanied by a report (No. 2753); which said bill and report were referred to the House Calendar.

Mr. GAINES of West Virginia, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the Senate (S. 4300) to amend section 4414 of the Revised Statutes of the United States, inspectors of hulls and boilers of steam vessels, reported the same without amendment, accompanied by a report (No. 2754); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. SMITH of California, from the Committee on the Public Lands, to which was referred the bill of the Senate (S. 952) to authorize a patent to be issued to Stephen Teichner for certain lands therein described, reported the same without amendment, accompanied by a report (No. 2747); which said bill and were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS INTRODUCED.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. GARDNER of New Jersey, from the Committee on Labor: A bill (H. R. 17562) to authorize the Secretary of Commerce and Labor to investigate and report upon the industrial, social, moral, educational, and physical conditions of woman and child workers in the United States—to the Union Calendar.

By Mr. CURTIS: A bill (H. R. 17563) to amend an act entitled "An act granting to the Choctaw, Oklahoma and Gulf Railroad Company the power to sell and convey to the Chicago, Rock Island and Pacific Railway Company all the railway property, rights, franchises, and privileges of the Choctaw, Oklahoma and Gulf Railroad Company, and for other purposes," approved March 3, 1905—to the Committee on Indian Affairs.

By Mr. GREENE: A bill (H. R. 17564) to amend an act entitled "An act to adopt regulations for preventing collisions upon certain harbors, rivers, and inland waters of the United States"—to the Committee on the Merchant Marine and Fisheries.

By Mr. BYRD: A bill (H. R. 17565) to repeal the duties now imposed on beef, ham, bacon, meat extracts, and other products of meat, by the revenue act approved July 24, 1897—to the Committee on Ways and Means.

By Mr. WEEKS: A bill (H. R. 17566) to provide for the appointment, compensation, and retirement of civilian professors and civilian instructors at the Naval Academy—to the Committee on Naval Affairs.

By Mr. McGUIRE: A bill (H. R. 17567) in respect to condemnation of land for public purposes in the Territory of Oklahoma—to the Committee on the Territories.

By Mr. CALDER: A bill (H. R. 17568) fixing the compensation of the watchmen in the customs service at the port of New York—to the Committee on Ways and Means.

By Mr. McMORRAN: A bill (H. R. 17569) to provide for the erection of a public building and acquire a site therefor at Mount Clemens, Mich.—to the Committee on Public Buildings and Grounds.

By Mr. CHANEY: A bill (H. R. 17570) authorizing the Commissioners of the District of Columbia to vacate Forty-first street, between Warren and Yuma streets, in the District of Columbia—to the Committee of the District of Columbia.

By Mr. GLASS: A bill (H. R. 17571) authorizing the Borderland Coal Company to bridge Tug Fork of Big Sandy River—to the Committee on Interstate and Foreign Commerce.

By Mr. MOON of Pennsylvania: A bill (H. R. 17572) making penal certain acts when committed within the territorial and maritime jurisdiction of the United States, and prescribing the punishment therefor—to the Committee on the Judiciary.

By Mr. KINKAID: A bill (H. R. 17573) to grant to Charles H. Cornell the right to abut a dam across the Niobrara River on the Fort Niobrara Military Reservation, Nebr., and to construct and operate a trolley or electric railway line and telegraph and telephone lines across said reservation—to the Committee on Military Affairs.

By Mr. SMITH of Texas: A bill (H. R. 17574) to provide for acquiring an additional site and for the construction of an addition thereon to the Federal building at El Paso, Tex.—to the Committee on Public Buildings and Grounds.

By Mr. LACY: A bill (H. R. 17575) for improving, repairing, and erecting an addition to the public building at Ottumwa, Iowa—to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 17576) to provide for the entry of agricultural lands within forest reserves—to the Committee on the Public Lands.

By Mr. HEFLIN: A bill (H. R. 17621) to provide that the street car companies of the District of Columbia shall provide separate street cars for negro passengers—to the Committee on the District of Columbia.

By Mr. COCKS: A joint resolution (H. J. Res. 130) directing the Secretary of War to cause an examination and survey to be made of the northerly and northeasterly portions of Jamaica Bay, with a view to dredging certain channels—to the Committee on Rivers and Harbors.

By Mr. SPARKMAN: A concurrent resolution (H. C. Res. 28) requesting the President to assist at the isthmian exposition to be held at Tampa, Fla., in January, 1908—to the Committee on Industrial Arts and Expositions.

By the SPEAKER: A memorial from the legislature of the State of New York, proposing an amendment to the Constitution of the United States prohibiting polygamy—to the Committee on the Judiciary.

By Mr. SULZER: A memorial from the legislature of the State of New York, proposing an amendment to the Constitution of the United States prohibiting polygamy—to the Committee on the Judiciary.

By Mr. DRAPER: A memorial from the legislature of the State of New York, proposing an amendment to the Constitution prohibiting polygamy—to the Committee on the Judiciary.

By Mr. RYAN: A memorial from the legislature of the State of New York, proposing an amendment to the Constitution prohibiting polygamy—to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS INTRODUCED.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. ANDREWS: A bill (H. R. 17577) granting a pension to Luella S. Gallup—to the Committee on Pensions.

Also, a bill (H. R. 17578) granting an increase of pension to William Sparks—to the Committee on Invalid Pensions.

By Mr. BEALL of Texas: A bill (H. R. 17579) for the relief of John J. Mullins—to the Committee on Claims.

By Mr. BEDE: A bill (H. R. 17580) for the relief of the Mille Lac band of Chippewa Indians in the State of Minnesota, and for other purposes—to the Committee on Claims.

By Mr. BELL of Georgia: A bill (H. R. 17581) granting an increase of pension to Aquilla Williams—to the Committee on Invalid Pensions.

By Mr. BONYNGE: A bill (H. R. 17582) granting an increase of pension to William Danifelser—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17583) granting a pension to H. C. Dall—to the Committee on Invalid Pensions.

By Mr. CAMPBELL of Kansas: A bill (H. R. 17584) granting an increase of pension to James White—to the Committee on Invalid Pensions.

By Mr. COLE: A bill (H. R. 17585) granting an increase of pension to James Lowe—to the Committee on Invalid Pensions.

By Mr. DALZELL: A bill (H. R. 17586) granting a pension to Harriet A. Morton—to the Committee on Invalid Pensions.

By Mr. DICKSON of Illinois: A bill (H. R. 17587) granting an increase of pension to Simon P. Boyer—to the Committee on Invalid Pensions.

By Mr. DOVENER: A bill (H. R. 17588) for the relief of the estate of Jacob W. Hudson, deceased—to the Committee on War Claims.

By Mr. DRAPER: A bill (H. R. 17589) granting an increase of pension to Sidney A. Lawrence—to the Committee on Invalid Pensions.

By Mr. DRESSER: A bill (H. R. 17590) granting an increase of pension to Jacob Woodruff—to the Committee on Invalid Pensions.

By Mr. EDWARDS: A bill (H. R. 17591) granting an increase of pension to William Hall—to the Committee on Pensions.

Also, a bill (H. R. 17592) granting an increase of pension to Margaret Haynes—to the Committee on Pensions.

By Mr. FORDNEY: A bill (H. R. 17593) granting a pension to Sarah F. Ford—to the Committee on Pensions.

By Mr. GILLETT of California: A bill (H. R. 17594) granting a pension to Mary E. Allen—to the Committee on Pensions.

Also, a bill (H. R. 17595) granting an increase of pension to Cassius H. Darling—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17596) granting an increase of pension to Clement Hickman—to the Committee on Invalid Pensions.

By Mr. HIGGINS: A bill (H. R. 17597) granting an increase of pension to Charles Lee—to the Committee on Pensions.

By Mr. HOWELL of New Jersey: A bill (H. R. 17598) granting an increase of pension to Pierson Hendrickson, jr.—to the Committee on Invalid Pensions.

By Mr. HUBBARD: A bill (H. R. 17599) granting an increase of pension to Benjamin S. Perrin—to the Committee on Invalid Pensions.

By Mr. KAHN: A bill (H. R. 17600) to grant authority to change the names of certain sailing vessels—to the Committee on the Merchant Marine and Fisheries.

Also, a bill (H. R. 17601) granting a pension to Helen G. Hibbard—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17602) granting a pension to Lucy M. Cook—to the Committee on Invalid Pensions.

By Mr. KENNEDY of Nebraska: A bill (H. R. 17603) granting an increase of pension to George E. Yager—to the Committee on Pensions.

By Mr. LAW: A bill (H. R. 17604) granting an honorable discharge from military service to James Grady—to the Committee on Military Affairs.

By Mr. LITTAUER: A bill (H. R. 17605) granting an increase of pension to James H. Bullock—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17606) granting an increase of pension to Peter Van Antwerp—to the Committee on Invalid Pensions.

By Mr. MACON: A bill (H. R. 17607) granting a pension to Amos E. West—to the Committee on Invalid Pensions.

By Mr. MILLER: A bill (H. R. 17608) granting a pension to Sidney S. Brewerton—to the Committee on Invalid Pensions.

By Mr. RAINEY: A bill (H. R. 17609) for the relief of James T. Dodson—to the Committee on War Claims.

By Mr. REYNOLDS: A bill (H. R. 17610) granting an increase of pension to John T. Criswell—to the Committee on Invalid Pensions.

By Mr. RICHARDSON of Alabama: A bill (H. R. 17611) granting an increase of pension to James H. Bone—to the Committee on Invalid Pensions.

By Mr. STEVENS of Minnesota: A bill (H. R. 17612) for the relief of the estate of Albert L. Shotwell—to the Committee on Claims.

By Mr. SPIGHT: A bill (H. R. 17613) granting an increase of pension to Susan E. Nash—to the Committee on Pensions.

By Mr. WATSON: A bill (H. R. 17614) granting an increase of pension to James M. Rozell—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17615) granting an increase of pension to James D. Webb—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17616) placing Hugh T. Reed on the retired list with rank of captain—to the Committee on Military Affairs.

By Mr. WEISSE: A bill (H. R. 17617) granting a pension to Kate Flanders—to the Committee on Invalid Pensions.

By Mr. CAPRON: A bill (H. R. 17618) granting an increase of pension to Anna F. Burlingame—to the Committee on Invalid Pensions.

By Mr. ELLERBE: A bill (H. R. 17619) granting an increase of pension to Davia D. Spain—to the Committee on Pensions.

By Mr. MILLER: A bill (H. R. 17620) granting an increase of pension to Michael Pendergast, alias Michael Blake—to the Committee on Invalid Pensions.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of bills of the following titles; which were thereupon referred as follows:

A bill (H. R. 17555) granting a pension to William Child—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER: Petition of secretary of Westford Grange et al., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. ADAMS of Pennsylvania: Petition of National Wholesale Lumber Dealers' Association, against discrimination in pilotage law—to the Committee on the Merchant Marine and Fisheries.

By Mr. ADAMS of Wisconsin: Petition of Wisconsin Farmers' Institute, for the Heyburn pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of Farmers' Round-Up Institute, against free seed distribution—to the Committee on Agriculture.

By Mr. ALLEN of Maine: Petition of Dirigo Grange, No. 13, and Pleasantdale Grange, No. 431, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. BARCHFELD: Petition of Germania Refining Company, favoring additional power in Interstate Commerce Commission, relative to railway rates—to the Committee on Interstate and Foreign Commerce.

Also, petition of R. E. Inman, Ira H. Cain, C. E. Anger, W. H. Grayble, William E. McCutcheon, Charles W. Knowles, and James Carroll, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of J. G. Anger, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of Group 8, Pennsylvania Bankers' Association, for law to loan 10 per cent of capital stock and surplus—to the Committee on Banking and Currency.

Also, petition of American Protective Tariff League, against bill H. R. 15267—to the Committee on Ways and Means.

Also, petition of National Wholesale Lumber Dealers' Association, for bills S. 30 and H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

By Mr. BISHOP: Petition of citizens of Ludington, Mich., against repeal of present oleomargarine law—to the Committee on Agriculture.

Also, petition of citizens of Ludington, Mich., for experimental parcels post—to the Committee on the Post-Office and Post-Roads.

Also, petition of citizens of Mason County, Mich., for the Grange good-roads bill—to the Committee on Agriculture.

By Mr. BOWERSOCK: Petition of Ladies' Literary League, Lawrence, Kans., for investigation of industrial condition of women—to the Committee on Appropriations.

Also, petition of National Wholesale Lumber Association, for repeal of pilotage discrimination (Senate bill No. 30)—to the Committee on the Merchant Marine and Fisheries.

By Mr. BURKE of Pennsylvania: Petition of National Wholesale Lumber Dealers' Association, for bills S. 30 and H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

Also, petition of American Protective Tariff League, for bill H. R. 15267—to the Committee on Ways and Means.

Also, petition of Group 8, Pennsylvania Bankers' Association, to loan 10 per cent of capital and surplus to one person—to the Committee on Banking and Currency.

Also, petition of Germania Refining Company, Oil City, Pa., against railway discrimination in shipment of petroleum—to the Committee on Interstate and Foreign Commerce.

Also, petition of Ira H. Cain, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of W. H. Grample, C. H. Forrest, William H. McClaren, William E. McCutcheon, Charles W. Knowles, L. M. Bates, J. G. Anger, William Petty, D. K. West, and John G. Peters, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. BURKE of South Dakota: Petition of citizens of Elk Point, S. Dak., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of the General Federation of Women's Clubs, Pukwana, S. Dak., to investigate industrial conditions of women in the United States—to the Committee on Appropriations.

Also, petition of General Federation of Women's Clubs, for investigation of industrial condition of women—to the Committee on Appropriations.

By Mr. BURLEIGH: Paper to accompany bill for relief of Horace C. Webber—to the Committee on Invalid Pensions.

By Mr. BURNETT: Petition of the Cullman Tribune, Franklin Times, Cullman Printing Company, and Attalla Mirror, against printing return requests with name and address on stamped envelopes—to the Committee on the Post-Office and Post-Roads.

By Mr. CAPRON: Paper to accompany bill for relief of Anna F. Burlingame—to the Committee on Invalid Pensions.

By Mr. COOPER of Wisconsin: Petition of C. A. Barrows, Racine, Wis.; Acois Seeger, Kenosha, Wis., and H. C. Elliott, Kenosha, Wis., against bill H. R. 12973 (Chinese-exclusion act)—to the Committee on Foreign Affairs.

By Mr. COUSINS: Petition of citizens of Iowa, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. DALZELL: Petition of National Wholesale Lumber Dealers' Association, favoring passage of pilotage bill—to the Committee on the Merchant Marine and Fisheries.

Also, petition of Protective Tariff League, against bill H. R. 15267—to the Committee on Ways and Means.

By Mr. DAWSON: Petition of Federated Clubs of Muscatine, Iowa, to investigate the industrial condition of women in the United States—to the Committee on Appropriations.

Also, petition of citizens of Iowa, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. DOVENER: Paper to accompany bill for relief of Mary A. Biggs—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of Caleb Moore—to the Committee on Invalid Pensions.

By Mr. ELLIS: Paper to accompany bill for relief of Francis M. McCallum—to the Committee on Military Affairs.

By Mr. ESCH: Petition of National Wholesale Lumber Dealers' Association, for bills S. 30 and H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

By Mr. FOSTER of Indiana: Petition of citizens of Evansville, Ind., for modification of the Comstock law—to the Committee on the Judiciary.

Also, petition of merchant's of Mount Vernon, Ind., against a parcels-post bill—to he Committee on the Post-Office and Post-Roads.

By Mr. FULKERSON: Petition of citizens of Oregon, against a parcels-post law—to the Committee on the Post-Office and Post-Roads.

By Mr. GRAHAM: Petition of Triumph Council, No. 178, Daughters of Liberty, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of Germania Refining Company, against railway discrimination in transportation of petroleum—to the Committee on Interstate and Foreign Commerce.

Also, petition of Group 8, Pennsylvania Bankers' Association, for loaning 10 per cent of surplus and capital to one person—to the Committee on Banking and Currency.

Also, petition of National Wholesale Lumber Dealers' Association, for bills S. 30 and H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

Also, petition of American Protection Tariff League, against bill H. R. 15267—to the Committee on Ways and Means.

Also, paper to accompany bill for relief of James McConaha—to the Committee on Invalid Pensions.

By Mr. HAYES: Paper to accompany bill for relief of Thomas Cox and W. I. Reed—to the Committee on Military Affairs.

Also, petition of citizens of San Jose, Cal., for relief for California Indians—to the Committee on Indian Affairs.

Also, petition of citizens of San Jose, Cal., for relief of Indians of California—to the Committee on Indian Affairs.

By Mr. HILL of Connecticut: Petition of Monday Club of New Milford, Conn., for investigation of industrial condition of women in the United States—to the Committee on Appropriations.

Also, petition of Olive Branch Council, No. 41, Daughters of Liberty, of New Canaan, Conn., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. HOWELL of New Jersey: Paper to accompany bill for relief of William H. Lloyd—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of Augusta J. Robbins—to the Committee on Invalid Pensions.

Also, petition of Pride of Hamerstown Council, Daughters of Liberty, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of Hugh F. Fox, of Plainfield, against free distribution of seeds—to the Committee on Agriculture.

By Mr. HOWELL of Utah: Petition of Dalinda Coley et al., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. HUBBARD: Petition of citizens of Iowa, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of G. S. Worten et al., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. KAHN: Petition of citizens of California, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of California Bankers' Association, relative to bills of lading (H. R. 15846)—to the Committee on Interstate and Foreign Commerce.

Also, petition of Julius A. Landsberger et al., and citizens and firms of San Francisco, for a 1-cent postal law for letters—to the Committee on the Post-Office and Post-Roads.

By Mr. LINDSAY: Petition of A. B. Eldridge, R. I. Corbett, and National Wholesale Lumber Dealers' Association, of New York, for the Littlefield pilotage bill—to the Committee on the Merchant Marine and Fisheries.

Also, petition of People's Institute, for bills S. 50 and H. R. 4462, relative to child labor in the District of Columbia; also bill S. 2962, for establishment of Children's Bureau—to the Committee on the District of Columbia.

By Mr. LITTAUER: Paper to accompany bill for relief of James H. Bullock—to the Committee on Invalid Pensions.

By Mr. LITTLEFIELD: Petition of George M. Allen, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. LOUDENSLAGER: Petition of Virginia Dare Council, Daughters of Liberty, Camden, N. J., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. McCALL: Petition of citizens of Massachusetts, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. MAYNARD: Petition of McKinley Council, No. 47, Gilmerton, Va., for the Penrose bill (S. 4357), favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. MINOR: Petition of Railway Trainmen of Green Bay, Wis., for Bates-Penrose bill—to the Committee on the Judiciary.

By Mr. NORRIS: Petition of National Wholesale Lumber Dealers' Association, against discrimination in pilotage law—the Committee on the Merchant Marine and Fisheries.

By Mr. PAYNE: Paper to accompany bill for relief of David J. Bentley—to the Committee on Pensions.

By Mr. PEARRE: Petition of Allegany Trades Council, against bill H. R. 12973 (Chinese-exclusion law)—to the Committee on Foreign Affairs.

By Mr. REYNOLDS: Paper to accompany bill for relief of H. Grant Mellott—to the Committee on Invalid Pensions.

Also, petition of German Beneficial Union, against the illegal use of the franking privilege—to the Committee on the Post-Office and Post-Roads.

By Mr. RUCKER: Petition of citizens of New York, against a parcels-post law—to the Committee on the Post-Office and Post-Roads.

By Mr. RYAN: Petition of H. J. Doll, M. D., and others of Buffalo, N. Y., in favor of the pure-food bill—to the Committee on Interstate and Foreign Commerce.

By Mr. SAMUEL: Petition of First United Evangelical Church, and Presbyterian Congregation of Milton, against bill S. 3413—to the Committee on Interstate and Foreign Commerce.

By Mr. SMITH of Arizona: Petition of Painters and Decorators' Lodge, Phoenix, Ariz., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. SMITH of Maryland: Petition of Union Council, No. 9, and Upright Council, No. 23, Daughters of Liberty, of Harpersville, Md., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. SPIGHT: Paper to accompany bill for relief of Mrs. Susan E. Nash, widow of Michael V. Nash—to the Committee on Pensions.

By Mr. STEVENS of Minnesota: Petition of 100 voting citizens of St. Paul, against the present Chinese-exclusion act—to the Committee on Foreign Affairs.

By Mr. SULZER: Petition of citizens of New York, for wood pulp on free list—to the Committee on Ways and Means.

Also, petition of C. A. Moore and American Protective Tariff League, against bill H. R. 15267 (Olcott bill)—to the Committee on Ways and Means.

Also, petition of People's Institute, and Charles Sprague Smith, for bills S. 50 and H. R. 4462—to the Committee on the District of Columbia.

By Mr. TIRRELL: Petition of Fred O. Powers et al., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. VAN WINKLE: Petition of citizens of Ninth Congressional district of New Jersey, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. WADSWORTH: Petition of National Wholesale Lumber Dealers' Association, for bills S. 30 and H. R. 5281, to repeal pilotage discrimination against vessels in coasting trade—to the Committee on the Merchant Marine and Fisheries.

By Mr. WEEKS: Petition of First Baptist Church of Boston, against conditions in Kongo Free State—to the Committee on Foreign Affairs.

By Mr. WEISSE: Petition of Round-Up Farmers' Institute, of Wisconsin, against free seeds—to the Committee on Agriculture.

By Mr. WOOD of New Jersey: Petition of citizens of Readington, Hopewell, Frenchtown, Trenton, and Somerville, N. J., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of National Grange and New Jersey State Grange, Patrons of Husbandry, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of Standard Table Oil Cloth Company, Pioneer Suspender Company, Barney & Smith Car Company, The Westinghouse Machine Company, The J. & M. Shoe Company, and Columbus Iron and Steel Company, against metric bill—to the Committee on Coinage, Weights, and Measures.

By Mr. WILEY of Alabama: Petition of Wilcox Banner and Wilcox Progressive Era, for amendment of postal laws against names on stamped envelopes—to the Committee on the Post-Office and Post-Roads.

Also, petition of Progressive Era and Wilcox Banner, against Post-Office Department printing name and address on stamped envelopes—to the Committee on the Post-Office and Post-Roads.

HOUSE OF REPRESENTATIVES.

SATURDAY, *March 31, 1906.*

The House met at 12 o'clock noon.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of the proceedings of yesterday was read and approved.

CIRCUIT AND DISTRICT COURTS IN ALABAMA.

The SPEAKER. The gentleman from Alabama.

Mr. UNDERWOOD. Mr. Speaker, I would like to call up the bill (H. R. 16802) to fix the regular terms of circuit and district courts of the United States for the southern division of the northern district of Alabama for consideration, but the reason I do not call it up is that a gentleman on the floor of the House [Mr. WILEY of Alabama] notified me if I did he would object.

BRIDGE ACROSS RAINY RIVER, MINNESOTA.

The SPEAKER. The Chair lays before the House the bill S. 4825, "to provide for the construction of a bridge across Rainy River, in Minnesota;" substantially the same as a House bill reported and on the Calendar.

Mr. MANN. Mr. Speaker, that is a matter that came through the Committee on Interstate and Foreign Commerce, which recommended a substitute bill in accordance with the recent law that was passed, and I ask unanimous consent that the reading of the original Senate bill be dispensed with and the substitute offered by the House committee, the bill H. R. 15923, "to provide for the construction of a bridge across Rainy River in the State of Minnesota," be read instead.

The SPEAKER. Without objection, the substitute may be offered without reading the Senate bill, but the bill is not privileged under the rule. The bill is substantially the same as the substitute that was reported from the committee.

Mr. MANN. That is true, Mr. Speaker; but what the House committee did was to practically substitute the same thing, but refer to the recent law.

The SPEAKER. Without objection, the reading of the Senate bill will be dispensed with, and the gentleman from Minnesota is recognized to offer an amendment in the nature of a substitute.

There was no objection.

Mr. BEDE. Mr. Speaker, I move to strike out all after the enacting clause and substitute therefor the bill H. R. 15923 as amended.

The SPEAKER. The Clerk will report the amendment in the nature of a substitute.

The Clerk read the substitute at length.

The SPEAKER. The question is on agreeing to the amendment in the nature of a substitute.

The question was considered, and the amendment was agreed to.

The bill was ordered to be read a third time; was read the third time, and passed.

On motion of Mr. BEDE, a motion to reconsider the last vote was laid on the table.

BRIDGE OVER THE MONONGAHELA RIVER, PENNSYLVANIA.

Mr. COOPER of Pennsylvania. Mr. Speaker, I ask unanimous consent for the present consideration of the bill H. R. 9324.

The Clerk read the bill with the committee amendments.

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

The committee amendments were agreed to.

The bill was ordered to be engrossed and read the third time; was read the third time, and passed.

On motion of Mr. COOPER of Pennsylvania, a motion to reconsider the last vote was laid on the table.

TIME FOR HOLDING DISTRICT COURTS IN TENNESSEE.

Mr. BROWNLOW. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 20) to change and fix the time for holding the circuit and district courts of the United States for the middle district of Tennessee; in the southern division of the eastern district of Tennessee at Chattanooga, and the northeastern division of the eastern district of Tennessee at Greeneville, and for other purposes.

The Clerk read the bill, as follows:

Be it enacted, etc., That the terms of the circuit and district courts of the United States for the middle district of Tennessee, held at Nashville, shall commence on the first Monday in May and October of each year instead of the third Monday in April and October, as now provided by law; and the terms of the circuit and district courts of the United States for the southern division of the eastern district of Tennessee, held at Chattanooga, shall commence on the first Monday in April and December of each year; and the terms of the circuit and district courts of the United States for the northeastern division of the eastern district of Tennessee, held at Greeneville, shall commence on the first Monday in June and November of each year; and each of said terms at each of said places shall continue so long as the presiding judge may deem necessary.

SEC. 2. That no action, suit, proceeding, information, indictment, recognizance, bail bond, or other process in either of said courts shall abate or be rendered invalid by reason of the change of time in the holding of the terms of said courts, but the same shall be deemed to be returnable to, pending, and triable at the terms herein provided for.

SEC. 3. That the clerks of said circuit and district courts for the eastern district of Tennessee may reside and keep their offices, respectively, in either the city of Knoxville, Chattanooga, or Greeneville; but said clerks shall each, respectively, appoint a deputy to reside and keep their offices in each of the above-named cities other than the one in which said clerks shall respectively reside and keep their offices; that the said deputy clerks shall, in the absence of their principals, do and perform all the duties appertaining to their offices, respectively.

SEC. 4. That this act shall take effect from and after its passage, the public welfare requiring it; and that all laws and parts of laws in conflict with this act be, and are hereby, repealed.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. MOON of Tennessee. Mr. Speaker, reserving the right to object——

Mr. BROWNLOW. The part of the bill, Mr. Speaker, that my colleague objects to—section 3—I move to strike from the bill.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Strike out section 3 and renumber section 4 as section 3.

Mr. MOON of Tennessee. Mr. Speaker, I understand the gentleman moves to strike out sections 3 and 4.

Mr. BROWNLOW. No; section 3 is the one the gentleman objects to.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time; was read the third time, and passed.

On motion of Mr. BROWNLOW, a motion to reconsider the last vote was laid on the table.

DAM ACROSS THE MISSOURI RIVER.

Mr. DIXON of Montana. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (S. 4130) to authorize the Capital City Improvement Company, of Helena, Mont., to construct a dam across the Missouri River.

The Clerk read the bill, as follows:

Be it enacted, etc., That the consent of the Government is hereby given to the Capital City Improvement Company, of Helena, Mont., its successors or assigns, to construct across the Missouri River, at some point between the south line of township 12 north, range 2 west, and the north line of township 14 north, range 3 west, Montana meridian, to be determined by them and approved by the Secretary of War, a dam, canal, and appurtenances thereof, for water power, and other purposes, and in connection therewith a foot bridge, or bridges, for public use: *Provided*, That the plans for the construction of said dam and appurtenant works shall be submitted to and approved by the Chief of Engineers and the Secretary of War before the commencement of construction, and when so approved no change shall be made in said plans without the prior approval of the Chief of Engineers and the Secretary of War: *Provided further*, That whenever required to do so by the Secretary of War the said company shall construct and maintain in connection with said dam a suitable boom and log sluice; that suitable fishways, to be approved by the United States Fish Commissioner, shall be constructed and maintained in said dam by said corporation, its successors and assigns; and shall obtain and convey to the United States, whenever requested to do so by the Secretary of War, clear title to such land as in his judgment may be required for constructions and approaches to said dam for transferring boats and freight around the same, and shall grant to the United States a free use of water power for operating such construction work; and to insure compliance with

these conditions the said company shall execute and deliver to the Secretary of War a proper bond in such amount as may be fixed by him: *And provided further*, That the said company shall be liable for any damage to private property resulting from the construction and operation of said dam and appurtenant works, either by overflow or otherwise, and proceedings to recover compensation for such damage may be instituted either in the State or Federal courts.

SEC. 2. That this act shall be null and void unless the structures herein authorized shall be commenced within one year and completed within three years from the date of approval hereof.

SEC. 3. That the right to alter, amend, or repeal this act is hereby expressly reserved.

Mr. BURTON of Ohio. Mr. Speaker, reserving the right to object, I would like to ask the gentleman a question.

Mr. MAHON. Mr. Speaker, I call for the regular order.

The SPEAKER. The gentleman from Pennsylvania calls for the regular order, and that is equivalent to an objection.

Mr. DIXON of Montana. Will the gentleman withhold his demand for the regular order until I can answer the question of the gentleman from Ohio?

Mr. MAHON. I will withdraw the demand for the present.

Mr. BURTON of Ohio. I would like to ask the gentleman where is the proposed location with reference to Stubbs Ferry.

Mr. DIXON of Montana. It is 8 or 10 miles below Stubbs Ferry. There are two dams across the Missouri 5 miles above this point. It is about 200 miles farther up the river than any navigation has ever been had, and it is 1,000 miles farther up than any boat has ever been in the last twenty-five years. There is no possible chance for navigation at that point.

The SPEAKER. Is there objection?

Mr. MAHON. Mr. Speaker, reserving the right to object, if the gentleman will assure me that if this bill is debated he will withdraw it, I shall not object.

Mr. DIXON of Montana. I will give the gentleman that assurance.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The question is on the third reading of the Senate bill.

The question was taken; and the bill was ordered to be read a third time, read the third time, and passed.

On motion of Mr. DIXON of Montana, a motion to reconsider the last vote was laid on the table.

ACCOUNTS OF ARMY OFFICERS.

Mr. PAYNE. Mr. Speaker, I rise to a privileged motion.

The SPEAKER. The gentleman will state it.

Mr. PAYNE. Mr. Speaker, House bill 186, to authorize the readjustment of the accounts of Army officers in certain cases, and for other purposes, relates to all the officers in the Army up to a certain date—about 1880. It is the second bill on the Private Calendar. It belongs evidently on the Union Calendar, and I move it be taken from the Private Calendar and placed upon the Union Calendar. I make that as a privileged motion.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That the claims of officers of the United States Army, or of persons who may have served as such, and of the heirs at law or legal representatives of such as are deceased, for arrearages of longevity pay, are hereby referred to the United States Court of Claims, and jurisdiction is hereby conferred upon said court to render judgment in all such claims, without regard to lapse of time, for the amount, if any, found due; and in the adjustment of such claims credit shall be allowed for the full time of service as cadets in the Military Academy at West Point, and as officers or enlisted men in the Army or Navy of the United States, Regular or Volunteer, or both.

The SPEAKER. The Chair will hear the gentleman from New York if he desires to be heard.

Mr. PAYNE. Mr. Speaker, some years ago Congress passed a bill allowing longevity pay, which was an increase of 10 per cent upon every officer who had served five years in the Army for each five years until an increase was made of 40 per cent. This bill was passed, and under it a large number of claims, of course, were made. In the first place, the claims were made without regard to service at West Point Military Academy, but afterwards some gentleman who was interested, I suppose, in framing the bill had put in some bills claiming that the service of four years at West Point was a part of the military service. These claims were brought before the Court of Claims and appealed and finally went to the Supreme Court. The Supreme Court decided, and I think properly under the terms of the law, although it evidently was not contemplated by Congress at the time the law was enacted, that this claim of service at West Point should count, and the claims were allowed. But the court had allowed as a bar the statute of limitations and allowed the claims for only six years prior to the passage of the law. The date, I believe, was 1881, the law being passed in 1887. I may not be exactly correct about the year, but I think I am. That question went to the Supreme Court, and in the 130 U. S., page 80, the Supreme Court decided that the statute of limitation was a bar to these claims except for the six years immediately preceding the time of the filing of the claim.

Now, this thing was done and seemed to have been settled, and people settled down upon it, although I believe that one or two private bills have slipped through since then where the total longevity pay has been allowed. Now, this bill comes in here and provides these claims shall go to the Court of Claims, and the officers or their heirs may recover, and that the statute of limitations shall not be a bar to the recovery. It also provides in express terms that the service at West Point and also the service in the Volunteer Army shall count as a part of the time in order to make up the five years or the several five-year periods in order to get longevity pay. This applies, as I understand it, not only to the question of officers on the list, but when they retire it also increases the retired pay of these officers. In other words, it affects the great mass of officers of the United States Army from the beginning of time down to the present moment under the terms of this bill. All the officers in the Army and the heirs of those deceased may make claims under this bill, and it would seem that there would be no defense to it, either in the statute of limitations or anything else. Evidently this is a general bill, if any was ever brought in here. The distinction has been made by the decisions of the Chair and the decisions of the House more times than one that a private bill is one allowing a claim to a private individual. It has been extended, I believe, in one instance, to a battalion in the Army, where an honorable discharge was granted, a military record was corrected, or something of that kind, and that was a stretch of the rule. But to allow this to go upon the Private Calendar and to be considered as a private bill would be an annulment of the rule of the House which requires these general bills involving an appropriation from the Treasury to go upon the Union Calendar and be considered in their order when reached upon the Union Calendar. Therefore I make the motion.

Mr. KEIFER. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman yield?

Mr. PAYNE. Yes.

Mr. KEIFER. Mr. Speaker, I am not very familiar with this subject, but I am inclined to think the gentleman is mistaken in the statement that this law applied to officers, allowing them to count time in the volunteer service during the war. I do not think it did, unless at that time they were also holding rank in the Regular Army. Is not that the qualification?

Mr. PAYNE. There is no qualification in this bill.

Mr. KEIFER. But the bill relates to the Regular Army and would require a special provision to include a period of time when they were not in the regular service. There were many officers, Mr. Speaker, in the civil war and in the Spanish war, for that matter, who belonged to the Regular Army, who served in each of those wars with a volunteer rank higher than that they held in the Regular Army, and the volunteer service there would, of course, not be considered, because they were also in the regular service and entitled to an accounting, but if they served in the Volunteer Army without being in the Regular Army I do not think the bill includes that in computing the longevity time. I do not understand why this should go to the Committee of the Whole House on the state of the Union. It is not an appropriation, because it is not intended to be anything more than a method of having the claim of each officer that would be covered by the bill go to the Court of Claims, there to be examined; therefore I think it is properly where it was originally referred, and I make the point that it is rather late to object to the place the bill has taken upon the Private Calendar. Now, a word about the statute of limitations. For a hundred and twenty-odd years we have talked here about a statute of limitations as to private claims, and we have never had one we recognized, and it is said now that we ought to recognize one against officers of the Army. We have made several, Mr. Speaker, against ourselves, and I expect that every Congress has broken it at once. We have referred claims to the Claims Commission and had them reported back, some of them disallowed, and afterwards paid parts of the claims. We have provided a statute of limitations and we have paid no attention to it, and I do not see why it should be applied now, for the first time, arbitrarily to officers of the Army.

Mr. SLAYDEN. Will the gentleman yield?

Mr. KEIFER. Certainly.

Mr. SLAYDEN. Mr. Speaker, I want to ask the gentleman if he is not mistaken in his statement that the bar of limitation is not set up against claims generally in this House; if he does not know, as a matter of fact in the West, which unfortunately

is not so largely represented in this body as to command the influence that its merits, intelligence, and character entitle it to, there are many hundreds of claims of citizens who fought to repel the savage Indians which are denied only because of the bar of limitation?

Mr. KEIFER. The gentleman misapprehended my statement. I said we had passed a statute of limitation here against claims. They are referred sometimes to the Claims Commission, and when they report for or against them we pay no attention to our own statutes and reconsider the claims; and we have thousands of them pending here now that ought to have been paid, some of them fifty years ago. We pay no attention to our own statutes. We pass a statute and say we will not allow a claim after it is 10 years old, and the very next day after it is thus barred we introduce a bill to pay it, and sometimes it goes through, and——

Mr. PAYNE. The gentleman is getting entirely outside of his question.

Mr. KEIFER. Well, I am answering the gentleman from Texas.

Mr. PAYNE. Of course, no one doubts the power of the House to waive the statute of limitations. There is no question about that.

Mr. KEIFER. And I am opposed to applying it to these officers of the Army arbitrarily for the first time.

Mr. PAYNE. The only thing that is germane to the question before the House is this, and I refer to clause 3 of Rule XXIII:

> All motions or propositions involving a tax or charge upon the people; all proceedings touching appropriations of money, or bills making appropriations of money or property, or requiring such appropriations to be made, or authorizing payment out of appropriations already made, or releasing any liability to the United States for money or property, or referring any claim to the Court of Claims shall be first considered in a Committee of the Whole, and a point of order under this rule shall be good at any time before the consideration of a bill has commenced.

Rule XIII prescribes the Calendars and provides how they shall be made up.

Now, there is ample authority and precedents for this action, Mr. Speaker. I shall not refer to the precedents upon this point—I do not happen now to turn to the section in Mr. Hines's book which refers to that—but it is clear, and I presume the Speaker has it before him now.

Mr. CRUMPACKER. Mr. Speaker, I would like two or three minutes on this question. The sole question is whether this bill——

Mr. PAYNE. Mr. Speaker, before the gentleman commences I want to cite a case which comes to my mind in the case of a bill affecting the Fourth Arkansas Cavalry Regiment, and the point being made, former Speaker Reed ruled that that was a general bill, and must go to the Union Calendar; and he so changed the reference in the open House, as I recollect it. Now I yield to the gentleman three minutes.

Mr. CRUMPACKER. Mr. Speaker, the sole question is whether this bill is of a public character or whether it belongs to that class which, under the rules, belongs to the Private Calendar. There is no doubt that a bill proposing to abrogate the statute of limitations generally would be classified as a public measure. This bill proposes to repeal and abrogate the statute of limitations as applied to claims held by one entire arm of the Federal Government—all of the officers of the Army. All of the officers of the Army are affected by the provisions of the bill in relation to their longevity pay. It seems to me that in its very nature it is not of that class of bills contemplated by the rule that should go upon the Private Calendar. This is a public bill.

It proposes to abrogate the law, suspend the operation of the statute of limitations in the ascertainment of claims of all the officers of the United States Army—a whole class. If it may include the United States Army it might also include the officers of the Navy, and it might include an additional branch of public administration and yet retain its character as a private measure.

It seems quite clear that the bill is public in its character and is not a private bill; public because it applies without discrimination, without respect to individuals, to one entire branch of the Government.

Mr. MAHON. Mr. Speaker, this is a bill which has been on the Private Calendar of this House in many Congresses. It has been considered as a private bill in the Senate and has passed the Senate as a private bill. It is not a bill that affects the general public at all. In 1838 the first longevity act was passed; so that it does not go back to time immemorial, as the gentleman from New York would have you believe. The first act was passed in 1838, which gave a ration for every five years' service. The purpose of the law was to encourage long service in the Army, and this was made a part of the pay of the officer. In 1867, or afterwards, the law was changed, and they were given 10 per cent of their salary every five years of their service.

Then there were different acts of Congress passed. An officer by the name of Morton claimed that his service at West Point was in the actual service of the Army of the United States. That case was well tried in the Court of Claims, where his position was affirmed, and by no less great judge than Judge Miller, holding that the service of an officer at West Point was actual service in the Army of the United States. Under that decision this officer was paid. Never until Comptroller Gilkerson came into that office, or since, has any Comptroller undertaken to set at defiance a decision of the Supreme Court of the United States. Another case was that of a man by the name of Captain Watson, a one-legged soldier, who had lost his leg in battle, and the Supreme Court, Justice Lamar delivering the decision, confirmed the previous decision in the Morton case. Then Comptroller Gilkerson refused to obey the Supreme Court and tied up the cases covered by this bill until he left his office. Another Comptroller came in, and from that day to this every man in the Regular Army of the United States has received his longevity pay. This class of men are old soldiers of the civil war. This bill covers cases of the widows of men like General Sherman, General Sheridan, General Hancock, General Reynolds, those magnificent officers who sacrificed and gave their lives to their country. Gilkerson came in as Comptroller, appointed to that position not as a lawyer, but as a politician, by political influence. He defied a great lawyer like Day, who made himself a great name in the State Department, resigned his position, and is now receiving a salary of $30,000—a man of great ability. The last man who was granted longevity pay was General Kilpatrick. Grant was allowed his pay. Rosecrans was allowed his pay. And then this gentleman, Gilkerson, came in and defies the Supreme Court. He allowed General Kilpatrick and then stopped. The record of every one of these claims is now in the Treasury Department.

These old officers who saved this Government are asking no charity at the hands of this Congress. They are simply asking that they be paid what this Congress gave them, and which was withheld by the unrighteous and brutal decision of Comptroller Gilkerson. But that is neither here nor there. This is not a general law——

Mr. CRUMPACKER. Was the original law giving longevity pay to the officers in the Army a private law or a general law?

Mr. MAHON. That was a general law.

Mr. CRUMPACKER. Why?

Mr. MAHON. Because there was no law on the subject at that time.

Mr. CRUMPACKER. But it only applied to the officers in the Army.

Mr. MAHON. But there had been no law.

Mr. CRUMPACKER. And this bill now proposes practically to abrogate the statute of limitations as to claims under that law.

Mr. MAHON. There is no statute of limitations in the Treasury Department, and never was.

Mr. CRUMPACKER. Never was?

Mr. MAHON. Never was; and there is none there to-day.

Mr. CRUMPACKER. Will you tell me, then, why you include the provision in the bill practically abolishing the statute of limitations?

Mr. MAHON. There is no statute of limitations in the Treasury Department or in any Department; but this man Gilkeson held these people up and refused to allow these claims or to consider them. In the Court of Claims the statute of six years prevails, and that is the reason he held them up, because he knew when they got into the Court of Claims the statute could be pleaded.

Now, Mr. Speaker, I should like to have the gentleman from New York quote to me some authority showing that this is a general law. There are about eight or nine hundred of these men, and their claims are filed in the Treasury Department, ready for adjudication. It only applies to these private claims of these individual officers and not to the whole Army, because two-thirds of the Army have received what these men are asking for. It is not a general law that applies to the public service. It is simply a law that provides the machinery by which these claims shall be considered by the Court of Claims.

Mr. JONES of Washington. I should like to ask the gentleman a question. This bill is not limited just to the claims that are already filed, is it?

Mr. MAHON. Yes.

Mr. GREENE. What language in the bill limits it to any such class of claims? Why does it not apply to every soldier

that ever served, from the Revolutionary war down to the present day, or to his heirs?

Mr. MAHON. Let the gentleman read the bill:

Be it enacted, etc., That the claims of officers of the United States Army, or of persons who may have served as such, and of the heirs at law or legal representatives of such as are deceased, for arrearages of longevity pay, are hereby referred to the United States Court of Claims, and jurisdiction is hereby conferred upon said court to render judgment upon all such claims, without regard to the lapse of time, for the amount, if any, found due.

Mr. JONES of Washington. That does not confine it, however, to claims already filed. Anybody thinking he has a claim can file it, or can come in under this bill.

Mr. MAHON. I want to say to the gentleman that there are no claims outside of those already filed, because since this decision the officers have been paid. Every man in the Navy has received his full longevity pay. As I said before, Mr. Speaker, this bill has always been, with one exception, upon the Private Calendar.

The SPEAKER. The Chair would be glad to hear from the gentleman upon the point as to whether this is a public or a private bill.

Mr. MAHON. Mr. Speaker, a bill was introduced in this House and placed on the Private Calendar to pension a battalion of volunteers, 400 men. These 400 men claimed that they should be pensioned. They were not under the general law, so the bill was introduced. That bill was held by the Speaker to be a private bill. We have passed bills here containing hundreds of individual claims, to send them to the Court of Claims, for payment for stores and supplies and for the use of property; single bills probably containing half as many individuals as are covered in this bill, and those bills have gone to the Private Calendar. Now, Mr. Speaker, if it has been held in this House that bills to pension 400 men, a whole battalion, was a private bill, pray tell me why a bill to adjudicate the claims of 800 of these old soldiers of the civil war is not also a private bill?

Now, this matter has been under discussion. In one decision, Mr. Hinds, in his book on parliamentary law, says that the rule is doubtful and that it is difficult to draw the line. But the line was drawn in favor of pensioning 400 men, and I want to know why the gentleman from New York wants to draw the line against a bill which seeks to do justice to these men. This bill has been on the Private Calendar before, and whether fortunately or unfortunately, it is the second bill on the Private Calendar to-day. That is the reason why the gentleman makes his motion. Give me an open field and a fair fight and if I can not convince the membership of this House that this is the most righteous bill ever put upon this Calendar I will yield.

The purpose of this parliamentary move is to deprive these old men of a hearing on this bill, and put it upon the Union Calendar. As was well said by the gentleman from Ohio, this motion has not been raised against other private claims, although we have had hundreds of them. It has not been raised against a regiment of militia. It has never been raised in this way. Why does the gentleman raise it now? Is he afraid to have this bill heard here? If he is honest, he will state his purpose, and that is to bury it. I am prepared to consider the bill openly and fairly without concealment of anything. Of course we have got to submit to the ruling of the Speaker, but I defy the gentleman from New York to quote me a single decision upon this point that specifically supports his position. It is one way to defeat a bill, but I want to serve notice on the gentleman from New York that it will not be the last one. I appeal to the Speaker that if there is any doubt about this decision, that he give these men the benefit of that doubt. We are not asking anything that is unfair.

Mr. PRINCE. Mr. Speaker, I would like to speak about five minutes in my own right.

The SPEAKER. The gentleman from Illinois is recognized.

Mr. PRINCE. As I understand, the motion has been made by the gentleman from New York to refer this bill from the Private Calendar to the Union Calendar. I do not desire to argue the merits of the bill; that is another proposition. I call the attention of the Chair to Rule XXII, page 282 of the Manual, and I read it for the benefit of the House:

2. All other bills, memorials, and resolutions may, in like manner, be delivered, indorsed with the names of Members introducing them, to the Speaker, to be by him referred, and the titles and references thereof of all bills, resolutions, and documents referred under the rules, shall be entered on the Journal and printed in the RECORD of the next day; and correction in case of error of reference may be made by the House without debate in accordance with Rule XI on any day immediately after the reading of the Journal by unanimous consent.

The gentleman from New York, as I understand it, has invoked Rule XIII, but has not invoked Rule XI, that this refers to. Let us see what is the further provision this refers to. The rule further says:

Or on motion of a committee claiming jurisdiction, or on the report of the committee to which the bill has been erroneously referred.

There is no authority whatever for the gentleman from New York to make the motion, because he is not a member of the committee that should take jurisdiction of it nor is the committee that reported it seeking to have it re-referred; but here is a bill properly introduced under the rules of the House and by the Speaker under the rule, who has the authority to refer, referred by him to the Committee on War Claims. That committee, in the discharge of its duty, has performed it and brought into this House this bill with a favorable report.

The SPEAKER. If the gentleman from Illinois will permit the Chair, it seems to the Chair that this is not a question of the correct reference of a bill to a committee on a motion, but it is a motion to change the bill from the Private Calendar to the Public Calendar, and would come under Rule XIII—that is, if it comes at all.

Mr. PRINCE. That is, if it comes at all, but I question whether it comes at all, because under Rule XXII, paragraph 3, there is no authority for doing it. True it is the House can and sometimes does act in defiance of the regular rules and the special rules, but that is a matter of the power of the House. I do not question the power of the House to do what it pleases. Here is a bill introduced in an orderly manner, referred by the Speaker to the proper committee that he saw fit to refer it to—the bill has not changed from the day it was introduced up to this moment. It is the same bill it was when introduced, and the report does not show that it has been changed in any respect. It is on the Private Calendar, and was placed there, going into the hands of every Member of the House on the 9th day of January, 1906, and here it is the 31st of March, 1906, when for the first time a question of this kind is raised, when the gentleman from New York seeks to prevent the old soldiers who served their country in the time of peril from getting their pay.

If this motion prevails to put it into the Committee of the Whole House on the state of the Union, then the bill has gone to a "graveyard," and it is proper to get one of the little head markers the Government furnishes deceased old soldiers free of expense and place on the marker the words:

You each and all loyally and faithfully served your country in war, but when danger is all over and peace restored you are not entitled to receive your just dues.

Mr. MAHON. Mr. Speaker, just a moment. I have now at hand the book to which I referred—Parliamentary Precedents—and I read from page 762, section 1431:

A bill pensioning a battalion of volunteers had been held to be a private bill. On May 22, 1896, at a Friday evening session, Mr. Robert Neill, of Arkansas, moved the consideration of the bill directing the Secretary of the Interior to place on the pension roll the names of all the honorably discharged surviving officers and enlisted men of Gray's battalion of Arkansas Volunteers.

Mr. SERENO E. PAYNE, of New York, raised the point that this was a general pension bill.

The Chairman sustained the point, and ruled that the bill could not be considered.

Again, on Friday evening, December 18, 1896, the bill came up and Mr. George W. Ray, of New York, raised the point of order.

Mr. Neill cited the bill to pension Powell's Missouri battalion, which passed as a private bill on March 1, 1891, and was included among the private laws.

Now, here are two large battalions that were pensioned by a private bill. To continue:

The Chairman said:

"The Chair finds that on the 22d of last May this identical bill was brought before the committee. At that time the gentleman from Iowa [Mr. HEPBURN] was in the chair. A point of order was made upon the bill by the gentleman from New York [Mr. PAYNE], and the point of order was sustained.

"Now, the Chair is inclined to think that if this question had not been already adjudicated this should be held to be a private bill, because it applies to a specific battalion or regiment—not to a class, but to the individuals in a certain military organization."

Now, Mr. Speaker, this bill applies to specific officers.

The SPEAKER. But, if the gentleman will allow the Chair, the bill that he is reading about applies to a battalion and not to a class.

Mr. MAHON. The bill that we are discussing now applies to certain Army officers who have been refused their longevity pay by an officer of the Department who did not understand his business—a specific class of men. This bill applies to certain individuals who have filed their claims in the Treasury Department. I continue:

"The Chair, being inclined to take a different view from the former ruling, will take the sense of the committee upon the question—will submit the question to the decision of the Committee of the Whole."

The committee thereupon overruled the point of order, and decided that the bill was private.

Now, Mr. Speaker, this House in the Committee of the Whole decided to overrule the point of order made by the gentleman

from New York, and decided that the bill was a private bill. Further—

A resolution sending a series of claims to the Court of Claims was held to be in order on the Private Calendar.

Now, Mr. Speaker, must we get into the bark and split hairs? I take the position that this is not a class of men generally. They are men who have filed their individual claims in the Treasury Department, and they are individual claims, and, under the decision of this House, it is held that it was a private bill, to which I have just made reference, and this bill under discussion is exactly the same kind of a bill. I am going to be frank about this and say that there are eight or nine hundred of these officers who have been denied their money, and it will take from five to seven hundred thousand dollars to pay them in the course of the next four or five years. But they are claiming as individuals. Their claims are filed as individuals, and this bill covers those claims in the Treasury. I trust, Mr. Speaker, if there is any doubt about it that under the decisions I have just quoted that doubt will be resolved in favor of holding that this is a private bill.

The SPEAKER. The Chair is prepared to rule. As the Chair understands, the gentleman from New York [Mr. PAYNE] moves to change this bill from the Private Calendar to the Union Calendar. The objection is made, as the Chair understands, that the motion does not present a question of privilege, and therefore is not in order. Now, Mr. Speaker Randall held, and, as the Chair thinks, correctly, that such a motion does present a question of privilege. It seems to the Chair, however, that if the bill be a private bill it is on the right Calendar. If it be a public bill, then it ought to go to the Union Calendar, under the rules. The Chair has followed the gentleman from Pennsylvania [Mr. MAHON] in his citation of precedents.

Under Rule XIII there are three Calendars. There is a Calendar of the Committee of the Whole House on the state of the Union, which carries bills raising revenues, general appropriation bills, and bills of a public character directly or indirectly appropriating money or property. There is a House Calendar, to which are referred all bills of a public character not raising revenue or directly or indirectly appropriating money or property. And there is a Calendar of the Committee of the Whole House to which are referred all bills of a private character. The practice is that the Journal clerk, under the direction of the Speaker, shall refer the bills to the respective Calendars as they come from the committees. In point of practice the Journal clerk, with the assistance of the clerk at the Speaker's table, makes these references unless the matter is specifically called to the attention of the Speaker. The same principle applies in the reference of bills that are introduced by Members and come through the basket. Now, this bill when it was introduced, as the Chair finds on consulting the Journal, was referred as a public bill; but when it was reported back from the committee the Clerk placed it, as it seems to the Chair if it be a public bill, inadvertently, upon the Private Calendar. So, that after all, it becomes a question of fact whether it is a public or a private bill within the rules and precedents. The gentleman from Ohio [Mr. KEIFER] in his statement is probably correct from the standpoint of the rules as they were prior to the Fifty-fourth Congress; but at that time, on the suggestion of Representative Dingley to the Committee on Rules, an amendment was made to Rule XXIII, section 3, so as to add to the words "all motions or propositions involving a tax or charge upon the people," etc., "or releasing any liability to the United States for money or property," the following: "or referring any claim to the Court of Claims." The effect of this is that such bills, under the rules, go to the Committee of the Whole.

Now, as to whether it be a public or a private bill. The Chair reads from Parliamentary Precedents of the House, as follows:

The line of distinction between public and private bills is so difficult to be defined in many cases that it must rest on the opinion of the Speaker and the details of the bill. It has been the practice in Parliament, and also in Congress, to consider as private such as are "for the interest of individuals, public companies, or corporations, a parish, city, or county, or other locality." To be a private bill it must not be general in its enactments, but for the particular interest or benefit of a person or persons. A pension bill for the relief of a soldier's widow is a private bill, but a bill granting pensions to such persons as a class, instead of as individuals, is a public bill, etc.

Now, treating this bill by the test, if the House will give the Chair attention, let us read it. The gentleman from Pennsylvania, in his argument, assumes that this would cover about 800 people; assumes that it is under a certain law. After all that is an assumption. It may be correct or may not, and the Chair is not informed. The bill is as follows:

That the claims of officers of the United States Army, or of any person who may have served as such—

So it covers persons who have served as officers, although they may not have been officers regularly—

and of the heirs at law or legal representatives of such as are deceased, for arrearages of longevity pay, are hereby referred to the United States Court of Claims and jurisdiction is hereby conferred upon said court to render judgment in all such claims, without regard to the lapse of time, for the amount, if any found due; and in the adjustment of such claims credit shall be allowed for the full time of service as cadets in the Military Academy at West Point, and as officers or enlisted men in the Army or Navy of the United States, Regular or Volunteer, or both.

Now, this bill not only refers the cases to the Court of Claims, but it legislates, removing the statute of limitations upon all claims, if such exist, from the organization of the Government to the present time. As a matter of fact, whether such claims are in existence in the hands of assignees or administrators the Chair is not informed. The Chair only knows of this bill upon its face. Nor does it apply in its terms to claims on file, if they be on file in the Treasury Department. It would cover claims, if such exist, although they may never have been filed or made under the provisions of the bill. It is not like unto the case where legislation was had for the relief of a battalion, mentioning the battalion, because there was a roster, a specific number of people to be covered by the bill. This bill relates to a class; it legislates; it removes the statute of limitations; it credits services in the militia, as well as in the Regular Army; it covers officers who were never mustered in, if they acted as officers. It seems to the Chair that if this is not a public bill, it would be difficult to conceive of one, and therefore the Chair thinks the motion of the gentleman from New York [Mr. PAYNE] is in order.

The question is on the motion of the gentleman from New York, to change the reference from the Private Calendar to the Calendar of the Committee of the Whole House on the state of the Union.

Mr. KEIFER. Mr. Speaker, I do not rise to make any objection——

Mr. PAYNE. Mr. Speaker, is debate in order on this motion?

Mr. KEIFER. No; I rise for an inquiry. I want to know whether the effect of the motion, if it should prevail, would be to put this bill at the end of the Calendar to which it ought to have been referred in the first instance?

Mr. MAHON. It does not make any difference where it puts it.

The SPEAKER. It would take its place on the Calendar as of the date of its report from the committee. The question is on transferring this bill from the Union to the Private Calendar.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. MAHON. Division!

The House divided; and there were—ayes 62, noes 37.

So the motion to transfer was agreed to.

ORDER OF BUSINESS.

Mr. MAHON. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House to consider bills on the Private Calendar.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole House, Mr. CRUMPACKER in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the Private Calendar under the rules. The Clerk will report the first bill.

THOMAS W. HIGGINS.

The first business on the Private Calendar was the bill (H. R. 1572) for the relief of Thomas W. Higgins.

The bill was read, as follows:

A bill (H. R. 1572) for the relief of Thomas W. Higgins.

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay the sum of $350, out of any money in the Treasury not otherwise appropriated, to Thomas W. Higgins, late major, Seventy-third Regiment Ohio Volunteer Infantry, for the loss of two horses.

The amendment recommended by the committee was read as follows:

After the word "horses," in line 8, insert "killed in battle during the war for the suppression of the rebellion."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

DAVID C. M'GEE.

The next business on the Private Calendar was the bill (H. R. 6530) for the relief of David C. McGee.

The bill was read, as follows:

A bill (H. R. 6530) for the relief of David C. McGee.

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to David C. McGee, late private In Company I, Fiftieth Illinois Volunteer Infantry, out of any money

the Treasury not otherwise appropriated, the sum of $165, in full of his claim for balance due him as bounty by reason of reenlistment in the United States Army during the war of the rebellion.

Mr. OTJEN. Mr. Chairman, this is a bill to give to David C. Horace the bounty due him of $165, which he never received. I think there is absolutely no objection to the passage of this bill. This soldier enlisted September 16, 1861, for three years, served two years and nearly ten months, and under the act of July 22, 1861, he would be entitled to a bounty of $100. Then, on January 1, 1864, he reenlisted in the same regiment as a veteran volunteer, to serve for three years. Under that enlistment, according to joint resolution of January 13, 1864, if he served his time, or was wounded in battle or in line of duty, or his services were no longer needed, he would be entitled to a bounty of $400, making $500 in all. On October 5, 1864, at Altoona, Ga., this soldier was wounded, a bullet going through his jaw, fracturing his jaw and lacerating his tongue. He was sent to the hospital at Davenport, Iowa. He was discharged at this hospital July 6, 1865. A short time before his discharge his regiment went home and were discharged, and all received this extra $400 bounty. This soldier was discharged July 6, 1865, on the suggestion of a Member of Congress from Iowa, who suggested that if he made a request by petition he could see that he was discharged. On that request he was discharged. The only reason that the War Department has not paid this soldier is that the records of the War Department do not show that he was discharged on account of wounds received in line of duty, which was the fact. Upon all rules of justice and right this man is entitled to this $165. He ought to be served the same as the other members of the regiment. I move that the bill be laid aside with a favorable recommendation.

Mr. PAYNE. Is there any doubt that he was discharged on account of the wounds?

Mr. OTJEN. There is not. He wss in the hospital, and it was an oversight that it was not so stated when he was discharged. There was no doubt of his having been wounded in line of duty.

The bill was laid aside with a favorable recommendation.

JAMES N. ROBINSON AND SALLIE B. M'COMB.

The next business on the Private Calendar was the bill (H. R. 10610) for the relief of James N. Robinson and Sallie B. McComb.

The bill was read, as follows:

A bill (H. R. 10610) for the relief of James N. Robinson and Sallie B. McComb.

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of $5,000, to James N. Robinson and Sallie B. McComb, of Johnson County, Ind., on account of damages sustained by them because of the wrongful confiscation by the United States of 335 acres of land and $300 in promissory notes, all the property of the said James N. Robinson and Sallie B. McComb, and the sum of $5,000 is hereby appropriated for such purpose.

Mr. MAHON. Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

Mr. PAYNE. I think the gentleman ought to explain that bill.

Mr. MAHON. I yield twenty minutes to the gentleman from Indiana [Mr. OVERSTREET].

Mr. OVERSTREET. Mr. Chairman, this bill has been introduced and reported in six different Congresses, and for twelve years I have been waiting for it to be reached on the Calendar.

Mr. PAYNE. You seem to have gotten there now.

Mr. OVERSTREET. I hope the gentleman from New York will let me explain in two minutes this bill, which is a reimbursement in a very slight degree of these people, who were minors in 1862, when the Government confiscated 335 acres of land and promissory notes amounting to several hundred dollars because they were in rebellion against the Government. They happened to be grandchildren of a citizen of Virginia, and while residing temporarily with their grandparents in Virginia the United States court in Indianapolis, under proper proceedings, I presume under the statute, instituted proceedings of confiscation. The facts show that these parties were not only at the time minors, but they and their people were loyal citizens. The 335 acres of land would amount in value to many times the amount carried in this bill. The interest upon the notes confiscated would amount, perhaps, to an equal sum to this amount; but rather than go into a complicated method of appraisement of the value of the land and the interest accumulated upon the notes confiscated, the committee, in my judgment, has wisely presumed a lump sum, a sum amounting to the $5,000 carried in the bill. Now, Mr. Chairman, the confiscation and the loss of this property which the Government confiscated——

Mr. PAYNE. Of course the Government did not undertake to confiscate the fee, but only the life use of this property.

Mr. OVERSTREET. That is true; but these children of 1862 are now grown, and one of them particularly, getting pretty old, never got any of it back.

Mr. PAYNE. They have had time to grow, of course, since then. On what evidence did the court come to the conclusion that they were disloyal, and so forth, in 1862?

Mr. OVERSTREET. The facts show that it was upon default, but that they never had notice.

Mr. PAYNE. Was there no proof whatever?

Mr. OVERSTREET. According to the facts shown, it appears that the petitioners in no wise aided, abetted, or gave any encouragement to the rebellion, but were loyal citizens. By reason of the confiscation proceedings they have incurred great loss and expense in recovering possession of their lands, to the extent of over $12,000, lost in the sale of the notes, the rent of the land, and in cases in action. The committee are of the opinion that the proceedings in said libel suit were irregular, illegal, and void, in view of the petitioners being minors, orphans, and loyal citizens, and that they are entitled to a reasonable compensation for the loss which they have suffered. I am of the impression that it was clearly shown in the evidence that there was no notice given to them at all and they were not represented at the trial by anybody.

Mr. PAYNE. I infer that they testified themselves.

Mr. OVERSTREET. No; they were not there.

Mr. PAYNE. The report shows that they testified that they had no notice. It was rather a general finding of the committee that the proceedings were irregular and void.

Mr. OVERSTREET. That was the finding on all the evidence.

Mr. PAYNE. The committee does not enlighten us as to the question on what evidence the court acted, as to service of notice, or disloyalty, or anything of that kind.

The CHAIRMAN. The question is, Shall the bill be laid aside to be reported to the House with a favorable recommendation?

Mr. OVERSTREET. Mr. Chairman, the bill recites the residence of those persons. They have since changed their residence to an adjoining county.

Mr. GROSVENOR. That will make no difference.

Mr. PAYNE. You had better amend it.

Mr. OVERSTREET. I move to amend by striking out the word "Johnson" in lines 6 and 7 and inserting the word "Marion."

The CHAIRMAN. The gentleman from Indiana offers an amendment, to be reported by the Clerk.

The Clerk read as follows:

In lines 6 and 7 strike out "Johnson" and insert "Marion."

The amendment was agreed to.

The bill as amended was ordered to be laid aside to be reported to the House with a favorable recommendation.

S. D. SPRINKLE.

The next business on the Private Calendar was House resolution 136; which was read, as follows:

Resolved, That the bill (H. R. 6948) for the relief of S. D. Sprinkle, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

Mr. MAHON. Mr. Chairman, if there is no objection, I ask that the resolution be laid aside to be reported to the House with a favorable recommendation.

Mr. PAYNE. I think the gentleman ought to give a word of explanation to the House on that.

Mr. MAHON. There are a great many of these bills on the Calendar, and the House is entitled to an explanation. Probably twelve or thirteen hundred bills are sent to the Committee on War Claims asking for a direct appropriation. The evidence on these bills, or a great deal of it, is ex parte. The committee can not investigate all of these cases, but they examine the ex parte evidence accompanying these bills, and if the committee (they have been unanimous) believe that a strong prima facie case is made out that the Government took the property of these people for the use of the Army of the United States, then in lieu of recommending a report making a direct appropriation the committee has decided to report all these bills back to the House with a resolution in lieu of the bill referring all these claims with the papers to the Court of Claims. After the war the Congress was flooded with claims of this kind and so were the Departments.

There are a great many of these claims now in the Departments undecided, the Departments having no appropriation and no time to adjudicate them.

Congress could not investigate all of these claims, nor could the Committee of the Whole House when in session. So two laws were passed—the first known as the "Bowman Act" and the second as the "Tucker Act"—which created a court of

six judges learned in the law, and provided that these matters should be referred to them. The court hear these claims, not on ex parte testimony, because they do not receive that except for what it is worth, but when the cases are called the court tries them usually on depositions, interrogatories and answers to the same, and cross-interrogatories prepared by the legal officers of the Government, and answers to the same. Many of these people live thousands of miles away from the seat of government and can not come here. When they live near they generally come. In these investigations the United States Government is represented by one of the assistant attorneys from the Attorney-General's Office, and the claimant is generally represented by his own counsel. After a full hearing in open court before the learned judges they make what we call a "finding of facts."

They do not render judgment; they simply find the facts and report them back to the House or Senate. All that go from the House will be referred back to the Speaker by the court. They will say, "We find so and so was loyal"—that is a jurisdictional fact. If the claimant failed to prove his loyalty, that is the end of the case. They further find that the United States Army, not on account of vandalism or destruction by troops, but the Army received a certain amount of goods, horses, corn, or anything else, and the court ascertains as to whether they were loyal, how much the Army officers took from them, whether it was used by the Army, and its value; and then the court reports back to the Speaker, and we call them "findings of facts." They are referred to the Committee on War Claims or to the Committee on Claims, wherever they belong, and we come into the House and ask for an appropriation.

Now, there are hundreds of claims here all founded on ex parte evidence, the strongest kind of evidence, and we believe they are such claims as the court should adjudicate. I want to say to the House that it need not be alarmed, because we have got a good court and the Committee on War Claims knows what is going on at the Court of Claims. During the past six years the aggregate amount of claims—some for $1,000, some for $200, some refused altogether—the aggregate amount of all those claims allowed was only 3½ per cent of the aggregate amount of the claims. The court has rejected and reduced some of them. A great many claimants refuse to appear and prosecute their claims, especially if there is any weakness in their claim, and perhaps they are not able to find the proof outside of ex parte evidence, and then the claim goes to the wall.

I believe, gentlemen, that this is a proper way to dispose of nine-tenths of all these claims. Out of the 3,000 bills we have only got 25 or 30 for direct appropriation on the Calendar. I make this statement because I do not want to repeat it and I will not repeat it. The balance of the bills are all exactly like this, no weaker and no stronger.

Mr. PAYNE. Let me ask the gentleman this question: This reference does not waive any statute of limitation; they are obliged to find the facts constituting the bar to the suit?

Mr. MAHON. The court looks over the facts and reports the facts back to Congress, and if they are of such a character that they ought to be paid the House can pay them, and if not, it can refuse.

It has been the custom heretofore to put these bills on the Calendar and then bring in a resolution—what we call an "omnibus resolution"—containing 150 or 200 different claims; but the trouble has been that when we get it into the House it is amended, and you will find two or three hundred claims loaded onto the resolution that the committee never passed upon. I do not think that is good legislation, and so we have put every one on its own bottom.

Now, this short report gives the amount of the bill—I think this is $282. I would like to see these resolutions pass and save time. I want to say this: There is a mistaken idea in the country, and perhaps in Congress, in regard to these private claims. There is no party or corporation or government that a man can hold a claim against where he will receive as cold treatment and as little consideration as he will for a claim he may hold against the Government of the United States. Being far away from the seat of government, he is put to enormous expense, besides the delays incident to Congress, of which I am not complaining.

It is a hard thing for even an honest claimant to get a claim from the United States. Mr. Garfield, when a member of the House, said that this House and Senate if they got the same treatment meted out to them that a man did in private life—the Congress, the Senate and the House, not its members—would have a striped suit on and be in some penal institution.

Now, we do not need to get frightened. During the civil war the line between the hostile armies was over 3,000 miles long. The Army of the United States frequently found itself in a territory without wagon train or supplies, and they deliberately and properly would go to a man's house, take what corn and horses they wanted, loyal though he was, give him a voucher for it, the officer expecting under the proclamation of the President that they would be paid for it. Now, do you wonder that four years of war made many claims? My little county of Franklin, with a population of 38,000 people during the war, had 160,000 men encamped on it at that time. We have paid since the end of this war about $16,000,000 to private citizens for property taken and used by the Army of United States. That money has been paid by hammering at the doors of Congress. I would just as soon personally solicit the influence of the devil to settle a church fight as to try to settle a private claim of mine in one of these Departments. You get no consideration, and the people are driven to Congress. So we have appropriated since the war closed forty-five years ago about $16,000,000. That is not a large sum.

After the Franco-Prussian war, when France was defeated and humiliated, driven almost to the verge of bankruptcy, with that enormous indemnity she had to provide, she at once sent a commission along the lines of the army and took account of the property taken by the French army and destroyed and the property taken by the German army and destroyed that belonged to her people, and in less than fifteen months France paid those people along the border lines, not one-twentieth as long as ours—with all her financial distress, she paid her people $21,000,000.

We have paid about sixteen millions in forty-five years. Even England, when the Revolutionary war closed, sent a commission over to this country, and every man who had remained loyal to the Crown had his losses paid, whether destroyed by the Revolutionary soldiers or by the English troops, and at that time England paid eleven millions of dollars to the people of this country who remained loyal to the Crown. The Governments of the world to-day are not holding to the old law of the days of semibarbarism, but they are operating upon the doctrine that those who defended the government in its hour of peril, if they suffered any extraordinary loss, should be reimbursed by the government whose duty it was to protect them or make good the loss. Why, Mr. Chairman, give me a commission and give me $15,000,000 and I will wipe off the face of the earth every war claim growing out of the civil war. I have made this statement for information of the House, and I am not going to detain the committee any longer. [Applause.]

Mr. PAYNE. Mr. Chairman, I want to detain the committee for five minutes or so. I am in favor of the United States Government paying every debt that it owes. I only wish there was some way that we could stop at the honest debts, but the difficulty is that these claims come to Congress after the party has had his day in court, usually, or else after the statute of limitations has run against him, and generally a long time after, so that the facts about the transaction are generally dead. I am not finding fault with the Committee on War Claims or with the Committee on Claims. The very nature of this thing makes their duty rather a hazy one, and they can not get down to the exact certainty that a court may, and courts are not always certain, in rendering judgment upon claims. What I do find fault with is that after a claim has been settled by the proper tribunal, sometimes by a court and sometimes by an auditor under a general law provided for by Congress, and the claimant has got his pay, he comes in for a second or a third time, and comes before the House on ex-parte evidence and then the claim goes before the committee and the committee looks it over and thinks clearly it ought not to be paid; and then the Committee on Claims has been in the habit of simply putting a claim back in the pigeonhole, because the clever representative who has presented the claim does not like to be turned down with an adverse report. It seems to me, and I have been contending this for a good many years, that it is the duty of the committee in every such case to put the facts upon the record, so that the future committees could know just what this committee found and just what the evidence was when it investigated.

I understand from the chairman of this committee that they are mending their ways in that respect and inaugurating a new régime at this session of Congress, and that they are reporting with recommendations that the claim do lie upon the table, stating the facts in the case which, in their judgment, bar the claim or constitute the defense to the claim on the part of the United States Government. I think that we are aided a good deal in the future. As I said in the beginning, I want the honest claims paid. I want to be satisfied, however, that they are honest and then I have no objection to them. I think sometimes we set precedents here which make a sort of law; we go out of the way and outside of principles, or for lack of prin-

cedents, because of sympathy, and set a precedent that rises up to bother us in the future and a great many claims get into the second class and are afterwards paid. There are some on this Calendar that are fully justified by precedent that I have opposed in the past, but the House has run over me very good naturedly, as they sometimes do on claims day, because the gentlemen are here who have introduced the bills and who are personally interested in that way, and, of course, they look with keener perception in judging of the merits of these claims, and always see the merits in them a great deal more clearly than some of us people who do not have claims before the committee. So I have been often run over in this way, when no precedent is set, and, unless it is too awfully bad, I sit back and let the play go on. I am glad that this committee has concluded to do that, and I have also been informed that the committee on Claims is going to do the same thing. I think that hereafter we will not find cases coming in here where people have been paid twice and are asking for a third claim and sometimes a fourth after their claims have been settled and fully adjudicated and the proper amount has been paid. I have no objection to this reference whatever.

Mr. MAHON. Mr. Speaker, I wish to state that it is a rule of the committee that no bill which has been paid or partly paid or adjudicated and determined adversely is ever reported by it, and such claims are not upon the Calendar. I want to say, further, that an expert clerk of the Committee on War Claims has been at work—and he has been during the fourteen years I have served on said committee—on a publication which will comprise perhaps four volumes, and for which we are going to ask this House to give us $3,000 to print for the use of the House and the Senate and the courts. He has carefully prepared a compilation of every claim that has been made against this Government since and prior to the Revolutionary war. The claims have all been classified—Quartermaster's Department, Commissary, or wherever they have been—what has been done with them. We will have a complete and accurate history of every claim ever made against this Government up to the present time. That book would have been published some four or five years ago, but he is now preparing the Spanish war claims, so when the work is published Congress will have it in its power at any time to send to the Library and in a few moments get the history of each and every claim.

The question was taken, and the bill was ordered to be laid aside with a favorable recommendation.

JAMES P. BARNEY.

The next business on the Private Calendar was the bill (H. R. 9877) for the relief of James P. Barney.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to James P. Barney, late first lieutenant and battalion adjutant of the Third Regiment United States Volunteer Engineers, the sum of $247.63, to reimburse him for that amount of public funds stolen from him, without his fault or neglect, in September, 1898, at Jefferson Barracks, Mo., which funds he accounted for and paid over, notwithstanding said loss, to Maj. Willoughby Walke, as required by law.

Mr. PAYNE. Mr. Chairman, I think that bill ought to be explained.

Mr. GROSVENOR. Mr. Chairman, I introduced this bill, and have no personal knowledge of the character of the claim, but the report of the committee sets out very fully the history of it:

James P. Barney was, in the month of September, 1898, first lieutenant and senior battalion adjutant in the Third United States Volunteer Engineers, stationed at Jefferson Barracks, Mo. C. H. Hamilton was first lieutenant-adjutant of said regiment. On the —— day of September, 1898, Lieutenant Hamilton obtained a seven days' leave of absence. Upon his departure, Lieutenant Barney assumed the duties of adjutant of the regiment. Before departing upon his leave, Lieutenant Hamilton delivered to Lieutenant Barney $247.63 in public funds, representing coffee money issued to recruits by Maj. Willoughby Walke, of the same regiment, who was recruiting for the regiment in the South, for which sum Lieutenant Barney receipted.

The regiment was then living in tents, and the Government provided Lieutenant Barney with no safe or other means of keeping the money in his possession. Lieutenant Barney thereupon placed said money, with other money and jewelry of his own, in a locked metal box, and that box he placed in his trunk in his tent and carefully locked the trunk. The tent was guarded, and in the opinion of your committee Lieutenant Barney exercised reasonable and proper care in thus placing said funds.

Lieutenant Barney dined with the colonel of the regiment the day he received the money aforesaid. Upon his return to his tent, about 10 o'clock that night, he found that thieves had entered the tent, broken open his trunk, scattered its contents upon the floor, and taken away the locked tin box which contained the money. He promptly reported the theft to regimental headquarters, and detectives were employed, who, after a thorough investigation and search, were unable to ascertain the thief. Suspicion rested upon a servant in the officers' mess, but no evidence was procured upon which he could either be arrested or convicted. A week later the tin box was discovered in a ravine about 2 miles from camp. It was broken open, and its contents had been abstracted. Payment of a check which was in the box was stopped and a duplicate thereof obtained.

In his settlement subsequently made with Maj. Willoughby Walke, Lieutenant Barney accounted for the $247.63 stolen from him and paid it over to Major Walke, as required by law.

That is all there is of the case.

The question was taken, and the bill was ordered to be laid aside with a favorable recommendation.

ELIZA A. FIELDER.

The next business on the Private Calendar was House resolution No. 138.

The Clerk read as follows:

Resolved, That the bill (H. R. 7753) for the relief of the estate of Eliza A. Fielder, deceased, and Benjamin L. Fielder, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

Mr. OTJEN. Mr. Chairman, this is referred to the Court of Claims, and I think no further discussion is necessary; and I move that the resolution be laid aside with a favorable recommendation.

The question was taken, and the resolution was ordered to be laid aside with a favorable recommendation.

LEE ROBBINS.

The next business on the Private Calendar was House resolution No. 139.

The Clerk read as follows:

Resolved, That the bill (H. R. 10201) for the relief of Lee Robbins, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The question was taken, and the resolution was ordered to be laid aside with a favorable recommendation.

COMPAGNIE FRANÇAISE DES CÂBLES TÉLÉGRAPHIQUES.

The next business on the Private Calendar was the bill (H. R. 9569) for the relief of the Compagnie Française des Câbles Télégraphiques.

Mr. HASKINS. Mr. Chairman, I move that the bill be laid on the table and Senate bill 2872 be substituted in its place.

Mr. GROSVENOR. That can not be done in Committee of the Whole.

The CHAIRMAN. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and is hereby, authorized and directed, as an act of grace and comity, to pay the Compagnie Française des Câbles Télégraphiques, out of any money in the Treasury not otherwise appropriated, the sum of $77,712, being for expenses incurred in repairing its cables and property, which were cut and damaged by forces of the United States in Cuba during the Spanish-American war.

The CHAIRMAN. The question is on laying aside the bill with a favorable recommendation.

Mr. PAYNE. Mr. Chairman, I think we should have some explanation of this.

Mr. HASKINS. This bill provides for the reimbursement of the French Trans-Atlantic Cable Company for a cable which was cut and damaged by the military and naval forces during the Spanish war, and also for the destruction of two of their cable houses, with instruments therein, having been shelled by our artillery. This matter was brought to the attention of Mr. Hay by the French ambassador very early, and he presented a claim amounting to $86,300. Secretary Hay required of the French ambassador that he present a detailed account of the damages suffered or rather expenses incurred in repairing the cable, which had been cut in twelve different places and portions of which were destroyed, and also in regard to the cable houses that had been destroyed. A detailed statement was presented by the ambassador amounting to $77,712. This matter was brought to the attention of Congress early by President McKinley in a special message claiming that it was an international obligation on the part of this Government to reimburse the French company for the damages which they had sustained.

A bill was introduced and reported favorably by the Committee on War Claims in the Fifty-seventh Congress, again in the Fifty-eighth Congress, but they were not reached for consideration. In the Fifty-eighth Congress Secretary Root brought the attention of Senator ALLISON to the matter, and a provision, providing for the reimbursement to the amount of $77,712, was inserted in the deficiency bill of that year. When it came over to the House it was stricken out. The Committee on War Claims of the House have made a unanimous report in favor of the passage of this bill. The Senate Committee on Claims also made a favorable report, and a bill has passed the Senate, come over to the House, was referred to the Committee on War Claims, has been reported to the House, and it now stands upon the Calendar; and when the House convenes, if this bill is favorably acted upon by the Committee

of the Whole, I shall move to substitute the Senate bill for the House bill. This matter has been urged upon the Committee on War Claims by letters from President Roosevelt and Secretary Elihu Root at this very session. They believe that it is time that this matter was settled as a matter of international comity and friendship between this Government and the French Government, and that we should make provision for the payment of the claim.

Mr. PAYNE. I want to ask the gentleman why is was not adopted in the House when it came over on the deficiency bill?

Mr. HASKINS. I do not know. It was struck out in the conference report, as shown by the Senate document.

Mr. MAHON. They struck it out.

Mr. PAYNE. Do I understand the gentleman to say that, as a matter of national comity, where there is a war between two other nations, and the property of a neutral nation was destroyed, one of the parties to that war has to pay for it?

Mr. MAHON. It is suggested by the Secretary of State.

Mr. PAYNE. I am not prepared to deny that it is an act of friendship at all, but it seems to me a little unusual why a corporation having a building or property destroyed should not take the same chances of war as the people of France would take if they were private individuals.

Mr. MAHON. There is nothing allowed for the loss of business. That would amount to over $150,000.

Mr. PAYNE. I am not opposing the bill, but I understand the gentleman is urging it as a matter of international comity.

Mr. MAHON. The State Department has been pressing it for the last four or five years.

Mr. GILLETT of Massachusetts. I do not mean to be understood as objecting to the bill, but I would like to know whether there is any legal basis for this claim. We do not pay for ordinary private property which we damage in case of war. Why is this private property different from other private property?

Mr. MAHON. The Secretary of State does not claim that we are under any legal obligation to pay the claim, but that we are under an equitable obligation, an international obligation, as between this Government and a neutral government during our war with Spain.

Mr. GILLETT of Massachusetts. Do you mean if any damage were inflicted on any property of a French citizen in Cuba that we ought to pay for that?

Mr. MAHON. We will cross that bridge when we get to it.

Mr. GILLETT of Massachusetts. I would like to know why this is differentiated from other cases. I would like to know the views of the committee in reporting it.

Mr. MAHON. There is no law—international law—but it is an act of comity between the nations. We paid the English companies. It is put upon the ground of friendship, and that this company should be treated the same as we treated the British companies:

> In this case, as in the instance of similar claims preferred by British companies, it is held as a general proposition and as a matter of right neutral telegraphic cables are exposed to the same vicissitudes in time of war as other neutral property, a proposition which finds conventional confirmation in the fifteenth article of the convention signed at Paris March 14, 1884, for the protection of submarine cables, which article provides that the stipulations of that convention shall be understood to affect in no wise the liberty of action of belligerents. It is, however, unnecessary to discuss this point as a proposition of right according to the consensus of international authorities, inasmuch as the Government of the United States is disposed, as far as its constitutional limitations permit, to regard claims of this nature from the point of view of equity. In two instances arising from injuries to foreign-owned cables during the war with Spain *the President has been pleased, as a matter of gracious equity, to recommend to Congress the favorable consideration of their claims for actual damage suffered.*

Mr. GILLETT of Massachusetts. What is the reason? That is what I am trying to get at.

Mr. MAHON. This is the reason specified here. We had destroyed these cables. It was a momentous thing for the Government of the United States that these cables should be destroyed.

Mr. GILLETT of Massachusetts. Certainly.

Mr. MAHON. We were down there in a foreign country; we were not in the United States, but we were in Cuba; and we destroyed these cables so as to prevent their use by Spain.

Mr. GILLETT of Massachusetts. But we destroyed a great deal of other personal property down in Cuba. Do you think we ought to pay for it?

Mr. MAHON. Now, suppose we were at war with another country. Suppose we were at war with England or with Germany, and we cut some cables that might be worth millions of dollars. It might be worth millions of dollars to us, and we would destroy them as an act of war, for our protection. Why, of course, this Government would be responsible to them, and to see that they should be paid for.

Mr. GILLETT of Massachusetts. I do not quite understand the gentleman. Do you mean because it was cable, or that the same rule applies to other property? Suppose we destroyed a house belonging to a Frenchman. Would we recompense him?

Mr. MAHON. When the United States troops destroy a house in this country we do not pay the people who own it. We do not pay for damage done on land.

Mr. GILLETT of Massachusetts. And we do not in Cuba.

Mr. MAHON. But the gentleman must remember that this occurred on the high seas, and the high seas beyond the 3-mile limit are neutral and belong to everybody.

Mr. GILLETT of Massachusetts. That is the point I wanted to get at. Is that the reason the gentleman's committee reported it?

Mr. MAHON. Yes; we would not have reported it if it had been for the destruction of any property on the land.

Mr. GILLETT of Massachusetts. You would not have reported in favor of any claim for property destroyed on land?

Mr. MAHON. The Spanish War Claims Commission have jurisdiction of that.

Mr. PAYNE. I want to ask whether there is any letter from Secretary Root or from President Roosevelt asking for the payment of this claim. I am trying to get at the basis of action, because it would seem to me that a French citizen making an investment in Cuba went there under the Spanish authority and took the protection of the Spanish law, and if the Spanish Government was unable to protect him in a war waged by the United States why should the United States pay the damage?

Mr. MAHON. Suppose we had captured a French ship and destroyed it, if it was necessary as an act of war?

Mr. PAYNE. This was not an act of war and it was not on the high seas.

Mr. MAHON. The cable ran under the high seas. This is a matter of comity between two friendly Governments, and you can pay it or let it alone, as you please.

Mr. HASKINS. This cable was destroyed by order of the officers of the Government of the United States. Here is a letter from Secretary Root urging the passage of the bill, and if the gentleman from New York desires it I will read it.

Mr. PAYNE. I should like to have it read from the desk.

Mr. HASKINS. I will read it myself.

The CHAIRMAN. Will the gentleman send the letter to the desk and have it read by the Clerk?

Mr. HASKINS. I am a pretty good reader myself. This is the letter which was addressed to the Speaker of this House by Secretary Root on March 20:

> DEPARTMENT OF STATE,
> *Washington, March 20, 1906.*
>
> HON. JOSEPH G. CANNON,
> *Speaker of the House of Representatives.*
>
> SIR: I have the honor to invite your consideration of the matter of the relief of the French Telegraphic Cable Company, which is now pending in the House of Representatives.
>
> A bill (H. R. 9569) was introduced by Mr. MAHON on December 19, 1905, having for its object the payment to the French company of $77,712, being for expenses incurred in repairing its cables and property which were cut and damaged by forces of the United States in Cuba during the Spanish-American war. The Committee on War Claims, to whom the bill was referred, reported it favorably on January 9, 1906, whereupon it was committed to the Committee of the Whole House and ordered to be printed. (H. Rept. No. 151, present session.)
>
> A similar bill, introduced about the same time in the Senate (S. 2872), was favorably reported to that body and passed on February 5, 1906. On February 7, it was favorably reported from the Committee on War Claims and in like manner committed to the Committee of the Whole House and ordered to be printed. (H. Rept. No. 1061, present session.)
>
> It appears to be most desirable that one or the other of these two bills should be conclusively acted upon during the present session. The justice of the claim for which they provide relief is undisputed. The facts of the injuries to the cables and property of the French company having been done in the course of the military and naval operations of the United States against Spain are admitted. The amount stated in the bill was duly reached in the usual diplomatic course and is believed to represent justly the actual loss inflicted upon the French company. Payment of the ascertained sum was urged by the Executive upon the Fifty-seventh and Fifty-eighth Congresses, and in both Congresses bills to the appropriate end were favorably reported from the Committee on War Claims, but conclusive action was not had thereon.
>
> The Government of the French Republic has at no time relaxed its interest in the enactment of the contemplated relief, and has repeatedly expressed its confidence that the United States would meet its admitted moral liability in the premises. International good faith requires that this be done. The French ambassador has repeatedly recalled the matter to the attention of this Department, and, in the light of the approbative action had in each of the Houses of the Congress thereon during the past five years, it is not easy to put forward satisfactory reasons for the omission to enact the measure. Another failure to fulfill what has become an established equitable duty toward a friendly government would be very embarrassing to both.
>
> I have therefore the honor to bring the subject earnestly to your attention in the hope that action may be taken by the House toward discharging this international obligation. I learn informally that the Committee on War Claims is disposed to acquiesce without amendment in the bill (S. 2872) as it has passed the Senate, thereby promptly disposing of the business without the complications which might follow independent action upon House bill 9569.
>
> The history of this claim and the facts upon which it rests are shown

in Senate Document No. 84, Fifty-ninth Congress, first session, a copy of which is appended for your greater convenience.

I have the honor to be, sir, your obedient servant,

ELIHU ROOT.

Mr. GILLETT of Massachusetts. I wish to ask the gentleman a question. I notice that Secretary Root does not anywhere give any reason why this is an international obligation. I presume it is because he assumes that the Members of this House know as much international law as he does and that we understand the obligation, but I confess I do not. I have not looked into the question, but can the gentleman tell us upon what principle of international law the property of this cable company stands upon any different footing from other property?

Mr. MAHON. Not a bit. There is no international law. It is simply international comity and good faith and equity.

Mr. GILLETT of Massachusetts. If this does not stand upon any different footing than anything else, I do not see why we should pay it.

Mr. MAHON. The committee has no interest in it. The House can pass it or not, as it sees fit.

Mr. GILLETT of Massachusetts. I have no interest in it either, and Secretary Root's opinion inclines me to favor it, but I should be glad if the committee would tell me why this is an international obligation any different from what it would be if we had battered down a French house in Cuba?

Mr. HASKINS. That has been answered.

Mr. GILLETT of Massachusetts. How has it been answered?

Mr. HASKINS. The gentleman from Pennsylvania [Mr. MAHON] stated that.

Mr. GILLETT of Massachusetts. I understood him to say he did not make any distinction between a cable and a house.

Mr. OTJEN. If there were a citizen of France living in Cuba and we had taken some things belonging to him we certainly would pay for them, would we not?

Mr. GILLETT of Massachusetts. Why, no; not if we had destroyed his house.

Mr. OTJEN. If it were taken by order of our officers?

Mr. MAHON. Or if we had taken a French citizen prisoner without any authority for doing it. This Government can not go running over the world like a brigand or a pirate.

Mr. GILLETT of Massachusetts. We were at war with Spain, and suppose we had knocked down a house there.

Mr. OTJEN. This was a risk of war.

Mr. GILLETT of Massachusetts. I understand it was a risk of war, and I want to know whether in principle a cable is on any different footing from a house?

Mr. OTJEN. If we took from a French citizen a hundred bushels of oats for the use of the Army by order of an officer of the Army we would certainly pay for it.

Mr. GILLETT of Massachusetts. That is on a different basis.

Mr. OTJEN. And it is proper that we should pay for this cable.

Mr. GILLETT of Massachusetts. But we destroyed it; we did not take possession of it.

Mr. SULLIVAN of Massachusetts. As I heard the letter read, the Secretary of State, who is a very able lawyer, carefully refrained from stating that it was any obligation under international law. The very strongest he made it was that it was an obligation in morals. He certainly would have stated that there was a legal obligation if there was any.

Mr. GILLETT of Massachusetts. I simply wish to know the grounds on which it is claimed that payment should be made.

Mr. CRUMPACKER. Mr. Chairman, I have read the bill and report with some degree of care. The only misgiving I have about the claim is the amount involved. There is nothing in the report to show how much damage was inflicted upon the cable. The gentleman from Pennsylvania [Mr. MAHON], however, presents me a statement which he says shows the actual cost of repairing the cable. Of course there is no legal liability on the Federal Government for the destruction of this cable. It was an act of war; but property of this kind bears a different relation from property of a neutral which is incidentally destroyed on land which is the scene of warfare. The cable was upon what may be termed neutral territory; it was under the high seas, which is the common property of all civilized nations. This Government, in the exigencies of war, found it necessary, in order to prevent communication of information by the enemy, to destroy this neutral property. There is no legal liability on us; there is no law that fixes any international liability; it is purely an ethical question. I think it is the custom among nations to pay damages of this kind perpetrated under such circumstances. If the damage had been to a house or to individual property located on the island of Cuba, the theater of war, and as an incident of war, there would be no basis for a claim for damages, either legal or moral. Property in enemy territory which is destroyed by the operations of war is not the basis of a liability, though it is neutral property.

Here was a deliberate destruction of the cable line for the protection of our own Army, for the preventing of communication for our own purposes, and it was neutral property, occupying neutral territory, and I think, under the custom and usage of the nations, there is a moral or ethical liability on the part of the Government to make reparation. If the amount is right, I think there is no question but that it is the duty of this Government to pay the claim. The only misgiving I had was in relation to the amount, and the gentleman from Pennsylvania [Mr. MAHON] has supplied me with an itemized statement showing what he says is the actual cost of making the repair of the injury our Army inflicted on the cable property. A belligerent may destroy or convert to its own use enemy property in enemy territory or elsewhere without incurring any kind of pecuniary liability therefor. It may also destroy neutral property located in enemy territory as one of the incidents of war, but if it appropriates neutral property to its own use, either in enemy country or elsewhere, it incurs a liability, under the custom of nations, to make reparation. In destroying this French company's cable for the purpose of protecting our own interests, our Government became morally liable to pay the damages.

Mr. GILLETT of Massachusetts. Mr. Chairman, I simply wish to say that the gentleman from Indiana [Mr. CRUMPACKER] has answered the question which was in my mind. He says it is the custom and usage for nations to recognize a claim of this sort, and, if that is so, I am very willing in this case to recognize it. The only question that troubled me was why this cable should be different from other property, and I thought if it was not, we were setting a bad precedent.

Mr. HASKINS. Mr. Chairman, I ask that this bill be laid on the table, and that Senate bill 2872, farther down on the Calendar, be brought forward, and that the Senate bill be laid aside with a favorable recommendation.

The CHAIRMAN. Without objection, it will be so ordered.

There was no objection.

OWNERS OF THE BARGE CHARLIE.

The next business on the Private Calendar was House resolution No. 140.

The Clerk read as follows:

Resolved, That the bill (H. R. 10482) for the relief of the owner or owners of the barge Charlie, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

JOHN M'CABE AND PATRICK M'CABE.

The next business on the Private Calendar was House resolution No. 137.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 9098) for the relief of the legal representatives of John McCabe and Patrick McCabe, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

SARAH A. MILVANEY.

The next business on the Private Calendar was House resolution No. 141.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 3210) for the relief of Sarah H. Milvaney, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

WEST TENNESSEE COLLEGE, JACKSON, TENN.

The next business on the Private Calendar was the bill (H. R. 5927) for the relief of the board of trustees of West Tennessee College, Jackson, Tenn.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to the board of trustees of West Tennessee College, Jackson, Tenn., out of any money in the Treasury not otherwise appropriated, the sum of $15,000, as compensation for occupancy and damages to said college by the Union Army during the war; and for said purposes the above amount is hereby appropriated.

Mr. MAHON. Mr. Chairman, I yield twenty minutes to the gentleman from Tennessee [Mr. SIMS].

Mr. SIMS. Mr. Chairman, I suppose all the House wants is an explanation of the bill, and I will give it briefly. This was a college building which was occupied two years during

the civil war by the forces of Generals Logan and Grant as a hospital. There was a campus of 9 or 10 acres, a beautiful grove, and that grove was entirely destroyed, the timber being cut down and used as fuel. The building was used and occupied by the soldiers as a hospital for about two years. The damage to the building, as estimated by those familiar with it, was about $15,000. It was partially repaired, so that it could be used after the war by the college, and those repairs cost between $7,000 and $9,000, but it was not fully repaired. It is a college of the Baptist denomination. It educates ministers free of charge, and is doing a splendid work. The college is again on its feet and doing well, and they are making a great effort to improve and extend its usefulness.

They were very anxious to get what they could out of this as early as possible. I believe, if referred to the Court of Claims, they will be allowed as much as $10,000, but on account of the anxiety of the trustees of the institution to get this money as soon as possible, I asked for a direct appropriation and agreed to take $5,000, about one-third of the actual damage. Now, if there are any questions that any gentleman would like to ask about this bill, I will be very glad to answer them if I can. If not, I move that the bill be laid aside with a favorable recommendation.

The CHAIRMAN. The question is on the amendment.

The question was taken, and the amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

WILLIAM A. HENDERSON.

The next business on the Private Calendar was House resolution 142.

The Clerk read as follows:

Resolved, That the bill (H. R. 10953) for the relief of the legal representatives of William A. Henderson, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

W. C. WALDROP, ADMINISTRATOR OF THE ESTATE OF MILLINGTON WALDROP.

The next business on the Private Calendar was House resolution 143.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 10952) for the relief of W. C. Waldrop, administrator of the estate of Millington Waldrop, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

J. B. ORBISON.

The next business on the Private Calendar was the bill (H. R. 7679) for the relief of J. B. Orbison.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of $300 to J. B. Orbison, in full satisfaction of his claim for commutation paid by him in 1863 when drafted into the military service of the United States, he not then being a citizen of the United States.

With the following amendment:

In line 6, after the word "Orbison," insert "of Butler County, Pa."

Mr. CRUMPACKER. Mr. Chairman, this is rather an odd sort of bill, and I think the committee ought to know its character. I have read the bill and report quite carefully, and it seems to provide for the reimbursement of Orbison for money he was compelled to pay in procuring a substitute to serve for him during the civil war.

Mr. GROSVENOR. Commutation money.

Mr. CRUMPACKER. Commutation money.

Mr. DALZELL. He was a colored man who was drafted into the service, and not being a citizen, of course he was not liable to draft. He was compelled either to serve or to pay his $300. He raised the $300, paid it, and the Government has had possession of it all this time—wrongfully, of course—and he ought to be reimbursed, it seems to me.

Mr. CRUMPACKER. Mr. Chairman, the ground on which he bases his claim is that being a colored man, under the Constitution and laws of the country at that time he was not a citizen of the United States, and was not subject to military duty, and that notwithstanding this exemption he was drafted to serve in the Union Army, and in order to avoid the service paid the commutation money of $300 levied by law. My idea of the bill from a legal standpoint, if the Government is liable in any case for compulsory military duty or commutation it would be liable here. Under the law and the decisions of the courts at that time a colored man was not a citizen of the United States. He was not entitled to the privileges and immunities of citizenship, and of course it would be very inequitable and altogether wrong to compel him to fight in defense of a country of which he was not, and could not become, a citizen, and in which he was denied the ordinary rights and privileges of citizenship.

Mr. CANDLER. How was it possible for him to be drafted under those circumstances?

Mr. CRUMPACKER. He was in Pennsylvania. He was a resident of that State, and he was on the roll and was drafted.

Mr. GROSVENOR. Mr. Chairman, it was not an uncommon thing for aliens—natives of other countries—to be drafted. They were always discharged when they could make proper proof.

Mr. CANDLER. He did not perform any service at all?

Mr. CRUMPACKER. He did not, but he paid the commutation money of $300 under coercion. He had to make that payment or go into the Army, and he made the payment in order to escape military service, so it was a payment under compulsion. I think, under clear equitable principles, he is entitled to recovery. I make this statement simply to show the rather anomalous character of the bill.

Mr. DALZELL. Mr. Chairman, I would like to add, in addition to what the gentleman from Indiana [Mr. CRUMPACKER] has said, that we are not establishing any precedent by this action. We have already paid claims of this character.

Mr. MAHON. Very few of them.

Mr. DALZELL. That is true, but very few of them exist. The last case we paid we paid $300 plus the interest. In this case, however, the claimant is to be allowed only his $300, which is rather rough on him, I think. I move that the bill be laid aside with a favorable recommendation.

The CHAIRMAN. The question is on the amendment.

The question was taken; and the amendment was agreed to.

The bill was ordered to be laid aside with a favorable recommendation.

HENRY E. RHOADES.

The next business on the Private Calendar was the bill (H. R. 9297) for the relief of Henry E. Rhoades, assistant engineer, United States Navy, retired.

The Clerk read as follows:

A bill (H. R. 9297) for the relief of Henry E. Rhoades, assistant engineer, United States Navy, retired.

Mr. MAHON. Mr. Chairman, this bill pertains to naval affairs and was introduced by Mr. BUTLER of Pennsylvania. He is not here, and I move that the bill be passed without prejudice.

The CHAIRMAN. Without objection, the bill will be so passed.

There was no objection.

RELIEF OF THE COMPAÑÍA DE LOS FERROCARRILES DE PUERTO RICO.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to the Compañía de los Ferrocarriles de Puerto Rico, out of any money in the Treasury not otherwise appropriated, the sum of $13,094.45, being for compensation for mail service performed in Porto Rico during the period of military occupation in the years 1898, 1899, 1900, 1901, and 1902, and prior to the regular authorization of railroad mail service upon its lines.

Mr. MAHON. Mr. Chairman, the Committee on War Claims had this bill under consideration and declined to make a direct appropriation because we did not have the data. Now, this claim comes the same way as others and the committee report this bill with a substitute, as follows:

Strike out all after the enacting clause and insert the following:

"That the Court of Claims be, and it is hereby, given jurisdiction over the claims of the Compañía de los Ferrocarriles de Puerto Rico with power to find the facts and to enter judgment against the United States for the reasonable value of the services performed by said company in the Island of Porto Rico for transporting the mails between the 12th day of August, 1898, and the 5th day of December, 1899; also for transporting the municipal police, or guardia civille, between the 12th day of August, 1898, and the 31st day of August, 1902; and for the difference between the amount allowed for transporting the troops, munitions of war, supplies, and the like and the reasonable value of said services for the same period, together with the expense of repair and maintenance of telegraph lines of the Signal Corps, all of said services having been performed during the military occupation of said Island."

That is a claim that ought to go to the courts.

Mr. BOWERSOCK. You are reading a substitute sending the matter to the Court of Claims?

Mr. MAHON. Yes, sir; the whole business.

Mr. CRUMPACKER. That is what you propose to offer?

Mr. MAHON. Yes, sir.

Mr. CRUMPACKER. I read the report of this bill very carefully, and it seems that from the report on file in support of it that the amount has been pretty carefully ascertained.

Mr. MAHON. Well, I have no objection to passing the bill. I intended to offer a substitute out of due precaution.

Mr. CRUMPACKER. The report is quite an exhaustive one and shows in detail the character of the services.

Mr. MAHON. Well, then, I move that the bill be laid aside with a favorable recommendation.

Mr. CRUMPACKER. Just a word or two. This railroad company operated a line of railroad in the island of Porto Rico under a Spanish charter, by the terms of which the Spanish Government guaranteed it an 8 per cent dividend upon the amount of capital invested in the road, and as one of the conditions of the guaranty the road undertook to transport all Spanish mails free of charge. In October, 1898, when the Federal Government took possession of the island by military force, the railroad continued to carry the United States mail, military mail, and do and perform those things that it had undertaken to do in its Spanish charter, free of charge for the military governor of the island, and it continued to do that work for some two years. The attorneys of the road, after the island was finally ceded to the United States, insisted that the United States Government took the place of Spain in the guaranty and subvention arrangement, and there was some controversy between the railroad company and the United States Government over that question. It was finally settled by the grant and an acceptance of a new charter by the terms of which the railroad company surrendered all claim upon the Federal Government for payment under the subvention clause of the royal charter from Spain. But the right was expressly reserved in that agreement to present to the Federal Government its claims for services performed during the military occupation of the island by the United States in carrying mails, and a claim was presented amounting to $20,000, which was referred to the postal authorities. Inspectors and special agents were sent down to Porto Rico by the Postmaster-General, and they made a careful and thorough investigation of the question and found that there was $13,694.45 fairly and justly due the railroad company for transportation of mails and other services performed for the United States up to the time of the acceptance of the new charter from the provincial government—that is, from the executive council government of Porto Rico. Now, I fear, Mr. Chairman, if this claim should be referred to the Court of Claims there is liability of the court allowing a much larger sum than is found to be due by the commission, and I believe it will be better policy to pay the claim than to send it to the Court of Claims. There is no question about the liability of the Federal Government for the service. The evidence is conclusive upon that question, and the sole question is one of amount, and the United States adjusting officer seems to have scrutinized the claim with a great deal of care and eliminated everything of questionable character from it, and the amount he reports, it seems to me, is justly and equitably due, and it would be safer and easier for the Government to pay it than to refer it to the Court of Claims.

Mr. MAHON. Then I move that the bill be laid aside with a favorable recommendation.

The bill was ordered to be laid aside with a favorable recommendation.

BENJAMIN F. KING.

The next business on the Private Calendar was the bill (H. R. 11108) for the relief of Benjamin F. King.

The bill was read, as follows:

A bill (H. R. 11108) for the relief of Benjamin F. King.

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Benjamin F. King, late a private in Company A, One hundred and fifty-first Regiment Indiana Volunteer Infantry, out of any money in the Treasury not otherwise appropriated, the pay and allowances of an enlisted man of infantry from January 28, 1865, to June 19, 1865, including transportation to his home, deducting therefrom any money paid him during that period.

Mr. MILLER. Mr. Chairman, I think we ought to have an explanation of this bill.

Mr. MAHON. I would suggest to the gentleman that he let this go on. This is a very small amount, only involving $75, due to this man; and when twelve or thirteen men have examined it and stated that it was correct, I think he ought to be willing to allow it to go.

Mr. MILLER. If this bill is all right, it ought to have an explanation, and if it is all right the action will be all right. I think the bill is not all right, and this bill ought not to pass this committee.

Mr. MAHON. Well, Mr. Chairman, when a committee comprised of thirteen good lawyers, not counting myself, have passed on a small matter of this kind and made a unanimous report, I do not think an explanation ought to be demanded. This was a little mistake made on the pay roll. This man ought to get his money; he is entitled to $75; and because it is a small matter, I do not pretend to argue the matter to the House, and they can pass it or not, as they choose.

The bill was laid aside with a favorable recommendation.

M. A. M'CAFFERTY.

The next business on the Private Calendar was the bill (H. R. 1863) for the relief of M. A. McCafferty.

The bill was read, as follows:

A bill (H. R. 1863) for the relief of M. A. McCafferty.

Be it enacted, etc., That the Secretary of the Treasury is hereby authorized to pay to M. A. McCafferty, of O'Neill, Nebr., out of any money in the Treasury not otherwise appropriated, $65, for furnishing a casket and a hearse and defraying all other expenses incident to the burial of the remains of John De Boer, a private soldier in Troop G, First United States Cavalry, stationed at Fort Meade, S. Dak., such burial having been made at the request of the commanding military officer at said Fort Meade.

Mr. PAYNE. I would like to ask what this is.

Mr. MAHON. Mr. Chairman, this is the payment for the burial expenses of a soldier. Ordinarily the military authorities bury them. The coffin was purchased, and this is the exact amount that the Government would have had to pay if it had purchased it itself. The military authorities made the request that the party should bury him. The Government pays the expense; and when it pays this it pays what it does in all cases.

Mr. PAYNE. Is that a general law or a custom?

Mr. MAHON. It is usually paid for by the Treasury Department. They had no money in the Treasury Department for it, or the Treasury would have paid it.

The bill was ordered to be laid aside with a favorable recommendation.

TRUSTEES OF WEIR'S CHAPEL, MISS.

The next business on the Private Calendar was the bill (H. R. 8952) for the relief of the trustees of Weir's Chapel, Tippah County, Miss.

The bill was read, as follows:

A bill (H. R. 8952) for the relief of the trustees of Weir's Chapel, Tippah County, Miss.

Be it enacted, etc., That the Treasurer of the United States be, and he is hereby, authorized and directed to pay, out of any funds in the Treasury not otherwise appropriated, the sum of $400 to James B. Jefferies, Robert Mitchell, and W. F. Duncan, trustees of Weir's Chapel, a Methodist Church in Tippah County, Miss., or to their successors in office, in full satisfaction of any and all demands against the Government of the United States, for the use of said church building for military purposes by the Federal Army during the civil war.

Mr. PAYNE. What is the nature of that bill?

Mr. MAHON. I yield to the gentleman from Mississippi to explain it.

Mr. SPIGHT. Mr. Chairman, this is a bill to pay for the use of a little country Methodist church in my own county. I know all the facts. I know the witnesses who testified on the matter. The church was torn down by General Schofield's orders while passing from Memphis down into Mississippi. All the heavy timbers were used to corduroy a narrow bit of little creek bottom and the lighter material was used for building shelter for his troops. The church was almost new when it was torn down. I know in person every man and all of the people who are connected with this thing, and know them to be fully reliable, and the committee has based its action on these facts.

Mr. PAYNE. Are these gentlemen named the present trustees of the church?

Mr. SPIGHT. Yes, sir; they are named in the bill.

Mr. PAYNE. It did not give the trustees as in 1860.

The bill was ordered to be laid aside with a favorable recommendation.

AGNES W. HILLS AND SARAH J. HILLS.

The next business on the Private Calendar was the bill (H. R. 5217) for the relief of Agnes W. Hills and Sarah J. Hills.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Agnes W. Hills and Sarah J. Hills the sum of $7,561.80, out of any money in the Treasury not otherwise appropriated, the value of personal property belonging to Albert G. Hills and Alfred C. Hills, both deceased, taken and converted to the use of the United States by the military forces of the United States.

The amendment recommended by the committee was read, as follows:

In line 10, after the word "States," insert "during the war for the suppression of the rebellion."

Mr. MACON. I will ask the gentleman to yield to me for five minutes.

Mr. MAHON. I will first yield to the gentleman from Massachusetts [Mr. TIRRELL] to explain the bill.

Mr. MACON. Will you yield me five minutes after the gentleman from Massachusetts?

Mr. MAHON. I yield to the gentleman from Massachusetts to explain the bill.

Mr. TIRRELL. Mr. Chairman, in February, 1863, Gen. Na-

thaniel P. Banks, was commander of the Department of the Gulf. He commanded the forces that were then in New Orleans, that city itself being under martial law. Therefore it devolved upon him not only to attend to whatever might arise there as to military duties, but also to administer the affairs of that city. The military forces had taken possession of a printing plant known as the "New Era," and it was necessary that there should be a newspaper published in the city for the proper administration of its municipal affairs, as well as the publication of military orders. It was found almost impossible, or at least very difficult, to carry on a newspaper in that way. So in February, 1863, General Banks made a contract with the two Hills—Alfred C. Hills and Alfred G. Hills—who were then lieutenants in a Louisiana regiment. These two men were experienced newspaper men; one of them was the correspondent of the New York Evening Post and the other of the Boston Journal; and in order that the two men might carry out the terms of the contract that General Banks made with them they resigned their commissions in the Army. The contract was this: That they were to have the use of the printing plant just as it was. The Government was to assume no obligation whatever. The Hills were to pay all the expense, and if they were able to make any profits by carrying on that business, they were to receive those profits. Under that contract the work was carried on for thirteen months by the Hills, when a disagreement arose between them, and the plant was taken away.

After the plant was taken away a commission was appointed by General Banks, consisting of the mayor of the city and two other officials who were to make a careful examination of all the assets of the printing establishment, and ascertain what belonged to the Government and what had been placed in the establishment by the two Hills. That commission made that examination. They made a detailed report to General Banks. They found that the two Hills had in that printing establishment:

Material and type in the newspaper office	$2,500.00
Type and material in the job printing office	1,900.00
News printing paper on hand	2,900.00
Sundries	261.80
Total	7,561.80

Which is the amount carried in this bill. It was the property that the two Hills, under their contract with General Banks, acting for the military forces there, had put into the plant and paid out of their own pockets. This commission made this report; but instead of the report being sent to Washington and going through the auditing department as it ought to have done (all who knew General Banks knew that he was rather unsystematic in business matters), in some way that report got pigeonholed, and these Hills or their representatives have never received one cent of this money which this commission, appointed in behalf of the United States, said was due to them on account of the property they had in that plant, taken and used by the Government. This bill is for the purpose of paying what this commission reported was due to them, and in the absence of payment it is simply a case of confiscation by the United States Government of that amount of property.

Mr. PAYNE. May I ask the gentleman a question?

Mr. TIRRELL. Yes.

Mr. PAYNE. Was this business, carried on by the Messrs. Hill, a profitable business for thirteen months?

Mr. TIRRELL. There is no evidence to show whether it was prosperous or not, except this, that they had that amount of merchandise in the printing plant, which they had paid for.

Mr. PAYNE. Out of the profits of the business?

Mr. TIRRELL. Out of the profits of the business, or out of their own pockets.

Mr. PAYNE. I see by the report that the reason why this property was taken over by the successors of the Hills, who were a couple of employees of theirs, was that the Hills got to quarreling between themselves, or could not agree. At least there was a matter of difference between them.

Mr. TIRRELL. Yes.

Mr. PAYNE. And they threw up the job and turned the property over to their employees. Now, why should not the gentlemen to whom they turned over the property pay them for this?

Mr. TIRRELL. Wait a minute and I will go on and explain still further, in order that the gentleman may understand that particular point. The governmental plant was turned over to two employees of the Hills to carry on that business. When that property was turned over, there having been no settlement with the Hills, the property which the Hills had bought and paid for, and which was their property, although it remained in the Government plant, was turned over to these two foremen, and they carried on the business under the same contract as that made by General Banks with the two Hills. After a period of time these men who succeeded the two Hills, having used the Hills' property as well as put property of their own into that plant, retired, and under a new arrangement the Supervising Architect of the Treasury here in Washington took charge of the matter. These successors of the two Hills put in a claim to the Supervising Architect for the amount of property that they themselves had put into the plant, which they had paid for out of their own funds—a claim similar to the one now under consideration.

The Supervising Architect not approving the bill, or neglecting to pay it, they brought suit in the United States circuit court at New Orleans, where all these facts were passed upon and adjudicated, and that court decided that that was their property, that they were entitled to payment, and they were paid. In other words, there has been an adjudication by the circuit court of the United States on a similar state of facts, and that court has decided that the property belonging to the gentlemen who were carrying on the business under a similar contract should be paid for.

Mr. MURDOCK. Did that judgment also include the $7,000 worth of property belonging to the Messrs. Hill?

Mr. TIRRELL. They did not claim any part of that, only the part that they had put in. It was precisely a similar claim to the one that the Hills put in.

Mr. SULLIVAN of Massachusetts. That was for property other than the property covered by this claim here?

Mr. TIRRELL. Yes.

Mr. MURDOCK. Then what became of the $700,000?

Mr. TIRRELL. The Government of the United States took it and had the benefit of it and paid nothing for it.

Mr. MURDOCK. It had actual physical possession?

Mr. TIRRELL. It had. The Government took it and had the benefit of it, and it has never been paid for. Now, I should like to call your attention to what General Banks himself says about this claim. He says:

> The property added to the printing material belonging to the Government was purchased by them out of their own funds, and it belonged exclusively to them; they were not expected to account for and pay it over to the Government, nor was the Government under any obligation to make good any claims that might exist against them. They were to have all the profits and take all the chances of loss and gain, and be responsible for all losses. They were not agents of the Government, but acting as owners, and as such, with all the rights of the latter. They were under no obligations to the Government, except to return in good condition the property which was intrusted to them.

I would say, gentlemen of the House, that this claim has been for years before either the Senate or the House, has been favorably reported upon, and the only reason final action never has been reached is that which is applicable to hundreds of other claims, that it has never had an opportunity to come before the House for consideration.

The amendment was agreed to.

The bill was laid aside to be reported to the House with a favorable recommendation.

JOHN A. MERONEY.

The next business on the Private Calendar was the bill (H. R. 3997) for the relief of John A. Meroney.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay John A. Meroney, of Giles County, Tenn., late a member of Company D, Twelfth Regiment Tennessee Volunteer Cavalry, out of any money in the Treasury not otherwise appropriated, the sum of $125, being for a horse taken by or furnished to the military forces of the United States for their use during the late war for the suppression of the rebellion.

With the following amendment recommended by the committee:

In line 8 strike out "twenty-five" and insert in lieu thereof "fifty."

Mr. SIMS. Mr. Chairman, I will explain this bill briefly. This bill is to pay a man, who was a soldier in the Federal Army, the value of one horse taken from him while he was in the service—taken from his home. The report is short, and I will read it. It is as follows:

> This is a claim for the value of one horse alleged to have been furnished to the military forces of the United States for their use during the late war for the suppression of the rebellion.
>
> Claimant was an enlisted man in the service of the United States at the time when it is alleged his horse was taken. Claimant filed his claim in the War Department, office of the Quartermaster-General, and it was investigated by an agent of that Department, and on February 14, 1884, he reported:
>
> "Claimant and his wife are of good character and reliable. I am fully convinced that claimant's horse was taken as alleged; that no receipt or voucher was given, and the claimant is entitled to an allowance. I therefore respectfully recommend an allowance in favor of claimant for one horse at the price paid for horses suitable for cavalry service by the Government at Nashville, Tenn., in 1864, as follows, $150."
>
> No payment has ever been made for this horse.

Mr. Chairman, I will say that in drawing the bill I made a mistake, and put in $125 when it should have been $150.

Mr. PAYNE. I am glad the gentleman explained that, for I was afraid the soldier did not know how much his horse was worth, and the gentleman has relieved my mind. [Laughter.]

Mr. SIMS. That is a fact; it was a mistake of mine.

Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

The amendment was agreed to.

The bill was ordered to be laid aside to be reported to the House with a favorable recommendation.

W. M. JUSTICE.

The next business on the Private Calendar was House resolution No. 161.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 2299) for the relief of W. M. Justice, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

JOSEPH LOUDERMILK.

The next business on the Private Calendar was House resolution 162.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 8838) for the relief of Joseph Loudermilk, with all the accompanying papers, be and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

REUBEN DAWKINS.

The next business on the Private Calendar was House resolution No. 163.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 1272) for the relief of the representatives of the estate of Reuben Dawkins, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

JONATHAN HOLMES.

The next business on the Private Calendar was House resolution No. 164.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 2302) for the relief of the legal representatives of Jonathan Holmes, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

MRS. R. D. SMITH.

The next business on the Private Calendar was House resolution No. 165.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 6938) for the relief of Mrs. R. D. Smith, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

WILLIAM A. CRAWFORD.

The next business on the Private Calendar was House resolution No. 166.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 12436) for the relief of the legal representatives of William A. Crawford, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

DR. THOMAS B. WATERS.

The next business on the Private Calendar was House resolution No. 161.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 2301) for the relief of the legal representatives of Dr. Thomas B. Waters, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

J. V. M'DANIEL.

The next business on the Private Calendar was House resolution No. 168.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 2303) for the relief of the estate of J. V. McDaniel, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

JOHN HOLLEMAN.

The next business on the Private Calendar was House resolution No. 169.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 12408) for the relief of the estate of John Holleman, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

ROBERT TILLSON & CO.

The next business on the Private Calendar was House resolution No. 170.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 6978) for the relief of Robert Tillson & Co., a partnership composed of Robert Tillson and Maitland Boon, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

FELIX WEEDEN.

The next business on the Private Calendar was House resolution No. 171.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 4330) for the relief of Felix Weeden, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

JOHN NORTH.

The next business on the Private Calendar was House resolution No. 172.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 10929) for the relief of the estate of John North, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

A. J. SMITH.

The next business on the Private Calendar was House resolution No. 173.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 1278) for the relief of A. J. Smith, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

MILLER SMITH.

The next business on the Private Calendar was House resolution No. 174.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 11055) for the relief of Miller Smith, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

MARY F. CASEY TUCKER.

The next business on the Private Calendar was resolution No. 175.

The Clerk read as follows:

Resolved, That the bill (H. R. 1271) for the relief of Mary F. Casey Tucker, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

T. L. SCOTT.

The next business on the Private Calendar was resolution No. 176.

The Clerk read as follows:

Resolved, That the bill (H. R. 1270) for the relief of the heirs of T. L. Scott, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts

under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

A. G. HAWKINS.

The next business on the Private Calendar was resolution No. 177.

The Clerk read as follows:

Resolved, That the bill (H. R. 4034) for the relief of A. G. Hawkins, administrator of the estate of George H. Prince, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

JANE LEMASTER.

The next business on the Private Calendar was resolution No. 178.

The Clerk read as follows:

Resolved, That the bill (H. R. 4238) for the relief of Jane Lemaster, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

ROBERT B. LOVE.

The next business on the Private Calendar was resolution No. 179.

The Clerk read as follows:

Resolved, That the bill (H. R. 6230) for the relief of the heirs of Robert B. Love, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

J. J. MILLER.

The next business on the Private Calendar was resolution No. 180.

The Clerk read as follows:

Resolved, That the bill (H. R. 7989) for the relief of J. J. Miller, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

JAMES N. RICHARDS.

The next business on the Private Calendar was resolution No. 183.

The Clerk read as follows:

Resolved, That the bill (H. R. 7641) for the relief of James N. Richards, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

JOHN WILLIAMS.

The next business on the Private Calendar was resolution No. 184.

The Clerk read as follows:

Resolved, That the bill (H. R. 7645) for the relief of the estate of John Williams, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

D. L. PRITCHARD.

The next business on the Private Calendar was resolution No. 185.

The Clerk read as follows:

Resolved, That the bill (H. R. 11901) for the relief of the estate of D. L. Pritchard, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

J. H. BRANTLY.

The next business on the Private Calendar was resolution No. 186.

The Clerk read as follows:

Resolved, That the bill (H. R. 8260) for the relief of the legal representatives of J. H. Brantly, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

SARAH C. BRYAN.

The next business on the Private Calendar was resolution No. 187.

The Clerk read as follows:

Resolved, That the bill (H. R. 9559) for the relief of Mrs. Sarah C. Bryan, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

JOEL CROSS.

The next business on the Private Calendar was resolution No. 188.

The Clerk read as follows:

Resolved, That the bill (H. R. 6438) for the relief of Joel Cross, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

L. E. BOATWRIGHT.

The next business on the Private Calendar was resolution No. 189.

The Clerk read as follows:

Resolved, That the bill (H. R. 1276) for the relief of Mrs. L. E. Boatwright, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

M. F. THOMAS.

The next business on the Private Calendar was resolution No. 190.

The Clerk read as follows:

Resolved, That the bill (H. R. 3975) for the relief of M. F. Thomas, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

M. J. CONLEY.

The next business on the Private Calendar was resolution No. 191.

The Clerk read as follows:

Resolved, That the bill (H. R. 5923) for the relief of M. J. Conley, heir of Harmon Conley, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

PETER WILLIAMS.

The next business on the Private Calendar was resolution No. 213.

The Clerk read as follows:

Resolved, That the bill (H. R. 7642) for the relief of Peter Williams, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

Mr. SMITH of Kentucky. Mr. Chairman, what do I understand the number of this resolution to be?

The CHAIRMAN. The Clerk informs the Chair that this resolution was inadvertently reported out of its order. When it is disposed of the Clerk will return and take those admitted up in their order.

The resolution was ordered to be laid aside with a favorable recommendation.

METHODIST CHURCH AT NEW HAVEN, KY.

The next business on the Private Calendar was the bill (H. R. 6675) for the relief of the Methodist Church at New Haven, Ky.

The bill was read, as follows:

A bill (H. R. 6675) for the relief of the Methodist Church at New Haven, Ky.

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to the Methodist Church at New Haven, Ky., out of any money in the Treasury not otherwise appropriated, the sum of $200, for the use, occupation, and injuries committed by the military forces of the United States upon said church property during the war of the rebellion; and said sum shall be in full of all claims of said church against the Government of the United States for the use of or damages to the property of said church at said place.

The bill was ordered to be laid aside with a favorable recommendation.

SARAH A. CLAPP.

The next business on the Private Calendar was the bill (H. R. 1738) for the relief of Sarah A. Clapp.

The bill was read, as follows:

A bill (H. R. 1738) for the relief of Sarah A. Clapp.

Be it enacted, etc., That the proper accounting officers of the Treasury be, and they are hereby, authorized to pay, out of any money in the Treasury not otherwise appropriated, to Sarah A. Clapp, formerly Sarah A. Chadwick, the pay and allowances of a surgeon of volunteer cavalry from the 15th day of November, 1861, to December 27, 1861, and the pay and allowances of an assistant surgeon of cavalry from December 27, 1861, to the 25th day of August, 1862, she having served as such surgeon and assistant surgeon for the time mentioned, respectively, in the Seventh Regiment of Illinois Volunteer Cavalry, under her maiden name of Sarah A. Chadwick.

The bill was ordered to be laid aside with a favorable recommendation.

JOHN W. WILLIAMS.

The next business on the Private Calendar was the bill (H. R. 3459) for the relief of John W. Williams.

The bill was read, as follows:

A bill (H. R. 3459) for the relief of John W. Williams.

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to John W. Williams, of Powell County, Ky., the sum of $500, out of any money in the Treasury not otherwise appropriated, for one horse purchased by him at Government sale June 3, 1865, and recovered by the legal owner by judicial proceedings, which established a lack of title in the Government and made said Williams liable for the value of said horse and cost.

The amendment recommended by the committee was read, as follows:

In line 5 strike out the word "three" and insert in lieu thereof the word "two."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JOHN S. LOGAN.

The next business on the Private Calendar was the bill (H. R. 10233) for the relief of John S. Logan.

The bill was read, as follows:

A bill for the relief of John S. Logan.

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, directed to pay, out of any money in the Treasury not otherwise appropriated, to John S. Logan, of Buchanan County, Mo., the sum of $1,000, in full satisfaction and payment of a certain sum of money, to wit, $1,000, furnished to the United States in 1861 by the late Western Bank of Missouri.

The amendments recommended by the committee were read, as follows:

In line 6, after the word "Missouri," insert "surviving partner of the Western Bank of Missouri."

In lines 6, 7, 8, and 9 strike out "in full satisfaction and payment of a certain sum of money, to wit, $1,000, furnished to the United States in 1861 by the late Western Bank of Missouri" and insert in lieu thereof "being money which the Western Bank of Missouri advanced to purchase military supplies for United States troops, during the war for the suppression of the rebellion, commanded by Col. John Edwards."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JOHN LEWIS YOUNG.

The next business on the Private Calendar was the bill (H. R. 5681) for the relief of John Lewis Young.

The bill was read, as follows:

A bill (H. R. 5681) for the relief of John Lewis Young.

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to John Lewis Young, of Washington, D. C., the sum of $200 to reimburse him for the loss of a horse lost by him while serving in the war of the rebellion.

The amendment recommended by the committee was read, as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

"That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay John Lewis Young, of Washington, D. C., late captain Company C, Ninth Regiment Iowa Cavalry Volunteers, out of any money in the Treasury not otherwise appropriated, the sum of $150, being for the value of a horse lost by him in service during the war for the suppression of the rebellion."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

EDWARD CAHALAN.

The next business on the Private Calendar was the House resolution No. 214.

The resolution was read, as follows

Resolved, That the bill (H. R. 539) for the relief of Edward Cahalan, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

ADMINISTRATORS OF IRA T. JORDAN.

The next business on the Private Calendar was House resolution 215.

The resolution was read, as follows:

Resolved, That the bill (H. R. 1277) for the relief of the administrators of Ira T. Jordan, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

ESTATE OF H. S. SIMMONS.

The next business on the Private Calendar was House resolution 216.

The resolution was read, as follows:

Resolved, That the bill (H. R. 13128) for the relief of the estate of H. S. Simmons, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

ESTATE OF NOAH KING.

The next business on the Private Calendar was House resolution 217.

The resolution was read, as follows:

Resolved, That the bill (H. R. 11583) for the relief of the estate of Noah King, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

HEIRS OF JOHN PATTERSON.

The next business on the Private Calendar was House resolution 218.

The resolution was read, as follows:

Resolved, That the bill (H. R. 11258) for the relief of the heirs of John Patterson, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

LEGAL HEIRS OF RAPHAEL L. DAVID.

The next business on the Private Calendar was House resolution 219.

The resolution was read, as follows:

Resolved, That the bill (H. R. 8655) for the relief of the legal heirs of Raphael L. David, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

FRANCIS M. SHEPPARD.

The next business on the Private Calendar was House resolution 222; which was read, as follows, by the Clerk:

Resolved, That the bill (H. R. 4376) for the relief of Francis M. Sheppard, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside to be reported to the House with a favorable recommendation.

HEIRS OF JOHN M'H. KELLEY AND ALLIE V. KELLEY.

The next business on the Private Calendar was House resolution 223; which was read, as follows, by the Clerk:

Resolved, That the bill (H. R. 7886) for the relief of the heirs of John McH. Kelley and Allie V. Kelley, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside to be reported to the House with a favorable recommendation.

B. F. MOODY & CO.

The next business on the Private Calendar was House resolution 224; which was read, as follows, by the Clerk:

Resolved, That the bill (H. R. 12750) for the relief of B. F. Moody & Co. or their legal representatives, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside to be reported to the House with a favorable recommendation.

MRS. ADELINE D. NORRIS.

The next business on the Private Calendar was House resolution 225; which was read, as follows, by the Clerk:

Resolved, That the bill (H. R. 11683) for the relief of Mrs. Adeline D. Norris, widow of W. W. Norris, with all the accompanying papers,

be, and the same is hereby, referred to the Courts of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

Mr. OTJEN. I move that this resolution be passed without prejudice.

The motion was agreed to.

FIRST PRESBYTERIAN CHURCH AT LEBANON, KY.

The next business on the Private Calendar was House resolution 226; which was read, as follows, by the Clerk:

Resolved, That the bill (H. R. 6674) for the relief of First Presbyterian Church, at Lebanon, Ky., with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside to be reported to the House with a favorable recommendation.

BAPTIST CHURCH AT BLOOMFIELD, KY.

The next business on the Private Calendar was House resolution 227; which was read, as follows, by the Clerk:

Resolved, That the bill (H. R. 6677) for the relief of Baptist Church at Bloomfield, Ky., with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside to be reported to the House with a favorable recommendation.

JAMES T. CALDWELL.

The next business on the Private Calendar was House resolution 228; which was read, as follows, by the Clerk:

Resolved, That the bill (H. R. 3473) for the relief of James T. Caldwell, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside to be reported to the House with a favorable recommendation.

LOUIS BENECKE.

The next business on the Private Calendar was House resolution 229; which was read, as follows, by the Clerk:

Resolved, That the bill (H. R. 4372) for the relief of Louis Benecke, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside to be reported to the House with a favorable recommendation.

IVEY MEMORIAL CHAPEL, CHESTERFIELD, VA.

The next business on the Private Calendar was House resolution 230; which was read, as follows, by the Clerk:

Resolved, That the bill (H. R. 12006) for the relief of trustees of Ivey Memorial Chapel, Chesterfield County, Va., with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside to be reported to the House with a favorable recommendation.

ESTATE OF J. W. MARSHAL.

The next business on the Private Calendar was House resolution 231; which was read, as follows, by the Clerk:

Resolved, That the bill (H. R. 11584) for the relief of the estate of J. W. Marshal, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside to be reported to the House with a favorable recommendation.

JAMES T. CALDWELL.

The next business on the Private Calendar was House resolution No. 232.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 3468) for the relief of James T. Caldwell, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside and reported to the House with a favorable recommendation.

WILLIAM M. MANTLO.

The next business on the Private Calendar was House resolution No. 233.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 3471) for the relief of William M. Mantlo, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside and reported to the House with a favorable recommendation.

JOHN B. HANNAH.

The next business on the Private Calendar was House resolution No. 234.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 13591) for the relief of John B. Hannah, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside and reported to the House with a favorable recommendation.

ALEXANDER MYERS.

The next business on the Private Calendar was House resolution No. 235.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 3478) for the relief of the personal representatives of the estate of Alexander Myers, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

SAMUEL AYRES.

The next business on the Private Calendar was House resolution No. 236.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 3475) for the relief of the heirs of Samuel Ayres, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

MRS. ELLEN H. SMITH.

The next business on the Private Calendar was House resolution No. 237.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 3472) for the relief of Mrs. Ellen H. Smith, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

LIBERTY BAPTIST CHURCH, NEW KENT COUNTY, VA.

The next business on the Private Calendar was House resolution No. 238.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 3476) for the relief of the trustees of Liberty Baptist Church, New Kent County, Va., with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

FOURMILE CREEK BAPTIST CHURCH, HENRICO COUNTY, VA.

The next business on the Private Calendar was House resolution No. 239.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 3479) for the relief of trustees of Fourmile Creek Baptist Church, Henrico County, Va., with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

MARGARET MYERS.

The next business on the Private Calendar was House resolution No. 240.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 3469) for the relief of Margaret Myers, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

WESTOVER CHURCH, CHARLES CITY COUNTY, VA.

The next business on the Private Calendar was House resolution No. 241.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 3477) for the relief of trustees of Westover Church, Charles City County, Va., with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

DAVID WISE.

The next business on the Private Calendar was House resolution No. 242.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 4839) for the relief of the estate of David Wise, deceased, with all the accompanying papers, be, and the

same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

PRESIDENT WOLRAVEN.

The next business on the Private Calendar was House resolution No. 243.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 13462) for the relief of President Wolraven, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

THOMAS HEYSER.

The next business on the Private Calendar was House resolution No. 244.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 6765) for the relief of the estate of Thomas Heyser, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

ENOCH HUMPHREYS.

The next business on the Private Calendar was House resolution No. 245.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 13461) for the relief of the estate of Enoch Humphreys, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

N. C. FEARS.

The next business on the Private Calendar was House resolution No. 246.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 5821) for the relief of N. C. Fears, administrator of the estate of W. S. Fears, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

CUMBERLAND PRESBYTERIAN CHURCH.

The next business on the Private Calendar was House resolution No. 247.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 3619) for the relief of the trustees of the Cumberland Presbyterian Church, of Pulaski, Tenn., with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

DAVID H. NEELY AND JANE A. NEELY.

The next business on the Private Calendar was House resolution No. 248.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 13459) for the relief of David H. Neely and Jane A. Neely, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

ST. PETER'S PROTESTANT EPISCOPAL CHURCH.

The next business on the Private Calendar was resolution No. 249.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 3650) for the relief of the vestry of St. Peter's Protestant Episcopal Church, of Columbia, Tenn., with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

PRESBYTERIAN CHURCH OF GLASGOW, HOWARD COUNTY, MO.

The next business on the Private Calendar was resolution No. 250.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 11252) for the relief of the Presbyterian Church of Glasgow, Howard County, Mo., with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

W. N. HEDDEN.

The next business on the Private Calendar was resolution No. 251.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 8600) for the relief of W. N. Hedden, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

J. J. WALKER.

The next business on the Private Calendar was resolution No. 252.

The Clerk read as follows:

Resolved, That the bill (H. R. 3666) for the relief of the estate of J. J. Walker, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

METHODIST EPISCOPAL CHURCH OF TRIUNE, TENN.

The next business on the Private Calendar was resolution No. 253.

The Clerk read as follows:

Resolved, That the bill (H. R. 3658) for the relief of the trustees of the Methodist Episcopal Church South, of Triune, Williamson County, Tenn., with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

JOSEPH T. CHANCE.

The next business on the Private Calendar was resolution No. 254.

The Clerk read as follows:

Resolved, That the bill (H. R. 4868) for the relief of Joseph T. Chance and the heirs of John R. Burton, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

W. J. CRADDOCK.

The next business on the Private Calendar was resolution No. 255.

The Clerk read as follows:

Resolved, That the bill (H. R. 6809) for the relief of W. J. Craddock, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

STEPHEN F. FULFORD.

The next business on the Private Calendar was resolution No. 256.

The Clerk read as follows:

Resolved, That the bill (H. R. 6810) for the relief of Stephen F. Fulford, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

ROBERT M. WILLIAMS.

The next business on the Private Calendar was resolution No. 257.

The Clerk read as follows:

Resolved, That the bill (H. R. 4235) for the relief of the estate of Robert M. Williams, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

WILLIAM LEWIS.

The next business on the Private Calendar was resolution No. 258.

The Clerk read as follows:

Resolved, That the bill (H. R. 13460) for the relief of the estate of William Lewis, deceased, with all the accompanying papers, be and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

LARKIN CLARK.

The next business on the Private Calendar was resolution No. 259.

The Clerk read as follows:

Resolved, That the bill (H. R. 13452) for the relief of the heirs of Larkin Clark, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

METHODIST EPISCOPAL CHURCH SOUTH, OF PINE BLUFF, ARK.

The next business on the Private Calendar was resolution No. 261.

The Clerk read as follows:

Resolved, That the bill (H. R. 3959) for the relief of the trustees of the Methodist Episcopal Church South, of Pine Bluff, Ark., with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

EXAMINATION OF CERTAIN CLAIMS OF THE STATE OF MISSOURI.

The next business on the Private Calendar was the bill (S. 567) authorizing the Secretary of the Treasury to make an examination of certain claims of the State of Missouri.

The Clerk read as follows:

An act (S. 567) authorizing the Secretary of the Treasury to make an examination of certain claims of the State of Missouri.

Mr. MAHON. Mr. Chairman, what is the number of that?

The CHAIRMAN. Senate bill 567.

Mr. MAHON. Mr. Chairman, I would like for the gentleman from Missouri to consent that the bill should be laid aside until the next day.

Mr. FULKERSON. I would like to go on with it now.

Mr. MAHON. It is a bill involving important matters, and we could not finish it to-day if we took it up, and I have assured parties when we did take it up we would give them full time—a couple of hours or so—when you could discuss it and I could discuss it, and I ask that the bill be passed without prejudice.

Mr. FULKERSON. I will ask the chairman of the committee if I am to be assured that this bill will be presented at this session of Congress?

Mr. MAHON. Well, the bill will be the first on the Calendar. I ask unanimous consent that it be laid aside without prejudice.

The bill was ordered to be laid aside without prejudice.

JAMES A. PAULK.

The next business on the Private Calendar was the bill (H. R. 14206) to carry out the findings of the Court of Claims in the case of James A. Paulk.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of $3,390 to James A. Paulk, of Bullock County, Ala., being the amount found due him by the Court of Claims on January 29, 1906.

The bill was ordered to be laid aside with a favorable recommendation.

LEGAL REPRESENTATIVES OF ISAAC JOHNSON.

The next business on the Private Calendar was the House resolution 265.

The resolution was read, as follows:

Resolved, That the bill (H. R. 10475) for the relief of the legal representatives of the estate of Isaac Johnson, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

EPHRAIM GREENAWALT.

The next business on the Private Calendar was the bill (H. R. 1142) for the relief of Ephraim Greenawalt.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Ephraim Greenawalt, of Lancaster County, Pa., out of any money in the Treasury not otherwise appropriated, the sum of $300, being for commutation money alleged to have been unlawfully collected from him by the military authorities of the United States April 5, 1864.

The bill was ordered to be laid aside with a favorable recommendation.

C. R. WILLIAMS.

The next business on the Private Calendar was the bill (H. R. 14341) for the relief of C. R. Williams.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to C. R. Williams, of Rutherford County, Tenn., out of any money in the Treasury not otherwise appropriated, the sum of $200, for one mare taken and used by the military forces of the United States during the late civil war.

The bill was ordered to be laid aside with a favorable recommendation.

CARL F. KOLBE.

The next business on the Private Calendar was the bill (H. R. 6837) for the relief of Carl F. Kolbe.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of $164.95, to Carl F. Kolbe, of Akron, Ohio, a reimbursement of money to the said Kolbe of the above-named sum which was paid out in cash by him in 1861, while acting under orders and by directions of the colonel of the First West Virginia Cavalry, the said sum of money being paid out by the said Kolbe for transportation and subsistence of the First West Virginia Cavalry Band, which band was recruited and transported by the said Kolbe at his own expense, in compliance with the orders received from the colonel of the said regiment; and that the money appropriated for this use shall be immediately available.

Mr. PAYNE. I am a little thirsty to know what the circumstances were about this claim for money paid forty-seven years ago.

Mr. MAHON. The bill explains itself.

Mr. PAYNE. There was an overflowing Treasury most of the time.

Mr. MAHON. An officer of the United States Army ordered this man to do this, he paid the railroad fares of the men and the Government has never paid him. They give no reason why they have kept this money for forty-five years without interest.

Mr. PAYNE. It ought to be pretty well authenticated.

Mr. MAHON. It is well authenticated.

Mr. PAYNE. Was it recommended by an officer? There is ample provision of law, and the Department is always open to hear such things.

Mr. SOUTHARD. The only affidavit in the case is his own affidavit and the affidavit of the colonel of the regiment who directed him to assemble this band. He organized them out in Ohio and brought them to West Virginia.

Mr. PAYNE. What became of the band?

Mr. SOUTHARD. Well, the band remained in the service a while and was discharged.

Mr. PAYNE. Were they mustered in?

Mr. SOUTHARD. Oh, yes. I will say there is the evidence of the man himself and the colonel of the regiment. The claim or statement of it was made out promptly at the time, but was not presented until some time afterwards. The colonel of the regiment also makes an affidavit that is printed in the report. That is the evidence. The claim seems to be well authenticated.

Mr. PAYNE. Why was it not paid before?

Mr. SOUTHARD. For the same reason that a great many other claims have not been paid before. When it was presented there was no money to pay it and the statute of limitations run against it. There seems to be no question about the facts.

Mr. PAYNE. When was it first presented?

Mr. SOUTHARD. Oh, I do not remember; but years after the war. The statement is made that the reason why it was not presented is this: The bill was made out promptly, just after the band was mustered in, but the bill was lost for a time and was not presented to the Government for a number of years. When it was presented to the Government it was not paid, and my recollection is that the reason given was that the statute of limitations had run against it. There was some question as to whether all of the bill was a proper charge against the Government, but I think it has been determined that it is a proper charge. It is a small bill of two or three hundred dollars.

Mr. PAYNE. Why did not the Government in the time of it pay that which was a proper charge?

Mr. SOUTHARD. You might ask the same question with reference to many other bills that appear on this Calendar.

Mr. PAYNE. That does not answer the question. Concerning a great many of these bills, people do not know that they have any claim, do not know the law, and I am sorry to say that sometimes they do not know the facts, until a claim agent hunts them up and tells them what they are in order to present the claim.

Mr. SOUTHARD. There seems to be no question about this. The band was recruited and was maintained for a time, there is no question about that. This man Kolbe paid the expenses of the band, paid for its subsistence, paid its traveling expenses to Wheeling, W. Va., where the band was mustered in, and the bill is correct.

Mr. PAYNE. The amount does not seem to be very large.

Mr. BOWERSOCK. I should like to ask the gentleman from Ohio if it was shown that the band was actually mustered in?

Mr. SOUTHARD. There is no question made by the Department but that the band was mustered in, and the colonel of the regiment makes affidavit or statement to that effect, which is printed in the report.

The bill was ordered to be laid aside to be reported to the House with a favorable recommendation.

RHODE ISLAND.

The next business on the Private Calendar was the bill (H. R. 5330) for the relief of the State of Rhode Island.

The bill as proposed to be amended by the Committee on War Claims was read, as follows:

Strike out all after the enacting clause and insert:

"That the Secretary of the Treasury is hereby directed to resettle and readjust the claim of the State of Rhode Island for and on account of its expenditures in raising volunteers during the war with Spain. And in said resettlement and readjustment the same rules shall be applied as have been applied by the Auditor and Comptroller in the settlement of the like claims of other States. And allowances shall also be made in such resettlement and readjustment of the same class or character of items disallowed that were disallowed in the settlement of the like claim of the State of Iowa, for which appropriation was made under the provisions of the act of Congress approved March 3, 1901."

Mr. PAYNE. Mr. Chairman, I should like to have the gentleman from Rhode Island make an explanation of his bill.

Mr. CAPRON. Mr. Chairman, in the adjustment of the claims of the State of Rhode Island growing out of the Spanish war there were disallowed a number of claims. Unfortunately, in that State the elections of State officers occur annually, and so the attorney having this claim in charge went out and another one came in, and the disallowed items were not understood to be valid. Later, the claim of the State of Iowa for precisely the same kind of items was allowed, and this bill is now introduced for the purpose of sending the claim of the State of Rhode Island to the Court of Claims under precisely the same circumstances as those which appeared in the Iowa case. This case is precisely on all fours with that of the State of Iowa.

Mr. Chairman, as I understand the gentleman, it is only very recently that the authorities in Rhode Island have come to a proper understanding as to this item of claim, and that only after being educated by the people of Iowa. I want to say that the explanation is entirely satisfactory to me. [Laughter.]

Mr. CAPRON. The gentleman from New York is entirely wrong, but if he is satisfied I am. [Laughter.]

The amendment was agreed to.

The bill was ordered to be laid aside to be reported to the House with a favorable recommendation.

ESTATE OF CHARLES E. RUSSELL.

The next business on the Private Calendar was the bill (H. R. 16015) for the relief of the estate of Capt. Charles Russell.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury of the United States not otherwise appropriated, to the estate of Capt. Charles E. Russell, deceased, the sum of $721.86, being the amount due to the said Russell on salary while serving as quartermaster, Eighth United States Infantry, who died in the service May 26, 1902, before he had time to prepare a proper settlement with the United States Government, which settlement was being prepared by said officer at the time of his death.

The following amendment recommended by the committee was read:

In line 8 strike out the words "on salary" and insert "for money disbursed."

Mr. PAYNE. I would like to ask the gentleman from Pennsylvania, the chairman of the committee, what the facts are in this case.

Mr. MAHON. The facts are stated in the report.

The object of the bill is to reimburse the estate of Charles E. Russell for money disbursed while serving as quartermaster in the Philippines. This officer died, and on an investigation of his papers it shows that he had paid out quartermaster's property, $24.61; emergency fund, $332.73; regular supplies, $217.18; Army transportation, $147.34—amounting in all to $694.14. Various papers and books containing memoranda made by the officer indicate that he had in course of preparation vouchers of disbursements made by him, among them surrendered arms paid for by him, amounting to $850 in Mexican currency, or, approximately, $425 in United States currency; 77 cords of wood, and 1,752 pounds of zacate, and this will more than balance the amount charged against him.

The whole case is that this officer died while making up the report and practically had paid out all of this money for legitimate purposes under the law. After careful examination of the papers left in his tent and chest it was found that he had paid out more money than he had credit for. It is not an old case, but it is one that ought to be paid. If the officer had lived he would have got the credit at the Department.

The amendment was agreed to.

The bill was ordered to be laid aside to be reported to the House with a favorable recommendation.

BENJAMIN LILLARD.

The next business on the Private Calendar was the bill (H. R. 670) for the relief of the legal representatives of the estate of Benjamin Lillard, deceased.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Treasury is hereby authorized and directed to pay to the legal representatives of the estate of Benjamin Lillard, deceased, late of Rutherford County, State of Tennessee, $16,865, the finding of the Court of Claims certified to Congress on December 19, 1904.

The following amendment was recommended by the committee:

In line 4, after the word "pay," insert the words "out of any money in the Treasury not otherwise appropriated."

Mr. PAYNE. This is a considerable amount, and I hope the gentleman from Pennsylvania, chairman of the committee, will give us a full explanation.

Mr. MAHON. Mr. Chairman, it appears from the evidence that Benjamin Lillard, deceased, the person from whom the property is alleged to have been taken, was loyal to the Government of the United States throughout the war for the suppression of the rebellion.

There was taken from the claimant's decedent, in the county of Rutherford, State of Tennessee, during the war, by the military forces of the United States for the use of the Army, property reasonably worth the sum of $16,865. No payment has ever been made for the same.

This was for stores, grain, horses, wood, and hay, and there is no cotton in the case at all; they would not hear anything about cotton. Those are the facts as found by the court. I think the claim originally mounted way up into $30,000 or $40,000, but the court cut it down to $16,000.

The amendment was agreed to.

The bill was ordered to be laid aside with a favorable recommendation.

JOSEPH M. WITT.

The next business on the Private Calendar was House resolution No. 278.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 4401) for the relief of the estate of Joseph M. Witt, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

J. B. FULLER.

The next business on the Private Calendar was House resolution No. 279.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 8001) for the relief of the heirs of J. B. Fuller, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

HARDIN P. FRANKLIN.

The next business on the Private Calendar was House resolution No. 280.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 8002) for the relief of the heirs of Hardin P. Franklin, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

JOHN H. RECORD.

The next business on the Private Calendar was House resolution No. 281.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 8003) for the relief of the administratrix of John H. Record, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

ALFRED SWEARINGIN.

The next business on the Private Calendar was House resolution No. 282.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 7987) for the relief of the estate of Alfred Swearingin, deceased, late of De Soto County, Miss., with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

ANDREW B. CONLEY.

The next business on the Private Calendar was House resolution No. 283.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 7990) for the relief of the estate of Andrew B. Conley, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

JOHN PARHAM.

The next business on the Private Calendar was House resolution No. 284.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 7996) for the relief of the heirs of John Parham, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

A. M. DOAK.

The next business on the Private Calendar was House resolution No. 285.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 8035) for the relief of the estate of A. M. Doak, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

JOHN D. MARTIN.

The next business on the Private Calendar was House resolution No. 286.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 8036) for the relief of the heirs of John D. Martin, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

W. T. EASON.

The next business on the Private Calendar was House resolution No. 287.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 7993) for the relief of the estate of W. T. Eason, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

MRS. E. J. MATLOCK.

The next business on the Private Calendar was House resolution No. 288.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 7994) for the relief of the estate of Mrs. E. J. Matlock, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

MRS. CHARITY CLEMENTS.

The next business on the Private Calendar was House resolution No. 289.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 7995) for the relief of the heirs of Mrs. Charity Clements, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

WILLIAM M. KIMMONS.

The next business on the Private Calendar was resolution No. 290.

The Clerk read as follows:

Resolved, That the bill (H. R. 7999) for the relief of the heirs of William M. Kimmons, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

JACOB JOINER.

The next business on the Private Calendar was resolution No. 291.

The Clerk read as follows:

Resolved, That the bill (H. R. 8037) for the relief of the estate of Jacob Joiner, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

WILLIAM BAILEY.

The next business on the Private Calendar was resolution No. 292.

The Clerk read as follows:

Resolved, That the bill (H. R. 13066) for the relief of the heirs of William Bailey, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

WILLIS J. MORAN.

The next business on the Private Calendar was resolution No. 293.

The Clerk read as follows:

Resolved, That the bill (H. R. 7991) for the relief of Willis J. Moran, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

JOHN HEBERER.

The next business on the Private Calendar was resolution No. 294.

The Clerk read as follows:

Resolved, That the bill (H. R. 4113) for the relief of John Heberer, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

M. V. STEARNES.

The next business on the Private Calendar was resolution No. 295.

The Clerk read as follows:

Resolved, That the bill (H. R. 12107) for the relief of M. V. Stearnes, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

M. LIGHT.

The next business on the Private Calendar was resolution No. 296.

The Clerk read as follows:

Resolved, That the bill (H. R. 12117) for the relief of the estate of M. Light, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

J. C. WEST.

The next business on the Private Calendar was resolution No. 297.

The Clerk read as follows:

Resolved, That the bill (H. R. 4119) for the relief of the estate of J. C. West, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

D. W. CARPENTER.

The next business on the Private Calendar was resolution No. 298.

The Clerk read as follows:

Resolved, That the bill (H. R. 8034) for the relief of D. W. Carpenter, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

MICHAEL DACE.

The next business on the Private Calendar was the House resolution 299.

The resolution was read, as follows:

Resolved, That the bill (H. R. 7526) for the relief of Michael Dace, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

TRUSTEES OF ALLEGHENY COLLEGE, AT BLUE SULPHUR, W. VA.

The next business on the Private Calendar was House resolution 300.

The resolution was read, as follows:

Resolved, That the bill (H. R. 8841) for the relief of the trustees of Allegheny College, at Blue Sulphur, Greenbrier County, W. Va., with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

JAMES B. PHILLIPS.

The next business on the Private Calendar was House resolution 301.

The resolution was read, as follows:

Resolved, That the bill (H. R. 4112) for the relief of James B. Phillips, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

JEREMIAH H. MORGAN.

The next business on the Private Calendar was House resolution 302.

The resolution was read, as follows:

Resolved, That the bill (H. R. 8039) for the relief of Jeremiah H. Morgan, of Benton County, Miss., with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

HEIRS OF JOHNATHAN DAVIS.

The next business on the Private Calendar was House resolution 303.

The resolution was read, as follows:

Resolved, That the bill (H. R. 8004) for the relief of the heirs of Johnathan Davis, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

HEIRS OF JOHN P. CARUTHERS.

The next business on the Private Calendar was House resolution 304.

The resolution was read, as follows:

Resolved, That the bill (H. R. 8005) for the relief of the heirs of John P. Caruthers, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

ESTATE OF W. F. GAINES.

The next business on the Private Calendar was House resolution 305.

The resolution was read, as follows:

Resolved, That the bill (H. R. 8040) for the relief of the estate of W. F. Gaines, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

JOHN A. FAIRFAX.

The next business on the Private Calendar was House resolution 307.

The resolution was read, as follows:

Resolved, That the bill (H. R. 3851) for the relief of John A. Fairfax, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

EDWARD A. RUDER.

The next business on the Private Calendar was House resolution 306.

The resolution was read, as follows:

Resolved, That the bill (H. R. 4144) for the relief of Edward A. Ruder, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

GEORGE W. GUZER.

The next business on the Private Calendar was House resolution 308.

The resolution was read, as follows:

Resolved, That the bill (H. R. 5166) for the relief of George W. Guzer, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

ESTATE OF DEWITT SLAWSON.

The next business on the Private Calendar was House resolution 309.

The resolution was read, as follows:

Resolved, That the bill (H. R. 4390) for the relief of the estate of Dewitt Slawson, deceased, with all accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

OLD SCHOOL PRESBYTERIAN CHURCH, PANOLA, MISS.

The next business on the Private Calendar was House resolution 310.

The resolution was read, as follows:

Resolved, That the bill (H. R. 8033) for the relief of the Old School Presbyterian Church, at the town of Panola, in Panola County, Miss., with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

HEIRS OF W. E. TOMLINSON.

The next business on the Private Calendar was House resolution 311.

The resolution was read, as follows:

Resolved, That the bill (H. R. 8006) for the relief of the heirs of W. E. Tomlinson, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

W. M. M'KIE.

The next business on the Private Calendar was House resolution 312.

The resolution was read, as follows:

Resolved, That the bill (H. R. 12061) for the relief of W. M. M'Kie, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

ESTATE OF ARCHIBALD W. TANNER.

The next business on the Private Calendar was House resolution 313.

The resolution was read, as follows:

Resolved, That the bill (H. R. 4503) for the relief of the estate of Archibald W. Tanner, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

JAMES H. BIRCH.

The next business on the Private Calendar was House resolution 314.

The resolution was read, as follows:

Resolved, That the bill (H. R. 12536) for the relief of James H. Birch, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

HEIRS OF MRS. POLLY CALLAHAN.

The next business on the Private Calendar was House resolution 315; which was read by the Clerk, as follows:

Resolved, That the bill (H. R. 8031) for the relief of the heirs of Mrs. Polly Callahan, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside to be reported to the House with a favorable recommendation.

THOMAS G. VERDINE.

The next business on the Private Calendar was House resolution 316; which was read by the Clerk, as follows:

Resolved, That the bill (H. R. 4568) for the relief of Thomas G. Verdine, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside to be reported to the House with a favorable recommendation.

MINOR SAUNDERS.

The next business on the Private Calendar was House resolution 317; which was read by the Clerk, as follows:

Resolved, That the bill (H. R. 7992) for the relief of Minor Saunders, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside to be reported to the House with a favorable recommendation.

ROBERT M. WILLIAMSON.

The next business on the Private Calendar was House resolution 318; which was read by the Clerk, as follows:

Resolved, That the bill (H. R. 9558) for the relief of Robert M. Williamson, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside to be reported to the House with a favorable recommendation.

LEGAL REPRESENTATIVES OF J. P. LAMAR.

The next business on the Private Calendar was House resolution 319; which was read by the Clerk, as follows:

Resolved, That the bill (H. R. 4576) for the relief of the legal representatives of J. P. Lamar, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside to be reported to the House with a favorable recommendation.

AARON B. STRIPLING.

The next business on the Private Calendar was House resolution 320; which was read by the Clerk, as follows:

Resolved, That the bill (H. R. 4567) for the relief of Aaron B. Stripling, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside to be reported to the House with a favorable recommendation.

HEIRS OF ARCHIE B. FORBESS.

The next business on the Private Calendar was House resolution 321; which was read by the Clerk, as follows:

Resolved, That the bill (H. R. 1023) for the relief of the heirs of Archie B. Forbess, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside to be reported to the House with a favorable recommendation.

ESTATE OF ABNER W. LANIER.

The next business on the Private Calendar was House resolution 322; which was read by the Clerk, as follows:

Resolved, That the bill (H. R. 13062) for the relief of the estate of Abner W. Lanier, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside to be reported to the House with a favorable recommendation.

HEIRS OF SAMUEL SCOTT.

The next business on the Private Calendar was House resolution 323; which was read by the Clerk, as follows:

Resolved, That the bill (H. R. 7998) for the relief of the heirs of Samuel Scott, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside to be reported to the House with a favorable recommendation.

WILLIAM B. PAYNE.

The next business on the Private Calendar was House resolution 324; which was read by the Clerk, as follows:

Resolved, That the bill (H. R. 14564) for the relief of William B. Payne, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act, upon the records, files, and papers on file in said court, and particularly the records and papers on file in Congressional case No. 11169.

The resolution was ordered to be laid aside to be reported to the House with a favorable recommendation.

EMILY R. HATHORN.

The next business on the Private Calendar was House resolution 325; which was read by the Clerk, as follows:

Resolved, That the bill (H. R. 4575) for the relief of the heirs at law of Emily R. Hathorn, deceased, with all the accompanying papers, be, and same is hereby, referred to Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside to be reported to the House with a favorable recommendation.

JAMES STEWART AND JOHN LEE M'MICHAEL.

The next business on the Private Calendar was House resolution 326; which was read by the Clerk, as follows:

Resolved, That the bill (H. R. 13453) for the relief of the heirs of James Stewart and John Lee McMichael, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside to be reported to the House with a favorable recommendation.

DANIEL BREWER.

The next business on the Private Calendar was House resolution 327; which was read by the Clerk, as follows:

Resolved, That the bill (H. R. 4572) for the relief of the estate of Daniel Brewer, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside to be reported to the House with a favorable recommendation.

SAMUEL M. FARRAR.

The next business on the Private Calendar was House resolution 328; which was read by the Clerk, as follows:

Resolved, That the bill (H. R. 4573) for the relief of the estate of Samuel M. Farrar, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside to be reported to the House with a favorable recommendation.

JOSEPH N. MORAN.

The next business on the Private Calendar was House resolution 329; which was read by the Clerk, as follows:

Resolved, That the bill (H. R. 7988) for the relief of the estate of Joseph N. Moran, deceased, late of Benton County, Miss., with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside to be reported to the House with a favorable recommendation.

MARK H. HARWELL.

The next business on the Private Calendar was House resolution 330; which was read by the Clerk, as follows:

Resolved, That the bill (H. R. 13064) for the relief of the estate of Mark H. Harwell, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside to be reported to the House with a favorable recommendation.

FLAT CREEK BAPTIST CHURCH, PETTIS COUNTY, MO.

The next business on the Private Calendar was House resolution 331; which was read by the Clerk, as follows:

Resolved, That the bill (H. R. 11181) for the relief of the Flat Creek Baptist Church, of Pettis County, Mo., with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside to be reported to the House with a favorable recommendation.

PASCHAL HENSHAW.

The next business on the Private Calendar was House resolution 332; which was read by the Clerk, as follows:

Resolved, That the bill (H. R. 5922) for the relief of Paschal Henshaw, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside to be reported to the House with a favorable recommendation.

HARRIET W. FLEMING.

The next business on the Private Calendar was House resolution 333; which was read by the Clerk, as follows:

Resolved, That the bill (H. R. 13063) for the relief of the estate of Harriet W. Fleming, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside to be reported to the House with a favorable recommendation.

FRANCIS S. JONES.

The next business on the Private Calendar was House resolution 334; which was read by the Clerk, as follows:

Resolved, That the bill (H. R. 13065) for the relief of the estate of Francis S. Jones, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside to be reported to the House with a favorable recommendation.

G. W. CLARK & SON.

The next business on the Private Calendar was House resolution No. 335.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 4574) for the relief of G. W. Clark & Son, a firm composed of G. W. Clark and J. H. Clark, of Spalding County, Ga., with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

S. C. STEWART.

The next business on the Private Calendar was House resolution No. 336.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 5476) for the relief of S. C. Stewart, administrator of Dr. J. M. Curry, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

GEORGE K. KIRCHNER.

The next business on the Private Calendar was House resolution No. 337.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 4175) for the relief of George K. Kirchner, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known act the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

MRS. ISABELLA R. NAPIER.

The next business on the Private Calendar was House resolution No. 338.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 4571) for the relief of Mrs. Isabella R. Napier, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

SABINI JONES.

The next business on the Private Calendar was House resolution No. 339.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 4577) for the relief of Sabini Jones, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

JOHN C. M'GEHEE.

The next business on the Private Calendar was House resolution No. 340.

The Clerk read the resolution, as follows:

Resolved, That the bill (H. R. 8038) for the relief of the heirs of John C. McGehee, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The resolution was ordered to be laid aside with a favorable recommendation.

WIDOWS AND SONS OF CHARLES W. DAKIN AND THOMAS J. HENNESSY.

The next business on the Private Calendar was the bill (H. R. 5969) to reward the widow and minor son of Capt. Charles W. Dakin and the widow and minor children of Thomas J. Hennessy, late of the San Francisco fire department, who lost their lives while fighting a fire on board of the United States Army transport *Meade*.

The Clerk reported the title of the bill.

Mr. MAHON. Mr. Chairman, that is not a war claim, and I make the point of order.

The CHAIRMAN. Will the gentleman from Pennsylvania please state his point of order?

Mr. MAHON. The point of order is that that does not come through the Committee on War Claims. It is not a war claim and can not be considered to-day under the rule.

The CHAIRMAN. This day is not exclusively for war claims.

Mr. MAHON. It is, outside of the Committee on Claims.

The CHAIRMAN. The bill that has just been reported comes from the Committee on Military Affairs. It is not a claim. The Committee on War Claims has precedence over the Committee on Claims on this day, but not over other committees who have bills on the Private Calendar.

Mr. MAHON. Mr. Chairman, then I now move that the committee rise and report the several bills and resolutions to the House with a recommendation that the amendments thereto be agreed to, and that the bills as amended and the resolutions do pass.

Mr. SOUTHARD. Mr. Chairman, before that motion is put I desire to ask unanimous consent——

The CHAIRMAN. Does the gentleman from Pennsylvania yield to the gentleman from Ohio?

Mr. MAHON. Mr. Chairman, I would like to, but we have to get these bills through the House to-night, and I would like to do it, but I can not yield.

The CHAIRMAN. The question is on the motion of the gentleman from Pennsylvania that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. CRUMPACKER, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration bills on the Private Calendar and had directed him to report sundry private bills, some with amendments and some without, and sundry resolutions with the recommendation that the amendments be agreed to and that the bills as amended and the resolutions do pass; and also that the bill H. R. 9569 do lie on the table.

Mr. MAHON. Mr. Speaker, I move the previous question on all the bills and resolutions and amendments thereto to their final passage.

The SPEAKER. The gentleman from Pennsylvania asks unanimous consent to order the previous question on all bills and resolutions and amendments thereto to their final passage. Is there objection? [After a pause.] The Chair hears none.

Mr. MAHON. Mr. Speaker, I think probably it might be proper to ask unanimous consent to let these resolutions go through en bloc in order to save time.

The SPEAKER. The gentleman from Pennsylvania asks unanimous consent that sundry resolutions reported from the Committee of the Whole shall be considered as agreed to.

Mr. PAYNE. Mr. Speaker, I have no objection.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

PRIVATE BILLS AND RESOLUTIONS PASSED.

The House then proceeded to a consideration of the resolutions and bills just reported from the Committee of the Whole House.

House resolutions of the following titles, favorably reported by the Committee of the Whole House without amendment, were considered en bloc, and agreed to:

H. Res. 136. A resolution referring the bill (H. R. 6018) for the relief of S. D. Sprinkle, with all the accompanying papers, to the Court of Claims;

H. Res. 138. A resolution referring House bill 7753 to the Court of Claims;

H. Res. 139. A resolution referring House bill 1020 to the Court of Claims;

H. Res. 140. A resolution (in lieu of H. R. 10482) referring to the Court of Claims the claim of the owner of the barge *Charlie;*

H. Res. 137. A resolution (in lieu of H. R. 9008) referring to Court of Claims the claim of the legal representatives of John McCabe and Patrick McCabe, deceased;

H. Res. 141. A resolution (in lieu of H. R. 3210) referring to Court of Claims the claim of Sarah H. Milvaney;

H. Res. 142. A resolution (in lieu of H. R. 10953) referring to Court of Claims the claim of the legal representatives of William A. Henderson, deceased;

H. Res. 143. A resolution (in lieu of H. R. 10952) referring to Court of Claims the claim of W. C. Waldrop, administrator of the estate of Millington Waldrop, deceased;

H. Res. 161. A resolution (in lieu of H. R. 2299) referring to Court of Claims the claim of W. M. Justice, of Hunt County, Tex.;

H. Res. 162. A resolution (in lieu of H. R. 8838) referring to Court of Claims the claim of Joseph Loudermilk, of Monroe County, W. Va.;

H. Res. 163. A resolution (in lieu of H. R. 1272) referring to Court of Claims the claim of the representatives of the estate of Reuben Dawkins, deceased;

H. Res. 164. A resolution (in lieu of H. R. 2302) referring to Court of Claims the claim of the legal representatives of Jonathan Holmes, deceased;

H. Res. 165. A resolution (in lieu of H. R. 6938) referring to the Court of Claims the claim of Mrs. R. D. Smith;

H. Res. 166. A resolution (in lieu of H. R. 12436) referring to Court of Claims the claim of the legal representatives of William A. Crawford, deceased;

H. Res. 167. A resolution (in lieu of H. R. 2301) referring to Court of Claims the claim of the legal representatives of Dr. Thomas B. Walters, deceased;

H. Res. 168. A resolution (in lieu of H. R. 2303) referring to Court of Claims the claim of the estate of J. V. McDaniel, deceased;

H. Res. 169. A resolution (in lieu of H. R. 12408) referring to Court of Claims the claim of the estate of John Holleman, deceased;

H. Res. 170. A resolution (in lieu of H. R. 6978) referring to Court of Claims the claim of Robert Tillson & Co., a partnership composed of Robert Tillson and Maitland Boon;

H. Res. 171. A resolution (in lieu of H. R. 4330) referring to Court of Claims the claim of Felix Weeden;

H. Res. 172. A resolution (in lieu of H. R. 10929) referring to Court of Claims the claim of the estate of John North, deceased;

H. Res. 173. A resolution (in lieu of H. R. 1278) referring to Court of Claims the claim of A. J. Smith;

H. Res. 174. A resolution (in lieu of H. R. 11055) referring to Court of Claims the claim of Miller Smith;

H. Res. 175. A resolution (in lieu of H. R. 1271) referring to Court of Claims the claim of Mary F. Casey Tucker;

H. Res. 176. A resolution (in lieu of H. R. 1270) referring to Court of Claims the claim of the heirs of T. L. Scott, deceased;

H. Res. 177. A resolution (in lieu of H. R. 4034) referring to Court of Claims the claim of A. G. Hawkins;

H. Res. 178. A resolution (in lieu of H. R. 4238) referring to Court of Claims the claim of Jane Lemaster;

H. Res. 179. A resolution (in lieu of H. R. 6230) referring to Court of Claims the claim of the heirs of Robert B. Love, deceased;

H. Res. 180. A resolution (in lieu of H. R. 7989) referring to Court of Claims the claim of J. J. Miller, of De Soto County, Miss.;

H. Res. 183. A resolution (in lieu of H. R. 7641) referring to Court of Claims the claim of James N. Richards;

H. Res. 184. A resolution (in lieu of H. R. 7645) referring to Court of Claims the claim of the estate of John Williams, deceased;

H. Res. 185. A resolution (in lieu of H. R. 11901) referring to Court of Claims the claim of the estate of D. L. Pritchard, deceased;

H. Res. 186. A resolution (in lieu of H. R. 8260) referring to Court of Claims the claim of the legal representatives of J. H. Brantly, deceased;

H. Res. 187. A resolution (in lieu of H. R. 9559) referring to Court of Claims the claim of Mrs. Sarah C. Bryan;

H. Res. 188. A resolution (in lieu of H. R. 6438) referring to Court of Claims the claim of Joel Cross;

H. Res. 189. A resolution (in lieu of H. R. 1276) referring to Court of Claims the claim of Mrs. L. E. Boatwright;

H. Res. 190. A resolution (in lieu of H. R. 3975) referring to Court of Claims the claim of M. F. Thomas;

H. Res. 191. A resolution (in lieu of H. R. 5923) referring to Court of Claims the claim of M. J. Conley, heir of Harmon Conley, deceased;

H. Res. 213. A resolution (in lieu of H. R. 7642) referring to Court of Claims the claim of Peter Williams;

H. Res. 214. A resolution (in lieu of H. R. 539) referring to Court of Claims the claim of Edward Cahalan;

H. Res. 215. A resolution (in lieu of H. R. 1277) referring to Court of Claims the claim of the administrators, as such, of the estate of Ira T. Jordan, deceased;

H. Res. 216. A resolution (in lieu of H. R. 13128) referring to Court of Claims the claim of the estate of H. S. Simmons, deceased;

H. Res. 217. A resolution (in lieu of H. R. 11583) referring to Court of Claims the claim of the estate of Noah King, deceased;

H. Res. 218. A resolution (in lieu of H. R. 11258) referring to Court of Claims the claim of the heirs of John Patterson;

H. Res. 219. A resolution (in lieu of H. R. 8655) referring to Court of Claims the claim of the legal heirs of Raphael L. David, deceased;

H. Res. 220. A resolution (in lieu of H. R. 7640) referring to Court of Claims the claim of the estate of Wiley B. Brigance, deceased;

H. Res. 221. A resolution (in lieu of H. R. 11255) referring to Court of Claims the claim of the estate of A. P. Gafford, deceased;

H. Res. 222. A resolution (in lieu of H. R. 4376) referring to Court of Claims the claim of Francis M. Sheppard;

H. Res. 223. A resolution (in lieu of H. R. 7886) referring to Court of Claims the claim of the heirs of John McH. Kelley and Allie V. Kelley;

H. Res. 224. A resolution (in lieu of H. R. 12750) referring to Court of Claims the claim of B. F. Moody & Co., or their legal representatives;

H. Res. 226. A resolution (in lieu of H. R. 6674) referring to Court of Claims the claim of the First Presbyterian Church at Lebanon, Ky.;

H. Res. 227. A resolution (in lieu of H. R. 6677) referring to Court of Claims the claim of the Baptist Church at Bloomfield, Ky.;

H. Res. 228. A resolution (in lieu of H. R. 3473) referring to Court of Claims the claim of James T. Caldwell;

H. Res. 229. A resolution (in lieu of H. R. 4372) referring to Court of Claims the claim of Louis Benecke;

H. Res. 230. A resolution (in lieu of H. R. 12006) referring to Court of Claims the claim of the trustees of Ivey Memorial Chapel, Chesterfield County, Va.;

H. Res. 231. A resolution (in lieu of H. R. 11584) referring to Court of Claims the claim of the estate of J. W. Marshal, deceased;

H. Res. 232. A resolution (in lieu of H. R. 3468) referring to Court of Claims the claim of James T. Caldwell;

H. Res. 233. A resolution (in lieu of H. R. 3471) referring to Court of Claims the claim of William M. Mantlo;

H. Res. 234. A resolution (in lieu of H. R. 13591) referring to Court of Claims the claim of John B. Hannah;

H. Res. 235. A resolution (in lieu of H. R. 3478) referring to Court of Claims the claim of the personal representatives of the estate of Alexander Myers, deceased;

H. Res. 236. A resolution (in lieu of H. R. 3475) referring to Court of Claims the claim of the heirs of Samuel Ayres;

H. Res. 237. A resolution (in lieu of H. R. 3472) referring to Court of Claims the claim of Mrs. Ellen H. Smith;

H. Res. 238. A resolution (in lieu of H. R. 3476) referring to Court of Claims the claim of the trustees of Liberty Baptist Church, New Kent County, Va.;

H. Res. 239. A resolution (in lieu of H. R. 3479) referring to Court of Claims the claim of the trustees of Fourmile Creek Baptist Church;

H. Res. 240. A resolution (in lieu of H. R. 3469) referring to Court of Claims the claim of Margaret Myers;

H. Res. 241. A resolution (in lieu of H. R. 3477) referring to Court of Claims the claim of the trustees of Westover Church, Charles City County, Va.;

H. Res. 242. A resolution (in lieu of H. R. 4839) referring to Court of Claims the claim of the estate of David Wise;

H. Res. 243. A resolution (in lieu of H. R. 13462) referring to Court of Claims the claim of President Walraven;

H. Res. 244. A resolution (in lieu of H. R. 6765) referring to Court of Claims the claim of the estate of Thomas Heyser;

H. Res. 245. A resolution (in lieu of H. R. 13461) referring to Court of Claims the claim of the estate of Enoch Humphreys, deceased;

H. Res. 246. A resolution (in lieu of H. R. 5821) referring to Court of Claims the claim of N. C. Fears, administrator of the estate of W. S. Fears, deceased.

H. Res. 247. A resolution (in lieu of H. R. 3619) referring to Court of Claims the claim of the trustees of the Cumberland Presbyterian Church, of Pulaski, Tenn.

H. Res. 248. A resolution (in lieu of H. R. 13459) referring to Court of Claims the claim of David H. Neely and Jane A. Neely;

H. Res. 249. A resolution (in lieu of H. R. 3650) referring to

Court of Claims the claim of the vestry of St. Peter's Protestant Episcopal Church, of Columbia, Tenn.

H. Res. 250. A resolution (in lieu of H. R. 11252) referring to Court of Claims the claim of the Presbyterian Church of Glasgow, Howard County, Mo.;

H. Res. 251. A resolution (in lieu of H. R. 8600) referring to Court of Claims the claim of W. N. Hedden;

H. Res. 252. A resolution (in lieu of H. R. 3666) referring to Court of Claims the claim of the estate of J. J. Walker for stores and supplies;

H. Res. 253. A resolution (in lieu of H. R. 3658) referring to Court of Claims the claim of the trustees of the Methodist Episcopal Church South, of Triune, Williamson County, Tenn.;

H. Res. 254. A resolution (in lieu of H. R. 4868) referring to Court of Claims the claim of Joseph T. Chance and the heirs of John R. Burton, deceased, late of Accomac County, Va.;

H. Res. 255. A resolution (in lieu of H. R. 6809) referring to Court of Claims the claim of W. J. Craddock;

H. Res. 256. A resolution (in lieu of H. R. 6810) referring to Court of Claims the claim of Stephen F. Fulford;

H. Res. 257. A resolution (in lieu of H. R. 4235) referring to Court of Claims the claim of the estate of Robert M. Williams, deceased;

H. Res. 258. A resolution (in lieu of H. R. 13460) referring to Court of Claims the claim of the estate of William Lewis, deceased;

H. Res. 259. A resolution (in lieu of H. R. 13452) referring to Court of Claims the claim of the heirs of Larkin Clark, deceased;

H. Res. 261. A resolution (in lieu of H. R. 3959) referring to Court of Claims the claim of the trustees of the Methodist Episcopal Church South, of Pine Bluff, Ark.;

H. Res. 265. A resolution (in lieu of H. R. 10475) referring to Court of Claims the claim of the legal representatives of the estate of Isaac Johnson, deceased;

H. Res. 278. A resolution (in lieu of H. R. 4401) referring to Court of Claims the claim of the estate of Joseph M. Witt;

H. Res. 279. A resolution (in lieu of H. R. 8001) referring to Court of Claims the claim of the heirs of J. B. Fuller, deceased;

H. Res. 280. A resolution (in lieu of H. R. 8002) referring to Court of Claims the claim of the heirs of Hardin P. Franklin, deceased;

H. Res. 281. A resolution (in lieu of H. R. 8003) referring to Court of Claims the claims of the administratrix of John H. Record, deceased;

H. Res. 282. A resolution (in lieu of H. R. 7987) referring to Court of Claims the claim of the estate of Alfred Swearingin, deceased;

H. Res. 283. A resolution (in lieu of H. R. 7990) referring to Court of Claims the claim of the estate of Andrew B. Conley, deceased;

H. Res. 284. A resolution (in lieu of H. R. 7996) referring to Court of Claims the claim of the heirs of John Parham, deceased;

H. Res. 285. A resolution (in lieu of H. R. 8035) referring to Court of Claims the claim of the estate of A. M. Doak, deceased;

H. Res. 286. A resolution (in lieu of H. R. 8036) referring to Court of Claims the claim of the heirs of John D. Martin, deceased;

H. Res. 287. A resolution (in lieu of H. R. 7993) referring to Court of Claims the claim of the heirs of W. T. Eason, deceased;

H. Res. 288. A resolution (in lieu of H. R. 7994) referring to Court of Claims the claim of the estate of Mrs. E. J. Matlock, deceased;

H. Res. 289. A resolution (in lieu of H. R. 7995) referring to Court of Claims the claim of the heirs of Mrs. Charity Clements, deceased;

H. Res. 290. A resolution (in lieu of H. R. 7999) referring to Court of Claims the claim of the heirs of William M. Kimmons, deceased;

H. Res. 291. A resolution (in lieu of H. R. 8037) referring to Court of Claims the claim of the estate of Jacob Joiner, deceased;

H. Res. 292. A resolution (in lieu of H. R. 13066) referring to Court of Claims the claim of the heirs of William Bailey, deceased;

H. Res. 293. A resolution (in lieu of H. R. 7991) referring to Court of Claims the claim of Willis J. Moran;

H. Res. 294. A resolution (in lieu of H. R. 4113) referring to Court of Claims the claim of John Heberer;

H. Res. 295. A resolution (in lieu of H. R. 12107) referring to Court of Claims the claim of M. V. Stearnes;

H. Res. 296. A resolution (in lieu of H. R. 12117) referring to Court of Claims the claim of the estate of M. Light, deceased;

H. Res. 297. A resolution (in lieu of H. R. 4419) referring to Court of Claims the claim of the estate of J. C. West;

H. Res. 298. A resolution (in lieu of H. R. 8034) referring to Court of Claims the claim of D. W. Carpenter;

H. Res. 299. A resolution (in lieu of H. R. 7526) referring to Court of Claims the claim of Michael A. Dace;

H. Res. 300. A resolution (in lieu of H. R. 8841) referring to Court of Claims the claim of the trustees of Allegheny College, at Blue Sulphur, Greenbrier County, W. Va.;

H. Res. 301. A resolution (in lieu of H. R. 4112) referring to Court of Claims the claim of James B. Phillips;

H. Res. 302. A resolution (in lieu of H. R. 8039) referring to Court of Claims the claim of Jeremiah H. Morgan;

H. Res. 303. A resolution (in lieu of H. R. 8004) referring to Court of Claims the claim of the heirs of Jonathan Davis;

H. Res. 304. A resolution (in lieu of H. R. 8005) referring to Court of Claims the claim of the heirs of John P. Caruthers;

H. Res. 305. A resolution (in lieu of H. R. 8040) referring to Court of Claims the claim of the estate of W. F. Gaines, deceased;

H. Res. 306. A resolution (in lieu of H. R. 4114) referring to Court of Claims the claim of Edward A. Buder;

H. Res. 307. A resolution (in lieu of H. R. 3851) referring to Court of Claims the claim of John A. Fairfax;

H. Res. 308. A resolution (in lieu of H. R. 5166) referring to Court of Claims the claim of George W. Guyer;

H. Res. 309. A resolution (in lieu of H. R. 4390) referring to Court of Claims the claim of the estate of Dewitt Slawson, deceased;

H. Res. 310. A resolution (in lieu of H. R. 8033) referring to Court of Claims the claim of the Old School Presbyterian Church, at the town of Panola, in Panola County, Miss.;

H. Res. 311. A resolution (in lieu of H. R. 8006) referring to Court of Claims the claim of the heirs of W. E. Tomlinson, deceased;

H. Res. 312. A resolution (in lieu of H. R. 13061) referring to Court of Claims the claim of W. M. McKie;

H. Res. 313. A resolution (in lieu of H. R. 4569) referring to Court of Claims the claim of the estate of Archibald W. Tanner, deceased;

H. Res. 314. A resolution (in lieu of H. R. 12536) referring to Court of Claims the claim of James H. Birch;

H. Res. 315. A resolution (in lieu of H. R. 8031) referring to Court of Claims the claim of the heirs of Mrs. Polly Callahan, deceased;

H. Res. 316. A resolution (in lieu of H. R. 4568) referring to Court of Claims the claim of Thomas G. Verdine;

H. Res. 317. A resolution (in lieu of H. R. 7992) referring to Court of Claims the claim of Minor Saunders;

H. Res. 318. A resolution (in lieu of H. R. 9558) referring to Court of Claims the claim of Robert M. Williamson;

H. Res. 319. A resolution (in lieu of H. R. 4576) referring to Court of Claims the claim of the legal representatives of J. P. Lamar, deceased;

H. Res. 320. A resolution (in lieu of H. R. 4567) referring to Court of Claims the claim of Aaron B. Stripling;

H. Res. 321. A resolution (in lieu of H. R. 1023) referring to Court of Claims the claim of the heirs of Archie B. Forbess;

H. Res. 322. A resolution (in lieu of H. R. 13062) referring to Court of Claims the claim of the estate of Abner W. Lanier, deceased;

H. Res. 323. A resolution (in lieu of H. R. 7998) referring to Court of Claims the claim of the heirs of Samuel Scott, deceased;

H. Res. 324. A resolution (in lieu of H. R. 14564) referring to Court of Claims the claim of William B. Payne;

H. Res. 325. A resolution (in lieu of H. R. 4575) referring to Court of Claims the claim of the heirs at law of Emily R. Hathorn, deceased;

H. Res. 326. A resolution (in lieu of H. R. 13453) referring to Court of Claims the claim of the heirs of James Stewart and John Lee McMichael, deceased;

H. Res. 327. A resolution (in lieu of H. R. 4572) referring to Court of Claims the claim of the estate of Daniel Brewer, deceased;

H. Res. 328. A resolution (in lieu of H. R. 4573) referring to Court of Claims the claim of the estate of Samuel M. Farrar, deceased;

H. Res. 329. A resolution (in lieu of H. R. 7988) referring to Court of Claims the claim of the estate of Joseph N. Moran, deceased;

H. Res. 330. A resolution (in lieu of H. R. 13064) referring to Court of Claims the claim of the estate of Hark M. Harwell, deceased;

H. Res. 331. A resolution (in lieu of H. R. 11481) referring to Court of Claims the claim of the Flat Creek Baptist Church, of Pettis County, Mo.;

H. Res. 332. A resolution (in lieu of H. R. 5922) referring to Court of Claims the claim of Paschal Henshaw;

H. Res. 333. A resolution (in lieu of H. R. 13063) referring to Court of Claims the claim of the estate of Harriet W. Fleming, deceased;

H. Res. 334. A resolution (in lieu of H. R. 13065) referring to Court of Claims the claim of the estate of Francis S. Jones, deceased;

H. Res. 335. A resolution (in lieu of H. R. 4574) referring to Court of Claims the claim of G. W. Clark & Son, a firm composed of G. W. Clark and J. H. Clark, of Spalding County, Ga.;

H. Res. 336. A resolution (in lieu of H. R. 5476) referring to Court of Claims the claim of S. C. Stewart, administrator of the estate of Dr. J. M. Curry, deceased;

H. Res. 337. A resolution (in lieu of H. R. 4175) referring to Court of Claims the claim of George K. Kirchner for his stock of goods, taken and destroyed by Federal soldiers in the year 1862.

H. Res. 338. A resolution (in lieu of H. R. 4571) referring to Court of Claims the claim of Mrs. Izabella R. Napier;

H. Res. 339. A resolution (in lieu of H. R. 4577) referring to Court of Claims the claim of Sabini Jones; and

H. Res. 340. A resolution (in lieu of H. R. 8038) referring to Court of Claims the claim of the heirs of John C. McGehee, deceased.

House bills of the following titles, favorably reported by the Committee of the Whole House without amendment, were severally considered, ordered to be engrossed and read a third time, read the third time, and passed:

H. R. 6530. A bill for the relief of David C. McGee;

H. R. 9877. A bill for the relief of James P. Barney;

H. R. 11976. A bill for the relief of the Compañía de los Ferrocarriles de Puerto Rico;

H. R. 11108. A bill for the relief of Benjamin F. King;

H. R. 1863. A bill for the relief of M. A. McCafferty;

H. R. 8952. A bill for the relief of the trustees of Weir's Chapel, Tippah County, Miss.;

H. R. 6675. A bill for the relief of the Methodist Church at Newhaven, Ky;

H. R. 1738. A bill for the relief of Sarah A. Clapp;

H. R. 14206. A bill to carry out the findings of the Court of Claims in the case of James A. Paulk;

H. R. 1142. A bill for the relief of Ephraim Greenawalt;

H. R. 14541. A bill for the relief of C. R. Williams; and

H. R. 6837. A bill for the relief of Carl F. Kolbe.

House bills of the following titles, reported from the Committee of the Whole House with amendments, were severally considered, the amendments agreed to, the bills as amended ordered to be engrossed and read a third time, read the third time, and passed:

H. R. 1572. A bill for the relief of Thomas W. Higgins;

H. R. 10610. A bill for the relief of James N. Robinson and Sallie B. McComb;

H. R. 5927. A bill for the relief of the board of trustees of West Tennessee College, Jackson, Tenn.;

H. R. 7679. A bill for the relief of J. B. Orbison;

H. R. 5217. A bill for the relief of Agnes W. Hills and Sarah J. Hills;

H. R. 3397. A bill for the relief of John A. Meroney;

H. R. 3459. A bill for the relief of John W. Williams;

H. R. 10233. A bill for the relief of John S. Logan;

H. R. 5081. A bill for the relief of John Lewis Young;

H. R. 5539. A bill for the relief of the State of Rhode Island;

H. R. 10015. A bill for the relief of the estate of Capt. Charles E. Russell, deceased; and

H. R. 7670. A bill for the relief of the legal representatives of the estate of Benjamin Lillard, deceased.

Senate bill of the following title, favorably reported from the Committee of the Whole without amendment, was considered, ordered to a third reading, read the third time, and passed:

S. 2872. An act for the relief of the French Trans-Atlantic Cable Company.

House bill of the following title, reported from the Committee of the Whole, was laid on the table:

H. R. 9569. A bill for the relief of the Compagnie Francaise des Cables Télégraphiques.

On motion of Mr. MAHON, a motion to reconsider the votes by which the various bills and resolutions reported from the Committee on War Claims were passed was laid on the table.

ORDER OF BUSINESS.

Mr. PAYNE. Mr. Speaker, I call for the regular order.

Mr. MILLER. Mr. Speaker, I call up the unfinished business.

I call up the bill (H. R. 6982) for the relief of James W. Jones. This and the three succeeding bills were favorably reported from the Committee of the Whole House on the state of the Union and are now upon the Private Calendar for action.

The SPEAKER. The Clerk will report the first bill.

The Clerk read as follows:

A bill (H. R. 6982) for the relief of James W. Jones.

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time; was read the third time, and passed.

The SPEAKER. The Clerk will report the next bill.

The Clerk read as follows:

A bill (H. R. 10605) for the relief of Edward F. Stahl.

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time; was read the third time, and passed.

The SPEAKER. The Clerk will report the next bill.

The Clerk read as follows:

A bill (H. R. 2996) to reimburse Capt. Sidney Layland for sums paid by him while master of the U. S. transport Mobile in July and August, 1898.

The amendments were agreed to.

The bill as amended was ordered to be engrossed and read a third time; was read the third time, and passed.

The SPEAKER. The Clerk will report the next bill.

The Clerk read as follows:

A bill (H. R. 1252) for the relief of the legal representatives of Massalon Whitten, deceased.

The amendments were agreed to.

The bill as amended was ordered to be engrossed and read a third time; was read the third time, and passed.

FEDERAL QUARANTINE.

Mr. WANGER. Mr. Speaker, the Committee on Interstate and Foreign Commerce, on the 9th of March, reported an amendment to the bill H. R. 14316, introduced by the gentleman from Mississippi [Mr. WILLIAMS] "to further enlarge the powers and authority of the Public Health and Marine-Hospital Service, and to impose further duties thereon."

At the meeting to-day the committee adopted a substitute for this amendment. I understand that a rule has been reported for the consideration of the bill on Tuesday next; and I ask unanimous consent that the substitute adopted by the committee may be printed in the RECORD, so that Members may have full information as to the action of the committee.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The substitute is as follows:

Substitute adopted March 31, 1906, by the Committee on Interstate and Foreign Commerce for the amendment reported by said committee March 9, 1906, to the bill (H. R. 14316) to further enlarge the powers and authority of the Public Health and Marine-Hospital Service, and to impose further duties thereon.

Be it enacted, etc., That the Secretary of the Treasury shall have the control, direction, and management of all quarantine stations, grounds, and anchorages established by authority of the United States, and as soon as practicable after the approval of this act shall select and designate such suitable places for them and establish the same at such points on or near the seacoast of the United States as in his judgment are best suited for the same and necessary to prevent the introduction of yellow fever into the United States, and in his discretion he may also establish at the group of islands known as the "Dry Tortugas," at the western end of the Florida reef, and at such other point or points on or near the seacoast of the United States (not to exceed four in the aggregate), as he deems necessary, quarantine grounds, stations, and anchorages, whereat or whereto infected vessels having on board any person with yellow fever and bound for any port in the United States may be detained or sent for the purpose of being disinfected, having their cargoes disinfected and discharged, if necessary, and their sick treated in hospitals until all danger of infection or contagion from such vessels, their cargoes, passengers, or crews, has been removed.

SEC. 2. That in cases in which the title to the land and water so selected and designated is in the United States it shall be the duty of the department, bureau, or official of the United States having custody or possession of such land and water, or any part thereof, not used by the Government for other purposes designated by law, of possession of said Dry Tortugas islands, on demand of the Secretary of the Treasury, to deliver the same into his custody and possession for the use of the Public Health and Marine-Hospital Service, evidenced such delivery by a suitable instrument in writing to be delivered to the Secretary of the Treasury. That in cases in which the title to such land and water, or any part thereof, is in any other owner than the United States it shall be the duty of the Secretary of the Treasury to secure the title and possession of the same to the United States for the use of the Public Health and Marine-Hospital Service of the United States, by purchase at a reasonable price, if possible; but if, in his judgment, the price demanded for such property be excessive, he is hereby authorized to apply to the Attorney-General of the United States to cause to be instituted, in the proper tribunal, condemnation proceedings in the name of the United States for the purpose of acquiring for the United States the title and possession of such land and water, and said Attorney-General shall, as soon as possible after such application by the Secretary of the Treasury, cause such proceedings to be instituted and conducted to a conclusion, and the custody and possession of such land and water, when duly acquired in accordance with the award made in such condemnation proceedings, shall be delivered to the

Secretary of the Treasury for the use of the Public Health and Marine-Hospital Service.

SEC. 3. That on acquiring possession of any land and water in accordance with the provisions of this act for the purpose of establishing thereat a quarantine station and anchorage, the Secretary of the Treasury shall cause to be published in such newspapers as he may think proper, once a week for four successive weeks, a notice of the selection and designation of such places for quarantine stations and anchorages, with a description of the boundaries of such quarantine stations and anchorages, and such rules and regulations as he shall adopt and promulgate, requiring vessels with yellow fever among their passengers or crews to go to specified quarantine stations and anchorages, to be dealt with there before visiting any port of the United States. He shall establish at such quarantine stations and anchorages all necessary instrumentalities for disinfecting vessels and their cargoes, and where the same shall be required, shall erect the necessary hospital buildings, and install the necessary furniture and fittings for receiving and treating the sick among the passengers and crews of vessels going to such quarantine stations and anchorages, and provide for the separation of those among their passengers and crews who are suffering from yellow fever from those who are in good health, and shall further provide for doing all things necessary to eradicate such disease from such vessels, their cargoes, passengers, and crews.

SEC. 4. That any vessel, or any officer of any vessel, or other person other than State health or quarantine officers, entering within the limits of any quarantine grounds and anchorages, or any quarantine station and anchorage, or departing therefrom, in disregard of the quarantine rules and regulations or without the permission of the officer in charge of such quarantine ground and anchorage, or of such quarantine station and anchorage, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than $300 or by imprisonment for not more than one year, or both, in the discretion of the court. That any master or owner of any vessel violating any provision of this act, or any provision of an act entitled "An act granting additional powers and imposing additional duties on the Marine-Hospital Service," approved February 15, 1893, or violating any rule or regulation made in accordance with this act or said act of February 15, 1893, relating to the inspection of vessels, or to the prevention of the introduction of contagious or infectious diseases into the United States, or any master, owner, or agent of any vessel making a false statement relative to the sanitary condition of such vessel or its contents, or as to the health of any passenger or person thereon, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than $500 or imprisonment for not more than one year, or both, in the discretion of the court.

SEC. 5. That in any place where a quarantine station and plant is already established by State or local authorities it shall be the duty of the Secretary of the Treasury, before selecting and designating a quarantine station and grounds and anchorage for vessels, to examine such established stations and plants, with a view of obtaining a transfer of the site and plants to the United States, and whenever the proper authorities shall be ready to transfer the same or surrender the use thereof to the United States the Secretary of the Treasury is authorized to obtain title thereto or possession and use thereof, and to pay a reasonable compensation therefor, if, in his opinion, such purchase or use will be necessary to the United States for quarantine purposes.

SEC. 6. That whenever any established station, or any land or water, or any part thereof, shall be acquired by the United States under the provisions of this act, jurisdiction over the same shall be ceded to the United States by any State in which the same is situated before any compensation therefor shall be paid or any permanent structures or improvements be made or maintained thereon.

SEC. 7. That every common carrier engaged in interstate commerce shall, under such regulations, restrictions, and safeguards as may be promulgated by the Secretary of the Treasury, receive, carry, and transport through any State or Territory necessary to complete the journey or carriage into a State wherein delivery or debarkation may be lawful, all passengers, freight, or baggage which may have been discharged and properly certified in accordance with the regulations of the Public Health and Marine-Hospital Service, and every person interfering with or obstructing such carrier or any passenger or any instrumentality of commerce in any such carriage or journey shall be guilty of a misdemeanor, and, on conviction thereof, be punished by a fine not exceeding $300 or be imprisoned for a period not exceeding one year, or both, in the discretion of the court: *Provided*, That this section shall not be construed as giving authority to any person to detain or unload freight in any locality contrary to the lawful regulations thereof.

SEC. 8. That the sum of $500,000, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of carrying into effect the provisions of this act, as well as for the purpose generally of preventing the importation of yellow fever into the United States, and for the further purposes, in cooperation with State or municipal health authorities, of eradicating it should it be imported, of preventing its spread from one State into another State, and of destroying its cause.

Amend the title so as to read: "A bill to further protect the public health and make more effective the national quarantine."

Mr. PAYNE. I move that the House do now adjourn.

The motion was agreed to.

Accordingly (at 4 o'clock and 10 minutes p. m.) the House adjourned.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred as follows:

A letter from the Secretary of the Treasury, submitting an estimate of appropriation for coal bunkers at the Philadelphia mint—to the Committee on Appropriations, and ordered to be printed.

A letter from the Secretary of State, transmitting a certified copy of an ordinance of the executive council of Porto Rico granting to Messrs. Eugui & Co. a right to take water from the Gurabo River—to the Committee on Insular Affairs, and ordered to be printed.

A letter from the Acting Secretary of the Interior, transmitting a copy of a letter from the Commissioner of the General Land Office recommending legislation relating to claims for mineral patents in the district of Alaska—to the Committee on the Public Lands, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. CAMPBELL of Kansas, from the Committee on the District of Columbia, to which was referred the bill of the House (H. R. 10074) in relation to contracts with the District of Columbia, reported the same with amendment, accompanied by a report (No. 2757); which said bill and report were referred to the House Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 16868) for the prevention of scarlet fever, diphtheria, measles, whooping cough, chicken pox, epidemic cerebro-spinal meningitis, and typhoid fever in the District of Columbia, reported the same with amendment, accompanied by a report (No. 2758); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. PRINCE, from the Committee on Levees and Improvements of the Mississippi River, to which was referred the bill of the House (H. R. 16950) to enlarge the authority of the Mississippi River Commission in making allotments and expenditures of funds appropriated by Congress for the improvement of the Mississippi River, reported the same without amendment, accompanied by a report (No. 2759); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. ALLEN of Maine, from the Committee on the District of Columbia, to which was referred the bill of the Senate (S. 4168) to correct a typographical error in act approved July 1, 1898, entitled "An act to vest in the Commissioners of the District of Columbia control of street parking in said District," reported the same without amendment, accompanied by a report (No. 2760); which said bill and report were referred to the House Calendar.

Mr. TAYLOR of Ohio, from the Committee on the District of Columbia, to which was referred the bill of the Senate (S. 4126) to amend section 927 of the Code of Law for the District of Columbia, relating to insane criminals, reported the same without amendment, accompanied by a report (No. 2761); which said bill and report were referred to the House Calendar.

Mr. CURTIS, from the Committee on Indian Affairs, to which was referred the bill of the House (H. R. 17220) providing for a recorder of deeds, and so forth, in the Osage Indian Reservation, in Oklahoma Territory, reported the same with amendment, accompanied by a report (No. 2762); which said bill and report were referred to the House Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. DIXON of Montana: A bill (H. R. 17622) for the relief of certain entrymen in the Bitter Root Valley, Montana—to the Committee on the Public Lands.

By Mr. JONES of Washington: A bill (H. R. 17623) providing for the carrying of oil on vessels to be used in case of storms, and for other purposes—to the Committee on the Merchant Marine and Fisheries.

By Mr. BENNET of New York: A bill (H. R. 17624) to amend an act entitled "An act to amend section 4405 of the Revised Statutes of the United States," approved March 3, 1905—to the Committee on the Merchant Marine and Fisheries.

By Mr. MURPHY: A bill (H. R. 17625) to provide for sittings of the United States circuit and district courts of the southern division of the western district of Missouri at the city of Rolla, in said district, and for other purposes—to the Committee on the Judiciary.

By Mr. KAHN (by request): A bill (H. R. 17626) to promote the national defense, to create a naval reserve, to establish American ocean mail lines to foreign markets, and to promote commerce—to the Committee on the Merchant Marine and Fisheries.

By Mr. GROSVENOR: A bill (H. R. 17627) providing for the erection of a memorial to Gen. William S. Rosecrans—to the Committee on the Library.

By Mr. WATSON: A bill (H. R. 17628) to provide a tax on cigarette paper—to the Committee on Ways and Means.

By Mr. MANN: A bill (H. R. 17629) to amend section 3738 of the Revised Statutes of the United States—to the Committee on Labor.

By Mr. WILEY of New Jersey: A bill (H. R. 17630) providing for the organization of a national advisory board on civic art—to the Committee on the Library.

By Mr. WADSWORTH: A memorial from the Senate of New York, proposing an amendment to the Constitution of the United States prohibiting the practice of polygamy—to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS INTRODUCED.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. BINGHAM: A bill (H. R. 17631) granting an increase of pension to Henry D. Miller—to the Committee on Invalid Pensions.

By Mr. BRADLEY: A bill (H. R. 17632) granting an increase of pension to John Frick—to the Committee on Invalid Pensions.

By Mr. BROWNLOW: A bill (H. R. 17633) granting an increase of pension to Thomas J. Bowers—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17634) granting an increase of pension to John S. Cochran—to the Committee on Invalid Pensions.

By Mr. CASSEL: A bill (H. R. 17635) granting an increase of pension to George Willey—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17636) granting a pension to John Zellers—to the Committee on Invalid Pensions.

By Mr. CRUMPACKER: A bill (H. R. 17637) granting an increase of pension to Gardiner K. Haskell—to the Committee on Invalid Pensions.

By Mr. DAVEY of Louisiana: A bill (H. R. 17638) granting an increase of pension to York A. Woodward—to the Committee on Invalid Pensions.

By Mr. DOVENER: A bill (H. R. 17639) granting an increase of pension to James Darrah—to the Committee on Invalid Pensions.

By Mr. DWIGHT: A bill (H. R. 17640) granting an increase of pension to Margaret H. Blair—to the Committee on Invalid Pensions.

By Mr. FASSETT: A bill (H. R. 17641) granting an increase of pension to James R. Fluent—to the Committee on Invalid Pensions.

By Mr. GARRETT: A bill (H. R. 17642) granting an increase of pension to Roland M. Johnson—to the Committee on Invalid Pensions.

By Mr. HIGGINS: A bill (H. R. 17643) granting an increase of pension to Henry Andrews—to the Committee on Invalid Pensions.

By Mr. JOHNSON: A bill (H. R. 17644) granting an increase of pension to Henry C. Eastler—to the Committee on Pensions.

Also, a bill (H. R. 17645) granting a pension to Joanna C. Roper—to the Committee on Pensions.

By Mr. KETCHAM: A bill (H. R. 17646) granting a pension to James M. Sheak—to the Committee on Invalid Pensions.

By Mr. LEVER: A bill (H. R. 17647) granting a pension to Wade H. Rucker—to the Committee on Pensions.

By Mr. MAYNARD: A bill (H. R. 17648) for the relief of Alexander Perry—to the Committee on Claims.

By Mr. McGUIRE: A bill (H. R. 17649) donating lands in Oklahoma Territory for educational purposes—to the Committee on the Territories.

By Mr. OTJEN: A bill (H. R. 17650) granting an increase of pension to Hugh F. Ames—to the Committee on Invalid Pensions.

By Mr. PUJO: A bill (H. R. 17651) granting an increase of pension to Mary A. Riley—to the Committee on Pensions.

By Mr. RIVES: A bill (H. R. 17652) granting an increase of pension to Joseph Lawrence—to the Committee on Pensions.

By Mr. SMITH of Maryland: A bill (H. R. 17653) granting an increase of pension to Littleton D. Davis—to the Committee on Invalid Pensions.

By Mr. SPARKMAN: A bill (H. R. 17654) granting an increase of pension to Hannah J. K. Thomas—to the Committee on Pensions.

By Mr. WEISSE: A bill (H. R. 17655) granting an increase of pension to Fritz Dettmann—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17656) granting a pension to Melissa Pitcher—to the Committee on Invalid Pensions.

By Mr. YOUNG: A bill (H. R. 17657) granting an increase of pension to John R. Bailey—to the Committee on Invalid Pensions.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of bills of the following titles; which were thereupon referred as follows:

A bill (H. R. 17531) to remove the charge of desertion from the military record of William Brothers—Committee on War Claims discharged, and referred to the Committee on Military Affairs.

A bill (H. R. 12661) granting a pension to John H. Leslie—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 15686) granting an increase of pension to Clarence J. Lawless—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By the Speaker: Petition of International Steam Fitters and Helpers' Union, No. 46, San Francisco, against method of extradition of officers of the Western Federation of Miners from Colorado to Idaho—to the Committee on the Judiciary.

Also, petition of National Wholesale Lumber Dealers' Association, for bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

Also, petition of Andrew Furuseth, for law insuring greater efficiency in crews of passenger steamers—to the Committee on the Merchant Marine and Fisheries.

By Mr. ACHESON: Petition of Division 89, Amalgamated Association of Steam and Electric Railway Employees of America, against bill H. R. 12973—to the Committee on Foreign Affairs.

Also, petition of National Wholesale Lumber Dealers' Association, for bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

Also, petition of Pride of Washington Council, No. 182, Daughters of Liberty, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of Germania Refining Company, Oil City, Pa., for the Littlefield bill (H. R. 5281)—to the Committee on the Merchant Marine and Fisheries.

By Mr. BARTHOLDT: Petition of George F. Cothead and 638 other citizens of St. Louis, for intervention to stop alleged atrocities in the Kongo Free State—to the Committee on Foreign Affairs.

By Mr. BARTLETT: Petition of National Wholesale Lumber Dealers' Association, for bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

By Mr. BELL of Georgia: Paper to accompany bill for relief of Aquilla Williams—to the Committee on Invalid Pensions.

By Mr. BINGHAM: Paper to accompany bill for relief of Henry D. Miller—to the Committee on Invalid Pensions.

By Mr. BOWERSOCK: Petition of citizens of Kansas City, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. BUCKMAN: Petition of citizens of Alexandria and Wadena County, Minn., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. BURKE of South Dakota: Petition of General Federation of Women's Clubs, for investigation of industrial condition of women in the United States—to the Committee on Appropriations.

By Mr. BURLEIGH: Petition of Tranquillity Grange, No. 344, at Center Lincolnville, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. BURNETT: Petition of C. G. Fennell, "The Democrat," against Government printing name and address on stamped envelopes—to the Committee on the Post-Office and Post-Roads.

By Mr. CANDLER: Petition of J. S. Try et al., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. COOPER of Pennsylvania: Petition of National Board of Trade, for forest reservations in White Mountains—to the Committee on Agriculture.

Also, petition of National Wholesale Lumber Dealers' Association, for bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

Also, petition of American Free Art League, for repeal of tariff on art works—to the Committee on Ways and Means.

Also, petition of The Journal, against tariff on linotype machines—to the Committee on Ways and Means.

Also, petition of citizens of Pennsylvania, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of Charles Shafer and others, against bill H. R. 12573—to the Committee on Foreign Affairs.

Also, petition of Brotherhood of Railway Trainmen, favoring restriction of immigration, etc.—to the Committee on Immigration and Naturalization.

Also, petition of Group S, Pennsylvania Bankers' Association, for permission to loan to one person 10 per cent of capital stock and surplus—to the Committee on Banking and Currency.

Also, petition of The Typothetæ of New York City, against the anti-injunction bill—to the Committee on the Judiciary.

Also, petition of National Wholesale Druggists' Association, for modification of certain terms in the pure food and drug bill—to the Committee on Agriculture.

By Mr. COOPER of Wisconsin: Petition of citizens of Monroe, Wis., against the parcels-post bill—to the Committee on the Post-Office and Post-Roads.

By Mr. DOVENER: Paper to accompany bill for relief of John W. Vandine—to the Committee on Invalid Pensions.

By Mr. FLETCHER: Petition of St. Paul Credit Men's Association, against repeal of bankruptcy law and for Palmer amendment—to the Committee on the Judiciary.

Also, petition of congregation of House of Hope Church, St. Paul, Minn., for modification of present Chinese-exclusion law—to the Committee on the Judiciary.

By Mr. FULKERSON: Petition of The Argus, against tariff on linotype machines—to the Committee on Ways and Means.

By Mr. GAINES of West Virginia: Petitions of Union Council, No. 5, Daughters of Liberty, Charleston, W. Va.; Mount Pleasant Council, Order of United American Mechanics; R. E. Pendell and 54 others, of Kanawha County, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. GARRETT: Paper to accompany bill for relief of Roland Johnson—to the Committee on Invalid Pensions.

By Mr. HOWELL of New Jersey: Petition of Henry A. Dreer, of Philadelphia, against free-seed distribution—to the Committee on Agriculture.

Also, petition of Monday P. M. Club, Passaic, N. J., for forest reservations in White Mountains—to the Committee on Agriculture.

Also, petition of Woman's Club of Orange, N. J., for appropriation for playgrounds in the District of Columbia for children—to the Committee on the District of Columbia.

Also, petition of Monday P. M. Club, of Passaic, N. J., for the pure-food bill—to the Committee on Interstate and Foreign Commerce.

By Mr. JOHNSON: Paper to accompany bill for relief of Henry C. Easler—to the Committee on Pensions.

By Mr. JONES of Washington: Petition of citizens of Washington, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. KENNEDY: Paper to accompany bill for relief of Horace Olmsted—to the Committee on Military Affairs.

By Mr. LEE: Paper to accompany bill for relief of heirs of Rachel C. Hamilton and Terul Hamilton, Floyd County, Ga—to the Committee on War Claims.

By Mr. LINDSAY: Petition of W. H. Lundequist Company, for bill H. R. 5281, repealing the present unjust pilotage laws—to the Committee on the Merchant Marine and Fisheries.

Also, petition of Curtis Brothers Lumbering Company, for bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

Also, petition of Robert R. Sizer & Co., for bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

Also, petition of Thomas L. Vickers, against bill H. R. 5281, repealing the present unjust pilotage laws—to the Committee on the Merchant Marine and Fisheries.

By Mr. LITTLEFIELD: Petition of citizens of Maine, Freetown Grange, and C. F. Tripp et al., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. MAHON: Petition of citizens of Van Dyke, Juniata County, Pa., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. MARTIN: Petition of citizens of South Dakota, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. PERKINS: Petition of the Evening Times, against tariff on linotype machines—to the Committee on Ways and Means.

By Mr. PUJO: Paper to accompany bill for relief of Mary A. Riley—to the Committee on Pensions.

By Mr. SIMS: Petition of Charles E. Wills et al., Paris, Tenn., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. STEVENS of Minnesota: Petition of Credit Men's Association, St. Paul, against repeal of bankruptcy law and for the Palmer amendment—to the Committee on the Judiciary.

Also, petition of citizens of St. Paul, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of citizens of St. Paul, Minn., for certain modifications of the present Chinese-exclusion law (previously referred to the Committee on the Post-Office and Post-Roads)—to the Committee on Foreign Affairs.

By Mr. RIVES: Paper to accompany bill for relief of Richard Isaacs (previously referred to the Committee on Invalid Pensions)—to the Committee on Military Affairs.

By Mr. RYAN: Petition of Japanese and Korean Exclusion League, for Chinese-exclusion law as it is—to the Committee on Foreign Affairs.

By Mr. TAYLOR of Ohio: Petition of J. M. Wills Woman's Relief Corps, No. 36, and others, in support of bill H. R. 14610—to the Committee on Invalid Pensions.

By Mr. TIRRELL: Petition of many citizens of New York and vicinity for relief for heirs of victims of *General Slocum* disaster—to the Committee on Claims.

By Mr. TOWNSEND: Petition of Webster (Mich.) Farmers' Club, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. TYNDALL: Petition of citizens of Missouri, against consolidation of third and fourth class mail matter—to the Committee on the Post-Office and Post-Roads.

Also, petition of The Typothetæ of New York City, against the anti-injunction bill—to the Committee on the Judiciary.

By Mr. VAN WINKLE: Petition of Monday P. M. Club, Passaic, N. J., for the pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of Woman's Club of Orange, N. J., for appropriation for children's playgrounds for the District of Columbia—to the Committee on the District of Columbia.

Also, petition of Monday P. M. Club, of Passaic, N. J., for forest reservations in White Mountains—to the Committee on Agriculture.

Also, petition of Henry A. Dreer, of Philadelphia, against free-seed distribution—to the Committee on Agriculture.

Also, petition of E. P. Reschhelm & Co., against free seeds—to the Committee on Agriculture.

By Mr. WOOD of New Jersey: Petition of Monday P. M. Club, of Passaic, for the pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of Monday P. M. Club, of Passaic, for forest reservations in White Mountains—to the Committee on Agriculture.

Also, petition of citizens of Boundbrook, N. J., and Camp No. 7, Patriotic Order Sons of America, for bill H. R. 15442—to the Committee on Immigration and Naturalization.

Also, petition of Woman's Club of Orange, N. J., for appropriation to establish playgrounds in the District of Columbia—to the Committee on the District of Columbia.

By Mr. YOUNG: Petition of 19 prominent business firms of the Twelfth Michigan district, against the passage of the free-alcohol bill—to the Committee on Ways and Means.

Also, petition of citizens of Iron River, Mich., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

SENATE.

MONDAY, *April 2, 1906.*

Prayer by the Chaplain, Rev. EDWARD E. HALE.

The Secretary proceeded to read the Journal of the proceedings of Thursday last; when, on request of Mr. HALE, and by unanimous consent, the further reading was dispensed with.

The VICE-PRESIDENT. The Journal stands approved.

GRAHAMS ISLAND, NORTH DAKOTA.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Interior, transmitting a letter from the Commissioner of Indian Affairs calling attention to an agreement with the Turtle Mountain band of Chippewa Indians, and transmitting a draft of a bill to restore to the public domain a part of an abandoned military reservation known as "Grahams Island," in Devils Lake, North Dakota; which, with the accompanying papers, was referred to the Committee on Indian Affairs, and ordered to be printed.

ROCK CREEK PARK.

The VICE-PRESIDENT laid before the Senate a communication from the Commissioners of the District of Columbia, transmitting, in response to a resolution of the 26th ultimo, a statement setting forth the parcels of land to be acquired as an addition to Rock Creek Park, with the respective areas, names of owners, assessed valuation, and amount of taxes paid thereon; which, with the accompanying paper, was referred to the Committee on the District of Columbia, and ordered to be printed.

ORDINANCE OF PORTO RICO.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of State, transmitting, pursuant to law, a certified copy of an ordinance enacted by the executive council of Porto Rico on March 16, 1906, granting to Messrs. Eugui & Co. the right to take and use 40 liters of water per second from the Gurabo River for industrial purposes; which, with the accompanying paper, was referred to the Committee on Pacific Islands and Porto Rico, and ordered to be printed.

GEORGIA RAILROAD AND BANKING COMPANY.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, transmitting, in response to a resolution of the 23d ultimo, the report by the Auditor for the Post-Office Department in the case of the Georgia Railroad and Banking Company for services rendered by it, under the name of the Georgia Railroad Company, for carrying the United States mails on certain routes in Georgia prior to May 31, 1861, together with a statement of the amount due the railroad company from the records of the Auditor's office; which, with the accompanying papers, was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

MINERAL LAND PATENTS IN ALASKA.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Interior, transmitting a report of the Commissioner of the General Land Office recommending that section 2325 of the Revised Statutes be amended by adding thereto a provision relating to adverse claims against applicants for mineral patents in the district of Alaska; which, with the accompanying paper, was referred to the Committee on Public Lands, and ordered to be printed.

SECOND INTERNATIONAL PEACE CONFERENCE.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, transmitting a letter from the Secretary of State submitting an estimate of appropriation to enable the Government of the United States to participate in the Second International Peace Conference; which, with the accompanying paper, was referred to the Committee on Appropriations, and ordered to be printed.

SURVEYS IN SAN DIEGO COUNTY, CAL.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, transmitting a letter from the Secretary of the Interior submitting an estimate of appropriation for incorporation in the urgent deficiency appropriation bill for the completion of resurveys in San Diego County, Cal., authorized by the act of Congress of July 1, 1902, including the surveying out by metes and bounds of all valid claims of record up to March 31, 1906, $20,000; which, with the accompanying paper, was referred to the Committee on Appropriations, and ordered to be printed.

FINDINGS OF COURT OF CLAIMS.

The VICE-PRESIDENT laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of Athénais Chrétien le More, administratrix of Félicité Neda Chrétien, deceased, *v.* The United States; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

PRESERVATION OF NIAGARA FALLS.

The VICE-PRESIDENT. On March 27 the Chair laid before the Senate a message from the President of the United States, transmitting the report of the American members of the International Waterways Commission, regarding the preservation of Niagara Falls, which was referred to the Committee on Foreign Relations. Since that time a map to accompany the report has been received, which, if there be no objection, will be referred to the Committee on Foreign Relations to accompany the message and report.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed the following bills:

S. 2872. An act for the relief of the French Trans-Atlantic Cable Company; and

S. 4130. An act to authorize the Capital City Improvement Company, of Helena, Mont., to construct a dam across the Missouri River.

The message also announced that the House had passed the following bills with amendments; in which it requested the concurrence of the Senate:

S. 4825. An act to provide for the construction of a bridge across Rainey River, in the State of Minnesota;

S. 5181. An act to authorize the construction of a bridge across the Snake River between Whitman and Columbia counties, in the State of Washington;

S. 5182. An act to authorize the construction of a bridge across the Columbia River between Franklin and Benton counties, in the State of Washington; and

S. 5183. An act to authorize the construction of a bridge across the Columbia River between Douglas and Kittitas counties, in the State of Washington.

The message further announced that the House had passed the following bills and joint resolutions; in which it requested the concurrence of the Senate:

H. R. 20. An act to change and fix the time for holding the circuit and district courts of the United States for the middle district of Tennessee; in the southern division of the eastern district of Tennessee at Chattanooga, and the northeastern division of the eastern district of Tennessee at Greeneville, and for other purposes;

H. R. 1142. An act for the relief of Ephraim Greenawalt;

H. R. 1572. An act for the relief of Thomas W. Higgins;

H. R. 1738. An act for the relief of Sarah A. Clapp;

H. R. 1863. An act for the relief of M. A. McCafferty;

H. R. 2996. An act to reimburse Capt. Sidney Layland for sums paid by him while master of the U. S. transport *Mobile* in July and August, 1898;

H. R. 3459. An act for the relief of John W. Williams;

H. R. 3997. An act for the relief of John A. Meroney;

H. R. 5217. An act for the relief of Agnes W. Hills and Sarah J. Hills;

H. R. 5539. An act for the relief of the State of Rhode Island;

H. R. 5681. An act for the relief of John Lewis Young;

H. R. 5927. An act for the relief of the board of trustees of West Tennessee College, Jackson, Tenn.;

H. R. 6530. An act for the relief of David C. McGee;

H. R. 6675. An act for the relief of the Methodist Church at Newhaven, Ky.;

H. R. 6837. An act for the relief of Carl F. Kolbe;

H. R. 6982. An act for the relief of James W. Jones;

H. R. 7670. An act for the relief of the legal representatives of the estate of Benjamin Lillard, deceased;

H. R. 7979. An act for the relief of J. B. Orbison;

H. R. 8952. An act for the relief of the trustees of Weir's Chapel, Tippah County, Miss.;

H. R. 9324. An act to authorize the Fayette Bridge Company to construct a bridge over the Monongahela River, Pennsylvania, from a point in the borough of Brownsville, Fayette County, to a point in the borough of West Brownsville, Washington County;

H. R. 9877. An act for the relief of James P. Barney;

H. R. 10015. An act for the relief of the estate of Capt. Charles E. Russell, deceased;

H. R. 10233. An act for the relief of John S. Logan;

H. R. 10605. An act for the relief of Edward F. Stahle;

H. R. 10610. An act for the relief of James N. Robinson and Sallie B. McComb;

H. R. 11108. An act for the relief of Benjamin F. King;

H. R. 11976. An act for the relief of the Compañía de los Ferrocarriles de Puerto Rico;

H. R. 12252. An act for the relief of heirs at law of Massalon Whitten, deceased;

H. R. 14206. An act to carry out the findings of the Court of Claims in the case of James A. Paulk;

H. R. 14541. An act for the relief of C. R. Williams;

H. R. 15910. An act to amend the act entitled "An act to regulate commutation for good conduct for United States prisoners," approved June 21, 1902; and

H. R. 16472. An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1907, and for other purposes.

Subsequently the foregoing claims bills were severally read twice by their titles, and referred to the Committee on Claims.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolution, and they were thereupon signed by the Vice-President:

H. R. 5954. An act to authorize the Secretary of the Treasury to issue duplicate gold certificate, in lieu of one lost, to Lincoln National Bank, of Lincoln, Ill.;

H. R. 16671. An act permitting the building of a dam across the St. Joseph River near the village of Berrien Springs, Berrien County, Mich.;

H. R. 14808. An act authorizing the Choctawhatchee Power Company to erect a dam in Dale County, Ala.; and

H. J. Res. 11. Joint resolution for the publication of eulogies delivered in Congress on Hon. JOHN W. CRANFORD, late a Representative in Congress.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented a petition of the legislature of the State of New York, praying for the adoption of an amendment to the Constitution to prohibit polygamy; which was referred to the Committee on the Judiciary.

Mr. PLATT. I present a concurrent resolution of the legislature of New York, relative to the adoption of an amendment to the Constitution to prohibit polygamy. I ask that the concurrent resolution be read, and referred to the Committee on the Judiciary.

There being no objection, the concurrent resolution was read, and referred to the Committee on the Judiciary, as follows:

STATE OF NEW YORK,
In Senate, Albany, March 1, 1906.

Whereas it appears from the investigation recently made by the Senate of the United States, and otherwise, that polygamy still exists in certain places in the United States notwithstanding prohibitory statutes enacted by the several States thereof, and

Whereas the practice of polygamy is generally condemned by the people of the United States and there is a demand for the more effectual prohibition thereof by placing the subject under Federal jurisdiction and control, at the same time reserving to each State the right to make and enforce its own laws relating to marriage and divorce; now, therefore, be it

Resolved (if the assembly concur), That application be and hereby is made to Congress, under the provisions of article 5 of the Constitution of the United States for the calling of a convention to propose an amendment to the Constitution of the United States whereby polygamy and polygamous cohabitation shall be prohibited and Congress shall be given power to force such prohibition by appropriate legislation.

Resolved, That the legislatures of all other States of the United States, now in session or when next convened, be and they are hereby respectfully requested to join in this application by the adoption of this or an equivalent resolution.

Resolved further, That the secretary of state be and he hereby is directed to transmit copies of this application to the Senate and House of Representatives of the United States, and to the several Members of said body representing this State therein; also to transmit copies hereof to the legislatures of all other States of the United States.

By order of the senate:

LAFAYETTE B. GLEASON, *Clerk.*

IN ASSEMBLY, *March 2, 1906.*

Concurred in without amendment.

By order of the assembly:

A. E. BAXTER, *Clerk.*

STATE OF NEW YORK,
Office of the Secretary of State, ss:

The foregoing is a true copy of a concurrent resolution of the senate and assembly of the State of New York, filed in this office March 6, 1906.

Given under my hand and the seal of office of the secretary of state, at the city of Albany, this 20th day of March, in the year 1906.

[SEAL.] JOHN F. O'BRIEN,
Secretary of State.

Mr. PLATT presented a petition of the National Wholesale Lumber Dealers' Association, of New York City, N. Y., praying for the enactment of legislation to remove discriminations against American sailing vessels in the coastwise trade; which was referred to the Committee on Commerce.

He also presented a memorial of Local Division No. 148, Amalgamated Association of Street and Electric Railway Employees of America, of Albany, N. Y., remonstrating against the repeal of the present Chinese-exclusion law; which was referred to the Committee on Immigration.

He also presented a petition of Local Council No. 29, Daughters of Liberty, of Utica, N. Y., and a petition of Empire Council No. 28, Junior Order of United American Mechanics, of Greenport, N. Y., praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

Mr. GALLINGER presented a petition of Hannah Dustin Council, No. 9, Daughters of Liberty, of Franklin, N. H., praying for the enactment of legislation to restrict immigration; which was referred to the Committee on Immigration.

He also presented a memorial of Local Division No. 397, Amalgamated Association of Street and Electric Railway Employees of America, of Berlin, N. H., remonstrating against the repeal of the present Chinese-exclusion law; which was referred to the Committee on Immigration.

He also presented the petition of John C. Young, of Lakeport, N. H., praying for the enactment of legislation to remove the duty on denaturized alcohol; which was referred to the Committee on Finance.

He also presented a petition of the Coos County National Bank of Groveton, N. H., praying for the enactment of legislation to continue the appropriation for the transportation of silver coin; which was referred to the Committee on Appropriations.

He also presented a petition of the Woman's Club of Derry, N. H., and a petition of the Study Club of Whitefield, N. H., praying that an appropriation be made for a scientific investigation into the industrial conditions of women in the United States; which were referred to the Committee on Education and Labor.

He also presented the petition of Arthur F. Stone, of St. Johnsbury, Vt., praying for the enactment of legislation to prohibit the killing of wild birds and animals in the District of Columbia; which was referred to the Committee on the District of Columbia.

He also presented a petition of the East End Suburban Citizens' Association, of Washington, D. C., praying for the enactment of legislation providing for the extension of M street east of Bladensburg road in the District of Columbia; which was referred to the Committee on the District of Columbia.

He also presented a petition of the National Wholesale Lumber Dealers' Association, of New York City, N. Y., praying for the enactment of legislation to repeal pilotage discriminations against sailing vessels in the coastwise trade; which was referred to the Committee on Commerce.

He also presented a petition of the Council of the Civic Center, of Washington, D. C., praying for an investigation into the efficiency of the filtration plant in that city; which was referred to the Committee on the District of Columbia.

He also presented a petition of the Westchester Woman's Club, of Mount Vernon, N. Y., praying for the enactment of legislation to regulate the employment of child labor in the District of Columbia; which was referred to the Committee on the District of Columbia.

Mr. BURNHAM presented petitions of the Woman's Club of Derry, the Study Club, of Whitefield, and the Woman's Club of Henniker, all of the General Federation of Women's Clubs, in the State of New Hampshire, praying for an investigation into the industrial condition of the women of the country; which were referred to the Committee on Education and Labor.

He also presented a memorial of Local Division No. 397, Amalgamated Association of Street and Electric Railway Employees of America, of Berlin, N. H., remonstrating against the repeal of the present Chinese-exclusion law; which was referred to the Committee on Immigration.

He also presented petitions of Granite State Lodge, No. 235, Brotherhood of Railroad Trainmen, of Manchester, and of Hannah Dustin Council, No. 9, Daughters of Liberty, of Franklin, in the State of New Hampshire, praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

He also presented a petition of Tahanto Division, No. 335, Brotherhood of Locomotive Engineers, of Concord, N. H., praying for the passage of the so-called "employers' liability bill;" which was referred to the Committee on Interstate Commerce.

He also presented the petition of John C. Young, of Lakeport, N. H., praying for the removal of the internal-revenue tax on denaturized alcohol; which was referred to the Committee on Finance.

Mr. FULTON presented memorials of sundry citizens of Portland, Oreg., remonstrating against the enactment of legislation to prohibit the coming of Chinese laborers into the United States, and for other purposes; which were referred to the Committee on Immigration.

Mr. BEVERIDGE presented a petition of the congregation of the Broadway Methodist Episcopal Church, of Logansport, Ind., praying for the enactment of legislation to prohibit the sale of intoxicating liquors in all Government buildings and grounds; which was referred to the Committee on Public Buildings and Grounds.

He also presented petitions of Local Union No. 331, American Federation of Musicians, of Rochester; of Local Union No. 396, American Federation of Musicians, of Vincennes, and of Local Union No. 58, American Federation of Musicians, of Fort Wayne, all in the State of Indiana, praying for the enactment of legislation to prohibit Government musicians from competing with civilian musicians; which were referred to the Committee on Military Affairs.

He also presented a memorial of sundry citizens of Mount Vernon, Ind., remonstrating against the passage of the so-called "parcels-post bill;" which was referred to the Committee on Post-Offices and Post-Roads.

He also presented petitions of the Woman's Club of Anderson, of the Woman's Club of Westfield, and of the Tuesday Club of

Kendallville, all in the State of Indiana, praying that an appropriation be made for a scientific investigation into the industrial conditions of women in the United States; which were referred to the Committee on Education and Labor.

He also presented a memorial of the Logansport Humane Society, of Logansport, Ind., remonstrating against the enactment of legislation to extend the time in the interstate transportation of live stock; which was referred to the Committee on Interstate Commerce.

He also presented a petition of the Indiana Grain Dealers' Association, of Indianapolis, Ind., praying for the enactment of legislation relating to bills of lading issued by carriers for the interstate transportation of property; which was referred to the Committee on Interstate Commerce.

He also presented a petition of the National Wholesale Lumber Dealers' Association, of New York City, N. Y., praying for the enactment of legislation to repeal pilotage discriminations against sailing vessels in the coastwise trade; which was referred to the Committee on Commerce.

He also presented a petition of Hope Grange, No. 2, Patrons of Husbandry, of Aurora, Ind., praying for the enactment of legislation to remove the duty on denaturized alcohol; which was referred to the Committee on Finance.

He also presented petitions of sundry citizens of Muncie, of the Associated Charities of Anderson, and of Reddington Lodge, No. 281, Knights of Pythias, of Reddington, all in the State of Indiana, praying for the enactment of legislation to restrict immigration; which was referred to the Committee on Immigration.

Mr. KEAN presented petitions of Pride of Hornerstown Council, No. 77, of Hornerstown; of Equity Council, No. 112, Daughters of Liberty, of Newark; of Independent Council, No. 131, Daughters of Liberty, of New Gretna; of Pride of Loyal America Council, No. 128, Daughters of Liberty, of Hoboken, and of Mary J. Hunt Council, No. 98, Daughters of Liberty, of Millville, all in the State of New Jersey, praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

He also presented petitions of the Woman's Club of Englewood; of the All Round Club, of Montclair; of the Woman's Club of Upper Montclair, and of the Ratores Club, of Plainfield, all in the State of New Jersey, praying for an investigation into the industrial condition of the women of the country; which were referred to the Committee on Education and Labor.

Mr. NELSON presented a petition of sundry citizens of St. Paul, Minn., praying for the adoption of an amendment to the present Chinese-exclusion law; which was referred to the Committee on Immigration.

He also presented a petition of Cedar River Lodge, No. 283, Brotherhood of Railway Trainmen, of Austin, Minn., praying for the enactment of legislation to restrict immigration; which was referred to the Committee on Immigration.

He also presented a memorial of the Credit Men's Association, of St. Paul, Minn., remonstrating against the repeal of the present bankruptcy law; which was referred to the Committee on the Library.

Mr. BRANDEGEE presented a petition of Stephen Charters and sundry other citizens of Ansonia, Conn., praying that an appropriation be made for the erection of a monument to the memory of the late Commodore John Barry; which was referred to the Committee on the Library.

He also presented a petition of the National Wholesale Lumber Dealers' Association, of New York, N. Y., praying for the enactment of legislation concerning pilotage discriminations against American sailing vessels in the coastwise trade; which was referred to the Committee on Commerce.

He also presented petitions of the Monday Club of New Milford; of the Current Events Club, of Bethel, and of the Women's Club of Cheshire, all in the State of Connecticut, praying for an investigation into the industrial condition of the women of the country; which were referred to the Committee on Education and Labor.

He also presented petitions of Lady Unity Council, No. 51, of Southington; Olive Branch Council, No. 41, of New Canaan; Lady Wooster Council, No. 11, of Danbury; Loyalty Council, No. 52, of Somers, and of Perseverance Council, No. 33, of New Haven, all of the Daughters of Liberty, in the State of Connecticut, praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

Mr. DOLLIVER presented a petition of the congregation of Unity Church, of Decorah, Iowa, praying for an investigation into the existing conditions in the Kongo Free State; which was referred to the Committee on Foreign Relations.

Mr. OVERMAN presented a petition of sundry citizens of Brunswick County, N. C., praying that an appropriation be made for the improvement of the Shallotte River, in that State; which was referred to the Committee on Commerce.

He also presented a petition of Myrtle Council, No. 3, Daughters of Liberty, of Davidson, N. C., and a petition of Unionville Council, No. 59, Junior Order United American Mechanics, of Sandy Bottom, Va., praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

Mr. LONG presented sundry papers to accompany the bill (S. 5219) granting an increase of pension to David N. Morland; which were referred to the Committee on Pensions.

He also presented sundry papers to accompany the bill (S. 3272) granting an increase of pension to John Hirth; which were referred to the Committee on Pensions.

Mr. RAYNER (for Mr. GORMAN) presented sundry papers to accompany the bill (S. 4155) for the relief of Samuel H. Walker; which were referred to the Committee on Claims.

Mr. KITTREDGE presented a petition of the Federation of Women's Clubs of Faulkton, S. Dak., and a petition of the Federation of Women's Clubs of Whitewood, S. Dak., praying for an investigation into the industrial condition of the women of the country; which were referred to the Committee on Education and Labor.

Mr. TILLMAN presented a petition of the presidents of the commercial bodies of Charleston, S. C., praying for the enactment of legislation providing for an increase of the United States Coast Artillery forces by an addition of 4,970 men; which was referred to the Committee on Military Affairs.

DISCRIMINATION IN RAILWAY RATES.

Mr. TILLMAN. Mr. President, I send to the desk a letter from a firm of Richmond bankers, accompanied by a memorandum, in regard to railroad rate discrimination. I do this in pursuance of the policy suggested by a Senator that we need light along this line. I ask that it be read.

The VICE-PRESIDENT. Without objection, the Secretary will read the communication.

The paper was read, and ordered to lie on the table, as follows:

JOHN L. WILLIAMS & SONS,
Richmond, Va., March 29, 1906.

Hon. B. R. TILLMAN,
Washington, D. C.

DEAR SIR: I inclose herewith memorandum showing gross discrimination by Pennsylvania Railroad against Richmond and eastern Virginia points in favor of Baltimore and Philadelphia. This is done as the result of the dominating influence and practically controlling influence which the Pennsylvania exercises over the Norfolk and Western and the Chesapeake and Ohio, which dominating influence is really a controlling influence.

It is a matter of common knowledge that President Stevens, of the Chesapeake and Ohio, and President Johnson, of the Norfolk and Western, receive their instructions from the president of the Pennsylvania Railroad, or from the directors of the Pennsylvania Railroad, who are also directors in the Norfolk and Western and the Chesapeake and Ohio.

The information I inclose to you is of special interest to Senator SCOTT and Senator ELKINS, of West Virginia.

Yours, very truly,

L. M. WILLIAMS.

[Extract from the News Leader, January 8, 1906.]

DISCRIMINATION AGAINST RICHMOND.

Various Richmond manufacturers must have been amused by Maj. James H. Dooley's letter protesting against regulation of railroad freight rates by Government commission, printed here last week. Major Dooley argued that the commission, if created, will be composed chiefly of northern and western men, and that they will discriminate against the South and deprive southern cities of advantages in freight rates which they now enjoy.

Virginia people, and especially Richmond people, will judge of this matter by what they see and know under their own eyes. The Chesapeake and Ohio road charges the Richmond manufacturer $1.60 per ton of 2,000 pounds from New River and $1.70 from Kanawha. Philadelphia and Baltimore have a rate of $1.38 per ton, a difference in their favor of 22 cents on every ton of coal hauled. If a Richmond manufacturer uses 20,000 tons of coal a year this makes an absolute difference against him of $8,000 in hard cash, which is equivalent to 4 per cent on $200,000 invested. The same road gives rates to Backbone and Covington of 65 cents from New River and 75 cents from Kanawha, and to Low Moor, Longdale, and Iron Gate rates of $1 and $1.10. At these points the Chesapeake and Ohio discriminates in favor of the large consumer, what may be called the wholesale purchaser, to the extent of 30 or 40 cents per ton against the comparatively small purchaser for domestic use. In Richmond the largest consumers, the manufacturers, are given no advantage over the small consumers. What favoritism is shown is given to the other railroads. Our information is that the Chesapeake and Ohio gives all the other railroads, including even the Farmville and Powhatan, a rate of $1.25 from New River and $1.35 from Kanawha, while exacting $1.60 and $1.70 from our manufacturers.

So far from gaining an advantage from the improved facilities and equipments of the railroads Richmond actually has been made to suffer from them. In 1899 we paid here $1.65 per ton of 2,240 pounds from the Kanawha district. Now we pay $1.70 per ton of 2,000 pounds, which is equivalent to $1.90 per ton of 2,240 pounds, a net advance since 1899 of 13¼ per cent.

The discrimination against Richmond is not only a wrong done this city, but it is distinctly illegal. It is continued in the very teeth of the decision of the Interstate Commerce Commission in the case of the City Gas Company, of Norfolk, against the Baltimore and Ohio Rail-

road, decided last October. This is a case, which, as we understand law, would come directly under the supervision and regulation of a Government commission. Enforcement of proper rates would be worth scores of thousands of dollars to the city of Richmond in the direct saving of money paid out for freight and coal, and many scores of thousands more by enabling her to meet the competition of other cities on equal terms and to offer inducements to new manufacturing establishments to come here.

In the face of a showing like this, it is hard to understand how Major Dooley can argue that the railroad companies are treating the South so well that interference with them and regulation of their rates would be likely to injure this section.

REPORTS OF COMMITTEES.

Mr. HALE. I am directed by the Committee on Appropriations, to whom was referred the bill (H. R. 17359) making appropriations to supply additional urgent deficiencies in the appropriations for the fiscal year ending June 30, 1906, and for prior years, and for other purposes, to report it with amendments, and I submit a report thereon. I give notice that I shall ask the Senate to take up the bill to-morrow morning.

The VICE-PRESIDENT. The bill will be placed on the Calendar.

Mr. BURNHAM, from the Committee on Pensions, to whom were referred the following bills, reported them severally with amendments, and submitted reports thereon:

A bill (S. 3720) granting an increase of pension to Smith Vaughan;

A bill (S. 4193) granting an increase of pension to Calvin D. Wilber; and

A bill (S. 834) granting an increase of pension to Lucien W. French.

Mr. BURNHAM, from the Committee on Pensions, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 3555) granting a pension to Alice A. Fray;

A bill (S. 1692) granting a pension to Ellen H. Swayne;

A bill (S. 5355) granting an increase of pension to Annie M. Walker;

A bill (S. 3468) granting an increase of pension to Myra R. Daniels;

A bill (S. 5255) granting an increase of pension to John D. Cutler;

A bill (S. 4745) granting an increase of pension to Susan J. F. Joslyn; and

A bill (S. 5375) granting an increase of pension to Frances L. Porter.

Mr. BURNHAM, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 3765) granting an increase of pension to Charles R. Frost;

A bill (H. R. 2034) granting a pension to Cora F. Mitchell;

A bill (H. R. 14855) granting an increase of pension to Henry C. Carr;

A bill (H. R. 15110) granting an increase of pension to John Green;

A bill (H. R. 11702) granting an increase of pension to Lucy A. Pender; and

A bill (H. R. 13866) granting an increase of pension to Isaac Pince.

Mr. McCUMBER, from the Committee on Pensions, to whom was referred the bill (S. 976) granting pensions to certain enlisted men, soldiers, and officers who served in the war of the rebellion, reported it with an amendment, and submitted a report thereon.

He also, from the same committee, to whom were referred the following bills, reported them severally with amendments, and submitted reports thereon:

A bill (S. 3119) granting an increase of pension to F. A. Beranek; and

A bill (S. 3883) granting an increase of pension to Ferdinand Hercher.

Mr. McCUMBER, from the Committee on Pensions, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 3549) granting an increase of pension to Martha H. Ten Eyck;

A bill (S. 2799) granting an increase of pension to Willis H. Watson;

A bill (S. 5205) granting an increase of pension to John F. Alsup;

A bill (S. 5114) granting an increase of pension to Lizzie B. Cudick;

A bill (S. 4231) granting an increase of pension to Owen Martin; and

A bill (S. 3551) granting an increase of pension to Solomon Jackson.

Mr. McCUMBER, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 663) granting a pension to Joseph Ellmore;

A bill (S. 1691) granting an increase of pension to Alice S. Shepard;

A bill (S. 3130) granting an increase of pension to George B. Vallandigham;

A bill (H. R. 11804) granting an increase of pension to Patrick McDermott;

A bill (H. R. 12651) granting a pension to Louis Grossman;

A bill (H. R. 15622) granting an increase of pension to Argyle Z. Buck;

A bill (H. R. 15491) granting an increase of pension to James Buckley;

A bill (H. R. 16519) granting an increase of pension to Erwin G. Dudley;

A bill (H. R. 11622) granting a pension to Martha A. Remington;

A bill (H. R. 14337) granting an increase of pension to Gabriel Y. Palmer;

A bill (H. R. 14437) granting an increase of pension to Marquis M. De Burger;

A bill (H. R. 15029) granting an increase of pension to Sabine Vancuren;

A bill (H. R. 11076) granting a pension to Marion W. Stark; and

A bill (H. R. 11856) granting an increase of pension to Luke McLoney.

Mr. SMOOT, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 5192) granting a pension to John H. Stacy;

A bill (H. R. 13573) granting an increase of pension to Francis M. Ballew;

A bill (H. R. 9765) granting an increase of pension to John C. Anderson;

A bill (H. R. 1939) granting an increase of pension to William F. Limpus;

A bill (H. R. 12049) granting an increase of pension to Rolland Havens;

A bill (H. R. 14559) granting an increase of pension to Henry West;

A bill (H. R. 14560) granting an increase of pension to Elizabeth Weston;

A bill (H. R. 14951) granting an increase of pension to James Nunan;

A bill (H. R. 11484) granting an increase of pension to Thomas H. Wilson; and

A bill (H. R. 11563) granting an increase of pension to John Henderson.

Mr. SMOOT, from the Committee on Pensions, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 5189) granting an increase of pension to Margaret F. Joyce; and

A bill (H. R. 13572) granting an increase of pension to Saturnine Baca.

Mr. BURKETT, from the Committee on Pensions, to whom were referred the following bills, reported them severally with amendments, and submitted reports thereon:

A bill (S. 4112) granting an increase of pension to H. M. Swigart; and

A bill (S. 556) granting an increase of pension to William H. Egolf.

Mr. BURKETT, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 3273) granting an increase of pension to Abisha Risk;

A bill (H. R. 14909) granting an increase of pension to John W. Creager;

A bill (H. R. 14532) granting an increase of pension to Augusta N. Manson;

A bill (H. R. 15940) granting an increase of pension to James M. Carley;

A bill (H. R. 15536) granting an increase of pension to Henry H. Tillson;

A bill (H. R. 13803) granting an increase of pension to Henry H. Forman;

A bill (H. R. 13153) granting an increase of pension to George Budden;

A bill (H. R. 12122) granting an increase of pension to Robert G. Shuey;

A bill (H. R. 11836) granting an increase of pension to David H. Allen;

A bill (H. R. 11597) granting an increase of pension to George M. Apgar;

A bill (H. R. 14454) granting an increase of pension to William A. Blossom; and

A bill (H. R. 3569) granting a pension to Ada N. Hubbard.

Mr. PILES, from the Committee on Pensions, to whom was referred the bill (S. 3415) granting an increase of pension to William Triplett, reported it with an amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 4739) granting an increase of pension to Benjamin F. Burgess, reported it with amendments, and submitted a report thereon.

He also, from the same committee, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 4018) granting an increase of pension to Ebenezer Lusk;

A bill (H. R. 14874) granting an increase of pension to William C. Hearne;

A bill (H. R. 14875) granting an increase of pension to Mary A. Witt;

A bill (H. R. 12241) granting an increase of pension to Elizabeth E. Barber;

A bill (H. R. 12198) granting an increase of pension to Charles F. Runnels;

A bill (H. R. 10747) granting an increase of pension to Jonathan Lengle;

A bill (H. R. 12992) granting an increase of pension to Henry G. Klink;

A bill (H. R. 14131) granting an increase of pension to Francis M. Simpson; and

A bill (H. R. 9813) granting a pension to Harlet P. Sanders.

Mr. TALIAFERRO, from the Committee on Pensions, to whom were referred the following bills, reported them severally with amendments, and submitted reports thereon:

A bill (S. 1628) granting an increase of pension to Christian H. Gochel; and

A bill (S. 3178) granting an increase of pension to Daniel Shelley.

Mr. TALIAFERRO, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 15553) granting an increase of pension to Susan H. Isom;

A bill (H. R. 6055) granting an increase of pension to Angeline Watson;

A bill (H. R. 14823) granting an increase of pension to William Woods;

A bill (H. R. 14824) granting an increase of pension to Samuel P. Newman;

A bill (H. R. 15059) granting an increase of pension to Alfred W. Morley;

A bill (H. R. 12532) granting an increase of pension to Zachariah George;

A bill (H. R. 12533) granting an increase of pension to Zadiek Carter;

A bill (H. R. 14143) granting an increase of pension to Zacur P. Pott; and

A bill (H. R. 13255) granting an increase of pension to William J. Hays.

Mr. OVERMAN, from the Committee on Pensions, to whom was referred the bill (S. 1605) granting an increase of pension to Richard H. Lee, reported it with amendments, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 5077) granting an increase of pension to Gabriel Cody, reported it with an amendment, and submitted a report thereon.

He also, from the same committee, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 15382) granting an increase of pension to Mary C. Moore;

A bill (H. R. 14489) granting an increase of pension to Peter C. Krieger;

A bill (H. R. 14547) granting an increase of pension to Thomas Chapman;

A bill (H. R. 14718) granting an increase of pension to Joseph A. Jones;

A bill (H. R. 15198) granting an increase of pension to Elizabeth J. Martin;

A bill (H. R. 11716) granting an increase of pension to Warren B. Tompkins;

A bill (H. R. 11868) granting an increase of pension to Joseph Dougal;

A bill (H. R. 13079) granting an increase of pension to James H. Griffin;

A bill (H. R. 13526) granting a pension to Levi N. Lunsford; and

A bill (H. R. 13537) granting an increase of pension to Elizabeth B. Busbee.

Mr. GEARIN, from the Committee on Pensions, to whom was referred the bill (S. 5146) granting a pension to Mary J. McLeod, reported it with amendments, and submitted a report thereon.

He also, from the same committee, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 5095) granting a pension to Jeremiah McKenzie; and

A bill (S. 5093) granting an increase of pension to Josiah F. Staubs.

Mr. GEARIN, from the Committee on Pensions, to whom was referred the bill (S. 5094) granting an increase of pension to Samuel F. Baublitz, reported it without amendment, and submitted a report thereon.

Mr. BLACKBURN, from the Committee on the District of Columbia, to whom was referred the bill (H. R. 4461) to provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District, and for other purposes, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 53) to provide for the abatement of nuisances in the District of Columbia, by the Commissioners of said District, and for other purposes, submitted an adverse report thereon; which was agreed to, and the bill was postponed indefinitely.

Mr. GALLINGER, from the Committee on the District of Columbia, to whom was referred the bill (S. 47) to create a board for the condemnation of insanitary buildings in the District of Columbia, and for other purposes, reported it with an amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (H. R. 14578) to provide for the establishment of a public crematorium in the District of Columbia, and for other purposes, reported it without amendment, and submitted a report thereon.

Mr. HANSBROUGH, from the Committee on the District of Columbia, to whom was referred the bill (S. 59) authorizing the Commissioners of the District of Columbia to establish building lines, reported it with an amendment to the title, and submitted a report thereon.

Mr. FORAKER, from the Committee on Military Affairs, to whom the subject was referred, submitted a report, accompanied by a bill (S. 5448) to authorize the construction, operation, and maintenance of a telegraphic cable from Key West, Fla., to the United States naval station at Guantanamo, Cuba, and from thence to the Canal Zone on the Isthmus of Panama; which was read twice by its title.

COURTS IN ALABAMA.

Mr. PETTUS. I am directed by the Committee on the Judiciary, to whom was referred the bill (S. 5215) to fix the regular terms of the circuit and district courts of the United States for the southern division of the northern district of Alabama, and for other purposes, to report it favorably with amendments, and I ask unanimous consent that it be presently considered. It is a very short bill.

There being no objection, the bill was considered as in Committee of the Whole.

The amendments of the Committee on the Judiciary were, in section 2, page 1, line 13, after the word "the," to strike out "justice" and insert "judge;" and on page 2, line 2, after the word "presiding," to strike out "justice" and insert "judge;" so as to make the section read:

SEC. 2. That whenever the judge for the northern district of Alabama deems it advisable, on account of disability or absence, or of the accumulation of business therein, or for any other cause, that said court should be held by the judge of some other district or circuit court, he shall, in writing, request the presiding judge for the fifth judicial circuit of the United States to assign a judge to hold the term or terms of said court.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

PORT OF NEW ORLEANS.

Mr. FRYE. I move that the bill (S. 411) to extend the limits of the port of entry of New Orleans be recommitted to the Committee on Commerce.

The motion was agreed to.

BILLS INTRODUCED.

Mr. CULLOM introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 5449) granting an increase of pension to Asher Drake;

A bill (S. 5450) granting an increase of pension to William T. Johnson; and

A bill (S. 5451) granting an increase of pension to Alexander C. Boner.

Mr. McCUMBER introduced a bill (S. 5452) granting an increase of pension to Thomas Armstrong; which was read twice by its title, and referred to the Committee on Pensions.

Mr. KEAN (for Mr. DRYDEN) introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 5453) granting an increase of pension to Jacob M. Pickle; and

A bill (S. 5454) granting an increase of pension to Florence Livingston Millen Mentz.

Mr. BEVERIDGE introduced a bill (S. 5455) granting a pension to Emily J. Alden; which was read twice by its title, and referred to the Committee on Pensions.

Mr. ELKINS introduced the following bills; which were severally read twice by their titles, and, with the accompanying papers, referred to the Committee on Pensions:

A bill (S. 5456) granting an increase of pension to Marcellus C. Cash; and

A bill (S. 5457) granting an increase of pension to Albert Teets.

Mr. ELKINS introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Claims:

A bill (S. 5458) for the relief of Levi W. Stalnaker;

A bill (S. 5459) for the relief of the heirs of Abraham Parsons, deceased;

A bill (S. 5460) for the relief of the heirs of William Ewing, deceased;

A bill (S. 5461) for the relief of the heirs of Elias W. Phares, deceased;

A bill (S. 5462) for the relief of the heirs of Charles Ruffner, deceased;

A bill (S. 5463) for the relief of J. R. Clifford (with accompanying papers); and

A bill (S. 5464) for the relief of John Sharp and George Dickson (with accompanying papers).

Mr. MILLARD introduced a bill (S. 5465) referring to the Court of Claims the claim of the heirs and legal representatives of John P. Maxwell and Hugh H. Maxwell, deceased; which was read twice by its title, and referred to the Committee on Public Lands.

He also introduced a bill (S. 5466) for the establishment of a general depot of the Quartermaster's Department of the United States Army at Omaha, Nebr.; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Military Affairs.

He also introduced a bill (S. 5467) granting an increase of pension to David B. Simmons; which was read twice by its title, and referred to the Committee on Pensions.

Mr. LONG introduced a bill (S. 5468) granting an increase of pension to John M. Whitehead; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. DOLLIVER introduced a bill (S. 5469) to authorize the Secretary of Commerce and Labor to investigate and report upon the industrial, social, moral, educational, and physical condition of woman and child workers in the United States; which was read twice by its title, and referred to the Committee on Education and Labor.

Mr. TELLER introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 5470) granting an increase of pension to Josephine S. Jones;

A bill (S. 5471) granting a pension to William A. Johnson (with accompanying papers);

A bill (S. 5472) granting a pension to T. J. Sparks (with accompanying papers);

A bill (S. 5473) granting an increase of pension to James S. Hardy (with accompanying papers);

A bill (S. 5474) granting an increase of pension to James H. Webb (with an accompanying paper); and

A bill (S. 5475) granting an increase of pension to William C. Clark.

Mr. TELLER introduced a bill (S. 5476) for the relief of Lawrence T. Fetterman; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Military Affairs.

He also introduced a bill (S. 5477) to provide for the purchase of a site and the erection of a public building thereon at Fort Collins, in the State of Colorado; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Public Buildings and Grounds.

Mr. FULTON introduced a bill (S. 5478) to provide for the purchase of a site and the erection of a building thereon at Eugene, in the State of Oregon; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

He also introduced a bill (S. 5479) granting an increase of pension to William M. Favorite; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. GEARIN introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 5480) granting a pension to William P. Heydon; and

A bill (S. 5481) granting a pension to John Brown Williams.

Mr. OVERMAN introduced a bill (S. 5482) granting a pension to Martha Jane Goddard; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 5483) for the relief of Albert L. Scott; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

Mr. FRAZIER introduced a bill (S. 5484) authorizing the Secretary of War to accept a tract of land at or near Greeneville, Tenn., where lie the remains of Andrew Johnson, late President of the United States, and establishing the same as a fourth-class national cemetery; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Military Affairs.

He also introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Claims:

A bill (S. 5485) for the relief of the estate of Daniel B. Harold, deceased (with accompanying papers);

A bill (S. 5486) for the relief of Margaret E. Watkins, administratrix of Patrick Henry Watkins, deceased (with accompanying papers);

A bill (S. 5487) for the relief of the estate of Robert W. Smith, deceased (with accompanying papers); and

A bill (S. 5488) for the relief of the heirs of Hiram G. and Charlotte G. Robertson, deceased.

Mr. TALIAFERRO introduced a bill (S. 5489) to provide for sittings of the circuit and district courts of the southern district of Florida in the city of Miami, in said district; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. KNOX introduced a bill (S. 5490) for the relief of the estates of John McCloskey and John S. Cosgrave, deceased; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Claims.

He also introduced a bill (S. 5491) to correct the military record of John Walkinshaw and grant him an honorable discharge; which was read twice by its title, and referred to the Committee on Military Affairs.

REGENT OF SMITHSONIAN INSTITUTION.

Mr. CULLOM. I introduce a joint resolution, which I hope may be acted upon without delay.

The joint resolution (S. R. 46) to fill a vacancy in the Board of Regents of the Smithsonian Institution was read the first time by its title and the second time at length, as follows:

Resolved, etc., That the vacancy in the Board of Regents of the Smithsonian Institution of the class other than Members of Congress shall be filled by the reappointment of Andrew D. White, a citizen of New York, whose term expires June 2, 1906.

The VICE-PRESIDENT. Is there objection to the present consideration of the joint resolution?

There being no objection, the joint resolution was considered as in Committee of the Whole.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. ELKINS submitted an amendment proposing to increase the salaries of the present two assistants detailed by the Librarian of Congress for service at the Library Station in the Capitol to $1,500 each, intended to be proposed by him to the legislative, executive, and judicial appropriation bill; which

was referred to the Committee on Appropriations, and ordered to be printed.

He also submitted an amendment proposing to appropriate $600 to pay J. F. Sellers, S. A. Maryman, and F. L. Thompson for extra services rendered to the Committee on Interstate Commerce of the Senate during the consideration of the hearings on the railway rate bill, intended to be proposed by him to the urgent deficiency appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. GAMBLE submitted an amendment relative to the use of the money due the estates of deceased colored soldiers of the late civil war, intended to be proposed by him to the sundry civil appropriation bill; which was referred to the Committee on Military Affairs, and ordered to be printed.

Mr. KITTREDGE submitted an amendment proposing to appropriate $3,000 for the protection and improvement of the sanitarium spring at the Battle Mountain Sanitarium, Hot Springs, S. Dak., intended to be proposed by him to the sundry civil appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

He also submitted an amendment authorizing the issuance of patents in fee simple to Moses N. Vandel and certain other Yankton Sioux Indians for land heretofore allotted to them, intended to be proposed by him to the Indian appropriation bill; which was referred to the Committee on Indian Affairs, and ordered to be printed.

HOUSE BILLS REFERRED.

The following bills were severally read twice by their titles, and referred to the Committee on the Judiciary:

H. R. 20. An act to change and fix the time for holding the circuit and district courts of the United States for the middle district of Tennessee; in the southern division of the eastern district of Tennessee at Chattanooga, and the northeastern division of the eastern district of Tennessee at Greenville, and for other purposes; and

H. R. 15910. An act to amend the act entitled "An act to regulate commutation for good conduct for United States prisoners," approved June 21, 1902.

H. R. 16472. An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1907, and for other purposes, was read twice by its title, and referred to the Committee on Appropriations.

H. R. 9324. An act to authorize the Fayette Bridge Company to construct a bridge over the Monongahela River, Pennsylvania, from a point in the borough of Brownsville, Fayette County, to a point in the borough of West Brownsville, Washington County, was read twice by its title, and referred to the Committee on Commerce.

PROPOSED ISLE OF PINES INVESTIGATION.

The VICE-PRESIDENT. The Chair invites the attention of the Senator from Alabama [Mr. MORGAN] to the resolution submitted by him, providing for the appointment of a committee to make a careful investigation into the condition, etc., of the Isle of Pines.

Mr. MORGAN. The Senator from Ohio [Mr. FORAKER] and myself have agreed that the resolution shall lie on the table until called up.

The VICE-PRESIDENT. The resolution will lie on the table.

PUBLIC HEALTH AND MARINE-HOSPITAL SERVICE.

Mr. MALLORY. I ask unanimous consent for the present consideration of the bill (S. 4250) to further enlarge the powers and authority of the Public Health and Marine-Hospital Service, and to impose further duties thereon. The bill was considered as in Committee of the Whole and amended on the 26th of March, and went over in order that it might be printed as amended.

The VICE-PRESIDENT. Is there objection to the present consideration of the bill?

Mr. BAILEY. I do not know what is the exact nature of the bill; but I am rather inclined to think that I agree with the Senator upon it.

Mr. MALLORY. I do not believe there is anything at all in the bill that the Senator from Texas objects to.

Mr. BAILEY. Upon that statement, I am not going to delay it.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

REGULATION OF RAILROAD RATES.

Mr. TILLMAN. I ask that House bill 12987, the unfinished business, be laid before the Senate for consideration.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission.

Mr. BACON. Mr. President, I desire to present an amendment which I intend to offer to the pending bill. I ask that it may be read, printed, and lie on the table.

The VICE-PRESIDENT. Without objection, the Secretary will read the amendment.

The Secretary read as follows:

Insert the following:

"No rate or charge, regulation or practice prescribed by the Commission shall be restrained, set aside, suspended, or modified by any interlocutory or preliminary order or decree of the court, unless upon the hearing after such full notice to the Commission as herein prescribed, the same shall be considered and concurred in and ordered by at least two judges presiding in said hearing, at least one of whom shall be a judge of the circuit court of the United States or a circuit justice of the Supreme Court of the United States. In case any application, motion, or prayer for such interlocutory or preliminary order or decree shall be made by any party to such complaint other than the carrier or carriers to be affected by the rate or charge, practice or regulation in question prescribed by the Commission, then and in that case said carrier or carriers shall, before the hearing of said application, motion, or prayer, by appropriate order and process, be made a party or parties to the said complaint in equity to abide such orders and decrees as may be made by the court pending said cause and the final judgment and decree in the same. Upon the granting of any interlocutory or preliminary order or decree restraining, setting aside, suspending, or modifying any rate or charge, regulation or practice prescribed by the Commission, before said interlocutory or preliminary order or decree shall be operative or of any effect, the carrier, person, or corporation, other than a shipper or shippers, seeking such order or decree shall deposit in the registry of the court, and subject to the order thereof as hereinafter specified, the sum of $50,000, either in lawful money of the United States or in lawful bonds of the United States at the par value thereof. It shall, in addition thereto, be the duty of the said carrier or carriers to be affected by the rate or charge, practice or regulation in question to pay into the registry of the court, subject to its order, the sums of money as herein specified, and to effectuate the same, at the time of granting such preliminary or interlocutory order or decree the court shall, by appropriate order, require the said carrier or carriers affected by the rate or charge, practice or regulation in question prescribed by the Commission to pay into the registry of the court and subject to its order, on or before the 10th day of each month pending the said interlocutory or preliminary order or decree, in lawful money of the United States, all money received by such carrier or carriers during the calendar month next preceding said date and subsequent to the date of filing said complaint from the collection made for all shipments upon the rates and charges in question in excess of the rates and charges as fixed and determined by the order of said Commission. On the said 10th day of each month there shall be filed in court by said carrier or carriers, through their duly authorized officer or officers, a statement under oath of the shipments on account of which said collections have been made, setting forth in detail the character and amounts of said shipments, the point of each shipment and of its destination, the names of the consignors and consignees, the amount collected from each for said shipment, and, separately, the excess collected as aforesaid, and the names of the persons from whom collected. The said court, at the time of granting said temporary or interlocutory order or decree, and in its discretion thereafter from time to time, shall require the said carrier or carriers to give such bond and security as may be deemed sufficient to insure the filing of said reports and the payment of said amounts, and in addition thereto shall, by the orders and processes of a court of equity, enforce summarily the prompt payment of said amounts into the registry of the court, from which orders of the court there shall be no appeal. Any refusal or failure to comply with said orders and to pay into the court the said sum of money as herein provided shall constitute a contempt of the court. For the purpose of said orders the court shall be deemed to be always in session. From said orders or decrees for the payment into court of the said amounts no appeal shall lie.

"If, upon the final decree in said cause, the rate or charge prescribed by the Commission shall be adjudged to be valid, the court shall by proper orders and decrees out of the said deposit or the proceeds of the sale thereof and the additional payments made into the court by the said carrier or carriers cause to be paid to each of the persons from whom collections have been made the several amounts paid by each of them to said carrier or carriers in excess of the said rate or charges prescribed by the Commission, with interest thereon from the date of each payment at the rate of 6 per cent per annum.

"If upon the final decree in said cause the rate or charge prescribed by the Commission shall be adjudged to be invalid and the enforcement of the same shall be enjoined, the court shall by proper orders and decrees direct to be paid over to the said carrier or carriers the sum of money thus theretofore deposited and paid into the registry of the court, less such amounts for costs as the court in its discretion, under the circumstances of any case, may, in justice and equity, deem to be reasonably chargeable to said carrier or carriers.

"Pending said cause, it shall be within the power of the court by appropriate proceedings, either in open court or through a master in chancery or commissioner, to examine into the correctness of the reports herein required to be made under oath by the said carrier or carriers, and to this end to examine under oath their officials and employees, and to require by order the production of the books and papers of said carrier or carriers.

"If, upon the said examination, it shall be adjudged that the said carrier or carriers have not made complete returns of all of said shipments and the amounts collected thereon, as herein specified, the court shall by order require the said carrier or carriers to pay into the registry of the court in lawful money of the United States the amount received on account of said shipments in excess of the amounts theretofore reported to the court."

The VICE-PRESIDENT. The proposed amendment will be printed and lie on the table.

Mr. FULTON. Mr. President, in discussing the pending measure I do not purpose entering upon any argument or attempt to prove either the necessity or the importance of additional legislation for the purpose of providing a wider and stricter regulation and control of the persons engaged or the instrumentalities employed in conducting commerce among the States. I assume that it is the consensus of opinion here, as it unquestionably is throughout the country, that legislation of such character is not only desirable, but necessary, and that we believe, as the people believe, the time has come when a more strict and systematic regulation and control of the great transportation lines of this country engaged in interstate commerce should be exercised by the Federal Government. This conviction in the public mind has been of slow growth, but it is the result of profound deliberation, thought, and study.

It would not be accurate to say that the suggestion of government control and regulation of rates, fares, and charges of transportation lines is a suggestion of a new governmental policy, because in truth it is a policy that has obtained in many of the States for a considerable period of time; it is a policy that was long since adopted by many of the leading countries of Europe, and is still adhered to in one form or another. That it is a problem replete with difficulties and perplexing questions, particularly in this country, with its wide area and vast internal commerce, is quite generally conceded. Hence it is not surprising that even among those who are most earnestly favoring legislation of this character there should be wide differences of opinion touching the methods to be employed, nor is it any impeachment of one's sincerity or zeal that his ideas upon a subject so fraught with difficulties and complex questions should not be in accord with the views or convictions of some other person or of many other persons. Nor should the public conclude that simply because the members of a legislative body, confronted with a great governmental policy or proposed policy such as this are disposed to move slowly in solving it, to study it from every possible point of view, that they are wanting in either earnestness or patriotism.

It is quite true, Mr. President, that there is a school of philosophers and magazine essayists who have discovered not the slightest difficulty in determining just exactly what should be done in this matter, and how it should be done. They do not admit that there is any excuse whatever for a moment's delay in the enactment of the legislation. I am frank to confess, Mr. President, that I am not so happily or fortunately constituted, nor am I sufficiently supplied with the quality of gray matter that is necessary to so ready and easy a solution of the grave governmental and constitutional questions which are presented by this inquiry.

I have given during the last several months such time as I have been able to spare to the study and investigation of a few only of the numerous questions involved, and I can not say that I have yet reached a perfectly satisfactory conclusion concerning all of them.

I do not expect, Mr. President, to be able to contribute a single original thought or suggestion to this discussion or to change or influence the views of any member of this body. I only hope to be able so to express my own views that I will have furnished a reasonably clear explanation of my motive for the votes that I shall cast during the progress of this legislation.

I hear Senators referred to on the one hand as railroad Senators and on the other hand as the foes or opponents of corporations. I sincerely trust that I am neither. I hope that I am a friend of railroads and of every other legitimate commercial and industrial enterprise. I would not knowingly cast a vote the effect of which would be to embarrass or cripple any legitimate industry or business. We are called upon, however, by legislation to regulate the conduct of individuals, and in a greater or less degree every character of business. That we find it necessary to exercise a higher degree of care and to provide for a wider control and regulation of so-called "public-service corporations" than of other business enterprises is due entirely to the fact that the relation of these corporations to the public is in a large degree that of governmental agencies, clothed in a great measure with governmental powers. But in enacting legislation of this character we must take care that we neither sacrifice the interests of the public, on the one hand, nor render it impossible, on the other hand, for those who have invested their money, their savings, and their earnings in these corporations to earn a just and reasonable compensation for the services that they perform. To do the one would be to prove false to the trust with which we are charged. To do the other would be at once to discredit ourselves and our country.

I have not the slightest patience with the cry that simply because a Senator favors this bill or that, or opposes this measure or that, he is necessarily and ipso facto the tool, the agent, or the representative of some peculiar or special interest. I am very confident that every Senator in this body in casting his vote upon this question, as upon every other, will so cast it as to represent, according to his best judgment and according to his conscience, the people whose duty it is for him to represent here. That there should be wide differences of opinion is not surprising. A man who comes from a purely commercial center is naturally imbued with ideas and convictions that prevail there; a man who comes from a manufacturing center is quite naturally influenced in a large measure in his convictions by the convictions that prevail there; and so a man who comes from an agricultural section is influenced largely by the views that are entertained there touching public questions and matters of legislation. Were this not true, we would not be representing our constituents. I make no pretense that my judgment is not influenced—I know it must be, though perhaps unknown to me influenced very largely—on questions of public policy by what seems to be the judgment and the wishes of the people I in part represent.

I honor the man, Mr. President, who has the courage of his convictions. It may be unpopular for the moment for him to advocate them, but I believe in the principle of eternal justice, and I believe that justice will ultimately prevail and the time will come when he will be recognized and honored because of the courage he displayed in standing for his convictions.

Mr. President, as I have said, I do not purpose entering into a discussion to show the importance of this character of legislation, nor do I purpose taking up the various and different provisions of this proposed act. The real primary purpose of this measure is to empower the Railway Commission when a rate shall be challenged, or when on investigation it shall determine that a rate or practice of a transportation company is unreasonable or unjust, to substitute therefor a just and reasonable maximum rate, or what it deems to be a just and reasonable regulation in lieu of that which has been established by the carrier. That is the prime object of this proposed legislation.

There are various provisions of the bill which are designed to aid in carrying out the main purpose, but the wording of those provisions will not become important until we shall have determined the principle upon which we shall legislate. The real controversy here, after all, is whether or not we shall provide in this bill for a judicial review of the orders of the Commission. There are some who contend that, as a matter of principle, a matter of justice, and a matter of right, there should be a broad and unlimited review by the courts. There are others who contend not only that a wise public policy requires such review, but that no bill will be in conformity to the Constitution that does not contain some such provision. On the other hand are those who contend that it is unnecessary to provide for a court review in the bill, because it is unwise, as a matter of public policy, to grant the right of review beyond what is necessary to protect the carrier in the enjoyment of his or its constitutional rights and privileges; and they contend that a law which is silent on the subject of review permits such review to the extent that it may be necessary in order to protect all of the constitutional rights of the carrier.

Again, there are some who favor the plan of the distinguished Senator from Ohio [Mr. FORAKER], which, in brief, is that the Commission shall be charged with the duty of prescribing and recommending reasonable rates and practices in lieu of unreasonable rates and practices established by the carrier, and if the carrier shall fail to put the rate or regulation so prescribed by the Commission in effect after due notice, it shall be the duty of the Commission to institute a suit to put in force a reasonable rate or regulation, and it shall be the duty of the court to ascertain and decree what the reasonable rate or practice is. Personally I favor practically the bill which passed the House and has been reported by the Committee on Interstate Commerce of this Senate. If, however, a provision for unlimited review is to be adopted and attached, I will frankly say then I prefer the plan of the Senator from Ohio. It is my belief and conviction, however, that the wiser plan is to provide for no method of review, leaving the law silent on this subject, which will have the effect of making all rates and regulations of the Commission conclusive, excepting such as shall invade the constitutional rights of the carrier; that is to say, if a rate or regulation shall be of such a character as to render it impossible for the carrier complying therewith to earn a sufficient income to meet its legitimate and proper expenses, and to pay a reasonable, fair profit on the value of its property, it might be said, and probably would be said, by the courts that the rate or regulation was unreasonable to the extent that it amounted to a taking of private property for public use without just compensation.

In such case the Commission would be acting in violation of the law, because the law will require it to prescribe just and reasonable rates and regulations, and hence the carrier would have, under the general law and the Constitution, the right to restrain in a court of equity the enforcement of any such order of the Commission. I think I have now stated the real issues here.

Mr. President, it has been contended here by able lawyers that a law which is silent on the subject of court review—that is, which contains no provision authorizing a judicial review and prescribing the method therefor—is equivalent to a denial in terms of such right and is in contravention of the Constitution.

The other day, in that splendid argument made by the distinguished Senator from Pennsylvania [Mr. KNOX], by which he so charmed and instructed us all, he said:

> It is obvious that a law conferring the tremendous power which it is proposed by all the bills under consideration to confer upon the Commission, to substitute one rate or practice for another, must be drawn upon one of two theories: Upon the theory that the order of the Commission shall be final and not reviewable by the courts or upon the theory that it shall be reviewable by the courts.

If the Senator meant, as I conclude he did from that which follows, that any bill which is silent touching the right of review is necessarily a bill which denies the right of review and makes the rate and rules and regulations established by the Commission conclusive, then, much as I regret to say it, because I have the highest regard for the great abilities of the distinguished Senator, I can not agree with that conclusion; I do not believe it is a just conclusion, nor do I believe that it is sustained by the authorities.

Before passing, however, to the discussion of that question, I wish to refer for a moment to the somewhat remarkable and antagonistic arguments, not to say the inconsistencies, that our friends who are opposing this measure have drifted into during the course of this discussion. For instance, the other day when the distinguished Senator from Texas [Mr. BAILEY] was discussing his proposed amendment, a colloquy occurred between him and the Senator from Pennsylvania, during which the latter said:

> Now, in conclusion, I wish to say if there is anything in relation to this proposed rate legislation that is thoroughly misunderstood throughout the country it is this. You stop ten men on the street, and nine of them will tell you that there is a party here contending for the right to review the orders of the Commission in the court, and there is another party contending that the orders of the Commission shall be final. I say the real issue here is between this absolutely recognized, unrestricted jurisdiction of the circuit courts in the Hepburn bill and the restrictions proposed to be placed upon it both by the amendment of the Senator from Texas and the bill I had the honor to propose to the Senate.

The Senator from Texas immediately and very earnestly concurred in that statement. So we see that on the 21st day of March these two distinguished Senators were a unit in the contention that the Hepburn-Dolliver bill is wide open, fairly rioting in provisions for review, and they were joining hands in an earnest effort to restrict it within the limits of moderation and sobriety.

But later on my friend the Senator from Pennsylvania, in that great argument which he delivered—and it was a great argument, one of the most beautiful to which I ever listened—said of the Hepburn-Dolliver bill:

> I have ventured the opinion heretofore that I regarded the bill under consideration unconstitutional. I now repeat that opinion, and for the following reasons:
>
> First. It does not provide any method for challenging the unlawfulness of the orders of the Commission in a direct proceeding against the Commission.
>
> Second. It prohibits the parties affected and aggrieved by the Commission's orders from defending proceedings to enforce them upon the ground of their unlawfulness.
>
> It is not possible to find in the bill a single word conferring jurisdiction upon any court to entertain a suit of any party aggrieved by any order of the Commission.

So it appears that after all the Hepburn-Dolliver bill is not such a wide-open review bill as we were told it was some days before. At that time, during the discussion of the proposed amendment by the Senator from Texas, I took occasion to suggest that in my judgment the Hepburn-Dolliver bill, being silent on the question of court review, allowed and permitted only such review as would be necessary to a party to protect his constitutional rights and privileges; that the amendment suggested by the Senator from Texas and the bill introduced by the Senator from Pennsylvania each proposed to allow all the orders of the Commission to be reviewed, and, therefore, that each necessarily proposed an enlargement of the right of review over and above that provided for, contemplated, or permitted by the Hepburn-Dolliver bill. Such was my conviction then, and such is firmly my judgment now.

Mr. KNOX. Mr. President——

The PRESIDING OFFICER (Mr. KITTREDGE in the chair). Does the Senator from Oregon yield to the Senator from Pennsylvania?

Mr. FULTON. Certainly.

Mr. KNOX. It is just to set the Senator right. I am sorry to say that I shall be compelled to class the Senator from Oregon among the nine men out of the ten who misunderstand the situation. I expressly stated, and stated in my remarks the other day with some elaboration, that I was discussing the Hepburn-Dolliver bill as construed by its proponents and not as I construed it, because I expressly said, in referring to the fact that they claimed that there was the right to go into court, that if that were true then that right was absolutely unrestricted by the Hepburn bill. And I followed it by this expression, that "of course I am not contending that it contains any such right."

I only wish to set the Senator from Oregon right on that subject, because I know he does not wish purposely to misrepresent anything I have said.

Mr. FULTON. Certainly not. I could not do it if I would, because it is all in the RECORD, and I would not do it if I could, I assure the Senator of that. I read from the RECORD that which purported to be a quotation from what the Senator said. I have no disposition, however, to place any construction on it. I supposed that was the construction the Senator intended. It was certainly the fair construction of the language which I read.

Mr. KNOX. Mr. President——

Mr. FULTON. Will the Senator allow me, and then he can make his explanation?

I was going to say that the Senator will remember that the first extract which I quoted was from his colloquy with the Senator from Texas. That is the time when he said that the Hepburn-Dolliver bill provided for unrestricted review, while his bill and the amendment of the Senator from Texas proposed to restrict the right of review. That is what I referred to. If I have misrepresented the Senator, I will be glad to have him correct me.

Mr. KNOX. Of course that which is said in colloquy must be taken in connection with that which has been said before or afterwards bearing upon the same subject and more in extenso. Prior to my interruption of the Senator from Texas the other morning, in which I used the language you have correctly read, I had already stated on a previous occasion that if the Hepburn-Dolliver bill were to be construed—and I think I read what Mr. HEPBURN said about it, and made some reference to what the Senator from Iowa and the Senator from Minnesota had said about it—that if it were to be construed as they construed it, there was absolutely no limitation upon the power of the court, and the court could issue an injunction on any application without any restriction whatever, without requiring any bond to be made or any cash to be paid into the court for the protection of the shipper.

Now, the other day when I was speaking——

Mr. FULTON. I know what the Senator said later on; that is, the next time he spoke. I recall very distinctly that he then said that there is no provision for a review in the Hepburn-Dolliver bill.

Mr. KNOX. Then you understand my position correctly.

Mr. FULTON. I quoted that a moment ago. The Senator, perhaps, did not understand me. I only trust that the Senator will not think for a moment that I was endeavoring to misrepresent him.

Mr. KNOX. Certainly not.

Mr. FULTON. I would not do that, and I hope the Senator believes I would not. I thought, perhaps, from the quotations that the Senator had changed his view. It is no offense or crime for one to change his views. But I do not charge that he has done it here.

Mr. KNOX. If I may be permitted to interrupt the Senator once more——

Mr. FULTON. Certainly.

Mr. KNOX. I will say I not only have not, but I am even more confirmed in it than ever.

Mr. FULTON. It is my contention—and that is the question I propose to discuss here—that it is not a wise public policy to grant the unlimited privilege or right of review. I am ready to concede that every man is entitled to be protected in the enjoyment of his constitutional rights, and that no attempt should be made to deprive any person of his property without the just compensation required by the Constitution, but it is my conviction that under this bill, as it stands, every right of that character is fully and amply protected.

To whatever extent judicial review is necessary in order to protect a carrier in the enjoyment of his or its constitutional

rights, I stand for. But manifestly, as I shall attempt to show, there are numerous regulations it will become the duty of the Commission from time to time to prescribe that are purely administrative in character. In the matter of discriminations, for instance, between persons in the sale of tickets; in the matter of passenger accommodations; in the matter of furnishing cars; in the matter of rebates, side-track connections, and numerous regulations of like character, all purely administrative, into which the questions of deprivation of property or of taking property without just compensation can not possibly enter, the orders of the Commission should be final, and they will be under this bill, for relative thereto no constitutional question can arise. Whenever constitutional rights shall be invaded the carrier will have, as I shall undertake to prove, under this bill as it now stands, the right to invoke judicial review of the Commission's orders.

That right he should have; that right we can not, and there is no attempt in this bill, to deny. Beyond that it seems to me he ought not to be permitted to go.

Mr. SPOONER. Will the Senator allow me to ask him a question?

Mr. FULTON. Certainly.

Mr. SPOONER. Is there anything in this bill which authorizes the Interstate Commerce Commission to be sued?

Mr. FULTON. No; not directly, and I do not think there is any necessity for such an authorization.

Mr. SPOONER. Does the Senator mean by that that the Commission can be sued without Congressional authority?

Mr. FULTON. I think so; I have no doubt about it.

Mr. MORGAN. Is it a corporation or a court?

Mr. FULTON. It is an administrative body; that is all it is. It is certainly not a court. It may be said to possess some quasi judicial powers and some quasi legislative powers.

Mr. SPOONER. It is a governmental administrative body without any interest in the subject-matter. Does the Senator think that without any Congressional authority that body can be made defendant in a law suit?

Mr. FULTON. I have no doubt about it. I had not intended to take up that question at this point, but I would just as soon take it up here as elsewhere.

Mr. SPOONER. I beg pardon of the Senator.

Mr. FULTON. Now, in United States *v.* Lee (106 United States, 206) that question is discussed. I suppose, and I want to know if I understand the Senator. I assume that his contention of immunity for the Commission from suits and actions in the courts is on the ground that it is a part of the sovereign power or is exercising a part of the sovereign power and represents the nation; that it stands in such relation to the Government that it may claim the same immunity the Government enjoys in the matter of suits. Is that what the Senator contends?

Mr. SPOONER. I am asking the Senator a question.

Mr. FULTON. But I want to know what the Senator contends. At least, I should like to know. Of course the Senator is not required to say.

Mr. SPOONER. It is a governmental agency, and the power which it exercises is the power of the Government——

Mr. FULTON. Yes; and if the Government can not be sued——

Mr. SPOONER. Well, the Government can be sued, if the Government consents.

Mr. FULTON. Yes; if it consents. It can not be sued unless it does consent.

Mr. SPOONER. Does the Senator hold that if there was nothing in the legislation which directly or inferentially authorized this agency of Government to be sued it could be sued?

Mr. FULTON. That is, if there is nothing of a specific character or by necessary implication authorizing it?

Mr. SPOONER. Yes.

Mr. FULTON. Yes; I think it could be sued anyway. Now, let me say——

Mr. BACON. Will the Senator pardon me for just a moment?

Mr. FULTON. In just a second. Let me answer the question. All questions of that character, however, simply go to the verbiage or phraseology of the bill and do not rise to the dignity or importance of a principle. So it is not really important anyway. I now yield to the Senator from Georgia.

Mr. BACON. The issue between the Senator from Wisconsin and the Senator from Oregon would be simplified if the suggestion were made that the Senator from Wisconsin certainly does not mean by his inquiry whether the Commission could be sued to recover damages or anything of that kind, but the Senator limits the inquiry——

Mr. FULTON. Whether they can be made a party?

Mr. BACON. To the question whether the Commission is subject to legal process to restrain it from encroachment upon constitutional rights. That I understand to be the question.

Mr. FULTON. I understand that that was what the Senator meant.

Mr. SPOONER. That is what I meant.

If it will not bother the Senator, I should like to say a word.

Mr. FULTON. Not at all.

Mr. SPOONER. It is not by any means a mere question of verbiage. The Senator would concede that if the verbiage precluded suits against the Commission, so that there was no way in which the question could be raised in any lawsuit, because there must be parties, the plaintiff and the defendant, then the proposed act would not be valid. The question is whether the verbiage of the proposed act or of the existing law is such that the validity of an order made by the Commission can be tested in a suit in which the Commission is the defendant. That is the question.

Mr. FULTON. To which the Commission is made a party.

Mr. SPOONER. Yes.

Mr. FULTON. What I meant by saying that it is a mere matter of verbiage or phraseology in the bill is that if it is necessary to say "in a suit for review, the Commission may be made a party," it would not affect the principle I am discussing. That provision might be inserted, and yet unrestricted review be not granted.

Mr. SPOONER. No; if that provision is not made, and if the Commission can not be sued, is it not true——

Mr. FULTON. I think unquestionably if it is true, as the Senator contends——

Mr. SPOONER. Oh, no; I am not contending; I am asking.

Mr. FULTON. Very well; if it is true, as the Senator implies by his question, that the Commission could not be made a party to a suit to test the constitutionality of the act, and that there was no way by which you could bring the Commission into court in order to review the proceedings, I think if the proposed act denied that, it would be unconstitutional. But one would naturally wonder how the carrier would ever get it declared unconstitutional if it could not make the Commission or anybody a party to a suit.

Mr. SPOONER. If you could not make anybody a party to a suit to test the validity of the order, it would be equivalent to making the rate fixed by the Commission conclusive, would it not, and that would be unconstitutional?

Mr. FULTON. I will grant that, but I contend that the Commission may be made a party without any specific provision authorizing it. I cite the Senator, in the first place, to the case of United States *v.* Lee.

Mr. SPOONER. I know that case.

Mr. FULTON. No doubt the Senator knows it. In that case an action was brought in ejectment against certain Government officials, who were in possession of real estate, who answered that it was the real property of the United States. They personally made no claim of title or interest whatever to the property, they were simply in possession as agents representing the Government, holding the property for the Government. The court discussed at great length whether or not that afforded them immunity from a suit by the claimants. The court reviewed the question as to when a Government or its agent is immune against suit. It says:

> It is obvious that in our system of jurisprudence the principle is as applicable to each of the States as it is to the United States, except in those cases where by the Constitution a State of the Union may be sued in this court.

That is, by another State.

I read that simply for the purpose of showing that the same rule applies to a State that applies to the nation, and the same rule protects officials and representatives of a State that protects the United States and its representatives from being subjected to legal proceedings.

Mr. SPOONER. Will the Senator allow me just a moment?

Mr. FULTON. Will the Senator permit me to finish from this authority?

Mr. SPOONER. Yes.

Mr. FULTON. This authority goes on to discuss the constitutionality of the question of extending immunity to officials standing as they did in relation to Government property, and the court shows clearly that it would be in contravention of the Constitution of the United States to hold that persons standing in that relation might not be made parties defendant when a person comes into court and alleges he is being deprived of his property without just compensation.

Does the Senator claim or contend that should a carrier file his bill of complaint in equity, seeking to enjoin the Commission from enforcing an order made by it which it is alleged is in violation of that provision of the Constitution which prohibits private property being taken for a public use without just com-

pensation, that the Commissioners could lawfully answer, "We are Government agents, and you can not sue us," and that would defeat the suit? They are Government agents at best only in the constitutional discharge of their duties. They are not Government agents when violating the Constitution. The court says further:

The objection is also inconsistent with the principle involved in the last two clauses of Article V of the amendments to the Constitution of the United States, whose language is: "That no person * * * shall be deprived of life, liberty, or property without due process of law, nor shall private property be taken for public use without just compensation."

Conceding that the property in controversy in this case is devoted to a proper public use, and that this has been done by those having authority to establish a cemetery and a fort, the verdict of the jury finds that it is and was the private property of the plaintiff, and was taken without any process of law and without any compensation. Undoubtedly those provisions of the Constitution are of that character which it is intended the courts shall enforce when cases involving their operation and effect are brought before them. The instances in which the life and liberty of the citizen have been protected by the judicial writ of habeas corpus are too familiar to need citation, and many of these cases, indeed almost all of them, are those in which life or liberty was invaded by persons assuming to act under the authority of the Government. (Ex parte Milligan, 4 Wall., 2.)

If this constitutional provision is a sufficient authority for the court to interfere to rescue a prisoner from the hands of those holding him under the asserted authority of the Government, what reason is there that the same courts shall not give remedy to the citizen whose property has been seized without due process of law and devoted to public use without just compensation?

I call the Senator's attention to that, and then I call his attention also to the case of Reagan *v.* The Farmers' Loan and Trust Company, with which the Senator is perfectly familiar also. It is found in 154 United States, page 388. In that case suit was brought against the railway commission of the State of Texas and the attorney-general of the State to enjoin them from enforcing the orders made by the commission prescribing a schedule of rates; and I want you to keep in mind that the Supreme Court said in 106 United States, from which I have just read, that the same rule applies to the State, under this doctrine of immunity from suit, that applies to the General Government. Now, with that enunciation of the doctrine in mind, I invite your attention to what the court said in 154 United States, as to whether the railroad commissioners might be made parties to a suit to review the orders of the Commission:

We are met at the threshold with an objection—that this is in effect a suit against the State of Texas, brought by a citizen of another State, and, therefore, under the eleventh amendment to the Constitution, beyond the jurisdiction of the Federal court. The question as to when an action against officers of a State is to be treated as an action against the State has been of late several times carefully considered by this court.

Of course if there had been consent by the State to be sued, there would have been no need of discussing this proposition in that case, and hence we may assume there was no such consent.

The question as to when an action against officers of a State is to be treated as an action against the State has been of late several times carefully considered by the court, especially in the cases of In re Ayers (123 U. S., 443) by Mr. Justice Matthews, and Pennoyer *v.* McConnaughy (140 U. S., 1) by Mr. Justice Lamar.

They then review the authorities at some length, and conclude thus:

Appellants invoke the doctrines laid down in these two quotations and insist that this action can not be maintained because the real party against which alone in fact the relief is asked and against which the judgment or decree effectively operates is the State, and also because the statute under which the defendants acted and proposed to act is constitutional, and that the action of State officers under a constitutional statute is not subject to challenge in the Federal court. We are unable to yield our assent to this argument. *So far from the State being the only real party in interest, and upon whom alone the judgment effectively operates, it has in a pecuniary sense no interest at all.*

Then, continuing, they say:

It is not nearly so much affected by the decree in this case as it would be by an injunction against officers staying the collection of taxes, and yet a frequent and unquestioned exercise of jurisdiction of courts, State and Federal, is in restraining the collection of taxes, illegal in whole or in part. Neither will the constitutionality of the statute, if that be conceded, avail to oust the Federal court of jurisdiction. A valid law may be wrongfully administered by officers of the State, and so as to make such administration an illegal burden and exaction upon the individual.

And that is what I want to call the Senator's particular attention to. A valid law may be unconstitutionally administered by the Commission, and when they step outside of their statutory authority they cease to be entitled to plead their official character as Government agents and immunity from suit.

The court further says:

A tax law, as it leaves the legislative hands, may not be obnoxious to any challenge, and yet the officers charged with the administration of that valid tax law may so act under it in the matter of assessment or collection as to work an illegal trespass upon the property rights of the individual.

And so I say here, these Commissioners might so execute the trust confided to them as to trespass upon the property and rights of the individual, the carrier.

They may go beyond the powers thereby conferred, and when they do so the fact that they are assuming to act under a valid law will not oust the courts of jurisdiction to restrain their excessive and illegal acts.

And in Smyth *v.* Ames (169 U. S., 518), which was also a suit to enjoin a railroad commission, the court said:

Another question of a preliminary character must be here noticed. The answer of the officers of the State in each case insists that the real party in interest is the State, and that these suits are, in effect, suits against the State, of which the circuit court of the United States can not take jurisdiction consistently with the eleventh amendment of the Constitution of the United States. This point is, perhaps, covered by the general assignments of error, but it was not discussed at the bar by the representatives of the State board. It would therefore be sufficient to say that these are cases of which, so far as the plaintiffs are concerned, the circuit court has jurisdiction not only upon the ground of the diverse citizenship or alienage of the parties, *but upon the further ground that as the statute of Nebraska, under which the State board of transportation proceeds, is assailed as being repugnant to rights secured to the plaintiffs by the Constitution of the United States, the cases may be regarded as arising under that instrument.* But to prevent misapprehension we add that, within the meaning of the eleventh amendment of the Constitution, the suits are not against the State, but against certain individuals charged with the administration of a State enactment, which, it is alleged, can not be enforced without violating the constitutional rights of the plaintiffs. It is the settled doctrine of this court that a suit against individuals for the purpose of preventing them as officers of a State from enforcing an unconstitutional enactment to the injury of the rights of the plaintiff is not a suit against the State within the meaning of the amendment. (Pennoyer *v.* McConnaughy, 140 U. S., 1, 10; In re Tyler, 149, U. S., 164, 190; Scott *v.* Donald, 165 U. S., 58, 68; Tindal *v.* Wesley, 167 U. S., 204, 220.)

Now, if that is true of a State commission, and if it is true, as the Supreme Court says, that State officers are entitled to the same protection under this rule of immunity from suit that United States officials are, I ask the Senator why that doctrine does not apply to a commission created by Congress?

Mr. SPOONER. Will the Senator permit me for a moment?

Mr. FULTON. With pleasure.

Mr. SPOONER. With reference to the case of the United States against Lee, that was an action of ejectment——

Mr. FULTON. Yes.

Mr. SPOONER. Brought by the owner against certain persons in possession of Arlington, the homestead of General Lee.

Mr. FULTON. Against certain officials.

Mr. SPOONER. Against certain persons. Of course, in an action of ejectment the plaintiff must recover upon the strength of his own title and not because of the weakness of his adversary's title. The defendants answered, and it was otherwise brought to the attention of the court by the Attorney-General, that these officials, the defendants, were holding for the Government of the United States. The Supreme Court of the United States upheld in that case the doctrine that except where Congress has provided the United States can not be sued. But——

That doctrine has no application to officers and agents of the United States who, when as such holding for public uses possession of property, are sued therefor by a person claiming to be the owner thereof or entitled thereto; but the lawfulness of that possession and the right or title of the United States to the property may, by a court of competent jurisdiction, be the subject-matter of inquiry and adjudged accordingly.

If that had not been the law, although the tax for which the homestead of General Lee had been sold had been tendered, he would have been remediless. The right to bring an action of ejectment against persons in possession is one thing. The right to bring suit to enjoin a governmental body—an administrative body, if you please—which has under authority of law fixed the price, a just compensation, which its owner is entitled to for private property taken for public use, is another thing, is it not?

Mr. FULTON. There may be a distinction, but I doubt if there is a difference.

Mr. SPOONER. If the Senator will look at the McChord case, decided by the Supreme Court of the United States, he will see, I think, for he is an excellent lawyer, that there is not only a distinction, but a difference.

Mr. FULTON. I have looked at the McChord case.

Mr. SPOONER. And is it not wise, in view of the fact that it is the purpose of Congress (and if it is not the purpose of Congress the proposed act would be void beyond any possible question) to furnish an opportunity to raise the question in the courts of the United States, to make it clear in the statute by adequate provision, that it may be done? That is my point.

Mr. FULTON. I stated to the Senator that was a mere question of wording which does not one way or the other enter at all into the principle for which I am contending. But I have no guardianship over this bill, and I have no objection to any amendment of it that will make this proposition perfectly clear to grant the consent, if you please, of Congress to make the Commission a party to any suit necessary to protect the carrier in the enjoyment of his constitutional rights and the possession of his property. Some such amendment as that I would have no objection to. But I do hold that it is not necessary. I can not admit that it is necessary. I contend that this principle of

immunity of the sovereign power from suits in the courts does not extend to Government agents such as these Commissioners would be, and I think the cases I have read in connection with the Reagan case and Smyth v. Ames very clearly show that.

Will the Senator tell me whether there is any difference in the relation occupied by a railroad commission of a State created by the State legislature to the State than the relation of a commission created by Congress to the General Government? The relation of the one to the sovereign power that creates it is exactly the relation of the other to the sovereign power that creates it. If a suit may be maintained to restrain a State commission from the exercise of unconstitutional and unwarranted powers, without the consent of the State equally and upon the same principle a suit may be maintained against a commission created by Congress to restrain it from the exercise of unconstitutional and unwarranted and usurped power.

But that is really not a very material question, because if it be a defect in the bill it is one that is easily remedied without destroying the principle for which its friends contend.

Now, Mr. President, I was diverted by that suggestion——

Mr. TILLMAN. Before the Senator leaves that question, I just want to throw out a suggestion for the discussion of my two learned legal friends here to see how they will handle it. I am just reading here section 3224, which relates to the collection of internal-revenue taxes:

No suit for the purpose of restraining the assessment or collection of any tax shall be maintained in any court.

Now, there is a direct prohibition against a court intermeddling with the collection of taxes. Taxes are levied by Congressional action, by law, and the officers of the Government assess and collect them. Here is a direct prohibition that such officers shall not be intermeddled with by the courts either by a suit or by a restraining order. I just want to know if that applies at all in this connection.

Mr. FULTON. I will say to the Senator from South Carolina that I can not myself see that it has any application here.

Mr. TILLMAN. Here are the officers of the Government who are going to collect these taxes. Are they not acting under an act of Congress, and would not this Commission which does this duty of lowering a rate be a creature of Congress? If you can not sue one, why do you have to sue the other to get your law constitutional?

Mr. FULTON. The Senator, I think, has probably this idea, that by analogy——

Mr. TILLMAN. I am reading it by analogy only.

Mr. FULTON. The legislative power had to make a prohibition against suits being maintained against tax collectors in order to prevent such suits.

Mr. TILLMAN. Undoubtedly.

Mr. FULTON. Therefore if a suit might be maintained in the absence of a prohibition against the tax collector (as such legislation assumes), it might be maintained against persons occupying the relation of this Commission. I suppose that is the Senator's idea.

Mr. TILLMAN. That is the idea I had in mind. The Senator from Wisconsin is contending that it will be unconstitutional for us to pass an act here that does not recognize the right to sue this creature of Congress. I just wanted to know why the same principle will not apply in the collection of taxes, which are levied by Congress, just as the rate will be fixed by Congressional action.

Mr. FULTON. I feel justified in saying on behalf of the Senator from Wisconsin that he has abandoned that contention.

Mr. SPOONER. Oh, no.

Mr. TILLMAN. I leave you two gentlemen, then, to discuss it.

Mr. FULTON. I thought the Senator from Wisconsin had abandoned it, or would under the light of the authorities I have cited and quoted.

Mr. SPOONER. I say this—and the Senator from Oregon agrees with me; he must do so——

Mr. FULTON. I must if you say so.

Mr. SPOONER. You must, because you are a good lawyer.

Mr. FULTON. When the Senator says that, I must agree to anything.

Mr. SPOONER. If there were no provision made for testing the lawfulness of an order made by the Commission in the courts—and I know no way by which that could be done except by authorizing suit to be brought against the Commission—the act would not be valid.

Now, I want to say to the Senator from South Carolina, if the Senator from Oregon will permit me——

Mr. FULTON. Certainly.

Mr. SPOONER. It will take but a moment.

Mr. FULTON. That is all right.

Mr. SPOONER. Exception has been made in all the decisions between a proceeding for the collection of taxes, which, in the very nature of things, must be summary, and a proceeding to take property for public use. In other words, the exercise or the quasi-exercise directly of the power of eminent domain.

Mr. FULTON. Yes; there is unquestionably a distinction.

Mr. TILLMAN. Congress is empowered under the Constitution to collect taxes and to regulate commerce. Both these powers are in the same section. It is a part of the power of Congress to levy taxes and to regulate commerce. Under the power to levy taxes the officers, the creatures of Congress in levying and collecting taxes, are protected even against being sued, much less against being enjoined, and they go right forward and take private property for public use, and the taxpayer has no redress whatever.

Mr. SPOONER. The Senator ought to know that the tax proceeding is entirely different. Under the decisions——

Mr. TILLMAN. There you come with your decisions. I am getting back to the common sense of it now.

Mr. SPOONER. Where the Senator's common sense differs from the legal——

Mr. TILLMAN. Of a common sense.

Mr. SPOONER. No; from the common sense of the legal standpoint of the Supreme Court of the United States. I, with due deference to him——

Mr. TILLMAN. Brush mine aside, of course.

Mr. SPOONER. I feel constrained to give greater respect to the decisions of the Supreme Court of the United States.

Mr. TILLMAN. Undoubtedly.

Mr. SPOONER. I say to the Senator the Supreme Court has made a clear distinction, so far as due process is concerned, between the collection of taxes and the sale of property for a nonpayment of taxes and the exercise of the power which is under discussion here.

Mr. FULTON. Now, Mr. President——

Mr. TILLMAN. Of course I do not want to interfere with the Senator from Oregon.

Mr. FULTON. If I may be allowed to exercise my function of umpire and declare this a draw, I will proceed with my argument.

Mr. SPOONER. You declare it a draw?

Mr. FULTON. I really think the Senator from Wisconsin has the better of the argument up to this time, but I do not know how long that will continue and therefore I want to stop the contest.

Now, in line with the question we were discussing of the right of a party to prosecute a suit in equity and make the Commission a party without the consent of the Commission or without the consent of Congress, and without any provision of law authorizing it, I call the Senator's attention to the opinion of Justice Miller in concurring in the case of Chicago, etc., Railway Company v. Minnesota, page 459 of 134 United States Reports, being the case we commonly refer to as the "Minesota case." It was a case where the railway commission of Minnesota had prescribed certain rates which the supreme court of the State of Minnesota held were conclusive. That court held that the court could not inquire into the justice or injustice of such rates, but that they were conclusive on the court and must stand. The Supreme Court of the United States held, of course, that if that was the true construction of the statute it was unconstitutional, and that it (the Federal Supreme Court) is bound by the construction placed on a State statute by the supreme court of such State, which, of course, is the acknowledged rule. But Justice Miller, while he said he concurred with some hesitation in the judgment of the court reversing the case, made this statement:

1. In regard to the business of common carriers limited to points within a single State, that State has the legislative power to establish the rates of compensation for such carriage.

2. The power which the legislature has to do this can be exercised through a commission which it may authorize to act in the matter, such as the one appointed by the legislature of Minnesota by the act now under consideration.

He then states that the rate, however fixed, must have in mind the fact that property may not be taken for public use without just compensation.

Then he discusses the proposition as to the remedy in case it is contended that the rates fixed do operate to deprive the party of his property without just compensation. Justice Miller was rather disposed to contend that the question could not be raised in defending a mandamus suit, which was the proceeding employed by the Commission, but finally concurred and agreed that the question might be raised when such was the character

of the suit brought by the Commission to enforce its orders. He said, however—

That the proper—

Bear this in mind—

6. *That the proper, if not the only, mode of judicial relief against the tariff of rates established by the legislature or by its commission is by a bill in chancery asserting its unreasonable character and its conflict with the Constitution of the United States,* and asking a decree of court forbidding the corporation from exacting such fare as excessive or establishing its right to collect the rates as being within the limits of a just compensation for the service rendered.

Keep in mind the fact that there was no provision in the Minnesota statute providing for a court review.

Justice Miller was unquestionably one of the greatest jurists that ever occupied a seat on the Supreme Bench. He points out that a suit in equity to restrain the Commission is the proper, if not the only, remedy in such a case. I have shown that the same principle was announced in Smyth *v.* Ames, above cited.

Now, Mr. President, I am going to hurry on, because I had not expected, when I began, to speak so long as I have, although I have not done all of the speaking. The point I particularly desire to discuss is the proposition that it is not necessary to the validity of a bill of this character that it shall contain a specific provision for a court review. What is the character of that power? Is it a limited or is it an unlimited power? Is it a purely legislative power or is it quasi judicial?

Manifestly, I think, under the decisions, the power to prescribe a schedule of rates for the future is a purely legislative power. If that be true, how can it be said that it is necessary in the exercise of a purely legislative power to provide for a court review?

Mr. ALDRICH. Will the Senator allow me to ask him a question?

Mr. FULTON. In just a second, and then I will yield.

We commit to this Commission, to this administrative board, by virtue of the legislative power of this body, the right to prescribe rates. The matter of making rates, the matter of prescribing a schedule of rates, is a legislative power, admittedly. Why, then, in the exercise of that power, must we specifically provide some method for reviewing the action of that board? Now I yield to the Senator.

Mr. ALDRICH. Before the Commission can exercise the legislative power, to which the Senator is now alluding, they must declare that certain rates are unreasonable. Is that a legislative power?

Mr. FULTON. Is it a legislative power?

Mr. ALDRICH. Yes; deciding the question whether rates are reasonable or unreasonable.

Mr. FULTON. In the matter of prescribing future rates——

Mr. ALDRICH. I am not talking about prescribing rates. I say they must find in the first instance that certain rates now in existence made by the carriers are unreasonable. Is that a legislative power?

Mr. FULTON. The matter of prescribing rates for the future is a legislative power, but I would not say that the power to be exercised by this Commission is a legislative power. It is purely an administrative power; that is all it is—the power to be exercised by the Commission.

Mr. ALDRICH. Have not the courts said——

Mr. FULTON. Of course it is on the border line of legislation. All these powers blend at a certain point, and it is very difficult to define them absolutely. It may properly be described as the exercise of quasi legislative power.

Mr. ALDRICH. Has not the Supreme Court said over and over again that the power to declare a rate unreasonable was a judicial power? Has not the court said so in numberless cases?

Mr. FULTON. Yes; the Supreme Court has said that, but the Senator must take into consideration the circumstances and the character of the case in which the court said it. The court has said time and again, it said in the Reagan case, and has said in numerous cases, that the power to prescribe future rates is a legislative power. The power to determine the reasonableness of a rate when that question is in litigation or when that question is disputed, is a judicial power certainly.

But I am not talking about that. I am talking about the exercise of the legislative power of prescribing a future rate. I am not discussing now even whether that power may be committed to a commission. I have assumed for the purpose of the argument that it may be committed to a commission. I think no one seriously questions but that it may be committed to a commission. Then if Congress may commit to the extent proposed here to a commission the power to prescribe such rates, in doing that it is the exercise by Congress of a legislative power, and it is unnecessary to provide for any method of review.

Now, when the question of the reasonableness of a rate is raised, when it is sought to review the action of the Commission and it is contended that the rate prescribed is unreasonably low, that it amounts to confiscation under the Constitution, then a judicial question is presented and the court must determine it. But the party raises that question under the Constitution and by virtue of his constitutional rights, and it does not require any act of Congress to authorize him to avail himself of his constitutional privilege. That is what I contend.

Mr. ALDRICH. Suppose the rate is unreasonably high? Suppose it is extortionate?

Mr. FULTON. I do not think the railroads are worrying about that.

Mr. ALDRICH. I am not talking about railroads. The anxiety of the Senator from Oregon, I take it, is not for the railroads.

Mr. FULTON. My anxiety is——

Mr. ALDRICH. Suppose the shipper finds the rate fixed by the Commission to be extortionate, what remedy has he unless there is some specific power given to him to have a review?

Mr. FULTON. I suppose that the shipper has no remedy unless there is power given to him to review. I think not, because his constitutional rights would not be infringed. His property would not be taken for any public use.

Now, I want to go back just a moment before I proceed. I answered the Senator that I did not think the railroads were worrying about that. I did not mean to say that the Senator is advocating the cause of the railroads. I thought afterwards that the remark might be so construed. I was arguing from the standpoint of the carrier at the moment, and that is what caused me to make the remark.

The shipper is placed in a different position. He is bound absolutely by the rate made by the Congress, because his constitutional rights are not invaded. But I do not think there is any danger that the shipper's rights, constitutional or otherwise, are going to be infringed in any respect by the action of this Commission. I do not think that anyone is dreading lest the Commission shall make the rates to be charged by the railroads and transportation lines too high. If they shall do that, it will be time to provide a remedy against it when they shall have done so. To provide a remedy for the shipper to review the orders of the Commission would be a fruitless and useless task, because it is utterly impractical for the shipper to prosecute cases of that character. That is the reason why we are proposing to constitute this Commission with power to prosecute such cases. It is because the Commission has the Government behind it and can better bear the expense necessarily entailed by such a prosecution. If it were left to the individual shipper to enforce these laws, if it were left to the individual shipper to prosecute a suit to reduce a rate that is put in practice by a railroad, the suits would never be prosecuted and the rates would never be reduced, because the shipper could not afford the expense of following up the litigation.

Mr. ALDRICH. Will the Senator allow me to interrupt him again?

Mr. FULTON. Certainly.

Mr. ALDRICH. Does the Senator think the shipper ought to be left powerless against exactions by the Commission?

Mr. FULTON. I think if the shipper were complaining against the action of the Commission it would be proper enough to give him a remedy, but I think it is unnecessary to talk about the shipper being left powerless when the shipper is not complaining. The shipper is asking us to give to the Commission the power to fix and regulate the rates. The shippers are not calling on us to give them the power of review.

Mr. ALDRICH. Who is authorized here to speak and to say that?

Mr. FULTON. Anyone who reads the papers and is informed of the current opinion and sentiment of the country.

Mr. ALDRICH. We are acting here upon our judgment, I assume, and so as to protect the rights of all.

Mr. FULTON. The Senator must speak for himself as to how he is acting. I will not undertake to do so. I can tell him, if he wants an answer to his inquiry, how I am acting and why I have the views I entertain.

Mr. ALDRICH. The Senator assumes that under the present law—and, as I understand him, he is opposing any amendment in that direction—the shipper is left powerless as against the exaction of extortionate rates. I do not propose to consent to a bill which does not give the same remedy to the shipper that, in the opinion of the Senator from Oregon, exists on the part of the carrier.

Mr. FULTON. I say I am ready to give the shippers any necessary remedy whenever it shall appear that the shipper is suffering any wrong. The particular wrong of which the ship-

per is now complaining is of the excessive rates made by the railroads. The shipper could, without any law being passed by Congress, avail himself of the right he has at common law to go into court and to enjoin a rate made by the railroad company that he alleged and could prove was excessive and unreasonable.

Mr. ALDRICH. But, Mr. President——

Mr. FULTON. He has that right without any action of Congress, but we all know that it is a right without any value to him.

Mr. ALDRICH. That is what I expected the Senator to say.

Mr. FULTON. It is utterly without any value to him because he can not afford to do it. Now, the shippers are not asking us to give them a remedy against the orders of the Commission. If the Senator wants to incorporate in the bill a provision that will authorize the shipper as well to appeal to the courts when a rate made either by the railroad or by the Commission shall be unreasonable and unjust as to the shipper, I care nothing about that. The Senator knows as well as I know that that is not the heart of this controversy. That it is mere diversion. That the heart of this controversy is, Shall we give the Commission the power to lower or fix a maximum rate of charges or to prescribe a just and reasonable rule when it finds that the one in force by the railroad is unjust and unreasonable?

I was about to say when interrupted by the Senator from Rhode Island that while it is not necessary to cite the authorities in order to show the power that Congress has in the matter of regulating commerce among the States, and hence to prescribe rates, I have a few citations here.

Mr. HOPKINS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Oregon yield to the Senator from Illinois?

Mr. FULTON. Certainly.

Mr. HOPKINS. Before the Senator from Oregon leaves that point, I desire to suggest to him as to whether it is likely a shipper would appeal to the Commission to get the Commission to raise railroad rates over what the railroad had themselves fixed?

Mr. FULTON. That is a very pertinent suggestion.

Mr. ALDRICH. As that inquiry seems to be in reply to a question which I asked, I will state to the Senator from Illinois it might happen that if the Commission should become favorable in the course of time to the railroads and the rights of the shippers invaded by their action, the rate might be, for instance, a dollar from Chicago to New York and the shipper contend that 60 cents was a reasonable rate. The Commission might fix 95 cents and the shipper would be absolutely powerless to have the rate set aside as extortionate and unreasonably high. In such a case you propose to leave the shipper without remedy.

Mr. HOPKINS. Mr. President, I disagree entirely with the Senator from Rhode Island on that proposition. The court is open to the shipper now and will be after this bill, if it is properly enacted, becomes a law.

Mr. ALDRICH. Of course; and the shipper can commence suit at common law against the carrier or against the Commission. But what value is that? What value has it ever been?

Mr. HOPKINS. Does not the Senator remember that the only object of a court is to set aside a rate that is fixed by the Commission? Then it goes back to the Commission for another hearing. But the court would not fix 95 cents if 60 cents was a reasonable rate; it would simply find that a dollar was an unreasonable rate and then remit it back to the Commission.

Mr. ALDRICH. The court does not fix any rate. I am not talking about that.

Mr. HOPKINS. It vacates the order or affirms it, as the case may be.

Mr. ALDRICH. They have a right to say after a proper review that 95 cents was an unreasonable rate, and then the Commission would have to fix a reasonable rate, or rather the same complaint would have to be gone over again before the Commission.

Mr. HOPKINS. All the court does is either to affirm or vacate the order.

Mr. ALDRICH. I understand that perfectly.

Mr. FULTON. Mr. President, I still insist that the shipper is not worried over the possibility of the rates fixed by the Commission being made higher than they are at present under the railroad rate-making power. Whenever the shippers begin to complain that there is danger that the Commission will increase the rate prescribed by the railroad companies, then it will be time enough to consider the suggestion of giving extended powers to the shipper in order to protect his rights and interests.

Mr. ALDRICH. I suppose the Senator from Oregon is aware that I have made no such suggestion.

Mr. FULTON. No.

Mr. ALDRICH. And it is simply disposing of a man of straw that I have not raised.

Mr. FULTON. It is purely academic, as I think has been most of the discussion which has grown out of the suggestion made by the Senator from Rhode Island.

I will now return to the proposition that it is unnecessary to insert any provision in this law for a review; that an act that is silent on that subject is valid under the Constitution.

But first let me say again that it is my contention that the Hepburn-Dolliver bill does not deny the carrier the privilege of having any order of the Commission reviewed which he contends is violative of his constitutional right, and hence it recognizes his right so to do. To attempt to deny him such right would doubtless render the measure unconstitutional. We want that he shall have that right, but we do not want that he shall have the right of review for any other purpose. I might not oppose an amendment which in terms restricts the right of review to a judicial inquiry into the constitutionality of an order and provided for the early hearing and determination of the case. Beyond that I can not go, and that is not necessary in order to insure the validity of this measure. Indeed, I can not but doubt the wisdom of attempting to frame any such provision. Better leave the bill as it is in that respect, and let the courts describe the limit. The authorities that have been cited in support of the contention that a statute of this character, which does not provide specifically for a review, is unconstitutional, refer entirely to statutes that in terms made the rates of the Commission conclusive. I shall now undertake to show that a statute which is silent as to court review recognizes the right of a carrier to have reviewed any order which invades his constitutional rights, and hence is a valid exercise of legislative power.

To what extent, then, is Congress vested with the power to prescribe future rates? Is it an independent power—a power vested solely in the legislative branch of the Government, or is it a mixed power, quasi legislative, quasi judicial? Manifestly, it is purely and essentially a legislative power. It grows out of and is derived solely from the power vested in the Congress by the Constitution to "regulate commerce among the States."

But gentlemen tell us that it may not be exercised unless specific provision be made for a court of review. How can that be if it is a legislative power? Will it be contended that the Congress can not exercise unquestioned legislative powers without in each instance specially providing for a court review? Does the validity of legislative enactments or the right of a citizen to protection in the enjoyment of his constitutional rights depend upon such provision? Does the pending bill propose an unlawful or unconstitutional act? Is it proposed to commit to the Commission the power to do aught else than make reasonable and just rates and regulations? Certainly not. Is it not within the constitutional power of Congress to prescribe reasonable rates and regulations? Certainly. We are told, however, that the Commission may prescribe unjust and unreasonable rates or regulations. If it shall, would not its action be in violation of the law? Would it be the fault of the statute that the Commission had exceeded its power? Surely not. Can not the courts confine and restrict its actions to the exercise of its legitimate power? Then why must the law provide a method of appeal from or review of the Commission's orders? If the Commission shall make only such orders as the statute authorizes it to make, there will be no occasion for a review. Why must we assume that it will do otherwise? If it shall attempt to make orders or prescribe regulations in excess of, beyond, or in violation of its powers, its action would be void and enforcement of any such order would be restrained by the court. It is to me a strange doctrine, and new entirely, that a commission or administrative board may exceed its authority, and yet there exists no method of reviewing and restraining its orders in such behalf, unless the method of review be provided in the act creating the board and prescribing its authority.

The contention that no act of Congress authorizing a Commission to prescribe rates and regulations can be constitutionally enacted unless a provision for a court review is incorporated in the statute, assumes and implies that the power of Congress to regulate fares and practices of common carriers is a power that Congress can exercise only as an auxiliary or assistant to the court.

While I do not deem it necessary to cite authorities in support of the power of Congress to regulate rates, yet in view of the contention that any act which does not provide for a review of the Commission's orders by the courts will be unconstitutional, it seems to me it will prove profitable briefly to inquire what the powers and jurisdiction of Congress in that behalf are. Is it a subject over which the power of Congress is plenary and

supreme? If so, then it is my contention that whether Congress shall act directly in the matter of prescribing regulations for and fixing rates of common carriers, or shall act through a duly constituted commission, it is independent of the courts, and there is no power on earth that may lawfully question, set aside, or suspend its decrees. There are, of course, certain constitutional limitations that operate not on Congress alone, but as well on every Department and agency of Government. For instance, private property may not be taken for a public use unless just compensation be first paid or certainly and securely provided. And no person may be deprived of his property except by due process of law. But here the taking of private property is not contemplated, nor is it proposed to deprive any person or corporation of its property, either by process of law or otherwise.

If any order of the Commission shall amount to such taking or deprivation, it will be in contravention and in violation of this proposed statute, as well as of the Constitution, and, therefore, not pursuant to the statute or by virtue thereof. Hence, any such order would be outside of the statute and its enforcement would be restrained at the suit of the party whose property was proposed thus unlawfully to be taken. The jurisdiction to hear and determine such a case need not be given in this act, for it contemplates no such case, and jurisdiction in such case is amply provided for in the judiciary act, for it would be a case "arising under the Constitution of the United States and the laws of Congress.

As I have stated, Mr. President, that, while I do not deem it necessary to go into the history of the judicial decisions touching the powers of Congress in the matter of regulating interstate commerce, still, in order to show that its power in that behalf is absolutely supreme, that it knows no limitation except in so far as the provision of the Constitution against the taking of private property for public use without compensation is a limitation, I will now briefly cite certain authorities on that proposition.

In Gibbons *v.* Ogden (9 Wheat., 9) Justice Marshall, speaking of the power of Congress to regulate commerce, said:

> It is the power to regulate—that is, to prescribe the rule by which commerce is to be governed. This power, like all others vested in Congress, is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations other than are prescribed in the Constitution. These are expressed in plain terms, and do not affect the questions which arise in this case or which have been discussed at the bar. If, as has always been understood, the sovereignty of Congress, though limited to specified objects, is plenary as to those objects, the power over commerce with foreign nations and among the several States is vested in Congress as absolutely as it would be in a single government having in its constitution the same restrictions on the exercise of the power as are found in the Constitution of the United States.

In the Northern Securities Company *v.* United States Justice Harlan, affirming the decree, said:

> Is there, then, any escape from the conclusion that, subject only to such restrictions, the power of Congress over interstate and international commerce is as full and complete as is the power of any State over its domestic commerce?

In the same case Mr. Justice White said:

> At the outset the absolute correctness is admitted of the declaration of Mr. Chief Justice Marshall in Gibbons *v.* Ogden, that the power of Congress to regulate commerce among the States and with foreign nations "is complete in itself and may be exercised to its utmost extent, and acknowledges no limitations;" and that if the end to be accomplished is within the scope of the Constitution, "all means which are appropriate, which are plainly adapted to that end and which are not prohibited are constitutional."
>
> The plenary authority of Congress over interstate commerce, its right to regulate it to the fullest extent, to fix rates to be charged for the movement of the interstate commerce, to legislate concerning the ways and vehicles actually engaged in such traffic, and to exert any and every power over such commerce which flows from the authority conferred by the Constitution, is thus accorded.

In Kentucky and I. Bridge Company *v.* The Louisville and Nashville Railroad Company (37 Fed., 634) Mr. Justice Jackson, after quoting from Gibbons *v.* Ogden, said:

> Possessing such sovereign and exclusive power over the subject of commerce among the States, it is difficult to understand why Congress may not legislate in respect thereto to the same extent, both as to rates and all other matters of regulation, as the States may do in respect to purely local or internal commerce.

In Interstate Commerce Commission *v.* Cincinnati, New Orleans and Texas Pacific Railway Company, Mr. Justice Brewer, in delivering the opinion of the court, said:

> Before the passage of the act it was generally believed that there were great abuses in railroad management and railroad transportation, and the grave question which Congress had to consider was how those abuses could be corrected and what control should be taken of the business of such corporations. The present inquiry is limited to the question as to what it determined should be done with reference to the matter of rates. There were three obvious and dissimilar courses open for consideration. *Congress might itself prescribe the rates*, or it might commit to some subordinate tribunal this duty, or it might leave with the companies the right to fix rates, subject to regulations and restrictions, as well as to that rule which is as old as the existence of common carriers, to wit, that rates must be reasonable. There is nothing in the act fixing rates. Congress did not attempt to exercise that power, and if we examine the legislative and public history of the day it is apparent that there was no serious thought of doing so.

In Stone *v.* Farmers' Loan and Trust Company, Mr. Chief Justice Waite, delivering the opinion of the court, said:

> It is now settled in this court that a State has power to limit the amount of charges by railroad companies for the transportation of persons and property within its own jurisdiction, unless restrained by some contract in the charter, or unless what is done amounts to a regulation of foreign or interstate commerce. (Railroad Co. *v.* Maryland, 21 Wall., 456; Chicago, Burlington and Quincy Railroad Co. *v.* Iowa, 94 U. S., 164; Winona and St. Peter Railroad Co. *v.* Blake, 94 U. S., 180; Ruggles *v.* Illinois, 108 U. S., 526–531.)

It will be seen, Mr. President, from the authorities already cited, that the power of Congress to regulate interstate commerce is unrestricted, is as ample and complete as is the power of a State to regulate its domestic commerce—that States may regulate rates, and hence the power of Congress to prescribe rates in the exercise of its power to regulate interstate commerce is clear. If this is true, how can it be reasonably contended that in order to exercise such power it must provide specifically for a method of judicial review?

Mr. President, the contention of the Senator from Pennsylvania the other day was that under the decision of the Supreme Court of the United States in the Minnesota case, as reported in 134 United States, a law which does not contain a specific method of review is necessarily in conflict with the Constitution. I deny that the doctrine of the Minnesota case justifies any such contention, and I wish to call the attention of the Senate very briefly to what the Minnesota case is.

I stated a few moments ago that the legislature of Minnesota enacted a law granting to a railroad commission certain powers. Among those powers was the power to prescribe reasonable rates and regulations for transportation lines. Under that power the Minnesota commission did prescribe rates. A mandamus proceeding was brought to put in force as against the railroad company the schedule of rates made by that commission. The railroad company appeared, filed its answer, and alleged that the rates it had in force were reasonable, and that the rates prescribed by the railroad commission were unreasonable to the extent that they deprived the railroad of its property without just compensation or due process of law. But the supreme court of Minnesota held that under the statute the rates fixed by the railroad commission were absolutely conclusive, and would not admit testimony to show them to be confiscatory. The case went up to the Supreme Court of the United States. That court held that the statute of the State of Minnesota as construed by the supreme court of Minnesota was void. The court intimated all through its decision that in its judgment the supreme court of Minnesota had erroneously construed the statute.

The statute did not in terms say that the rates fixed by the commission should be conclusive, but the supreme court of Minnesota gave the statute that construction, and the Supreme Court of the United States said that, under the well-known rule, it is bound by the construction of a State statute given to it by the highest court of the State enacting it. It must treat the law as if it had had the decision of the supreme court of Minnesota incorporated into it, and therefore prohibiting by its terms the reasonableness of rates established by the commission being inquired into. But even then the Supreme Court of the United States did not hold the statute to be void. They held that as construed by the supreme court of Minnesota it was in conflict with the Federal Constitution, and concluded in these words:

> In view of the opinion delivered by that court it may be impossible for any further proceedings to be taken other than to dismiss the proceeding for a mandamus, if the court should adhere to its opinion—

Mind you—

> that, under the statute, it can not investigate judicially the reasonableness of the rates fixed by the commission. Still, the question will be open for review.

That is, the supreme court of Minnesota might conclude that it had construed the statute erroneously. The statute of Minnesota contained no provision for a review. There was not a word about review in the statute.

Mr. BEVERIDGE. In other words, if the Senator will permit me, the supreme court of Minnesota construed the law as being not only that the rates as fixed by the commission were conclusive, but as denying the right of review.

Mr. FULTON. The supreme court of Minnesota construed the law, as the Senator says, as denying the right of review. The Supreme Court of the United States intimates all through its decision that that construction was incorrect, but it said that it was bound by it. The point I want to make is that the Supreme Court of the United States did not say that because that statute contained no provision for a review it was void, but they said if the construction of the statute by the supreme court of Minnesota was correct, namely, that thereunder there could be no

judicial inquiry, then it was unconstitutional; but if the supreme court of Minnesota shall conclude that such is not the proper construction of the law, then the statute is constitutional, notwithstanding it contains no provision for a review. That is the case upon which the Senator from Pennsylvania based his entire argument—that a statute which provides no method for a review is necessarily unconstitutional. I submit the case does not bear out or support that contention, but in truth supports the contrary contention.

Mr. President, the Senator from Pennsylvania also made this further contention. In giving his reasons why this statute is in violation of the Constitution, he said:

Third. It so heavily penalizes the disobedience of the Commission's orders as to make any attempt to secure a judicial hearing in any form of proceeding impracticable.

Mr. President, that same question was raised in the Reagan case. The same contention was put forward there, and what did the court say? The court, after discussing the contention that the penalties were so extreme that they amounted to a denial of the right of review, and hence amounted to making the rate prescribed by the Commission conclusive, said:

It is enough to say in respect to these matters, at least so far as this case is concerned, that it is not to be supposed that the legislature of any State, or a commission appointed under the authority of any State, will ever engage in a deliberate attempt to cripple or destroy institutions of such great value to the community as the railroads, but will always act with the sincere purpose of doing justice to the owners of railroad property as well as to other individuals, and also that no legislation of a State as to the mode of proceeding in its own courts can abridge or modify the powers existing in the Federal courts, sitting as courts of equity.

* * * * * * *

We do not deem it necessary to pass upon these specific objections, because the fourteenth section or any other section—

That was a section prescribing penalties—

prescribing penalties may be dropped from the statute without affecting the validity of the remaining portions; and if the rates established by the Commissioner are not conclusive, they are at least prima facie evidence of what is reasonable and just. For the purpose of this case it may be conceded that both the clauses are unconstitutional, and still the great body of the act remains unchallenged—that which establishes the Commission and empowers it to make reasonable rates and regulations for the control of railroads. It is a familiar law that one section or part of an act may be invalid without affecting the validity of the remaining portion of the statute. Any independent provision may be thus dropped out if that which is left is fully operative as a law.

Thus it will be seen the court held that the mere fact that the penalties were excessive; the mere fact that they might, if absolutely enforced, amount to a denial of the right of the party to question the conclusiveness of rates made by the Commission, was not sufficient to justify the court in holding the law unconstitutional and void, because they say that those provisions themselves in such a case would be unconstitutional, but their invalidity would not affect any other portion of the law. So I say here, if the contention of the Senator from Pennsylvania be correct—that the penalty provisions amount to a denial of the right of the party to question the conclusiveness of the rate—that does not argue against the validity of the statute authorizing the making of rates, but it argues simply against the validity of those sections fixing the penalty. They may go out and the rest of the law stand.

Mr. President, I will not take up some questions that I had contemplated discussing, because this discussion has been drawn out to a much greater length than I had contemplated.

I want to say, in conclusion, that if I thought the omission from this law of a specific method of review would result in doing one particle of injustice or wrong to the railroad companies or to any transportation line, I would not favor such legislation for a single moment. But, Mr. President, there can be no doubt but that under this law every transportation company will have ample means and ample machinery to test the validity and constitutionality of any rate that shall be prescribed by the Commission. If they shall contend that any rate prescribed by the Commission or any order made by the Commission amounts to a taking of property without due process of law, they have ample remedy to test that question without a specific provision being placed in the law.

Mr. BACON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Oregon yield to the Senator from Georgia?

Mr. FULTON. I do.

Mr. BACON. I do not know whether the Senator in the course of his remarks has covered the point to which I now direct his attention, but it is within the range of possibility, if not probability, that the time may come when parties interested other than the railroad companies, the carriers, may desire to have the order of the Commission set aside. In other words, the time may come when the influences will be such as to make the Commission rather partial to the carrier than to the public. I do not know whether that question has been covered. If it has, I do not wish to trespass upon the Senator; but what I wish to ask him—and if he has already answered it I will not ask him now to take up the time to repeat it—is this: In case such an emergency should arise or it should so eventuate, is there any provision of law under which anyone interested in shipping over the railway lines could appeal to the courts to correct what might be deemed to be an injustice to the public under this bill?

Mr. FULTON. I think there is none. That is my understanding.

Mr. BACON. I will ask the Senator if he does not think it is important for us to guard against that possibility by incorporating in this bill some provision by which the public may be allowed to bring in question the correctness of the ruling of the Commission?

Mr. FULTON. I would call the Senator's attention to the fact that we have been over that ground to some extent. The Senator from Rhode Island [Mr. ALDRICH] made the same suggestion a short time ago.

Mr. BACON. I beg pardon; I did not know that.

Mr. FULTON. And I said then that personally I had no objection to any such provision, but really I do not think it will be of any utility. In the first place, I do not believe that there is any probability that the public will ever have reason to complain that the rates made by the Commission would be higher than the railroads would have fixed them themselves; and, in the next place, this bill, as I understand, simply provides that when complaints shall be made and an existing rate is found to be too high, to be unreasonably high, they may fix a lower maximum rate. There is not any power given in this bill, as I understand, to increase the rates that are enforced by the railroads.

Mr. ALDRICH. No one has raised any such question. Neither the Senator from Georgia nor myself made any such suggestion.

Mr. FULTON. Very well.

Mr. BACON. I suggest to the Senator that there might possibly be a case where an appeal would be made to the Commission to correct an alleged injustice on the part of a railroad. The Commission might sustain the railroad, and the shipper might wish to test the question whether or not the Commission decided correctly when it sustained the rate the railroad had made.

Mr. FULTON. That is giving the shipper the right to review. I have said, and say again in answer to the Senator, that I myself have no objection to some such provision. It is possible that the time may arise and a case may be presented when the shipper will want to exercise that right. I have no objection to it, but I am not discussing the bill with reference to that theory.

Mr. TELLER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Oregon yield to the Senator from Colorado?

Mr. FULTON. Certainly.

Mr. TELLER. The Senator says he has himself no objection. Who is it, then, that has objection?

Mr. FULTON. I do not know of anyone.

Mr. TELLER. The Senator does not know of anyone who objects?

Mr. FULTON. I have not heard of anyone.

Mr. TELLER. Then I do not see why we need discuss it very extensively.

Mr. FULTON. The Senator will say in justice to me, that it was not I who brought the matter up.

Mr. TELLER. The suggestion that he himself did not have objection, seemed to me to indicate that he thought there was objection on the part of somebody that made it difficult for us to act.

Mr. FULTON. I think the Senator from Colorado is entirely too suspicious. I do not know of anyone.

Mr. TELLER. If the Senator will allow me, we have been several weeks discussing this bill, and really the only difference, it seems to me, between Senators is whether we shall allow a review of the proceedings of the Commission. We hear occasionally under certain circumstances that a review may be had. The Senator from Oregon now insists, as I understand his argument, that we do not need any special provision for review, as it is in this bill.

Mr. FULTON. No.

Mr. ALDRICH. For the carrier.

Mr. FULTON. I have not made any suggestion——

Mr. ALDRICH. The right is here for the carrier, but not for the shipper.

Mr. TELLER. I was speaking of the carriers.

Mr. FULTON. I say the right of review is in this bill to the carrier to the extent that is necessary to review the orders

of the Commission to protect his constitutional right, because, in the first place, we can not deny him that right, and, in the next place, the bill does not pretend to deny him that right. If the bill sought to deny him that privilege, I would think, unquestionably, it would be unconstitutional; at least that provision would be unconstitutional. But the bill does not pretend to deny that right, and, therefore, it exists without any question.

Mr. TELLER. I should like the Senator to tell me as a lawyer what he means by "his constitutional right."

Mr. FULTON. I mean in this behalf the taking of property without just compensation, and possibly the taking of property without due process of law. I suppose those are the rights that might be brought in question in the matter of regulating rates of transportation lines. I do not know of any other constitutional provision that would be necessarily brought in question.

Mr. TELLER. I understand the Senator to say that he does not wish to have an entire review of the proceedings of the Commission?

Mr. FULTON. Yes. I do not.

Mr. TELLER. He wishes to limit it?

Mr. FULTON. Yes, sir.

Mr. TELLER. Whether that ought to be done would depend upon how the Senator might want to limit it. I do not know how much he wants to limit it.

Mr. FULTON. I thought I had explained the position I have taken on this question of review. I wish to restrict the right of review to those cases where it is necessary to protect the carrier against the taking of his property without just compensation under the rule that has been laid down by the Supreme Court.

Mr. MONEY rose.

Mr. FULTON. I will yield to the Senator in a moment. There are numerous cases where no possible question could arise about the taking of property. For instance, let me suggest this: We will suppose that a coal-mining company, having property in the immediate vicinity of the main line of a railroad, builds a side track, connects with the main line of the railroad, and asks that cars be supplied to it for its output, and the railroad company refuses to run cars into the mine or to supply it with cars, but at the same time it is supplying its competitor with those facilities. The mine owner is making no contention about the unreasonableness of the rate; he is demanding equal facilities and equal treatment. The Commission makes an order requiring the railroad company to supply him with those facilities. Would there be any possible question of the taking of property or the invasion of constitutional rights in the making of such an order as that, and would there be any reason why there should be an appeal from or a review of such an order as that? Why not make all orders of that character conclusive?

Mr. TELLER. I should like to suggest that possibly the railroad might say they were not guilty of that conduct.

Mr. FULTON. If the railroad said it was not guilty of that conduct it would be furnishing cars, would it not?

Mr. TELLER. They might say they were unable to furnish them. They might find some excuse.

Mr. FULTON. I call the Senator's attention to the fact that our courts have already established the rule in that regard; that where the railroads have not cars enough for all customers, it is their duty to make an equitable distribution of them.

Mr. TELLER. Suppose the carrier says they have made an equitable distribution? Suppose that is the issue they present; does the Senator say that can not be tried?

Mr. FULTON. Suppose the Commission says they have not. That is purely an administrative matter that the Commission is just as capable of determining as are the courts. It is not because I have any want of confidence in the courts; it is not because I question the integrity or the patriotism of the courts—there is no man who has a higher regard for the judiciary of this country than I have—but it is because it means delay and expense to the shipper that is unnecessary and unreasonable, and I insist that matters that are purely administrative shall be left to the Commission, and that their determination shall be final.

Mr. SPOONER. Will the Senator allow me to ask him a question?

The VICE-PRESIDENT. Does the Senator from Oregon yield to the Senator from Wisconsin?

Mr. FULTON. Certainly.

Mr. SPOONER. Is not the case which the Senator has just stated provided for by existing law? Does not the present law provide for mandamus in such cases?

Mr. FULTON. Probably. I am not questioning that. I simply use that as an illustration of one of the cases where it seems to me there is absolutely no necessity for a review; and yet in the rate bill proposed by the Senator from Pennsylvania [Mr. KNOX] and in some of the proposed amendments—I have not read them all—but in all that I have seen all orders made by the Commission are subject to review; and an order of the character to which I have just referred under that kind of an amendment would be subject to review.

Mr. SPOONER. If I understand the bill offered by the Senator from Pennsylvania, the right of review is limited entirely to a suit to test the lawfulness of an order which sets aside an existing rate and substitutes another rate for it.

Mr. FULTON. The Senator is mistaken.

Mr. TILLMAN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Oregon yield to the Senator from South Carolina?

Mr. FULTON. In a moment. The Senator from Wisconsin is mistaken in regard to the construction of the bill of the Senator from Pennsylvania, or I am. We will see which one is. I read from the bill of the Senator from Pennsylvania:

> SEC. 5. That the orders of the Commission, except orders for the payment of money, shall take effect within such reasonable time as shall be prescribed by the Commission and shall continue for such period of time, not exceeding two years, as shall be prescribed in the order of the Commission, unless sooner set aside by the Commission or suspended or set aside by order of a court in a suit to test the lawfulness of said order; but any carrier, person, or corporation party to the proceeding affected by the decision of the Commission as to the rate or practice covered by the complaint, or by its order prescribing a different rate or practice, and alleging either or both to be a violation of its or his rights may institute proceedings, etc.

As to the "rate or practice." So it would cover just the character of case I have mentioned. Now, I yield to the Senator from South Carolina.

Mr. TILLMAN. The Senator from Wisconsin [Mr. SPOONER] asked a moment ago if such a condition of affairs as that described by the Senator from Oregon [Mr. FULTON] was not already provided for by existing law. I want to ask the Senator, if that be true, how is it that the Interstate Commerce Commission, having examined the complaint of the Red Rock Fuel Company and granted it relief, so far as issuing an order was concerned, the railroad company snapped its fingers in the face of the order of the Commission, and we have not yet found any judge who has been able to give relief? Where is the existing law which grants relief for such a condition of affairs as that? Is it the failure of the judiciary to do their duty or is it in the failure of the law to provide a remedy? There is a screw loose somewhere.

Mr. MONEY. I should like to ask the Senator from Oregon a question, if it will not disturb him.

Mr. FULTON. Not at all.

Mr. MONEY. I want to say that I am asking it for information.

Mr. FULTON. I should feel very proud if I thought I was able to give the Senator information.

Mr. MONEY. The Senator can on this point. The Senator's position, as I understand, is that it is unnecessary to provide in this bill for appeals to the courts, because there is such a constitutional right in every person; that under the clauses of the Constitution providing that private property shall not be taken without just compensation or due process of law, they have their appeal to the courts. I want to ask the Senator if, in his opinion, there is any difference in standing before the court in a matter of that sort between an individual proprietor, an individual citizen, and a corporation created by the State, one part of which is dedicated to making money for its stockholders, and the other to a public utility, clothed with the power of eminent domain for the benefit of the State, speaking of the people collectively as the State? Does the Senator conceive there is any difference on that point in their standing before the court?

Mr. FULTON. My answer to the Senator is that I can conceive of no difference in their standing before the court nor in their constitutional rights or in their right to invoke the protection that that provision of the Constitution guarantees to all citizens.

Mr. MONEY. The Senator does not consider that it is modified by the fact that the corporation is its creature, organized for a public utility?

Mr. FULTON. I do not. In other words, I do not think that you can take the property of a public-utility corporation for any less compensation or under any different rule of fixing just compensation than you can take the property of a private citizen. These corporations are only public corporations in the matter of the use of their property. Their property is private property just exactly the same as yours or mine.

Mr. MONEY. I simply wanted the Senator's opinion, not having formed one myself.

Now, if he will allow me, I will ask him another question on that point.

Mr. FULTON. Certainly.

Mr. MONEY. Suppose there is no provision made in the bill as suggested by the Senator and outside of the constitutional rights, with respect to just compensation, and due process of law, would not the aggrieved party have a common-law remedy?

Mr. FULTON. That is, if there were no provision for a review?

Mr. MONEY. If there were nothing of that sort in the bill.

Mr. FULTON. That is the argument I have been attempting to make; that has been my contention throughout, that it is not necessary to prescribe a particular or any method of review; that the party has that right under the Constitution, so far as is necessary to protect his constitutional rights.

Mr. MONEY. I understood that to be the Senator's argument, but I wanted to ask him if a party did not have a common-law remedy, independent of his constitutional right.

Mr. FULTON. If I understand the Senator correctly, I will say "No," because I should say that if there was no provision in the Constitution which guaranteed the party against the taking of his property without due process of law, or, in other words, if there were no written Constitution against the taking of property without due process of law, without just compensation, I do not know of any remedy that a party would have if Congress should pass a law appropriating its property to a public use. It is possible that that principle which protects property and life is superior even to constitutions, and it is possible that the courts would say: "That is a principle which the courts will enforce without a constitutional limitation protecting the citizen." I am not certain about that, but I am very clear about this, that so far as the right of Congress to legislate is not restricted by any constitutional provision the provisions of the Congressional act can not be brought in question at the suit of anybody, and it is only when a party can bring himself under some constitutional provision, when he can appeal to some constitutional right, that he can question the validity of an enactment of the legislative body exercising its legislative power.

Mr. ALDRICH. Will the Senator allow me to ask him a question?

Mr. FULTON. Certainly.

Mr. ALDRICH. If this bill should become a law in its present form, would a carrier have a right to insist that the rates fixed by the Interstate Commerce Commission should be just and reasonable?

Mr. FULTON. Would he have a right to insist that the rates should be just and reasonable?

Mr. ALDRICH. Yes.

Mr. FULTON. The law says that they shall be just and reasonable.

Mr. ALDRICH. Does that make them so?

Mr. FULTON. The presumption is they will be just and reasonable.

Mr. ALDRICH. Can that be questioned by the carrier?

Mr. FULTON. If the rates are unreasonable to the extent that it amounts to the taking of the property of the carrier without just compensation, yes; it has a remedy.

Mr. ALDRICH. But if the rates are not unreasonable to that extent, but still unreasonable, has it any remedy?

Mr. FULTON. If there is a line of demarcation, then it has none. I am not certain whether under the decisions of the Supreme Court of the United States there is any difference. I am not so certain that there is a broad ground between what is just and reasonable on the one side and that which is extortionate on the other side. I am confident that under the decisions of the Supreme Court what is meant by a just and reasonable rate is a rate that will give revenue not only sufficient to meet the expenses of operating the railroad or the transportation line, but which will give a sufficient return to give reasonable profit on the investment. I think that is the rule.

Mr. HEYBURN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Oregon yield to the Senator from Idaho?

Mr. FULTON. I will in just a second. If that is the true rule, that a party is entitled to charge a rate that will give him a fair return on his investment, then the rate to be reasonable must allow that, and when you go beyond that, it seems to me, the rate becomes unjust and unreasonable. Still, it is contended by many, and I am not disputing it, that there is a wide field between the just and reasonable rate and the extortionate or unreasonable rate, which may be said to be the zone of discretion.

Now, I yield to the Senator from Idaho.

Mr. HEYBURN. I should like to suggest to the Senator from Oregon whether that rule would not amount to underwriting the stock and bonds of the common carrier to the extent of the guaranty of a given, fixed, definite income?

Mr. FULTON. The Supreme Court has explained that in several decisions.

Mr. HEYBURN. If the Senator will give me his attention for a moment——

Mr. FULTON. I will.

Mr. HEYBURN. I think it is an important consideration. If, under the interpretation of the law as I understand the Senator to have stated it, the road may be assured a profit fixed, reasonable, and certain, I wish to inquire whether that does not amount to an underwriting of the stock and bonds of the transportation company upon the guaranty of the Government, and whether that is the kind of a law the Senator would have enacted?

Mr. FULTON. The Supreme Court has answered that question for the Senator, as he is doubtless aware. It has said that there may be cases where the corporation is not entitled to charge rates sufficiently high to pay dividends; there may be cases where the road has been built so extravagantly that its cost has been run up to an unreasonable amount. It may have unfortunately built it where there is very little business or not sufficient business to pay reasonable returns on the amount of the investment, or it may be operated extravagantly. In that sort of a case the carrier would not be entitled to make the profit that it would where it had the business which would justify a profit or where the road was economically conducted. But I am speaking of normal conditions. I am not speaking of exceptional or extraordinary conditions.

Now, take a railroad that is run under normal conditions, where it may earn a reasonable profit by charging reasonable rates, certainly the Commission should be empowered to restrict it to such rates, and the railroad should be required to conform to such rates.

Mr. HEYBURN. I will ask the Senator if that would not necessarily permit a railroad to charge any rate, within the rule of reasonableness, that might be necessary to make it a paying institution?

Mr. FULTON. No; not unless the conditions under which the railroad was operating justified it.

Mr. HEYBURN. Then I would ask whether those conditions might not be taken advantage of by a railroad company as a justification for charging any rate that would be equivalent to a profit, within the limits the Senator has mentioned, and would not that amount, as I repeat, to a guaranty of an income upon the cost of the railroad as represented by its stocks and debentures?

Mr. FULTON. Oh, I submit, with all respect to the Senator from Idaho, that he hardly submits a fair example. I think under the decisions of the Supreme Court the rule which the court will enforce is not difficult to understand. If a railroad is extravagantly managed, if unreasonable salaries are paid, and because of these unreasonable salaries the road can not charge reasonable rates and pay dividends, then it must suffer the consequences. It can lower the salaries if it sees fit, but it can not keep the salaries up to an unreasonable amount and charge unreasonable rates to meet them. In other words, the rule that will undoubtedly be enforced by the court is this: That a transportation company must be conducted along reasonably good business lines, under reasonably good management, and so conducted it is entitled to a reasonable return if the business of the company is such as will justify it.

Mr. FORAKER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Oregon yield to the Senator from Ohio?

Mr. FULTON. I do.

Mr. FORAKER. The effect of what the Senator is saying is very important and very interesting. If I understand him, it is his idea that if we go into the rate-making business, as proposed in this legislation, it will be a part of the duty of the Interstate Commerce Commission to look at the conduct of the road generally in determining whether or not a fixed rate which has been challenged is reasonable; that it will go to the extent, in such a case, of considering the salaries paid to the officials who operate the railroad; I suppose the wages paid to employees, and I suppose the conduct of the road generally; and I state this, while I am on my feet, only suggestively, so that the Senator may answer it or not, whether it is necessary, as the officials of the road may have deemed it necessary, to expend the amounts of money they have been expending for the construction of new bridges, the elimination of curves, the reduction of grades, the enlargement of tunnels. The general conduct of the road; in a word, necessarily follows, does it not,

in order that the reasonableness of the rate may be intelligently determined?

I do not state this in an idle way, but in a serious way.

Mr. FULTON. I think the Senator is correct.

Mr. FORAKER. I think so.

Mr. FULTON. Yes; I think the Commission, when it undertakes to prescribe rates, must take into consideration all the business, the environment, the character of the property, the necessity for renewals, extensions, and every matter that a business man would take into consideration in the management of it.

I have no doubt, speaking of a railroad "enjoying," if I may use the term, normal conditions, normal surroundings, that such would be the rule. But, of course, there can be extreme cases imagined where a railroad has been built through a nonproductive country or where it has been built at an extravagant cost and price. It can not, simply because of its misfortune in those respects, rob the people by outrageous prices in order to make the two ends meet. It must suffer the same consequences that a business man does in making a bad venture.

If it is conducting its business in a business way—in an economical way; if it is not paying unreasonable salaries, and is receiving a reasonable income, to which it may justly look for a reward and a just return on its investment, the Commission should, and the court will insist that the Commission shall, allow it to have such rates as will give it a reasonable return and a reasonable reward under those conditions. But that is all it is entitled to.

Mr. ALDRICH rose.

Mr. FULTON. I am anxious to close. I will yield to the Senator in just a moment, if he wishes me to. I was approaching this proposition: The fact that the courts have established so liberal a rule as to what constitutes a taking of private property for public use and what constitutes just compensation for the taking of private property for public use, is one reason why I have been willing to restrict this inquiry by the courts to the mere question as to whether or not the constitutional rights of the carrier have been invaded.

Had the court announced a less generous rule, had it said that the just compensation to which the railroads are entitled is merely enough of receipts to pay the cost of operation and of keeping up its property, I would not consent to limit this right of review to constitutional questions. But since the court has made a liberal rule and has said that the carriers are not only entitled to that but are entitled to a reasonable return on their property when managed in a reasonably good business manner, I think that is a safe enough rule for them, and we can safely, reasonably, and justly restrict them to a rule that will simply protect the constitutional rights as declared by the Supreme Court to be.

Now I yield to the Senator from Rhode Island.

Mr. ALDRICH. As I understand the contention of the Senator from Oregon, it is this: That under an effort made by a carrier to assert its constitutional rights, the question of the justness and reasonableness of the rates must be inquired into and inquired into upon the basis now suggested by the Senator from Oregon.

Mr. FULTON. Of course. I have no doubt about it.

Mr. SPOONER. Mr. President——

Mr. FULTON. Allow me to answer the Senator from Rhode Island.

I have no doubt about this. Should a corporation present a bill in equity, alleging that certain rates prescribed by the Commission amount to a confiscation of its property to this extent, that it deprives it of earning a sufficient return to meet its expenses and pay any profit, or a fair profit, the court will inquire into that rate and ascertain and determine whether or not the contention is true; and if that contention be found to be true, I have no doubt the court would enjoin the rate. Now I yield to the Senator from Wisconsin.

Mr. SPOONER. Only a question, to get at the Senator's ideas. Of course, it is not an appeal from the order of the Commission, because it is an administrative, a nonjudicial body. But it is an original bill filed in the circuit court of the United States.

I want to ask the Senator what he means by restricting the judicial power of the United States in such cases; whether he thinks the Congress can by any legislation exclude from the consideration of the court in such a case any right under the Constitution and laws of the United States which the complainant alleges and establishes has been invaded?

Mr. NELSON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Oregon yield to the Senator from Minnesota?

Mr. FULTON. I should first like to answer the Senator from Wisconsin, unless the Senator from Minnesota desires to answer him.

Mr. NELSON. I want to answer the question.

Mr. FULTON. Very well; I will allow the Senator to answer it, and then I will answer it.

Mr. NELSON. The Constitution of the United States committed to Congress, and not the courts, the power to regulate commerce. If that power is given to Congress, why should we delegate any part of that power to the courts? The only power reserved to the courts is simply to see that we have not exceeded our constitutional powers—in other words, violated the fifth amendment. If you undertake to cover the right of appeal or review further than that, you withhold a part of the power that is given to Congress by the Federal Constitution.

Mr. SPOONER. The Senator from Minnesota does not answer my question.

Mr. FULTON. If the Senator will allow me, I understood his question to be this: Can Congress deprive the court of the right to inquire into a carrier's complaint, exhibited in a bill in equity, charging that an order of the Commission in any respect invades its constitutional rights?

Mr. SPOONER. Rights under the Constitution and laws of the United States.

Mr. FULTON. "Under the Constitution and laws of the United States" suggests two propositions. Under the Constitution of the United States is one proposition, and under the laws of the United States is another proposition. I say you could not deprive the courts of the power to inquire into the constitutional question, but that any right which a party has under the laws of the United States must be a right that is given to him by the laws of the United States, and may be regulated and the remedy restricted or denied as Congress sees fit.

Mr. SPOONER. What I ask the Senator is this: Is it competent for Congress to prevent a citizen of the United States, in any case in which the United States courts have cognizance, from filing a bill to protect him in the enjoyment of any right secured by the Constitution and laws of the United States?

Mr. FULTON. No. I will answer the question of the Senator by saying, no—if he has the right; but Congress can say whether or not he shall have a right to appeal to the courts to enforce a right given to him by Congress.

Mr. SPOONER. Yes; but the right which I understand he is appealing to the court to protect is not a right given to him by Congress, or a right that can be taken away from him by Congress.

Mr. FULTON. What is the right?

Mr. SPOONER. It is a right which exists under the fifth amendment to the Constitution of the United States.

Mr. FULTON. Very well. Have I not said that?

Mr. SPOONER. I know; but what does the Senator and others mean by using in that connection the words "restricting the right of review?"

Mr. FULTON. I tried to instance——

Mr. SPOONER. It is not a review. It is not an appeal. It is an original bill to secure a right under the Constitution and laws of the United States.

Mr. FULTON. Very true.

Mr. SPOONER. If no right exists under the laws of the United States, that is one thing; but if the right exists under the Constitution or under the laws of the United States, is it possible to restrict the judicial power as to that right?

Mr. FULTON. No; if the right exists.

Mr. SPOONER. Of course.

Mr. FULTON. It is very true that this proceeding, as the Senator says, is an original proceeding. It is not an appeal. In one sense you may say it is not a review, but we call it review. It is a convenient term, and we all know what we mean when we speak of the "right of review."

I answer the Senator by saying no. Speaking broadly, if the party has a right under the Constitution or laws of the United States, we can not prevent the courts of the United States from taking jurisdiction to enforce his right, but we can say whether or not he has a right to litigate in the courts a certain question which arises under a law of Congress. Aliens have a right to land in this country.

Mr. ALDRICH. They have no such right.

Mr. SPOONER. No.

Mr. FULTON. They have a right——

Mr. SPOONER. No.

Mr. FULTON. Certain aliens have a right to land in this country under the laws of Congress, but Congress restricts the right.

Mr. SPOONER. Whether an alien can land in this country——

Mr. FULTON. If the Senator will kindly wait a moment,

the Supreme Court has held, in the interpretation of the Chinese-exclusion act, as the Senator is well aware, that under the law of Congress which excludes Chinese from coming into this country Congress may clothe a purely administrative body with the right to determine whether or not a man is a citizen; whether or not he is a Chinaman, and if the board says he is a Chinaman, it can exclude him. And it was, I confess, to my utter amazement and astonishment that the court in one case held that even if the party demanding admission contended that he was a citizen of the United States he could not appeal to the courts under the writ of habeas corpus act and have that question litigated, but that he was bound by the ruling of an administrative officer. In that case the applicant for the writ of habeas corpus claimed to be a native-born citizen of this country. I do not believe, I will say, with all due regard and the highest regard for the Supreme Court, that particular decision is good law.

But there are cases of that character where Congress creates the right in a party—and I only cite that as an extreme case for the purpose of illustration—where Congress has the power to restrict the right and determine to what extent, if any, the party is entitled to a judicial trial or investigation.

Now, then, Congress or State governments create these corporations; give them the right of eminent domain; give them the right to collect charges; give them the right to make rates; give them the right to engage in interstate commerce. There are certain things that Congress may regulate and limit in the execution or enjoyment of the rights it has given those corporations to employ in interstate commerce. It may not take their property from them without just compensation; it may not deprive them of their property without due process of law. But there are matters which it has given them the right to do—to build railroad tracks, sidings, to connect with other public utilities, factories, shippers—and Congress may say to what extent they shall be subjected in the exercise of such rights to the control of a commission appointed and created by Congress, and whether or not the determination of the Commission shall be final and conclusive.

Take the instance I suggested a while ago——

Mr. SPOONER. You do not mean that?

Mr. FULTON. Yes; I do.

Mr. SPOONER. The Senator does not mean to say, of course, that Congress can commit to an administrative body the power to fix a reasonable rate and to make that finding conclusive.

Mr. FULTON. No; I did not say "rate."

Mr. SPOONER. That is what we are talking about—rates.

Mr. FULTON. But I did not use the word "rate." I said there were many administrative matters such as the matter of sidetracks, building bridges, etc., which a corporation could not exercise at all did we not give them the right to exercise them. The corporation could not build a mile of railroad if it were not authorized by the Government to do it. The Government authorizes it to build switches to connect with shippers. It can only do that by the grace and authority of the Government. When it does it by the grace and authority of the Government, that is one of the rights which the Government can absolutely restrict and prevent it going into court to litigate. It can attach that condition to the exercise of the right. It can create an administrative board. It can commit to that administrative board the power to pass on questions of that character, and it is "due process of law" in such cases.

Now, the Senator will not contend, I am sure, that due process of law means judicial investigation in all cases. Due process of law in many instances is satisfied when an administrative board or body has inquired into and determined the matter. The Senator will not dispute that, I submit.

Mr. TILLMAN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Oregon yield to the Senator from South Carolina?

Mr. FULTON. Certainly.

Mr. TILLMAN. If the Senator will permit me, I will direct his attention to another phase of this power that is not reviewable. It is in the Post-Office Department. The Postmaster-General is authorized by act of Congress to take into consideration whether the mails are used by any person with a view to defraud, and then, by issuing a fraud order, which may or may not be based upon a just conclusion and a true statement of the facts, property may be destroyed or rights taken, and there is absolutely no appeal to the courts, and the citizen can not get into the courts in those cases.

I have had complaint after complaint come to me, pointing out wherein fraud orders have been issued against certain parties and their property destroyed and they have tried to get into court to test the matter to see whether they were being robbed or imposed on and they can not get in at all. Why? The Congress did not permit it.

Mr. FULTON. There is something in what the Senator argues on that proposition. The right to enjoy the facilities of the mail is not a natural right, but a right granted by Congress, and of course Congress can restrict a right to investigate or review its orders in that regard. There is very much in what the Senator from South Carolina says.

Mr. SPOONER. I should like, if the Senator will permit me——

The VICE-PRESIDENT. Does the Senator from Oregon yield to the Senator from Wisconsin?

Mr. FULTON. I shall be very glad to have the Senator ask me a question.

Mr. SPOONER. The Senator has made a very thoughtful and able speech. We all want to get at the right of this matter. I wanted to bring the Senator back for a moment to one point. I agree with what he has been saying in answer to the Senator from South Carolina, although the court distinguishes the post-office matter as being entirely different from the question which we are discussing.

Mr. TILLMAN. It is very unfortunate for me that whenever I get the Senator from Wisconsin up against a proposition of constitutionality he begins to say the court distinguishes between my contention and his own.

Mr. SPOONER. It may be unfortunate for the court from the Senator's standpoint, but I will undertake to satisfy even the Senator, and that is easy——

Mr. TILLMAN. I am always reasonable, I hope.

Mr. SPOONER. That the Supreme Court of the United States has distinguished between the exercise of the power to which he refers in post-office cases and the power of taxation and the exercise of the power of eminent domain and the question we are discussing and considering here. I have not the decision here, but I am perfectly familiar with them, and the Senator is not. I will bring them to his attention, and if he has any complaint to make it is with the Supreme Court and not with me.

I want to bring the Senator from Oregon back to this question if he will, for a moment, to see what he means by a restricted review. He concedes—he must concede—that while in cases like the Chinese case, and other cases which are referred to by the court, there may be committed to an administrative body, executive officials, the determination of questions of fact and their conclusion may be final, it is not true that the fixing of rates by this Commission can not be made final or conclusive.

Mr. FULTON. I agree to that.

Mr. SPOONER. The Senator agrees to that, of course. The carrier may go into court and complain that the rate is such as to deprive him under the Constitution of the just compensation which that instrument secures to him.

Now, I want to ask the Senator if, the amount being sufficient, it is competent for Congress to deprive any citizen of the right to assert, or of the court to determine or adjudicate upon the right, which he claims under the Constitution or laws of the United States is invaded? The judicial power extends to rights arising under the Constitution and laws of the United States. Where does this power to restrict come in the case we are talking about here? It can not fall short of just compensation, the Senator will admit, which Mr. Justice Brewer says is the full and fair equivalent, and must be the full and fair equivalent. Beyond that, what can there be, unless it be that the Commission exceeds its power in some way? If the Commission exceeds its power under the law which creates it and which governs it, the Senator will admit that that is a subject of adjudication——

Mr. FULTON. Certainly.

Mr. SPOONER. By the court, and that power can not be taken away from the court. Now, where do we differ?

Mr. FULTON. I hope that we do not differ. I hope the Senator takes the same view I do. I suggested in the early part of the discussion, and I was quite sure he would——

Mr. SPOONER. What does the Senator mean, then, by restricting the party in this question?

Mr. FULTON. I mean, as I have endeavored to explain several times, that I would restrict the party or the court on a suit instituted for the purpose of inquiring into the legality of an order of the Commission to an inquiry as to whether the enforcement of the order would amount to a taking of the property without just compensation. The burden of proof would necessarily be on the party asserting that it did amount to that; and if he failed to show that it did amount to a taking of property without just compensation, the meaning of which the court has so frequently described, the court could not inquire further. The court could not go on and substitute its discretion for that of the Commission. I would not have the court authorized to go into the inquiry that far.

in order that the reasonableness of the rate may be intelligently determined?

I do not state this in an idle way, but in a serious way.

Mr. FULTON. I think the Senator is correct.

Mr. FORAKER. I think so.

Mr. FULTON. Yes; I think the Commission, when it undertakes to prescribe rates, must take into consideration all the business, the environment, the character of the property, the necessity for renewals, extensions, and every matter that a business man would take into consideration in the management of it.

I have no doubt, speaking of a railroad "enjoying," if I may use the term, normal conditions, normal surroundings, that such would be the rule. But, of course, there can be extreme cases imagined where a railroad has been built through a nonproductive country or where it has been built at an extravagant cost and price. It can not, simply because of its misfortune in those respects, rob the people by outrageous prices in order to make the two ends meet. It must suffer the same consequences that a business man does in making a bad venture.

If it is conducting its business in a business way—in an economical way; if it is not paying unreasonable salaries, and is receiving a reasonable income, to which it may justly look for a reward and a just return on its investment, the Commission should, and the court will insist that the Commission shall, allow it to have such rates as will give it a reasonable return and a reasonable reward under those conditions. But that is all it is entitled to.

Mr. ALDRICH rose.

Mr. FULTON. I am anxious to close. I will yield to the Senator in just a moment, if he wishes me to. I was approaching this proposition: The fact that the courts have established so liberal a rule as to what constitutes a taking of private property for public use and what constitutes just compensation for the taking of private property for public use, is one reason why I have been willing to restrict this inquiry by the courts to the mere question as to whether or not the constitutional rights of the carrier have been invaded.

Had the court announced a less generous rule, had it said that the just compensation to which the railroads are entitled is merely enough of receipts to pay the cost of operation and of keeping up its property, I would not consent to limit this right of review to constitutional questions. But since the court has made a liberal rule and has said that the carriers are not only entitled to that but are entitled to a reasonable return on their property when managed in a reasonably good business manner, I think that is a safe enough rule for them, and we can safely, reasonably, and justly restrict them to a rule that will simply protect the constitutional rights as declared by the Supreme Court to be.

Now I yield to the Senator from Rhode Island.

Mr. ALDRICH. As I understand the contention of the Senator from Oregon, it is this: That under an effort made by a carrier to assert its constitutional rights, the question of the justness and reasonableness of the rates must be inquired into and inquired into upon the basis now suggested by the Senator from Oregon.

Mr. FULTON. Of course. I have no doubt about it.

Mr. SPOONER. Mr. President——

Mr. FULTON. Allow me to answer the Senator from Rhode Island.

I have no doubt about this. Should a corporation present a bill in equity, alleging that certain rates prescribed by the Commission amount to a confiscation of its property to this extent, that it deprives it of earning a sufficient return to meet its expenses and pay any profit, or a fair profit, the court will inquire into that rate and ascertain and determine whether or not the contention is true; and if that contention be found to be true, I have no doubt the court would enjoin the rate. Now I yield to the Senator from Wisconsin.

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Mr. SPOONER. Rights under the Constitution and laws of the United States.

Mr. FULTON. "Under the Constitution and laws of the United States" suggests two propositions. Under the Constitution of the United States is one proposition, and under the laws of the United States is another proposition. I say you could not deprive the courts of the power to inquire into the constitutional question, but that any right which a party has under the laws of the United States must be a right that is given to him by the laws of the United States, and may be regulated and the remedy restricted or denied as Congress sees fit.

Mr. SPOONER. What I ask the Senator is this: Is it competent for Congress to prevent a citizen of the United States, in any case in which the United States courts have cognizance, from filing a bill to protect him in the enjoyment of any right secured by the Constitution and laws of the United States?

Mr. FULTON. No. I will answer the question of the Senator by saying, no—if he has the right; but Congress can say whether or not he shall have a right to appeal to the courts to enforce a right given to him by Congress.

Mr. SPOONER. Yes; but the right which I understand he is appealing to the court to protect is not a right given to him by Congress, or a right that can be taken away from him by Congress.

Mr. FULTON. What is the right?

Mr. SPOONER. It is a right which exists under the fifth amendment to the Constitution of the United States.

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Mr. SPOONER. I know; but what does the Senator and others mean by using in that connection the words "restricting the right of review?"

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Mr. SPOONER. Of course.

Mr. FULTON. It is very true that this proceeding, as the Senator says, is an original proceeding. It is not an appeal. In one sense you may say it is not a review, but we call it review. It is a convenient term, and we all know what we mean when we speak of the "right of review."

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Mr. ALDRICH. They have no such right.

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Mr. SPOONER. The Senator does not mean to say, of course, that Congress can commit to an administrative body the power to fix a reasonable rate and to make that finding conclusive.

Mr. FULTON. No; I did not say "rate."

Mr. SPOONER. That is what we are talking about—rates.

Mr. FULTON. But I did not use the word "rate." I said there were many administrative matters such as the matter of sidetracks, building bridges, etc., which a corporation could not exercise at all did we not give them the right to exercise them. The corporation could not build a mile of railroad if it were not authorized by the Government to do it. The Government authorizes it to build switches to connect with shippers. It can only do that by the grace and authority of the Government. When it does it by the grace and authority of the Government, that is one of the rights which the Government can absolutely restrict and prevent it going into court to litigate. It can attach that condition to the exercise of the right. It can create an administrative board. It can commit to that administrative board the power to pass on questions of that character, and it is "due process of law" in such cases.

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Mr. TILLMAN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Oregon yield to the Senator from South Carolina?

Mr. FULTON. Certainly.

Mr. TILLMAN. If the Senator will permit me, I will direct his attention to another phase of this power that is not reviewable. It is in the Post-Office Department. The Postmaster-General is authorized by act of Congress to take into consideration whether the mails are used by any person with a view to defraud, and then, by issuing a fraud order, which may or may not be based upon a just conclusion and a true statement of the facts, property may be destroyed or rights taken, and there is absolutely no appeal to the courts, and the citizen can not get into the courts in those cases.

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Mr. FULTON. Certainly.

Mr. SPOONER. By the court, and that power can not be taken away from the court. Now, where do we differ?

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Mr. SPOONER. Could we confer that power?

Mr. FULTON. I suppose we could provide for a trial, de novo, if we wished to. We authorize the Commission to fix reasonable rates. We say that a reasonable rate must be such a one as will afford just compensation. I do not know how much ground there is between the line marking reasonable compensation and the line where the rate becomes exorbitant. Is there a broad space between the two lines within which discretion may be exercised? I do not know. I am not sure about that. It is contended by many that there is. But I am very sure that if we restrict the judicial inquiry to inquiring as to whether or not the rate that has been fixed by the Commission is unreasonable to the extent that it deprives the carrier of a just return on his property, we will not do him an injustice.

Mr. HEYBURN rose.

The VICE-PRESIDENT. Does the Senator from Oregon yield to the Senator from Idaho?

Mr. FULTON. Certainly.

Mr. HEYBURN. I should like to inquire of the Senator, because of a remark which he has just made, whether he believes Congress can restrict the judicial power at all. The Senator speaks of limiting the judicial power.

Mr. FULTON. I do not think that I have spoken of limiting the judicial power. If so, I have done it unintentionally.

Mr. HEYBURN. I did not know whether the Senator used it intentionally or not. He spoke of restricting the judicial power.

Mr. FULTON. The power of the court, under this act, to inquire into the reasonableness or unreasonableness of a rate may be a part of the judicial power, but it is not restricting the judicial power when I say that the inquiry of the court shall be confined to a case involving the question of the constitutionality of the rate.

Mr. HEYBURN. I should like to know where the line is to be drawn after the court has jurisdiction of a question as to the measure of its power. Does the Senator think, the court having jurisdiction of a question, Congress can say how far it shall exercise its judicial power?

Mr. FULTON. I do not think that question arises here.

Mr. HEYBURN. It seems to me that it does upon the consideration of the very proposition just submitted by the Senator. I should like to have the Senator's attention for a moment.

Mr. FULTON. Certainly.

Mr. HEYBURN. The distinction which governs that was clearly drawn in the Constitutional Convention by Mr. Madison. When the Constitution was originally reported from the Revision Committee what is now section 2 of Article III was section 3 of Article XI, and it thus remained for consideration before the Constitutional Convention about three weeks. The language used in the beginning of section 3 of Article XI was "the jurisdiction of the Supreme Court" shall attach to the various subjects that are now comprised in section 2 of Article III of the Constitution. On the motion of Mr. Madison, seconded by Gouverneur Morris, the language of that section was changed so that instead of reading "the jurisdiction of the Supreme Court of the United States shall apply" it was made to read as it reads now, for the purpose of obviating the very suggestion contained in the Senator's remarks—that the same degree of power should be conferred as to the class of actions enumerated in section 2 of Article III, which was then section 3 of Article XI, as was conferred by section 1 of Article III, showing that the Constitutional Convention had in its mind to draw clearly the distinction between jurisdiction and power. And the courts——

Mr. FULTON. Now, if the Senator will allow me, I wish to conclude my remarks.

Mr. HEYBURN. Allow me to finish my sentence. The courts having retained jurisdiction, I inquire whether the Senator thinks the jurisdiction of the court, having attached to these subjects-matter or the litigation, an act of Congress can say how far that power shall be exercised?

Mr. FULTON. I agree with the Senator, if that is his contention, that if we give the court jurisdiction of a particular subject, we can not regulate or say what character of judgment the court shall enter. I admit that there is a vast difference between judicial power and jurisdiction, and I admit that the judicial power which is conferred by the Constitution can not be restricted by legislation, nor can its exercise be restricted. But we may say whether or not the court may take jurisdiction of a certain case. Granting it jurisdiction of the case, however, we may not restrict its judicial power. It seems to me that there may be a broad space between a reasonable and an unreasonably high rate, and within that zone the fixing of a reasonable rate is a matter of discretion.

Mr. HEYBURN. I should like right there——

Mr. FULTON. When you get beyond the line where it is simply a reasonable rate, to the extent that it affords a just compensation to the carrier, there is a broad field for the exercise of discretion—purely discretion. I would not give the court power to go into that and substitute its discretion for the discretion of the Commission. I would not grant it jurisdiction in such a case. That is different from granting it jurisdiction and then attempting to limit its judicial power.

Mr. HEYBURN. Now, if the Senator will permit me, he admits that we can not control the ultimate decision. Can it be possible, then, that Congress can prescribe a rule by which that decision or conclusion is to be reached? Inasmuch as this proceeding is in equity, can we say by what process or to what extent the mind of the chancellor shall be subjected in order that it may be convinced of the right of a cause? Can we place any limitation upon the mental process or can we prescribe the limit beyond which the mind of the chancellor shall not go?

Mr. FULTON. No; the Senator is very correct about that. There is no dispute between us on that proposition. But we do not give the court jurisdiction of the case. We do not give the court jurisdiction of any case under this bill; but under the Constitution the court has the right to take jurisdiction of a case to preserve the constitutional rights of the citizen, to inquire whether his property is being taken without just compensation. The inquiry of the court is limited to that. That is the case before the court.

Now, how far the court will go in saying what is a reasonably compensatory rate is for the court to say. We can not by law say that the court shall say this or that is a reasonably compensatory rate. If we could, we could make a rate fixed by the Commission conclusive. We could do the one just as well as the other. That is a matter which rests in the sound discretion of the court. But we can establish the broad proposition that the rates shall remain as the Commission fixed them unless they violate the constitutional rights of the party to the extent that they amount to a taking without just compensation.

Mr. HEYBURN. Mr. President, I will ask, Can we say that?

Mr. FULTON. As the Senator from Wisconsin [Mr. SPOONER] suggests to me, we do not have to say that. If we say nothing, as I propose this bill shall, and as it does at the present time, that is all the court can do.

Mr. HEYBURN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Oregon yield further to the Senator from Idaho?

Mr. FULTON. I will yield for a question, but I will say to the Senator, with all kindness, that I am very tired, and I rather suspect the Senate is, too. I should like to finish.

Mr. HEYBURN. I do not think the Senate is at all weary of the very excellent argument the Senator has been making. I will not prolong the Senator's time.

Mr. FULTON. If the Senator wants to ask a question, I will yield to him.

Mr. HEYBURN. I will say what I have to say in my own time. It was rather a commentary upon the Senator's remarks than a question.

Mr. FULTON. Then, Mr. President, I will conclude the statement that I started in to make some time ago. In view of the very liberal rule which the court has made as to what constitutes just compensation, it does not seem to me that we are fixing a rule that will work a hardship on the carriers when we say that so far as the right of review is concerned it shall be limited to that. I thank the Senate for the consideration shown me, and I yield the floor.

Mr. LONG. Mr. President, I desire to offer an amendment. I send it to the desk and ask that it be read.

The VICE-PRESIDENT. The Senator from Kansas proposes an amendment, which will be read.

The SECRETARY. On page 11, line 5, after the word "prescribed," strike out all of said line down to and including the word "jurisdiction," at the end of line 9. On page 14 strike out all of line 18 down to and including the word "effect," in line 2, page 15, and in lieu of the words stricken out on page 14 insert the following:

That all orders of the Commission, except orders for the payment of money, shall take effect within such reasonable time as shall be prescribed by the Commission, and shall continue for such period of time, not exceeding two years, as shall be prescribed in the order of the Commission, unless sooner set aside by the Commission or suspended or set aside in a suit brought against the Commission in the circuit court of the United States, sitting as a court of equity for the district wherein any carrier plaintiff in said suit has its principal operating office, and jurisdiction is hereby conferred on the circuit courts of the United States to hear and determine in any such suit whether the order complained of was beyond the authority of the Commission or in violation of the rights of the carrier secured by the Constitution.

The VICE-PRESIDENT. The proposed amendment will be printed and lie on the table.

Mr. LONG. Mr. President, with the indulgence of the Senate, to-morrow, immediately after the conclusion of the morning business, I shall speak upon the amendment.

Mr. HEYBURN. Mr. President, it had not been my intention to make any remarks upon the pending bill to-day, but in view of the conditions that have arisen I will ask the indulgence of the Senate for a few minutes. I will call attention to some features of the bill which seem to me absolutely essential to be considered and determined before we can intelligently meet the expectations of the people by this legislation.

The bill does not provide any remedy by review on the part of the real party in interest, the producer and the shipper. It is the interest of the producer and shipper that we are supposed to be trying to protect in this legislation, and yet there is not one word or declaration in the bill that gives either the right to appeal from the decision of the Interstate Commerce Commission under any circumstances. Thousands of complaints have been filed with the Commission since its creation that have been adversely determined or not determined at all. The shippers have stood mute and silent because the law afforded them no remedy except the expensive common-law remedy of going into a court to recover damages at their own expense from the corporation at whose hands they were wronged.

Can it be possible that any effective or sufficient legislation upon this question of regulation of freight rates in the interest of the producer and shipper can thus ignore them, place them absolutely at the mercy of the Interstate Commerce Commission, and give them the right to appeal neither from the decision of that Commission nor to the courts? Can it be possible that such a class of legislation will meet with the expectations of the people or that it will cover their necessities? I do not think so, and I think before this question leaves this body we will have found it necessary to give the producer and shipper their day in court, too. Where, under the provisions of this legislation as proposed by any measure before this body, is the producer or shipper given his day in court, except the vicarious provision that he may through the guardianship of the Interstate Commerce Commission, if in the wisdom of the guardian he has been wronged, have his rights reviewed?

I commend that to the consideration of those who have framed and presented this measure to the Senate as one that they will have to answer to the people for when in their hour of disappointment they shall realize that they have simply had a guardian appointed for them.

Mr. KNOX. Mr. President——

The VICE-PRESIDENT. Does the Senator from Idaho yield to the Senator from Pennsylvania?

Mr. HEYBURN. With pleasure.

Mr. KNOX. I quite agree with the Senator from Idaho in his observations, so far as they extend to the bill under consideration; but he asks where in this bill or in any other bill which has been proposed is there a provision for protecting the right of the shipper and giving him his day in court? If the Senator will do me the honor to read the bill I proposed, he will find that that provision is specifically in that bill, and that from any order the Commission may make the shipper or any other party to the proceeding may carry the case into court.

Mr. HEYBURN. Mr. President, I did not intend that my remark should be so comprehensive as it seems to have been. I was referring more particularly to the measures that had been presented to the Senate by the committee having charge of the pending bill. I will, in justice to the Senator from Pennsylvania, say that the provisions of the amendment suggested or introduced by the Senator go much further in the right direction than do any of the provisions of the bills that have come from the Interstate Commerce Committee of this body. Now, I would not under any circumstances be guilty of disrespect or of a slighting remark with reference to that committee. Through many long months it labored conscientiously with this question in its endeavor to solve it and present a bill that would cover the necessities of the people; and it did bring in here doubtless a more comprehensive bill, something that more nearly approaches a protection of the rights of the shipper than anything that had been presented to the Senate before. But the committee, unfortunately, did not entirely agree among its own members as to what was necessary to meet the emergencies of this situation; and, Mr. President, it is now out of the hands of that committee. This bill is before the greatest legislative committee in the world—the Committee of the Whole of the United States Senate. Every member of this body is a member of that Committee of the Whole. We are here to consider this bill as a matter of first intention; and, if we can, to gather up out of all that is before us that measure of wisdom that will meet the requirements in reference to rate legislation.

Mr. President, it is just as necessary that the producer and shipper should have their day in court and that their constitutional rights should be observed as it is that the carrier should have his day in court.

Mr. DOLLIVER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Idaho yield to the Senator from Iowa?

Mr. HEYBURN. I do.

Mr. DOLLIVER. I understand the Senator to say that the shipper ought to have the right to have the order of the Commission fixing the maximum rate reviewed in the courts. Do I understand him correctly?

Mr. HEYBURN. Yes.

Mr. DOLLIVER. Would the Senator be kind enough to state what remedy the courts could give the shipper in such a case? If I understand it, the jurisdiction of the court is very simple in such a case. It has the jurisdiction to affirm the order and it has the jurisdiction to vacate it. If the order is affirmed, the shipper is just where he was; if the order is vacated, the shipper is thrown back upon the original railroad rate and regulation. I should like to understand upon what theory the Senator expects the shipper to cast his fortunes in a litigation of that sort?

Mr. HEYBURN. If the decision of the Commission is affirmed, it is true the shipper is just where he was. He is under the guardianship of the Commission. If the Commission has erred and the court sustains the contention of the transportation company and turns down the contention of the shipper, the shipper is just exactly where he was, suffering under the wrongs of which he complains.

Here is the vice contained in this bill. It is on page 39 of the reprint. I will read it. After providing that the party may bring his suit in his own name and on his own responsibility to recover damages, etc., it says:

> But such person or persons shall not have the right to pursue both of said remedies, and must in each case elect which one of the two methods of procedure herein provided for he or they will adopt.

That is to say, when a person has complained to the Interstate Commerce Commission, of course he is taking the chances on their determination of the matter. He is compelled by the provisions of the bill to elect, in an hour when he can not exercise any discriminating judgment as to what would result best for him, whether he will abide by the decision of this Commission, which is a mere arbitrator, or whether he will preserve to himself his constitutional rights to maintain an action in his own name. While I have my doubts about the court sustaining an objection to his proceeding in a case, notwithstanding the fact that he had placed his case in the hands of the Commission, yet we are to take this bill upon its face, and if he has once submitted his case to the Interstate Commerce Commission, according to the terms of this bill, he is precluded from exercising his constitutional right to test the reasonableness or the justness or the legality of the rate from which he has appealed or the conditions to which he has objected.

I ask again, Where and when does the producer or shipper have his day in court, when the bill by its own terms provides that, having taken advantage of this measure, he may not again appeal to the court under the constitutional right which is inherent in him?

I merely intend to-day to suggest these objections. They will have to be answered in the minds of Senators before they cast their last vote upon this question; and before this bill leaves this body we shall be compelled to take up the producers' and shippers' side of it. The producers, the shipper, and the consumer are the parties whose interests are very closely woven together in this matter, and the bill has not been discussed from the standpoint of either the consumer of the commodity or the shipper of it, who generally is the producer of it or the factor of it. All of the energy and intelligence of this body has been directed rather to how and to what extent we could deal with the rights of the transportation company.

The transportation company is not necessarily the enemy of the producer of commodity or the factor of commodity or the shipper of commodity. It is presumed that in the majority of cases the law of contract would be sufficient, but this proposed law is dealing only with those cases where the law of contract is not sufficient, because, if the law of contract were sufficient, there would be no complaint filed with the Interstate Commerce Commission.

I commend these thoughts to Senators, that they may deal with them, because the people are going to inquire, "Well, what have you done for us?" They are going to say, "We were not asking you to punish in a punitive way the transportation companies of the land; they are not our enemies; we only ask you

to adjust the rights between us, and to provide a remedy for their enforcement."

The Constitution of the United States has provided the courts, it has given them judicial power, and we can not take it from them; we can not change the processes of their action; we can not prescribe a rule by which the mind of the chancellor shall be convinced; we can not limit the scope of inquiry that the chancellor demands in order that he may conscientiously deliver his decree.

Much of this discussion—and I say in all respect to Senators—seems to me to have been directed to this, perhaps I might term it misconception of the distinction that was made, and made deliberately, in the framing of the Constitution of the United States, between judicial power and jurisdiction. One begins after the other has performed its duty. The power is given by the Constitution; the jurisdiction is apportioned and divided by Congress, subject to the limitations of the Constitution.

The Constitution, in order that there might be no uncertainty in a certain line of cases or under certain conditions, prescribes not only the power, but the jurisdiction, and in the second section of Article III of the Constitution the power is given to the courts to deal with certain questions. That did not mean to deal with them at the whim and caprice of changing fancy or of changing Congresses. It meant that it should be a substantial right that should be the same yesterday, to-day, and to-morrow. We apportion the jurisdiction between the courts where the Constitution has not done it, and only in those cases; but we do not limit or apportion the power of the court.

The court of equity, as was said by Lord Eldon in a celebrated case, having once the power to determine a question, regulates its own jurisdiction so far as the method of exercising that power is concerned, and it has been said, in reviewing that case, by more than one eminent jurist of this country, that the rule stated by Lord Eldon in that decision—I believe it was in 11 Vesey—ran all through the jurisdiction of the courts of equity of the United States in dealing with its functions; that it was not subject to be changed or modified by the legislature of either the States or of the United States; that the power being in the court, it being a coordinate branch of the Government, the manner of the exercise of that power was for the court, and not for the legislature. We enact a law. It is for the court to say whether or not that law is in conformity with the Constitution of the United States—that great sailing chart of the ship of state, which, perhaps, is the best drawn legal document of which there is any record in the history of this or any other country.

Mr. President, I do not intend to elaborate to any great extent upon this idea. I merely want to set it abroad. I made a suggestion while the Senator from Oregon [Mr. FULTON] was speaking, which has some force, which I desire to commend to the consideration of Senators. If we are to declare a rule here, or if we are to assume that the decision of the courts has established a rule that every transportation company in this country is entitled to earn, and to be guaranteed and protected in earning, a given percentage upon its investment on the value of its property, it amounts, as I said before, to underwriting the stocks and bonds of that railroad company. If we take the value of the stocks and bonds of a railroad company as the basis upon which to estimate the earnings that that railroad is entitled to make, and we say to the world that we thereby authorize this railroad or transportation company to make such charges for its services as will yield it 6 per cent upon its investment, what have we done? We have created a class of investments, whether it be the stocks or bonds of these railroads, that are better and worth more than the bonds of the Government or any of the municipalities within the Government. We say to investors, "The Government is behind you; we will protect you and guarantee you the right to earn 6 per cent upon these stocks or bonds," have we not? Do we intend to do it? I think not. I think if we should do anything that could be so construed, we would be called to account for it by the people upon the very first occasion when they had the opportunity to do so.

I desire to call attention to but one more question to-day. It is an important question, and is another question that has to be solved. It is one that was suggested to me by the amendment that was offered by the Senator from Pennsylvania [Mr. KNOX] with reference to the disposition of the funds deposited in court during the review of the decision of the Interstate Commerce Commission. I want to inquire as to the manner of the disposal of that fund, because it will in some cases amount to hundreds of thousands of dollars. I have an item of shipment of stock from the State of Idaho alone, some 8,000 cars during the last stock-shipping season, which would amount to more than a million dollars in freights; and a difference of 3 per cent between what the shipper thought was a fair rate and what the railroad company claimed was a fair rate would amount to no ordinary fortune. That money is provided to be deposited in the court or to be represented by a bond that is equivalent to the cash.

Before the question is settled as to who was right in that controversy, as to whether the shipper was right or the railroad company was right, months have elapsed; that money has been idly resting in the security of the court, whether in the form of cash or bonds. The court decides, for example, that the shipper was right in the controversy, and that money goes back to the shipper; but the shipper has disposed of his stock in the cattle yards along the Mississippi Valley. He has placed a price upon that stock based upon the possibility of his never receiving back the money that is in court, based upon the possibility of his losing it, because he would be an unwise man to take any chances. Now, he has received a price for his commodity commensurate with the value based upon the freight that was demanded of him and which he paid into court. When the money is paid out by the court, to whom does it go? To the shipper? He has already received it; he has taken it into consideration in disposing of his commodity. To the railroad company? They have been adjudged not entitled to it. To whom does it belong? It belongs to the people who bought that meat from the cutter's block and who consumed it in their homes. They are the ones who paid the increased price. They paid for it on the basis of the maximum freight demanded by the railroad company.

Senators, we have to solve these questions before we can dispose of this bill. There are a good many questions yet to be solved in legislating upon this subject, many of which have not yet been broached; and on this occasion, as I say, I only desire to call attention to them. The Senator from South Carolina [Mr. TILLMAN] met me on one occasion by asking, "Why do you not offer amendments?" It is not yet necessary to offer these amendments. The discussion of this matter in Committee of the Whole, as we are now considering it, means that we are trying to sift our minds down to the ultimate conclusion that will justify a man in crystallizing his conclusions in the shape of amendments, and we are not called upon to put them in the form of amendments, and send them now to the Secretary's desk only, perhaps, to be criticised by ourselves afterwards. We are here for an intelligent interchange of ideas upon this subject; and it may be true, and doubtless it is, that the suggestions I have thown out are subject to criticism, and that by the time we have discussed this measure backward and forward, we shall all of us have arrived at modified conclusions, even upon the questions about which we have felt most certain. It is not enough to dispose of the legal questions; they must be disposed of, and disposed of with exactness and accuracy; but after we have disposed of them, we must apply them to the necessities of this class of legislation, and see to it that when the bill finally becomes a law, if we shall agree upon one—and I sincerely trust we shall—it will not only stand the scrutiny of the Supreme Court of the United States, but it will stand the scrutiny and meet the approval of the people in whose interest we are legislating.

Mr. NELSON. Mr. President, I propose to ask the indulgence of the Senate for a few moments to consider the argument that this bill is unconstitutional, because it does not contain in express terms an express provision for review.

I listened with rapt attention to the exceedingly able speech of the junior Senator from Pennsylvania [Mr. KNOX] on the pending railway rate bill. I have since that time read his speech in cold type, and I have pondered much over his argument that the bill is unconstitutional because the right of judicial review is not conferred in express terms. While it may seem ungracious and presumptuous for me, a plebian lawyer from the far Northwest, to differ on this point with such an able lawyer as the Senator from Pennsylvania, yet I can not forbear, in this forum of free and full discussion where, at least in a technical sense, we are all on a footing of equality, to express my dissent from the conclusions of the Senator and to briefly express the grounds and reasons for such dissent.

First. There is in the bill no direct or express bar to the right of judicial review, as there was in the case of the Railway Company *v.* Minnesota (134 U. S., 418), cited by the Senator, but on the contrary, both expressly and by necessary implication, the right of judicial review within constitutional limits exists. Hence the Minnesota case can have no application. The following language in the bill clearly implies that a judicial review is not barred, but rather contemplated and invited. I quote: "Or

be suspended or set aside by a court of competent jurisdiction," line 9, page 11, and by the language as to venue, etc., found on page 17:

The venue of suits brought in any of the circuit courts of the United States to enjoin, set aside, annul, or suspend any order or requirement of the Commission shall be in the district where the carrier against whom such order or requirement may have been made has its principal operating office. The provisions of "An act to expedite the hearing and determination of suits in equity, and so forth," approved February 11, 1903, shall be, and are hereby, made applicable to all such suits, and are also made applicable to any proceeding in equity to enforce any order or requirement of the Commission, or any of the provisions of the act to regulate commerce approved February 4, 1887, and all acts amendatory thereof or supplemental thereto.

Second. There are three modes in which a judicial review can be had under the bill: (1) Under the general right conferred by the judiciary act of March 3, 1887 (24 Stat., 552), as open to railways, if their rights are invaded, as to other litigants. The Commission is not a necessary party, nor the only one that could be made a party adverse to the railway company in such a proceeding. The party making the complaint to the Commission, or any other party seeking to enforce the order, would be a proper party to the proceeding. Besides, any shipper whose goods the railway would refuse to carry at the Commission rate would have a right of action, and the railway could easily raise such an issue. In either case the constitutional validity of the Commission rate would be subject to judicial review. (2) In a proceeding to enforce the penalties prescribed in the bill. In this the defendant can insist upon and successfully defend himself by showing that the order of the Commission is unconstitutional and beyond the powers of the Commission; that the rate prescribed is unconstitutional because it does not afford just compensation. In any criminal prosecution, or in any action to enforce a penalty based upon a statute, the constitutional rights of the defendant can always be asserted and maintained. The risk the defendant railway company would incur in ignoring a penal provision, in taking the chances of prosecution, is not other than nor different from the risk any defendant runs who persists in violating a penal statute—the risk that he may be mistaken as to its constitutional validity. But because of the willingness to run such risk, I do not think it is incumbent on us to extend, by our act, any greater favor in this case than in the case of other penal statutes. And (3) in the paragraph found on page 16 of the bill, providing that the Commission, or any party injured, may apply to the circuit court for an enforcement of the order. The term "regularly made" is manifestly not used in the limited sense that mere formalities have been observed, but in the general sense that it is in all respects "regular," or, in other words, "lawfully made." Such an order is not regularly made if beyond the competency or power of the Commission, for, be it always remembered that the Commission has no power to make other than "a just, reasonable, and fairly remunerative rate," or, in other words, a rate that affords just compensation to the carrier. The jurisdiction of the Commission and the constitutionality of the order would, under all circumstances, be involved and passed upon in proceedings to enforce the order. An order is not "regularly made" unless it is within the pale of the Constitution.

My dissent, however, from the views of the Senator from Pennsylvania is based not only upon the reasons I have already given, but I base the same upon more fundamental grounds—grounds that reach to the very theory and structure of our Federal system.

The Constitution is a power of attorney conferred by the people of the United States and by the several States upon our Federal Government; in fact, it is the life-giving force of our Federal system. This instrument distributes the powers of the Federal Government among three separate and distinct departments—the legislative, the executive, and the judicial departments—each supreme within its own sphere and function with but one exception, and that is this: The judicial department, not through any express constitutional grant, but through a power resting upon a uniform and continuous construction of the Constitution for upward of a century and so firmly embedded in our judicial system as to have the force of an express constitutional grant, has assumed and still assumes the right at all times to determine whether the two other departments are performing their functions within the pale of the Constitution.

The power to regulate commerce is vested as fully and completely in Congress as the judicial power is vested in the courts. It is only when Congress proceeds outside of the pale of the Constitution—violates the fifth amendment—that the court, under the Constitution, is warranted in restraining or passing upon the action of Congress in exercising this power.

The court can not restrain on any other ground. To attempt to do so, or to attempt to vest the court with power to do so, would be to attempt to divest or withhold from Congress a part of the power conferred upon it—the power to regulate interstate commerce. This power would be lame and impotent and of no value if the courts could stay or thwart the will of Congress on any other ground. It would transfer the regulation of interstate commerce from Congress to the courts, and it would do violence to that distribution of governmental powers provided and contemplated by the Constitution. It would make our Government not one of three departments, but a Government of a single department—the judicial.

The courts are possessed of no greater or other power over an act to regulate railway rates than over any other act of Congress. It is not necessary nor requisite to the validity of any act of Congress that it should in express terms provide for judicial review as to the validity of the act, so long as the courts are open for all cases in law or equity arising under the laws of the United States. Congress can not bar a review. But an act of Congress is not unconstitutional because it fails to provide in express terms for judicial review. If that were necessary or requisite to the constitutional validity of an act, then the number of unconstitutional acts on our statute books would indeed be great. It has never been customary, except in acts relating to the jurisdiction and procedure of our courts, to provide in express terms, in any act, for judicial review as to the constitutional validity of the act. It would be an anomaly in constitutional law if Congress were to be thus subrogated to the courts. It would be as though Congress threw itself on the mercy of the court in the instance of every act. The constitutionality of the legal-tender act, which wrought a revolution in our monetary system—more far-reaching in its consequences than even the bill under consideration—was never questioned or doubted upon the ground that it did not in express terms confer the right of judicial review. And although the act did not in terms provide for such review there was found under it an open avenue to the courts, and the Supreme Court finally passed upon and sustained its validity. The same is true of the tea-inspection act of 1897. The case of Buttfield *v.* Stranahan (192 U. S., 470) illustrates this. The same is also true of the statute authorizing the Post-Office Department to issue so-called "fraud orders." There has been no impediment to judicial review within the pale of the Constitution in such cases. The case of the People's United States Bank *v.* Gilson et al., in the circuit court of the United States for the eastern district of Missouri, is an illustration of this, and the case of Public Clearance House *v.* Coyne (194 U. S., 497) is also in point. Many other instances of similar import could be cited. If the constitutional rights of any person or corporation are invaded by any act of Congress, the courts are open under the general statutes and can grant ample relief to all such persons or corporations, and there should be no discrimination in granting judicial relief.

If Congress—I call attention to this statement—instead of conferring the rate-making power upon the Commission, as proposed in the pending bill, were itself to exercise the power directly by passing an act fixing rates, as it would under the Constitution have the right to do, would such an act be unconstitutional because it did not in express terms provide for judicial review, so long as it left the general judicial door open? Manifestly not. Such an act on that ground would be as valid as the legal-tender act, the tea act, and the postal statute. There is a general statute, an open door, for all persons whose constitutional rights are invaded through which they can invoke and obtain the determination of their constitutional rights, and this door is open to the railways as well as to other litigants, and as long as Congress does not bar this door it violates no provision of the Constitution.

If such an act of Congress as I have suggested—a direct rate-making law without the intervention of a commission—would be valid without an express judicial review provision, then how can an act vesting in a commission, an administrative body and the agent of Congress, the power to make rates under a rule and standard fixed by Congress be unconstitutional because it contains no express provision for judicial review so long as the door for judicial review is not barred, but is left open as in other cases? What Congress can do directly in this case it can do through the intervention of a commission. The only limitation upon its power or the power of the Commission is that found in the fifth amendment. There is a broad open door into the courts for all litigants, railway companies and others. Why should a special door or avenue be given to the railways? The foregoing considerations, baldly and briefly stated, lead me irresistibly to the conclusion that the pending bill is not unconstitutional.

I concur in all that was said by the Senators from Wisconsin and Pennsylvania in their most eloquent remarks about upholding and maintaining the integrity of our courts and their juris-

diction. The force of their argument on this point meets my hearty approval. But while such is my attitude to our courts and our judicial system, I would invoke the same principles and the same argument in behalf of the power and integrity of Congress. It is one of the great coordinate departments of our Government. I would do nothing to diminish or withhold from Congress any of the power and dignity that belongs to that body or in any manner to make it unnecessarily subservient to either of the other departments.

The disposition of some of the public press to deprecate and belittle Congress, especially the Senate, can do us no harm among those whose good opinion is worthy of consideration. But to suffer any other department of the Government, directly or indirectly, to derogate or absorb, in any form or by any method, any power or part of a power vested in Congress by the Constitution would do us more harm and be more baneful in its consequences than could possibly result from any public clamor or criticism. I am as unwilling to derogate from Congress any of its constitutional powers as I am unwilling to derogate from the courts any of the powers vested in them by the Constitution.

If the sole ground for supporting a review amendment were that the pending bill is unconstitutional, I could not honestly vote for such amendment on that ground, though I might vote for it on other grounds. It has always been the doctrine of the best class of theologians to stand firm as to essentials, but to be yielding and forbearing as to nonessentials, if necessary to quiet timorous consciences. I am willing to apply such a doctrine to this bill. The main and essential part of the bill is vesting the rate-making power in the Commission. The providing for a special avenue of judicial review within constitutional limits is comparatively and, as regards the main point, less essential. If a review amendment merely prescribing the mode, and not attempting to divest in any shape Congress of its constitutional power to regulate commerce, and not conferring on the courts greater power than that given them by the Constitution—the power to see that Congress keeps within constitutional bounds—is offered, I can support such an amendment, if it will quiet timorous consciences; but I am unwilling to support any amendment that would derogate from Congress any of its just power to regulate commerce. The integrity of Congress is as near and dear to me as the integrity of the courts. I would despoil neither.

Mr. TILLMAN. I wish to ask the Senate to pass an order in regard to printing. The Senator from Indiana [Mr. BEVERIDGE], on the 28th of March, asked the Senate to order a reprint of the interstate-commerce act and acts amendatory thereof and the pending bill. I understand that that reprint is already exhausted, and there seems to be a very great demand for these documents. I therefore ask that the Senate order that 5,000 copies of Document No. 292, present session, be printed for the use of the Senate with this change: While the old law and the proposed law, the Hepburn bill, shall appear in parallel columns, the proposed changes in the old law shall be indicated by italics. It is just as easy to print them in italics as in roman, and then you can glance and see in a moment what is old and what is new. If you do not do that, you have to collate and compare in order to discover the differences.

Mr. BEVERIDGE. I think the suggestion of the Senator from South Carolina is a good one.

The VICE-PRESIDENT. Without objection, the order requested by the Senator from South Carolina will be made.

Mr. BEVERIDGE. I ask, in addition to that request, that at the end of the whole document there be printed the various amendments relating to court review which have already been offered, with the name of the author of each, and that that section of the bill introduced by the Senator from Pennsylvania [Mr. KNOX] relating to court review shall be printed, so that we may have in one document immediately at hand the whole information.

Mr. TILLMAN. I accept that amendment.

The VICE-PRESIDENT. Without objection, the order to print will be enlarged to cover the suggestion of the Senator from Indiana.

Mr. BEVERIDGE. I understand that the request of the Senator from South Carolina leaves it in parallel columns.

Mr. TILLMAN. In parallel columns, except that the proposed changes in existing law shall be in italics.

Mr. BEVERIDGE. That is a good suggestion.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed the bill (S. 4300) to amend section 4414 of the Revised Statutes of the United States, inspectors of hulls and boilers of steam vessels.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3899) granting authority to the Secretary of the Navy, in his discretion, to dismiss midshipmen from the United States Naval Academy and regulating the procedure and punishment in trials for hazing at the said academy.

The message further announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 13103) making appropriations for the payment of invalid and other pensions of the United States for the fiscal year ending June 30, 1907, and for other purposes; asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. GARDNER of Michigan, Mr. BROWNLOW, and Mr. SULLIVAN of Massachusetts managers at the conference on the part of the House.

The message also announced that the House had passed a bill (H. R. 239) relating to liability of common carriers by railroads in the District of Columbia and Territories and common carriers by railroads engaged in commerce between the States and between the States and foreign nations to their employees; in which it requested the concurrence of the Senate.

BRIDGE ACROSS RAINY RIVER, MINNESOTA.

The VICE-PRESIDENT laid before the Senate the amendment of the House of Representatives to the bill (S. 4825) to provide for the construction of a bridge across Rainy River, in the State of Minnesota, which was to strike out all after the enacting clause and insert a substitute.

Mr. NELSON. I move that the Senate concur in the amendment of the House of Representatives.

The motion was agreed to.

SNAKE RIVER BRIDGE IN WASHINGTON.

The VICE-PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 5181) to authorize the construction of a bridge across the Snake River between Whitman and Columbia counties, in the State of Washington, which were, on page 4, line 2, to strike out "two years" and insert "one year;" and in the same line to strike out "four years" and insert "three years."

Mr. PILES. I move that the Senate concur in the amendments of the House of Representatives.

The motion was agreed to.

COLUMBIA RIVER BRIDGES IN WASHINGTON.

The VICE-PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 5182) to authorize the construction of a bridge across the Columbia River between Franklin and Benton counties, in the State of Washington, which were, on page 4, line 5, to strike out "two years" and insert "one year;" and in the same line to strike out "four years" and insert "three years."

Mr. PILES. I move that the Senate concur in the amendments of the House of Representatives.

The motion was agreed to.

The VICE-PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 5183) to authorize the construction of a bridge across the Columbia River between Douglas and Kittitas counties, in the State of Washington, which were, on page 4, line 3, to strike out "two years" and insert "one year;" and on page 4, lines 3 and 4, to strike out "four years" and insert "three years."

Mr. PILES. I move that the Senate concur in the amendments of the House of Representatives.

The motion was agreed to.

CONSIDERATION OF PENSION AND MILITARY RECORD BILLS.

Mr. McCUMBER. I ask unanimous consent that the Senate proceed to the consideration of unobjected pension bills on the Calendar and also bills to correct military records.

The VICE-PRESIDENT. Is there objection to the request of the Senator from North Dakota? The Chair hears none.

GAMBLING IN THE TERRITORIES.

Mr. BURNHAM. I desire to ask unanimous consent for the present consideration of a bill.

Mr. McCUMBER. I will not object if it requires no discussion and is a short bill.

Mr. BURNHAM. It is the bill (H. R. 10873) to prohibit gambling in the Territories.

The VICE-PRESIDENT. The bill will be read for the information of the Senate.

Mr. KEAN. I think the Senator from Ohio [Mr. FORAKER] is interested in the bill.

The VICE-PRESIDENT. The Senator from Ohio is present.

Mr. McCUMBER. The bill will lead to debate. I expect to debate it myself. I know it will take some time, and I do not wish to yield for its consideration.

The VICE-PRESIDENT. Objection is made. The Pension Calendar is in order.

JAMES B. BOYD.

The bill (S. 4467) removing the charge of desertion from the military record of James B. Boyd was announced as the first bill in order, and the Senate, as in Committee of the Whole, proceeded to its consideration. It proposes to remove the charge of desertion standing against the name of James B. Boyd, late of Battery I, Fourth United States Artillery, to amend his military record accordingly, and to grant to him an honorable discharge as of date November 23, 1865.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JOHN P. DUNN.

The bill (S. 4360) granting an increase of pension to John P. Dunn was considered as in Committee of the Whole. It proposes to place on the pension roll the name of John P. Dunn, late of Company H, Sixth Regiment United States Infantry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

LORENZO D. HUNTLEY.

The bill (S. 3300) granting an increase of pension to Lorenzo D. Huntley was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with amendments, in line 6, after the word "Company," to insert the letter "B;" and in line 8, before the word "dollars," to strike out "thirty" and insert "twenty-four;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Lorenzo D. Huntley, late of Company B, Forty-ninth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

FANNIE E. MALONE.

The bill (S. 4279) granting an increase of pension to Fannie E. Malone was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with amendments, in line 7, after the word "Company," to strike out the letter "K" and insert "A;" in line 8, before the word "Volunteer," to insert "Provisional;" and in line 9, before the word "dollars," to strike out "fifty" and insert "thirty;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Fannie E. Malone, widow of John K. Malone, late captain Company A, Second Regiment New York Provisional Volunteer Cavalry, and pay her a pension at the rate of $30 per month in lieu of that she is now receiving.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

MARY E. DUGGER.

The bill (S. 1975) granting an increase of pension to Mary E. Dugger was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with amendments, in line 6, after the word "late," to insert "captain and;" and in line 8, before the word "and," to strike out "Volunteer Infantry" and insert "Volunteers;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Mary E. Dugger, widow of Jefferson Dugger, late captain and assistant adjutant-general, United States Volunteers, and pay her a pension at the rate of $30 per month in lieu of that she is now receiving.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

SAMUEL G. ROBERTS.

The bill (S. 4186) granting an increase of pension to Samuel G. Roberts was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 6, after the word "late," to strike out "of" and insert "second lieutenant;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Samuel G. Roberts, late second lieutenant Company G, Seventeenth Regiment Massachusetts Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

WILLIAM SPROUSE.

The bill (S. 487) granting an increase of pension to William Sprouse was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 8, before the word "dollars," to strike out "thirty" and insert "twenty-four;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of William Sprouse, late of Company C, One hundred and ninety-fourth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

WILLIAM J. MILLETT.

The bill (S. 2790) granting an increase of pension to William J. Millett was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 8, before the word "dollars," to strike out "thirty" and insert "twenty-four;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of William J. Millett, late of Company F, Twenty-seventh Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ROBERT G. HARRISON.

The bill (S. 3525) granting an increase of pension to Robert G. Harrison was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 6, after the word "late," to strike out "of Company B" and insert "assistant surgeon;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Robert G. Harrison, late assistant surgeon, One hundred and twentieth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ABSALOM WILCOX.

The bill (S. 4110) granting an increase of pension to Absalom Wilcox was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 8, before the word "and," to insert "and Company C, First Regiment Missouri Volunteer Engineers;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Absalom Wilcox, late of Company E, Twenty-fifth Regiment Missouri Volunteer Infantry, and Company C, First Regiment Missouri Volunteer Engineers, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

MATILDA E. NATTINGER.

The bill (S. 3985) granting an increase of pension to Matilda E. Nattinger was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 9, before the word "dollars," to strike out "sixteen" and insert "twelve;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Matilda E. Nattinger, widow of Edward A. Nattinger, late of Company C, Fourteenth Regiment Illinois Volunteer Cavalry, and pay her a pension at the rate of $12 per month in lieu of that she is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

SARAH E. YOCKEY.

The bill (S. 3984) granting an increase of pension to Sarah E. Yockey was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 8, before the word "dollars," to strike out "sixteen" and insert "twelve;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Sarah E. Yockey, widow of Charles J. Yockey, late of Company B, Fifty-third Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $12 per month in lieu of that she is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ALFRED B. CHILCOTE.

The bill (S. 4917) graning an increase of pension to Alfred B. Chilcote was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 8, before the word "dollars," to strike out "forty" and insert "twenty-four;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Alfred B. Chilcote, late of Company G, Thirty-first Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ADELE JEANETTE HUGHES.

The bill (S. 4309) granting an increase of pension to Adele Jeanette Hughes was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, to strike out all after the enacting clause and insert:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Adele Jeanette Hughes, late nurse, Medical Department, United States Volunteers, and pay her a pension at the rate of $12 per month.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ISAIAH M'DANIEL.

The bill (S. 4622) granting an increase of pension to Isaiah McDaniel was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 8, before the word "dollars," to strike out "thirty" and insert "twenty-four;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Isaiah McDaniel, late of Company H, One hundred and eighty-second Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

JOHN A. BROADWELL.

The bill (S. 4102) granting an increase of pension to John Broadwell was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with amendments, in line 6, before the word "Broadwell," to insert the letter "A.;" and in the same line, before the word "Regiment," to strike out "Fourth" and insert "First;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John A. Broadwell, late of Battery D, First Regiment New Jersey Volunteer Light Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended to as to read: "A bill granting an increase of pension to John A. Broadwell."

DAVID S. TRUMBO.

The bill (S. 3024) granting an increase of pension to David S. Trumbo was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with amendments, in line 6, after the word "late," to strike out "of Company I" and insert "first lieutenant and quartermaster;" and in line 9, before the word "dollars," to strike out "fifty" and insert "twenty-four;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of David S. Trumbo, late first lieutenant and quartermaster, Twenty-fourth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

CHARLES E. CHAPMAN.

The bill (S. 4088) granting an increase of pension to Charles E. Chapman was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with amendments, in line 7, before the word "and," to strike out "Infantry" and insert "Cavalry;" and in line 8, before the word "dollars," to strike out "thirty" and insert "twenty-four;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Charles E. Chapman, late of Company I, Fourth Regiment Ohio Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

JAMES F. HACKNEY.

The bill (S. 4258) granting an increase of pension to James F. Hackney was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with amendments, in line 6, after the word "late," to strike out "of;" and in the same line, after the word "unassigned," to strike out "company;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of James F. Hackney, late unassigned, Twenty-first Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

JOHN M'CAUGHEN.

The bill (S. 1407) granting a pension to John McCaughn was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with amendments, in line 6, before the word "late," to strike out the name "McCaughn" and insert "McCaughen;" in the same line, after the word "late," to strike out "of" and insert "unassigned;" and in line 8, before the word "dollars," to strike out "thirty" and insert "twelve;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject

to the provisions and limitations of the pension laws, the name of John McCaughen, late unassigned, Third Regiment Michigan Volunteer Cavalry, and pay him a pension at the rate of $12 per month.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill granting a pension to John McCaughen."

JAMES DREURY.

The bill (S. 4432) granting an increase of pension to James Drewry was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with amendments, in line 6, before the word "late," to strike out the name "Drewry" and insert "Dreury;" and in line 8, before the word "dollars," to strike out "thirty" and insert "twenty-four;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of James Dreury, late of Company F, Sixth Regiment Kentucky Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill granting an increase of pension to James Dreury."

SUSAN PENINGTON.

The bill (S. 2832) granting a pension to Susan Pennington was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, to strike out all after the enacting clause and insert:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Susan Penington, widow of John Penington, late of Company A, Twenty-fourth Regiment, and captain Company A, Forty-seventh Regiment Kentucky Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill granting a pension to Susan Penington."

MOSES HILL.

The bill (S. 1406) granting an increase of pension to Moses Hill was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Moses Hill, late of Company C, Ninth Regiment Michigan Volunteer Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

DANIEL PENCE.

The bill (H. R. 14086) granting an increase of pension to Daniel Pence was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Daniel Pence, late of Company B, Seventy-eighth Regiment Ohio Volunteer Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MARY WINFREY.

The bill (H. R. 14098) granting a pension to Mary Winfrey was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Mary Winfrey, widow of Thomas J. Winfrey, late of Company H, Third Regiment Kentucky Volunteer Infantry, and to pay her a pension of $12 per month.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLIAM SHOEMAKER.

The bill (H. R. 13697) granting an increase of pension to William Shoemaker was considered as in Committee of the Whole. It proposes to place on the pension roll the name of William Shoemaker, late of Company F, Sixteenth Regiment Iowa Volunteer Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

NATHANIEL SOUTHARD.

The bill (H. R. 12443) granting an increase of pension to Nathaniel Southard was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Nathaniel Southard, late of Company B, Sixth Regiment Vermont Volunteer Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JAMES P. HIMES.

The bill (H. R. 14642) granting a pension to James P. Himes was considered as in Committee of the Whole. It proposes to place on the pension roll the name of James P. Himes, late of Company M, Third Regiment Kentucky Volunteer Infantry, war with Spain, and to pay him a pension of $12 per month.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

THOMAS SPARROW.

The bill (H. R. 15062) granting an increase of pension to Thomas Sparrow was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Thomas Sparrow, late of Company K, Second Regiment United States Infantry, war with Spain, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

RUTH J. M'CANN.

The bill (H. R. 14834) granting an increase of pension to Ruth J. McCann was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Ruth J. McCann, widow of Thomas K. McCann, late captain and assistant quartermaster, United States Volunteers, and to pay her a pension of $12 per month in lieu of that she is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MARY E. BENNETT.

The bill (H. R. 13028) granting an increase of pension to Mary E. Bennett was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Mary E. Bennett, widow of Augustus G. Bennett, late lieutenant-colonel Twenty-first Regiment United States Colored Volunteer Infantry, and to pay her a pension of $30 per month in lieu of that she is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOHN T. VINCENT.

The bill (S. 3465) granting an increase of pension to John T. Vincent was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, to strike out all after the enacting clause and insert:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John T. Vincent, late of Company G, United States Voltigeurs, war with Mexico, and Company K, First Regiment Washington Territory Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

THOMAS REED.

The bill (S. 3493) granting an increase of pension to Thomas Reed was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 8, before the word "dollars," to strike out "fifty" and insert "twenty-four;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Thomas Reed, late captain Company H, First Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

CHARLES G. POLK.

The bill (S. 5016) granting an increase of pension to Charles G. Polk was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 6, after the word "Third," to strike out "Regiment" and insert "and Thirty-fourth Regiments;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Charles G. Polk, late assistant surgeon Third and Thirty-fourth Regiments United States Colored Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

LESTINA M. GIFFORD.

The bill (S. 524) granting an increase of pension to Lestina M. Gifford was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, to strike out all after the enacting clause and insert:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Lestina M. Gifford, widow of Leander W. Gifford, late captain Company C, First Regiment Pennsylvania Rifles (Thirteenth Regiment Pennsylvania Reserves Volunteer Infantry), and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

HANNAH E. WILMER.

The bill (S. 4548) granting an increase of pension to Elizabeth Wilmer, widow of Edwin Wilmer, and to the orphan children of said soldier was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, to strike out all after the enacting clause and insert:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Hannah E. Wilmer, widow of Edwin Wilmer, late colonel Sixth Regiment Delaware Volunteer Infantry, and pay her a pension at the rate of $8 per month.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill granting a pension to Hannah E. Wilmer."

HENRY WILHELM.

The bill (S. 3821) granting an increase of pension to Henry Wilhelm was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with amendments, in line 6, after the word "late," to insert "second lieutenant Company F and;" and in line 9, before the word "dollars," to strike out "forty" and insert "thirty-six;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Henry Wilhelm, late second lieutenant Company F and captain Company A, Fourth Regiment Maryland Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

JAMES H. HAMAN.

The bill (S. 5121) granting an increase of pension to James H. Haman was considered as in Committee of the Whole. It proposes to place on the pension roll the name of James H. Haman, late of Company E, One hundred and eighteenth Regiment Pennsylvania Volunteer Infantry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JAMES D. HAVENS.

The bill (H. R. 12900) granting an increase of pension to James D. Havens was considered as in Committee of the Whole. It proposes to place on the pension roll the name of James D. Havens, late of Company B, Thirty-third Regiment Wisconsin Volunteer Infantry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

LYDIA A. FIEDLER.

The bill (H. R. 12403) granting a pension to Lydia A. Fiedler was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Lydia A. Fiedler, widow of Charles F. Fiedler, late of Company H, Twentieth Regiment New York Volunteer Infantry, and unassigned, One hundred and nineteenth Regiment New York Volunteer Infantry, and to pay her a pension of $8 per month.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ANNA M. JEFFERIS.

The bill (H. R. 13584) granting an increase of pension to Anna M. Jefferis was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Anna M. Jefferis, widow of Carleton L. Jefferis, late of First Independent Battery, Delaware Volunteer Light Artillery, and to pay her a pension of $16 per month in lieu of that she is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ANNA H. WAGNER.

The bill (H. R. 14669) granting an increase of pension to Anna H. Wagner was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Anna H. Wagner, widow of Arthur L. Wagner, late colonel and military secretary, General Staff, United States Army, and pay her a pension at the rate of $40 per month in lieu of that she is now receiving, and $2 per month additional on account of each of the minor children until they reach the age of 16 years.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

FRANCES COYNER.

The bill (H. R. 14092) granting a pension to Frances Coyner was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Frances Coyner, widow of David H. Coyner, late chaplain Eighty-eighth Regiment Ohio Volunteer Infantry, and to pay her a pension of $8 per month.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLIAM S. NAGLE.

The bill (H. R. 14937) granting an increase of pension to William S. Nagle was considered as in Committee of the Whole. It proposes to place on the pension roll the name of William S. Nagle, late of Company B, First Regiment Pennsylvania Volunteer Infantry, war with Mexico, and to pay him a pension of $20 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MARTHA BROOKS.

The bill (H. R. 14287) granting an increase of pension to Martha Brooks was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Martha Brooks, widow of William H. Brooks, late of Troop H, Second Regiment United States Cavalry, and to pay her a pension of $16 per month in lieu of that she is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

LYDIA A. KELLER.

The bill (H. R. 15941) granting a pension to Lydia A. Keller was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Lydia A. Keller, widow of William Keller, late ordnance sergeant, United States Army, and to pay her a pension of $12 per month.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOHN T. COOK.

The bill (H. R. 15199) granting an increase of pension to John T. Cook was considered as in Committee of the Whole. It proposes to place on the pension roll the name of John T. Cook, late of Captain Coyugham's company, One hundred and forty-third Regiment Pennsylvania Volunteer Infantry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ALONZO M. BARTLETT.

The bill (S. 2689) granting an increase of pension to Alonzo M. Bartlett was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with amendments, in line 6, after the word "Company," to strike out "F, First" and insert "B, Thirtieth;" and in line 8, before the word "dollars," to strike out "twenty-four" and insert "twenty;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Alonzo M. Bartlett, late of Company B, Thirtieth Regiment Maine Volunteer Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

RODNEY W. TORREY.

The bill (S. 2694) granting an increase of pension to Rodney W. Torrey was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 8, before the word "dollars," to strike out "thirty" and insert "twenty;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Rodney W. Torrey, late of Company K, Forty-ninth Regiment Massachusetts Volunteer Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

WILLIAM JANDRO.

The bill (S. 4556) granting an increase of pension to William Jandro was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 9, before the word "dollars," to strike out "seventy-two" and insert "forty;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of William Jandro, late of Company G, First Regiment Massachusetts Volunteer Cavalry, and Company I, Thirty-first Regiment Massachusetts Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ABRAHAM S. BROWN.

The bill (S. 920) granting an increase of pension to Abraham S. Brown was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Abraham S. Brown, late of Company C, Twelfth Regiment New Hampshire Volunteer Infantry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

TRUMAN R. STINEHOUR.

The bill (S. 3812) granting an increase of pension to Truman R. Stinehour was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Truman R. Stinehour, late of Companies F and H, Eighteenth Regiment New Hampshire Volunteer Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JAMES HANN.

The bill (H. R. 13610) granting an increase of pension to James Hann was considered as in Committee of the Whole. It proposes to place on the pension roll the name of James Hann, late of Company I, Twenty-first Regiment New Jersey Volunteer Infantry, and Company G, Sixth Regiment New York Volunteer Heavy Artillery, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

SARAH J. MERRILL.

The bill (H. R. 14639) granting an increase of pension to Sarah J. Merrill was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Sarah J. Merrill, widow of George S. Merrill, late captain Company B, Fourth Regiment Massachusetts Militia Infantry, and to pay her a pension of $12 per month in lieu of that she is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JACOB KELLER.

The bill (H. R. 10753) granting an increase of pension to Jacob Keller was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Jacob Keller, late of Company K, One hundred and sixty-ninth Regiment New York Volunteer Infantry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ANDREW J. BAKER.

The bill (H. R. 14112) granting an increase of pension to Andrew J. Baker was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Andrew J. Baker, late of Company E, Fourth Regiment Ohio Volunteer Infantry, war with Mexico, and Company G, Seventeenth Regiment Illinois Volunteer Infantry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLIAM F. BURKS.

The bill (H. R. 14748) granting an increase of pension to William F. Burks was considered as in Committee of the Whole. It proposes to place on the pension roll the name of William F. Burks, late of Company H, Fifth Regiment Missouri State Militia Volunteer Cavalry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

SAMUEL G. RAYMOND.

The bill (H. R. 12417) granting an increase of pension to Samuel G. Raymond was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Samuel G. Raymond, late of Company L, Tenth Regiment New York Volunteer Cavalry, and Company H, Twelfth Regiment Veteran Reserve Corps, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ROBERT R. WILSON.

The bill (H. R. 13005) granting an increase of pension to Robert R. Wilson was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Robert R. Wilson, late of Company E, Easton's battalion, Missouri Volunteers, war with Mexico, and to pay him a pension of $20 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ORLANDO W. FRAZIER.

The bill (H. R. 14768) granting a pension to Orlando W. Frazier was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Orlando W. Frazier, helpless and dependent son of Orlando W. Frazier, late captain Company G, One hundred and forty-fourth Regiment Illinois Volunteer Infantry, and to pay him a pension of $12 per month.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLIAM M'CANN.

The bill (S. 4683) granting an increase of pension to William McCann was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 8, before the word "dollars," to strike out "thirty" and insert "twenty-four;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of William McCann, late of Company K, Seventeenth Regiment Pennsylvania Vol-

unteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

CHARLES CRISMON.

The bill (S. 2732) granting an increase of pension to Charles Crismon was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment to strike out all after the enacting clause and insert:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Charles Crismon, late of Captain Smith's company, Utah Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ELIZABETH B. BEAN.

The bill (S. 1248) granting a pension to Elizabeth B. Bean was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with amendments, in line 8, before the word "and," to insert "Utah Indian war;" and in line 9, before the word "dollars," strike out "twenty-four" and insert "twelve;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Elizabeth B. Bean, widow of George W. Bean, late of Capt. P. W. Conover's company of Utah Militia, Utah Indian war, and pay her a pension at the rate of $12 per month.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

JOSEPHINE M. CAGE.

The bill (H. R. 14140) granting an increase of pension to Josephine M. Cage was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Josephine M. Cage, widow of William L. Cage, late of Company B, First Regiment Mississippi Volunteer Infantry, war with Mexico, and to pay her a pension of $12 per month in lieu of that she is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JAMES B. COX.

The bill (H. R. 14988) granting an increase of pension to James B. Cox was considered as in Committee of the Whole. It proposes to place on the pension roll the name of James B. Cox, late of Captain Gillespie's company, Hay's Regiment, Texas Mounted Volunteers, war with Mexico, and to pay him a pension of $20 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

SAMUEL R. DUMMER.

The bill (H. R. 14694) granting an increase of pension to Samuel R. Dummer was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Samuel R. Dummer, late of Company H, Tenth Regiment United States Infantry, and to pay him a pension of $20 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CAROLINE D. SCUDDER.

The bill (H. R. 13712) granting an increase of pension to Caroline D. Scudder was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Caroline D. Scudder, widow of James L. Scudder, late first lieutenant Company K, First Regiment Tennessee Volunteers, war with Mexico, and to pay her a pension of $25 per month in lieu of that she is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

FREDERICK HILDENBRAND.

The bill (H. R. 13034) granting an increase of pension to Frederick Hildenbrand was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Frederick Hildenbrand, late second lieutenant Company C, Thirty-ninth Regiment New York Volunteer Infantry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLIAM R. GUION.

The bill (H. R. 12584) granting an increase of pension to William R. Guion was considered as in Committee of the Whole. It proposes to place on the pension roll the name of William R. Guion, late of Captain Ramsey's company, First Regiment Ohio Volunteer Riflemen, war with Mexico, and to pay him a pension of $20 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ROBERT C. PATE.

The bill (H. R. 13341) granting an increase of pension to Robert C. Pate was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Robert C. Pate, late captain Company C, Thirty-seventh Regiment Indiana Volunteer Infantry, and to pay him a pension of $20 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOHN B. CRAIG.

The bill (H. R. 12578) granting an increase of pension to John B. Craig was considered as in Committee of the Whole. It proposes to place on the pension roll the name of John B. Craig, late of Company H, Sixth Regiment Missouri State Militia Volunteer Cavalry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ABIJAH CHAMBERLAIN.

The bill (S. 558) granting an increase of pension to Abijah Chamberlain was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 8, before the word "dollars," to strike out "thirty" and insert "twenty-four;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Abijah Chamberlain, late of the Seventeenth Independent Battery, Ohio Volunteer Light Artillery, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

JOHN CLARK.

The bill (H. R. 11691) granting an increase of pension to John Clark was considered as in Committee of the Whole. It proposes to place on the pension roll the name of John Clark, late of Company K, Fourteenth Regiment United States Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

LEWIS LOWRY.

The bill (H. R. 11690) granting an increase of pension to Lewis Lowry was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Lewis Lowry, late captain Company K, First Regiment Nebraska Volunteer Cavalry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

GEORGE S. SCOTT.

The bill (H. R. 14277) granting an increase of pension to George S. Scott was considered as in Committee of the Whole. It proposes to place on the pension roll the name of George S. Scott, late of Company M, Third Regiment, and Company C, Eleventh Regiment, Missouri Volunteer Cavalry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

AMELIA NICHOLS.

The bill (H. R. 14277) granting an increase of pension to Amelia Nichols was considered as in Committee of the Whole.

It proposes to place on the pension roll the name of Amelia Nichols, widow of Franklin P. Nichols, late second lieutenant Company A, Seventh Regiment Michigan Volunteer Cavalry, and to pay her a pension of $15 per month in lieu of that she is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ALIDA KING.

The bill (H. R. 13798) granting an increase of pension to Alida King was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Alida King, widow of Henry King, late of Company D, Fifty-sixth Regiment New York Volunteer Infantry, and to pay her a pension of $20 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of Eugene T. King, helpless and dependent child of said Henry King, the additional pension herein granted shall cease and determine: *And provided further*, That in the event of the death of Alida King the name of said Eugene T. King shall be placed on the pension roll at $12 per month from and after the date of death of said Alida King.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLIAM GAYNOR.

The bill (H. R. 13136) granting an increase of pension to William Gaynor was considered as in Committee of the Whole. It proposes to place on the pension roll the name of William Gaynor, late of U. S. S. *Massachusetts*, United States Navy, and to pay him a pension of 24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLIAM DAVIS.

The bill (H. R. 13148) granting an increase of pension to William Davis was considered as in Committee of the Whole. It proposes to place on the pension roll the name of William Davis, late of Company K, Seventy-eighth Regiment Illinois Volunteer Infantry, and to pay him a pension of $36 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

AUGUST FRAHM.

The bill (H. R. 13587) granting an increase of pension to August Frahm was considered as in Committee of the Whole. It proposes to place on the pension roll the name of August Frahm, late of Company D, Thirteenth Regiment Kansas Volunteer Infantry, and to pay him a pension of $50 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOHN JACOBY.

The bill (H. R. 12455) granting an increase of pension to John Jacoby was considered as in Committee of the Whole. It proposes to place on the pension roll the name of John Jacoby, late of Company G, One hundred and fifty-third Regiment Pennsylvania Volunteer Infantry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

SARAH E. HULL.

The bill (S. 4972) granting an increase of pension to Sarah E. Hull was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 6, after the words "of the," to strike out "gunboat" and insert "United States steamers Signal and;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Sarah E. Hull, widow of Melville F. Hull, late of the United States steamers Signal and Clara Dolsen, United States Navy, and pay her a pension at the rate of $12 per month in lieu of that she is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

DORIS F. CLEGG.

The bill (S. 98) granting an increase of pension to Doris Florence Clegg was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, to strike out all after the enacting clause and insert:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Doris F. Clegg, former widow of Henry Whetsler, late of Company A, Sixth Regiment Minnesota Volunteer Infantry, and pay her a pension at the rate of $16 per month in lieu of that she is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill granting an increase of pension to Doris F. Clegg."

CHRISTOPHER C. HARLAN.

The bill (H. R. 13151) granting a pension to Christopher C. Harlan was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 8, after the word "month," to insert "in lieu of that he is now receiving;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Christopher C. Harlan, late of Company E, Second Regiment Mississippi Volunteer Infantry, war with Mexico, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read: "A bill granting an increase of pension to Christopher C. Harlan."

HENRY PORTER.

The bill (H. R. 7331) granting an increase of pension to Henry Porter was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Henry Porter, late of Company B, Twenty-sixth Regiment Kentucky Volunteer Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOHN S. MILES.

The bill (H. R. 14258) granting an increase of pension to John S. Miles was considered as in Committee of the Whole. It proposes to place on the pension roll the name of John S. Miles, late of Company H, Forty-second Regiment Missouri Volunteer Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLIAM H. FRANKLIN.

The bill (H. R. 12643) granting an increase of pension to William H. Franklin was considered as in Committee of the Whole. It proposes to place on the pension roll the name of William H. Franklin, late captain Company I, Tenth Regiment New Jersey Volunteer Infantry, and to pay him a pension of $40 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

HENRY STIMON.

The bill (H. R. 12795) granting an increase of pension to Henry Stimon was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Henry Stimon, late of Company B, Twenty-second Regiment Indiana Volunteer Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOHN W. BOOKMAN.

The bill (H. R. 13417) granting an increase of pension to John W. Bookman was considered as in Committee of the Whole. It proposes to place on the pension roll the name of John W. Bookman, late of Company K, Forty-fifth Regiment Pennsylvania Volunteer Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

SOPHRONIA LOFTON.

The bill (H. R. 14653) granting an increase of pension to Sophronia Lofton was considered as in Committee of the Whole.

It proposes to place on the pension roll the name of Sophronia Lofton, widow of Thomas Lofton, late of Company A, First Battalion Alabama Volunteers, war with Mexico, and to pay her a pension of $12 per month in lieu of that she is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

FRANK S. PETTINGILL.

The bill (H. R. 13826) granting an increase of pension to Frank S. Pettingill was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Frank S. Pettingill, late of Company B, One hundred and twenty-sixth Regiment New York Volunteer Infantry, and to pay him a pension of $20 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

LEMUEL O. GILMAN.

The bill (H. R. 14367) granting an increase of pension to Lemuel O. Gilman was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Lemuel O. Gilman, late captain Company B, and lieutenant-colonel, Fifteenth Regiment Illinois Volunteer Infantry, and to pay him a pension of $40 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

EDWARD V. MILES.

The bill (H. R. 12541) granting an increase of pension to Edward V. Miles was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Edward V. Miles, late of Company F, Second Regiment Illinois Volunteer Cavalry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

SUMNER P. WYMAN.

The bill (H. R. 14369) granting an increase of pension to Sumner P. Wyman was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Sumner P. Wyman, late of Company B, First Regiment Massachusetts Volunteer Heavy Artillery, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MARY PALMER.

The bill (H. R. 15870) granting a pension to Mary Palmer was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Mary Palmer, widow of Stephen J. Palmer, late of Captain Morgan's independent company, Iowa Volunteers, war with Mexico, and to pay her a pension of $8 per month.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ELIAS CLAUNCH.

The bill (H. R. 6946) granting an increase of pension to Elias Claunch was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Elias Claunch, late of Company A, Seventh Regiment Missouri State Militia Volunteer Cavalry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ELIZA A. BUNKER.

The bill (H. R. 14888) granting an increase of pension to Eliza A. Bunker was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Eliza A. Bunker, widow of Samuel Bunker, late of Company H, One hundred and fiftieth Regiment Indiana Volunteer Infantry, and to pay her a pension of $24 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of John S. Bunker, helpless and dependent child of said Samuel Bunker, the additional pension herein granted shall cease and determine: *And provided further*, That in the event of the death of Eliza A. Bunker the name of said John S. Bunker shall be placed on the pension roll at $12 per month from and after the date of death of said Eliza A. Bunker.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

THOMAS B. MOUSER.

The bill (H. R. 13959) granting an increase of pension to Thomas B. Mouser was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Thomas B. Mouser, late of Company D, Ninety-eighth Regiment Illinois Volunteer Infantry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

EDWIN L. HIGGINS.

The bill (H. R. 14563) granting an increase of pension to Edwin L. Higgins was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Edwin L. Higgins, late second lieutenant Company K, Thirty-third Regiment Illinois Volunteer Infantry, and to pay him a pension of $30 per month inlieu of that he is now reciving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

HOMER F. HERRIMAN, ALIAS GEORGE F. WILSON.

The bill (H. R. 13627) granting an increase of pension to Homer F. Herriman, alias George F. Wilson, was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Homer F. Herriman, alias George F. Wilson, late of Company G, Second Regiment Kansas Volunteer Cavalry, and to pay him a pension of $36 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ANNA M. WILSON.

The bill (H. R. 13710) granting an increase of pension to Anna M. Wilson was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Anna M. Wilson, widow of Robert Wilson, late captain Company I, Eighth Regiment Illinois Volunteer Infantry, and captain Company L, and major, Fifth Regiment United States Colored Volunteer Heavy Artillery, and to pay her a pension of $20 per month in lieu of that she is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLIAM HARDY.

The bill (H. R. 12393) granting an increase of pension to William Hardy was considered as in Committee of the Whole. It proposes to place on the pension roll the name of William Hardy, late of Company I, Fourth Regiment Missouri State Militia Volunteer Cavalry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MORRIS J. JAMES.

The bill (H. R. 21540) granting an increase of pension to Morris J. James was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Morris J. James, late of Company D, Third Regiment Iowa Volunteer Cavalry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

THOMAS J. LINDSEY.

The bill (H. R. 11129) granting an increase of pension to Thomas J. Lindsey was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 8, before the word "dollars," to strike out "thirty" and insert "thirty-six;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Thomas J. Lindsey, late of Company A, Fifty-fourth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

JOSEPH GIRDLER.

The bill (H. R. 7585) granting an increase of pension to Joseph Girdler was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Joseph Girdler, late of Company C, Second Regiment Kentucky Volunteer Cavalry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CHARLES H. JASPER.

The bill (H. R. 6557) granting an increase of pension to Charles H. Jasper was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Charles H. Jasper, late of Company D, Forty-ninth Regiment Indiana Volunteer Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

DAVID A. KIRK.

The bill (H. R. 9617) granting an increase of pension to David A. Kirk was considered as in Committee of the Whole. It proposes to place on the pension roll the name of David A. Kirk, late of Company H, One hundred and seventy-third Regiment Ohio Volunteer Infantry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MARTIN HARTER.

The bill (H. R. 14089) granting an increase of pension to Martin Harter was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Martin Harter, late of Company G, Forty-seventh Regiment Ohio Volunteer Infantry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOHN W. HATFIELD.

The bill (H. R. 4809) granting an increase of pension to John W. Hatfield was considered as in Committee of the Whole. It proposes to place on the pension roll the name of John W. Hatfield, late of Company K, First Regiment Michigan Volunteer Cavalry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLIAM M'KENZIE.

The bill (H. R. 9896) granting an increase of pension to William McKenzie was considered as in Committee of the Whole. It proposes to place on the pension roll the name of William McKenzie, late of Company G, First Regiment Michigan Volunteer Cavalry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ELIAS JOHNSON.

The bill (H. R. 9995) granting an increase of pension to Elias Johnson was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Elias Johnson, late of Company F, Third Regiment New York Volunteer Light Artillery, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOHN N. VIVIAN.

The bill (H. R. 11638) granting an increase of pension to John N. Vivian was considered as in Committee of the Whole. It proposes to place on the pension roll the name of John N. Vivian, late of Company B, Fiftieth Regiment Pennsylvania Volunteer Infantry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JAMES MARTIN.

The bill (H. R. 10594) granting an increase of penison to James Martin was considered as in Committee of the Whole. It proposes to place on the pension roll the name of James Martin, late of Company B, One hundred and twenty-fourth Regiment Illinois Volunteer Infantry, and to pay to him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

FRANCIS H. FRASIER.

The bill (H. R. 12014) granting an increase of pension to Francis H. Frasier was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Francis H. Frasier, late of Company M, Fifth Regiment New York Volunteer Cavalry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CATE F. GALBRAITH.

The bill (H. R. 13150) granting an increase of pension to Cate F. Galbraith was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Cate F. Galbraith, widow of Benjamin Galbraith, late second lieutenant Battery B, First Regiment New Jersey Volunteer Light Artillery, and to pay her a pension of $12 per month in lieu of that she is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ABRAM J. BOZARTH.

The bill (H. R. 13597) granting an increase of pension to Abram J. Bozarth was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Abram J. Bozarth, late captain Company K, Twenty-seventh Regiment Illinois Volunteer Infantry, and to pay him a pension of $40 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

DANIEL BLOOMER.

The bill (H. R. 12825) granting an increase of pension to Daniel Bloomer was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Daniel Bloomer, late of Company H, Seventy-first Regiment, and Company F, One hundred and twentieth Regiment New York Volunteer Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MARTHA E. CHAMBERS.

The bill (H. R. 13505) granting an increase of pension to Martha E. Chambers was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Martha E. Chambers, widow of Alexander Chambers, late of Company K, First Regiment Kentucky Foot Volunteers, war with Mexico, and to pay her a pension of $12 per month in lieu of that she is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOHN N. BUCHANAN.

The bill (H. R. 13502) granting an increase of pension to John N. Buchanan was considered as in Committee of the Whole. It proposes to place on the pension roll the name of John N. Buchanan, late second lieutenant Company G, Fifty-fifth Regiment Kentucky Volunteer Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MARY M'MAHON.

The bill (H. R. 13988) granting an increase of pension to Mary McMahon was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Mary McMahon, widow of Daniel McMahon, late captain Company D, Eightieth Regiment New York Volunteer Infantry, and to pay her a pension of $30 per month in lieu of that she is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ELIZA L. NORWOOD.

The bill (H. R. 14538) granting an increase of pension to Eliza L. Norwood was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Eliza L. Norwood, widow of William W. Norwood, late of Company I, Third Regiment United States Dragoons, war with Mexico, and to pay her a pension of $12 per month in lieu of that she is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

THOMAS S. MENEFEE.

The bill (H. R. 14426) granting an increase of pension to Thomas S. Menefee was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Thomas S. Menefee, late of Company C, Texas Volunteer Cavalry, war with Mexico, and to pay him a pension of $20 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JAMES GRIZZLE.

The bill (H. R. 14925) granting an increase of pension to James Grizzle was considered as in Committee of the Whole. It proposes to place on the pension roll the name of James

Grizzle, late of Company D, Second Regiment Illinois Volunteer Infantry, war with Mexico, and to pay him a pension of $20 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ROBERT HENDERSON GRIFFIN.

The bill (H. R. 14425) granting an increase of pension to Robert Henderson Griffin was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Robert Henderson Griffin, late of Company A, First Regiment Mississippi Volunteers, war with Mexico, and to pay him a pension of $20 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ZERELDA N. M'COY.

The bill (S. 2745) granting an increase of pension to Zerelda N. McCoy was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with amendments, in line 6, after the word "late," to strike out "of Company" and insert "assistant surgeon;" and in line 9, before the word "dollars," to strike out "thirty" and insert "seventeen;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Zerelda N. McCoy, widow of James A. C. McCoy, late assistant surgeon Forty-ninth Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $17 per month in lieu of that she is now receiving.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

JOSEPH KAUFFMAN.

The bill (S. 4440) granting an increase of pension to Joseph Kauffman was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 8, before the word "dollars," to strike out "thirty" and insert "twenty-four;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Joseph Kauffman, late of Company F, One hundred and sixty-sixth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

NEHEMIAH M. BRUNDEGE.

The bill (S. 4785) granting an increase of pension to Nehemiah Brundege was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with amendments, in line 6, after the name "Nehemiah," to insert the letter "M;" and in line 8, before the word "dollars," to strike out "thirty" and insert "twenty-four;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Nehemiah M. Brundege, late of Company B, One hundred and seventy-ninth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill granting an increase of pension to Nehemiah M. Brundege."

GEORGE W. COUGHANOUR.

The bill (S. 4786) granting an increase of pension to George W. Coughanour was considered as in Committee of the Whole. It proposes to place on the pension roll the name of George W. Coughanour, late of Company F, Fortieth Regiment Pennsylvania Volunteer Infantry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JAMES H. POSEY.

The bill (H. R. 14890) granting an increase of pension to James H. Posey was considered as in Committee of the Whole. It proposes to place on the pension roll the name of James H. Posey, late captain Company D, Sixteenth Regiment West Virginia Volunteer Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

SAMANTHA E. HERALD.

The bill (H. R. 14848) granting an increase of pension to Samantha E. Herald was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Samantha E. Herald, widow of William Herald, late of Company A, Anderson's battalion Mississippi Rifles, war with Mexico, and to pay her a pension of $12 per month in lieu of that she is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOHN COOK.

The bill (H. R. 13761) granting an increase of pension to John Cook was considered as in Committee of the Whole. It proposes to place on the pension roll the name of John Cook, late of Captain Irvin's company, North Carolina Volunteers, Cherokee Indian war, and to pay him a pension of $16 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MARTHA J. HENSLEY.

The bill (H. R. 13525) granting an increase of pension to Martha J. Hensley was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Martha J. Hensley, widow of Silas B. Hensley, late of Company K, Third Regiment North Carolina Volunteer Mounted Infantry, and to pay her a pension of $20 per month in lieu of that she is now receiving, and $2 per month additional for each of the minor children of said soldier until they shall arrive at the age of 16 years: *Provided*, That in the event of the death of Wilson Hensley, helpless and dependent child of said Silas B. Hensley, the additional pension herein granted shall cease and determine: *And provided further*, That in the event of the death of Martha J. Hensley the name of said Wilson Hensley shall be placed on the pension roll at $12 per month from and after the date of death of said Martha J. Hensley.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ORREN R. SMITH.

The bill (H. R. 13081) granting an increase of pension to Orren R. Smith was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Orren R. Smith, late of Capt. G. E. B. Singeltary's company, First Regiment North Carolina Volunteer Infantry, war with Mexico, and to pay him a pension of $20 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MORDICAI B. BARBEE.

The bill (H. R. 13083) granting an increase of pension to Mordicai B. Barbee was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Mordicai B. Barbee, late of Company D, First Regiment North Carolina Volunteer Infantry, war with Mexico, and to pay him a pension of $20 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ELIZABETH WEBB.

The bill (H. R. 13230) granting an increase of pension to Elizabeth Webb was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Elizabeth Webb, widow of Bennett Webb, late of Company A, First Regiment North Carolina Volunteer Infantry, war with Mexico, and to pay her a pension of $12 per month in lieu of that she is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

GATSEY MATTUCKS.

The bill (H. R. 13231) granting an increase of pension to Gatsey Mattucks was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Gatsey Mattucks, widow of William R. Mattucks, late of Company F, First Regiment North Carolina Volunteers, war with Mexico, and to pay her a pension of $12 per month in lieu of that she is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLARD V. SHEPHERD.

The bill (H. R. 13527) granting a pension to Willard V. Shepherd was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Willard V. Shepherd, late of Battery C, Fifth Regiment United States Artillery, and to pay him a pension of $6 per month.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

THEODOR SCHRAMM.

The bill (H. R. 12834) granting an increase of pension to Theodor Schramm was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Theodor Schramm, late of Company D, Ninety-first Regiment New York Volunteer Infantry, and to pay him a pension of $24 per month in lieu of that he is now recieving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

HERBERT WILLIAMS.

The bill (H. R. 13082) granting an increase of pension to Herbert Williams was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Herbert Williams, late unassigned recruit, Twelfth Regiment United States Infantry, war with Mexico, and to pay him a pension of $20 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

THOMAS M'DONALD.

The bill (S. 4650) granting an increase of pension to Thomas McDonald was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 7, before the words "United States Navy," to strike out "the ship America" and insert "United States ships America and Macedonian;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Thomas McDonald, late of United States ships America and Macedonian, United States Navy, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

MARIA LEUCKART.

The bill (S. 2378) granting an increase of pension to Maria Leuckart was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 8, before the word "dollars," to strike out "thirty" and insert "twenty;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Maria Leuckart, widow of Sigismund Leuckart, late pharmacist, United States Navy, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

SARAH AGNES EARL.

The bill (S. 4826) granting a pension to Agnes B. Earl was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, to strike out all after the enacting clause and insert:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Sarah Agnes Earl, widow of Wesley Clark Earl, late acting assistant surgeon, United States Army, and pay her a pension at the rate of $8 per month.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill granting a pension to Sarah Agnes Earl."

FANNIE P. NORTON.

The bill (S. 4675) granting an increase of pension to Fannie Parker Norton was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with amendments, in line 6, after the name "Fannie," to strike out "Parker" and insert the letter "P.;" and in line 9, before the word "dollars," to strike out "fifty" and insert "twenty;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Fannie P. Norton, widow of Charles B. Norton, late lieutenant-colonel and quartermaster, United States Volunteers, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill granting an increase of pension to Fannie P. Norton."

ELIZABETH A. VOSE.

The bill (S. 4315) granting an increase of pension to Elizabeth A. Vose was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with amendments, in line 7, before the word "Regiment," to strike out "First" and insert "Second;" and in line 9, before the word "dollars," to strike out "twenty-five" and insert "twelve;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Elizabeth A. Vose, widow of Marcus A. Vose, late first lieutenant Company M, Second Regiment Maine Volunteer Cavalry, and pay her a pension at the rate of $12 per month in lieu of that she is now receiving.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

HORACE D. MANN.

The bill (H. R. 5485) granting a pension to Horace D. Mann was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Horace D. Mann, late of Company M, Third Regiment United States Volunteer Infantry, war with Spain, and to pay him a pension of $12 per month.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLIAM W. HOWELL.

The bill (H. R. 14793) granting an increase of pension to William W. Howell was considered as in Committee of the Whole. It proposes to place on the pension roll the name of William W. Howell, late of Company B, First Regiment Ohio Volunteers, war with Mexico, and to pay him a pension of $20 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

AMOS HART.

The bill (H. R. 14389) granting an increase of pension to Amos Hart was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Amos Hart, late of Company F, Fifth Regiment United States Colored Volunteer Heavy Artillery, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ALVIN D. HOPPER.

The bill (H. R. 13872) granting an increase of pension to Alvin D. Hopper was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Alvin D. Hopper, late of Company H, One hundred and sixteenth Regiment Ohio Volunteer Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

HUGH G. WILSON.

The bill (H. R. 13891) granting an increase of pension to Hugh G. Wilson was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Hugh G. Wilson, late of Company A, Gray's battalion, Arkansas Volunteer Infantry, war with Mexico, and to pay him a pension of $20 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

REBECCA RAMSEY.

The bill (H. R. 13038) granting an increase of pension to Rebecca Ramsey was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Rebecca

Ramsey, widow of Thomas J. Ramsey, late of Company B, Crowzon's Battalion Mississippi Volunteer Riflemen, war with Mexico, and to pay her a pension of $12 per month in lieu of that she is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLIAM STRASBURG.

The bill (H. R. 13238) granting an increase of pension to William Strasburg was considered as in Committee of the Whole. It proposes to place on the pension roll the name of William Strasburg, late of Company F, Thirteenth Regiment Wisconsin Volunteer Infantry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOHN WILKINSON.

The bill (H. R. 13311) granting an increase of pension to John Wilkinson was considered as in Committee of the Whole. It proposes to place on the pension roll the name of John Wilkinson, late of Company E, Palmetto Regiment South Carolina Volunteer Infantry, war with Mexico, and to pay him a pension of $20 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JAMES M'KEE.

The bill (H. R. 13310) granting an increase of pension to James McKee was considered as in Committee of the Whole. It proposes to place on the pension roll the name of James McKee, late of Company E, Palmetto Regiment South Carolina Volunteer Infantry, war with Mexico, and to pay him a pension of $20 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

EADA LOWRY.

The bill (H. R. 13138) granting an increase of pension to Eada Lowry was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Eada Lowry, widow of William T. Lowry, late of Company D, Calhoun's mounted battalion, Georgia Volunteer Infantry, war with Mexico, and to pay her a pension of $12 per month in lieu of that she is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLIAM RALSTON.

The bill (H. R. 12760) granting an increase of pension to William Ralston was considered as in Committee of the Whole. It proposes to place on the pension roll the name of William Ralston, late of Company D, Twenty-fifth Regiment Missouri Volunteer Infantry, and Company B, First Regiment Missouri Volunteer Engineers, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CARRICK RUTHERFORD.

The bill (S. 4247) granting an increase of pension to Carrick Rutherford was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 8, before the word "dollars," to strike out "thirty" and insert "twenty-four;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Carrick Rutherford, late second lieutenant Company F, Third Regiment Tennessee Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

HUGH GREEN.

The bill (H. R. 5434) granting an increase of pension to Hugh Green was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Hugh Green, late of Troop C, Fourth Regiment United States Cavalry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

EVA L. MARTIN.

The bill (H. R. 3806) granting a pension to Eva L. Martin was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Eva L. Martin, widow of Solomon P. Martin, late of Company A, Second Regiment Arkansas Volunteer Infantry, and to pay her a pension of $12 per month.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

DANIEL M. COFFMAN.

The bill (H. R. 11990) granting an increase of pension to Daniel M. Coffman was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Daniel M. Coffman, late of Company L, Seventh Regiment Ohio Volunteer Cavalry, and lieutenant-colonel Third Regiment Tennessee Volunteer Infantry, war with Spain, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

GEORGE W. ROBINSON.

The bill (H. R. 9705) granting a pension to George W. Robinson was considered as in Committee of the Whole. It proposes to place on the pension roll the name of George W. Robinson, late of Company E, Thirty-third Regiment United States Volunteer Infantry, war with Spain.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

RHODA KENNEDY.

The bill (H. R. 15449) granting a pension to Rhoda Kennedy was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Rhoda Kennedy, dependent mother of Charles Kennedy, late of Company M, First Regiment United States Colored Volunteer Heavy Artillery, and to pay her a pension of $12 per month.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CATHERINE SUMMERS.

The bill (H. R. 14078) granting an increase of pension to Catherine Summers was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Catherine Summers, widow of Nathaniel Summers, late of Company K, Ninth Regiment Tennessee Volunteer Cavalry, and to pay her a pension of $24 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of Nathaniel Summers, helpless and dependent child of said Nathaniel Summers, the additional pension herein granted shall cease and determine: *And provided further*, That in the event of the death of Catherine Summers the name of said Nathaniel Summers shall be placed on the pension roll at $12 per month from and after the date of death of said Catherine Summers.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOSEPHINE ROGERS.

The bill (H. R. 8891) granting an increase of pension to Josephine Rogers was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 7, before the word "and," to insert "war with Mexico;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Josephine Rogers, widow of Robert C. Rogers, late passed midshipman, United States Navy, war with Mexico, and pay her a pension at the rate of $12 per month in lieu of that she is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

JAMES V. POPE.

The bill (S. 2287) granting an increase of pension to James V. Pope was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 8, before the word "dollars," to strike out "fifty" and insert "thirty-six;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of James V. Pope, late of Company G, Ninety-first Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

GEORGE W. BOYLES.

The bill (S. 2549) granting an increase of pension to George W. Boyles was considered as in Committee of the Whole. It proposes to place on the pension roll the name of George W. Boyles, late of Company K, One hundredth Regiment Pennsylvania Volunteer Infantry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

RAY E. KLINE.

The bill (H. R. 7839) granting a pension to Ray E. Kline was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Ray E. Kline, widow of Daniel L. Kline, late of Brigade Band First Brigade, First Division Sixteenth Army Corps, and to pay her a pension of $12 per month.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOHN G. HONEYWELL.

The bill (H. R. 8333) granting an increase of pension to John G. Honeywell was considered as in Committee of the Whole. It proposes to place on the pension roll the name of John G. Honeywell, late of Company E, Eighty-sixth Regiment Illinois Volunteer Infantry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLIAM WINN.

The bill (H. R. 9087) granting an increase of pension to William Winn was considered as in Committee of the Whole. It proposes to place on the pension roll the name of William Winn, late of Company I, First Regiment Missouri Volunteer Cavalry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WINNIE C. PITTENGER.

The bill (H. R. 5933) granting an increase of pension to Winnie C. Pittenger was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Winnie C. Pittenger, widow of William Pittenger, late of Company G, Second Regiment Ohio Volunteer Infantry, and to pay her a pension of $12 per month in lieu of that she is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

NORMAN C. POTTER.

The bill (H. R. 7856) granting an increase of pension to Norman C. Potter was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Norman C. Potter, late of Twelfth Battery, Ohio Volunteer Light Artillery, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ABRAHAM H. MILLER.

The bill (H. R. 9898) granting an increase of pension to Abraham H. Miller was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Abraham H. Miller, late of Company I, Fiftieth Regiment Indiana Volunteer Infantry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

NEETA H. MARQUIS.

The bill (H. R. 9904) granting an increase of pension to Neeta H. Marquis was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Neeta H. Marquis, widow of John F. Marquis, late first lieutenant Company K, Second Regiment Illinois Volunteer Light Artillery, and to pay her a pension of $12 per month in lieu of that she is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ISAAC BAKER.

The bill (H. R. 11214) granting a pension to Isaac Baker was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Isaac Baker, late of Company K, Forty-third Regiment Ohio Volunteer Infantry, and to pay him a pension of $12 per month.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

THOMAS GRIFFITH.

The bill (H. R. 11209) granting an increase of pension to Thomas Griffith was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Thomas Griffith, late of Company H, Seventy-sixth Regiment Pennsylvania Volunteer Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ELIZABETH E. ATKINSON.

The bill (H. R. 11905) granting an increase of pension to Elizabeth E. Atkinson was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Elizabeth E. Atkinson, widow of Edwin E. Atkinson, late surgeon, Second Regiment Eastern Shore Maryland Volunteer Infantry, and to pay her a pension of $17 per month in lieu of that she is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ROBERT B. MALONE.

The bill (H. R. 12897) granting an increase of pension to Robert B. Malone was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Robert B. Malone, late of Company L, Second Regiment East Tennessee Volunteer Cavalry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

AMBROSE R. FISHER.

The bill (H. R. 14646) granting an increase of pension to Ambrose R. Fisher was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Ambrose R. Fisher, late of Company H, Third Regiment Kentucky Volunteers, war with Mexico, and to pay him a pension of $20 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

GEORGE W. CHESEBRO.

The bill (H. R. 14077) granting an increase of pension to George W. Chesebro was considered as in Committee of the Whole. It proposes to place on the pension roll the name of George W. Chesebro, late of Company I, Eleventh Regiment Wisconsin Volunteer Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLIAM SANDERS.

The bill (H. R. 14076) granting an increase of pension to William Sanders was considered as in Committee of the Whole. It proposes to place on the pension roll the name of William Sanders, late of Company F, Forty-second Regiment Indiana Volunteer Infantry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

FRANCIS A. BARKIS.

The bill (H. R. 13994) granting an increase of pension to Francis A. Barkis was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Francis A. Barkis, late of Company C, Third Regiment Indiana Volunteer Cavalry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

VIENNA WARD.

The bill (H. R. 8339) granting a pension to Vienna Ward was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Vienna Ward, widow of John Ward, late of Company I, First Regiment Illinois Volunteer Light Artillery, and to pay her a pension of $8 per month.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JACOB FRANZ.

The bill (S. 4797) granting an increase of pension to Jacob Franz was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with amendments, in line 8, before the word "and," to insert "and Company H, Fifteenth Regiment Veteran Reserve Corps;" and in line 9, before the word "dollars," to strike out fifty" and insert "twenty-four;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Jacob Franz, late of Company H, Forty-seventh Regiment Ohio Volunteer Infantry, and Company H, Fifteenth Regiment Veteran Reserve Corps, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ALFRED WOODIN.

The bill (S. 230) granting an increase of pension to Alfred A. Woodin was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with amendments, in line 6, before the name "Woodin," to strike out the letter "A.;" and in line 8, before the word "dollars," to strike out "fifty" and insert "thirty-six;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Alfred Woodin, late of Company B, Thirty-ninth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill granting an increase of pension to Alfred Woodin."

EDMUND MORGAN.

The bill (S. 1398) granting an increase of pension to Edmund Morgan was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, to strike out all after the enacting clause and insert:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Edmund Morgan, late acting master, United States Navy, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

JAMES FLYNN.

The bill (S. 450) granting an increase of pension to James Flynn was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 7, before the word "Volunteer," to strike out "Missouri" and insert "Wisconsin;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of James Flynn, late of Company D, Seventeenth Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ROLLIN T. WALLER.

The bill (S. 3843) granting an increase of pension to Rollin T. Waller was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 8, before the word "dollars" to strike out "thirty" and insert "twenty-four;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Rollin T. Waller, late of Company G, Eleventh Regiment Missouri Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ADAM WERNER.

The bill (S. 1376) granting an increase of pension to Adam Werner was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, to strike out all after the enacting clause and insert:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Adam Werner, late first lieutenant Captain Knapp's company (A), Seventh Regiment Indiana Legion, and pay him a pension at the rate of $12 per month.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

JOHN R. BROWN.

The bill (S. 1377) granting an increase of pension to John R. Brown was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 7, before the word "and," to strike out "Volunteers" and insert "Volunteer Infantry;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John R. Brown, late of Company B, Twentieth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

THOMAS A. AGUR.

The bill (S. 674) granting an increase of pension to Thomas A. Agur was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, to strike out all after the enacting clause and insert:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Thomas A. Agur, late of Company I, Sixteenth Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

JOHN ALBERT.

The bill (S. 2795) granting an increase of pension to John Albert was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 8, before the word "dollars," to strike out "thirty" and insert "twenty-four;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John Albert, late of Company A, Forty-first Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

JOHN B. ASHELMAN.

The bill (S. 3298) granting an increase of pension to John B. Ashelman was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 7, before the word "Artillery," to strike out "Heavy" and insert "Light;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John B. Ashelman, late of Independent Battery A, Pennsylvania Volunteer Light

Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

CHARLES M. BENSON.

The bill (S. 1953) granting an increase of pension to Charles M. Benson was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 8, before the word "dollars," to strike out "thirty" and insert "twenty-four;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Charles M. Benson, late of Company G, First Regiment Minnesota Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

NELSON COOK.

The bill (S. 1162) granting an increase of pension to Nelson Cook was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 8, before the word "dollars," to strike out "thirty" and insert "twenty-four;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Nelson Cook, late of Company I, Eleventh Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

MARY J. REYNOLDS.

The bill (S. 657) granting an increase of pension to Mary J. Reynolds was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 8, before the word "dollars," to strike out "thirty" and insert "twenty;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Mary J. Reynolds, widow of Robert L. Reynolds, late of Company A, Fourth Regiment Michigan Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

JULIA BALDWIN.

The bill (S. 1962) granting an increase of pension to Julia Baldwin was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with amendments, in line 6, after the words "late of," to strike out "Company" and insert "Companies E and C;" and in line 9, before the word "dollars," to strike out "seventeen" and insert "twelve;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Julia Baldwin, widow of Edwin Baldwin, late of Companies E and C, Sixtieth Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $12 per month in lieu of that she is now receiving.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

JOTHAM T. MOULTON.

The bill (S. 2050) granting an increase of pension to J. Tilden Moulton was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, to strike out all after the enacting clause and insert:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Jotham T. Moulton, late of Company I, Thirty-third Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill granting an increase of pension to Jotham T. Moulton."

MARIE J. SPICELY.

The bill (S. 2670) granting an increase of pension to Marie J. Spicely was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Marie J. Spicely, widow of William T. Spicely, late colonel Twenty-fourth Regiment Indiana Volunteer Infantry, and to pay her a pension of $30 per month in lieu of that she is now receiving.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CHARLES D. BROWN.

The bill (S. 3598) granting an increase of pension to Charles D. Brown was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Charles D. Brown, late of Company K, Eighth Regiment Illinois Volunteer Cavalry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ROBERT M'CALVY.

The bill (S. 3834) granting an increase of pension to Robert McCalvy was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Robert McCalvy, late of Company G, Fourteenth Regiment Wisconsin Volunteer Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

NEWTON G. COOK.

The bill (S. 5323) granting an increase of pension to Newton G. Cook was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Newton G. Cook, late of Companies I and G, Fifteenth Regiment New York Volunteer Cavalry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

LOUISE ACKLEY.

The bill (H. R. 12656) granting a pension to Louise Ackley was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Louise Ackley, widow of Henry B. Ackley, late of Company G, Thirty-sixth Regiment Pennsylvania Emergency Militia Infantry, and to pay her a pension of $8 per month.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MAUD O. WORTH.

The bill (H. R. 6147) granting a pension to Maud O. Worth was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Maud O. Worth, widow of John M. Worth, late second-class fireman, U. S. S. *Baltimore*, United States Navy, and to pay her a pension of $12 per month, and $2 per month additional on account of each of the minor children of said John M. Worth until they reach the age of 16 years.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOSEPH B. FONNER, ALIAS JOHN HAVENS.

The bill (H. R. 11873) granting an increase of pension to Joseph B. Fonner, alias John Havens, was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Joseph B. Fonner, alias John Havens, late of Company L, Nineteenth Regiment Pennsylvania Volunteer Cavalry, and to pay him a pension of $12 per month.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MILO G. GIBSON.

The bill (H. R. 3197) granting an increase of pension to Milo G. Gibson was considered as in Committee of the Whole.

It proposes to place on the pension roll the name of Milo G. Gibson, late of Company C, One hundred and second Regiment Pennsylvania Volunteer Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

THOMAS CARDER.

The bill (H. R. 3007) granting an increase of pension to Thomas Carder was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Thomas Carder, late of Company G, Second Regiment West Virginia Volunteer Cavalry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

FIRMAN F. KIRK.

The bill (H. R. 7515) granting an increase of pension to Firman F. Kirk was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Firman F. Kirk, late of Company C, Thirteenth Regiment Pennsylvania Reserve Volunteer Infantry, and Company C, One hundred and ninetieth Regiment Pennsylvania Volunteer Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JAMES M. MILLER.

The bill (H. R. 7681) granting an increase of pension to James M. Miller was considered as in Committee of the Whole. It proposes to place on the pension roll the name of James M. Miller, late of Company B, Twenty-second Regiment Ohio Volunteer Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

FRANKLIN J. KECK.

The bill (H. R. 7738) granting an increase of pension to Franklin J. Keck was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Franklin J. Keck, late of Company G, One hundred and twenty-eighth Regiment Pennsylvania Volunteer Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

FRANKLIN G. MATTERN.

The bill (H. R. 8578) granting an increase of pension to Franklin G. Mattern was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Franklin G. Mattern, late of Company D, One hundred and forty-eighth Regiment Pennsylvania Volunteer Infantry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

FARRIE M. ALLIS.

The bill (H. R. 9093) granting an increase of pension to Farrie M. Allis was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Farrie M. Allis, widow of Jerrie P. Allis, late first lieutenant Companies G and F, One hundred and fourteenth Regiment New York Volunteer Infantry, and to pay her a pension of $12 per month in lieu of that she is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

EDMUND CHAPMAN.

The bill (H. R. 10326) granting an increase of pension to Edmund Chapman was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Edmund Chapman, late of Company A, Ninety-seventh Regiment Pennsylvania Volunteer Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOHN MOULES.

The bill (H. R. 10404) granting an increase of pension to John Moules was considered as in Committee of the Whole. It proposes to place on the pension roll the name of John Moules, late of Company F, Fifteenth Regiment New York Volunteer Heavy Artillery, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JAMES H. WARD.

The bill (H. R. 10622) granting an increase of pension to James H. Ward was considered as in Committee of the Whole. It proposes to place on the pension roll the name of James H. Ward, late of Company H, First Regiment Potomac Home Brigade Maryland Volunteer Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CARRIE A. CONLEY.

The bill (H. R. 9924) granting an increase of pension to Carrie A. Conley was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 9, before the word "dollars," to strike out "twelve" and insert "twenty;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Carrie A. Conley, widow of Isaiah Conley, late captain Company G, One hundred and first Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

CHARLES H. NILES.

The bill (S. 2772) granting an increase of pension to Charles H. Niles was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 8, before the word "dollars," to strike out "fifty" and insert "twenty-four;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Charles H. Niles, late of Company K, Twenty-sixth Regiment Connecticut Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

JOHN W. SCOTT.

The bill (S. 835) granting an increase of pension to John W. Scott was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 8, before the word "dollars," to strike out "thirty" and insert "twenty-four;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John W. Scott, late of Company B, Sixth Regiment Vermont Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

JOHN R. M'CRILLIS.

The bill (S. 4557) granting an increase of pension to John R. McCrillis was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 6, after the word "Company," to strike out the letter "B" and insert "E;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John R. McCrillis, late of Company E, Fifth Regiment New Hampshire Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

OCTAVE COUNTER.

The bill (S. 4834) granting an increase of pension to Octave Counter was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with

an amendment, to strike out all after the enacting clause and insert:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Octave Counter, late of U. S. ships North Carolina, Minnesota, and Cohasset, United States Navy, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

MICHAEL SCANNELL.

The bill (S. 1352) granting an increase of pension to Michael Scannell was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 8, before the word "dollars," to strike out "forty" and insert "thirty-six;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Michael Scannell, late of Company A, Nineteenth Regiment Massachusetts Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

JAMES MOSS.

The bill (S. 1165) granting an increase of pension to James Moss was considered as in Committee of the Whole. It proposes to place on the pension roll the name of James Moss, late of Company G, United States Mounted Rifles, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ELLEN HARRIMAN.

The bill (H. R. 2202) granting a pension to Ellen Harriman was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Ellen Harriman, widow of Dustin R. Harriman, alias Edward Harriman, late quartermaster, United States Navy, and to pay her a pension of $12 per month.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOHN L. DECKER.

The bill (H. R. 14761) granting an increase of pension to John L. Decker was considered as in Committee of the Whole. It proposes to place on the pension roll the name of John L. Decker, late of Company A, Fifty-fourth Regiment Pennsylvania Volunteer Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MARY E. FIFIELD.

The bill (H. R. 2780) granting an increase of pension to Mary E. Fifield was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Mary E. Fifield, widow of Henry L. Fifield, late of Company B, Eleventh Regiment New Hampshire Volunteer Infantry, and to pay her a pension of $16 per month in lieu of that she is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ANDREW J. BENSON.

The bill (H. R. 2765) granting an increase of pension to Andrew J. Benson was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Andrew J. Benson, late of Company D, First Regiment New Hampshire Volunteer Heavy Artillery, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

HANNAH A. SAWYER.

The bill (H. R. 2195) granting an increase of pension to Hannah A. Sawyer was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Hannah A. Sawyer, widow of Horace A. Sawyer, late of Company H, First Regiment Massachusetts Volunteer Infantry, and to pay her a pension of $12 per month in lieu of that she is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

SUMNER F. HUNNEWELL.

The bill (H. R. 533) granting an increase of pension to Sumner F. Hunnewell was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Sumner F. Hunnewell, late of Company I, Twenty-fifth Regiment Maine Volunteer Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

HENRY A. WHEELER.

The bill (H. R. 1655) granting an increase of pension to Henry A. Wheeler was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Henry A. Wheeler, late of Company I, Twelfth Regiment Vermont Volunteer Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

EDSON J. HARRISON.

The bill (H. R. 3484) granting an increase of pension to Edson J. Harrison was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Edson J. Harrison, late of Company B, Thirty-fourth Massachusetts Volunteer Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLIAM H. GILDERSLEEVE.

The bill (H. R. 2984) granting an increase of pension to William H. Gildersleeve was considered as in Committee of the Whole. It proposes to place on the pension roll the name of William H. Gildersleeve, late captain Company E, Seventh Regiment Wisconsin Volunteer Infantry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLIAM A. LINCOLN.

The bill (H. R. 6775) granting an increase of pension to William A. Lincoln was considered as in Committee of the Whole. It proposes to place on the pension roll the name of William A. Lincoln, late first lieutenant Company D, and captain Company F, First Regiment Connecticut Volunteer Heavy Artillery, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

DAVID DAVIS.

The bill (H. R. 6142) granting an increase of pension to David Davis was considered as in Committee of the Whole. It proposes to place on the pension roll the name of David Davis, late of Company C, Thirteenth Regiment Maine Volunteer Infantry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

A. LOUISA S. M'WHINNIE.

The bill (H. R. 4261) granting a pension to A. Louisa S. McWhinnie was considered as in Committee of the Whole. It proposes to place on the pension roll the name of A. Louisa S. McWhinnie, widow of James McWhinnie, late of Company H, Twentieth Regiment Connecticut Volunteer Infantry, and to pay her a pension of $12 per month.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CHARLES H. CONLEY.

The bill (H. R. 1913) granting an increase of pension to Charles H. Conley was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Charles H. Conley, late of Company B, Twenty-eighth Regiment Connecticut Volunteer Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

KATHERINE F. WAINWRIGHT.

The bill (H. R. 1322) granting an increase of pension to Katherine F. Wainwright was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Katherine F. Wainwright, widow of George A. Wainwright, late first lieutenant Company A and major First Regiment New

Hampshire Volunteer Heavy Artillery, and to pay her a pension of $25 per month in lieu of that she is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

THOMAS F. UNDERWOOD.

The bill (H. R. 3281) granting an increase of pension to Thomas F. Underwood was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Thomas F. Underwood, late of Company D and second lieutenant Company L, Second Regiment Ohio Volunteer Heavy Artillery, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

HENRY SANBORN.

The bill (H. R. 3344) granting an increase of pension to Henry Sanborn was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Henry Sanborn, late of Company F, Second Regiment United States Volunteer Sharpshooters, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MOSES B. DAVIS.

The bill (H. R. 8725) granting an increase of pension to Moses B. Davis was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Moses B. Davis, late of Company E, Fifteenth Regiment New Hampshire Volunteer Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOSEPH J. VINCENT.

The bill (H. R. 10252) granting an increase of pension to Joseph J. Vincent was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Joseph J. Vincent, late hospital steward, Twelfth Regiment Massachusetts Volunteer Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

EDWIN R. HARDY.

The bill (S. 914) granting an increase of pension to Edwin R. Hardy was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with amendments, in line 6, after the word "Company," to strike out the letter "A" and insert "H;" and in line 8, before the word "dollars," to strike out "thirty" and insert "twenty-four;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Edwin R. Hardy, late of Company H, Sixteenth Regiment New Hampshire Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ALFRED BEHAM.

The bill (S. 4986) granting an increase of pension to Alfred Beham was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with amendments, in line 7, before the word "and," to strike out "Infantry" and insert "Heavy Artillery;" and in line 8, before the word "dollars," to strike out "fifty" and insert "thirty;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Alfred Beham, late of Company A, Seventh Regiment New York Volunteer Heavy Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

HARRIETT B. SUMMERS.

The bill (S. 3303) granting an increase of pension to Harriett Summers was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, to strike out all after the enacting clause and insert:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Harriett B. Summers, imbecile and dependent daughter of William H. Summers, late of Company D, Forty-second Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill granting a pension to Harriett B. Summers."

FREDERIC W. SWIFT.

The bill (S. 1884) granting an increase of pension to Frederick W. Swift was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with amendments. The first amendment was, in line 6, after the word "of," to strike out the name "Frederick" and insert "Frederic."

The amendment was agreed to.

The next amendment was, in line 8, before the word "dollars," to strike out "fifty" and insert "thirty;" so as to read:

And pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

Mr. MCCUMBER. In line 8 I move to insert "six" after the word "thirty;" so as to read "$36 per month," instead of "$30 per month."

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill granting an increase of pension to Frederic W. Swift."

CHARLES HULL.

The bill (H. R. 2396) granting an increase of pension to Charles Hull was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Charles Hull, late of Company G, Fourteenth Regiment Iowa Volunteer Infantry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MORRIS B. DRAKE.

The bill (H. R. 1468) granting an increase of pension to Morris B. Drake was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Morris B. Drake, late of Company K, Twenty-third Regiment Michigan Volunteer Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLIAM H. NORTRIP.

The bill (H. R. 552) granting an increase of pension to William H. Nortrip was considered as in Committee of the Whole. It proposes to place on the pension roll the name of William H. Nortrip, late of Company I, Ninth Regiment Ohio Volunteer Cavalry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

DECATUR HARMON.

The bill (H. R. 2640) granting an increase of pension to Decatur Harmon was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Decatur Harmon, late of Company K, Eighty-first Regiment New York Volunteer Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MARSHALL U. GAGE.

The bill (H. R. 4717) granting an increase of pension to Marshall U. Gage was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Marshall U. Gage, late of Company D, Tenth Regiment Michigan Volunteer Infantry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOHN DEARDOURFF.

The bill (H. R. 4766) granting an increase of pension to John Deardourff was considered as in Committee of the Whole. It proposes to place on the pension roll the name of John Deardourff, late of Company C, Fiftieth Regiment Ohio Volunteer Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ANDREW LA FORGE.

The bill (H. R. 8565) granting an increase of pension to Andrew La Forge was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Andrew La Forge, late of Company B and captain Company I, Fifteenth Regiment Michigan Volunteer Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

HIRAM LONG.

The bill (H. R. 8665) granting an increase of pension to Hiram Long was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Hiram Long, late of Company A, One hundred and twenty-third Regiment Ohio Volunteer Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JESSE SILER.

The bill (H. R. 9839) granting an increase of pension to Jesse Siler was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Jesse Siler, late of Company A, Eighth Regiment Kentucky Volunteer Infantry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JONATHAN SHOOK.

The bill (H. R. 10019) granting an increase of pension to Jonathan Shook was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Jonathan Shook, late of Company C, Seventh Regiment, and Company A, Fifteenth Regiment, Michigan Volunteer Infantry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

LUCIUS A. WEST.

The bill (H. R. 10490) granting an increase of pension to Lucius A. West was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Lucius A. West, late of Company M, First Regiment Ohio Volunteer Heavy Artillery, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLIAM T. GODWIN.

The bill (S. 518) granting an increase of pension to William T. Godwin was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 9, before the word "dollars," to strike out "seventy-two" and insert "fifty;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of William T. Godwin, late first lieutenant Company A, One hundred and eighteenth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

LORENZO D. MASON.

The bill (H. R. 12880) granting an increase of pension to Lorenzo D. Mason was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Lorenzo D. Mason, late of Company M, Second Regiment New Jersey Volunteer Cavalry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOSEPHINE HOORNBECK.

The bill (H. R. 11509) granting an increase of pension to Josephine Hoornbeck was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Josephine Hoornbeck, widow of Robert Hoornbeck, late of Company K, Fifty-sixth Regiment New York Volunteer Infantry, and to pay her a pension of $16 per month in lieu of that she is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WESLEY SMITH.

The bill (H. R. 15276) granting an increase of pension to Wesley Smith was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Wesley Smith, late of Company D, First Regiment Kentucky Mounted Volunteers, war with Mexico, and to pay him a pension of $20 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOHN W. HANNAH.

The bill (H. R. 6888) granting an increase of pension to John W. Hannah was considered as in Committee of the Whole. It proposes to place on the pension roll the name of John W. Hannah, late of Company E, Sixteenth Regiment, and captain Company A, One hundred and twenty-fourth Regiment, Indiana Volunteer Infantry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

THOMAS HOWARD.

The bill (H. R. 5252) granting an increase of pension to Thomas Howard was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Thomas Howard, late of Company A, Second Regiment Indiana Volunteer Infantry, war with Mexico, and to pay him a pension of $20 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ABRAM W. DAVENPORT.

The bill (H. R. 6110) granting an increase of pension to Abram W. Davenport was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Abram W. Davenport, late of Company H, Tenth Regiment New York Volunteer Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOHN K. MILLER.

The bill (H. R. 8062) granting an increase of pension to John K. Miller was considered as in Committee of the Whole. It proposes to place on the pension roll the name of John K. Miller, late of Company H, Fifth Regiment Wisconsin Volunteer Infantry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLIAM H. PITCHFORD.

The bill (H. R. 7951) granting an increase of pension to William H. Pitchford was considered as in Committee of the Whole. It proposes to place on the pension roll the name of William H. Pitchford, late of Company H, Twelfth Regiment Illinois Volunteer Cavalry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

BOTTOL LARSEN.

The bill (H. R. 8042) granting an increase of pension to Bottol Larsen was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Bottol Larsen, late of Company D, Tenth Regiment Minnesota Volunteer Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ARTHUR R. DREPPARD.

The bill (H. R. 10900) granting an increase of pension to Arthur R. Dreppard was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Arthur R. Dreppard, late of Company M, Ninth Regiment Illinois Volunteer Infantry, war with Spain, and to pay him a pension of $18 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

HENRY GILHAM.

The bill (H. R. 14655) granting an increase of pension to Henry Gilham was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Henry Gilham, late of Company H, Second Regiment Indiana Volunteer Infantry, war with Mexico, and Company E, Fifty-first Regiment Indiana Volunteer Infantry, and captain Company G, One hundred and twentieth Regiment Indiana Volunteer Infantry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

THOMAS E. MYERS.

The bill (H. R. 10879) granting an increase of pension to Thomas E. Myers was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Thomas E. Myers, late of Company I, Second Regiment Kentucky Volunteer Cavalry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

LUCIUS R. SIMONS.

The bill (H. R. 3233) granting an increase of pension to Lucius R. Simons was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Lucius R. Simons, late of Company L, Tenth Regiment Illinois Volunteer Cavalry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

AUGUSTUS JOYEUX.

The bill (H. R. 6465) granting an increase of pension to Augustus Joyeux was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Augustus Joyeux, late of Company E, Seventh Regiment Rhode Island Volunteer Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MARY O. ARNOLD.

The bill (H. R. 7225) granting an increase of pension to Mary O. Arnold was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Mary O. Arnold, widow of Marion Arnold, late of Company H, First Regiment Ohio Volunteer Light Artillery, and to pay her a pension of $12 per month in lieu of that she is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CHARLES W. HENDERSON.

The bill (H. R. 7609) granting an increase of pension to Charles W. Henderson was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Charles W. Henderson, late first lieutenant Company H, Fifteenth Regiment New York Volunteer Engineers, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOHANNA WALGWIST.

The bill (H. R. 7806) granting an increase of pension to Johanna Walgwist was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Johanna Walgwist, widow of John S. Walgwist, alias Jonas Walgwist, late of Company K, Ninety-third Regiment Illinois Volunteer Infantry, and to pay her a pension of $24 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of Anna C. Walgwist, helpless and dependent daughter of said John S. Walgwist, alias Jonas Walgwist, the additional pension herein granted shall cease and determine: *And provided further*, That in the event of the death of Johanna Walgwist the name of Anna C. Walgwist shall be placed on the pension roll at $12 per month from and after the date of the death of said Johanna Walgwist.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLIAM H. LEWIS.

The bill (H. R. 4946) granting an increase of pension to William H. Lewis was considered as in Committee of the Whole. It proposes to place on the pension roll the name of William H. Lewis, late of Company E, Thirteenth Regiment New York Volunteer Infantry, and to pay him a pension of $36 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

IRA GRABILL.

The bill (H. R. 8328) granting an increase of pension to Ira Grabill was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Ira Grabill, late of Company F, Eighty-sixth Regiment Illinois Volunteer Infantry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOHN M. JONES.

The bill (H. R. 9053) granting an increase of pension to John M. Jones was considered as in Committee of the Whole. It proposes to place on the pension roll the name of John M. Jones, late of Company I, Twentieth Regiment Iowa Volunteer Infantry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

NATHAN PARISH.

The bill (H. R. 9126) granting an increase of pension to Nathan Parish was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Nathan Parish, late of Company K, Seventy-sixth Regiment New York Volunteer Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JAMES I. MITTLER.

The bill (S. 5074) granting an increase of pension to James I. Mittler was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 8, before the word "dollars," to strike out "forty" and insert "twenty-four;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of James I. Mettler, late of Company A, Twelfth Regiment Illinois Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

PETER SLOGGY.

The bill (S. 5324) granting an increase of pension to Peter Sloggy was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Peter Sloggy, late captain Company D, Eighteenth Regiment Wisconsin Volunteer Infantry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

HORACE A. GREGORY.

The bill (S. 5244) granting an increase of pension to Horace A. Gregory was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Horace A. Gregory, late of Company B, Seventh Regiment, and Company E, Forty-seventh Regiment, Iowa Volunteer Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

EMILIE SCHELDT.

The bill (H. R. 6058) granting an increase of pension to Emilie Scheldt was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Emilie Scheldt, widow of Julius Scheldt, late second lieutenant Company E, Thirty-seventh Regiment Ohio Volunteer Infantry, and to pay her a pension of $15 per month in lieu of that she is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOSEPH RUPERT.

The bill (H. R. 2267) granting an increase of pension to Joseph Rupert was considered as in Committee of the Whole.

It proposes to place on the pension roll the name of Joseph Rupert, late of Company H, Sixteenth Regiment Illinois Volunteer Cavalry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

SAMUEL GREENLEE.

The bill (H. R. 3978) granting an increase of pension to Samuel Greenlee was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Samuel Greenlee, late of Company A, One hundred and thirty-ninth Regiment Pennsylvania Volunteer Infantry, and Company I, Sixth Regiment Veteran Reserve Corps, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MARTIN CALLAHAN.

The bill (H. R. 4209) granting an increase of pension to Martin Callahan was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Martin Callahan, late captain Company F, Ninth Regiment Maryland Volunteer Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MARTIN V. CANNEDY.

The bill (H. R. 8315) granting an increase of pension to Martin V. Cannedy was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Martin V. Cannedy, late of Company H, One hundred and forty-fourth Regiment Illinois Volunteer Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CARNER C. WELCH.

The bill (H. R. 8206) granting an increase of pension to Carner C. Welch was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Carner C. Welch, late of Company D, Seventy-fourth Regiment Illinois Volunteer Infantry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CHARLES H. FRIEND.

The bill (H. R. 1027) granting an increase of pension to Charles H. Friend was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Charles H. Friend, late of Company F, Second Regiment Minnesota Volunteer Infantry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ALPHENIS M. BEALL.

The bill (H. R. 10562) granting an increase of pension to Alphenis M. Beall was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Alphenis M. Beall, late of Captain Snell's independent company, Florida Mounted Volunteers, Florida Indian war, and to pay him a pension of $16 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

THOMAS J. CHAMBERS.

The bill (H. R. 10785) granting a pension to Thomas J. Chambers was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Thomas J. Chambers, late of Company E, First Regiment Washington Territory Mounted Volunteers, Oregon and Washington Territory Indian war, and to pay him a pension of $8 per month.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLIAM H. HOUSTON.

The bill (S. 3819) granting an increase of pension to William H. Houston was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with amendments, in line 8, before the word "and," to insert "Seminole Indian war;" and in the same line, before the word "dollars," to strike out "twenty" and insert "sixteen;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of William H. Houston, late of Captain Hart's independent company, Florida Mounted Volunteers, Seminole Indian war, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the ments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

JAMES H. GARDNER.

The bill (S. 3112) granting an increase of pension to James H. Gardner was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, to strike out all after the enacting clause and insert:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of James H. Gardner, late of Captain Hardee's company, First Regiment Florida Mounted Volunteers, Seminole Indian war, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

GEORGE W. TRICE.

The bill (S. 1733) granting an increase of pension to George W. Trice was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 7, before the word "war," to strike out "Army" and insert "Infantry;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of George W. Trice, late of Company B, Fourth Regiment United States Infantry, war with Spain, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

MARGARETT CARROLL.

The bill (H. R. 5486) granting a pension to Margaret Carroll was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Margarett Carroll, widow of Henry L. Carroll, late first lieutenant Company B, First Battalion Georgia Volunteer Infantry, and to pay her a pension of $12 per month.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ISAAC N. SEAL.

The bill (H. R. 15249) granting an increase of pension to Isaac N. Seal was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Isaac N. Seal, late of Company F, Fifty-third Regiment Ohio Volunteer Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

DORA A. WEATHERSBY.

The bill (H. R. 3541) granting a pension to Dora A. Weathersby was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Dora A. Weathersby, widow of Howard L. Weathersby, late musician, First Regiment Mississippi Volunteer Infantry, war with Spain, and to pay her a pension of $12 per month, and $2 per month additional on account of each of the minor children of said Howard L. Weathersby until they reach the age of 16 years.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLIAM BLAIR.

The bill (H. R. 6407) granting an increase of pension to William Blair was considered as in Committee of the Whole. It proposes to place on the pension roll the name of William Blair, late of Company D, Eighth Regiment New Jersey Volunteer Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLIAM SMITH.

The bill (H. R. 8316) granting an increase of pension to William Smith was considered as in Committee of the Whole. It proposes to place on the pension roll the name of William

Smith, late of Company I, One hundred and sixty-second Regiment New York Volunteer Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MARGARET BECKER.

The bill (H. R. 8630) granting an increase of pension to Margaret Becker was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Margaret Becker, widow of John P. Becker, late captain Company K, Second Regiment Louisiana Volunteer Infantry, and to pay her a pension of $20 per month in lieu of that she is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

FRANCIS W. PRESTON.

The bill (H. R. 9466) granting an increase of pension to Francis W. Preston was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Francis W. Preston, late of Company I, Thirteenth Regiment Connecticut Volunteer Infantry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ANDREW J. HUNTER.

The bill (S. 5079) granting an increase of pension to Andrew J. Hunter was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Andrew J. Hunter, late of Company A, Second Regiment North Carolina Volunteer Mounted Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

WALTER LYNN.

The bill (S. 3182) granting an increase of pension to Walter Lynn was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Walter Lynn, late of Company D, Seventh Regiment Pennsylvania Volunteer Cavalry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JOHN M. PRENTISS.

The bill (S. 5287) granting an increase of pension to John M. Prentiss was considered as in Committee of the Whole. It proposes to place on the pension roll the name of John M. Prentiss, late of Company K, Fourteenth Regiment New Hampshire Volunteer Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

HELEN H. HULBERT.

The bill (H. R. 2341) granting an increase of pension to Helen H. Hulbert was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Helen H. Hulbert, widow of William L. Hulbert, late captain Company G, One hundred and seventeenth Regiment New York Volunteer Infantry, and to pay her a pension of $20 per month in lieu of that she is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JAMES H. HILL.

The bill (H. R. 3660) granting an increase of pension to James H. Hill was considered as in Committee of the Whole. It proposes to place on the pension roll the name of James H. Hill, late of Company E, Second Regiment Tennessee Volunteer Mounted Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOHN G. DAVIS.

The bill (H. R. 5725) granting an increase of pension to John G. Davis was considered as in Committee of the Whole. It proposes to place on the pension roll the name of John G. Davis, late of Company C, Fourth Regiment United States Artillery, war with Mexico, and to pay him a pension of $20 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CATE E. COBB.

The bill (H. R. 5726) granting an increase of pension to Cate E. Cobb was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Cate E. Cobb, widow of Gaston D. Cobb, late surgeon First Regiment North Carolina Volunteer Infantry, war with Mexico, and to pay her a pension of $12 per month in lieu of that she is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ANNIE E. PETERS.

The bill (H. R. 7823) granting an increase of pension to Annie E. Peters was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Annie E. Peters, widow of John A. Peters, late of U. S. S. *North Carolina*, *Potomac*, and *Metacomet*, United States Navy, and to pay her a pension of $16 per month in lieu of that she is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

AUGUST BAUER.

The bill (H. R. 10816) granting an increase of pension to August Bauer was considered as in Committee of the Whole. It proposes to place on the pension roll the name of August Bauer, late of Company F, One hundred and fortieth Regiment New York Volunteer Infantry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOHN N. BOYD.

The bill (H. R. 10907) granting an increase of pension to John N. Boyd was considered as in Committee of the Whole. It proposes to place on the pension roll the name of John N. Boyd, late of Company K, Seventh Regiment Pennsylvania Volunteer Cavalry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CHARLES RATTRAY.

The bill (H. R. 14878) granting an increase of pension to Charles Rattray was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Charles Rattray, late major Fifty-seventh Regiment Illinois Volunteer Infantry, and to pay him a pension of $25 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

DAVID MOREHART.

The bill (S. 3996) granting an increase of pension to David Morehart was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 8, before the word "dollars," to strike out "thirty" and insert "twenty-four;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of David Morehart, late of Company H, Thirty-fourth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

EMILIE GRACE REICH.

The bill (S. 1308) granting an increase of pension to Emilie Wood Reich was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, to strike out all after the enacting clause and insert:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Emilie Grace Reich, widow of Henry F. Reich, late lieutenant, United States Navy, and pay her a pension at the rate of $25 per month in lieu of that she is now receiving, and $2 per month additional on account of the minor child of the said Henry F. Reich until she reaches the age of 16 years.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill granting an increase of pension to Emilie Grace Reich."

WILLIAM R. DUNCAN.

The bill (H. R. 1897) granting an increase of pension to William R. Duncan was considered as in Committee of the Whole. It proposes to place on the pension roll the name of William R. Duncan, late of Company G, Third Regiment Tennessee Volunteer Infantry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

SARAH F. GALBRAITH.

The bill (H. R. 10293) granting an increase of pension to Sarah F. Galbraith was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Sarah F. Galbraith, widow of Robert Galbraith, late lieutenant-colonel Fifth Regiment Tennessee Volunteer Cavalry, and to pay her a pension of $20 per month in lieu of that she is now receiving

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ISAAC N. PERRY.

The bill (H. R. 14113) granting an increase of pension to Isaac N. Perry was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Isaac N. Perry, late of Company E, First Regiment North Carolina Volunteer Infantry, war with Mexico, and to pay him a pension of $20 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

NATHANIEL H. ROME.

The bill (H. R. 14840) granting an increase of pension to Nathaniel H. Rome was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Nathaniel H. Rome, late of Company I, Sixth Regiment Missouri State Militia Volunteer Cavalry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLIAM A. GIPSON.

The bill (S. 2952) granting an increase of pension to William A. Gipson was considered as in Committee of the Whole. It proposes to place on the pension roll the name of William A. Gipson, late of Company K, Fifteenth Regiment Iowa Volunteer Infantry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

RUFUS G. CHILDRESS.

The bill (H. R. 2697) granting an increase of pension to Rufus G. Childress was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Rufus G. Childress, late of Capt. J. S. Boggess's company, Mounted Battalion Texas Volunteers, Texas and New Mexico Indian war, and to pay him a pension of $16 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

THOMAS WOLCOTT.

The bill (H. R. 4352) granting an increase of pension to Thomas Wolcott was considered as in Committee of the Whole. It proposes to place on the penison roll the name of Thomas Wolcott, late of Company D, Sixth Regiment Ohio Volunteer Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

BENJAMIN Q. WARD.

The bill (H. R. 8530) granting an increase of pension to Benjamin Q. Ward was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Benjamin Q. Ward, late of Company A, Light Artillery, Santa Fe Battalion Missouri Mounted Volunteers, war with Mexico, and to pay him a pension of $20 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLIAM C. SHORT.

The bill (H. R. 4593) granting a pension to William C. Short was considered as in Committee of the Whole. It proposes to place on the pension roll the name of William C. Short, late of Captain Long's company, First Regiment Texas Mounted Volunteers, war with Mexico, and to pay him a pension of $12 per month.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JAMES B. BARRY.

The bill (H. R. 4598) granting an increase of pension to James B. Barry was considered as in Committee of the Whole. It proposes to place on the pension roll the name of James B. Barry, late of Company K, First Regiment Texas Mounted Volunteers, war with Mexico, and to pay him a pension of $20 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOHN A. MALONE.

The bill (H. R. 10296) granting an increase of pension to John A. Malone was considered as in Committee of the Whole. It proposes to place on the pension roll the name of John A. Malone, late of Company I, Twenty-second Regiment Illinois Volunteer Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

GEORGE M. FRAZER.

The bill (H. R. 10448) granting an increase of pension to George M. Frazer was considered as in Committee of the Whole. It proposes to place on the pension roll the name of George M. Frazer, late of Captain Baylor's company, Lane's battalion Texas Volunteer Cavalry, war with Mexico, and to pay him a pension of $20 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

SILAS H. BALLARD.

The bill (H. R. 10450) granting an increase of pension to Silas H. Ballard was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Silas H. Ballard, late of Captain Curtis's Company, Raiford's Battalion, Alabama Volunteers, war with Mexica, and to pay him a pension of $20 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

DAVID F. CRAMPTON.

The bill (S. 3252) granting an increase of pension to David F. Crampton was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 6, after the word "Company," to strike out the letter "A" and insert "I;" and in line 8, before the word "dollars," to strike out "thirty" and insert "twenty-four;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of David F. Crampton, late of Company I, Seventeenth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

JOHN M. DE PUY.

The bill (S. 5172) granting an increase of pension to John M. Du Puy was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with amendments, in line 6, before the word "late," to strike out the name of "Du Puy" and insert "De Puy;" in line 7, before the word "Infantry," to strike out "Volunteer," and in line 8, before the word "dollars," to strike out "forty" and insert "twenty;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John M. De Puy, late of Company E, Nineteenth Regiment New York State Militia Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill granting an increase of pension to John M. De Puy."

ALBERT L. CALLAWAY.

The bill (S. 4520) granting an increase of pension to Albert L. Callaway was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 8, before the word "dollars," to strike out "forty" and insert "thirty;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Albert L. Callaway, late of Companies F and C, Twenty-eighth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

WILLIAM WHEELER.

The bill (S. 2507) granting an increase of pension to William Wheeler was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 8, before the word "dollars," to strike out "fifty" and insert "twenty;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of William Wheeler, late of Company I, Second Regiment Illinois Volunteer Cavalry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

CARRIE E. CONSTINETT.

The bill (S. 2115) granting a pension to Carrie E. Constinett was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with amendments, in line 6 after, the words "late of," to strike out "Company" and insert "Battery;" and in line 8, before the word "dollars," to strike out "twenty" and insert "twelve;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Carrie E. Costinett, widow of Henry J. Costinett, late of Battery A, Fourth Regiment United States Artillery, and pay her a pension at the rate of $12 per month.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

NOAH C. FOWLER.

The bill (S. 2568) granting an increase of pension to Noah C. Fowler was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Noah C. Fowler, late of Company H, Eleventh Regiment West Virginia Volunteer Infantry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JOHN G. WALLACE.

The bill (H. R. 1241) granting an increase of pension to John G. Wallace was considered as in Committee of the Whole. It proposes to place on the pension roll the name of John G. Wallace, late of Company E, Twenty-seventh Regiment Indiana Volunteer Infantry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

GEORGE L. JANNEY.

The bill (H. R. 4691) granting an increase of pension to George L. Janney was considered as in Committee of the Whole. It proposes to place on the pension roll the name of George L. Janney, late of Company B, Thirty-sixth Regiment Indiana Volunteer Infantry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

THOMAS PATTERSON.

The bill (H. R. 6128) granting an increase of pension to Thomas Patterson was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Thomas Patterson, late of Company A, Tenth Regiment Iowa Infantry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLIAM MOORE.

The bill (H. R. 4888) granting an increase of pension to William Moore was considered as in Committee of the Whole. It proposes to place on the pension roll the name of William Moore, late second lieutenant Company C, Seventh Regiment Iowa Volunteer Infantry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

SIOTHA BENNETT.

The bill (H. R. 2082) granting an increase of pension to Siotha Bennett was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Siotha Bennett, widow of Clarence E. Bennett, late lieutenant-colonel First Regiment California Volunteer Cavalry, and to pay her a pension of $30 per month in lieu of that she is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CHARLES C. BRIANT.

The bill (H. R. 8823) granting an increase of pension to Charles C. Briant was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Charles C. Briant, late captain Company K, Sixth Regiment Indiana Volunteer Infantry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MARQUIS L. JOHNSON.

The bill (H. R. 8942) granting an increase of pension to Marquis L. Johnson was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Marquis L. Johnson, late captain Company I, Fifty-first Regiment Indiana Volunteer Infantry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CLARK A. WINANS.

The bill (H. R. 10230) granting an increase of pension to Clark A. Winans was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Clark A. Winans, late of Company C, One hundred and fifth Regiment Illinois Volunteer Infantry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

GEORGE C. SACKETT.

The bill (H. R. 10300) granting an increase of pension to George C. Sackett was considered as in Committee of the Whole. It proposes to place on the pension roll the name of George C. Sackett, late of Company C, First Regiment Iowa Volunteer Cavalry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MATILDA ROCKWELL.

The bill (H. R. 10923) granting an increase of pension to Matilda Rockwell was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Matilda Rockwell, widow of Henry S. Rockwell, late of Company E, Nineteenth Regiment Wisconsin Volunteer Infantry, and to pay her a pension of $20 per month in lieu of that she is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ELIZABETH D. HOPPIN.

The bill (H. R. 9296) granting an increase of pension to Elizabeth D. Hoppin was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Elizabeth D. Hoppin, widow of Curtis B. Hoppin, late major, Fifteenth Regiment United States Cavalry, and to pay her a pension of $35 per month in lieu of that she is now receiving, and $2 per month additional on account of each of the minor children of said Curtis B. Hoppin until they reach the age of 16 years.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOSIAH F. ALLEN.

The bill (H. R. 13198) granting an increase of pension to Josiah F. Allen was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Josiah F. Allen, late of Company I, One hundred and twelfth Regiment New York Volunteer Infantry, and to pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ELLEN M. BRANT.

The bill (H. R. 2090) granting an increase of pension to Ellen M. Brant was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Ellen M. Brant, widow of Uriah Brant, late first lieutenant and captain Company H, Seventh Regiment Illinois Volunteer Cavalry, and to pay her a pension of $20 per month in lieu of that she is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

The VICE-PRESIDENT. This completes the Calendar of pension bills and bills to correct military records.

EXECUTIVE SESSION.

Mr. KEAN. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After seven minutes spent in executive session the doors were reopened, and (at 5 o'clock and 14 minutes p. m.) the Senate adjourned until to-morrow, Tuesday, April 3, 1906, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate April 2, 1906.

COMMISSIONER OF THE DISTRICT OF COLUMBIA.

Henry B. F. Macfarland, of the District of Columbia, to be a Commissioner of the District of Columbia for the term of three years from May 5, 1906. This is a reappointment.

SECRETARY OF EMBASSY.

George L. Lorillard, of Rhode Island, now secretary of the legation at Copenhagen, to be secretary of the embassy of the United States at Rio de Janeiro, Brazil, vice Charles Richardson, nominated to be secretary of the legation at Copenhagen.

SECRETARY OF LEGATION.

Charles Richardson, of Massachusetts, now secretary of the embassy at Rio de Janeiro, to be secretary of the legation of the United States at Copenhagen, Denmark, vice George L. Lorillard, nominated to be secretary of the embassy at Rio de Janeiro.

COLLECTORS OF CUSTOMS.

John A. Merritt, of New York, to be collector of customs for the district of Niagara, in the State of New York, in place of James Low, deceased.

John M. Vogell, of Maine, to be collector of customs for the district of Castine, in the State of Maine, to succeed George M. Warren, whose term of office will expire by limitation April 20, 1906.

Albert Halstead, of the District of Columbia, to be consul of the United States at Birmingham, England, vice Marshal Halstead, resigned.

PROMOTIONS IN THE ARMY.

Maj. John P. Kisser, detailed inspector-general, to be lieutenant-colonel in the Artillery Corps from March 28, 1906, vice Cailff, appointed brigadier-general.

Maj. John M. Banister, surgeon, to be deputy surgeon-general with the rank of lieutenant-colonel from March 29, 1906, vice Turrill, appointed brigadier-general.

Capt. Alexander N. Stark, assistant surgeon, to be surgeon with the rank of major from March 29, 1906, vice Banister, promoted.

PROMOTIONS IN THE NAVY.

Paymaster Eugene D. Ryan to be a pay inspector in the Navy from the 10th day of February, 1906, vice Pay Inspector Harry R. Sullivan, retired.

Carpenter Frederick C. Le Pine to be a chief carpenter in the Navy from the 10th day of January, 1906, upon the completion of six years' service, in accordance with the provisions of the act of Congress approved March 3, 1899, as amended by the act of April 27, 1904.

POSTMASTERS.

CALIFORNIA.

Miriam H. Chittenden to be postmaster at Corning, in the county of Tehama and State of California, in place of Arthur J. Chittenden, deceased.

Roy B. Stephens to be postmaster at South Pasadena, in the county of Los Angeles and State of California, in place of Roy B. Stephens. Incumbent's commission expires April 5, 1906.

DISTRICT OF COLUMBIA.

Benjamin F. Barnes to be postmaster at Washington, in the District of Columbia, in place of John A. Merritt, resigned.

GEORGIA.

William F. Boone to be postmaster at Baxley, in the county of Appling and State of Georgia. Office became Presidential January 1, 1906.

Henry B. Sutton to be postmaster at Ocilla, in the county of Irwin and State of Georgia, in place of Walter C. Terrell, resigned.

ILLINOIS.

J. H. Abercrombie to be postmaster at Aledo, in the county of Mercer and State of Illinois, in place of James A. Cummins. Incumbent's commission expired March 5, 1906.

Harrison P. Nichols to be postmaster at Maywood, in the county of Cook and State of Illinois, in place of Harrison P. Nichols. Incumbent's commission expired March 14, 1906.

Joseph H. Pierson to be postmaster at Carrollton, in the county of Greene and State of Illinois, in place of Joseph H. Pierson. Incumbent's commission expired March 14, 1906.

Zachary Taylor to be postmaster at Colfax, in the county of McLean and State of Illinois, in place of Zachary Taylor. Incumbent's commission expires May 27, 1906.

IOWA.

James T. Ellis to be postmaster at Panora, in the county of Guthrie and State of Iowa, in place of James T. Ellis. Incumbent's commission expired January 28, 1906.

Roman C. White to be postmaster at Glenwood, in the county of Mills and State of Iowa, in place of Roman C. White. Incumbent's commission expired January 28, 1906.

LOUISIANA.

Byrnes M. Young to be postmaster at Morgan City, in the parish of St. Mary and State of Louisiana, in place of Byrnes M. Young. Incumbent's commission expires April 5, 1906.

MICHIGAN.

Thaddeus B. Bailey to be postmaster at Manchester, in the county of Washtenaw and State of Michigan, in place of Thaddeus B. Bailey. Incumbent's commission expired March 19, 1906.

MINNESOTA.

Almon E. King to be postmaster at Redwood Falls, in the county of Redwood and State of Minnesota, in place of Almon E. King. Incumbent's commission expires April 5, 1906.

Arthur McBride to be postmaster at Walker, in the county of Cass and State of Minnesota. Office became Presidential January 1, 1906.

Peter A. Peterson to be postmaster at Cannon Falls, in the county of Goodhue and State of Minnesota, in place of Peter A. Peterson. Incumbent's commission expires April 30, 1906.

George H. Tome to be postmaster at Pine Island, in the county of Goodhue and State of Minnesota, in place of Henry Tome, resigned.

MONTANA.

George W. Huffaker to be postmaster at Helena, in the county of Lewis and Clark and State of Montana, in place of George W. Huffaker. Incumbent's commission expires May 15, 1906.

NEBRASKA.

Frank M. Kimmell to be postmaster at McCook, in the county of Red Willow and State of Nebraska, in place of Frank M. Kimmell. Incumbent's commission expired March 14, 1906.

NEW HAMPSHIRE.

Frank B. Williams to be postmaster at Enfield, in the county of Grafton and State of New Hampshire, in place of Frank B. Williams. Incumbent's commission expires April 17, 1906.

NEW JERSEY.

Charles S. Robinson to be postmaster at Princeton, in the county of Mercer and State of New Jersey, in place of Charles S. Robinson. Incumbent's commission expired March 10, 1906.

OHIO.

George H. Hildebrand to be postmaster at Ashland, in the county of Ashland and State of Ohio, in place of Clifton G. Ducomb. Incumbent's commission expires May 7, 1906.

PENNSYLVANIA.

George R. Adam to be postmaster at Brockwayville, in the county of Jefferson and State of Pennsylvania, in place of Daniel D. Groves. Incumbent's commission expires April 10, 1906.

Fred J. Andrus to be postmaster at Cross Fork, in the county of Potter and State of Pennsylvania, in place of Harry Duncan. Incumbent's commission expired February 5, 1906.

Milton P. Schantz to be postmaster at Allentown, in the county of Lehigh and State of Pennsylvania, in place of Milton P. Schantz. Incumbent's commission expired March 26, 1906.

PORTO RICO.

Fred Leser, jr., to be postmaster at Mayaguez, in the department of Mayaguez and island of Porto Rico, in place of Fred Leser, jr. Incumbent's commission expired January 28, 1906.

WYOMING.

Elmer T. Beltz to be postmaster at Laramie, in the county of Albany and State of Wyoming, in place of Elmer T. Beltz. Incumbent's commission expires April 30, 1906.

CONFIRMATIONS.

Executive nominations confirmed by the Senate April 2, 1906.

CONSUL.

Eugene L. Belisle, of Massachusetts, to be consul of the United States at Limoges, France.

RECEIVER OF PUBLIC MONEYS.

Alfred H. Taylor, of California, to be receiver of public moneys at Susanville, Cal., to take effect April 16, 1906.

REGISTER OF LAND OFFICE.

Thomas A. Roseberry, of California, to be register of the land office at Susanville, Cal., to take effect April 16, 1906.

APPOINTMENTS IN THE ARMY.

First Lieut. Wallace M. Craigie, Seventh Infantry, from the infantry arm to the cavalry arm, with rank from February 2, 1901.

First Lieut. Russell T. Hazzard, First Cavalry, from the cavalry arm to the infantry arm, with rank from February 2, 1901.

PROMOTIONS IN THE ARMY.

ARTILLERY CORPS.

To be lieutenant-colonels.

Maj. Henry M. Andrews, Artillery Corps, from March 3, 1906.

Maj. Charles D. Parkhurst, Artillery Corps, from March 16, 1906.

To be major.

Capt. George W. Van Deusen, Artillery Corps, from March 3, 1906.

To be captains.

First Lieut. Frank E. Hopkins, Artillery Corps, from February 24, 1906.

First Lieut. Ernest R. Tilton, Artillery Corps, from March 3, 1906.

First. Lieut. Homer B. Grant, Artillery Corps, from March 3, 1906.

First Lieut. Leonard T. Waldron, Artillery Corps, from March 9, 1906.

CAVALRY ARM.

Second Lieut. George H. Baird, Eleventh Cavalry, to be first lieutenant from March 27, 1906.

ARTILLERY CORPS.

Lieut. Col. Harry R. Anderson, Artillery Corps, to be colonel from March 26, 1906.

Maj. Montgomery M. Macomb, Artillery Corps, to be lieutenant-colonel from March 26, 1906.

INFANTRY ARM.

Maj. Edward E. Hardin, Seventh Infantry, to be lieutenant-colonel from March 23, 1906.

Capt. William H. Sage, Twenty-third Infantry, to be major from March 23, 1906.

First Lieut. Alfred Aloe, Twelfth Infantry, to be captain from January 24, 1906.

First Lieut. Thomas J. Fealy, First Infantry, to be captain from February 17, 1906.

First Lieut. Frank W. Rowell, Eleventh Infantry, to be captain from March 3, 1906.

First Lieut. Hugh A. Drum, Twenty-third Infantry, to be captain from March 23, 1906.

First Lieut. John M. Campbell, Fifth Infantry, to be captain, from March 24, 1906.

APPOINTMENTS IN THE NAVY.

To be assistant surgeons in the Navy from the 24th day of March, 1906, to fill vacancies existing in that grade on that date:

Condie K. Winn, a citizen of Alabama.

John B. Kaufman, a citizen of Virginia.

Ausey H. Robnett, a citizen of Texas.

Matthew H. Ames, a citizen of Maryland.

William S. Kuder, a citizen of Pennsylvania.

Walter F. Schaller, a citizen of California, to be an assistant surgeon in the Navy from the 21st day of March, 1906.

PROMOTIONS IN THE NAVY.

Lieut. Commander Albert N. Wood to be a commander in the Navy from the 12th day of February, 1906.

Asst. Paymaster James F. Kutz to be a passed assistant paymaster in the Navy from the 2d day of February, 1906.

Boatswain Frederick R. Hazard to be a chief boatswain in the Navy from the 1st day of March, 1906, upon the completion of six years' service, in accordance with the provisions of the act of Congress approved March 3, 1899, as amended by the act of April 27, 1904.

Gunner Andrew Olsson to be a chief gunner in the Navy from the 16th day of September, 1904, upon the completion of six years' service, in accordance with the provisions of the act of Congress approved March 3, 1899, as amended by the act of April 27, 1904.

POSTMASTERS.

NEW HAMPSHIRE.

Ellsworth F. Pike to be postmaster at Franklin (late Franklin Falls), in the county of Merrimack and State of New Hampshire.

John T. Welch to be postmaster at Dover, in the county of Strafford and State of New Hampshire.

PENNSYLVANIA.

Frederick H. Bartleson to be postmaster at Sharpsville, in the county of Mercer and State of Pennsylvania.

VIRGINIA.

J. Harvey Furr to be postmaster at Waynesboro, in the county of Augusta and State of Virginia.

HOUSE OF REPRESENTATIVES.

MONDAY, *April 2, 1906.*

The House met at 12 o'clock m.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of Saturday's proceedings was read and approved.

PENSION APPROPRIATION BILL.

The SPEAKER laid before the House the bill (H. R. 13113), making appropriations for the payment of invalid and other pensions of the United States, with Senate amendments, which were read.

Mr. GARDNER of Michigan. Mr. Speaker, I move that the House disagree to the Senate amendments and ask for a conference.

The motion was agreed to.

The SPEAKER. The Chair announces the following conferees: Mr. GARDNER of Michigan, Mr. BROWNLOW, and Mr. SULLIVAN of Massachusetts.

HAZING AT NAVAL ACADEMY.

Mr. VREELAND. Mr. Speaker, I desire to call up the conference report on Senate bill 3899, and ask unanimous consent to dispense with the reading of the report, and ask that the statement be read.

CONFERENCE REPORT.

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3899) granting authority to the Secretary of the Navy, in his discretion, to dismiss midshipmen from the United States Naval Academy and regulating the procedure and punishment in trials for hazing at the said academy, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses, as follows:

That the Senate recede from its disagreement to the amendment of the House, and agree to the same with amendments, as follows:

In section 1, line 5, of said amendment, after the word "of," insert the following: "the facts upon which are based."

At the end of section 1 of said amendment add the following: "And the truth of any issue of fact so raised, except upon the record of demerit, shall be determined by a board of inquiry convened by the Secretary of the Navy under the rules and regulations for the government of the Navy."

And the House agree to the same.

EDWARD B. VREELAND,
GEO. A. LOUD,
L. P. PADGETT,
Managers on the part of the House.

EUGENE HALE,
CHARLES DICK,
B. R. TILLMAN,
Managers on the part of the Senate.

STATEMENT OF MANAGERS ON THE PART OF THE HOUSE.

The statement was read, as follows:

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill S. 3899, submit the following written statement in explanation of the effect of the action agreed upon and recommended in the accompanying report as to each of the Senate amendments, namely:

In section 1 of the bill the Superintendent of the Naval Academy is required to state to the Secretary of the Navy his reasons for recommending the dismissal of any midshipman. The amendment as agreed to requires him to state "the facts upon which such reasons are based."

The effect of the second amendment as agreed to, to the same section, is to require a board of inquiry to determine and report to the Secretary of the Navy upon questions of fact which may be alleged as reasons for such dismissal.

EDWARD B. VREELAND,
GEORGE A. LOUD,
L. P. PADGETT,
Managers on the part of the House.

Mr. VREELAND. Mr. Speaker, I move to agree to the conference report.

Mr. RIXEY. Mr. Speaker, I desire to ask the gentleman a question. I understand that the conferees and managers adopted the House bill. Is that the case?

Mr. VREELAND. The Senate conferees practically adopted the House substitute as it passed in the House, with two slight amendments.

Mr. RIXEY. That amendment as I understand, applies to the first section?

Mr. VREELAND. To the first section only.

Mr. RIXEY. And as I understand it, a midshipman, where there is a difference as to the facts, has the right to a board of inquiry.

Mr. VREELAND. That is the purport of the amendment.

Mr. RIXEY. It safeguards the right of the midshipmen.

Mr. VREELAND. Yes.

The question was taken; and the conference report was agreed to.

LIABILITY OF EMPLOYERS.

Mr. STERLING. Mr. Speaker, I move that the House suspend the rules and pass the bill H. R. 239, with the committee amendments, known as the "employers' liability bill."

The bill as amended was read, as follows:

A bill (H. R. 239) relating to liability of common carriers by railroads in the District of Columbia and Territories and common carriers by railroads engaged in commerce between the States and between the States and foreign nations to their employees.

Be it enacted, etc., That every common carrier by railroad engaged in trade or commerce in the District of Columbia, or in any Territory of the United States, or between the several States, or between any Territory and another, or between any Territory or Territories and any State or States, or the District of Columbia, or with foreign nations, or between the District of Columbia and any State or States or foreign nations, shall be liable to any of its employees, or, in the case of his death, to his personal representative for the benefit of his widow and children, if any, if none, for his next of kin dependent upon him, for all damages which may result from the negligence of any of its officers, agents, or employees, or by reason of any defect or insufficiency due to its negligence in its cars, engines, appliances, machinery, track, roadbed, ways, or works.

SEC. 2. That in all actions hereafter brought against any such common carriers by railroad to recover damages for personal injuries to an employee, or where such injuries have resulted in his death, the fact that the employee may have been guilty of contributory negligence shall not bar a recovery where his contributory negligence was slight and that of the employer was gross in comparison, but the damages shall be diminished by the jury in proportion to the amount of negligence attributable to such employee.

SEC. 3. That no contract of employment, insurance, relief benefit, or indemnity for injury or death entered into by or on behalf of any employee, nor the acceptance of any such insurance, relief benefit, or indemnity by the person entitled thereto, shall constitute any bar or defense to any action brought to recover damages for personal injuries to or death of such employee: *Provided, however*, That upon the trial of such action against any such common carrier by railroad the defendant may set off therein any sum it has contributed toward any such insurance, relief benefit, or indemnity that may have been paid to the injured employee, or, in case of his death, to his heirs at law.

SEC. 4. That no action shall be maintained under this act, unless commenced within two years from the time the cause of action accrued.

SEC. 5. That nothing in this act shall be held to limit the duty of common carriers by railroads or impair the rights of their employees under the safety-appliance act of March 2, 1893, as amended April 1, 1896, and March 2, 1903.

The SPEAKER. The gentleman's motion is to suspend the rules, and, with the amendments recommended by the committee, pass the bill.

Mr. DRISCOLL. Mr. Speaker, I demand a second.

The SPEAKER. The gentleman from New York demands a second.

Mr. STERLING. Mr. Speaker, I ask unanimous consent that a second be considered as ordered.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The gentleman from Illinois is entitled to twenty minutes, and the gentleman from New York [Mr. DRISCOLL] is entitled to twenty minutes.

Mr. DRISCOLL. Before the gentleman from Illinois commences to explain the bill, Mr. Speaker, I ask unanimous consent that an amendment which I have prepared may be reported.

The SPEAKER. The gentleman from New York asks unanimous consent that an amendment be read.

Mr. STERLING. I object.

Mr. DRISCOLL. I ask the gentleman not to object now, but to let the amendment be read.

Mr. STERLING. I reserve the objection until the amendment is read.

The amendment was read, as follows:

Strike out all of the first section after the enacting clause and insert in lieu thereof the following:

"That every common carrier by railroad engaged in trade or commerce in the District of Columbia, or in any Territory of the United States, or between the several States, or between any Territory and another, or between any Territory or Territories and any State or States or the District of Columbia, or with foreign nations, or between the District of Columbia and any State or States or foreign nations, shall be liable to any of its employees for all damages which may result from the negligence of any of its officers, agents, or employees. And in case of death the personal representative of such decedent employee, who has left him or her surviving a husband, wife, or next of kin, may maintain an action to recover damages for the wrongful acts above set forth against such common carrier by railroad. The damages so recovered shall be for the husband or wife and next of kin, and shall be distributed as unbequeathed assets after the payment of all debts and expenses of administration. But the plaintiff may deduct the expenses of the action and funeral expenses. The damages shall be only a fair and just compensation for the pecuniary injuries resulting from the decedent's death to the person or persons for whose benefit the action is brought."

Mr. STERLING. I object to the amendment, Mr. Speaker.

The SPEAKER. The gentleman from Illinois is entitled to twenty minutes and the gentleman from New York twenty minutes.

Mr. STERLING. Mr. Speaker, the purpose of this bill is to modify certain common-law rules with reference to the liability of railroads to their employees for personal injury. The scope of the bill relates to railroads engaged in commerce in the District of Columbia, the Territories, and interstate commerce. The first paragraph of the bill sets aside the doctrine of fellow-servant, and also provides that common carriers engaged in interstate commerce by railroad shall be liable for injury caused by any defect or insufficiency due to their negligence in cars, engines, equipments, roadbeds and right of way, and in methods of operating the road. It abrogates the common-law doctrine of fellow-servant.

The first paragraph abolishes the common-law doctrine of fellow-servant and provides that common carriers of this character shall be liable for personal injury or for the death of the employee, even though it be caused by the negligence of the coemployee. The second section of the bill——

Mr. PAYNE. Is that without regard to the negligence on the part of anybody in the employ of the railroad company, to make them absolutely responsible, to insure them?

Mr. STERLING. It simply provides that they shall recover for an injury caused by the negligence of the company or any employee of the railroad company.

The second section relates to the common-law doctrine of contributory negligence, and in its scope is the same as the first section relating to common carriers by railroad engaged in carrying commerce in the Territories or the District of Columbia or between the States. It adds to the doctrine of contributory negligence a modified form of the doctrine of comparative negligence. It provides that the injured employee or his personal representative in case of death shall not be barred from recovery of damages on account of the negligence of the injured employee, if the negligence of the employee that is injured or killed is slight and that of the railroad company or its employees or agents or officers is gross in comparison with the negligence of the injured employee.

It provides further that the damages shall be diminished in proportion to the negligence attributable to the injured employee or the employee that is killed by the negligence of the company or its agents. The third section relates to the contracts of employment, indemnity, or insurance, which are being used very generally by many of the railroads, which seek to release the railroad company from liability for personal injury to the employee, regardless of whether or not the injury is due to the negligence of the railroad company. These contracts are com-

ing to be very generally used, and I think they ought to be declared as against public policy.

Mr. BARTLETT. Will the gentleman permit a question?

Mr. STERLING. I will yield to the gentleman.

Mr. BARTLETT. I would like to inquire of the gentleman as to the construction or intention of this act. Is it to make all railroads that are engaged in interstate commerce liable as provided for in the first section, whether the injury or accident happened while the train or the work that the employee was engaged upon was at the time interstate-commerce business? For instance, take the Southern Railroad, which runs from Macon, Ga., to this city; they also run trains that do not come beyond the limits of the State of Georgia. Suppose upon one of these trains that was doing business in Georgia, and did not go beyond the limits of Georgia, an injury should happen to an employee through the negligence of a coemployee, and the suit should be brought and tried in the State court, would this proposed law make the railroad liable in that instance?

I want to say to the gentleman from Illinois that I am in thorough accord with the purpose of this bill, or any bill that proposes to repeal the common law upon the subject of the negligence of the "fellow-servant," which at present makes it impossible for the servant to recover on account of the negligence of the coemployee, when the injured servant has not himself contributed materially to the injury. Our law in Georgia for fifty years has permitted a railroad employee to recover for the negligence of a fellow-servant, when the injured employee is without fault; but I want to inquire what the gentleman thinks is the effect of this act—whether it relates to an injury inflicted by a railroad engaged in interstate commerce, but the suit is brought for damages inflicted while the railroad is engaged in transactions of business which at the instance is not interstate commerce?

Mr. STERLING. I will say in reply to the gentleman that, in my opinion, it will affect the railroads engaged in interstate commerce whether the particular train, or the particular employee that is engaged on any particular train, happens to be at the time engaged in carrying commerce from one State to another or not. I will say, further, that the scope of the bill in that regard is set forth substantially in the same words as the act of Congress relating to safety appliances, approved in 1903, and also in substantially the same words as the arbitration law passed by Congress two or three years ago. I think, and I understand it is the opinion of the Interstate Commerce Commission, that that amendment to the safety-appliance law applies to trains of cars on railroads which carry interstate commerce, regardless of whether the particular car that has not the safety appliance is engaged in interstate commerce or not.

Mr. BARTLETT. I will ask the gentleman one more question, and then I will not trouble him further. Suppose suit is brought for an injury happening under circumstances which the gentleman has last detailed, and suit is brought in the State court, and the State has a law different from the one we have here—for instance, as is the law in the State of Georgia, which does not allow the doctrine of comparative negligence—how will this proposed act affect that?

Mr. STERLING. I think there is no doubt that this statute, within its scope, would control the statutes of the several States. That is one purpose of the bill, to have a uniform rule with reference to the employees engaged in interstate commerce.

Mr. BARTLETT. I have no objection; but what would be the effect—would it abrogate the law of my State?

Mr. STERLING. Yes; if the State law is in conflict with it.

Mr. LACEY. I would like to ask the gentleman a question.

Mr. STERLING. I will yield to the gentleman.

Mr. LACEY. Section 1 of this bill is practically, in its main feature, what we have had in Iowa since 1862, but there is this difference: The Iowa law, first enacted in 1862 and amended in 1873, provides for the negligence of any employee in connection with the operation of the railway when engaged on hazardous business of operating the railway.

Thus it legislates as to a particular class of employees and treats alike all who are engaged in like employment. The question of the constitutionality of the Iowa statute was raised, and it was held valid because it was limited to the dangers of railroading. It did not apply in railway machine shops and other work of that class. The law has worked well in Iowa for forty-four years, and other States have adopted it. But the constitutional objection was avoided there by the form of the law. I suggest that there may be a question raised under the form of this bill, which might easily be avoided. When the subject of the constitutionality of the Iowa law came up it was said that inasmuch as it was limited to that particular hazardous employment and treated all railways alike it was constitutional. Now, railways have machine shops, and this bill the way it is drawn provides that in a machine shop "or works" the same rule would not apply to a railroad machine shop that would apply to an ordinary machine shop.

Mr. STERLING. Mr. Speaker, I do not think it would apply to employment in a railroad shop where the company is engaged in the manufacture or repair of cars. I think it would apply to trainmen, switchmen, men in the roundhouse that have charge of the engines, and any other employees whose duty relates to or is connected with the business of carrying commerce, but I do not believe it would go any further than that.

Mr. LACEY. The words "or works" are added. In the Iowa law it is provided that where the injury grows out of the hazardous nature of the railway service, and that alone, they shall be liable, and that distinction has been drawn, and the constitutionality of the law sustained because the distinction was drawn; but if you provide a law that will not protect an employee in an ordinary factory and will protect him in the same sort of a factory when run by a railroad there might be a question about the validity or constitutionality of the act. In the light of the decisions in the Iowa law I suggest that care should be exercised to steer clear of constitutional objections.

Mr. STERLING. Mr. Speaker, I think the reason given by the gentleman himself is sufficient to sustain the bill as constitutional. I think it does relate to the extra hazardous occupation of the men employed by the railroad company.

Mr. YOUNG. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman yield?

Mr. STERLING. Mr. Speaker, I can not yield further, for the reason that my time is too limited.

The SPEAKER. The gentleman has eight minutes remaining.

Mr. STERLING. Mr. Speaker, I reserve the balance of my time.

Mr. DRISCOLL. Mr. Speaker, I did not demand a second for the purpose of opposing this bill, but I did hope to get the amendment which I offered before the House, and I did hope also that the amendment would be considered on its merits, because I believe it improves the first section of this bill very much. I will explain one or two of the provisions of that amendment. The amendment first provides that a husband may have a cause of action for the death of his wife under the same circumstances in which the wife may have a cause of action for the loss of a husband in case of death. I am not so very particular about that provision, but I think it is the law in most of the States, and I think it ought to be incorporated in this bill.

Second, this bill provides for a rule of damages, and it provides that the damages shall be what are considered a just and fair compensation resulting to the person or persons for whom the action may be brought on account of the death of the decedent. This bill says that if a man be killed his widow and children and next of kin dependent on him for support may recover all damages which they may suffer. Now, in my notion, the courts may construe that as allowing the jury to assess damages for loss of society, for wear and tear on the affections, for the affliction and bereavement caused, and for all sorts of loss and damages which the person whose loved one is killed may sustain. That would be entirely unfair. If the courts allowed the jury to do that, they would go into the realm of speculation and guess, and nobody could tell where they would stop, because there would be no limitation or rule of damages. Again, the amendment provides for the distribution of the recovery. The present bill does not provide how it shall be distributed. Now, the amendment provides that it shall not be subject to any of the debts of the decedent, that it shall be distributed as the unbequeathed assets after the payment of debts and expenses of administration. Let me apply this. Suppose an action is brought by a citizen of this District against a corporation in the District. The law of the District provides that damages recovered in this way shall not be subject to the debts of the decedent. An action is brought and two allegations are contained in the complaint, one for the negligence of a coemployee and one because of some defect or insufficiency in the ways or works which is the cause of action under the common law. Both theories are submitted to the jury. The jury returns a general verdict. Now, when it comes to the distribution of this money, according to this bill, the debts must be paid before the distribution. It does not say they shall not be, but debts are always a claim against the personal estate of everyone.

Mr. GILBERT of Kentucky. But that would not be a part of the assets of the decedent. That sum would not constitute any part of the fund——

Mr. DRISCOLL. But that ought to be stated.

Mr. GILLETT of California. Mr. Speaker, I will say that

the very point which the gentleman is now making was carefully considered by the Judiciary Committee, and the amendment was drafted so that the creditors should not have any claim upon it.

Mr. DRISCOLL. But it does not say so in the bill.

Mr. GILLETT of California. In effect it means that.

Mr. DRISCOLL. It ought to be stated in the bill that the damages recovered shall not be subject to the debts of the decedent, in order that there may be uniformity of law and that there be no confusion about the distribution of these funds.

Mr. GILBERT of Kentucky. I suggest that it has been repeatedly decided that damages recovered for the death of an employee do not constitute any part of the decedent's estate. It is not distributable among the creditors.

Mr. DRISCOLL. They will not if you say so in this bill.

Mr. GILBERT of Kentucky. Whether you say so or not.

Mr. KEIFER. Mr. Speaker, I rise to make an inquiry. This bill is presented under a motion to suspend the rules. A second has been demanded and the two gentleman managing both sides of the discussion are in favor of the bill. We would like to have had some one against it.

The SPEAKER. The Chair will state to the gentleman from Ohio that the only gentleman demanding a second was the gentleman from New York and it was impossible for the Chair to know whether he was for or against the bill.

Mr. KEIFER. But, Mr. Speaker, he stated that he was not opposed to the bill.

The SPEAKER. Not when he demanded a second.

Mr. KEIFER. I understood him to say that.

Mr. CRUMPACKER. Mr. Speaker, I rose to demand a second, and the gentleman from New York rose at about the same time, and I supposed, of course, he was against the bill; so I surrendered any claim that I might have.

The SPEAKER. If the Chair had been informed at that time that the gentleman was for the bill, the Chair would have recognized some one who was opposed to the bill, but the gentleman from New York was the only Member who demanded recognition.

Mr. DRISCOLL. Mr. Speaker, on that point I wish to say I asked the gentleman from Illinois who has charge of the bill if there was anybody on the committee who wanted to demand a second and he said he did not think so. I spoke to the gentleman from New Jersey [Mr. PARKER], who is against the bill, and told him I would not demand a second if he wished to do so, but I did want to offer this amendment and ask a few questions about this bill. Now, if it is in order and the proper thing to do, I yield the rest of my time to those gentlemen.

Mr. Speaker, this bill contains some provisions for the protection and benefit of employees in the railway service, but they are not all, in my judgment, so clearly and definitely stated as to be free from doubt as to their meaning, and much confusion and a large amount of litigation in their interpretation and construction are quite sure to follow.

Let us anaylze this first section. According to it a railroad company shall be liable to its employees for all damages which may result from the negligence of any of its officers, agents, or employees, and so forth. That is clear enough and not open to more than one construction. It discontinues the common-law rule of fellow-servant. In case of an employee's death, what happens? The company is liable "to his personal representative, for the benefit of his widow and children, if any; if none, for his next of kin dependent upon him," and so forth. Under the common law there is no cause of action for a death loss caused by negligence. Wherever such rights of action now exist they are created by statute, and such statutes have been passed by most, if not all, the States of the Union. Wherever a cause or right of action is entirely of statutory creation, the rights of the plaintiff and the liabilities of the defendant are limited by the scope of the statute. Nothing can be read into it, and it must be strictly construed. Now, an employee is killed by the negligence of his master, a railroad company. An action is brought by the executor of his will or the administrator of his estate. Where there are a widow and children the loss to them resulting from the death of the deceased is assessed in damages. But the question arises, How is it to be administered and how divided by the personal representative? Must the decedent's debts be paid before such distribution? If there is no widow or children, the recovery is for the benefit of "his next of kin dependent upon him." We will assume that this means dependent on him for support. It will be observed that the widow and children may recover for the death loss of the husband and father in any case, whether or not they are dependent on him for support. He is bound to maintain his wife according to his means, and his children until they are old enough to provide for themselves. But they may be independently rich; and yet under this provision they are entitled to damages for his death. But the next of kin can not recover, nor can any recovery be had for their benefit, unless they are dependent on the deceased for support. Suppose they are partly dependent on him and partly self-supporting, what, then, are their rights? Can they recover at all unless they are entirely dependent on him, or can a recovery be had for their partial dependence? These questions occur to me and are sure to arise if this bill becomes a law.

Again, according to what rule will the damages be assessed under the terms of this bill? Damages may be recovered under two heads: First, pecuniary damages, or loss in dollars and cents, caused by the death of the deceased; second, loss of society, affliction, and bereavement, caused by the death of the loved one. The pecuniary damage to the next of kin in most cases can be assessed by a jury with some degree of certainty. The age of the husband and father and his health, his devotion to his family, his earning power, and his prospects may be taken into account, and the age of his wife and the number and ages of his children, their social position, and all the circumstances surrounding the member killed and those who remain may be taken into consideration by the jury in the assessment of damage. But if the jury be permitted to assess damages for loss of society, mental suffering, tear and wear on the affections, affliction, and bereavement, there is no check or limitation which can be placed on the extent of the verdict, and the jury can not be prevented from entering the realm of speculation and guessing as to the amount of damage. My notion is that the damages should be limited to the strictly pecuniary loss of those entitled under the statute to recover.

The bill creates a new cause of action where none has heretofore existed under the Federal law. Therefore it should be reasonable, conservative, and especially it should be clear, definite, and certain, so that it may be readily understood and easily applied. Of course if it will die in the Senate, which fate is to be feared, it makes little difference how drastically or conservatively it is drawn. I trust that will not happen, and therefore hope that it may be made as practical and workable as possible.

The last clause in the first section provides that a railroad company shall be liable for an injury to or death of an employee "by reason of any defect or insufficiency due to its negligence in its cars, engines, appliances, machinery, track, roadbed, ways, or works." That is the common law now, only that the common law is more comprehensive. Generally a statute in derogation of the common law is strictly construed "expressio unius est exclusio alterius." It may be held that since this is in substance a codification of the law, a civil code so far as it goes, a cause of action can not be predicated on any defects or insufficiencies not specifically mentioned in this enumeration. Is a telegraph pole or other obstruction on a railroad, and so close to the track that a brakeman climbing up the side of a car may strike it, a defect or insufficiency? Is a low bridge, which will not clear a brakeman standing on a box car, a defect or insufficiency? Is the absence of proper and necessary rules for the protection of employees a defect or insufficiency on which a cause of action may be predicated under the provisions of this bill?

It may be claimed that the negligence in not preparing and promulgating such rules would be chargeable to the officers or agents of the company, and that a cause of action for such negligence would be included in the first provision of this section. I don't think so. Perhaps the enforcement of rules may be by the corporation committed to agents, and for their carelessness in the discharge of that duty an injured employee may have a good cause of action under the first part of this section. But the establishment of rules, in the first instance, is a duty which the common law imposes on the master, the railroad corporation, and until that is done no employee, high or low in authority, can be guilty of negligence with reference to them. Under this section it looks as if an employee injured because of the absence of such rules will have no redress. Further, suppose a "common carrier by railroad" is a natural person, it is quite clear there can be no recovery by employees for the neglect to establish such rules.

The range of possibility of accidents in the operation of a great railway system is practically unlimited, and there are many dangers to which employees may be subjected which are not specifically mentioned in this list of defects or insufficiencies. This attempted codification will work an injury rather than a benefit to the employees. In this particular respect it will probably prove to be a gold brick.

What is the meaning of this last clause in the first section on the question of assumed risk? It lays down a rule as to what negligence will make out an affirmative or prima facie cause

of action against the defendant railroad company. Can the defense of assumed risk be pleaded and established under it? The cars, engines, or appliances may be defective and dangerous, but if the employee prior to the accident knew of such dangerous and defective condition and remained in the service, under the common-law rule he is held to have assumed the risk and can not recover. The defense of assumed risk may be meritorious under some conditions and on some facts and should be allowed, and in other cases it is harsh, and even cruel, and should not, on the substantial merits, be permitted to defeat an otherwise good case. If an ordinary tool or simple piece of machinery be defective and dangerous and the operator has learned that fact and continues to use it, even without complaint, there is no good reason why the master should be liable to him in case of an accident. His opportunity of knowing of the danger to which he is being exposed is better than that of the company, and he should notify the proper authority and have the defect repaired or quit the service.

Take another case. A bridge over a track is so low that it will not clear a man of ordinary stature standing on top of a box car. The brakeman is aware of the fact; so is the company. Complaint will not avail, because it is a structural defect and can not well be remedied. Under the common law the employee must take his chances or leave the service. He is a poor man, with a family dependent on him for support. He must work, and continues in the service. By and by, during a dark, stormy night, the whistle sounds for brakes. He rushes on deck in great excitement to stop the train and avoid a wreck. He can not determine his exact location or proximity to the bridge. But it happens that he reaches the deck just as the train is passing under it. He is struck and injured or killed. It can not be said that he is guilty of contributory negligence under those circumstances; yet, under the common law, no recovery can be had, for he is held to have assumed the risk. This is a very unreasonable and hard rule. If it be the intention of the gentleman who reported this bill to eliminate the common-law doctrine of assumed risk, that should be stated. If it is their intention that it should continue in force and applicable to the construction of this statute, that should be stated. And if it be their intention to modify it in any measure or in any degree, that also should be stated.

The amendment which I have proposed clearly states for whose benefit an action may be brought in case of a death, and it permits the husband to recover for the loss of his wife. It allows damages to the father and mother and next of kin, according to their dependence on the deceased for support. If an aged and destitute couple have two sons who maintain them in comfort, and one is killed through the negligence of a railroad company, this amendment permits them to recover although not wholly dependent on that son for support; and permits sisters or brothers to recover, according to the degree of dependence for support on the decedent.

This amendment fixes a rule of damages in case of death, and confines it to the pecuniary injuries resulting from the decedent's death to the person or persons for whose benefit the action is brought. It also provides for the distribution of the damages recovered in cases of death loss. This is in substance an enabling act for the relief of those dependent or partially dependent on the deceased for support. The power which creates the cause of action has the right to say how the proceeds shall be disposed of. They should not be subject to decedent's debts, but should go to the husband, wife, children, parents, brothers, sisters, and other next of kin, according to the pecuniary damage resulting to them from his death. It also eliminates from this bill the enumeration of defects and insufficiencies in cars, locomotives, appliances, etc., on which actions of negligence may be predicated. All these defects and insufficiencies have been made the bases of recovery by numberless decisions in common law; and there are, in my judgment, many acts of negligence of which railroad companies may be guilty, not mentioned there, and others may arise and occur in the future development and complicated conditions of great railway systems. It is better and safer to make no attempt at codification of all possible acts of negligence.

I will vote for this bill in the hope that its imperfections may be corrected, and that it may be "whipped into shape" by the Senate, because it embodies at least one excellent provision. It abolishes the ordinary common-law defense of fellow-servant, and permits one employee to recover for an injury caused by the negligence of a coemployee. There may be instances where this departure from the common-law doctrine will result in hardship to the railroad companies, but in the great majority of cases, as applied to modern railroading, it is just and fair and should be recognized as a correct rule of law.

Two men are at work in a ditch, and one strikes the other with his pick or shovel. Two men are pounding at an anvil, and one delivers a careless blow, injuring the other. Two men are lifting a piece of timber and one negligently lets his end fall, injuring the other. There is no good reason why the common master should be liable in any of these cases; because when two men are engaged in such employment, where they can observe each other daily, each may have a better opportunity than the master of learning the habits and character of the other. The rule which is sought to be abolished in this bill arose and became a part of the common law before the high development of our industrial conditions, when only a few men worked together side by side on the farm or in the small shop, and there was comparatively little danger of accident, and each had a fair chance of protecting himself against the negligence of his coworkers.

In modern railroading these conditions are entirely changed. And yet the common-law rule which originated under entirely different circumstances is continued in force in many of the States and applied by the courts with unrelenting severity. Under it the master is not liable to one servant for injuries caused by the negligence, carelessness, or misconduct of a fellow-servant engaged in the same general business. This is true, although the grade of the employment is different and the one injured is subject to the orders and control of the one by whose negligence the injury is caused, the test generally being whether they are under the same general control and management. It is true that the master is bound to exercise reasonable care in the employment of reasonably competent coservants; but having discharged that duty he is not responsible to one servant for any degree of carelessness on the part of another. He is liable to his servants for the negligence of any employee, from superintendent down, in the discharge of those particular duties which pertain to the master. That, however, affords but very little relief in actual practice, for the reason that a very large proportion of accidents in railroading are caused by the negligence of some of his employees who are not at the time discharging the duty of the master. Practically all of the employees of great railroad corporations are held to be coservants; and accidents are constantly occurring, resulting in bodily injuries and death, for which no recoveries can be had by the application of this rule.

For instance, an engineer on the New York Central system runs the Empire State Express from New York to Albany, where a drunken switchman is asleep at his post, and runs him into eternity. A train is stopped out in the country, and a stupid or tired brakeman neglects to hasten back and signal a following train, and a wreck occurs. A careless engineer misreads an order, and instead of taking a side track continues on a main line until he is stopped by a head-on collision. A love-sick messenger is guilty of an error in receiving and transmitting an order, and several lives are lost. A shiftless workman leaves an obstruction on a track, and a train is derailed at full speed. In all these cases and in others beyond the possibility of enumeration or description, faithful, capable, and careful men are injured and killed; and there is no redress for the reason that the accidents are caused by the careless acts of others, and those others are held by the courts to be co-employees. The locomotive engineer may be an absolute stranger to the switchmen, signalmen, messengers, operators, section bosses, trackmen, bridge tenders, and other employees along the line. He may have had no opportunity whatever of knowing them or anything about them, their habits, character, or experience. Yet he is obliged by law to assume all the risks and dangers of their carelessness; and if he is injured through the negligence of any one of them he has no redress. He has no opportunity of learning as to their fitness. He has no power to hire or discharge. He has no control or authority over them. He is expected to do his part of the work, and they theirs. Yet each is required to assume the risk caused by the carelessness of the others. This hard-and-fast rule has been abolished or modified in many European countries and in several of our States. In Illinois and some other States where it is not discontinued by statute, it is very much relaxed in its application by the courts, while in New York and some other States, it is retained and applied in all its rigor. We complain not of the judges, whose duty it is to interpret and apply the law as they find it. This they do ably and conscientiously. Our contention is that this rule of common law should be modified by statute. As applied to railroading, and especially the transportation or running department in which most of the accidents occur, this rule is bad in principle and worse in practice. The railroads of our country are being united into a few great systems, and if this combination and concentration continue all may be put under one head or management. Now, if an engineer or trainman leaves one company he may not readily secure employment in another without a

certificate of character from his last employer. He must work to earn his daily bread, and it is not fair to compel him to assume the risk of accidents caused by other employees in a very large, complicated, and dangerous service.

But it may be said that each employee has a cause of action against any other through whose negligence he has suffered injury. That is true in theory, but practically it is no protection, because the coemployee in almost all cases is financially irresponsible.

Common carriers by railroads take special pains for the care and safety of their passengers. Why? Because they must respond in damages to them for the carelessness of their employees. Were they held liable to one servant for the injuries suffered through the negligence of another in the running service they would exercise greater care. They would be more particular in the employment and distribution of their men, more vigilant in watching them, and more careful about their habits and character, and they would look to it that those men were not overworked in the freight service and rendered unfit to discharge the responsible duties imposed on them. Fewer accidents would occur and fewer limbs and lives would be lost.

Railroads should not be the objects of hostile legislation. They have been wonderful instrumentalities in subduing and developing our land and in building up our industries, and they should not be crippled or their usefulness impaired. Their managers are men of remarkable ability and enterprise, else they would not be there. As individuals they may be gentlemen of large hearts and broad sympathies. But they are bent on extending their lines, making money, and paying dividends. The companies have no hearts, and no sensations except through their financial nerves. The only manner in which they can be persuaded to take reasonable care of their employees is by holding them responsible in damages for the absence of such care. This is not unjust to the companies. Under this bill they are all treated alike. If they must raise passenger and freight rates to meet the demand of extra protection and expense under the operation of this law, let it be done. But let the employees be protected as far as may be, and if killed in the service through no fault on their part let their families have some adequate redress.

Again, railroad companies are quasi public servants. They receive from the State charters and franchises with large powers and privileges, and in return for those they are under some obligations. Those companies and their employees are not the only ones interested in their relations of master and servant and not the only ones concerned in the protection of the health and lives of the employees. There is a third party, the public—society. If the breadwinner of a family is killed, his wife and children are thrown on the city or town for support. If he is crippled for life, he and his family become burdens on society. Every able-bodied man who is impaired in usefulness or killed is a loss, and no matter how broadly that loss may be distributed it becomes a burden on society. It is the right and duty of society to protect itself in this regard, and in that protection it is justified in requiring railroad companies, under reasonable laws and regulations, to assume the burdens created by them and provide for the support of those they have crippled and for the families of those they have left destitute.

The SPEAKER. The gentleman yields the remainder of his time to the gentleman from Indiana [Mr. CRUMPACKER].

Mr. CRUMPACKER. Mr. Speaker, in view of the importance of this measure, I ask unanimous consent that the time for debate be extended one hour, thirty minutes on a side.

The SPEAKER. The gentleman from Indiana asks unanimous consent that time for debate be extended one hour, making thirty minutes additional time upon each side. Is there objection?

Mr. STERLING. I object, Mr. Speaker. Well, I withdraw the objection.

The SPEAKER. Is there objection?

Mr. JAMES. I object.

The SPEAKER. The gentleman from Kentucky objects.

Mr. CRUMPACKER. Mr. Speaker, I am in favor of a proper law imposing upon common carriers responsibility for injuries to their employees that are the result of the carelessness of coemployees. I believe now, and always have believed, that that responsibility ought in justice and equity to be carried by the employer rather than by the employees who have no authority over their fellow-servants. The employer who selects and controls his servants should be responsible to all for the result of their carelessness. But section 2 of the pending bill, in my opinion, is not only unwise, but will result in the ultimate defeat of the measure. That section revolutionizes the generally accepted doctrine of contributory negligence, and provides the illogical and impracticable principle of comparative negligence in its stead. The principle of comparative negligence has been repudiated by nearly every State in the Union. It introduces into every personal-injury case a metaphysical element that it is impossible to administer with any degree of justice or certainty. It is speculative and unscientific and is a dangerous principle to embody in any kind of legislation. The first section of the bill is a radical departure from principles of the common law that have been recognized all over this country, but the principle of holding the employer liable for injuries to one employee resulting from the negligence or inefficiency of a coemployee is just and humane and I am in favor of it, but I am not in favor of a law that allows one who is injured through his own negligence to recover damages from anyone else for that injury.

Most of the States in the Union have statutes making railroad companies responsible to employees for injuries that are inflicted upon them by the carelessness and negligence of coemployees. As I said a moment ago, I believe in those laws and will be glad to support any bill embodying that idea. My only objection to this bill is to the provisions contained in section 2 relating to the question of comparative negligence. I oppose that provision on the ground that it is impracticable and dangerous.

Mr. COOPER of Wisconsin. Mr. Speaker——

The SPEAKER. Does the gentleman yield?

Mr. CRUMPACKER. I yield for a question.

Mr. COOPER of Wisconsin. I interrupt here because I heard the gentleman from Indiana say that he had no objection especially except to section 2. In this connection I would like to ask the gentleman a question. What effect, if any, in his opinion, would the enactment of this bill into law have toward ousting State courts of jurisdiction in suits of this kind, Congress being supreme in all matters of interstate-commerce regulation?

Mr. CRUMPACKER. That is a matter to which I have given but little thought.

Mr. COOPER of Wisconsin. It is a very important one.

Mr. CRUMPACKER. My offhand impression is that it would not transfer jurisdiction of this class of cases from the State courts to the Federal courts, because it is only an incident of interstate commerce. But suits under this bill, if it should become a law, would be transferable to the Federal courts, because they would necessarily involve Federal questions. What I mean is that this bill would not abrogate State laws on the same subject, and suits under State laws would not be transferable to the Federal courts. Regulation of employees in their relations to the employer in interstate transportation is only an incident of commerce and is under the police control of the States. It is doubtful in my mind if this bill would be held to operate at all outside of the Territories and the District of Columbia. Personal-injury cases, even against interstate transportation companies, have always been regarded as local and subject only to State laws, and when they are removed to the Federal courts under the rule of diverse citizenship the rights and liabilities of the parties are always determined by the laws of the State where the injury occurred. Of course, this doctrine does not apply in the Territories and the District of Columbia.

This bill ought to be discussed more thoroughly and exhaustively than it can be on a motion to suspend the rules, when the time for debate is limited to twenty minutes on a side and no amendments can be offered. When I came into the Hall this morning I had no thought that the bill would come up in this manner, and I have had no time to give any considerable attention to its provisions. I want to assist in the enactment of a law containing the coemployee liability feature, but I confess I have little respect for the doctrine of comparative negligence. I know something of its operation in the State of Illinois, where it has been practically abandoned in recent years. It abolishes the principle of contributory negligence. Section 2 provides that the fact that an injured employee may have been guilty of contributory negligence shall not be a bar to recovery where his negligence was slight. By what standard can it be determined whether negligence is slight, ordinary, or gross? It is a pure matter of speculation. It has been asserted that under the common-law doctrine of contributory negligence an employee can not recover for an injury if his negligence, however slight, contributed to bring it about. Contributory negligence, to defeat a recovery, must be a substantial departure from that degree of care that a man of ordinary prudence would exercise under similar circumstances.

By increasing the responsibility of railroad companies we make them more vigilant in employing capable and trustworthy men and in maintaining the best possible equipment. They will be prompted to adopt every safeguard to promote safety of transportation and to protect the traveling public and their own

employees. On the other hand, trainmen should feel some responsibilities. The men who run railroad trains and have in charge the safety of the traveling public are the most intelligent and trustworthy class of men in the country. They are prompted to adopt every safeguard for the protection of life and limb not only by a high sense of duty, but by considerations of personal safety as well. Mr. Speaker, how much time have I remaining?

The SPEAKER. The gentleman has one minute.

Mr. CRUMPACKER. I yield that minute to the gentleman from New Jersey [Mr. PARKER].

Mr. PARKER. Mr. Speaker, I shall ask unanimous consent that the views which I have printed as minority views may be taken as a part of my remarks.

They are as follows:

The questions as to how far employers should be liable to their employees for the acts of fellow-servants, the degree of contributory negligence on the part of the person injured that should bar a recovery, and the extent to which the contract of employment should govern are of the utmost importance, and the considerations in favor of a relaxation of the strict rules of the common law have caused the passage and amendment of numerous State statutes, under which experience is teaching how the good of the community may be best obtained.

But these questions should be governed by the law of the State having jurisdiction of the employment, and the jurisdiction of the contract of service should not be made national because the employer is engaged in interstate commerce. The attempt to pass such a law will cause inextricable confusion as to where the State and national law should govern, especially in the case of local employees. It will abolish the advantage of practical experience, testing the value of the various State provisions, and the plaintiff will be sent to the distant, crowded, and expensive forum of United States courts, and the cause of the employee is more likely to be hurt thereby than aided by anything contained in this bill.

I sympathize with proper expansion of the right of an employee to recover for accidents in a dangerous occupation, employing hosts of men whose negligence may cause irremediable personal injury to each other; but I think this modification of the common law should and will be provided by the various States and that this bill will be an injury to those that it attempts to benefit. It is a question whether we can legislate as to all employees, as for example, if a couple of men are shoveling dirt into a railroad car and one happens to hit the other with a shovel. But even in the most pitiful cases of injury it will not help the parties that the railroad should have the right to remove the suit to a United States court, and thereby to take that suit to a distant court with a crowded calendar which may not be called for years. Pass this bill and it would add 20,000 cases in the United States courts and subject plaintiffs to appeals to the United States courts of appeal which, if these cases be added, might take ten years. I think my minute is about up. I do not believe in that legislation which will cause this result, and I doubt also whether it be constitutional to take all questions between employer and employee away from the State.

Mr. STERLING. I yield two minutes to the gentleman from Illinois [Mr. MANN].

The SPEAKER. The Chair was in error. The gentleman from Indiana has seven minutes still remaining.

Mr. CRUMPACKER. I yield two minutes to the gentleman from New Jersey [Mr. PARKER].

Mr. PARKER. Mr. Speaker, there is no contract, except perhaps that of marriage, which goes deeper into those personal rights of man and man which are reserved to the States than the contract of employment and the rights as between employer and employee, as well as the right of suit for personal injury caused by the negligence of another. I can not believe that it is for the benefit of the people of the United States that the jurisdiction of the States over these matters should be infringed. I doubt whether the power to regulate interstate commerce carries with it the power to change this relation between employer and employee. If it be so, and if this were the best bill in the world, the confusion that would take place on a railroad which does some of its business outside of a State and some of its business inside of a State would be inextricable. It would lead to various decisions, varying judgments, and to difficulties which would not tend to the benefit of those whom this legislation attempts to benefit. I therefore am opposed to this legislation, believing that all these questions are benig worked out in the various States by various statutes; that the best statute will prove its right to remain, and that the worst will be amended so as to be like the best.

Mr. CRUMPACKER. Mr. Speaker, I now yield four minutes to the gentleman from Ohio [Mr. KEIFER].

Mr. KEIFER. Mr. Speaker, I am very sorry that the gentleman moved to suspend the rules and to pass this bill under such circumstances that we can not have ample opportunity to discuss it. I think the bill with ample discussion would be better understood, and perhaps we would feel a little freer about what we should do in the matter of voting for it. I shall be compelled to vote against it, as at present advised, because I do not believe it is constitutional. I do not believe that under that provision of the Constitution of the United States such a law is constitutional because it is regarded as regulating interstate commerce. I read from the third clause of section 8 of Article I of the Constitution, in which it gives power to Congress "to regulate commerce with foreign nations and among the several States and with the Indian tribes:"

Now, it is said we have the power to regulate commerce and provide rules that are to be applied in court in determining the measure of damages between litigants. Does that regulate commerce? Is there a decision of any court in the United States that recognizes that principle? If it is not constitutional in that respect, it is wholly unconstitutional.

Besides, I am satisfied that the first section lays down an illiberal rule, in some respects, for employees in bringing suit against the railroad company where the coemployee has been guilty of some negligence. In my own State, and other States, I know we have rules that are properly applicable in cases of that kind. The second section, as the distinguished gentleman from Indiana has said, undertakes to lay down a rule that requires the court to submit the whole question of contributory negligence to a jury, they to determine what is slight and what is gross negligence, and to apportion it. The rule of slight negligence is one well understood, and I am sorry we have not time to consider it here. Many persons have recovered, under the rules of the Supreme Court of the United States and of the States, who have been guilty of some slight negligence that did not directly contribute to the injury—that is, to the proximate cause of the injury complained of. A person may recover in these damage suits, although he has been guilty of some form of negligence. A woman in this city a few years ago passed safely over a railroad line and was frightened at a car coming, jumped off, and was injured after she got off. It was contended that it was her own negligence in jumping off the car that caused the injury. The Supreme Court of the United States unanimously said that she acted according to the surroundings and environment, and while it was a very negligent act in jumping off the car, that it was not the proximate cause of the injury, and she recovered. Mr. Speaker, there are other objections and I feel that the bill ought not to pass. It is not regulation of interstate commerce to provide that contracts between railroad companies as to insurance shall be void. So as to fixing a rule of recovery by an employee against a railroad company. It is not good policy to put it in the power of a railroad to take all damage cases into the United States courts.

Mr. CRUMPACKER. Mr. Speaker, the motion before the House is to suspend the rules and pass the bill. The bill is not subject to amendment under this motion. It requires a vote of two-thirds to suspend the rules and pass it. If the motion is voted down the bill will not be defeated, but will remain on the Calendar to be called up for consideration in the regular way. Therefore a vote against the motion to suspend the rules is not a vote against the bill; it is a vote to consider it regularly, when there may be more time to devote to it and when it may be open to amendment.

Mr. STERLING. I now yield two minutes to the gentleman from Illinois [Mr. MANN].

Mr. MANN. Mr. Speaker, this bill is to make a law which is to be known as the "employers' liability act," similar to laws which have been adopted by almost every civilized nation using the common law in the world, and by many of the States in this Union. Under the common law where an injury to one of the employees occurs by reason of the negligence of a coemployee the employer is not liable. Such a law was well applicable where a man had only two or three servants employed under him, but it has no application in justness or fairness to the great corporations of our country, such as the railroad corporation. In three months of last year there were 931 railroad employees killed at their posts of duty. In three months of last year there were 13,217 railway employees injured at their posts of duty, not mentioning those who met such slight injuries as only required a lay off of two or three days. These injuries largely occurred through the negligence of fellow-employees. They resulted not only in the injury to the railroad employees themselves, but often they killed passengers who rode upon the railroad. The best inducement that can be offered to the railways to look after their employees and see that they have careful men employed, sober men employed, men employed not more than ten hours and at least not twenty hours at a time without sleep—the best way to enforce this is by requiring them to pay damages when an engineer on duty for twenty hours falls asleep and a collision occurs and injures his fellow-servants.

It may be true that this bill is not perfect in form. I have

tried for years in my mind to draft a bill which I thought would be constitutional and would cover the case. It may be true that this bill is not perfect in form, but it meets the wishes of the men who are most interested. It has been prepared by and with the consent of the railway employees, who will benefit by its provisions. The gentlemen who now urge little questions against it as to its technical form may be right; I do not know. They may be opposed to the principle of the bill; I do not know. But I am willing to vote for a bill of this kind which meets justice and which meets the approval of the men who are most interested. It is time that the United States of America, the most civilized of nations, compelled its railway companies to provide every possible means of saving and conserving the lives both of the employees and of the passengers. A bill like this is a long step in the right direction. [Applause.]

Mr. STERLING. Mr. Speaker, I yield four minutes to the gentleman from Texas [Mr. HENRY].

Mr. HENRY of Texas. Mr. Speaker, in the short time allotted me I wish to say this bill comes from the Committee on the Judiciary with a practically unanimous vote. The first section of it abolishes the doctrine of fellow-servants, as the laws of many States in the Union have already done. The second section does not abolish the doctrine of contributary negligence, as some gentlemen seem to think, but it only modifies and mitigates it, and institutes the humane doctrine of comparative negligence where the negligence of the employee has been slight and that of the carrier has been gross and criminal. The third section of this bill has the effect of limiting the binding force of the contracts that are entered into by many railway employees when they enter the service of the railroads. All of these sections are good and humane principles of law. The Committee on the Judiciary has thoroughly considered these propositions from every standpoint. The labor men in the country have come before that committee, and have had all the time they wished, and those representing the carriers and the corporations have presented their side of the proposition. The Committee on the Judiciary has deliberately come to the conclusion that these doctrines as embodied in this bill should be enacted into law. Every one of them is founded on the sound principle of logic, justice, and humanity. I trust that all Members in this House will see proper to support the bill. I do not believe that one fraught with more importance and good to that great class of people interested has ever come before the House of Representatives during my incumbency. It has received my most careful consideration and shall cordially receive my vote, and I call upon all gentlemen, not only on this side of the House of Representatives, but on the other side, to give their support to this measure which is so manifestly just to more than 2,000,000 people engaged in the hazardous occupations and employments of life. [Applause.] Mr. Speaker, I now yield one minute to the gentleman from Mississippi [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, I have read this bill very carefully and the very able favorable report recommending its enactment into law. Of course I have not time in one minute to give "the reasons for the faith that is in me." I want merely to say that in my opinion it is needed and wise legislation. I might as well stop with that because I see that the minute is out. [Applause.]

Mr. STERLING. Mr. Speaker, I yield to the gentleman from Georgia [Mr. BARTLETT] half a minute.

Mr. BARTLETT. Mr. Speaker, I merely wish to say this in the short time allotted me, that I am in thorough accord with any bill that properly seeks to give in the trial of these cases in the United States courts the same rights in principle and theory that my native State gives in the trial of such cases in the State courts, and that is that the fact that a railroad employee was injured by the negligence of a coemployee shall not bar his right to recovery when he has been injured. I deem that the principle, the main theory in the bill, is to repeal the old harsh common-law rule in the case of suit by a servant of the interstate railways who has been injured by the negligence of their fellow-servants and permit him to recover for the injury caused by the negligence of a fellow-servant. For this reason I cordially support the bill and hope that it will pass. I think that it could be improved by some amendment I could suggest; but as that can not be done now, rather than endanger its passage, I am satisfied to vote for it as it has been reported.

Mr. HENRY of Texas. Mr. Speaker, I desire to yield one minute of my time to the gentleman from Texas [Mr. BEALL].

The SPEAKER. The gentleman has no time remaining.

Mr. HENRY of Texas. Then, Mr. Speaker, I ask unanimous consent that the gentleman from Texas [Mr. BEALL] be allowed to proceed for one minute in support of this bill.

The SPEAKER. The gentleman from Texas asks unanimous consent that his colleague may be allowed to proceed for one minute. Is there objection?

Mr. GILLETT of Massachusetts. Mr. Speaker, I object.

Mr. STERLING. Mr. Speaker, I yield half a minute to the gentleman from Virginia [Mr. FLOOD].

Mr. FLOOD. Mr. Speaker, I will devote the short time given me to a discussion of the first two sections of the pending bill. They are of great importance to the railroad employees of the country. I have not the time for a discussion of the third section.

The purpose of the first section is to change the common-law liability of railroad companies to their employees when it is engaged in interstate commerce or is operating in the District of Columbia or one of the Territories.

It relaxes the strict common-law rule of liability which bars a recovery for damages for personal injury or death of the employee occasioned by the negligence of a coemployee and permits a recovery in such cases.

The fellow-servant doctrine was first enunciated in England in 1837 in the case of Priestley v. Fowler, and since that time has been followed in that country and this, except where abrogated or modified by statute.

So long as the industries of the country were conducted by private persons under their own supervision, the liability of the employer to his employee for injury by the acts of himself or his coemployee was easy of solution, and no statutory enactment was necessary.

These conditions, however, have changed, and the reasons which existed for this doctrine when it was first enunciated no longer exist and it should be changed.

In 1888 England passed an act abolishing the fellow-servant doctrine with reference to the operating of railroad trains, and in 1897 extended the provisions of this law to other hazardous employments.

A great number of the States of the Union have passed laws modifying or abolishing this doctrine. In Iowa this was done as early as 1862, and in the State which I have the honor in part to represent upon this floor such a law has not only been placed upon the statute books, but has been incorporated in the fundamental law of the Commonwealth.

The time has certainly arrived when the National Government should follow the lead of those enlightened and progressive States and do what it can to make this doctrine uniform.

There can be no doubt that the enactment of these laws was wise and has been conducive to greater care on the part of the railroads, and has not only saved the lives and limbs of worthy and deserving employees, but of passengers as well. There can be no doubt that their enactment was just. Under the old fellow-servant doctrine practically no one was responsible for the death of an employee. The co-servant might be held liable, but, as a rule, nothing could be made by suing him, and the employer was exempt from liability. This was a harsh rule to apply to the brave men who are employed to operate the railroads of the country. The rule was not only harsh, but was wrong. The responsibility should be carried by the employers rather than the employees, who have no voice in the selection of or any authority over their fellow-servants, and oftentimes no acquaintance with them or knowledge of their characteristics or habits.

As a member of the Virginia legislature and as a member of the constitutional convention of that State of 1901-2, I had the pleasure to vote for measures abolishing this old and obsolete doctrine, and I am glad to have the opportunity to vote to place upon the national statute books a law abrogating it.

The second section of this bill modifies the common-law rule of contributory negligence. This has my hearty support, though that section is not as strong as I would make it. There are some provisions of the bill I would like to strengthen, but under the rules which now apply no amendment can be considered, and therefore I give the bill in its present form my cordial support.

Let us hope, Mr. Speaker, that it will do something toward stopping the fearful slaughter of human life and destruction of human limbs by our railroads. In three months of 1905, 971 railroad employees were killed and 13,217 were injured. If this is a fair average, and I suppose it is, it means that 3,724 human lives are taken and 52,868 human beings were maimed by the railroads of this country each year. Most of the men injured were engaged in the operating departments of the railroads. They are brave and faithful, and are splendid citizens. Their worth is not fully understood nor appreciated by the general public. Sober, silent, and alert, they discharge their dangerous

duties with the one desire to serve their company and the public in the best possible manner.

If all the dangers of the rail were as patent to the public as to these men, there would be very little traveling for pleasure. The public hears only of the accidents that occur, and not the thousands that are averted by the cool judgment and leonine courage of the train men. If an accident happens, those in the coaches must be saved, if possible, regardless of the train men. They must stand at their posts, like the Roman sentinels, "though the heavens rain fire."

The purpose of this bill is to give relief against the rigors of the common law to these men and others engaged in this important, extensive, and hazardous industry. It should become a law, and I hope it will. [Loud applause.]

Mr. STERLING. Mr. Speaker, I desire to say in reply to the gentleman from Indiana [Mr. CRUMPACKER] that this bill does not establish the doctrine of comparative negligence in its original form. It modifies that doctrine. Under the doctrine of comparative negligence the injured man, or his representative in case of death, is entitled to recover full damages even though he was guilty of slight negligence, if that of his employer was gross in comparison, but this bill requires the court or the jury to distribute the burden of the injury to those who are responsible for it. It does not bar the right of the injured to recover if he is guilty only of slight negligence, if the negligence of the employer is gross in comparison. In such a case, however, he can not recover full damage for the injury suffered. The amount that he might recover under the old doctrine must be diminished in proportion to the negligence attributable to him. He must pay the penalty of his own negligence; the employer pays the penalty of his. I submit no proposition could be more fair. No other proposition is fair. I desire to quote on this question one of the leading law writers. Beach, in his work on Contributory Negligence, page 136, comments on the law as provided in this section as follows:

> Much may be said in favor of the rule which counts the plaintiff's negligence in mitigation of the damages in those cases which frequently arise, wherein, on one hand, a real injury has been suffered by the plaintiff, by reason of the culpable negligence of the defendant, and yet, where, on the other hand, the plaintiff's conduct was such as to some extent contribute to the injury, but in so small a degree that to impose upon him the entire loss seems not to take a just account of the defendant's negligence. In those cases, which may be denominated "hard cases," the Georgia and Tennessee rule in mitigation of damages without necessarily sacrificing the principle upon which the law as to contributory negligence rests is a rule against which, in respect of justice and humanity, nothing can be said. Where the severity of the general rule might refuse the plaintiff any remedy whatever, as the sheer injustice of the rule, as laid down in Davis *v.* Mann, would impose the whole liability upon the defendant, it is quite possible to conceive a case where the application of the rule which mitigates the damages in proportion to the plaintiff's misconduct, but does not decline to impose them at all, would work substantial justice between the parties.

Shearman and Redfield on the Law of Negligence, fifth edition, page 158, in speaking of this rule, say:

> This is substantially an adoption of the admiralty rule, which is certainly nearer ideal justice, if juries could be trusted to act upon it.

Many of the States have passed statutes abolishing the doctrine of fellow-servant in the operation of railroads. Some have abolished it as to all hazardous occupation, and a few have eliminated it altogether. The State legislatures of some of the States have greatly qualified the rule of contributory negligence. The courts of the different States have construed the rule differently. Some of the States have declared the contracts referred to in section 3 void as against public policy; some have not. The result of all this is that there is a great diversity of law throughout the country on these questions. This bill will create a uniform rule everywhere, which is greatly to be desired.

Mr. PADGETT. Will the gentleman yield for a question?

Mr. STERLING. If it is brief I will. I just have one minute.

Mr. PADGETT. I notice the language in section 2 says that where the negligence of the plaintiff was slight and that of the employer was gross in comparison. Suppose they are nearly equally balanced, what would be the right to recover?

Mr. STERLING. If the negligence of the plaintiff is more than slight he can not recover at all; if the negligence of the defendant is less than gross, then the plaintiff can not recover at all. Now, Mr. Speaker, the purpose of this bill is to give relief against the rigors of the common law to a class of employees engaged in the most important, the most extensive, and the most hazardous industry and occupation in the country, and it is a just and a righteous proposition and ought to become the law of the land. Mr. Speaker, I call for a vote.

The SPEAKER. The question is on suspending the rules, agreeing to the amendments, and passing the bill as amended.

The question was taken; and in the opinion of the Chair, two-thirds having voted in favor thereof, the rules were suspended and the bill was passed. [Applause.]

FORTIFICATION OF PURE SWEET WINES.

Mr. NEEDHAM. Mr. Speaker, I move to suspend the rules and pass the bill H. R. 15266, with committee amendment.

The SPEAKER. The gentleman from California moves to suspend the rules, agree to the amendment, and pass the bill, which the Clerk will report.

Mr. CLARK of Missouri. Mr. Speaker, is this the proper place to demand a second?

The SPEAKER. No; the bill will be reported first. The Clerk will report the bill.

The Clerk read as follows:

A bill (H. R. 15266) to amend existing laws relating to the fortification of pure sweet wines.

Be it enacted, etc., That section 43 of the act entitled "An act to reduce the revenue and equalize duties on imports, and for other purposes," approved October 1, 1890, as amended by section 68 of the act of August 27, 1894, be further amended, so as to read as follows:

"SEC. 43. That the wine spirits mentioned in section 42 of this act is the product resulting from the distillation of fermented grape juice, to which water may have been added prior to, during, or after fermentation, for the sole purpose of facilitating the fermentation and economical distillation thereof, and shall be held to include the product from grapes or their residues, commonly known as grape brandy; and the pure sweet wine, which may be fortified free of tax, as provided in said section, is fermented grape juice only, and shall contain no other substance whatever introduced before, at the time of, or after fermentation, except as herein expressly provided; and such sweet wine shall contain not less than 4 per cent of saccharine matter, which saccharine strength may be determined by testing with Balling's saccharometer or must scale, such sweet wine, after the evaporation of the spirits contained therein, and restoring the sample tested to original volume by addition of water: *Provided*, That the addition of pure boiled or condensed grape must or pure crystallized cane or beet sugar to the pure grape juice aforesaid, or the fermented product of such grape juice prior to the fortification provided by this act for the sole purpose of perfecting sweet wines according to commercial standard, or the addition of water in such quantities only as may be necessary in the mechanical operation of grape conveyors, crushers, and pipes leading to fermenting tanks, shall not be excluded by the definition of pure sweet wine aforesaid: *Provided, however*, That the cane or beet sugar, or water, so used shall not in either case be in excess of 10 per cent of the weight of the wine to be fortified under this act: *And provided further*, That the addition of water herein authorized shall be under such regulations and limitations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may from time to time prescribe; but in no case shall such wines to which water has been added be eligible for fortification under the provisions of this act where the same, after fermentation and before fortification, have an alcoholic strength of less than 5 per cent of their volume."

SEC. 2. That section 49 of the said act, approved October 1, 1890, be amended so as to read as follows:

"SEC. 49. That wine spirits used in fortifying wines may be recovered from such wine only on the premises of a duly authorized grape-brandy distiller; and for the purpose of such recovery wine so fortified may be received as material on the premises of such a distiller, on a special permit of the collector of internal revenue in whose district the distillery is located; and the distiller will be held to pay the tax on a product from such wines as will include both the alcoholic strength therein produced by the fermentation of the grape juice and that obtained from the added distilled spirits, subject, however, to the provisions of section 3309 of the Revised Statutes of the United States, as amended by section 6 of the act entitled 'An act to amend the laws relating to internal revenue,' approved March 1, 1879; and such spirits so recovered may be used by such distiller to fortify wines as authorized by section 42 of the aforesaid act, approved October 1, 1890."

SEC. 3. That the Commissioner of Internal Revenue is hereby authorized to assign at each winery where wines are to be fortified such number of gaugers or storekeeper-gaugers, in the capacity of gaugers, for special duties as may be necessary for the proper supervision of the making and fortifying of such wines, and the compensation of such officers shall not exceed $5 per diem while so assigned, together with their actual and necessary traveling expenses, and also a reasonable allowance for their board bills, to be fixed by the Commissioner of Internal Revenue, but not to exceed $2 per day for said board bills; and to cover the expenses to the Government attending the making and fortification of such sweet wines there shall be levied and assessed against each maker of such wines, and collected monthly, a charge of 3 cents on each taxable gallon of brandy used by him in the fortification of such wines during the preceding month. That bonds hereafter given under the provisions of the aforesaid act of October 1, 1890, as amended, shall be conditioned for the payment of the tax on all brandy removed thereunder and not used and accounted for within the time and in the manner required by law and regulations, and for the payment of all charges herein imposed on the brandy so withdrawn and used; and the said bonds shall contain such other conditions as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may by regulation prescribe.

SEC. 4. That where brandy to be used in the fortification of wine is distilled on premises adjacent to the winery premises the Commissioner of Internal Revenue may, in his discretion, authorize the erection on either of said premises of fermenting vats for material to be used either in the manufacture of such wines or the brandy to be used in the fortification thereof; and all such materials used or received on either of said premises shall be under the supervision of the officer assigned to such winery, and shall be accounted for at such times and in such manner as the Commissioner may direct.

SEC. 5. That the provisions of sections 3221 and 3223 of the Revised Statutes of the United States, as amended by an act approved March 1, 1879, are hereby extended to grape brandy withdrawn for use in the fortification of sweet wines, and which, prior to such use, is accidentally destroyed by fire or other casualty while stored in the fortifying room on the winery premises.

SEC. 6. That any person who by any process recovers from wines fortified under the provisions of the aforesaid act approved October 1, 1890, or amendments thereto, any brandy or wine spirits used in the manufacture or fortification of said wine, otherwise than is provided

fact in said act and its amendments, or who shall rectify, mix, or compound with other distilled spirits such fortified wines or grape brandy or wine spirits unlawfully recovered therefrom, shall, on conviction, be punished for each such offense by a fine of not less than $500 nor more than $1,000. But the provisions of this section, and the provisions of section 3244 of the Revised Statutes of the United States, as amended, relating to rectification, shall not be held to apply to the blending of pure sweet wines fortified under the provisions of the said act of October 1, 1890, or amendments thereto, where such wines are blended for the sole purpose of perfecting the same according to commercial standard.

The SPEAKER. Is a second demanded?

Mr. CLARK of Missouri. I demand a second.

The SPEAKER. The gentleman from Missouri demands a second.

Mr. NEEDHAM. Mr. Speaker, I ask unanimous consent that a second may be considered as ordered.

The SPEAKER. The gentleman from California asks unanimous consent that a second may be considered as ordered. Is there objection?

Mr. CLARK of Missouri. I object to that.

Mr. DALZELL. Is the gentleman opposed to the bill?

Mr. CLARK of Missouri. Yes; I am opposed to the bill.

The SPEAKER. The gentleman from California, Mr. NEEDHAM, and the gentleman from Missouri, Mr. CLARK, will take their places as tellers.

The House divided; and the tellers reported—ayes 83, noes 20.

Mr. CLARK of Missouri. No quorum, Mr. Speaker.

The SPEAKER. The Chair will count. [After counting.] One hundred and fifty-nine gentlemen are present, not a quorum. The doors will be closed and the Clerk will call the roll. Those in favor of ordering a second will, as their names are called, answer "aye," those opposed will answer "no," and those not voting will answer "present," and the Sergeant-at-Arms will bring in the absentees.

The question was taken; and there were—yeas 159, nays 46, answered "present" 19, not voting 158, as follows:

YEAS—159.

Alexander	Draper	Kennedy, Ohio	Ryan
Allen, Me.	Driscoll	Kinkaid	Samuel
Ames	Dunwell	Kitchin, Claude	Scott
Andrus	Dwight	Knopf	Scroggy
Bannon	Edwards	Knowland	Shartel
Barchfeld	Finley	Lacey	Sheppard
Bates	Flack	Landis, Chas. B.	Sibley
Beidler	Fletcher	Le Fevre	Slayden
Bennet, N. Y.	Floyd	Longworth	Smith, Cal.
Birdsall	Foster, Vt.	Loud	Smith, Samuel W.
Bishop	Gaines, Tenn.	Loudenslager	Smith, Wm. Alden
Bopyngе	Gaines, W. Va.	Lovering	Smith, Pa.
Brantley	Gardner, Mass.	McCleary, Minn.	Smith, Tex.
Brooks, Tex.	Gilbert, Ky.	McCreary, Pa.	Southard
Brooks, Colo.	Gillett, Cal.	McGavin	Southwick
Burke, S. Dak.	Gillett, Mass.	McKinlay, Cal.	Spight
Burleson	Goebel	McKinley, Ill.	Stafford
Butler, Pa.	Goldfogle	McLachlan	Stanley
Byrd	Graff	Marshall	Stephens, Tex.
Campbell, Ohio	Graham	Martin	Sterling
Capron	Greene	Meyer	Stevens, Minn.
Cassel	Gregg	Mondell	Tawney
Chaney	Gronna	Moore	Taylor, Ala.
Cocks	Hamilton	Mouser	Taylor, Ohio
Cole	Haskins	Needham	Thomas, Ohio
Conner	Hayes	Norris	Townsend
Cooper, Pa.	Henry, Conn.	Padgett	Tyndall
Cousins	Hepburn	Palmer	Underwood
Crumpacker	Hermann	Parker	Volstead
Currier	Higgins	Payne	Vreeland
Curtis	Hill, Conn.	Powers	Waldo
Cushman	Hinshaw	Prince	Wallace
Dale	Hogg	Pujo	Weeks
Dalzell	Howell, Utah	Ransdell, La.	Wharton
Darragh	Hubbard	Reeder	Wiley, N. J.
Davey, La.	Humphrey, Wash.	Reid	Williams
Davis, Minn.	Jenkins	Rixey	Wilson
Dawson	Jones, Wash.	Robertson, La.	Wood, N. J.
Dixon, Mont.	Kahn	Rodenberg	Woodyard
Dovener	Kelfer	Russell	

NAYS—46.

Bartholdt	Fulkerson	Lamar	Randell, Tex.
Bartlett	Garner	Lee	Richardson, Ala.
Beall, Tex.	Gillespie	Lester	Rucker
Bell, Ga.	Hardwick	Lever	Sims
Bowie	Hay	McNary	Small
Buckman	Heflin	Macon	Smith, Ky.
Clark, Mo.	Henry, Tex.	Maynard	Southall
Davis, W. Va.	Houston	Moon, Tenn.	Thomas, N. C.
De Armond	Hunt	Murphy	Towne
Dillerbe	James	Page	Webb
Fitzgerald	Johnson	Patterson, S. C.	
Flood	Jones, Va.	Rainey	

ANSWERED "PRESENT"—19.

Adamson	French	Humphreys, Miss.	Ruppert
Bowersock	Griggs	Livingston	Snapp
Brownlow	Gudger	McCall	Watkins
Candler	Hill, Miss.	Mann	Watson
Dixon, Ind.	Hopkins	Rives	

NOT VOTING—158.

Acheson	Adams, Wis.	Allen, N. J.	Bankhead
Adams, Pa.	Aiken	Babcock	Bede
Bennett, Ky.	Foster, Ind.	Lewis	Richardson, Ky.
Bingham	Fowler	Lilley, Conn.	Roberts
Blackburn	Fuller	Lilley, Pa.	Robinson, Ark.
Boutell	Garber	Lindsay	Schneebeli
Bowers	Gardner, Mich.	Littauer	Shackleford
Bradley	Gardner, N. J.	Little	Shepley
Brick	Garrett	Littlefield	Sherman
Broussard	Gilbert, Ind.	Lloyd	Slemp
Brown	Gill	Lorimer	Smith, Ill.
Brundidge	Glass	McCarthy	Smith, Iowa
Burgess	Goulden	McDermott	Smith, Md.
Burke, Pa.	Granger	McKinney	Smyser
Burleigh	Grosvenor	McLain	Sparkman
Burnett	Hale	McMorran	Sperry
Burton, Del.	Haugen	Madden	Steenerson
Burton, Ohio	Hearst	Mahon	Sullivan, Mass.
Butler, Tenn.	Hedge	Michalek	Sullivan, N. Y.
Calder	Hitt	Miller	Sulloway
Calderhead	Hoar	Minor	Sulzer
Campbell, Kans.	Holliday	Moon, Pa.	Talbott
Chapman	Howard	Morrell	Tirrell
Clark, Fla.	Howell, N. J.	Mudd	Trimble
Clayton	Huff	Murdock	Van Duzer
Cockran	Hughes	Nevin	Van Winkle
Cooper, Wis.	Hull	Olcott	Wachter
Cromer	Keliher	Olmsted	Wadsworth
Davidson	Kennedy, Nebr.	Otjen	Wanger
Dawes	Ketcham	Overstreet	Webber
Deemer	Kitchin, Wm. W.	Parsons	Weems
Denby	Klepper	Patterson, N. C.	Weisse
Dickson, Ill.	Kline	Patterson, Tenn.	Welborn
Dresser	Knapp	Pearre	Wiley, Ala.
Ellis	Lafean	Perkins	Williamson
Esch	Lamb	Pollard	Wood, Mo.
Fassett	Landis, Frederick	Pou	Young
Field	Law	Reynolds	Zenor
Fordney	Lawrence	Rhinock	
Foss	Legare	Rhodes	

The following pairs were announced:

For the session:

Mr. SHERMAN with Mr. RUPPERT.

Mr. BRADLEY with Mr. GOULDEN.

Mr. WANGER with Mr. ADAMSON.

Until further notice:

Mr. CAMPBELL of Kansas with Mr. BRUNDIDGE.

Mr. BENNETT of Kentucky with Mr. RICHARDSON of Kentucky.

Mr. MANN with Mr. HOWARD.

Mr. FULLER with Mr. WEISSE.

Mr. DAVIDSON with Mr. SPARKMAN.

Mr. CHAPMAN with Mr. HOPKINS.

Mr. CROMER with Mr. ZENOR.

Mr. WEBBER with Mr. VAN DUZER.

Mr. HEDGE with Mr. LEGARE.

Mr. WADSWORTH with Mr. BANKHEAD.

Mr. FREDERICK LANDIS with Mr. DIXON of Indiana.

Mr. SMYSER with Mr. MCDERMOTT.

Mr. HOLLIDAY with Mr. BUTLER of Tennessee.

Mr. MUDD with Mr. TALBOTT.

Mr. DAWES with Mr. GARBER.

Mr. WATSON with Mr. SHERLEY.

Mr. HITT with Mr. LITTLE.

Mr. FOSTER of Indiana with Mr. GARRETT.

Until April 6:

Mr. DEEMER with Mr. KLINE.

Until April 4:

Mr. SLEMP with Mr. LAMB.

For this day:

Mr. WACHTER with Mr. WOOD of Missouri.

Mr. TIRRELL with Mr. TRIMBLE.

Mr. SMITH of Iowa with Mr. SULZER.

Mr. ROBERTS with Mr. SHACKLEFORD.

Mr. RHODES with Mr. RHINOCK.

Mr. PEARRE with Mr. WILEY of Alabama.

Mr. OVERSTREET with Mr. POU.

Mr. OLMSTED with Mr. SULLIVAN of Massachusetts.

Mr. OLCOTT with Mr. PATTERSON of North Carolina.

Mr. MAHON with Mr. LEWIS.

Mr. MCKINNEY with Mr. WILLIAM W. KITCHIN.

Mr. LITTAUER with Mr. KELIHER.

Mr. LAWRENCE with Mr. GRANGER.

Mr. LAFEAN with Mr. GLASS.

Mr. KETCHAM with Mr. GILL.

Mr. HOWELL of New Jersey with Mr. SMITH of Maryland.

Mr. HALE with Mr. FIELD.

Mr. GROSVENOR with Mr. MCLAIN.

Mr. CALDERHEAD with Mr. BROUSSARD.

Mr. GARDNER of Michigan with Mr. LINDSAY.

Mr. ADAMS of Pennsylvania with Mr. BOWERS.

Mr. BURLEIGH with Mr. BURNETT.

Mr. BINGHAM with Mr. AIKEN.

Mr. BABCOCK with Mr. COCKRAN.

Mr. BURTON of Ohio with Mr. BURGESS.

Mr. BOUTELL with Mr. GRIGGS.

Mr. MORRELL with Mr. SULLIVAN of New York.
Mr. KNAPP with Mr. HEARST.
On this vote:
Mr. POLLARD with Mr. ROBINSON.
Mr. MCCALL with Mr. CLAYTON.
Mr. FOSS with Mr. CLARK of Florida.
Mr. HEFLIN with Mr. LLOYD.

The SPEAKER. On this question the yeas are 159; the nays, 93; present, 19. A quorum is present. The yeas have it, a second is ordered, and the doors will be opened. The gentleman from California is entitled to twenty minutes and the gentleman from Missouri to twenty minutes.

Mr. NEEDHAM. Mr. Speaker, this is a bill to amend the sweet-wine law. The original law passed in 1890, and was amended in 1894. Since that time there has been no legislation upon the question. At the time of the passage of the original law and its amendment in 1894, this industry was of small amount. It has grown tremendously, and this bill provides for amendments to the sweet-wine law which are made necessary because of the growth of the industry. This bill, if enacted into law, will permit of the use of small quantities of water in the distillation of grape brandy. It will accurately define the product known as wine spirits and grape brandy as the product of grapes, or their residue. It will permit small quantities of water, not exceeding 10 per cent of the weight of the wine, to facilitate the mechanical operation of the machinery in the manufacture or making of wine; in the recovery of wine spirits it will place it upon the same plane as in the recovery of any other kind of spirits that is at 80 per cent. The bill also places a charge of 3 cents a gallon upon each taxable gallon of wine spirits or grape brandy used in the fortification of wine. At the present time the Government of the United States is expending from $35,000 to $50,000 a year in the supervision of this industry, without any return whatever. This bill, if it passes, will bring in a sum to the Government equivalent to from $105,000 to $125,000. In other words, if this bill passes, this industry will no longer be a charge upon the Government, but will be self-sustaining. It also provides for penalties for violations of the law as amended. Now, Mr. Speaker, this bill has been carefully drawn. The Commissioner of Internal Revenue went to California last fall and observed the operations of sweet-wine making upon the ground. The result of his visit and the consultations which he has had since with the members of the California delegation is the bill now before the House. This bill is indorsed by the Secretary of the Treasury. The bill was passed through the Committee on Ways and Means by every vote except that of the gentleman from Missouri [Mr. CLARK]. And, Mr. Speaker, this is in the interest of the whole industry and not against any particular branch of the wine industry, and is demanded by the people of California, in which State 95 per cent of all sweet wine is made. The grape and wine industry is a great and growing industry, and there is now invested in its various adjuncts in California alone about $80,000,000. I reserve the balance of my time.

The SPEAKER. The gentleman has fifteen minutes remaining.

Mr. CLARK of Missouri. Mr. Speaker, this bill has nothing in the world to do with the temperance question. Some Members were very solicitous for fear that the gentleman from California [Mr. NEEDHAM] or myself, one or the other, was advocating a proposition that would cause more wine to be consumed. That is not true. The dispute is as to regulating the making of sweet wine—that's all. Individually, I do not care a straw whether anybody consumes wine or not. I never drink it myself—hardly ever. [Laughter.] As a matter of fact, I am a teetotaler, but I contend that if there is going to be wine made in the United States—and it appears that it is going to be made for all time—then all of the grape producers in the United States and all of the wine makers ought to have a square deal. My observations here in the last seven years have been that there is a good deal of the grab game in legislation here on nearly every subject, and in none more than in this wine business. In the last Congress a gentleman from California [Mr. Bell] introduced a bill which would have shut up almost every winery between the crest of the Rocky Mountains and the Atlantic seaboard. Among hands we killed that bill so dead that it never got out of the committee. The gentleman from New York [Mr. FASSETT] has another bill pending here that, if it ever passes, will shut up three-fourths of the wineries between the top of the Rocky Mountains and the Atlantic seaboard. This bill, called the Needham bill in the papers, is not nearly so obnoxious to the people this side of the Rocky Mountains engaged in the wine business as either the Fassett bill or the Bell bill which was killed in the last session of Congress, but, nevertheless, it is open to several objections. I would remedy it by amendment but for the fact that when a bill is being considered under a motion to suspend the rules amendments can not be offered except by unanimous consent, which I have been notified I can not secure on this occasion.

Climatic conditions determine the kind of grapes which can be grown in any particular locality. It happens that in a certain part of California—not all of California, but in a certain part of it—the conditions are very favorable for the growth of grapes which produce sweet wines. Most of the wines made east of the Rocky Mountains are sour or acid wines. There is no place in the United States where grapes which will make acid or sour wines grow in more luxury and in more perfection than on the bluffs of the Missouri River. At one time Missouri led every State in the Union in the production of grapes and wines. The sour or acid wine industry originated at Cincinnati. Longfellow wrote one of his most beautiful poems in connection with the wine industry in and about that city.

It turns out that the California people are not satisfied with the law as it stands now, and, in my judgment, they never will be satisfied until they get a law passed which shuts up all the other wineries in the United States. What they really want is for Congress to give them a monopoly. I will absolve the gentleman from California [Mr. NEEDHAM] from desiring anything of that sort in this bill, but that is what the wine makers of California desire.

I offered certain amendments to this bill in the committee, and I am going to read them to you. I had some more to offer and would have offered them in the committee, but my amendments were all voted down, and I got tired of offering them and so let up. If these amendments had been adopted, I never would have raised any special objection to this bill; but they were not adopted, and I am going to do all I can to kill the bill, because it is an unfair measure.

The trouble about the sweet-wine business in California at present is that, on account of the large amount of saccharine matter that there is in the grape juice, when they undertake to pipe it from one place to another the saccharine or heavy matter gums up the pipes so that it retards the flow of this juice through the pipe. As I understand it, that is what they are driving at—trying to remedy that. I want to read to you some of these amendments that I offered. On page 1 of this bill it provides:

SEC. 43. That the wine spirits mentioned in section 42 of this act is the product resulting from the distillation of fermented grape juices.

I offered an amendment in the committee to strike out the word "grape" and insert the word "fruit." I did it for this reason: You can make just as good alcohol or brandy for the purpose of fortifying sweet wines out of any sort of fruit juice as you can out of grape juice, and there is a great deal more fruit juice in the United States in one shape and another than there is of grape juice. So there is neither sense nor justice in restricting it to "grape juice."

I offered to strike out the word "grape," in line 11, and insert the word "fruit." That was voted down. Then in the same line, after the words "juice," I offered to insert, in connection with it, "fermented fresh fruit, fermented dried fruit or fermented residue of fruit."

Now, the truth is, as persons who are not familiar with distillation will find out when the denatured alcohol bill comes up for discussion, you can make a prime article of alcohol out of any vegetable, plant, grain, or root that contains starch or sugar in large quantities. What, then, is the sense in restricting this thing simply to grape juice? Fermented fresh fruit will make as good alcohol or brandy as grapes will, or as good wine and spirits, or whatever you call it. It is all the same thing in the end. Fermented dried fruit or fermented residue of fruit will also produce just as good alcohol. Nobody will claim that any of these substances is any more deleterious than grape alcohol or grape brandy.

The third amendment that I offered was after the word "water," in line 11, to insert the words "cane sugar, beet sugar, corn or starch sugar, rock candy, honey, sirups, or molasses." Not a single, solitary one of these articles is deleterious to the constitution of man if taken in reasonable quantities.

The fourth amendment was to strike out all of line 13 except the word "and" and insert "to which water may have been added after fermentation for the sole purpose of facilitating the economical distillation thereof."

I say that my proposition to add water at one stage of the process of distillation is just as reasonable as for the gentleman from California to want to add water at another stage of the process of distillation. The truth about the whole thing is that the more water you get into it, the better the world will be off anyhow. [Laughter.]

Now, recollect that the proponents of this bill want water added before the process of fermentation sets up simply to expedite the passage of the grape juice from one part of the apparatus for distilling to another, and this amendment of mine provides that after the process of fermentation is set up a reasonable quantity of water—the quantity to be prescribed by the Commissioner of Internal Revenue—shall be added for the purpose of facilitating the distillation.

Now, if these gentlemen had accepted these amendments, with a few more that I had, there wouldn't have been any row about it. [Laughter.]

The fifth amendment was, on page 2, after the word "sugar," to insert "corn or starch, rock candy, honey, sirup, or molasses, all in the natural form or dissolved in water."

The way it reads in the bill is:

Provided, That the addition of pure boiled or condensed grape must or pure crystallized cane or beet sugar to the pure grape juice aforesaid.

I put it to you as a matter of common sense, how does it happen that crystallized sugar is healthy and raw sugar is not healthy? It suits the convenience of our California brethren to use that particular phraseology, and that is all there is to it.

Mr. NEEDHAM. Will the gentleman submit to an interruption?

Mr. CLARK of Missouri. Yes; with pleasure.

Mr. NEEDHAM. I want to state to the gentleman that those words are in the present law and were put in for the benefit of you people.

Mr. CLARK of Missouri. I don't care who put them in or what law they are in. They were not put in for the benefit of anybody I know of, except for the benefit of California.

The sixth amendment is, after the word "aforesaid," in line 12, to insert "crushed fruit before fermentation is complete."

The very same reason applies to that that applies to the other—that the juice of the fruit is as good as the juice of the grape—and if one man has a kind of grape juice that some of the fruit juice will make a better wine out of he ought to be permitted to put it in. You can not drink the wine made out of tart or sour grapes without adding water and sugar to it, which is called "gallizing," and which is both a scientific and legitimate performance. It happens that out in California there is a small stretch of country in which the grapes have so much sugar in them that they do not have to add sugar to the juice to make wine. As a matter of fact, I understand it to be the case that sometimes, on account of the peculiarity of the season, they have to add acid to the grape juice to make good wine.

The next amendment is, in line 13, after the word "or," to insert "with the addition of crystallized cane or beet sugar, or rock candy, either in natural form or boiled in enough water only so as to dissolve it, to the fermented product of such grape juice," etc.

I repeat the statement I made about the others, that if they are prepared to add what they wanted to it could not hurt a bit by the addition of crystallized cane or beet sugar, or rock candy, either in its natural form, etc., and the other amendments are all of the same character. I do not believe that Congress ought to be interfering with the private business of the country by eternally undertaking to exploit one man's particular methods—methods of production—at the expense of another's.

My own judgment on the matter is that in passing bills of this class generally the Members of the House ought to give a great deal more attention to them than they do. This bill, instead of being brought here to be passed under suspension of the rules, where we have twenty minutes on a side to discuss it, ought to have been brought up in the regular way, so that we would have had as much time as we wanted to explain the bill and to pick it to pieces if one did not like it. That is all I have to say about it.

Mr. NEEDHAM. Mr. Speaker, I yield five minutes to the gentleman from Mississippi [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, as one of the committee that reported this bill, I want to say a few words. I was in favor of several of the amendments offered by the gentleman from Missouri [Mr. CLARK]. Of course we understand the parliamentary situation here. The bill is not amendable under suspension of the rules. Mr. Speaker, all that this bill does is to enable water to be added to the grape must, out of the fermentation of which wine proceeds. The California grape is a very rich, pulpy, sweet grape. With a small winery and very little machinery even that sort of grape is easily handled without adding any water to the pressed-out juice, but as the grape industry in California grew more and more, and as these establishments became very much larger and more complicated, with a lot of machinery and pipes leading from one part to another in which to carry the juice, it was found that the rich, pulpy, sweet juice of the California grape clogged the pipes; and what astonished me most about this legislation when it was presented to the Committee on Ways and Means was the fact that there should be in existence any such law preventing a man from putting water in his grape juice—any need for this legislation. Now, when you get East the grapes are thin and acid, and the juice is a good deal like water after it is pressed out, with a good deal of grape acid in it. The same problem therefore does not present itself with eastern grape must, as there is no danger of that sort of grape juice clogging any pipes.

The present law is so severe that if a man puts even water in the grape juice to make it thinner, so that it shall not clog the pipes, he is subject to a penalty of a fine and imprisonment under the internal-revenue law. As far as the eastern grape grower is concerned that does not bother him, as I have said, because his grape juice is thin and acid, but as far as the Californian is concerned and the man who raises grapes down on the Gulf coast—where there is likewise a rich, sweet, and pulpy grape—it does bother him if he is going into the wine business on a large scale. So that this bill asks that wine makers be permitted to put water in the must in order that the pipes shall not clog. Now, then, in connection with one of the amendments referred to, an amendment to permit not only grape brandy to be added in fortifying, as can be done under existing law—not a provision created by this bill, but existing law—but also the brandy from other fruits, it seemed to us that that would change the character of the product. It would not be a grape product any more if fortified with peach brandy or apple brandy or something else. It would destroy at least the flavor, and a thing would be put upon the market as wine that was not altogether the product of the grape. Wine is the product of the grape. If grape juice was to be fortified with anything it should be with grape brandy. Mr. Speaker, the other provision in this bill makes the wineries pay the cost of the inspection which becomes necessary upon the part of the Government, because, of course, a man might, under the pretense of putting water in his must, put something else besides water in it. This necessitates some additional expense upon the part of the Government in order to see that this privilege of putting water in shall not be abused in that way. To obviate the objection that this would put an expense upon the people and the Government the bill provides that the wineries shall pay the tax stated, which will more than cover the expense.

The SPEAKER. The time of the gentleman has expired.

Mr. NEEDHAM. Mr. Speaker, I yield five minutes to the gentleman from New York [Mr. PAYNE].

Mr. PAYNE. Mr. Speaker, does the gentleman from Missouri intend to use the rest of his time?

Mr. CLARK of Missouri. No.

Mr. PAYNE. Mr. Speaker, I do not think I need trouble the House but a little while. In 1880 Congress allowed brandy to be used free of tax in fortifying sweet wine, and since that time the industry has grown tremendously, so that now we use three million and a half gallons of brandy, roughly speaking, to fortify the wines of the United States. A great portion is used in California, some in New York, some in Ohio, and some in Missouri, and it turns out that this wise provision of the law has captured nearly the whole American market for sweet wines, so that only a trifle is imported, and the great mass of sweet wine consumed in this country is made here. But it turned out that the must in some localities in some seasons, when the summer was hot and the grapes ripened early, contained so much saccharine matter that the manufacturers could not pass it through the pipes without the addition of water, and I suspect that some of them have been violating the law, because they must have the water in the must in order to get it through the pipes. When the Commissioner found this out he went after them, and the result was the concoction of this law. All the sweet-wine producers in the United States, including Missouri—perhaps I ought to say "and Missouri"—unite in the provisions of the law in order to meet a mechanical necessity in the manufacture of the wine. Now, if they were allowed to use any amount of water in their own sweet will in fortifying this must and used the brandy to fortify the grape juice, it might turn out simply a subterfuge with enough grape juice put in to evade the law and 90 per cent or 50 per cent of water and the balance of alcohol, furnishing a very cheap drink with free alcohol. To guard against this, these strenuous provisions are put into this bill, and in order to make the thing exactly equitable it is also provided that there shall be a tax of 3 cents a gallon put upon the spirits fortifying the wine in order to raise enough money to pay the expenses of the administration. We also regulate in the bill the amount of sugar that may go into the wine—not exceeding 10 per cent.

Mr. KAHN. At the present time the Government of the United States pays that expense; is not that a fact?

Mr. PAYNE. It has ever since the law was enacted, but these other provisions are so widely extended and the expense has been so much that it was thought just on the part of the Commissioner of the Revenue and the Treasury Department that this tax should go on, in order that the wine makers should pay at least a part of the expense that will come up in the future that the Government has stood in the past. Now, our friend from Missouri comes in here and talks about the pure-food bill. That has no relation to this question. It is simply admitting sugar into the must before it is fermented in order to increase the amount of alcohol or spirit brandy in the must to fortify the wines, so they will keep and be preserved until they are ready to be used.

Mr. CLARK of Missouri. I would like to ask the gentleman from New York a question.

Mr. PAYNE. Certainly.

Mr. CLARK of Missouri. We have legislated here to allow these California people to put water into the grape juice simply to facilitate getting it through the pipes. What reasonable objection can there be to permitting somebody else who is a manufacturer of wine to add water after fermentation for the purpose of facilitating economical distillation? It looks like one thing is as fair as the other, and if you had let me put that amendment in, and seven others, I would not have objected.

Mr. PAYNE (reading)—

SEC. 43. That the wine spirits mentioned in section 42 of this act is the product resulting from the distillation of fermented grape juice, to which water may have been added prior to, during, or after fermentation for the sole purpose of facilitating, etc.

The only limit is there shall not be put exceeding 10 per cent of it, and it can be put in afterwards, as the gentleman would like to amend the bill now. The gentleman from Missouri is crying for more water, as I understand it, in this wine. The difficulty with that is it opens the way for evasion of the internal revenue laws of the country. These men simply use water to tone down the spirits that are put into it to make a convenient drink which is not wine and bears a resemblance to whisky. The gentleman wants to put rock into it. I understand rock goes very well with rye in Missouri, but I never heard before they needed it in the manufacture of wine. The gentleman wants to put molasses in it. Why not take pure sugar, as the bill provides, from cane or beet sugar?

Mr. CLARK of Missouri. If one sweet thing is good to go into it why not another?

Mr. PAYNE. Of course, you might go on with the whole list and enumerate them, but it is sufficient to put in the sugar. Sugar is pure and the best thing to go in. The grape growers want to use it, the wine makers want to use it, so why go out of our way and conjure up something else like rock candy and molasses?

Mr. CLARK of Missouri. Rock and rye is one of the most seductive tipples on earth.

Mr. PAYNE. Of course the gentleman knows molasses is impure, and he wants to get some impurity into this wine. We are after pure sugar, and that is the reason the bill is made up as it is.

Mr. NEEDHAM. Mr. Speaker, I call for a vote.

The question was taken; and the Chair announced that the ayes appeared to have it.

On a division (demanded by Mr. CLARK of Missouri) there were—ayes 111, noes 17.

Mr. CLARK of Missouri. No quorum, Mr. Speaker.

Mr. PAYNE. Mr. Speaker, the gentleman shouting "No quorum!" raises no question.

Mr. CLARK of Missouri. Mr. Speaker, I raise the point, then, there is no quorum present.

Mr. PAYNE. That is different.

Mr. CLARK of Missouri. I did it the way it is generally done—ninety-nine times out of a hundred.

The SPEAKER. Evidently there is no quorum present. The Sergeant-at-Arms will close the doors and bring in absentees. The question is on suspending the rules, agreeing to the amendments, and passing the bill. As many as are in favor of the motion will, as their names are called, answer "aye," as many as are opposed will answer "no," and the Clerk will call the roll.

The question was taken; and there were—yeas 185, nays 34, answered "present" 12, not voting 151, as follows:

YEAS—185.

Acheson	Burchfeld	Bishop	Brownlow
Adams, Wis.	Bates	Bonynge	Buckman
Alexander	Beall, Tex.	Bowersock	Burke, Pa.
Allen, Me.	Bede	Brantley	Burke, S. Dak.
Allen, N. J.	Bell, Ga.	Broocks, Tex.	Burleson
Babcock	Bennet, N. Y.	Brooks, Colo.	Burnett
Bannon	Birdsall	Brown	Burton, Del.
Burton, Ohio	Gillett, Mass.	Loud	Sibley
Butler, Pa.	Glass	Loudenslager	Slayden
Campbell, Ohio	Goebel	Lovering	Smith, Cal.
Capron	Goldfogle	McCleary, Minn.	Smith, Md.
Cassel	Graff	McCreary, Pa.	Smith, Samuel W.
Chaney	Graham	McGavin	Smith, Wm. Alden
Cocks	Granger	McKinlay, Cal.	Smith, Tex.
Cole	Gregg	McKinley, Ill.	Snapp
Conner	Gronna	McKinney	Southard
Cooper, Pa.	Hamilton	McLachlan	Southwick
Cooper, Wis.	Haugen	McNary	Sperry
Cousins	Hayes	Marshall	Splight
Crumpacker	Henry, Conn.	Miller	Stafford
Currier	Henry, Tex.	Minor	Stanley
Curtis	Hepburn	Mondell	Steenerson
Cushman	Hermann	Moon, Pa.	Stephens, Tex.
Dale	Higgins	Moore	Sterling
Dalzell	Hill, Conn.	Mouser	Stevens, Minn.
Darragh	Hinshaw	Needham	Sullivan, Mass.
Dawson	Hoar	Norris	Tawney
Denby	Houston	Otjen	Taylor, Ala.
Dickson, Ill.	Howell, Utah	Padgett	Thomas, Ohio
Douglas	Hubbard	Parker	Townsend
Draper	Humphrey, Wash.	Payne	Underwood
Driscoll	Humphreys, Miss.	Powers	Volstead
Dunwell	Jenkins	Prince	Vreeland
Dwight	Jones, Wash.	Pujo	Wachter
Edwards	Kahn	Ransdell, La.	Waldo
Esch	Keifer	Reeder	Wallace
Field	Kelliher	Richardson, Ala.	Watson
Fitzgerald	Kennedy, Nebr.	Rixey	Weeks
Flack	Kinkaid	Robertson, La.	Wharton
Fletcher	Klepper	Rodenberg	Wiley, Ala.
Foster, Vt.	Knopf	Russell	Wiley, N. J.
Gaines, Tenn.	Knowland	Ryan	Williams
Gaines, W. Va.	Lacey	Samuel	Woodyard
Gardner, Mass.	Landis, Chas. B.	Scott	Young
Gilbert, Ind.	Lawrence	Scroggy	
Gillespie	Le Fevre	Shartel	
Gillett, Cal.	Lilley, Pa.	Sheppard	

NAYS—34.

Bartholdt	Garner	Maynard	Rucker
Bartlett	Gudger	Moon, Tenn.	Shackleford
Clark, Mo.	Hay	Murphy	Sims
Davis, W. Va.	Hunt	Page	Smith, Ky.
De Armond	Johnson	Patterson, S. C.	Thomas, N. C.
Flood	Jones, Va.	Pou	Webb
Floyd	Kitchin, Claude	Rainey	Welborn
French	Lamar	Randell, Tex.	
Fulkerson	Macon	Rives	

ANSWERED "PRESENT"—12.

Adamson	Candler	Hopkins	Reid
Burgess	Dixon, Ind.	McCall	Ruppert
Byrd	Hill, Miss.	Mann	Watkins

NOT VOTING—151.

Adams, Pa.	Foss	Lee	Rhinock
Aiken	Foster, Ind.	Legare	Rhodes
Ames	Fowler	Lester	Richardson, Ky.
Andrus	Fuller	Lever	Roberts
Bankhead	Garber	Lewis	Robinson, Ark.
Beidler	Gardner, Mich.	Lilley, Conn.	Schneebeli
Bennett, Ky.	Gardner, N. J.	Lindsay	Sherley
Bingham	Garrett	Littauer	Sherman
Blackburn	Gilbert, Ky.	Little	Slemp
Bonteil	Gill	Littlefield	Small
Bowers	Goulden	Livingston	Smith, Ill.
Bowie	Greene	Lloyd	Smith, Iowa
Bradley	Griggs	Longworth	Smith, Pa.
Brick	Grosvenor	Lorimer	Smyser
Broussard	Hale	McCarthy	Southall
Brundidge	Hardwick	McDermott	Sparkman
Burleigh	Haskins	McLain	Sullivan, N. Y.
Butler, Tenn.	Hearst	McMorran	Sulloway
Calder	Hedge	Madden	Sulzer
Calderhead	Heflin	Mahon	Talbott
Campbell, Kans.	Hitt	Martin	Taylor, Ohio
Chapman	Hogg	Meyer	Tirrell
Clark, Fla.	Holliday	Michalek	Towne
Clayton	Howard	Morrell	Trimble
Cockran	Howell, N. J.	Mudd	Tyndall
Cromer	Huff	Murdock	Van Duzer
Davey, La.	Hughes	Nevin	Van Winkle
Davidson	Hull	Olcott	Wadsworth
Davis, Minn.	James	Olmsted	Wanger
Dawes	Kennedy, Ohio	Overstreet	Webber
Deemer	Ketcham	Palmer	Weems
Dixon, Mont.	Kitchin, Wm. W.	Parsons	Weisse
Dresser	Kline	Patterson, N. C.	Williamson
Elberbe	Knapp	Patterson, Tenn.	Wilson
Ellis	Lafean	Pearre	Wood, Mo.
Fassett	Lamb	Perkins	Wood, N. J.
Finley	Landis, Frederick	Pollard	Zenor
Fordney	Law	Reynolds	

The following pairs were announced:

For the session:

Mr. FOSS with Mr. MEYER.

Until further notice:

Mr. HASKINS with Mr. LEVER.

For the balance of the day:

Mr. LAW with Mr. JAMES.

Mr. DRISCOLL with Mr. HARDWICK.

Mr. PARSONS with Mr. COCKRAN.

Mr. FASSETT with Mr. LESTER.

Mr. VAN WINKLE with Mr. BOWIE.

Mr. BRICK with Mr. HEFLIN.

Mr. HULL with Mr. HILL of Mississippi.

Mr. CALDER with Mr. LEE.
Mr. OVERSTREET with Mr. TOWNE.
Mr. LORIMER with Mr. CLARK of Florida.
Mr. GREENE with Mr. SMALL.
Mr. WILSON with Mr. LIVINGSTON.
Mr. MCMORRAN with Mr. SOUTHALL.
Mr. DIXON of Montana with Mr. RUCKER.
Mr. BROWNLOW with Mr. GILBERT of Kentucky.
Mr. AMES with Mr. DAVEY of Louisiana.

For the vote:

Mr. BEIDLER with Mr. FINLEY.
Mr. ANDRUS with Mr. ELLERBE.

The SPEAKER. On this question the yeas are 185, the nays 25, present 12. A quorum is present. The yeas have it, and the rules are suspended, and the bill as amended is passed. The Doorkeeper will open the doors.

APPOINTMENTS TO NAVAL ACADEMY.

Mr. VREELAND. Mr. Speaker, I ask unanimous consent for the present consideration of the bill H. R. 5276, as amended by the Naval Committee. It relates to the appointments at Annapolis.

The bill was read, as follows:

A bill (H. R. 5276) relating to appointments to the Naval Academy, and for other purposes.

Be it enacted, etc., That section 1514 of the Revised Statutes of the United States as amended by the act of July 26, 1894, is hereby amended to read, on and after June 1, 1906, as follows: "The Secretary of the Navy shall, as soon as possible after the 1st day of June of each year preceding the final graduation of midshipmen in the succeeding year, notify in writing each Senator and each Member and Delegate of the House of Representatives of any vacancy that will exist at the Naval Academy because of such graduation, and which he shall be entitled to fill by nomination of a candidate and one or more alternates therefor. The nomination of a candidate and alternate or alternates to fill said vacancy shall be made upon the recommendation of the Senator, Member, or Delegate, if such recommendation is made by the 15th day of August of the year following that in which said notice in writing is given, but if it is not made by that time the Secretary of the Navy shall fill the vacancy by appointment of an actual resident of the State, Congressional district, or Territory, as the case may be, in which the vacancy will exist, who shall have been for at least two years immediately preceding the date of his appointment an actual and bona fide resident of the State, Congressional district, or Territory in which the vacancy will exist and of the legal qualification under the laws as now provided. In cases where by reason of a vacancy in the membership of the Senate or House of Representatives, or by the death or declination of a candidate for admission to the academy there occurs or will occur at the academy a vacancy from any State, district, or Territory that can not be filled by nomination as herein provided, the same may be filled as soon thereafter and before the final entrance examination for the year as the Secretary of the Navy may determine. No candidate or alternate nominated hereunder shall be entitled to any pay or allowance until he shall have been regularly admitted to the Naval Academy. The candidates allowed for the District of Columbia and all the candidates appointed at large, together with alternates therefor, shall be selected by the President within the period herein prescribed for nomination of other candidates."

SEC. 2. That the academic course of midshipmen at the Naval Academy shall hereafter be four years. When midshipmen shall have passed successfully the graduating examination at the academy they shall receive appointments as ensigns, and shall take rank according to their proficiency as shown by the order of their merit at the date of graduation.

SEC. 3. That after the 1st day of July, 1906, all candidates for admission to the Naval Academy at the time of their admission must be between the ages of 16 and 20 years.

SEC. 4. That civilian professors and instructors, after ten years of continuous service, be provided with quarters or commutation therefor as now allowed to a lieutenant-commander of the Navy; that all professors and instructors have the privilege of purchasing coal and wood at Government rates.

SEC. 5. That there shall be appointed during the year 1906, in the following manner, a Board of Visitors to attend the annual examination of the Naval Academy: Seven persons shall be appointed by the President, two of whom shall serve for one year each, two for two years each, and three for three years each; one Senator to serve for one year and one Senator to serve for two years, and three Members of the House of Representatives, one to serve one year, one to serve two years, and one to serve three years; said Senators and Representatives to be designated by the Vice-President or the President pro tempore of the Senate and the Speaker of the House of Representatives, respectively, at the session of Congress next preceding such examination and annually thereafter, at the expiration of the terms of service of persons appointed hereunder, successors shall be appointed to serve for periods of three years each. Vacancies occurring in the membership of said board because of termination of terms of service in the Senate or House of Representatives of members of those bodies, and all vacancies occurring from any other cause, shall be filled by appointment for the unexpired terms, respectively. Each member of said board shall receive not exceeding 8 cents per mile traveled by the most direct route from his residence to Annapolis, and 8 cents per mile for each mile from said place to his residence on returning and $5 per diem for expenses during actual attendance at the academy.

Mr. SLAYDEN. Mr. Speaker, is this a request for unanimous consent?

The SPEAKER. The gentleman from New York asks unanimous consent for the present consideration of the bill.

Mr. SLAYDEN. Reserving the right to object, I would like to hear an explanation of that bill, as I could not hear the Clerk.

Mr. VREELAND. Mr. Speaker, I am glad to explain the bill to my friend from Texas. It embodies some recommendations that have been made by the Board of Visitors at Annapolis during a good many years past. Last year the gentleman from Virginia [Mr. JONES], the gentleman from Connecticut [Mr. BRANDEGEE, now Senator BRANDEGEE], and myself were the Board of Visitors. We spent a week at Annapolis, and made some recommendations, which I was requested to bring before the House. The principal changes made in the present law are two or three in number. First, a midshipman is required to be appointed about a year in advance of the vacancy, the same as is now done at West Point. This is to give him an opportunity to study up for his entrance examination.

Mr. SLAYDEN. In that connection I would like to ask the gentleman a question. If I understand the bill correctly, all the appointments must be made there in about eight weeks, between the 1st of June and the 1st of August.

Mr. VREELAND. About ten weeks' notice, unless there is a vacancy in the office of Representative.

Mr. SLAYDEN. And no notice in anticipation of that to be given to the Members and Senators?

Mr. VREELAND. About ten weeks.

Mr. SLAYDEN. Well, it might happen that the Member might be inaccessible to the mails, or out of the country, and you say no advance notice is provided for?

Mr. VREELAND. The law is the same as has existed since 1836 at West Point, and that we have been working under all these years.

Mr. SLAYDEN. I think the gentleman is mistaken. We have much more time than that for the appointment of military cadets.

Mr. VREELAND. It is the same as the West Point law at present, as I understand it.

Mr. SLAYDEN. We are notified about the 4th of March, and we have from the 4th of March until about the 1st of June.

Mr. VREELAND. I have no doubt that the same practice would prevail in the present instance. I assume it is not required by law. I do not understand the provision at West Point is required by law, but the Secretary of War has this preliminary notice sent to Members that a vacancy is about to exist. I assume the same practice would be followed here. I assume that the procedure of the Secretary of War in reference to the Military Academy was based upon law. It is desirable to have this advance notice given, and possibly the gentleman is right about it, but I think he will find a regulation of the War Department or a practice which they follow to give ample preliminary notice.

Mr. SLAYDEN. My colleague from Virginia says that we have virtually eight months' notice at the Military Academy of appointments.

Mr. VREELAND. There is no object for anyone to fix a time in which an appointment can be made. That would not be pleasant to the Representative, because he is obliged in any event to appoint from his district an actual resident of the district.

Mr. LACEY. I would like to ask the gentleman a question in that connection. Why is the law changed?

Mr. VREELAND. The gentleman from Texas, I do not think, has concluded yet.

Mr. SLAYDEN. In a moment, Mr. Speaker, it would be no practical gratification to a Member to know that the Secretary of the Navy will appoint some one from his district, when he takes from the Representative the privilege he has heretofore exercised, and which all value.

Mr. VREELAND. I was assigning that as the reason why the Secretary of the Navy would not be endeavoring to take any advantage in the appointment of midshipmen.

Mr. SLAYDEN. Suppose a Member were out of the country for those ten weeks?

Mr. VREELAND. I assume that if a Member is absent from the country some one is left to attend to his mail.

Mr. SLAYDEN. But not some one with authority to select and nominate a midshipman.

Mr. VREELAND. I suggest to my friend from Texas that we ought to give a little attention to the benefit of the academy, and that if a Member goes away without leaving anyone to attend to public matters which are in his charge, I think that he ought to lose the appointment, although I have not the slightest question but that it would be held open for him until his return.

Mr. SLAYDEN. I will say to the gentleman that I have paid considerable attention to the welfare of the academy, and I am proud to say that all the young men I have appointed have graduated quite near the top.

Mr. LACEY. In the bill which I have in my hand I see, in line 14, page 3, the ages are from 16 to 19 years. At present I believe it is from 15 to 20. Why is this change made?

Mr. VREELAND. There has been no change made. The bill as read from the desk leaves it from 16 to 20.

Mr. LACEY. Is it not 15 to 20 now?

Mr. VREELAND. No. No change is made in that respect.

Mr. CRUMPACKER. Mr. Speaker, this law provides that if the appointment shall not be made by the 15th of August the Secretary shall make it.

Mr. VREELAND. Shall make it from the Member's district.

Mr. CRUMPACKER. Suppose a Member of Congress makes an appointment within the time and the appointee fails to pass the necessary examination?

Mr. VREELAND. The gentleman will find that is provided for farther on in the section. He has the right in case of the death of the appointee or his failure to pass the examination, just the same as at West Point, to fill the vacancy again.

Mr. CRUMPACKER. The Representative can appoint somebody to take his place?

Mr. VREELAND. Yes.

Mr. SLAYDEN. Mr. Speaker, I do not like to interpose an objection, but this changes the whole plan of appointment to the Naval Academy, and I confess that I did not know this bill was likely to be brought before the body. I should like to have time to study it.

Mr. VREELAND. I hope the gentleman will not object. I want to suggest to him an additional fact. Under the present law at Annapolis 30 per cent of all the men that we appoint and send down there fail in their examinations. At West Point, with the chance of study for a year, practically 100 per cent of these young men are able to obtain admission.

Mr. SLAYDEN. If Members would exercise proper care in the selection of appointees, I do not think there would be the trouble that the gentleman complains of.

Mr. VREELAND. The result is that we are maintaining a school at great expense at Annapolis and only 70 per cent of the boys who ought to be there are admitted on account of lack of time for preparation.

The SPEAKER. Is there objection?

Mr. SLAYDEN. Mr. Speaker, I must object to the present consideration of the bill.

Mr. VREELAND. Mr. Speaker, I move to suspend the rules and pass the bill as amended.

Mr. SLAYDEN. I demand a second.

Mr. VREELAND. I ask unanimous consent that a second be considered as ordered.

Mr. DE ARMOND. Mr. Speaker, before that is disposed of, I would like to ask the gentleman whether he will allow an amendment to the date there, the 15th of August?

Mr. SLAYDEN. Mr. Speaker, I would like to ask the gentleman from New York——

The SPEAKER. The gentleman from New York asks unanimous consent that a second be considered as ordered. Is there objection?

There was no objection.

The SPEAKER. The gentleman from New York is entitled to twenty minutes and the gentleman from Alabama to twenty minutes.

Mr. VREELAND. Mr. Speaker, I ask unanimous consent that an amendment be considered as pending——

Mr. SLAYDEN. Mr. Speaker, I would like to submit a suggestion to the gentleman.

Mr. VREELAND. I yield to the gentleman for half a minute.

Mr. SLAYDEN. I beg the gentleman's pardon. He was asking something and I did not intend to interrupt him.

Mr. VREELAND. I ask unanimous consent that an amendment be added to the bill, on page 1, line 6, that August 1 be changed to April 1, in order to provide for a longer notice.

Mr. SLAYDEN. What is the time the gentleman asks for?

Mr. VREELAND. I ask that the time of notifying the members be changed from August 1 to April 1.

Mr. SLAYDEN. Mr. Speaker, let the amendment be reported.

Mr. VREELAND. Mr. Speaker, I understand the only objection on the part of the gentleman who objected is as to the time of notice in section 1. In order to meet that objection I ask unanimous consent that the bill be amended, on page 2, line 5, by striking out the word "August" and inserting the word "April," and add the words "the year following."

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

On page 2, line 4, strike out the word "August" and insert the word "April;" and after the word "year," insert "following;" so as to read "the 15th day of April of the year following that in which said notice in writing is given."

The SPEAKER. Is there objection?

Mr. RIXEY. Mr. Speaker, reserving the right to object, I would like to ask the gentleman from New York in regard to section 4. I notice that the report states that section 4 provides that civilian professors and instructors, after ten years of more continued service, shall be provided with commutation as now allowed to a lieutenant-commander in the Navy. In section 4 of the bill nothing is said about ten years of service.

Mr. VREELAND. I will say that that was owing to the neglect of the clerk of the Naval Committee to have the committee amendments inserted in the reprint of the bill, but I have inserted the amendments in the bill and they were so read in the bill.

Mr. RIXEY. I understand the gentleman from New York proposed to amend this section.

Mr. VREELAND. It was proposed to amend it, and the amendments were in the bill as read from the desk.

The SPEAKER. Is there objection to the amendments?

Mr. RIXEY. The reason I wanted to know in regard to section 4 was that unless it was amended I should object to this.

The SPEAKER. The Chair hears no objection.

Mr. PADGETT. Mr. Speaker——

The SPEAKER. Does the gentleman from New York yield to the gentleman from Tennessee?

Mr. VREELAND. I will yield to the gentleman.

Mr. PADGETT. I want to call the gentleman's attention to line 13, page 3, in the printed bill. It reads "examinations." The committee recommended that that be stricken out and the word "admission" inserted. That was a committee amendment.

Mr. VREELAND. I think the bill reads "admission."

Mr. PADGETT. No; it reads "examinations."

Mr. VREELAND. That was a committee amendment, which should have gone in, and I ask unanimous consent that on page 3, line 13, the word "examinations" be changed to "admission."

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. VREELAND. Mr. Speaker, I have accepted these amendments of the several items, and my understanding is that this removes the objection which the gentleman had to the bill, and I ask that a vote be taken.

Mr. SLAYDEN. Do I understand the gentleman from New York to state that with the exception of the amendments that have been made the law will provide for the same methods of appointment in every other respect that the existing law does?

Mr. VREELAND. Yes; there is no other change.

Mr. SLAYDEN. Then I have no objection.

Mr. RIXEY. Mr. Speaker, I want two or three minutes.

Mr. VREELAND. I will yield five minutes to the gentleman from Virginia.

Mr. RIXEY. Mr. Speaker, I shall not object to this bill to the extent of demanding a vote. At the same time there are some features that I do not indorse or approve. One is the section to which I have called the attention of the gentleman from New York, and another is that the civilian professors and instructors are provided with quarters or commutation thereof as now allowed officers performing a like service. While the section has been amended by providing that civilian professors and instructors must have ten years of service before they have the quarters or commutation therefor now allowed to naval officers performing like service, I think the provision is still objectionable. I do not like this way of legislating for the pay of civilian professors at the academy. This bill does not carry or state what is the compensation of these professors; that provision is carried in the naval appropriation bill. If quarters are to be provided provision should be made in the general appropriation bill and not by this special bill. The effect of this provision is if the Department directed that a rear-admiral should be one of the professors of mathematics at the academy, the civilian professors of mathematics would get the commutation for quarters that a rear-admiral got.

Mr. MEYER. Mr. Speaker, will the gentleman submit to an interruption?

Mr. RIXEY. I will yield to the gentleman.

Mr. MEYER. Is it not a fact that the committee amendment to that provision provided that civilian instructors mentioned shall have the same rate of commutation of quarters and allowances as a naval officer with the rank of lieutenant-commander?

Mr. RIXEY. Mr. Speaker, I had overlooked that fact, and the gentleman from Louisiana is right. The amendment is not printed with the bill and therefore it was overlooked. He would have commutation for quarters which a lieutenant-commander would get. My objection to this bill is that these quarters or commutation therefor should be provided for, if at all, in the naval appropriation bill, which takes care of the Naval Academy. That is my view of the matter. I am not going to op-

pose the bill to the extent of demanding a vote. I simply wanted to express my dissent to this provision.

Mr. VREELAND. Mr. Speaker, I ask for a vote on the bill, which I will state here was reported unanimously by the Committee on Naval Affairs, with the exception of the gentleman from Virginia [Mr. RIXEY].

The SPEAKER. The question is on suspending the rules and passing the bill as amended.

The question was taken; and, in the opinion of the Chair, two-thirds having voted in the affirmative, the rules were suspended, and the bill was passed.

FORFEITURE OF RIGHTS OF WAY THROUGH PUBLIC LANDS.

Mr. LACEY. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 15513) to declare and enforce the forfeiture provided by section 4 of the act of Congress approved March 3, 1875, entitled "An act granting to railroads the right of way through the public lands of the United States," which I send to the desk and ask to have read.

The Clerk read as follows:

Be it enacted, etc., That each and every grant of right of way and station grounds heretofore made to any railroad corporation under the act of Congress approved March 3, 1875, entitled "An act granting to railroads the right of way through the public lands of the United States," where such railroad has not been constructed and the period of five years next following the location of said road, or any section thereof, has now expired, shall be, and hereby is, declared forfeited to the United States, to the extent of any portion of such located line now remaining unconstructed, and the United States hereby resumes the full title to the lands covered thereby freed and discharged from such easement, and the forfeiture hereby declared shall, without need of further assurance or conveyance, inure to the benefit of any owner or owners of land heretofore conveyed by the United States subject to any such grant of right of way or station grounds.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. LACEY. Mr. Speaker, I am directed by the Committee on Public Lands to offer the following amendment to the bill.

The SPEAKER. The gentleman from Iowa offers an amendment, which the Clerk will report.

The Clerk read as follows:

At the end of the bill add the following: "*Provided*, That in any case under this act where construction of the railroad is progressing at the time of the approval of this act the forfeiture declared in this act shall not take effect as to such line of railroad for one year after such approval."

Mr. WALDO. Mr. Speaker, will the gentleman permit an inquiry?

The SPEAKER. Does the gentleman yield?

Mr. LACEY. Certainly.

Mr. WALDO. I would like to know the purpose of this bill, reserving the right to object.

The SPEAKER. It is too late to object. Unanimous consent has already been given.

Mr. LACEY. Mr. Speaker, I think the gentleman will not have any objection after I make the explanation. In 1875 what was known as the "right-of-way act" was passed, giving to railway companies the right to build their roads across the public domain upon the filing of plats, having those plats approved by the Department of the Interior. Some of these plats were filed more than thirty years ago. No roads have been built upon a large number of them. It is proposed now by this bill to declare a forfeiture of all of those old rights of way that have been thus unused for a period of more than five years previous to the passage of this act. While the time of using the right of way was limited in the original act to five years, the courts held that there must either be a judicial or a legislative declaration of forfeiture in order to terminate the rights under grants of this character. Consequently the Department has asked the Committee on Public Lands to report a bill to declare forfeiture of all those old grants so as to clear the calendar of the Interior Department. After reporting the bill, however, we ascertained that there was one road whose rights are over five years' old that has now commenced the process of construction, and the amendment offered is to give an additional year to any roads that are now being constructed before the forfeiture will take effect. There are a good many of these old plats, and they interfere with the filing of new ones. When a new railroad scheme comes up they are sometimes confronted with an old plat twenty-five or thirty years of age, and attempt is made to sell out to them. These old grants ought all to be declared forfeited.

Mr. HOGG. Mr. Speaker, I would ask the gentleman from Iowa what time would be given a road that is now in process of construction?

Mr. LACEY. One year.

Mr. BROOKS of Colorado. One year for what?

Mr. LACEY. To finish the road. We know of only one case where one of these old plats has recently been attempted to be built upon.

Mr. HOGG. The reason I ask is that the Moffatt road is using an old right of way.

Mr. LACEY. They would have a year to finish it.

Mr. HOGG. But it can not be built in one year. I would like to have that amendment amended so as to make it three years instead of one year.

Mr. LACEY. There will be no objection to that.

Mr. HOGG. Mr. Speaker, I move to amend the amendment by inserting the word "three" in place of the word "one."

Mr. LACEY. The reason the committee put it in at one year was because the only company we know of under those circumstances said that one year would be ample. There is no objection to making it three years.

The SPEAKER. The gentleman from Colorado offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend the amendment by striking out the word "one" and inserting the word "three;" so as to read "for three years after such approval."

The SPEAKER. The question is on agreeing to the amendment to the amendment.

The question was taken; and the amendment to the amendment was agreed to.

The SPEAKER. The question now is on agreeing to the amendment as amended.

The question was taken; and the amendment was agreed to.

The SPEAKER. The question now is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, read the third time, and passed.

On motion of Mr. LACEY, a motion to reconsider the last vote was laid on the table.

INSPECTORS OF HULLS AND BOILERS.

Mr. GAINES of West Virginia. Mr. Speaker, I ask unanimous consent for the present consideration of the bill S. 4360.

The SPEAKER. The gentleman from West Virginia asks unanimous consent for the present consideration of a Senate bill, which the Clerk will report.

Mr. GAINES of West Virginia. Mr. Speaker, I ask unanimous consent that the reading of the bill may be dispensed with, and pending that request I desire to make this statement to the House.

The SPEAKER. By unanimous consent a statement can be made, but it seems to the Chair that all bills ought to be read.

Mr. GAINES of West Virginia. Mr. Speaker, I make the request in this case because this bill is almost an exact reprint of the existing statute, and I can state to Members in a word or two the only respects in which any change whatever is made.

Mr. CRUMPACKER. Mr. Speaker, I suggest to the gentleman that he move to suspend the rules, and then time will not be wasted. For that purpose I object now.

Mr. GAINES of West Virginia. Mr. Speaker, I move to suspend the rules and pass Senate bill 4360.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

An act (S. 4360) to amend section 4414 of the Revised Statutes of the United States, inspectors of hulls and boilers of steam vessels.

Be it enacted, etc., That section 4414 of the Revised Statutes of the United States be, and is hereby, amended so as to read as follows:

"SEC. 4414. There shall be in each of the following collection districts, namely, the districts of Philadelphia, Pa.; San Francisco, Cal.; New London, Conn.; Baltimore, Md.; Detroit, Mich.; Chicago, Ill.; Bangor, Me.; New Haven, Conn.; Michigan, Mich.; Milwaukee, Wis.; Willamette, Oreg.; Puget Sound, Wash.; Savannah, Ga.; Pittsburg, Pa.; Oswego, N. Y.; Charleston, S. C.; Duluth, Minn.; Superior, Mich.; Apalachicola, Fla.; Galveston, Tex.; Mobile, Ala.; Providence, R. I., and in each of the following ports, New York, N. Y.; Jacksonville, Fla.; Portland, Me.; Boston, Mass.; Buffalo, N. Y.; Cleveland, Ohio; Toledo, Ohio; Norfolk, Va.; Evansville, Ind.; Dubuque, Iowa; Louisville, Ky.; Albany, N. Y.; Cincinnati, Ohio; Memphis, Tenn.; Nashville, Tenn.; St. Louis, Mo.; Port Huron, Mich.; New Orleans, La.; Juneau, Alaska; St. Michael, Alaska; Point Pleasant, W. Va.; and Burlington, Vt., one inspector of hulls and one inspector of boilers.

"The inspectors of hulls and the inspectors of boilers in the districts and ports enumerated in the preceding paragraph shall be entitled to the following salaries, to be paid under the direction of the Secretary of Commerce and Labor, namely:

"For the port of New York, N. Y., at the rate of $2,500 per year for each local inspector.

"For the districts of Philadelphia, Pa.; Baltimore, Md.; San Francisco, Cal., and Puget Sound, Wash., and the ports of Boston, Mass.; Buffalo, N. Y., and New Orleans, La., at the rate of $2,250 per year for each local inspector.

"For the districts of Michigan, Mich.; Milwaukee, Wis.; Duluth, Minn.; Providence, R. I.; Chicago, Ill., and the ports of Albany, N. Y.; Cleveland, Ohio; Portland, Me.; Juneau, Alaska; St. Michael, Alaska, and Norfolk, Va., at the rate of $2,000 per year for each local inspector.

"For the districts of Oswego, N. Y.; Willamette, Oreg.; Detroit, Mich., and Mobile, Ala., and the ports of St. Louis, Mo., and Port Huron, Mich., at the rate of $1,800 per year for each local inspector.

"For the districts of Pittsburg, Pa.; New Haven, Conn.; Savannah, Ga.; Charleston, S. C.; Galveston, Tex.; New London, Conn.; Superior, Mich.; Bangor, Me., and Apalachicola, Fla., and the ports of Dubuque, Iowa; Toledo, Ohio; Evansville, Ind.; Memphis, Tenn.; Nashville, Tenn.; Point Pleasant, W. Va.; Burlington, Vt.; Jacksonville, Fla.; Louisville, Ky., and Cincinnati, Ohio, at the rate of $1,500 per year for each local inspector.

"And in addition the Secretary of Commerce and Labor may appoint, in districts or ports where there are 225 steamers and upward to be inspected annually, assistant inspectors, at a salary, for the port of New York, of $2,000 a year each; for the port of New Orleans, La.; the districts of Philadelphia, Pa.; Baltimore, Md.; the ports of Boston, Mass.; Chicago, Ill., and the district of San Francisco, Cal., at $1,800 per year each, and for all other districts and ports at a salary not exceeding $1,600 a year each; and he may appoint a clerk to any such board at a compensation not exceeding $1,000 a year to each person so appointed. Every inspector provided for in this or the preceding sections of this title shall be paid his actual and reasonable traveling expenses or mileage, at the rate of 5 cents a mile, incurred in the performance of his duties, together with his actual and reasonable expenses for transportation of instruments, which shall be certified and sworn to under such instructions as shall be given by the Secretary of Commerce and Labor.

"Assistant inspectors, appointed as provided by law, shall perform such duties of actual inspection as may be assigned to them under the direction, supervision, and control of the local inspectors.

"And the Secretary of Commerce and Labor may from time to time detail said assistant inspectors of one port or district for service in any other port or district as the needs of the Steamboat-Inspection Service may, in his discretion, require, and the actual and reasonable traveling expenses or mileage of assistant inspectors so detailed shall, subject to such limitations as the said Secretary may in his discretion prescribe, be paid in the same manner as provided in this section for inspectors."

SEC. 2. That this act shall take effect and be in force on and after the 1st day of May, 1906.

The SPEAKER. Is a second demanded?

Mr. BURTON of Ohio. Mr. Speaker, reserving the right to demand a second, I should like——

Mr. CRUMPACKER. Mr. Speaker, I demand a second, in order to save time.

Mr. GAINES of West Virginia. Mr. Speaker, I ask unanimous consent that a second may be considered as ordered.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The gentleman from West Virginia is entitled to twenty minutes and the gentleman from Indiana to twenty minutes.

Mr. GAINES of West Virginia. Mr. Speaker, this bill amends section 4414 of the Revised Statutes of the United States, which relates to inspectors of hulls and boilers of steam vessels. Notwithstanding the fact that so many places are mentioned in this bill, the present bill is an exact reprint of the existing law, with the exception of three changes which I will now specify to the House. In the first place, at the request of the Secretary of Commerce and Labor, a new inspection district was created at St. Michael, in Alaska. St. Michael is a point southwest of the southern end of Bering Strait, and is, perhaps, as much as 2,000 miles from Juneau, the only other station or post of this sort in Alaska. In addition to that, this bill proposes to abolish two inspection districts on the Ohio River, namely, the one at Gallipolis and one at Wheeling, W. Va., and to establish, for convenience and economy and for the interest of the public service, one district in the place of those two at Point Pleasant, W. Va. Those are two of the changes made. No other places where there are such officers are affected in any way whatever. Now, there is one more change in the existing act, and that is the only other one. The Secretary of Commerce and Labor is authorized to pay $1,600 annually instead of $1,200 to some clerks to inspectors of hulls and boilers of steam vessels; and my information is—and I think I can assure the House that that is correct—that not more than four or five clerks can possibly be affected by this change; so that while the bill is long, because it repeats all the existing law as to the inspection districts already provided for, because of the inconvenience in point of language in expressing the changes intended in any other way, the changes are exceedingly few and very brief and in the interest of economy and the public service. I reserve the balance of my time.

Mr. BUTLER of Pennsylvania. Mr. Speaker——

The SPEAKER. Does the gentleman from West Virginia yield?

Mr. GAINES of West Virginia. I yield to the gentleman from Pennsylvania with pleasure.

Mr. BUTLER of Pennsylvania. How many of these inspectors are there in the United States?

Mr. GAINES of West Virginia. Mr. Speaker, I do not know how many inspectors there are in the United States. This bill makes so little change in existing law; this is so little in the nature of a complete act with reference to these inspectors, I have not given it any consideration.

Mr. BUTLER of Pennsylvania. Then, as I understand the gentleman from West Virginia, there is no change except in these three particulars?

Mr. GAINES of West Virginia. Only in the three particulars that I have named.

Mr. BUTLER of Pennsylvania. The other districts are not in any way disturbed or interfered with.

Mr. GAINES of West Virginia. The other districts are in no way disturbed by this act.

Mr. JENKINS. Mr. Speaker, I want to call the attention of the gentleman from West Virginia to line 17, page 3, where it speaks of the district of Superior, Mich. If that is an exact copy of the law, I may be mistaken with reference to it. Superior is not in Michigan, but in Wisconsin, and I desire to call the attention of the gentleman in charge of the bill to the apparent mistake. The word "district" may have relation to something else.

Mr. GAINES of West Virginia. What is the line?

Mr. JENKINS. Line 17. I do not know what is meant by the term "district," or what that is intended to include. On line 17, page 3, it speaks of district, Superior, Mich.

Mr. GAINES of West Virginia. Mr. Speaker, while I may be unable to explain just what that means in the law, I have the law here and have verified my statement, that the bill is in the language of the Revised Statutes to-day. I have my finger here on the place, if the gentleman from Wisconsin desires to look at it. I suggest to him that the service has been satisfactorily administered under the existing language, and the apparent objection that occurs to the gentleman from Wisconsin is probably not well founded.

Mr. JENKINS. I want to call the attention of the gentleman to the fact that Superior is not in Michigan.

Mr. GAINES of West Virginia. I am perfectly willing to admit that.

Mr. JENKINS. The gentleman from West Virginia is in charge of the bill, and I take it he can furnish the House with the necessary information, so that Members may be informed. I want to know what is included in the term "district" as applying to Superior, Mich.

Mr. GAINES of West Virginia. I do not know, Mr. Speaker.

Mr. JENKINS. I am satisfied. If the gentleman can not answer the question, I can not answer it myself.

Mr. GAINES of West Virginia. I would suggest that if a correction is needed it can be made hereafter somewhere.

Mr. JENKINS. I do not know just what this reference is—district Superior, Mich.

Mr. GAINES of West Virginia. I understand, Mr. Speaker, that it means the district of Lake Superior contiguous to Michigan.

Mr. JENKINS. Possibly.

Mr. GAINES of West Virginia. I do not know further than I have already explained. It is exactly the language under which the service has adequately been carried on.

Mr. JENKINS. I do not know what it is, and I wanted to know, and the gentleman is not able to inform me.

Mr. GAINES of West Virginia. I reserve the remainder of my time.

The SPEAKER. The gentleman reserves the remainder of his time.

Mr. CRUMPACKER. Mr. Speaker, if there is no Member of the House who desires to speak against this bill, I will reserve the balance of my time. I do not care to occupy any time against the bill.

Mr. GAINES of West Virginia. I ask for a vote, Mr. Speaker.

The question was taken; and, in the opinion of the Chair, two-thirds having voted in favor thereof, the rules were suspended, and the bill was passed.

NATIONAL EDUCATION ASSOCIATION OF THE UNITED STATES.

Mr. SOUTHWICK. Mr. Speaker, I move to suspend the rules and pass the bill H. R. 10501 as amended.

The SPEAKER. The gentleman from New York moves to suspend the rules, agree to the amendments, and pass the bill which the Clerk will report.

The Clerk read as follows:

A bill (H. R. 10501) to incorporate the National Education Association of the United States.

Be it enacted, etc., That the following-named persons, who are now the officers and directors and trustees of the National Educational Association, a corporation organized in the year 1886, under the act of general incorporation of the revised statutes of the District of Columbia, namely: Nathan C. Schaeffer, Eliphalet Oram Lyte, John W. Langsinger, of Pennsylvania; Isaac W. Hill, of Alabama; Arthur J. Matthews, of Arizona; John H. Hinemon, George B. Cook, of Arkansas; Joseph O'Connor, Josiah L. Pickard, Arthur H. Chamberlain, of California; Aaron Gove, Ezekiel H. Cook, Lewis C. Greenlee, of Colorado; Charles H. Keyes, of Connecticut; George W. Twitmyer, of Delaware; J. Ormond Wilson, William T. Harris, Alexander T. Stuart, of the District of Columbia; Clem Hampton, of Florida; William M. Slaton, of Georgia; Frances Mann, of Idaho; J. Stanley Brown, Albert G. Lane, Charles I. Parker, John W. Cook, Joshua Pike, Albert R. Tayler,

Joseph A. Mercer, of Illinois; Nebraska Cropsey, Thomas A. Mott, of Indiana; John D. Benedict, of Indian Territory; John F. Riggs, Ashley V. Storm, of Iowa; John W. Spindler, Jasper N. Wilkinson, A. V. Jewett, Luther D. Whittemore, of Kansas; William Henry Bartholomew, of Kentucky; Warren Easton, of Louisiana; John S. Locke, of Maine; M. Bates Stephens, of Maryland; Charles W. Eliot, Mary H. Hunt, Henry T. Bailey, of Massachusetts; Hugh A. Graham, Charles G. White, William H. Elson, of Michigan; William F. Phelps, Irwin Shepard, John A. Cranston, of Minnesota; Robert B. Fulton, of Mississippi; F. Louis Soldan, James M. Greenwood, William J. Hawkins, of Missouri; Oscar J. Craig, of Montana; George L. Towne, of Nebraska; Joseph E. Stubbs, of Nevada; James E. Klock, of New Hampshire; James M. Green, John Enright, of New Jersey; Charles M. Light, of New Mexico; James H. Canfield, Nicholas Murray Butler, William H. Maxwell, Charles R. Skinner, Albert P. Marble, James C. Byrnes, of New York; James Y. Joyner, Julius Isaac Foust, of North Carolina; Fitt Gordon Knowlton, of North Dakota; Oscar T. Corson, Jacob A. Shawan, Wells L. Griswold, of Ohio; Edgar S. Vaught, Andrew R. Hickam, of Oklahoma; Charles Carroll Stratton, Edwin D. Beisler, of Oregon; Thomas W. Bicknell, Walter Ballou Jacobs, of Rhode Island; David B. Johnson, Robert P. Peil, of South Carolina; Moritz Adelbert Lange, of South Dakota; Eugene F. Turner, of Tennessee; Lloyd E. Wolfe, of Texas; David H. Christensen, of Utah; Henry O. Wheeler, Isaac Thomas, of Vermont; Joseph L. Jarman, of Virginia; Edward T. Mathes, of Washington; T. Marcellus Marshall, Lucy Robinson, of West Virginia; Lorenzo D. Harvey, of Wisconsin; Thomas T. Tynan, of Wyoming; Cassia Patton, of Alaska; Frank H. Ball, of Porto Rico; Arthur F. Griffiths, of Hawaii; C. H. Maxson, of the Philippine Islands, and such other persons as now are or may hereafter be associated with them as officers or members of said association, are hereby incorporated and declared to be a body corporate of the District of Columbia by the name of the "National Education Association of the United States," and by that name shall be known and have perpetual succession with the powers, limitations, and restrictions herein contained.

SEC. 2. That the purpose and object of the said corporation shall be to elevate the character and advance the interests of the profession of teaching, and to promote the cause of education in the United States. This corporation shall include the National Council of Education and the following departments, and such others as may hereafter be created by organization or consolidation, to wit: The departments, first, of superintendence; second, of normal schools; third, of elementary education; fourth, of higher education; fifth, of manual training; sixth, of art education; seventh, of kindergarten education; eighth, of music education; ninth, of secondary education; tenth, of business education; eleventh, of child study; twelfth, of physical education; thirteenth, of natural science instruction; fourteenth, of school administration; fifteenth, the library department; sixteenth, of special education; seventeenth, of Indian education; the powers and duties and the number and names of these departments and of the National Council of Education may be changed or abolished at the pleasure of the corporation as provided in its by-laws.

SEC. 3. That the said corporation shall further have power to have and to use a common seal and to alter and change the same at its pleasure; to sue or to be sued in any court of the United States, or other court of competent jurisdiction; to make by-laws not inconsistent with the provisions of this act or of the Constitution of the United States; to take or receive, whether by gift, grant, devise, bequest, or purchase, any real or personal estate, and to hold, grant, convey, hire, or lease the same for the purposes of its incorporation, and to accept and administer any trust of real or personal estate for any educational purpose within the objects of the corporation.

SEC. 4. That all real property of the corporation within the District of Columbia, which shall be used by the corporation for the educational or other purposes of the corporation as aforesaid, other than the purposes of producing income, and all personal property and funds of the corporation held, used, or invested for educational purposes aforesaid, or to produce income to be used for such purposes, shall be exempt from taxation: *Provided, however*, That this exemption shall not apply to any property of the corporation which shall not be used for or the income of which shall not be applied to the educational purposes of the corporation: *And provided further*, That the corporation shall annually file with the Commissioner of Education of the United States a report in writing stating in detail the property, real and personal, held by the corporation, and the expenditure or other use or disposition of the same, or the income thereof, during the preceding year.

SEC. 5. That the membership of the said corporation shall consist of three classes of members—namely, active, associate, and corresponding—whose qualifications, terms of membership, rights, and obligations shall be prescribed by the by-laws of the corporation.

SEC. 6. That the officers of the said corporation shall be a president, twelve vice-presidents, a secretary, a treasurer, a board of directors, an executive committee, and a board of trustees.

The board of directors shall consist of a president, the first vice-president, the secretary, the treasurer, the chairman of the board of trustees, and one additional member from each State, Territory, or District, to be elected by the active members for the term of one year, or until their successors are chosen, and of all life directors of the National Educational Association. The United States Commissioner of Education, and all former presidents of the said association now living, and all future presidents of the association hereby incorporated, at the close of their respective terms of office, shall be members of the board of directors for life. The board of directors shall have power to fill all vacancies in their own body; shall have in charge the general interests of the corporation, excepting those herein intrusted to the board of trustees, and shall possess such other powers as shall be conferred upon them by the by-laws of the corporation.

The executive committee shall consist of five members, as follows: The president of the association, the first vice-president, the treasurer, the chairman of the board of trustees, and a member of the association, to be chosen annually by the board of directors, to serve one year. The said committee shall have authority to represent and to act for the board of directors in the intervals between the meetings of that body, to the extent of carrying out the legislation adopted by the board of directors under general directions as may be given by said board.

The board of trustees shall consist of four members, elected by the board of directors for the term of four years, and the president of the association, who shall be a member ex officio during his term of office. At the first meeting of the board of directors, held during the annual meeting of the association at which they were elected, they shall elect one trustee for the term of four years. All vacancies occurring in said board of trustees, whether by resignation or otherwise, shall be filled by the board of directors for the unexpired term; and the absence of a trustee from two successive annual meetings of the board shall forfeit his membership.

SEC. 7. That the invested fund now known as the "Permanent fund of the National Educational Association," when transferred to the corporation hereby created, shall be held by such corporation as a permanent fund and shall be in charge of the board of trustees, who shall provide for the safe-keeping and investment of such fund, and of all other funds which the corporation may receive by donation, bequest, or devise. No part of the principal of such permanent fund or its accretions shall be expended, except by a two-thirds vote of the active members of the association, present at any annual meeting, upon the recommendation of the board of trustees, after such recommendation has been approved by vote of the board of directors, and after printed notice of the proposed expenditure has been mailed to all active members of the association. The income of the permanent fund shall be used only to meet the cost of maintaining the organization of the association and of publishing its annual volume of proceedings, unless the terms of the donation, bequest, or devise shall otherwise specify, or the board of directors shall otherwise order. It shall also be the duty of the board of trustees to issue orders on the treasurer for the payment of all bills approved by the board of directors, or by the president and secretary of the association acting under the authority of the board of directors. When practicable, the board of trustees shall invest, as part of the permanent fund, all surplus funds exceeding $500 that shall remain in the hands of the treasurer after paying the expenses of the association for the previous year, and providing for the fixed expenses and for all appropriations made by the board of directors for the ensuing year.

The board of trustees shall elect the secretary of the association, who shall also be secretary of the executive committee, and shall fix the compensation and the term of his office for the period not to exceed four years.

SEC. 8. That the principal office of the said corporation shall be in the city of Washington, D. C.: *Provided*, That the meetings of the corporation, its officers, committees, and departments, may be held, and that its business may be transacted and an office or offices may be maintained elsewhere within the United States, as may be determined by the board of directors, or otherwise, in accordance with the by-laws.

SEC. 9. That the charter, constitution, and by-laws of the National Educational Association shall continue in full force and effect until the charter granted by this act shall be accepted by such association at the next annual meeting of the association and until new by-laws shall be adopted, and that the present officers, directors, and trustees of said association shall continue to hold office and perform their respective duties as such until the expiration of the terms for which they were severally elected or appointed, and until their successors are elected. That at such annual meeting the active members of the National Educational Association then present may organize and proceed to accept the charter granted by this act and adopt by-laws, to elect officers to succeed those whose terms have expired or are about to expire, and generally organize the "National Education Association of the United States," and that the board of trustees of the corporation hereby incorporated shall thereupon, if the charter granted by this act shall be accepted, receive, take over, and enter into possession, custody, and management of all property, real and personal, of the corporation heretofore known as the National Educational Association, incorporated as aforesaid under the Revised Statutes of the District of Columbia, and all its rights, contracts, claims, and property of every kind and nature whatsoever; and the several officers, directors, and trustees of such last-named association, or any other person having charge of any of the securities, funds, books, or property thereof, real or personal, shall on demand deliver the same to the proper officers, directors, or trustees of the corporation hereby created: *Provided*, That a verified certificate executed by the presiding officer and secretary of such annual meeting, showing the acceptance of the charter granted by this act by the National Educational Association shall be legal evidence of the fact, when filed with the recorder of deeds of the District of Columbia: *And provided further*, That in the event of the failure of the association to accept the charter granted by this act at said annual meeting, then the charter of the National Educational Association and its corporate existence shall be, and are hereby, extended until the 1st day of July, 1907, and at any time before said date its charter may be extended in the manner and form provided by the general corporation law of the District of Columbia.

SEC. 10. That the rights of creditors of the said existing corporation, known as the National Educational Association, shall not in any manner be impaired by the passage of this act, or the transfer of the property heretofore mentioned, nor shall any liability or obligation, or the payment of any sum due or to become due, or any claim or demand, in any manner, or for any cause existing against the said existing corporation, be released or impaired; and the corporation hereby incorporated is declared to succeed to the obligations and liabilities, and to be held liable to pay and discharge all of the debts, liabilities, and contracts of the said corporation so existing, to the same effect as if such new corporation had itself incurred the obligation or liability to pay such debt or damages, and no action or proceeding before any court or tribunal shall be deemed to have abated or been discontinued by reason of this act.

SEC. 11. That Congress may from time to time alter, repeal, or modify this act of incorporation, but no contract or individual right made or acquired shall thereby be divested or impaired.

Mr. SULLIVAN of Massachusetts. Mr. Speaker, I demand a second.

Mr. SOUTHWICK. I ask unanimous consent, Mr. Speaker, that a second may be considered as ordered.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The gentleman from New York is entitled to twenty minutes, and the gentleman from Massachusetts is entitled to twenty minutes.

Mr. SOUTHWICK. Mr. Speaker, this bill is intended to incorporate the National Education Association of the United States, and thereby change the title of the National Educational Association of the District of Columbia, the present title of the association. In other words, the primary object of the bill is to give the association a national title which will com-

port with its real character, inasmuch as the association embraces the forty-five States of the Union in its membership. That is the principal object of the bill.

Mr. SHACKLEFORD. Do you say that this association is already incorporated?

Mr. SOUTHWICK. It is already incorporated in the District of Columbia, under the law of the District of Columbia, as the National Educational Association of the District of Columbia.

Mr. TAWNEY. And the charter expired last February.

Mr. BUTLER of Pennsylvania. Mr. Speaker, I desire to ask the gentleman a question.

Mr. SOUTHWICK. I yield to the gentleman.

Mr. BUTLER of Pennsylvania. What changes are made in this proposed law from the old law? Will you be kind enough to inform us?

Mr. SOUTHWICK. The association has already been incorporated in the District of Columbia, and this bill is intended to give it a national title by act of Congress. Instead of being the National Educational Association of the District of Columbia, it will be known as the "National Educational Association of the United States."

Mr. BUTLER of Pennsylvania. That is the only change between the old law and the proposed law?

Mr. SOUTHWICK. That is the only change, in this respect.

Mr. McCALL. I would like to ask the gentleman a question.

Mr. SULLIVAN of Massachusetts. Mr. Speaker, I ask for order; I would like to know what is going on over there.

Mr. McCALL. I would like to inquire whether this act or bill is not favored by the leading educators of the United States?

Mr. SOUTHWICK. The bill is certainly favored by the leading educators of the United States.

Mr. SULLIVAN of Massachusetts. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. SULLIVAN of Massachusetts. I rise to ask for order, so that we may be able to know the question which the gentleman from Massachusetts has propounded. I would like to hear.

The SPEAKER. The House is in exceptionally good order.

Mr. McCALL. I inquired of the gentleman whether this legislation was not favored by the leading educators of the United States, and I understood him to say it was; and I wish to add that I have received a letter from President Eliot, of Harvard University, in which he expresses himself as strongly in favor of this bill.

Mr. SOUTHWICK. Mr. Speaker, I would state, for the information of the gentleman from Massachusetts, that the Committee on Education has received hundreds of letters and telegrams from all sections of the Union in favor of this bill, and that but a single discordant note has been heard, and that on the part of one lady from Chicago, who insisted on appearing before the committee and being heard. The committee gave the lady a full hearing of over two hours; and after having discussed her argument fully, the committee reported this bill unanimously to the House.

Mr. BUTLER of Pennsylvania. This is a unanimous report?

Mr. SOUTHWICK. Yes.

Mr. DALZELL. Does this involve any extension of the powers of the corporation?

Mr. SOUTHWICK. This does not involve any extension of the powers of the association, nor does it involve the Government of the United States in the expenditure of one dollar, directly or indirectly.

Mr. GRAHAM. I will just state, in corroboration of the gentleman from Massachusetts, that I have received a number of letters from leading educators in Pennsylvania, especially western Pennsylvania, favoring this bill.

Mr. SOUTHWICK. I dare say that almost every Member of this House has received letters or telegrams from his constituents in favor of this measure.

Mr. GAINES of Tennessee. Will the gentleman yield?

Mr. SOUTHWICK. I yield to the gentleman from Tennessee.

Mr. GAINES of Tennessee. You say this association has been previously incorporated?

Mr. SOUTHWICK. Yes; for twenty years.

Mr. GAINES of Tennessee. Where?

Mr. SOUTHWICK. In the District of Columbia.

Mr. GAINES of Tennessee. Under the District laws?

Mr. SOUTHWICK. Under the District laws.

Mr. GAINES of Tennessee. Why do you want to incorporate it by a national law?

Mr. SOUTHWICK. It is proposed to reincorporate it.

Mr. GAINES of Tennessee. What is the matter with the present charter?

A MEMBER. It has expired.

Mr. SOUTHWICK. The purpose is that the association shall be reincorporated in the District of Columbia, but with a national title, in order to make the title of this association comport with its real nature.

Mr. GAINES of Tennessee. Why have you changed the name?

Mr. SOUTHWICK. The Committee on Education embraces a great deal of legal talent, but I myself am not a lawyer. During the four days' careful attention which we gave to the subject the room of the Committee on Education reminded me of the Supreme Court of the United States; and in order that the gentleman may be fully answered I will yield five minutes to my colleague from North Carolina [Mr. WEBB].

Mr. GAINES of Tennessee. The gentleman has gotten almost red in the face and seems a little unpleasant about his answers.

Mr. SOUTHWICK. Oh, no.

Mr. GAINES of Tennessee. "The gentleman from Tennessee" is a lawyer and is trying to ask some questions about your bill.

Mr. SOUTHWICK. Will the gentleman kindly refer his questions to the gentleman from North Carolina [Mr. WEBB], who is a lawyer?

Mr. GAINES of Tennessee. I will do so.

Mr. SOUTHWICK. I reserve the balance of my time.

Mr. WEBB. Mr. Speaker, I fear that several Members are frightened on account of the name of this association. I assure them that there is nothing unusual in this name. If you will look on page 3 of the bill you will find that these men, two from each State, "are hereby incorporated and declared to be a body corporate of the District of Columbia by the name of the 'National Education Association of the United States.'"

Mr. SHACKLEFORD. What is the capital stock?

Mr. WEBB. There is no capital stock, not a share of it. It is purely an altruistic institution for the upbuilding of education in the United States. It is in no sense a commercial organization, but devoted entirely to disseminating education.

Mr. SHACKLEFORD. It has some regulations about contracts and also the right to sue and be sued.

Mr. WEBB. Yes. We could not well incorporate it without granting this power, which every corporation whether State or national has.

Mr. SHACKLEFORD. And its property is to be exempt from taxation in certain places.

Mr. WEBB. Yes; in the District of Columbia only.

Mr. SHACKLEFORD. Is it contemplated to hold property outside of the District of Columbia?

Mr. WEBB. They can hold it by donation or gift.

Mr. SHACKLEFORD. And wherever they do hold it it is to be absolutely exempt from any State or local taxes?

Mr. WEBB. No; it is only free from taxation in the District of Columbia. We would have no right to attempt to exempt it from taxation elsewhere, and hence we do not in this bill. Its property in each State is subject to the tax laws of the States, but many States do not tax property held for educational purposes.

Mr. SHACKLEFORD. Why could they not become incorporated under the District laws as they now are?

Mr. WEBB. They could.

Mr. SHACKLEFORD. Under the same name they now have?

Mr. WEBB. Yes.

Mr. SULLIVAN of Massachusetts. If I may interrupt the gentleman, I will say for the information of the gentleman from Missouri that it is incorporated now under the laws of the District of Columbia.

Mr. WEBB. Mr. Speaker, I can not yield my time to the gentleman from Massachusetts, who has twenty minutes of his own, when I have only five. The gentleman from Massachusetts has twenty minutes, and he will make himself clearly understood in that time, I have no doubt.

Mr. HENRY of Texas. What is the caption of this corporation?

Mr. WEBB. The National Education Association of the United States.

Mr. HENRY of Texas. Is it authorized to do business outside of the District of Columbia—in other words, is it a District of Columbia corporation, or a corporation intended to operate and be effective beyond the limits of the District of Columbia?

Mr. WEBB. It is a corporation with the same rights and powers and duties as if it were incorporated under the laws of the District of Columbia or any State.

Mr. HENRY of Texas. Then it is authorized to go beyond the confines of the District of Columbia and do business outside of the District?

Mr. WEBB. Most assuredly so. State corporations have

this power also. It is a corporation or association of about 2,000 educators from all over the United States.

Mr. HENRY of Texas. We have had this question before us, and we have restricted corporations to the District of Columbia; and looking up the precedents we found that that was the uniform practice, except with reference to two or three corporations which had slipped through without discovery.

Mr. WEBB. Congress has passed a bill incorporating the Carnegie Institute, almost on all fours with this, and to incorporate a General Educational Association, almost similar in every respect to this. This was done in the Fifty-eighth Congress. Now, Mr. Speaker, we give to this association no more powers than any State would give or the District of Columbia would give. The only addition or advantage that our incorporation here gives is to add the prestige to it of having been incorporated by Congress. It is such a distinguished body of educators, composed of leading men all over the United States and thousands of teachers, it is simply an act of courtesy that Congress should pass this bill.

Mr. GAINES of Tennessee. Will the gentleman yield?

Mr. WEBB. I will.

Mr. GAINES of Tennessee. Will that deprive some other association of educators from being incorporated under the same name?

Mr. WEBB. Not at all. Oh, they could not take the same name—that is, the identical name.

Mr. GAINES of Tennessee. Exactly; that is the objection to their taking the words "United States." That is what I am getting at.

Mr. WEBB. Who would want to take the same name? If you should incorporate under the laws of the District of Columbia, it would have the same effect so far as infringing on the name is concerned. No corporation can take another's name from it. You can have the same powers, but not the same name; but this act does not prevent the use of the words "United States" in connection with the name of any other educational organization or association.

Mr. GOLDFOGLE. Will the gentleman yield for a question?

Mr. WEBB. I will.

Mr. GOLDFOGLE. Why do you not incorporate under the general laws of the District of Columbia?

Mr. WEBB. Why did not the Carnegie Institute incorporate under the general law of the District?

Mr. GOLDFOGLE. What is the object of a special charter for this institution?

Mr. WEBB. Nothing except to give the association the added prestige which comes from Congressional incorporation. It is entitled to it. It is composed of educators throughout the United States, and it is a national association in the scope and character of its work and membership.

Mr. GOLDFOGLE. What special powers are given to them?

Mr. WEBB. None. This body of 2,000 educators met two years ago and asked that this charter be given by this Congress. They want the charter from Congress in order to give them the added prestige.

Mr. GOLDFOGLE. Wouldn't they get the prestige necessary if they incorporated under the laws of the District of Columbia; and wouldn't they stand just as well as any other corporation under the general laws?

Mr. WEBB. They do not think so; they would have the same power, but not the same prestige; and this is the only institution of its kind in America. The incorporators are leading educators from every State in the Union; its membership is composed of teachers in every State.

Mr. SHACKLEFORD. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. SHACKLEFORD. Is it too late for me to raise the point of order against this bill, that it has been reported from the wrong committee?

The SPEAKER. This is a motion to suspend the rules and pass the bill. It would not be in order for the gentleman to make the point at this time.

Mr. WEBB. Now, Mr. Speaker——

The SPEAKER. The time of the gentleman from North Carolina has expired.

Mr. SOUTHWICK. I yield the gentleman from North Carolina two minutes more.

Mr. WEBB. As I said, Mr. Speaker, this organization is composed of the heads of universities, North and South, East and West, and the heads of other great colleges, and thousands of earnest teachers, and every one of these members, excepting about fifteen, ask this Congress to pass this bill. There is one person, whose name will no doubt appear in this discussion later, who has caused most of the opposition and made the objection to this bill. They want to scare Democrats and mislead Republicans by saying that the name is something that does not sound well, when, actually, there is no more power given in the charter than they could get from New Jersey, or North Carolina, or any other State.

Mr. GOLDFOGLE. Is there not a special power given to acquire and dispose of property?

Mr. WEBB. No. I want to say that the Committee on Education considered this bill patiently for four days and considered it carefully. We amended it where we thought it ought to be amended, and we brought in a unanimous report. The committee heard all this opposition that is made to the bill, and had before it the person who is responsible for the fight that is now being made against the measure.

The bill is almost an exact copy of the charter under which this organization has operated and existed for twenty years, and we provide in this bill that it shall not be effective until the present association shall adopt it at an annual meeting. Can you suggest a fairer provision? Here are some letters from distinguished educators of the South urging the passage of the bill. You have heard from the North. Here is one from the University of Virginia, President Alderman; from the University of North Carolina, President Venable; from the Agricultural and Mechanical College at Raleigh, N. C., Doctor Winston, and a handful of other letters from other teachers and educators. This society is an educational intitution purely national in its scope. All they ask is to give it the prestige of passing a bill for its incorporation by Congress.

Mr. SHACKLEFORD. Mr. Speaker, is it subject to amendment—that charter?

Mr. WEBB. Why, certainly. Congress can amend it any time.

Mr. GOLDFOGLE. Will the gentleman from North Carolina kindly refer to the provision that authorizes a modification?

The SPEAKER. The time of the gentleman has expired.

Mr. WEBB. Mr. Speaker, I see no reason why this bill should not pass.

Mr. SOUTHWICK. Mr. Speaker, I will ask that the opposition consume some of its time now.

Mr. GOLDFOGLE. Mr. Speaker, I would like to ask the gentleman from New York a question.

The SPEAKER. Does the gentleman yield?

Mr. SOUTHWICK. No.

Mr. SULLIVAN of Massachusetts. Mr. Speaker, in ten minutes' debate I have not heard in Congress so much misinformation as I have heard in the last ten minutes. We have been told solemnly by the gentleman from New York [Mr. SOUTHWICK] and the gentleman from North Carolina [Mr. WEBB] that there are no changes in the charter of this corporation from the provisions of the existing charter. Why, Mr. Speaker, if any Member of the House would take the pains to examine the old charter and compare it with this, he would not have the hardihood to get up on this floor and state that there are no changes. We have all received letters concerning this bill and the letters which I received are based upon the ground that the charter should be changed in order to give to the board of trustees complete control over the investment of the permanent fund. There is a change that is admitted by the proponents of the bill. Now, Mr. Speaker, there is absolutely nothing that may be secured by this bill that can not be secured by an amendment of the existing articles of incorporation. The statements made by the gentlemen who are in charge of this bill, though made in good faith no doubt, are misleading in the extreme.

Mr. WEBB. Mr. Speaker, will the gentleman permit an interruption?

Mr. SULLIVAN of Massachusetts. Not just now; later on. Why, I had to smile when the gentleman from New York [Mr. SOUTHWICK] blandly stated that the primary object of this bill was to change the title, to give the association the prestige of the name of the National Education Association of the United States. There was no need to bring a bill before Congress in order to change that title. They could change that title under existing laws.

But let me give the House a little history of this bill. In the first place, there was a movement to prolong the life of the association. It was chartered as a corporation under the laws of the District of Columbia for twenty years. Those twenty years expired on the 26th day of February last. Therefore the members of the association, in meeting assembled, empowered the directors to recommend such changes as were necessary—now, mark the words, "as were necessary"—and for what? To continue the life of the existing association. In the original authorization there was not the delegation of a single power beyond that one—namely, to prolong the life of this association. The bill was brought before this body. It was subjected to the usual

delays. The 20th of February passed. The charter was not granted by Congress, and the corporation then did all that it needs for its protection—namely, filed with the District of Columbia a certificate extending their articles of incorporation. They may go on for twenty years longer. They may change their title so as to obtain the title which they have by this act of Congress. They may change their charter if they please. They may change their constitution. They may change their by-laws by calling a meeting of the members of this association in a democratic way and submitting proposed changes to those members and then allowing the majority to rule. But the object of this bill is to prevent a majority from ruling. Who are the members of the National Education Association of the United States? President Eliot alone? President Nicholas Murray Butler alone? Not at all. They are made up of the rank and file of the teachers, male and female, of these United States, those who are charged with the responsible duty of educating the youth of the land. Who puts up the money for this corporation?

Mr. TAWNEY. Mr. Speaker, will the gentleman permit an interruption?

Mr. SULLIVAN of Massachusetts. Not now. Who puts up the money? The college presidents? Not at all. The teachers of the United States put up practically every dollar that goes into the coffers of this association.

Mr. TAWNEY. Now will the gentleman yield?

Mr. SULLIVAN of Massachusetts. I will not yield until later, when I will indicate a readiness to do so. Later on I will yield. Now, the money that furnishes the bone and sinew of the corporation is collected from the dues of the tens of thousands of teachers of the United States. It is true there are donations from philanthropic persons, but they do not make up the bulk of the money that is in the treasury of this corporation. Mr. Speaker, it is now proposed to vest in the board of trustees practically absolute power over the affairs of this corporation. They have practically absolute control over the expenditure of the permanent fund and of the current funds. They are directed to place all surplus funds, except $500 a year, in this permanent fund. The people who compose this association, if this charter goes through, will not have the power to direct the expenditure of one single dollar of the funds to which they contribute. The entire fund is placed in absolute control of the board of directors and the trustees of this national educational trust, for that is just exactly what this is, Mr. Speaker. Now, they say there are no changes. Why, the very body, the principal constituent of this corporation, was the National Council of Education. Now, under the old charter that National Council of Education was a department of the main body, subject to the rules of the main body, subject to the control of the voting members of that body in meeting assembled. This proposed charter takes the National Council of Education out of the control of the national body and practically makes it an independent body. It is no longer under this charter a department of the National Education Association.

Mr. WILLIAMS. Will the gentleman yield?

Mr. SULLIVAN of Massachusetts. In just two or three minutes.

Mr. WILLIAMS. I was going to add this: Not only an independent body, but a self-perpetuating body.

Mr. SULLIVAN of Massachusetts. Precisely. Now, Mr. Speaker, five hours' argument will not make the proposition plainer that in the hands of these five trustees are to be placed the moneys of the teachers of the United States and the control in a large measure of the progress of education itself in the United States. How may it affect education, some Member may ask? Let me tell you the powers of the national council under this charter. The national council shall have for its object the consideration and discussion of educational questions of public and professional interest. Now, what does that power mean, gentlemen? It means that the discussion of the leading educational questions before the country will be confined practically to the channel which the national council of education prescribes. Now take the next power. It shall also decide suitable subjects for investigation and research and a recommendation of the amount of appropriations that should be made for such purposes. Not only will they determine the scope of the discussion of questions relating to education, but if research must be made they have the power to give or withhold appropriations in the execution of that design. What else? The appointment and general supervision of such special committees of investigation as may be provided for and authorized by the board of trustees of the association, and furthermore the power of disposition of all reports by such special committees of research and the annual preparation and presentation to the association at its annual convention of the report on educational progress during the past year.

What does that mean? The report of a national educational association submitted every year is a guide to the teachers all over these United States for their reading, their discussion, their study in the ensuing year, and this board has absolute power to determine what shall go into that report and what shall not go into that report; what may be discussed at its meetings and what may not be discussed at its meetings; what subjects may be investigated and what subjects shall be excluded from investigation. Now, those are the powers, and the board of trustees, as I have stated, have almost complete power over the disposal of the funds of this association. If any members of that association at its annual meeting would like to have some money, their own money, expended in a particular way, I say to you Members of this House they are powerless to do so under the charter which you propose to thrust upon the teachers of the United States. Oh, I know the teachers are voiceless; they have no heads of colleges to speak for them; they have no presidents of universities to lend the prestige of their great names to influence the judgment and action of Members of this House. They are voiceless because they live on salaries; they are dependent upon the good will of the superintendents of education over this land, of the supervisors, who are controlled by the leading educators, and while a great many of them protest against this charter they do it silently. They dare not do it publicly for fear of incurring the displeasure of the men who sit in power and judgment over them, the supervisors and superintendents of education in the several cities and towns of the land.

Mr. WEBB. Will the gentleman permit an interruption in that connection?

Mr. SULLIVAN of Massachusetts. Not just now; later I will. Mr. Speaker, may I ask how much time I have remaining? I want to leave some time to answer queries.

The SPEAKER. The gentleman has eight minutes remaining.

Mr. SULLIVAN of Massachusetts. Mr. Speaker, I will ask that I be kindly informed when I have four minutes left, as I desire to reserve that time for inquiries.

Now, how is this board of trustees chosen? Why, gentlemen, when you think of the tremendous powers that are to be exercised by such a board—practically absolute powers—you would conclude at once that they were selected in some manner which would make them truly representative of the main body. You would suppose that they were fairly representative of the members of the association, and that they were selected by democratic methods; but precisely the opposite is the fact in this case. I will find here in a few moments how these trustees are chosen.

The board of trustees—

Now, mark this, gentlemen, because it is an extremely important matter, and I fear that some gentlemen may be influenced in their judgment by the magic of the great names which have been paraded before the House; so that it becomes important to have a statement of facts to know the character of the bill we are passing upon.

The board of trustees shall consist of four members, elected by the board of directors for the term of four years, and the president of the association—

Not elected by the association, but by the board of directors, for the term of four years—

and the president of the association, by virtue of his office, shall make the fifth member.

That is the board of trustees, not selected in any democratic way, not by any fair rule of selecting representative agents, but by the action of the board of directors alone. Can you devise, can ingenuity devise, a better means of perpetuating control of the funds of the teachers of the United States or the business which will come before them for discussion and action?

Now, Mr. Speaker, the board of directors is a well-intrenched body, too. You would expect that the board of directors, which has the selection of the governing agents of the association, namely, the board of trustees, would at least be controlled by the association; but it is not under this charter. Why? Because it is loaded up with the deadwood of the past; because there are provisions in this bill which make directors for life of certain gentlemen who are named in the bill.

The SPEAKER. The gentleman's four minutes have arrived.

Mr. SULLIVAN of Massachusetts. Under this bill the board of directors shall consist of a president, the first vice-president, the secretary, the treasurer, the chairman of the board of trustees (who, by the way, as a member of the board of

directors helps elect himself a trustee), and of all life directors of the National Educational Association.

Then, the United States Commissioner of Education is made a member, "and all former presidents of the association" now living are made members "and all future presidents of the association." So that there will always be a body of old directors, sufficient in number to control the action of the board of directors. Remember that; and that the board of directors, which is not truly representative, selects four of the five trustees, who are also not representative, but who control the expenditure of every dollar of the funds and practically the exercise of every function of the association. Now, I will yield to the gentleman from North Carolina.

Mr. WEBB. Is the copy of the bill the gentleman is reading from the present bill?

Mr. SULLIVAN of Massachusetts. It is.

Mr. WEBB. Does he not know that it is an exact copy of the charter of the association, under which they have been operating for twenty years? We refer to it because the board of directors are given power to select the board of trustees.

Mr. SULLIVAN of Massachusetts. The board of trustees are given new powers under this charter, and the gentleman from North Carolina knows it. He knows that the board of trustees is given power that it has never before had, which gives them control of the permanent funds of the association.

Mr. FITZGERALD. What is the permanent fund of the association?

Mr. SULLIVAN of Massachusetts. It is made up of all donations, together with accretions from time to time, and all savings from current funds. The current funds are made up principally from the general membership fees and dues of teachers of the United States.

Mr. FITZGERALD. Does the gentleman know what it amounts to at the present time?

Mr. RYAN and Mr. WEBB rose.

The SPEAKER. To whom does the gentleman yield?

Mr. SULLIVAN of Massachusetts. I yield to the gentleman from New York [Mr. RYAN].

Mr. RYAN. I have received information that there is some $150,000 at present in the fund. Under this bill, if it is enacted into law and this incorporation granted, will this new board of trustees have control over the expenditure of that money?

Mr. SULLIVAN of Massachusetts. Yes. They will have more power than they now have. Now, Mr. Speaker, I will go on a little further.

Mr. WEBB. I should like to interrupt the gentleman right on this point.

The SPEAKER. Does the gentleman yield?

Mr. SULLIVAN of Massachusetts. In a moment. One of the reasons for objecting to this charter is this: That to-day any book agent or the agent of any publisher may be a voting member of this association. This association has the power to discuss courses of study. Their suggestions are frequently followed in the United States, so that indirectly they have the power to direct what books shall be used in the public schools; and a few years ago the Boston agent of the American Book Company was the president of the National Council of Education. There is a power—one which gentlemen may pay some attention to—that is significant in the extreme.

Mr. TAWNEY. Will the gentleman permit an interruption?

Mr. SULLIVAN of Massachusetts. I will.

Mr. TAWNEY. You stated a moment ago in reply to the gentleman from New York that the board of trustees had complete control over the expenditure of this fund. Now, I will ask the gentleman if this is not the fact, that they do not have any control over the expenditure of the permanent fund, but only over the expenditure of the income?

Mr. SULLIVAN of Massachusetts. Will the gentleman find it for me in the bill, if he is so sure?

Mr. WEBB. I will find it.

Mr. TAWNEY. The member of the committee in the rear of the gentleman from Massachusetts [Mr. WEBB] can point to the particular paragraph.

Mr. WEBB. It requires two-thirds of the active members to vote for it before one penny of it shall be expended.

Mr. SULLIVAN of Massachusetts. I did not say anything different from that.

Mr. WEBB. Oh, yes.

Mr. TAWNEY. You said that the permanent fund would be expended by the trustees.

Mr. SULLIVAN of Massachusetts. Mr. Speaker, I insist that I was right. I say that the association has no power to decide what expenditures shall be made. When the directors recommend to the trustees the expenditure of part of the principal of the permanent fund it is then that the members have the power, by a two-thirds vote of those present, to sanction that precise expenditure, but neither two-thirds nor four-fifths nor nine-tenths nor all the members of the association except those chosen few have the power to originate any scheme for the expenditure of a single dollar of the fund.

I insert as a part of my remarks section 7 of the bill, which proves that the members have no power whatever to direct how their money shall be spent, but only the power to accept or reject the particular plan proposed by the trustees. It shows also that the members have not even the power of ratification or rejection of expenditures of income.

SEC. 7. That the invested fund now known as the "Permanent fund of the National Educational Association," when transferred to the corporation hereby created, shall be held by such corporation as a permanent fund and shall be *in charge of the board or trustees, who shall provide for the safekeeping and investment of such fund, and of all other funds which the corporation may receive by donation, bequest, or devise.* No part of the principal of such permanent fund or its accretions shall be expended, except by a two-thirds vote of the active members of the association, *present at any annual meeting, upon the recommendation of the board of trustees, after such recommendation has been approved by vote of the board of directors*, and after printed notice of the proposed expenditure has been mailed to all active members of the association. The income of the permanent fund shall be used only to meet the cost of maintaining the organization of the association and of publishing its annual volume of proceedings, unless the terms of the donation, bequest, or devise shall otherwise specify, or the board of directors shall otherwise order. It shall also be the duty of the board of trustees to issue orders on the treasurer for the payment of all bills approved by the board of directors, or by the president and secretary of the association acting under the authority of the board of directors. When practicable, the board of trustees shall invest, as part of the permanent fund, all surplus funds exceeding $500 that shall remain in the hands of the treasurer after paying the expenses of the association for the previous year, and providing for the fixed expenses and for all appropriations made by the board of directors for the ensuing year.

The board of trustees shall elect the secretary of the association, who shall also be secretary of the executive committee, and shall fix the compensation and the term of his office for a period not to exceed four years.

The SPEAKER. The gentleman from New York has seven minutes remaining.

Mr. SOUTHWICK. Mr. Speaker, I yield four minutes to the gentleman from Arkansas [Mr. FLOYD].

Mr. FLOYD. Mr. Speaker, the gentleman from Massachusetts has made a vigorous assault on this bill. In the limited time that I have I desire to explain the bill as I understand it and to answer some of the questions that have been asked by Members of this House.

In the first place, this is not a general Federal corporation, but is a corporation of the District of Columbia. This will be found in lines 15, 16, and 17, which read as follows:

And such other persons as now are or may hereafter be associated with them as officers or members of said association are hereby incorporated and declared to be a body corporate of the District of Columbia.

Mr. PADGETT. Will the gentleman yield for a question?

Mr. FLOYD. Yes.

Mr. PADGETT. Are they limited to the transaction of business in the District of Columbia?

Mr. FLOYD. As far as their corporate existence is concerned they are limited just like any other District of Columbia corporation.

Mr. PADGETT. Limited in their name?

Mr. FLOYD. No, in their functions; just the same as any other District of Columbia corporation incorporated under the general laws of the District of Columbia. They have just that much power, and no more.

Mr. PADGETT. Yes; exactly so. They have the power to go anywhere.

Mr. FLOYD. Now, in regard to another objection made by the distinguished gentleman from Massachusetts, he insists that the board of trustees have power over this permanent fund. I desire to submit that the funds are safeguarded better under this incorporation than they are under the original charter obtained under the general incorporation law of the District of Columbia, for in section 6, beginning with line 21, it is provided—

No part of the principal of such permanent fund or its accretions shall be expended except by a two-thirds vote of the active members of the association *present at any annual meeting, upon the recommendation of the board of trustees, after such recommendation has been approved by vote of the board of directors, and after printed notice of the proposed expenditure has been mailed to all active members of the association.*

Mr. WILLIAMS. Mr. Speaker, I want to ask the gentleman why it was that this charter was not procured in the regular way under the general law for incorporation in the District of Columbia, if there is nothing in it except a District of Columbia charter?

Mr. FLOYD. In answer to that question I will say that I know nothing as to the motives except at the last annual meet-

ing of the National Educational Association, at Chicago, they brought up the proposition before that meeting, where there were over 400 delegates, to submit this charter to Congress and ask Congress to pass it. That was voted upon and carried by a large majority. Then the friends of the movement came before our committee and submitted this bill. We modified and changed the bill very much in form. Originally it was a general Federal corporation, and we changed it and made it a corporation of the District of Columbia. It gave the National Council of Education enlarged powers, and we changed and limited the National Council of Education so as to make it subject to control the same as the other departments named. We modified the bill in such a way that we considered there was no objection to it.

In that connection I will say that many educators throughout the land—superintendents of public instructions—almost overwhelmed the committee with letters and telegrams asking us to pass this bill. The opposition all came from Chicago. One lady, who is a teacher in Chicago, protested against it, and asked to be heard. We permitted her to come before the committee and gave a hearing lasting two hours, heard all the objections she urged, and amended the bill to meet valid objections, and if there are any objections besides what she made they have not reached my ears, until the gentleman from Massachusetts [Mr. SULLIVAN] on the floor of the House opposed the passage of the bill.

Mr. SOUTHWICK. Mr. Speaker, I yield two minutes to the gentleman from Minnesota.

Mr. SULLIVAN of Massachusetts. Will the gentleman let me ask him a question in reply to the one that was asked me as to the control of the funds?

Mr. TAWNEY. I can not yield in the short time I have.

Mr. SULLIVAN of Massachusetts. I have no more time.

Mr. TAWNEY. I can not yield. I want to say a word. I think the gentleman from Massachusetts is unnecessarily wrought up about the provisions of this bill. He insinuates that the men at the head of the organization through this bill seek an unfair advantage of the less prominent members. He speaks about the permanent fund that has been accumulated from the contributions paid by the teachers of the United States belonging to this organization. The gentleman says that under the provisions of this bill that fund may be disposed of at any time by the board of trustees. This is the mere assertion, sir, of the gentleman from Massachusetts [Mr. SULLIVAN]. It is not founded in fact. One of the primary objects of this bill is to protect this fund and to make it a permanent fund, a fund that can not be encroached upon or disposed of by any member or officer of the organization for any purpose whatsoever.

Mr. GOLDFOGLE. Mr. Speaker——

Mr. TAWNEY. I decline to yield. No man who has read the bill can say that that is not a fact. The only part of the fund that can be disposed of in the discretion of the trustee or other officers of the organization is the accumulations resulting from the investment of this fund, and that can be expended only for purposes authorized by this association.

Mr. SULLIVAN of Massachusetts. Oh, the gentleman knows that he is mistaken about that.

Mr. TAWNEY. The purpose is, I repeat, to protect the fund and to encourage not only members of the organization, but to encourage men of means interested in the work of this organization to contribute to this fund, thus enabling the organization to carry on the important work it is engaged in. This will be accomplished, Mr. Speaker, by the enactment of this bill making it impossible for those who in the future may control the organization from in any way interfering with or disposing of this fund without first securing an act of Congress authorizing it. This question was carefully considered at the last annual meeting of the National Educational Association at Asbury Park. At that meeting last summer this matter was discussed and acted upon by more than 800 teachers. Eight hundred of whom acted in favor of reincorporation upon the terms of this bill, and only 15 voted against it. This organization has a membership of more than 15,000, and the infinitesimal number opposed to this reorganization now seek through the gentleman from Massachusetts, the home of education, to prevent the accomplishment of that which is deemed essential to its future growth and increased usefulness.

Mr. Speaker, the secretary of the National Educational Association, Mr. Irwin Shepard, is my neighbor and personal friend. He has devoted the best part of his life to the upbuilding of this organization. He took hold of that work when the organization was in its infancy, and has built up a national educational institution which is not only the pride of every American interested in national education but an educational organization unexcelled by any nation in the world. I may be pardoned, therefore, if I resent, to some extent, the insinuation of the gentleman from Massachusetts [Mr. SULLIVAN] that the men behind this bill are actuated by selfish or improper motives, or that they have any intention or desire to take advantage of any member of the association however humble that member may be.

Mr. BUTLER of Pennsylvania. Were the provisions of this bill discussed at the meeting referred to by the gentleman from Minnesota?

Mr. TAWNEY. The identical provisions in the bill were discussed and adopted. The constitution and by-laws under which the association has existed for twenty years are incorporated in this bill, with the added security to the permanent fund.

Mr. WILLIAMS. It did not exist for twenty years under the authority of Congress, by a charter of Congress.

Mr. TAWNEY. Oh, yes. The law under which the association was incorporated was enacted by Congress.

Mr. WILLIAMS. Why didn't they go to New York?

Mr. SOUTHWICK. Mr. Speaker, I now yield thirty seconds to the gentleman from Pennsylvania [Mr. BUTLER].

Mr. BUTLER of Pennsylvania. Mr. Speaker, the class of teachers for whom the gentleman from Massachusetts speaks—the common-school teachers—have sent requests here by the thousands in favor of this bill. My constituents visited this meeting spoken of by the gentleman from Minnesota, and there they understood the purpose of this bill, because they discussed and heard it discussed, and, returning, made their wishes known to Congress and the Members of this House. While I know but little about the different provisions of the bill—and if I did, have not the opportunity to discuss them—these intelligent people who have memorialized Congress should have their express wishes complied with, and I shall vote for their bill and am gratified to have the chance.

Mr. SOUTHWICK. Mr. Speaker, I admire the chivalry and eloquence of the gentleman from Massachusetts. He stands up here on the floor of the House as the sole opponent of this bill. He is eloquent, we will all admit, and chivalrous because he stands up here representing the lady who was the only opponent of the bill before the Committee on Education. We devoted five hearings to this bill, all differences were reconciled and harmonized, and this bill comes before the House with the unanimous report from the Committee on Education.

Mr. SULLIVAN of Massachusetts. Mr. Speaker, I ask unanimous consent that debate may extend ten minutes longer. I believe there has been a great deal of misrepresentation in regard to the provisions of this bill.

The SPEAKER. The gentleman from Massachusetts asks unanimous consent that the debate be extended for ten minutes. Is there objection?

Mr. GRAHAM. I object. The gentleman took ten minutes' time for an explanation and wouldn't answer a question.

Mr. SULLIVAN of Massachusetts. Mr. Speaker, I ask unanimous consent for sufficient time to read section 7, which exposes the power of the board of trustees, and surely the gentleman will not object to that proposition.

The SPEAKER. The gentleman is not in order.

Mr. SULLIVAN of Massachusetts. I ask unanimous consent to proceed for five minutes.

The SPEAKER. The gentleman from Massachusetts asks unanimous consent to address the House for five minutes. Is there objection?

Mr. GRAHAM. I object, Mr. Speaker; the gentleman would not reply when we asked him questions.

Mr. WILLIAMS. I call for the regular order, Mr. Speaker. The gentleman from Pennsylvania has a right to object, but not to speak on his objection.

The SPEAKER. The question is on the motion of the gentleman from New York to suspend the rules, agree to the amendments, and pass the bill as amended.

The question was taken; and on a division (demanded by Mr. SULLIVAN of Massachusetts) there were—ayes 140, noes 37.

Mr. WILLIAMS. Mr. Speaker, I call for the yeas and nays.

The SPEAKER. The gentleman from Mississippi demands the yeas and nays. As many as are in favor of ordering the yeas and nays will rise and stand until counted. [After counting.] Thirty-one gentlemen have arisen, not a sufficient number, and the yeas and nays are refused.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

INSANE ASYLUM, TERRITORY OF OKLAHOMA.

Mr. COLE. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 13675) to ratify and confirm the acts of the legislative assembly of the Territory of Oklahoma, passed in the year 1905, relating to an insane asylum for the Territory of Oklahoma and providing for the establish-

ment and maintenance of an insane asylum for the Territory of Oklahoma at Fort Supply, in Woodward County, Okla., and making appropriations therefor, which I send to the desk and ask to have read.

The Clerk read as follows:

Be it enacted, etc., That the act of the legislative assembly of the Territory of Oklahoma, entitled "An act accepting the offer made by Congress to the Territory of Oklahoma, granting to such Territory the use of Fort Supply Military Reservation and the buildings thereon for the purpose of an insane asylum for the Territory of Oklahoma, and providing for the care of the insane of the Territory of Oklahoma," approved March 1, 1905, be, and the same is hereby, in all things ratified, approved, and confirmed, and that section 14 of an act of the legislative assembly of the Territory of Oklahoma, entitled "An act making appropriation for current expenses of the Territory of Oklahoma for the years 1905 and 1906, and for deficiency appropriations and for miscellaneous purposes," approved March 11, 1905, be, and the same is hereby, in all things ratified, approved, and confirmed.

The SPEAKER. Is there objection to the present consideration of the bill just reported? [After a pause.] The Chair hears none. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, read the third time, and passed.

On motion of Mr. COLE, a motion to reconsider the last vote was laid on the table.

FIELD GUNS AND EQUIPMENT FROM CONNECTICUT.

Mr. CAPRON. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (S. 4111) to authorize the Chief of Ordnance, United States Army, to receive four 3.6-inch breech-loading field guns, carriages, caissons, limbers, and their pertaining equipment from the State of Connecticut, which I send to the desk and ask to have read.

The Clerk read as follows:

Be it enacted, etc., That the Chief of Ordnance, United States Army, is hereby authorized and empowered to receive back from the State of Connecticut the four 3.6-inch breech-loading field guns, carriages, caissons, limbers, and their pertaining material, which were sold to the State by the Ordnance Department for the sum of $12,405.08 on June 29, 1901.

SEC. 2. That no part of the value of this material shall be paid to the State of Connecticut, but the whole amount received from the sale thereof to the State shall stand as a credit to the quota of the State, the same as though allotted from the annual appropriations under the provisions of section 1661, Revised Statutes, as amended, and subject to all the conditions thereof.

SEC. 3. That the sum of $12,405.08 is hereby appropriated, from any money in the Treasury not otherwise appropriated, for the purpose of carrying this act into effect.

The SPEAKER. Is there objection to the present consideration of the bill just reported? [After a pause.] The Chair hears none. The question is on the third reading of the Senate bill.

The question was taken; and the bill was ordered to be read the third time, read the third time, and passed.

On motion of Mr. CAPRON, a motion to reconsider the last vote was laid on the table.

EXTENSION OF REMARKS.

Mr. SOUTHWICK. Mr. Speaker, I ask unanimous consent that Members be allowed to extend their remarks in the RECORD on the bill (H. R. 10501) to incorporate the National Educational Association of the United States.

The SPEAKER. The gentleman from New York asks unanimous consent that Members may extend their remarks on the bill to incorporate the National Education Association of the United States. Is there objection?

Mr. SULLIVAN of Massachusetts. Mr. Speaker, reserving the right to object, why does the gentleman want to have Members extend their remarks on this bill?

Mr. SOUTHWICK. There were some Members of the committee who could not secure time to speak who were anxious to speak.

Mr. SULLIVAN of Massachusetts. Simply to present the views of the committee?

Mr. SOUTHWICK. To present their individual views.

Mr. SULLIVAN of Massachusetts. I have no objection.

The SPEAKER. Is there objection?

Mr. WILLIAMS. Mr. Speaker, I object.

The SPEAKER. The gentleman from Mississippi objects.

Mr. STERLING. Mr. Speaker, I ask unanimous consent that Members be permitted to extend their remarks on the employers' liability bill, passed early this afternoon, for five legislative days.

The SPEAKER. The gentleman from Illinois asks unanimous consent that Members be permitted to extend their remarks on the employers' liability bill for five legislative days. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

RECORDER OF DEEDS, ETC., OSAGE INDIAN RESERVATION, OKLA.

Mr. CURTIS. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 17220) providing for a recorder of deeds, etc., in the Osage Indian Reservation, in Oklahoma Territory, which I send to the desk and ask to have read.

The Clerk read as follows:

Be it enacted, etc., That the Osage Indian Reservation, in Oklahoma Territory, be, and the same is hereby, declared to be a recording district for the purpose of recording and filing deeds, mortgages, and other instruments in writing affecting property within said reservation. The Secretary of the Interior is hereby authorized and directed to appoint a suitable person as said recorder, whose office shall be located at the town of Pawhuska, on said reservation. As compensation for services the said recorder is hereby authorized to retain the fees legally collected by him for the recording of deeds, etc., up to and including the sum of $1,800 per annum, and the fees shall be the same as are charged for like service in other recording districts in said Territory. If the receipts of said office exceed the said sum of $1,800, the said excess shall be turned into the Treasury of the United States. This act shall not be construed to in any way obligate the Government to pay the said recorder any deficiency below the sum of $1,800 yearly.

SEC. 2. That all deeds, papers, and other instruments recorded by said recorder in the Osage Nation shall have the same effect, legally or otherwise, as if recorded in the recording office of any regularly organized county in the Oklahoma Territory.

With the following amendments:

In line 5, page 1, after the word "filing," add the word "such."

In line 6, page 1, after the word "writing," add the following: "as are authorized by the laws of Oklahoma."

Strike out the following words in lines 7, 8, and 9, to wit: "the Secretary of the Interior is hereby authorized and directed to appoint a suitable person as said recorder, whose office shall be located at the town of Pawhuska, on said reservation," and insert in lieu thereof "and the deputy clerk of the district court located at the town of Pawhuska, on said reservation, shall be ex officio register of deeds."

In line 12, page 1, strike out the words "as forth" and insert in lieu thereof the words "other instruments."

In line 14, after the word "fees," insert the words "collected by him."

In line 1, page 2, after the word "Territory," add "said recorder shall make monthly reports to the Secretary of the Interior of the fees collected by him, and said Secretary is hereby authorized to use such part of said fees as may be needed for the purchase of records, books, supplies, and expenses of said office."

In line 12, page 2, after the word "Territory," add the following proviso at the end of section 2: "*Provided*, That this act shall become inoperative when the Osage Reservation shall become an organized county of Oklahoma, and all records shall be turned over to the proper county officers whenever such county is organized."

The SPEAKER. Is there objection?

Mr. FITZGERALD. Mr. Speaker, reserving the right to object, I wish to inquire the necessity for the recorder of deeds where there can be no deeds executed?

Mr. CURTIS. Mr. Speaker, this bill makes the Osage Indian Reservation, in Oklahoma, a recording district for the purpose of recording deeds, mortgages, and other instruments in writing affecting property within the reservation. This action by Congress is made necessary for the reason that there is no law of Oklahoma which provides for the recording of deeds, mortgages, or leases on real property within the Osage Reservation.

A law enacted on the 4th of March, 1905, authorized the laying out of certain towns within the Osage Reservation and provided for the sale of the lots in each of said towns. Under that act the towns of Pawhuska, Hominy, Gray Horse, Fairfax, Bigheart, and Foreaker have been laid out. The lots in the town of Pawhuska have been sold and the dates for the sale of lots in the other towns have been fixed. There will therefore be issued several thousand deeds which can not be recorded, and it is hoped, to meet this situation, that this bill will be acted upon speedily and favorably.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The question is on agreeing to the amendments.

The question was taken; and the amendments were agreed to.

The SPEAKER. The question now is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, read the third time, and passed.

On motion of Mr. CURTIS, a motion to reconsider the last vote was laid on the table.

PROVISIONS OF RECLAMATION ACT EXTENDED TO TEXAS.

Mr. SMITH of Texas. Mr. Speaker, I ask unanimous consent for the present consideration of the bill H. R. 14184.

The SPEAKER. The gentleman from Texas asks unanimous consent for the present consideration of a bill, the title of which the Clerk will read, the bill having been read on a former day.

The Clerk read as follows:

A bill (H. R. 14184) to extend the irrigation act to the State of Texas.

Mr. LACEY. Mr. Speaker, reserving the right to object, I want to see if I can make some arrangement——

Mr. BONYNGE. Mr. Speaker, is it the purpose to try to pass this bill this evening?

Mr. LACEY. There is an agreement that we shall have time to debate this bill.

Mr. BONYNGE. How much time?

Mr. LACEY. That question is unsettled, but I think there should be an hour on a side.

Mr. BONYNGE. There should be at least that. If it is not intended to pass this bill now, I will not make any objection to calling it up.

Mr. SMITH of Texas. I do not propose to press this bill to a vote to-day.

Mr. LACEY. It might take more time, depending upon the nature of the discussion.

The SPEAKER. The Chair was informed by the gentleman from Texas and also by the gentleman from Iowa that if unanimous consent for the consideration of this bill was given at this time, that they would then assent, it then being in the nature of unfinished business, to its going over until another day.

Mr. LACEY. That is the understanding, Mr. Speaker.

The SPEAKER. Is there objection?

Mr. KEIFER. Mr. Speaker, before that is done, is there to be debate on this question?

The SPEAKER. Not this evening; it will come up at a later day.

Mr. WILLIAMS. The understanding is, I believe, there is to be two hours' debate—an hour to a side.

Mr. KEIFER. When is that?

The SPEAKER. It is impossible to tell.

Mr. WILLIAMS. Whenever the unfinished business comes up under the rules of the House.

Mr. KEIFER. Well, I will not object now.

The SPEAKER. The Chair hears no objection.

EXPENSES ON ACCOUNT OF CERTAIN TREATY WITH SPAIN.

Mr. JENKINS. Mr. Speaker, I call up a privileged resolution, by direction of the Committee on the Judiciary.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

Resolved, That the Attorney-General is requested to inform the House of the name and date of appointment of every person appointed under the act of Congress entitled "An act to carry into effect the stipulations of article 7 of the treaty between the United States and Spain concluded on the 10th day of December, 1898," approved March 2, 1901, the position held by each person, and the amount of compensation for each person by the hour, day, week, month, or year, and the amount of expenses in addition to compensation, if any.

The amendment recommended by the committee was read, as follows:

Amend by adding at the end of the resolution as follows: "And the total amount paid for salaries, compensation, and expenses from the 2d day of March, 1901, to the present time."

Mr. JENKINS. Mr. Speaker, I ask for a vote.

The amendment was agreed to.

The resolution as amended was agreed to.

Mr. JENKINS. Mr. Speaker, I desire to call up resolution No. 376.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

Resolved, That the Secretary of the Treasury is requested to inform the House of the total amount paid by the United States on account of the act of Congress entitled "An act to carry into effect the stipulations of article 7 of the treaty between the United States and Spain concluded on the 10th day of December, 1898," approved March 2, 1901, and the several acts amendatory thereof, for salaries, expenses, costs, compensation, and allowances of every kind and nature, and the amount allowed in favor of claimants and against the United States.

The amendment recommended by the committee was read, as follows:

Amend by striking out all of lines 10 and 11 and insert in lieu thereof: "Number and amount of claims allowed in favor of claimants and against the United States; and the number and amount of claims determined in favor of the United States; and the number and amount of claims now pending."

The amendment was agreed to.

The resolution as amended was agreed to.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

A message, in writing, from the President of the United States was communicated to the House of Representatives by Mr. ADOLPH FORSTER, assistant secretary to the President of the United States.

CIRCUIT AND DISTRICT COURTS OF THE NORTHERN DISTRICT OF CALIFORNIA.

The SPEAKER laid before the House the following message from the President of the United States, which was read:

To the House of Representatives:

I return herewith, without approval, House bill No. 15521, for the reasons set forth in the following letter from the Acting Attorney-General:

"I have the honor to reply to your letter of March 22, 1906, inclosing H. R., 'An act establishing regular terms of the United States circuit and district courts of the northern district of California at Eureka, Cal.,' and asking to be advised whether I know of any objection to its approval.

"I regard as specially and highly objectionable the following part of the measure: '*Provided, however*, That Humboldt County, Cal., shall furnish a suitable place in which to hold said court, free of all charges and expenses, until such time as the United States shall make provisions for a place in which to hold the same.'

"It appears to me that terms of courts should not depend upon whether some county will furnish gratuitously a place therefor. If such terms are unnecessary they should not be required, and if necessary should not depend upon the gratuitous action of any place.

"Eureka is an isolated place on the California coast, some 230 miles from San Francisco. Short lines of railroads lead out from it, but do not reach into any of the adjacent counties. It must, therefore, be approached either by sea or overland.

"Possibly it would be a convenience to the citizens of Humboldt, Del Norte, and Trinity counties in California if terms of the Federal courts were held at Eureka. But the amount of business originating in those counties is very small. I am advised that in those counties during the last two years there originated 16 suits (civil and criminal), and that out of 682 bankruptcy matters in the district court 25 originated in the three counties specified.

"The Federal courts at San Francisco are now crowded with work, and a new district judge seems necessary in order to keep the dockets clear.

"To establish terms of court at Eureka will impose a very considerable expense upon the Government and increase the labors of the judges, clerk, and district attorney.

"In view of all the facts, I do not think the public interest would be subserved by permitting the bill to become law."

THEODORE ROOSEVELT.

THE WHITE HOUSE, *April 2, 1906.*

Mr. JENKINS. Mr. Speaker, I move that the message and accompanying papers be referred to the Committee on the Judiciary.

The SPEAKER. Without objection, it is so ordered.

ROCK CREEK PARK.

By unanimous consent, reference of the bill (H. R. 6000) to rectify the boundary line of Rock Creek Park was changed from the Committee on the District of Columbia to the Committee on Public Buildings and Grounds.

ENROLLED BILLS SIGNED.

The SPEAKER announced his signature to enrolled bill of the following title:

S. 1345. An act to provide for the reorganization of the consular service of the United States.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States for his approval the following bills and joint resolution:

H. R. 5954. An act to authorize the Secretary of the Treasury to issue duplicate gold certificate, in lieu of one lost, to Lincoln National Bank, of Lincoln, Ill.;

H. R. 14808. An act authorizing the Choctawhatchee Power Company to erect a dam in Dale County, Ala.;

H. R. 16671. An act permitting the building of a dam across the St. Joseph River near the village of Berrien Springs, Berrien County, Mich.; and

H. J. Res. 11. Joint resolution for the publication of eulogies delivered in Congress on Hon. JOHN W. CRANFORD, late a Representative in Congress.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. LEGARE indefinitely, on account of illness.

Mr. PAYNE. I renew my motion, Mr. Speaker.

The SPEAKER. The gentleman from New York renews his motion to adjourn.

The motion was agreed to.

And accordingly (at 5 o'clock and 4 minutes p. m.) the House adjourned.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred as follows:

A letter from the Acting Secretary of the Treasury, transmitting a copy of a letter from the Postmaster-General submitting an estimate of appropriation for service of the Post-Office Department for 1906 and prior years—to the Committee on Appropriations, and ordered to be printed.

A letter from the Acting Secretary of the Interior, transmitting, with a copy of a letter from the Commissioner of the General Land Office, papers relating to the private land claim of Isaac Crow, assignee of Vincent Michele—to the Committee on Private Land Claims, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. PRINCE, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 5018) to give a true military status to the Nebraska Territorial Militia, reported the same with amendment, accompanied by a report (No. 2814); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. CAMPBELL of Kansas, from the Committee on the District of Columbia, to which was referred the bill of the House (H. R. 14513) to prevent the giving of false alarms of fires in the District of Columbia, reported the same with amendment, accompanied by a report (No. 2817) which said bill and report were referred to the House Calendar.

Mr. CUSHMAN, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the Senate (S. 5626) providing for the establishment of a life-saving station at or near Neah Bay, in the State of Washington, and for the construction of a first-class ocean-going tug to be used in connection therewith, for life-saving purposes in the vicinity of the north Pacific coast of the United States, etc., reported the same with amendment, accompanied by a report (No. 2818); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. NEVIN, from the Committee on the Judiciary, to which was referred the bill of the House (H. R. 7065) to amend section 858 of the Revised Statutes of the United States, reported the same without amendment, accompanied by a report (No. 2819); which said bill and report were referred to the House Calendar.

Mr. THOMAS of North Carolina, from the Committee on the Library, to which was referred the bill of the House (H. R. 15381) to appropriate $25,000 to inclose and beautify the grounds and repair the monument of Moores Creek battlefield, North Carolina, reported the same with amendment, accompanied by a report (No. 2820); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17202) granting an increase of pension to Benjamin H. Cool, reported the same with amendment, accompanied by a report (No. 2763); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15355) granting an increase of pension to George M. Daily, reported the same with amendment, accompanied by a report (No. 2764); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15783) granting an increase of pension to George W. Sutton, reported the same with amendment, accompanied by a report (No. 2765); which said bill and report were referred to the Private Calendar.

Mr. KELIHER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 14198) granting an increase of pension to William T. Stewart, reported the same with amendment, accompanied by a report (No. 2766); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 14200) granting an increase of pension to John K. Dalzell, reported the same with amendment, accompanied by a report (No. 2767); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 12372) granting an increase of pension to J. Morgan Seabury, reported the same with amendment, accompanied by a report (No. 2768); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 12304) granting an increase of pension to John McDonough, reported the same with amendment, accompanied by a report (No. 2769); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 12010) granting an increase of pension to Louis Hoffmann, reported the same with amendment, accompanied by a report (No. 2770); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 12813) granting an increase of pension to Reese Moore, reported the same with amendment, accompanied by a report (No. 2771); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 8290) granting an increase of pension to Lloyd D. Bennett, reported the same with amendment, accompanied by a report (No. 2772); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 8277) granting an increase of pension to Samuel S. Garst, reported the same without amendment, accompanied by a report (No. 2773); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 7687) granting an increase of pension to Charles Hammond, reported the same with amendment, accompanied by a report (No. 2774); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16318) granting an increase of pension to Joseph H. Hollett, reported the same with amendment, accompanied by a report (No. 2775); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 10181) granting an increase of pension to Silas Flourney, reported the same with amendment, accompanied by a report (No. 2776); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 1138) granting an increase of pension to Joseph S. Rice, reported the same without amendment, accompanied by a report (No. 2777); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 2173) granting an increase of pension to Thomas H. Padgett, reported the same without amendment, accompanied by a report (No. 2778); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 12664) granting an increase of pension to William E. Wallace, reported the same with amendment, accompanied by a report (No. 2779); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 13679) granting an increase of pension to Joseph Nobinger, reported the same without amendment, accompanied by a report (No. 2780); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17271) granting an increase of pension to Andrew J. Mosier, reported the same with amendment, accompanied by a report (No. 2781); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 14374) granting an increase of pension to Benjamin B. Cahoon, reported the same with amendment, accompanied by a report (No. 2782); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 14328) granting an increase of pension to Charles M. Mears, reported the same without amendment, accompanied by a report (No. 2783); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 14094) granting an increase of pension to Daniel C. Joslyn, reported the same with amendment, accompanied by a report (No. 2784); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 15500) granting an increase of pen-

sion to John W. Thomas, reported the same with amendment, accompanied by a report (No. 2785); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15201) granting an increase of pension to Edward O'Shea, reported the same with amendment, accompanied by a report (No. 2786); which said bill and report were referred to the Private Calendar.

Mr. KELIHER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 13713) granting a pension to Allison W. Pollard, reported the same with amendment, accompanied by a report (No. 2787); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 14966) granting an increase of pension to John F. Smith, reported the same with amendment, accompanied by a report (No. 2788); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15632) granting an increase of pension to Joseph B. Sanders, reported the same with amendment, accompanied by a report (No. 2789); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15064) granting an increase of pension to Jacob Wagenknecht, reported the same with amendment, accompanied by a report (No. 2790); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15229) granting an increase of pension to Edwin Howes, reported the same without amendment, accompanied by a report (No. 2791); which said bill and report were referred to the Private Calendar.

Mr. KELIHER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15943) granting an increase of pension to William D. Jones, reported the same without amendment, accompanied by a report (No. 2792); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17143) granting an increase of pension to William Taylor, reported the same with amendment, accompanied by a report (No. 2793); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17044) granting an increase of pension to Jackson D. Thornton, reported the same with amendment, accompanied by a report (No. 2794); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17070) granting an increase of pension to Thomas Blakney, reported the same with amendment, accompanied by a report (No. 2795); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 9046) granting a pension to William Berry, reported the same with amendment, accompanied by a report (No. 2796); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 14854) granting an increase of pension to Harriet Howard, reported the same with amendment, accompanied by a report (No. 2797); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 14299) granting an increase of pension to Rose Vincent Mullin, reported the same with amendment, accompanied by a report (No. 2798); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 15243) granting a pension to Artemesia T. Husbrook, reported the same with amendment, accompanied by a report (No. 2799); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 15682) granting a pension to Hannah M. Hayes, reported the same with amendment, accompanied by a report (No. 2800); which said bill and report were referred to the Private Calendar.

Mr. KELIHER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17205) granting a pension to Alice Garvey, reported the same without amendment, accompanied by a report (No. 2801); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16491) granting an increase of pension to Lewis Denson, reported the same with amendment, accompanied by a report (No. 2802); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 16173) granting a pension to Sarah Smith, reported the same with amendment, accompanied by a report (No. 2803); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17273) granting a pension to Mary B. Watson, reported the same with amendment, accompanied by a report (No. 2804); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 1340) granting a pension to Robert Kennish, reported the same with amendment, accompanied by a report (No. 2805); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 6238) granting an increase of pension to Jesse Woods, reported the same with amendment, accompanied by a report (No. 2806); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 10250) granting an increase of pension to Ephraim Marble, reported the same with amendment, accompanied by a report (No. 2807); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 7540) granting an increase of pension to William F. Griffith, reported the same with amendment, accompanied by a report (No. 2808); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 8780) granting an increase of pension to Abraham M. Barr, reported the same with amendment, accompanied by a report (No. 2809); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 8091) granting an increase of pension to John Coughlin, reported the same with amendment, accompanied by a report (No. 2810); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 12480) granting an increase of pension to James McKenna, reported the same with amendment, accompanied by a report (No. 2811); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 10924) granting an increase of pension to Thomas J. Sizer, reported the same with amendment, accompanied by a report (No. 2812); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 12160) granting an increase of pension to Josephine D. McNary, reported the same with amendment, accompanied by a report (No. 2813); which said bill and report were referred to the Private Calendar.

ADVERSE REPORTS.

Under clause 2 of Rule XIII, adverse reports were delivered to the Clerk, and laid on the table, as follows:

Mr. CAMPBELL of Kansas, from the Committee on the District of Columbia, to which was referred the bill of the House (H. R. 6961) for the relief of the heirs of Melvin B. Smith, reported the same adversely, accompanied by a report (No. 2815); which said bill and report were ordered laid on the table.

He also, from the same committee, to which was referred the bill of the House (H. R. 7562) for the relief of Adelaide E. Grant and Alice Adelaide Grant, reported the same adversely, accompanied by a report (No. 2816); which said bill and report were ordered laid on the table.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. SULLIVAN of Massachusetts: A bill (H. R. 17658)

to transfer the jurisdiction of the Spanish Treaty Claims Commission to the Court of Claims—to the Committee on the Judiciary.

By Mr. WEEKS: A bill (H. R. 17659) to establish a board of visitors at the Naval Academy and to define its duties—to the Committee on Naval Affairs.

By Mr. GRAFF: A bill (H. R. 17660) to acquire certain ground in Hall and Elvan's subdivision of Meridian Hill for a Government reservation—to the Committee on Public Buildings and Grounds.

By Mr. COOPER of Wisconsin: A bill (H. R. 17661) providing that the inhabitants of Porto Rico shall be citizens of the United States—to the Committee on Insular Affairs.

By Mr. MACON: A bill (H. R. 17662) to authorize the Tyronza Central Railroad Company to construct a bridge across Little River, in the State of Arkansas—to the Committee on Interstate and Foreign Commerce.

By Mr. MEYER: A bill (H. R. 17663) to extend the provisions of the act of March 3, 1901, to officers of the Navy and Marine Corps advanced at any time under the provisions of sections 1506 and 1605 for eminent and conspicuous conduct in battle—to the Committee on Naval Affairs.

By Mr. BIRDSALL: A bill (H. R. 17664) creating the Department of Printing and Publication—to the Committee on the Judiciary.

By Mr. FRENCH: A bill (H. R. 17665) to authorize the sale and disposition of surplus or unallotted lands of the Coeur d'Alene Indian Reservation, in the State of Idaho, and for other purposes—to the Committee on Indian Affairs.

By Mr. WM. ALDEN SMITH (by request): A bill (H. R. 17666) for the construction of a sewer from Wisconsin avenue to Rock Creek—to the Committee on the District of Columbia.

By Mr. FITZGERALD: A memorial from the legislature of the State of New York, proposing an amendment to the Constitution of the United States prohibiting polygamy—to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. BARTHOLDT: A bill (H. R. 17667) to confer jurisdiction upon the Court of Claims to hear and determine the claim of James F. Rothwell and Richard Rothwell against the United States—to the Committee on Claims.

By Mr. BEDE: A bill (H. R. 17668) to remove restrictions on alienation in Indian certificate No. 3022, issued to Peter J. Default, a Chippewa Indian, and granting a title in fee simple to the real estate described in said allotment certificate—to the Committee on Indian Affairs.

By Mr. BOWERSOCK: A bill (H. R. 17669) granting an increase of pension to C. P. Lee—to the Committee on Invalid Pensions.

By Mr. BROWNLOW: A bill (H. R. 17670) for the relief of Gustav A. Hesselberger—to the Committee on Military Affairs.

By Mr. CRUMPACKER: A bill (H. R. 17671) granting a pension to Sarah A. Thompson—to the Committee on Invalid Pensions.

By Mr. DARRAGH: A bill (H. R. 17672) granting an increase of pension to Elias Shaffer—to the Committee on Invalid Pensions.

By Mr. DAVIS of West Virginia: A bill (H. R. 17673) granting an increase of pension to Jacob H. Heck—to the Committee on Invalid Pensions.

By Mr. DOVENER: A bill (H. R. 17674) granting an increase of pension to John E. Reese—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17675) granting an increase of pension to Jonas M. Sees—to the Committee on Invalid Pensions.

By Mr. FITZGERALD: A bill (H. R. 17676) to correct the military record of Simon W. Larkin—to the Committee on Military Affairs.

By Mr. GARDNER of Massachusetts: A bill (H. R. 17677) to amend the discharge certificate of Lemuel Friend—to the Committee on Naval Affairs.

By Mr. GOULDEN: A bill (H. R. 17678) granting an increase of pension to Alexander Moore—to the Committee on Invalid Pensions.

By Mr. HALE: A bill (H. R. 17679) granting an increase of pension to Alexander Eckel—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17680) granting an increase of pension to Robert H. Gray—to the Committee on Invalid Pensions.

By Mr. HAY (by request): A bill (H. R. 17681) granting a pension to Lottie A. Dunn—to the Committee on Invalid Pensions.

By Mr. HEFLIN: A bill (H. R. 17682) for the relief of Mrs. E. J. Martin, postmaster at Mount Olive, Coosa County, Ala.—to the Committee on War Claims.

By Mr. HITT: A bill (H. R. 17683) granting an increase of pension to John Hoch—to the Committee on Invalid Pensions.

By Mr. JAMES: A bill (H. R. 17684) granting an increase of pension to Joseph M. Hays—to the Committee on Invalid Pensions.

By Mr. KLEPPER: A bill (H. R. 17685) granting a pension to Jackson Pfeisterer—to the Committee on Invalid Pensions.

By Mr. McCLEARY of Minnesota: A bill (H. R. 17686) granting an increase of pension to Helen M. Harrison—to the Committee on Invalid Pensions.

By Mr. McCREARY of Pennsylvania: A bill (H. R. 17687) granting a pension to Theophilus Snyder—to the Committee on Invalid Pensions.

By Mr. MOON of Pennsylvania: A bill (H. R. 17688) granting relief to Thomas F. Walter—to the Committee on Military Affairs.

Also, a bill (H. R. 17689) granting an increase of pension to Rosa D. Mayhew—to the Committee on Invalid Pensions.

By Mr. McNARY: A bill (H. R. 17690) granting a pension to Ellen E. Leary—to the Committee on Invalid Pensions.

By Mr. MOORE: A bill (H. R. 17691) granting an increase of pension to George W. Henrie—to the Committee on Invalid Pensions.

By Mr. NEVIN: A bill (H. R. 17692) granting an increase of pension to Louis G. Neal—to the Committee on Invalid Pensions.

By Mr. REEDER: A bill (H. R. 17693) granting a pension to David Parrott—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17694) granting a pension to Lydia Hill—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17695) granting a pension to Maria Gunckel—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17696) granting an increase of pension to John Lafferty—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17697) granting an increase of pension to Jesse N. Carpenter—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17698) granting an increase of pension to David Miller—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17699) granting a pension to Thomas Cunningham—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17700) granting an increase of pension to A. T. Mitchell—to the Committee on Invalid Pensions.

By Mr. RODENBERG: A bill (H. R. 17701) to confer jurisdiction upon the Court of Claims to hear and determine the claim of David Ryan against the United States—to the Committee on Claims.

By Mr. SCROGGY: A bill (H. R. 17702) granting a pension to Daniel E. Bavis—to the Committee on Invalid Pensions.

By Mr. SHEPPARD: A bill (H. R. 17703) for the relief of Mrs. M. E. Ezell, feme sole and only heir at law of Eli Splawn, deceased, of Clarksville, Tex.—to the Committee on War Claims.

By Mr. SHERLEY: A bill (H. R. 17704) granting an increase of pension to John W. Lains—to the Committee on Invalid Pensions.

By Mr. SLEMP: A bill (H. R. 17705) granting an increase of pensions to John A. Lovens—to the Committee on Invalid Pensions.

By Mr. SAMUEL W. SMITH: A bill (H. R. 17706) granting an increase of pension to William Highfield—to the Committee on Invalid Pensions.

By Mr. STANLEY: A bill (H. R. 17707) for the relief of Mary E. Bronaugh—to the Committee on Pensions.

By Mr. TYNDALL: A bill (H. R. 17708) granting a pension to John McGrath—to the Committee on Invalid Pensions.

By Mr. WELBORN: A bill (H. R. 17709) granting a pension to Mathew Micum—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17710) for the relief of the heirs of J. A. Hollis, deceased—to the Committee on War Claims.

By Mr. WHARTON: A bill (H. R. 17711) granting an increase of pension to John Dietz—to the Committee on Invalid Pensions.

By Mr. WILSON: A bill (H. R. 17712) granting an increase of pension to Frank J. Biederman—to the Committee on Invalid Pensions.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the Committee on War Claims was discharged from the consideration of the bill (H. R. 2943) for the relief of James L. Carpenter, and it was referred to the Committee on Claims.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER: Petition of the National Art Club, for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

By Mr. ACHESON: Petition of the Germania Refining Company, of Oil City, Pa., for greater power to be vested in the Interstate Commerce Commission relative to railway rates (previously referred to the Committee on the Merchant Marine and Fisheries)—to the Committee on Interstate and Foreign Commerce.

Also, petition of Henry A. Dreer, of Philadelphia, Pa., against free distribution of seeds—to the Committee on Agriculture.

By Mr. BARTLETT: Petition of A. R. Lawton and Otis Ashmore, a committee on behalf of the Georgia Historical Society, for the preservation of the United States frigate *Constitution*—to the Committee on Naval Affairs.

Also, petition of B. T. Adams & Co., B. B. Ford & Co., Sam Mayer, Heard Brothers, and 15 others, cotton merchants of Macon, Ga., for a regulation prohibiting railways from engaging in the separate compress and warehouse business—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Georgia State Federation of Women's Clubs and Mrs. A. D. Granger, general secretary for Georgia, for a child-labor law and a compulsory-education law in the District of Columbia—to the Committee on the District of Columbia.

By Mr. BEIDLER: Petition of citizens of Spencer, Ohio, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. BOWERSOCK: Petition of citizens of Kansas, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. BROWN: Petition of citizens of Nekoosa, Wis., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. BURKE of South Dakota: Petition of citizens of South Dakota, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of the General Federation of Women's Clubs; V. S. Wood, of Dell Rapids, S. Dak., and Dollie P. Cooper, of Whitewood, S. Dak., for investigation of the industrial conditions of women—to the Committee on Appropriations.

By Mr. BURLEIGH: Paper to accompany bill for relief of George G. Spurr, jr.—to the Committee on Invalid Pensions.

By Mr. CAMPBELL of Ohio: Petition of the Turnbull Wagon Company, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of 800,000 residents of Oklahoma for bill H. R. 13675—to the Committee on the Territories.

Also, petition of citizens of Ohio, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. CHANEY: Petition of Frank Bastin, John J. Tuite, and F. N. Muentzer, of Vincennes, Ind., for bill H. R. 7067—to the Committee on Invalid Pensions.

By Mr. CLARK of Florida: Petition of many citizens of New York and vicinity, for relief for heirs of victims of *General Slocum* disaster—to the Committee on Claims.

Also, petition of ladies of the Twentieth Century Club and ladies of the Afternoon Club, for investigation of industrial conditions of women in the United States—to the Committee on Appropriations.

By Mr. COOPER of Wisconsin: Petition of Wendelin Dagenbach, of Kenosha, Wis., against the bill H. R. 12973—to the Committee on Foreign Affairs.

Also, petition of the Baker Manufacturing Company, Evansville, Wis., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of Division No. 1, Ancient Order of Hibernians, of Milwaukee, for a monument to Commodore John Barry—to the Committee on the Library.

By Mr. CURTIS: Petition of certain citizens of Oklahoma, for statehood—to the Committee on the Territories.

By Mr. DALE: Petition of the National Wholesale Dealers' Association; Stetson & Wiasmore, ship brokers and commission merchants, of Philadelphia; Charles T. Magee & Co., ship brokers and vessel agents, of Philadelphia; John L. Nicholson, president of Vessel Owners and Captains' Association, of Philadelphia; Thomas Winsmore, grocer and ship chandler, of Philadelphia, and Haldt & Cummins, ship brokers and commission merchants, of Philadelphia, favoring the passage of bills S. 30 and H. R. 5281, providing for the removal of discriminations against American sailing vessels—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the faculty of Bryn Mawr College, Bryn Mawr, Pa., and of the Free Art League of Boston, Mass., favoring the passage of bill H. R. 15268, to amend chapter 11 of the laws of 1897, "An act to provide revenues for the Government, and to encourage the industries of the United States"—to the Committee on Ways and Means.

Also, petition of Dunmore Council, No. 1022, Junior Order United American Mechanics, of Dunmore, Pa., and of Washington Camp, No. 200, Patriotic Order Sons of America, of Carbondale, Pa., favoring the passage of bill H. R. 15442, providing for the establishment of a Bureau of Immigration and Naturalization, and to provide for a uniform rule for the naturalization of aliens throughout the United States—to the Committee on Immigration and Naturalization.

Also, petition of Washington Camp, No. 492, Patriotic Order Sons of America, of Taylor, Pa., and of Laurel Lodge, No. 711, of the Brotherhood of Railroad Trainmen, of Scranton, Pa., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of Dr. M. E. Griffith, for the Carbondale Medical Society, of Carbondale, Pa., and of the Retail Merchants' Association of Pennsylvania, favoring the passage of the pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, resolution of the Caddo Statehood Club, of Indian Territory, favoring passage of the statehood bill as amended by the Senate—to the Committee on the Territories.

Also, petition of the Union Ex-Prisoners of War Association of Allegany County, N. Y., favoring passage of bill H. R. 9, authorizing the granting of pensions to soldiers and sailors confined in so-called "Confederate prisons"—to the Committee on Invalid Pensions.

Also, petition of the American Protective Tariff League, of New York, N. Y., against the passage of bill H. R. 15267, providing for simplifying the laws in relation to the collection of the revenues—to the Committee on Ways and Means.

Also, petition of George Clark, of Scranton, Pa., and Henry A. Dreer, of Philadelphia, against free distribution of seeds—to the Committee on Agriculture.

Also, petition of the National Board of Trade, favoring the passage of a forest-reservation law—to the Committee on Agriculture.

Also, petition of Miss Florence Keen, of Philadelphia, favoring investigation of conditions in the Kongo Free State—to the Committee on Foreign Affairs.

Also, petition of the H. K. Mulford Company, chemists, of Philadelphia, favoring an amendment to bill S. 88, to clearly define the term "poisonous substances"—to the Committee on Interstate and Foreign Commerce.

Also, resolution of the Allied Board of Trade, of Brooklyn, N. Y., in favor of the construction of the battle ship *Connecticut* and the collier *Eric* at the Brooklyn Navy-Yard—to the Committee on Naval Affairs.

Also, resolution of the Scranton Board of Trade, of Scranton, Pa., favoring the passage of bill H. R. 9754, providing for the increase of the efficiency of the postal service in post-offices of the first and second class—to the Committee on the Post-Office and Post-Roads.

Also, petition of the Typothetæ of New York City, against passage of the so-called anti-injunction bills—to the Committee on the Judiciary.

By Mr. DICKSON of Illinois: Petition of citizens of Illinois, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. ESCH: Petition of the Ancient Order of Hibernians, Division No. 1, of Milwaukee, for a statue of Commodore John Barry—to the Committee on the Library.

Also, petition of the Milwaukee Association of Credit Men, for continuance of the bankruptcy bill—to the Committee on the Judiciary.

By Mr. FLOOD: Petition of New Hope (Va.) Council, No. 15, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. GARDNER of Massachusetts: Petition of Columbia Council, No. 8, Daughters of Liberty, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of the Hannah Dustin Club and the Elizabeth H. Whittier Club, of Haverhill, Mass., for investigation of the industrial condition of women in the United States—to the Committee on Appropriations.

By Mr. GILLETT of Massachusetts: Petition of New Brain-

Free (Mass.) Grange, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. GOULDEN: Petition of the State Charities Aid Association, for the pure food and drug bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Grand Army Journal, of New York, against the tariff on linotype machines—to the Committee on Ways and Means.

Also, petition of William Adelsperger, for bill H. R. 9 (the Hulzell bill)—to the Committee on Invalid Pensions.

By Mr. HILL of Connecticut: Petition of the Current Events Club, of Bethel, Conn., for an investigation of the industrial condition of women in the United States—to the Committee on Appropriations.

By Mr. HOAR: Petition of Ashburnham Grange, Patrons of Husbandry, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. HOWELL of New Jersey: Petition of Monmouth Council, Junior Order United American Mechanics, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. KAHN: Petition of Golden Gate Harbor, No. 40, American Association of Masters, Mates, and Pilots, of San Francisco, Cal., for bill S. 29—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the Abner Doble Company, of San Francisco, Cal., for the ship-subsidy bill—to the Committee on the Merchant Marine and Fisheries.

By Mr. KNAPP: Petition of the Oswego Preserving Company, for an amendment to pure-food law—to the Committee on Interstate and Foreign Commerce.

By Mr. LINDSAY: Paper to accompany bill for relief of John C. Lindsay—to the Committee on Invalid Pensions.

Also, petition of F. M. Lawrence, against present unjust pilotage laws and for Littlefield bill—to the Committee on the Merchant Marine and Fisheries.

By Mr. LITTLEFIELD: Petition of citizens of Maine, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of citizens of Maine, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. McKINNEY: Petition of citizens of Illinois, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. McNARY: Paper to accompany bill for relief of Edwin W. Rand—to the Committee on Pensions.

By Mr. MILLER: Petition of citizens of Kansas, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of citizens of Illinois, against the condition of affairs in the Kongo Free State—to the Committee on Foreign Affairs.

By Mr. MOUSER: Petition of many citizens of New York and vicinity, for relief for heirs of victims of *General Slocum* disaster—to the Committee on Claims.

By Mr. OTJEN: Petition of the Ancient Order of Hibernians, Division No. 1, of Milwaukee, Wis., for a monument to Commodore Barry—to the Committee on the Library.

By Mr. OVERSTREET: Petition of the Sattley Stacker Company, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of the Tippecanoe County Medical Society, for the pure-food bill—to the Committee on Interstate and Foreign Commerce.

By Mr. PALMER: Petition of citizens of Wilkes-Barre, Pa., for bill H. R. 3022—to the Committee on the District of Columbia.

By Mr. PRINCE: Petition of G. D. Dewitt et al., of Lynn Center, Henry County, Ill., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. RHODES: Petition of E. Miller et al., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. RUPPERT: Petition of the National Wholesale Lumber Dealers' Association, for the pilotage bills—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the legislature of the State of New York, for a convention to adopt an amendment to the Constitution to prohibit polygamy in the United States—to the Committee on the Judiciary.

Also, petition of the Horticultural Society of New York, against free seed distribution—to the Committee on Agriculture.

Also petition of the Commercial Travelers' Mutual Accident Association of America, for an amendment to the bankruptcy law—to the Committee on the Judiciary.

Also, petition of the Allied Board of Trade of Brooklyn, N. Y., for battle-ship construction at the Brooklyn Navy-Yard—to the Committee on Naval Affairs.

Also, petition of the Typothetæ of New York City, against the anti-injunction bill—to the Committee on the Judiciary.

Also, petition of the Iowa Retail Clothiers' Association, against a parcels-post law—to the Committee on the Post-Office and Post-Roads.

By Mr. SAMUEL: Petition of the Montour County Medical Society, for the pure-food bill—to the Committee on Interstate and Foreign Commerce.

By Mr. SCHNEEBELI: Petition of the American Bankers' Association, for the bill relating to bills of lading—to the Committee on Interstate and Foreign Commerce.

By Mr. SHEPPARD: Paper to accompany bill for relief of M. E. Ezell, heir of Eli Splawn—to the Committee on War Claims.

By Mr. SHERMAN: Petition of Guiding Star Council, No. 29, Daughters of Liberty, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of C. H. Childs, of Utica, N. Y., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of the New Century Club, of Utica, N. Y., for investigation of the industrial condition of women—to the Committee on the Census.

By Mr. SOUTHWICK: Petition of the First Reformed Church of Albany, N. Y., against the administration of affairs in the Kongo Free State—to the Committee on Foreign Affairs.

By Mr. SPERRY: Paper to accompany bill for relief of Enos Munson—to the Committee on Claims.

Also, petition of the Literary Club, to investigate the industrial condition of women in the United States—to the Committee on Appropriations.

By Mr. SULLIVAN of New York: Petition of the Merchant Marine League, for the ship-subsidy bill—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the Sherman-Brown Clements Company, for two classes of mail matter only—to the Committee on the Post-Office and Post-Roads.

Also, petition of Abendroth Brothers, for the Williams-Mallory bill relative to quarantine control—to the Committee on Interstate and Foreign Commerce.

Also, petition of the North Carolina Pine Association, of Norfolk, Va., against the metric-system bill—to the Committee on Coinage, Weights, and Measures.

Also, petition of the New York Produce Exchange, against tonnage dues and for the ship-subsidy bill—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the Dayton Manufacturing Company, against the metric system—to the Committee on Coinage, Weights, and Meausres.

Also, petition of the New York Market Gardeners' Association, against free seed distribution—to the Committee on Agriculture.

Also, petition of Lathrop Lyon, for bills H. R. 4432 and 6001—to the Committee on Military Affairs.

Also, petition of Wilcox & Gibbs, of New York, against the metric system—to the Committee on Coinage, Weights, and Measures.

Also, petition of E. D. Blackman and 39 others, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of Robert S. Waddell, against the powder monopoly—to the Committee on Naval Affairs.

Also, petition of the Leviathan Belting Company, against a compulsory metric system—to the Committee on Coinage, Weights, and Measures.

Also, petition of the Horticultural Society of New York, against free seed distribution—to the Committee on Agriculture.

Also, petition of the National Metal Trades Association, against bill H. R. 8988—to the Committee on Coinage, Weights, and Measures.

By Mr. TAYLOR of Alabama: Petition of citizens of Mobile County, Ala., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. VAN WINKLE: Petition of citizens of the Ninth Congressional district of New Jersey, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. WADSWORTH: Petition of the Warsaw-Wilkinson Company, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. WILEY of Alabama: Petition of the Montgomery (Ala.) Times, for wood pulp free of duty—to the Committee on Ways and Means.

Also, petition of the Almore Spectrum, against Government printing names and addresses on stamped envelopes—to the Committee on the Post-Office and Post-Roads.

By Mr. WOOD of New Jersey: Petitions of citizens of Flemington, Trenton, Hopewell, and Boundbrook, N. J., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

SENATE.

TUESDAY, *April 3, 1906.*

Prayer by the Chaplain, Rev. EDWARD E. HALE.

The Journal of yesterday's proceedings was read and approved.

MAIL SERVICE IN PORTO RICO.

The VICE-PRESIDENT laid before the Senate a communication from the Postmaster-General, calling attention to the passage by the House of Representatives of the bill (H. R. 11976) for the relief of the Campañía de los Ferrocarriles de Puerto Rico, appropriating $13,694.45 for compensation for mail service performed in Porto Rico during the period of military occupation in the years 1898, 1899, 1900, 1901, and 1902, etc., and suggesting that inasmuch as this company has a judgment for $11,509.54, the House bill be amended by the Senate to carry only the difference between such amount and the original sum found to be due, $13,694.45—that is, $2,184.91, etc.; which was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

TITLE TO LANDS IN LOUISIANA.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Interior, transmitting a letter from the Commissioner of the General Land Office, with accompanying papers, relative to the private land claim of Isaac Crow, assignee of Vincent Michele, situated in what was known as neutral territory between Rio Hondo and the Sabine River, etc., together with the draft of a bill to confirm titles to certain lands in the State of Louisiana and to restore other lands to settlement and entry; which, with the accompanying papers, was referred to the Committee on Private Land Claims, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed the bill (S. 4111) to authorize the Chief of Ordnance, United States Army, to receive four 3.6-inch breech-loading field guns, carriages, caissons, limbers, and their pertaining equipment from the State of Connecticut.

The message also announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

H. R. 5276. An act relating to appointments to the Naval Academy, and for other purposes;

H. R. 10501. An act to incorporate the National Educational Association of the United States;

H. R. 13675. An act to ratify and confirm the acts of the legislative assembly of the Territory of Oklahoma, passed in the year 1905, relating to an insane asylum for the Territory of Oklahoma and providing for the establishment and maintenance of an insane asylum for the Territory of Oklahoma at Fort Supply, in Woodward County, Okla., and making appropriations therefor;

H. R. 15266. An act to amend existing laws relating to the fortification of pure sweet wines;

H. R. 15513. An act to declare and enforce the forfeiture provided by section 4 of the act of Congress approved March 3, 1875, entitled "An act granting to railroads the right of way through the public lands of the United States;" and

H. R. 17220. An act providing for a recorder of deeds, and so forth, in the Osage Indian Reservation, in Oklahoma Territory.

ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House had signed the enrolled bill (S. 1345) to provide for the reorganization of the consular service of the United States; and it was thereupon signed by the Vice-President.

RAILWAY COAL MONOPOLY.

Mr. TILLMAN. Mr. President, I send to the desk and ask to have read a letter. It is along the line of the information in regard to the railroad situation, and another flashlight on a different phase of it.

The VICE-PRESIDENT. Is there objection to the reading of the letter as requested by the Senator from South Carolina? If not, the Secretary will read.

Mr. HALE. I do not object, but I think the Senator has "got even."

Mr. TILLMAN. I am not actuated by any malice at all in this matter; I am not trying to "get even;" but it was such a valuable idea, that had not occurred to me, I feel I ought to follow it up at least for a few days longer. This letter relates to an entirely new phase of the subject. It goes to the other end of the coal monopoly.

Mr. KEAN. Why not put it in when the rate bill is up?

Mr. TILLMAN. It is in the nature of a petition or memorial.

The VICE-PRESIDENT. Is there objection to the reading of the letter?

Mr. HALE. I am not going to object, but the Senator is a veteran here now, and I think he will see that if letters which are sent to Senators are presented, although they may, in effect, be petitions, any Senator, a dozen Senators, may have letters in his morning mail and may ask that they be read from the desk, and it encumbers our proceedings. They will come in naturally as a part of the debate. I only make this suggestion to the Senator in good faith.

Mr. TILLMAN. This is a short one, and I hope the Senator will let it go along. It may be that I will take his kind admonitions. I will at least consider them very seriously.

Mr. HALE. I guess we had better compromise on that and let the letter be read.

The VICE-PRESIDENT. Without objection, the Secretary will read the letter.

The Secretary read as follows.

BALLSTON SPA, N. Y., *March 29, 1906.*

Senator TILLMAN, *Washington, D. C.*

HONORED AND DEAR SIR: I appeal to you for sympathy and help.

My case is this: For over twelve years I have made a comfortable living for myself, invalid wife, and our children, now four in number, all in school, at the retail coal business.

The D. & H. Railroad Company, from whom I have bought all my anthracite coal, has of late been playing "the dog in the manger." They claim that they can not fill my orders. Now it is shortage of cars, then shortage of coal. In either case I don't get the coal.

But this is not all, for they will not have any other company send me coal on their account, nor will they allow any other company to ship coal to me over their lines. Their attitude is, Take what we give you and then go without—a method that is death on my business.

Strange, but not strange, they seem to have both coal and cars enough to keep their imported man, who during the past summer and winter built for them a large coal pocket in our town, supplied with coal, so he can take care of both his and our customers.

Once more, their imported man has cut the price of coal to 5 cents a ton less than cost, which is 60 cents a ton less than in the neighboring cities of Albany, Troy, and Schenectady.

In these two ways, then, the D. & H. is trying to kill off the old dealers in town—cutting price and cutting the supply. We appeal to you and ask you to use your influence to prevent them from accomplishing their purpose.

The D. & H. claim the right to retail their own coal. Now, if they have this right, then sooner or later they will get to using that right. When that time comes, then out go all the dealers along the line of their roads. Have they such a right? If so, then the many must suffer at the hands of the few; the people at the hands of the monopoly.

Will you please do what you can to protect us so we may go and make an honorable living?

Oblige, yours, truly, C. W. ENNS.

The VICE-PRESIDENT. The letter will lie on the table.

Mr. TILLMAN. Now, will the Senator from Maine permit me just one minute?

Mr. HALE. Certainly.

Mr. TILLMAN. This is like the voice of a child in the night, to use Tennyson's simile; it is like—

> An infant crying in the night:
> An infant crying for the light,
> And with no language but a cry.

You find there this condition. This railroad is one of the five which monopolize absolutely the anthracite coal production and traffic in the United States. They are not satisfied with monopolizing the coal supply and transportation, but they now engage in the business of retailing it.

That is all. I merely wanted to emphasize what this man has appealed to us to try to stop.

PUNISHMENT FOR HAZING AT NAVAL ACADEMY.

Mr. HALE submitted the following report:

The committee of conference on the disagreeing votes of the two houses on the amendment of the House to the bill (S. 3890) granting authority to the Secretary of the Navy, in his discretion, to dismiss midshipmen from the United States Naval Academy and regulating the procedure and punishment in trials for hazing at the said academy, having met, after full and free

conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House, and agree to the same with amendments, as follows:

In section 1, line 5, of said amendment, after the word "of," insert the following: "the facts upon which are based."

At the end of section 1 of said amendment add the following: "And the truth of any issue of fact so raised, except upon the record of demerit, shall be determined by a board of inquiry convened by the Secretary of the Navy under the rules and regulations for the government of the Navy."

And the House agree to the same.

EUGENE HALE,
CHARLES DICK,
B. R. TILLMAN,
Managers on the part of the Senate.

EDWARD B. VREELAND,
GEO. A. LOUD,
L. P. PADGETT,
Managers on the part of the House.

The report was agreed to.

PETITIONS AND MEMORIALS.

Mr. FRYE presented a petition of the National Wholesale Lumber Dealers' Association, praying for the enactemnt of legislation relating to the pilotage of sailing vessels in the coastwise trade; which was ordered to lie on the table.

He also presented a petition of the North Side Board of Trade, of New York City, praying for the enactment of legislation to provide a standard of efficiency for the crews of steamboats; which was referred to the Committee on Commerce.

Mr. KEAN presented a petition of the Woman's Club of Orange, N. J., praying that an appropriation be made for the purchase of a site and the maintenance of a public playground in the District of Columbia; which was referred to the Committee on the District of Columbia.

He also presented a memorial of District Assembly No. 197, Knights of Pythias, of Jersey City, N. J., remonstrating against the passage of the so-called "Littlefield antipilotage bill;" which was ordered to lie on the table.

He also presented a petition of the Morristown Auxiliary of the National Indian Association, of Morristown, N. J., praying for the enactment of legislation for the relief of the landless Indians of northern California; which was referred to the Committee on Indian Affairs.

He also presented petitions of Henry W. Lawton Council, No. 284, Junior Order of United American Mechanics, of Newark; of the Star of Tennent Council, No. 115, Daughters of Liberty, of Englishtown, and of Colonial Council, No. 169, Daughters of Liberty, of Belvidere, all in the State of New Jersey, praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

Mr. CARTER presented petitions of sundry citizens of Gold Butte, Great Falls, Coburg, and Chinook, all in the State of Montana, praying for the enactment of legislation providing for the settlement and disposal under the land laws of the United States of the Blackfeet Indian Reservation in that State; which were referred to the Committee on Indian Affairs.

Mr. HOPKINS presented a memorial of sundry retail grocers and seed merchants of Belleville, Ill., remonstrating against any further appropriation being made for the purchase of seeds to be used in the Congressional free seed distribution for the fiscal year 1907; which was referred to the Committee on Agriculture and Forestry.

Mr. RAYNER (for Mr. GORMAN) presented sundry papers to accompany the bill (S. 3659) for the relief of the legal representatives of John H. Sothoron; which were referred to the Committee on Claims.

Mr. KITTREDGE presented a petition of the Thursday Evening Club, of Bruce, S. Dak., and a petition of the Woman's Club of Dell Rapids, S. Dak., praying that an appropriation be made for a scientific investigation into the industrial conditions of women in the United States; which were referred to the Committee on Education and Labor.

Mr. BURKETT presented a petition of the Woman's Christian Temperance Union of Lincoln, Nebr., praying for the removal of the internal-revenue tax on denaturized alcohol; which was referred to the Committee on Finance.

REPORTS OF COMMITTEES.

Mr. KEAN, from the Committee on Claims, to whom was referred the bill (S. 3574) for the relief of John H. Potter, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 3820) for the relief of Eunice Tripler, reported it with an amendment, and submitted a report thereon.

Mr. HOPKINS, from the Committee on Fisheries, to whom was referred the bill (S. 4641) to establish a fish-cultural station in the State of Kansas, reported it without amendment, and submitted a report thereon.

Mr. CULBERSON, from the Committee on the Judiciary, to whom was referred the bill (H. R. 12863) to create a new division of the southern judicial district of Texas, and to provide terms of court at Victoria, and for other purposes, reported it with amendments, and submitted a report thereon.

Mr. BURKETT, from the Committee on Claims, to whom was referred the bill (H. R. 1863) for the relief of M. A. McCafferty, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 552) for the relief of James W. Morgan, submitted an adverse report thereon; which was agreed to, and the bill was postponed indefinitely.

Mr. GEARIN, from the Committee on Pensions, to whom was referred the bill (H. R. 8892) granting an increase of pension to Malek A. Southworth, reported it with an amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (H. R. 5931) granting an increase of pension to Robert L. Narrow, reported it with amendments, and submitted a report thereon.

He also, from the same committee, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 15893) granting an increase of pension to Volney P. Ludlow;

A bill (H. R. 14375) granting an increase of pension to Edmond R. Haywood;

A bill (H. R. 15192) granting an increase of pension to John J. Merideth;

A bill (H. R. 12192) granting an increase of pension to William Cummings;

A bill (H. R. 13336) granting an increase of pension to Samuel Horn; and

A bill (H. R. 13723) granting an increase of pension to John Underwood.

Mr. SCOTT, from the Committee on Pensions, to whom was referred the bill (S. 5439) granting an increase of pension to George W. Dunlop, reported it with amendments, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (H. R. 10298) granting an increase of pension to Oliver C. Redic, reported it with an amendment, and submitted a report thereon.

He also, from the same committee, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 3230) granting an increase of pension to William C. Bourke;

A bill (H. R. 15385) granting an increase of pension to William Lucas;

A bill (H. R. 15253) granting an increase of pension to Ralos C. Dewees;

A bill (H. R. 15252) granting an increase of pension to Samuel Allbright;

A bill (H. R. 15251) granting an increase of pension to Alexander M. Taylor;

A bill (H. R. 5973) granting an increase of pension to John L. Smith;

A bill (H. R. 15200) granting an increase of pension to Charles Klein;

A bill (H. R. 15028) granting an increase of pension to Anthony Emes;

A bill (H. R. 11168) granting an increase of pension to Robert R. Matthews;

A bill (H. R. 11409) granting an increase of pension to Josiah H. Seabold; and

A bill (H. R. 12884) granting an increase of pension to Lucinda Gain.

Mr. SCOTT (for Mr. ALGER), from the Committee on Pensions, to whom was referred the bill (S. 1013) granting an increase of pension to William H. O'Dear, reported it with amendments, and submitted a report thereon.

He also (for Mr. ALGER), from the same committee, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 2835) granting a pension to H. Rowan Stanley; and

A bill (H. R. 10251) granting an increase of pension to Sarah M. E. Hinman.

Mr. SCOTT (for Mr. ALGER), from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 13822) granting an increase of pension to Augustus D. King;

A bill (S. 1564) granting an increase of pension to Leander C. Reeve;

A bill (H. R. 11334) granting an increase of pension to John M. Steel;

A bill (H. R. 15552) granting an increase of pension to George W. Hayter;

A bill (H. R. 9661) granting a pension to Charles R. Hill;

A bill (H. R. 14472) granting a pension to Thomas Cheek;

A bill (H. R. 11206) granting an increase of pension to John Wilhelm;

A bill (H. R. 12509) granting an increase of pension to Benjamin Rotner;

A bill (H. R. 14235) granting an increase of pension to John Williams;

A bill (H. R. 14241) granting an increase of pension to Lydia M. Edwards;

A bill (H. R. 13110) granting an increase of pension to James M. Moomaw; and

A bill (H. R. 13170) granting an increase of pension to John R. Mabee.

Mr. PILES, from the Committee on Commerce, to whom was referred the bill (H. R. 9324) to authorize the Fayette Bridge Company to construct a bridge over the Monongahela River, Pennsylvania, from a point in the borough of Brownsville, Fayette County, to a point in the borough of West Brownsville, Washington County, reported it with an amendment.

Mr. OVERMAN, from the Committee on Claims, to whom was referred the bill (S. 4948) for the relief of W. A. McLean, reported it without amendment, and submitted a report thereon.

Mr. McCUMBER (for Mr. PATTERSON), from the Committee on Pensions, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 2767) granting a pension to Sarah S. Etue;

A bill (S. 2759) granting an increase of pension to William B. Mitchell;

A bill (S. 3308) granting a pension to Sarah Lovell;

A bill (S. 2194) granting a pension to William H. Sweeney, jr.; and

A bill (H. R. 15691) granting an increase of pension to Jerry W. Tallman.

Mr. McCUMBER (for Mr. PATTERSON), from the Committee on Pensions, to whom was referred the bill (S. 5065) granting an increase of pension to Charles Jackson, reported it with amendments, and submitted a report thereon.

He also (for Mr. PATTERSON), from the same committee, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 3454) granting an increase of pension to William Wilson;

A bill (H. R. 14657) granting a pension to Madison M. Burnett;

A bill (H. R. 15304) granting an increase of pension to Irwin O'Bryan;

A bill (H. R. 15414) granting an increase of pension to John L. Blinn;

A bill (H. R. 15392) granting an increase of pension to John W. Wise;

A bill (H. R. 15393) granting an increase of pension to Nancy N. Allen;

A bill (H. R. 15347) granting an increase of pension to John M. Love;

A bill (H. R. 9190) granting a pension to Ida Carty;

A bill (H. R. 12187) granting an increase of pension to Mary L. Davenport;

A bill (H. R. 14918) granting an increase of pension to Franklin Simpson;

A bill (H. R. 4633) granting an increase of pension to Fannie E. Morrow;

A bill (H. R. 11926) granting an increase of pension to John Hornbeak; and

A bill (H. R. 12205) granting an increase of pension to George Holden.

PRINTING OF TOPICAL INDEX RELATIVE TO FIVE CIVILIZED TRIBES.

Mr. PLATT, from the Committee on Printing, to whom was referred the resolution submitted by Mr. CLAPP on the 6th ultimo, reported as a substitute therefor the following concurrent resolution; which was considered by unanimous consent, and agreed to:

Resolved by the Senate (the House of Representatives concurring), That there be printed 1,000 copies of the Topical Index to the Twelve Annual Reports of the Commission to the Five Civilized Tribes to the Secretary of the Interior; 200 copies for the use of the Senate, 400 copies for the use of the House of Representatives, and 400 copies for the use of the Department of the Interior.

REPORT OF FRENCH-VENEZUELAN ARBITRATION.

Mr. PLATT, from the Committee on Printing, to whom was referred the concurrent resolution submitted by Mr. DILLINGHAM on the 15th of March, 1906, reported as a substitute therefor the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That there be printed, for the use of the Department of State, 500 copies of the report of the recent French-Venezuelan Claims Commission, Hon. Frank Plumley, of Vermont, umpire, prepared by Jackson H. Ralston.

LAND DECISIONS OF DEPARTMENT OF INTERIOR.

Mr. PLATT, from the Committee on Printing, to whom was referred the concurrent resolution submitted by Mr. HANSBROUGH February 15, 1906, reported it without amendment; and it was considered by unanimous consent, and agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That the Public Printer be, and he is hereby, authorized and directed to print from stereotyped plates 100 copies each of volumes 11 and 12, Decisions of the Department of the Interior Relating to Public Lands, and part 1 of Digest of volumes 1 to 30, Land Decisions; and also 100 copies of volume 15, Decisions of the Department of the Interior Relative to Pensions and Bounty Land, and to deliver the same to the Secretary of the Interior for distribution and sale.

CLAIMS AGAINST THE DISTRICT OF COLUMBIA.

Mr. MORGAN. On February 9 I introduced a bill (S. 4317) to provide for the payment of certain claims against the District of Columbia in accordance with the act of Congress approved January 26, 1897, and as amended July 19, 1897, and it was referred to the Committee on Claims. I now move that that committee be discharged from the further consideration of the bill, and that it be referred to the Committee on the District of Columbia.

The motion was agreed to.

BILLS INTRODUCED.

Mr. FRYE introduced a bill (S. 5492) granting an increase of pension to Joseph F. Tebbetts; which was read twice by its title, and referred to the Committee on Pensions.

Mr. BURROWS introduced a bill (S. 5493) granting an increase of pension to Marcus Wood; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. MARTIN introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Claims:

A bill (S. 5494) for the relief of Martin Maddux;

A bill (S. 5495) for the relief of the trustees of the Calvary Protestant Episcopal Church, of Front Royal, Va. (with accompanying papers); and

A bill (S. 5496) for the relief of the heirs of S. W. Thrift.

Mr. MARTIN introduced a bill (S. 5497) to place Dr. Henry Smith on the retired list of the Army; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Military Affairs.

Mr. SUTHERLAND introduced a bill (S. 5498) granting additional lands adjacent to its site to the University of Utah; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. FULTON introduced a bill (S. 5499) to quiet the title to certain lands in the Klamath Indian Reservation in Oregon; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. ALLEE introduced a bill (S. 5500) for the relief of Joseph F. Wells; which was read twice by its title, and referred to the Committee on Claims.

Mr. ANKENY introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 5501) granting an increase of pension to Jacob L. Kline; and

A bill (S. 5502) granting an increase of pension to John R. Coyle.

Mr. PILES introduced a bill (S. 5503) for the relief of Albert R. Heilig; which was read twice by its title, and referred to the Committee on Claims.

Mr. KITTREDGE introduced a bill (S. 5504) granting an increase of pension to Joseph Dickson; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. CARTER introduced a bill (S. 5505) to remove the charge of desertion standing against the name of John Murphy, alias John Martin; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. HOPKINS introduced a bill (S. 5506) granting an increase of pension to William J. Dowell; which was read twice by its title, and referred to the Committee on Pensions.

Mr. MILLARD introduced a bill (S. 5507) granting an increase of pension to Levi C. Smith; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. BURKETT introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 5508) granting an increase of pension to John M. Bair; and

A bill (S. 5509) granting an increase of pension to C. W. Lyman (with accompanying papers).

Mr. SCOTT introduced a bill (S. 5510) granting a pension to Charles M. Snyder; which was read twice by its title, and referred to the Committee on Pensions.

Mr. BURKETT introduced a bill (S. 5511) providing for the control of grazing upon the public lands in the arid States and Territories of the United States; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. FORAKER introduced a bill (S. 5512) defining the qualifications of jurors in Porto Rico; which was read twice by its title, and referred to the Committee on Pacific Islands and Porto Rico.

AMENDMENT TO NAVAL APPROPRIATION BILL.

Mr. MARTIN submitted an amendment relative to the band at the United States Naval Academy, intended to be proposed by him to the naval appropriation bill; which was ordered to be printed, and, with the accompanying paper, referred to the Committee on Naval Affairs.

REGULATION OF RAILROAD RATES.

Mr. DANIEL submitted an amendment intended to be proposed by him to the bill H. R. 12987, an act to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission; which was ordered to lie on the table, and be printed.

Mr. BAILEY. I present an amendment which I intend at the proper time to propose to the rate bill. I ask that it be printed.

Mr. KEAN. Let it be read, Mr. President.

The VICE-PRESIDENT. The amendment will be read.

The Secretary read as follows:

Before the word "the," in line 18, on page 2, insert the following:
"The term common carrier, as used in this act, shall include express companies and sleeping-car companies."

Mr. BAILEY. The purpose of it, I will say to the Senator, is to remove any doubt and make it certain that both express companies and sleeping-car companies are included in the bill.

The VICE-PRESIDENT. The amendment will be printed and lie on the table.

ORDER OF BUSINESS.

Mr. TILLMAN. I ask that the unfinished business—House bill 12987—be laid before the Senate.

Mr. CLAPP. Before that is taken up, I should like to call up the conference report on House bill 5976, which was laid over at the request of the Senator from Colorado [Mr. PATTERSON].

Mr. PATTERSON. In presenting the matter that I desire some little time will be occupied; and I understand the Senator from Kansas [Mr. LONG] intends to take the floor this morning. I suggest that we take up the conference report immediately after he concludes.

The VICE-PRESIDENT. The Senator from Colorado is not heard at the desk.

Mr. PATTERSON. It is suggested to me by the Senator from Wisconsin [Mr. SPOONER] that I proceed.

Mr. CLAPP. I do not think it will take long.

Mr. PATTERSON. No; not very long.

The VICE-PRESIDENT. Before the Senator from Colorado proceeds, the Chair will lay before the Senate bills from the House of Representatives.

Mr. PATTERSON. Very well.

HOUSE BILLS REFERRED.

H. R. 5276. An act relating to appointments to the Naval Academy, and for other purposes, was read twice by its title, and referred to the Committee on Naval Affairs.

H. R. 10501. An act to incorporate the National Education Association of the United States was read twice by its title, and referred to the Committee on Education and Labor.

H. R. 13675. An act to ratify and confirm the acts of the legislative assembly of the Territory of Oklahoma passed in the year 1905, relating to an insane asylum for the Territory of Oklahoma, and providing for the establishment and maintenance of an insane asylum for the Territory of Oklahoma at Fort Supply, in Woodward County, Okla., and making appropriations therefor, was read twice by its title, and referred to the Committee on Territories.

H. R. 15266. An act to amend existing laws relating to the fortification of pure sweet wines was read twice by its title, and referred to the Committee on Finance.

H. R. 15513. An act to declare and enforce the forfeiture provided by section 4 of the act of Congress approved March 3, 1875, entitled "An act granting to railroads the right of way through the public lands of the United States," was read twice by its title, and referred to the Committee on Public Lands.

H. R. 17220. An act providing for a recorder of deeds, and so forth, in the Osage Indian Reservation, in Oklahoma Territory, was read twice by its title, and referred to the Committee on Indian Affairs.

EMPLOYERS' LIABILITY BILL.

H. R. 239. An act relating to liability of common carriers by railroads in the District of Columbia and Territories and common carriers by railroads engaged in commerce between the States and between the States and foreign nations to their employees, was read twice by its title.

Mr. MARTIN. Mr. President, that is the bill known as the "employers' liability bill." Of course it will go to the Committee on Interstate Commerce. I simply desire to call the attention of the committee to the bill and to the fact that I made a laborious effort during the last session of Congress to get a report from the Senate committee. I hope the committee will give prompt attention to the bill, so that the Senate may have a report one way or the other on the measure.

The VICE-PRESIDENT. The bill will be referred to the Committee on Interstate Commerce.

PENSION APPROPRIATION BILL.

The VICE-PRESIDENT laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 13103) making appropriations for the payment of invalid and other pensions of the United States for the fiscal year ending June 30, 1907, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. McCUMBER. I move that the Senate insist upon its amendments, and agree to the conference asked for by the House of Representatives.

The motion was agreed to.

By unanimous consent, the Vice-President was authorized to appoint the conferees on the part of the Senate; and Mr. McCUMBER, Mr. SCOTT, and Mr. TALIAFERRO were appointed.

THE FIVE CIVILIZED TRIBES.

The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. 5976) to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory, and for other purposes.

Mr. PATTERSON. Mr. President, I do not know whether the matter I desire to call the attention of the Senate to is amendable or can be reached at this time. I will state the status of it.

Section 4 of the bill to provide for the final disposition of the affairs of the Five Civilized Tribes, etc., came over from the House and was amended in the Senate. The House conferees have concurred in the amendment of the Senate. It is a modification of that amendment that I think is quite desirable, in order that justice may be done to a considerable number of descendants of Indians living in the Indian Territory. Of course, all I could hope to accomplish, if that can be done, is to have some intimation or indication given to the conferees on the part of the Senate that a modification of the amendment would be desirable, so that the conferees might take up the matter again and see whether the modification I suggest could be adopted.

Section 4 of the bill is one that has reference to the transferring of the names of freedmen, or those who are called "freedmen," to the rolls of citizens. It provides, as it passed the House, that—

No name shall be transferred from the approved freedmen, or any other approved rolls of the Choctaw, Chickasaw, Cherokee, Creek, or Seminole tribes, respectively, to the roll of citizens by blood, unless the records in charge of the Commissioner to the Five Civilized Tribes show that application for enrollment as a citizen by blood was made within the time prescribed by law by or for the party seeking the

transfer, and said record shall be conclusive evidence as to the fact of such application—

This amendment was added by the Senate—

unless it be shown by documentary evidence that the Commission to the Five Civilized Tribes actually received such application within the time prescribed by law.

As I understand the situation, it is this: Under the law citizens (those I suppose are Indians of full blood primarily and those who are known as "freedmen;" that is, those who were slaves originally to the Indians) were to have a certain amount of allotable land—320 acres in two of the nations, and 160 acres in two other of the nations, and the freedmen but 40 acres. But under the law descendants of Indians, of whatever blood their parents may have been, so they are the descendants of members of either of those tribes, are entitled to be enrolled as citizens, therefore securing the same amount of these lands other Indians do.

For the purpose of making the enrollment originally those who had the matter in charge went to different parts of the Indian Territory with several tents, one tent to be used for the enrollment of citizens, the other to be used for the enrollment of freedmen, and different officers were in charge of the different tents. Notices were sent out and when Indians by descent, but with negro blood instead of other blood with the Indian blood, went to the tent for the enrollment of citizens they were directed to the tent for the enrollment of freedmen, those having the matter in charge going upon the theory that if their claim to citizenship was through negro parents they were not entitled to be enrolled as citizens.

That was a clear mistake of the law, as was subsequently decided, and those engaged in the enrollment attempted thereafter to correct the error they had been committing. But it did not reach those who had already made application as they believed under the law, and had been turned off to the tent for the enrollment of freedmen, and who were enrolled as freedmen, and by that enrollment were given the status simply of negroes without any strain of Indian blood whatever.

There is a large number of the inhabitants of the Indian Territory who were entitled to be enrolled as citizens and thereby receive the portion of land and other property that goes to citizens who, by reason of such errors, are enrolled as feedmen and are limited to 40 acres of land for that reason.

By this amendment, which prohibits the transfer of names from the roll of freedmen to the roll of citizens except by documentary proof that such application was absolutely made, they are practically prohibited from the benefit of the law, because when you come to crystallize the term "documentary evidence" it simply means the proof of the rolls themselves, and if they are not on the roll to which they seek to be transferred it is impossible to have their names placed there. This notice might just as well have provided that such transfer shall be made but it shall only be made in the event that the names were already there.

There is a wide difference between documentary evidence and written evidence. There are no documents in the true sense applicable to the question that is involved in this amendment except the rolls themselves. Therefore it is utterly impossible that anybody shall receive any benefit under the amendment which was added to this section by the Senate.

The suggestion I make is that the word "documentary" be changed for the word "competent," so as to read "unless it be shown by competent evidence;" and let the rights of the parties when they are litigated be determined, whether by the Commissioner or by the Secretary of the Interior or by the courts, if the question shall get there, by what is competent evidence in every court in the land. If it is such a question as requires proof by written evidence let it be written evidence, but if oral testimony is competent, then let the truth and the rights of the parties be determined by oral testimony.

But surely, Mr. President, there is nothing in the status of those enrolled freedmen, who ought to be enrolled as citizens, that should prohibit them from having the change made, if they are permitted to make application at all, by competent evidence, such evidence as is receivable in any court of the land, for the purpose of establishing any controverted fact.

I want to read an affidavit which, to my mind, establishes very clearly that the manner in which this enrollment was originally conducted has been correctly stated by me:

W. L. Bennett, first being duly sworn, on oath states that he is 35 years old, a resident of the Chickasaw Nation, Ind. T., and lives at the inland town of Woodford, in said nation.

Affiant further states that when the Commission to the Five Civilized Tribes came down into the Choctaw and Chickasaw country for the purpose of enrolling persons who claimed rights in either of the said nations, a committee of freedmen was appointed to act on behalf of the nation with said Commission for the purpose of aiding them in identifying persons entitled to enrollment as freedmen of the nations. He states that he accompanied said committee in the capacity of an employee and was with them continuously from the time they began their work at Stonewall, Ind. T., until the Commission finished its work at Ardmore, Ind. T.

He further states that it was a rule of the Commission to the Five Civilized Tribes that when a person appeared in the tent wherein applications were received for enrollment as citizens by blood, and who looked to be a freedman, he was not allowed to make application there, but was directed to another tent in which application for enrollment as freedmen only was received. It was further a rule of said Commission that no person claiming either as a citizen by blood or as a freedman would be enrolled if their mother was a stateswoman.

By which I suppose is meant a woman who did not belong to the Indians, but who originally lived in the States, whatever her nativity or color might be.

He states that this rule of the Commission, in as far as it affected freedmen, was shortly changed, and persons were enrolled as freedmen whether they descended as such from either mother or father; but that the rule was never changed, so far as affiant can now remember, in the matter of the enrollment of persons of negro blood who claimed descent from an Indian citizen.

Whether they were of negro blood or of any other blood, so they were descendants in whatever degree from Indian parentage or from Indian ancestors, they were just as much entitled to such enrollment; but the rule was adopted, and carried out and not changed, that they should not be transferred or put upon the roll of citizens, although they were entitled to be so placed if they were persons of negro blood who claimed descent from Indian citizens.

Affiant further states that so far as he can now remember he does not recall a single instance in which an application was received by the Commissioner in charge of the tent wherein application was made for enrollment as citizens by blood, but that in each and every instance persons of mixed negro and Indian blood appeared at that tent and asserted their rights to be enrolled as citizens of the Chickasaw Nation were directed to the freedmen tent.

Affiant states that hundreds of persons were thus prevented from making application for enrollment as citizens by blood of the Chickasaw Nation.

Mr. President, I have in my hand transcripts from testimony taken by this Commissioner, or these Commissioners, of different citizens through negro parentage, who clearly indicated in their testimony that they were citizens of right under the law by reason of their Indian ancestors, notwithstanding which they were enrolled simply as freedmen.

Mr. CARTER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Colorado yield to the Senator from Montana?

Mr. PATTERSON. With pleasure.

Mr. CARTER. I should like to ask the Senator from Colorado if the law provided any degree of blood as entitling the parties to registry as citizens.

Mr. PATTERSON. I understand, Mr. President, answering the Senator's question, that the law did not limit any to what the Senator terms a "degree of blood;" but as they were descendants from Indian ancestors, and provided also that they had always lived within the Indian Territory, then they were entitled under the law to enrollment as citizens.

Mr. CARTER. Then, Mr. President, I desire to ask the Senator whether it is a fact that the persons registered as freedmen were only those who were negroes without Indian blood?

Mr. PATTERSON. That is my understanding of the law—that they were negroes without Indian blood, those who had formerly been slaves, and, I suppose, by reason of their condition of vassalage to the Indians, received this small quantity of land.

Mr. CARTER. Mr. President, this matter of the Five Civilized Tribes has been heard of in one or the other Chamber for many, many years. I confess a certain amount of general but no specific information on the subject. I therefore desire to ask the Senator from Colorado another question.

Mr. PATTERSON. I am giving the Senator the information, so far as I can give it, to the best of my ability.

Mr. CARTER. Certainly. I understand that the citizens consisted of persons of Indian blood and the freedmen consisted of persons of negro blood.

Mr. PATTERSON. That is right.

Mr. CARTER. And that the contention here is that persons of Indian blood were denied registry on the proper roll and compelled to register contrary to the facts and their rights under the freedmen roll. Is that the contention?

Mr. PATTERSON. That is the contention. Those who are citizens by virtue of having Indian blood and being entitled to enrollment on the roll of citizens were denied that right and by reason of their negro blood forced to enroll on the roll of freedmen.

Mr. CARTER. Now, then, this section 4, to which the Senator is addressing himself, was intended to permit those who had been wrongfully or erroneously denied the right of enrollment as citizens to come forward now and prove the fact. Is that correct?

Mr. PATTERSON. That is my understanding of it.

Mr. CARTER. And the proof, according to the amendment, must be by documentary evidence? What documents are connected with the transaction that constitute documentary evidence?

Mr. PATTERSON. I know of no documents but the rolls themselves.

Mr. CARTER. Do the rolls themselves show the individual names of those who applied for registration and were denied the privilege?

Mr. PATTERSON. There is nothing in the rolls at all to show that.

Mr. CARTER. Then the use of the word "documentary" instead of "competent" is equivalent to an absolute denial of the right of these people to enrollment in the proper place?

Mr. PATTERSON. It makes this amendment and this section a farce, because, as I said before, they might as well have provided that the names of citizens may be transferred from the rolls of the freedmen to the rolls of the citizens, provided they are already on the citizens' roll. That is the effect of it; but of course it is the reductio ad absurdum.

Mr. CARTER. There being no documents to appeal to and no documents filed, confining the proof to documentary evidence is the denial of the right to make any proof.

Mr. PATTERSON. Precisely. I can see no escape from that proposition.

As I said, Mr. President—and I shall not occupy much more time—I hold in my hand certified extracts from the testimony given by persons who are citizens by reason of their descent from Indian ancestors, who were examined; and this testimony carries with it either the direct statement, or statement by fair implication, that those who were giving the testimony were entitled to be enrolled as citizens; but nevertheless in every instance they were enrolled as freedmen. This mass of testimony that I hold in my hand, being certified extracts from testimony given when the process of enrollment was going on—about the authenticity of which there is no room for doubt—represents in the neighborhood of a hundred of just such persons. It does seem to me, Mr. President, that common, ordinary justice requires, if these people have rights, that they shall be permitted to establish their rights by competent evidence.

I know the claim is made that, unless you confine the applicants to documentary evidence, fraud in many instances will be perpetrated. It might as well be said that competent evidence should be eliminated in every instance where there is danger that fraud may be perpetrated. Of course nobody would concur in a statement of that kind, for tribunals are provided, whatever the character of the tribunals may be, whose duty it is, sitting as judges, to determine from competent evidence what is the real case and what is the fraud.

Mr. GALLINGER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Colorado yield to the Senator from New Hampshire?

Mr. PATTERSON. With pleasure.

Mr. GALLINGER. Do I understand the Senator to say that it is absolutely impossible for these men to prove their rights, if they have rights, by documentary evidence—that it does not exist?

Mr. PATTERSON. Mr. President, it is my understanding that there is no documentary evidence outside of the rolls themselves.

Mr. CLAPP. Mr. President——

The VICE-PRESIDENT. Does the Senator from Colorado yield to the Senator from Minnesota?

Mr. PATTERSON. With pleasure.

Mr. CLAPP. If the Senator will pardon me, I will state that my recollection is that the claim of the attorneys who pressed for this amendment when they came here was based on the statement that there were documents, and that all they asked was based on documents. Afterwards they discovered, probably to their surprise, that it would not admit of parole evidence to the effect that a man had gone to some camp and been sent by somebody, whom he would not name, to some other camp, and thus was put on the wrong roll. But the attorneys at first—I am very positive about that—insisted that if we would put this provision in the bill they had the documentary evidence. I understand that as to a large number of these claims the records of their rejection are in the Interior Department to-day. But all they wanted at that time was what I have stated. Afterwards they discovered that the provision was not as broad as they would like to have it.

Mr. GALLINGER. If the Senator will permit me, I would say that I propounded the question I did for the reason that a gentleman, whom I have known and in whom I have great confidence, a little time ago told me the fact—or what he asserted to be a fact—that it was impossible to secure documentary evidence in these cases, and, as I recall it, he suggested what the Senator now suggests, that competent or satisfactory evidence should be considered sufficient.

It seems to me that if these people have been denied their rights because they chance to have a little negro blood in them, while all other mixed breeds in that Territory are granted the maximum under the law so far as land is concerned, there ought to be some way to secure for these people their rights, if their rights have been denied to them.

It occurs to me that the contention of the Senator from Colorado [Mr. PATTERSON] is sound, and it ought to be accepted that "competent evidence" should be considered sufficient to establish their rights.

I, of course, know very little about this matter, and I will say to the distinguished chairman of the committee that I am only speaking from the standpoint of what I think is common justice, if justice has been denied those people.

Mr. CLAPP. Will the Senator from Colorado yield to me for a moment?

Mr. PATTERSON. Certainly.

Mr. CLAPP. It might be said, I think, without any qualification, that the use of the word "competent" would be equivalent to enacting that anyone whom these attorneys now brought for transfer should be transferred. There is positively no way of meeting oral testimony. It would simply open the door to a flood of perjury there that would be disgraceful, in my humble opinion, and the word "competent" would be no limitation upon that condition. There is only one word, it strikes me, to be used there. If the word "documentary" is too technical, perhaps the word "written" might answer the purpose. They claim that they made application by letter, which they mailed under the registered letter provision, and I am free to say that we put the word "documentary" in there with the idea that those letters, being mailed and being part of the case, would be documentary evidence; but if that is too technical the difficulty might, perhaps, in a measure be obviated by the use of the word "written." But if you leave it open to oral testimony and say "competent," you might as well withdraw every qualification or limitation.

Mr. GALLINGER. Will the Senator from Minnesota state, approximately, if he has the figures, how many people will be affected by this? I do not know; but will it be a very large number?

Mr. CLAPP. That would depend upon whether they were limited to written evidence or whether they could come in to-day and make parole proof that they appeared at this camp or that camp and that somebody, whom they do not have to name, in one camp directed them to the other tent. If that was the rule, there would be a very large number affected.

Mr. CARTER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Colorado yield to the Senator from Montana?

Mr. PATTERSON. With pleasure.

Mr. CARTER. I should like to suggest, in response to the observations of the Senator from Minnesota [Mr. CLAPP], that the very highest possible premium would be placed upon the controversion of any false testimony in these cases. The whole body of the registered citizens would be interested in sifting down the truth of any allegation made, because the transfer from the freedmen's list to the citizens' list involves an increase to the extent of 280 acres of land in the allotment.

Mr. GALLINGER. In each case?

Mr. CARTER. In each case. And where the citizens predominate so largely, as in this case, I believe, and it seems quite fair to suppose, perjury would not go unchallenged; that false testimony could not go without being checked up promptly.

Again, the suggestion that competent evidence can not be tolerated by the statute law of the country because, forsooth, there may be perjury is scarcely an answer to the man who has a just cause and can only make it manifest through oral testimony, to be given by himself and his neighbors.

I doubt if the apprehension of the Senator from Minnesota [Mr. CLAPP] is well founded where the interests in challenging the correctness of statements are so great and where the witnesses on guard are so numerous as in the case of the citizens who desire to protect their patrimony from invasion.

Mr. MCCUMBER. Will the Senator from Colorado [Mr. PATTERSON] allow me to ask a question of the Senator from Montana [Mr. CARTER]?

Mr. PATTERSON. Certainly.

Mr. MCCUMBER. I want to ask the Senator from Montana if, in his experience with the Indians, he has ever found them to be very carefully on guard to protect their own rights when it came to going out of their way and spending time and money,

if necessary, in order to secure proper evidence to protect those rights? My experience has been just to the contrary, and my experience, and my observation also, have led me to believe that all of the wrongs that have been perpetrated upon those Indians down there have been perpetrated because of their lack of ability to look after their rights, when it would seem as though, if they would open their eyes at all or take any interest, they could have prevented the frauds that have been perpetrated upon them. I do not think they will in this case.

Mr. CARTER. I understand the Indians of the Five Civilized Tribes to be above the average in ability and experience in the transaction of business. It is true that our Indians of the plains, living in tribal relations and having no business responsibility, have been and are careless in the transaction of all their business affairs. There are notable exceptions, of course; but in the main the Indians of the plains are, as the Senator from North Dakota [Mr. MCCUMBER] suggests, careless as to business methods. They are not precise as to meeting engagements, nor do they understand well how to protect themselves; but, as I understand the fact to be, the various tribes represented and being dealt with here have employed counsel from time to time to guard and protect their rights; and this citizens' roll will doubtless be protected with the utmost vigilance, if not by the Indians, at least by those employed by the Indians to protect their interests.

Mr. TELLER. Mr. President——

The VICE-PRESIDENT. Does the junior Senator from Colorado yield to the senior Senator from Colorado?

Mr. PATTERSON. With pleasure.

Mr. TELLER. It is quite evident that this discussion will continue for some time. The Senator from Kansas [Mr. LONG], who gave notice of his intention to speak this morning, is ready to go on, and I ask the chairman of the committee if it would not be better to postpone this discussion and allow the Senator from Kansas to proceed with his speech. We may subsequently resume the consideration of the conference report either to-day or to-morrow.

Mr. CLAPP. Mr. President, I dislike to inconvenience the Senator from Kansas, but this matter has been before the Senate for several days, and I have been obliged to let it lie over from time to time until Senators who wanted to speak upon it could be here. It is a mere matter of sufferance now. There was objection made by a point of order, which practically withdrew the report. I do not think it will take long for the Senator from Colorado to conclude his remarks, and then I will formally withdraw the report from the Senate. How long will it take the Senator?

Mr. TELLER. I think the Senator hardly understands the situation. I ask unanimous consent that the conference report be laid aside and that the Senator from Kansas be allowed to proceed.

The VICE-PRESIDENT. Is there objection to the request made by the Senator from Colorado? The Chair hears none. The Senator from Kansas [Mr. LONG] is entitled to the floor.

Mr. CLAPP. I desire to say that, at the conclusion of the Senator's speech, I shall insist upon whatever rights remain to the conference report, even to the extent of objecting to unanimous consent.

Mr. PATTERSON. I have no objection at all to the Senator from Kansas proceeding.

REGULATION OF RAILROAD RATES.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission.

Mr. LONG. Mr. President, the pending bill is framed upon the assumption that certain propositions have been settled by the decisions of the Supreme Court during the last thirty years. The Senator from Ohio [Mr. FORAKER], in the able and carefully prepared speech which he delivered some time ago in the Senate, challenged nearly all of these propositions, and if the speech had been made before these decisions were delivered, it would undoubtedly have made a much stronger impression in the Senate and the country than it did. Mr. Richard Olney, ex-Attorney-General and ex-Secretary of State, clearly described the situation in the closing words of his article in the North American Review of last October when he stated that if the propositions which he contended for, which were the same as those advanced by the Senator from Ohio, had been presented to the Supreme Court a half or even a quarter of a century ago, they would, in all human probability, have been determined adversely to the jurisdiction of Congress to fix rates. But the Supreme Court almost thirty years ago decided the case of Munn *v.* Illinois. (94 U. S., 113.) The question decided in that case was that a State had the power, through its legislature, to prescribe a maximum charge for services performed for the public. That case has never been reversed, but has been followed from the day that it was delivered and should be considered as the settled law in this country.

The court also at the same term decided what are known as the "Granger Railroad cases," and since that time certain propositions relating to railroad regulation by governmental authority have been considered as finally determined. It has also been decided by the Supreme Court that a State can regulate railroad rates through a commission, and the leading cases deciding this doctrine are the Reagan case (154 U. S., 362) and Railway Commission cases (116 U. S., 307).

The Senator from Ohio in his speech took the position boldly that Congress did not have the power to fix rates of transportation, and that if it did have that power it could not delegate it to a commission, as contemplated by this bill. If he is correct in either of these propositions, the pending bill is unconstitutional, and the attempt thus to regulate interstate commerce will end in dismal failure.

It is true that the Supreme Court of the United States has never decided that Congress possesses the power to fix rates. Neither has it decided that if it possesses this power it can call to its assistance a commission to assist in making rates. The reason that the Supreme Court has never passed upon this question is that it never has been presented to it, for Congress has not, as the Senator says, attempted to fix rates for the transportation of freight and passengers. Neither has it attempted to confer such power on a commission.

THIS BILL FIRST ATTEMPT BY CONGRESS TO FIX RAILROAD RATES.

If this bill becomes a law it will be the first time that Congress has assumed to exercise such power, either directly or through a commission. I believe that Congress, under the powers granted to it in the Constitution to regulate commerce with foreign nations and among the several States and with the Indian tribes, has the same authority and power over interstate commerce that a State has over commerce carried on wholly within its borders. If a State, under its sovereign power to control commerce within its limits, has the power to fix rates directly by the legislature or through the medium of a commission, then I believe that Congress has the same power in its regulation of interstate commerce to fix rates directly or with the assistance of a commission.

The Senator from Ohio quoted the statement of Mr. Justice Harlan in the Northern Securities case (193 U. S., 342), that the court expressed no opinion upon the question as to whether Congress had the power to fix rates for the reason that Congress had not chosen to exercise its power in that way or to that extent. In the same case, however, Justice Harlan said:

> Is there, then, any escape from the conclusion that, subject only to such restrictions—

Referring to the restrictions in the Constitution—

> *the power of Congress over interstate and international commerce is as full and complete as is the power of any State over its domestic commerce?*

In the same case Mr. Justice White, speaking for himself and three other justices, said:

> The plenary authority of Congress over interstate commerce, its right to regulate it to the fullest extent, *to fix the rates to be charged for the movement of interstate commerce*, to legislate concerning the ways and vehicles actually engaged in such traffic, and to exert any and every other power over such commerce which flows from the authority conferred by the Constitution, *is thus conceded.*

Mr. Justice Jackson also said (Kentucky *v.* The Indiana Bridge Company, 37 Federal, 567):

> Possessing such sovereign and exclusive power over the subject of commerce among the States, it is difficult to understand why Congress may not legislate in respect thereto to the same extent *both as to rates and all other matters as the States may do in respect to purely local or internal commerce.*

Many other cases might be cited, all following the doctrine in Gibbons *v.* Ogden (9 Wheat., 197):

> The power over commerce with foreign nations and among the several States is vested in Congress as absolutely as it would be in a single government, having in its constitution the same restrictions on the exercise of the power as are found in the Constitution of the United States.

It has been decided that the power of Congress over commerce among the Indian tribes includes the power to prohibit the commerce entirely. Its power over foreign commerce is the same as over commerce among the States, and the Supreme Court has decided that Congress has the power to prohibit foreign commerce. Its power over interstate commerce was decided in the Lottery case (188 U. S., 321) to be plenary and unrestricted, except by the limitations in the Constitution, and it was there decided that the word "regulate" included "prohibit." The same doctrine was announced in the case In re Rahrer (140 U. S., 545).

CONGRESS CAN DO WHAT STATES HAVE DONE.

In the light of these decisions there is no escape from the conclusion that the power of Congress over interstate commerce is as full and complete as the power of a State over its domestic commerce. If a State has the power to fix rates by its legislature direct or through the instrumentality of a commission, then Congress has the same power.

Following the doctrine of the decisions to which I have referred, I believe that Congress possesses the power to fix rates the same as a State. But we are not left wholly to conjecture, for when the Maximum Rate case (167 U. S., 479) was considered by the Supreme Court, the question in that case being whether Congress in fact had conferred the rate-making power upon the Commission, Justice Brewer, speaking for the court, said:

There were three obvious and dissimilar courses open for consideration. *Congress might itself prescribe the rates;* or it might commit *to some subordinate tribunal* this duty; or it might leave with the companies the right to fix rates, subject to regulations and restrictions, as well as to that rule which is as old as the existence of common carriers, to wit, that rates must be reasonable.

The court decided that Congress had left to the carriers the right to fix rates. It held that there was nothing in the interstate-commerce act that could be construed so as to imply that Congress had conferred the rate-making power upon the Commission; but there is nothing in the opinion from first to last that even intimates that Congress could not confer such power on a Commission, if it saw fit to do so. This bill seeks to impose that additional duty upon the Commission, under certain limitations and restrictions, and I believe that under the decisions of the Supreme Court Congress has the power to do this if it decides that it is for the best interests of the public to take such a course. That the fixing of rates is a legislative function has been the settled doctrine of the Supreme Court ever since the case of Munn *v.* Illinois, but it must not be taken from this that rates so fixed can not be inquired into by the courts.

THE EXTENT OF JUDICIAL REVIEW OF LAW-MADE RATES.

It is very interesting to trace the development of the doctrine of judicial interference with law-made rates and to show how far and to what extent the courts will interfere with the rate made by a legislature direct or through the assistance of a commission. It was assumed shortly after the case of Munn *v.* Illinois was decided that the courts could not be invoked to inquire into or consider any question relating to law-made rates, but this position was soon shown to be untenable by the later decisions of the Supreme Court, in which the case of Munn *v.* Illinois was construed.

In the Schottler case (110 U. S., 354) Chief Justice Waite, who had written the opinion in the Munn case, referred to that case and said that, following that case, the Government had the power to regulate the price at which water should be sold by one who enjoys a virtual monopoly of the sale. Then, referring to the Munn case, he said:

As was said in that case, such regulations do not deprive a person of his property without due process of law. What may be done if the municipal authorities do not exercise an honest judgment, or *if they fix upon a price which is manifestly unreasonable*, need not now be considered, for that proposition is not presented by this record. The objection here is not to any *improper prices* fixed by the officers, but to their *power to fix prices at all.*

It was clearly decided that the right of the legislature to fix maximum charges was the power decided in the case of Munn *v.* Illinois. Justice Miller in the Wabash case (118 U. S., 569), referring to the case of Munn *v.* Illinois and the other cases decided at the same term, after discussing in detail the questions presented in these cases, said:

And the great question to be decided, and which was decided, and which was argued in all those cases, was the right of the State within which a railroad company did business to regulate or limit the amount of any of these traffic charges.

There was in this case no determination of the *extent* of the control by the legislature, but only as to the *power* to fix maximum charges. The question was again before the court in the Railroad Commission cases. (116 U. S., 331.) The right of the legislature to fix railroad rates through the instrumentality of a commission was then determined, but Chief Justice Waite went even further in determining the limitations of the power of the legislature than he did in the Schottler case. In the Commission cases he said:

From what has thus been said, it is not to be inferred that this power of limitation or regulation is itself without limit. This power to regulate is not a power to destroy, and limitation is not the equivalent of confiscation. Under pretense of regulating fares and freights, the State can not require a railroad corporation to carry persons or property without reward; neither can it *do that which in law amounts to a taking of private property for public use without just compensation, or without due process of law.*

This case was decided in 1885, and while it was not necessary to the decision of the question in that case, for, as the court said, the railway commission of Mississippi had not yet fixed a tariff of rates, although its power to do so was affirmed by the court, yet these words of Chief Justice Waite, defining the limitations of the powers of the legislature in fixing rates and deciding to what extent the courts would interfere with such rates, has become the settled doctrine of the jurisprudence of this country, as determined by the Supreme Court.

THE MINNESOTA MILK CASE.

I might refer to other decisions in which the same doctrine was announced, but the question was clearly and definitely settled in the Minnesota Milk case (134 U. S., 459). In that case the railway commission of Minnesota having fixed a certain rate for the transportation of milk, which was not complied with by the carriers, the commission brought a mandamus proceeding in the supreme court of Minnesota to compel the carriers to observe the rates made by the commission. The railroad company in its return to the alternative writ alleged that the rates fixed by the commission amounted to a taking of property without due process of law and that the rate was not a reasonable fare or just compensation to the company for the service rendered. The carriers asked for the privilege of introducing evidence to prove the allegations of its return, but the supreme court of Minnesota denied the application to introduce testimony in proof of the allegations and rendered judgment against the carrier. The case was taken to the Supreme Court of the United States, and it was there determined that if the statute of Minnesota, as construed by the supreme court of that State, prevented an inquiry in court upon the question as to whether its property was being taken without due process of law, then the statute was void, for it was determined that a hearing before the commission upon this question was not due process of law, but that a carrier was entitled to have that question tried in a court of justice. Justice Miller, in his concurring opinion in that case, laid down several propositions that are good to-day and have been followed by the Supreme Court since that time. After deciding that the State has the legislative power to establish the rates of compensation for carriage of property and that the legislature could exercise that power through a commission, he said:

Neither the legislature nor such commission acting under the authority of the legislature, can establish arbitrarily and without regard to justice and right a tariff of rates for such transportation, which is *so unreasonable* as to practically destroy the value of property of persons engaged in the carrying business on the one hand, nor *so exorbitant* and extravagant as to be in utter disregard of the rights of the public for the use of such transportation on the other.

He then said that in either of these classes of cases there was an ultimate relief in the courts, and especially in the courts of the United States when the tariff of rates fixed either by the legislature or by the commission is such as to deprive a party of his property without due process of law. He also said that until the judiciary was appealed to, the tariff of rates, so fixed, was the *law of the land* and must be submitted to, both by the carrier and the party with whom he deals. These propositions, so clearly and forcibly announced by Justice Miller, agreeing as they do with the statements of Chief Justice Waite, in the cases to which I have referred, have been followed by the Supreme Court, and are the law to-day unmodified, and neither restricted nor enlarged by the later decisions. A carrier can not get relief in a court of justice by simply showing that the rate fixed by the legislature or commission is *unreasonable*, but it must show that the rate is *so unreasonable and so unjust* as to amount to a taking of its property for a public use without just compensation. Justice Blatchford, who delivered the opinion in the Minnesota Milk case, also delivered the opinion in the case of Budd *v.* New York (143 U. S., 517), and explained in detail the scope and extent of that decision.

JUSTICES HARLAN, BREWER, AND BROWN ON EXTENT OF JUDICIAL INTERFERENCE.

Justice Harlan, in the Land Company case (174 U. S., 751), clearly defines the extent of judicial interference with rates fixed by law, either by a legislature direct or through the assistance of a commission. He says:

But it should also be remembered that the judiciary ought not to interfere with the collection of rates established under legislative sanction unless they are so plainly and palpably unreasonable as to make their enforcement equivalent to the taking of property for public use without such compensation as under all the circumstances is just both to the owner and to the public; that is, judicial interference should never occur unless the case presents, clearly and beyond all doubt, such a flagrant attack upon the rights of property under the guise of regulations as to compel the court to say that the rates prescribed will necessarily have the effect to deny just compensation for private property taken for the public use.

The Kansas City Stock Yards case (183 U. S., 91) contains a clear and able discussion of the law as defined by the Supreme Court, this case being decided in November, 1901. Justice Brewer, discussing all the leading decisions of the court upon

these questions, and after quoting the words of Justice Harlan, to which I have just referred, makes this statement:

As to parties engaged in performing a public service, while the power to regulate has been sustained, negatively the court has held that the legislature may not prescribe rates which, if enforced, would amount to a confiscation of property. But it has not held affirmatively that the legislature may enforce rates which stop only this side of confiscation and leave the property in the hands and under the care of the owners without any remuneration for its use. It has declared that the present value of the property is the basis by which the test of reasonableness is to be determined, although the actual cost is to be considered, and that the value of the services rendered to each individual is also to be considered. It has also ruled that the determination of the legislature is to be presumed to be just, and must be upheld unless it clearly appears to result in enforcing unreasonable and unjust rates.

In a still later decision of the court (186 U. S., 268), affirming the supreme court of the Minnesota in sustaining the order of the railway commission of Minnesota fixing rates on coal in carload lots, Justice Brown says:

It is sufficient, however, for the purpose of this case to say that the action of the commission in fixing the rate complained of as to this particular class of freight has not been shown to be so unjust or unreasonable as to amount to a taking of property without due process of law, and we therefore conclude that the judgment of the Supreme Court must be affirmed.

WHAT THE COURTS WILL DO IF THEIR JURISDICTION IS NOT ENLARGED.

It is clearly shown by these decisions, to which many more might be added, that unless there is something inserted in this bill enlarging the present jurisdiction of the courts over rates made by legislative authority, that the courts will only interfere and set aside such rates when they are confiscatory, and they have decided that rates are confiscatory when they do not afford a fair return on the property that is employed in performing the public service. The rates can not be fixed so low by the legislature that they leave the property in the hands and under the care of the owners without any remuneration for its use. They have declared that the present value of the property is the basis by which to test the question as to whether there is a fair return on the property employed, although the actual cost is to be considered.

But this view of the law as determined by the Supreme Court is well understood, and it was probably unnecessary for me to consider this phase of the question so much in detail. I would not have done so were it not for the effort that is being made to amend this bill so as to *change* this procedure and impose upon the courts additional duties by seeking to *enlarge* the jurisdiction which they now assume over rates made by legislative authority.

It has been stated that the supporters of this bill favor restricting the review by the courts of rates made by Congress with the assistance of the Commission. Those who favor this bill wish to leave the jurisdiction of the courts in relation to such rates just as it is to-day, as defined by the decisions of the Supreme Court. There are those who wish to amend this bill so as to enlarge the jurisdiction of the courts and ask them to consider questions in relation to rates made by legislative authority that so far they have declined to consider, when rates made by State legislatures, with the assistance of State commissions have been the subject of consideration by the Supreme Court.

THE BILL NOW RECOGNIZES THE RIGHT OF REVIEW.

The Senator from Pennsylvania [Mr. KNOX], in the very able and instructive speech which he made the other day in the Senate, said:

I have contended that a law authorizing a commission to set aside rates and practices upon complaint, and to substitute others in their stead, must proceed either upon the theory of the commission's action being final, or upon the theory that it must be subjected to review in the courts.

He further said, after referring to the provisions in the bill which recognize that a court may suspend or set aside an order of the Commission:

One of two things is certain, either the bill does or it does not provide for a review. If it does not provide for review, and if those in favor of the bill as it now stands do not contemplate or desire a review, then, in all fairness, these provisions should be stricken from the bill.

The fact is, however, as I have already shown, that the friends of the bill as it now stands claim, not that it does not contemplate a review, but that the bill either sufficiently provides for a review, or recognizes a right claimed to exist independently of the bill.

Certainly no one at this late day would attempt to draw a bill seeking to make the orders of the Commission final. There are too many decisions of the Supreme Court holding that such orders can not be made final, beyond the power of the court to inquire into certain questions decided by the Commission. The Senator is right when he says that the friends of this bill do not claim that it does not contemplate a review, but they contend that the bill now sufficiently provides for a review and recognizes that the right of review exists independently of this bill. If the provisions referred to by the Senator were stricken from the bill, it might be contended that it was the intention of Congress to make the orders of the Commission final, and if the bill could be so construed there would be no question of its invalidity. The bill provides that its orders, except for the payment of money, shall go into effect within thirty days unless the same shall be suspended, modified, or set aside by the Commission *or be suspended or set aside by a court of competent jurisdiction.*

ORDERS OF COMMISSION CAN NOT BE MADE FINAL.

The bill thus recognizes the power of a court of competent jurisdiction to suspend or set aside the orders of the Commission. This bill was drawn upon the theory that it was not within the power of Congress to make the orders of the Commission final beyond the right of the courts to inquire into whether the Commission had exceeded its authority or made rates so low that they were confiscatory.

It was once contended that the legislature did have the authority to make its rates final and to provide that those made by a commission were conclusive and could not be inquired into or set aside by a court. This contention is no longer tenable, as it is now admitted by all that while it is a legislative function to fix a future rate, which may be done either by the legislature or through the assistance of a commission, yet it is a judicial function to inquire into and ascertain whether rates fixed, by a legislature or by a commission under the authority and direction of the legislature, are so unjust and so unreasonable as to amount to a taking of property without just compensation.

A CONTROVERSY OVER KIND AND EXTENT OF REVIEW.

This is not a question between *a review* and *no review*, but it is a question of the *kind* and *extent* of the review. I am not here to take the inconsistent position that while I believe provisions for review are in the bill yet I am unwilling in language to express such a review by an appropriate amendment. The Senator suggests that no suit can be brought against the Interstate Commerce Commission because no authority is given in the bill to sue the Commission. The venue of all suits is clearly defined, and it was no doubt the theory of the framers of the bill that the right of the carrier to sue the Commission for an injury under an order made by the Commission is clear and undoubted. They no doubt came to this conclusion from an examination of the Reagan case (154 U. S., 362) and the Smyth *v.* Ames case (169 U. S., 466). In both of these cases the constitutionality of the laws attacked were sustained by the Supreme Court, but in each case it was decided that the Commission had acted beyond its authority. While the Nebraska law authorized a suit to be brought in the courts of Nebraska to challenge the order of the board, yet the suit that was brought (Smyth *v.* Ames) was a suit in equity in the United States court, which disregarded entirely the provisions for review by the statute. But I agree with the Senator from Pennsylvania that there should be no question in regard to the right of a carrier that has been injured by an order of the Commission to sue the Commission in the United States circuit court.

FAVORS AN AMENDMENT FOR COURT REVIEW.

I do not object to an amendment authorizing suit to be brought against the Commission and conferring jurisdiction upon the United States circuit court sitting in equity to hear and determine any such suit. I believe under this bill without amendment that two questions can be inquired into by the court in a suit brought by the carrier or anyone else injured by an order of the Commission, and I am not opposed to amending the bill by defining such jurisdiction of the court. I believe that suit can be brought to set aside the order of the Commission when the Commission has acted beyond its authority, for general unlimited jurisdiction is not conferred upon the Commission to make rates. It is a body of limited jurisdiction, and the law clearly defines its duties, and it must act within the law or its actions are void. I also believe that under this bill, without amendment, if the Commission makes an order that is a violation of the rights of the carrier, which are secured by the Constitution, the court, on a suit being brought, will suspend or set aside such order; and believing that these things are in the bill now I am not opposed to making the bill clear and definite by inserting such provisions. And so, though satisfied with the House bill in this particular and having no doubt of its constitutionality, but reposing confidence in the great legal ability of the Senator from Pennsylvania [Mr. KNOX] and other Senators who hold similar views to those which he expressed, I am willing, in order to remove all question as to the constitutionality of this bill, in order to make it plain that there is no intention to make the orders of the Commission final, to put in an amendment providing that suits may be brought in the United States circuit court against the Commission to set aside any order of the Commission and the orders may be suspended or set aside when it appears that the order complained of was *beyond the*

authority of the Commission to make or in violation of the rights of the carrier secured by the Constitution. The amendment I have offered, and which has been read, is in line with this suggestion.

FEAR SUCH AN AMENDMENT WOULD NOT BE SATISFACTORY.

But I fear that this amendment will not be satisfactory to the Senator from Pennsylvania and the other Senators who are seeking to amend this bill by inserting a provision for a court review. It is not the intention of those who are insisting upon a review to insert a provision to limit the jurisdiction of the courts to the two questions suggested in this amendment. They know that the courts would assume this jurisdiction now, for they have assumed it in cases arising under State statutes and have clearly defined the length to which the courts will go in examining the orders of a subordinate tribunal. If the Commission has acted within its authority in making the order, then the rate will only be set aside by a court if it is so unreasonably low as to amount to confiscation, and a confiscatory rate has been defined to be one that does not give a fair return on the property that is employed in performing the service. What is a fair return is a judicial question which the courts will determine.

To show the kind of a review that is sought to be placed in this bill, I wish to refer to the statements of a friend of the bill, the Senator from Massachusetts [Mr. LODGE], and an opponent of the bill, the Senator from Ohio [Mr. FORAKER]. The Senator from Massachusetts [Mr. LODGE], in his very able speech showing the folly and unwisdom of attempting to make rates by law, but in which he announced his willingness to support this bill, which does what he so eloquently condemned, said that he would favor it provided there was a provision placed in it for review by the courts, not only as to whether the rate is *confiscatory*, but also as to whether it is *just* and *reasonable*. He said:

Finally, there should be ample provision for appeal to—or, more properly, a review by—courts of competent jurisdiction sitting in equity, not only as to whether the rate is confiscatory, *but also whether it is just and reasonable*, and an arrangement should be made by law for the rapid disposition of all such cases.

The Senator from Ohio said:

The making of a rate is a legislative act, and legislative discretion of the Commission in determining what is a reasonable rate can not be interfered with by the courts *in the absence of special statutory authority, unless the rate be fixed so high that it is extortionate to the shipper, or so low that it is confiscatory as to the carrier.*

He further said:

But between extortion on the one hand, and confiscation on the other, there is, in most cases, a considerable latitude within which the action of the Commission, *without special statutory provision for review of it by the courts, would be final and conclusive.*

I believe that if we have a commission to which Congress gives the authority to fix maximum rates under certain restrictions, it is the duty of that commission to exercise its judgment as to the limit to be fixed, and that judgment when once exercised should not be controlled or revised by a court on review, if the commission acted within its authority, unless the rate is fixed so high as to be extortionate to the shipper, or so low as to be confiscatory to the carrier.

THE TWO KINDS OF COURT REVIEW.

The issue here could not be more clearly defined than by comparing the statements of these two Senators as to what they desire placed in the bill with the amendment which I have offered. A confiscatory rate is not solely one that leaves the property in the hands of the owner without any return for its use, but a rate is confiscatory unless it will afford a fair return on the property employed in the service. This bill provides that the rate must be fairly remunerative, and the fifth amendment to the Constitution provides that private property can not be taken for a public use without just compensation.

But what the Senators from Massachusetts and Ohio desire, and what the Senator from Pennsylvania desires, if we take the provisions for court review in the document which he had printed, is to place in this bill provisions that will authorize the court to sit in judgment on the *wisdom* and *policy* of the rates made by the Commission and suspend or set them aside, not only when they are confiscatory, but when for other reasons they deem them unwise or unfair. Some of the provisions referred to by the Senator from Pennsylvania, in the document to which I have referred, have been passed upon by the supreme courts of the respective States. These provisions are all similar. They all give to the court the very widest latitude and jurisdiction in considering orders of the Commission, and they are so nearly alike that one might believe that they had emanated from a common source. No provision is broader than that of the statute of Minnesota, which authorizes the court, in considering an order of the Commission, *to examine the whole matter in controversy, including matters of fact, as well as questions of law, and to affirm, modify, or reverse such order in whole or in part, as justice may require.*

WHAT THE SUPREME COURT OF MINNESOTA DECIDED.

The supreme court of Minnesota (69 Minn., 375), in passing upon this provision, said that the courts did not have authority to fix rates, to substitute their judgment for the judgment of the commission, and that the court could not place itself in the shoes of the commission and try de novo the question of what are reasonable rates; that upon appeal under this statute the court could review the acts of the commission only so far as to determine whether the rates fixed by it were confiscatory. The question was whether the court should assume this broad jurisdiction, or whether it should follow the precedents laid down by the Supreme Court of the United States in the absence of any statutory provision for review. Judge Canty, who delivered the opinion of the court, said:

If by this the legislature intended to provide that the court should put itself in the place of the commission, try the matter de novo and determine what are reasonable rates, without regard to the findings of the commission, such intent can not be carried out, as the statute which so provided would be unconstitutional. The fixing of rates is a legislative or administrative act, not a judicial one.

He further said:

While the district court takes the evidence de novo, it can not put itself in the place of the commission, and try the facts in controversy de novo. The district court can review the findings of the commission only so far as to determine whether or not the rates fixed are so unreasonable as to be confiscatory, just as an appellate court reviews the verdict of the jury for the purpose of determining whether it is so excessive that it can not stand.

Judge Mitchell, who also concurred in the decision, made the following statement in his opinion:

It must now be accepted as the settled law that, when rates or charges by railway companies have been fixed by the legislature or a commission, the determination of the question whether such rates are "reasonable" or "unreasonable" is a judicial function. But this is so, not because the fixing of rates is a judicial function (for all the authorities agree that it is a legislative one), but solely by virtue of the constitutional guaranty that no one shall be deprived of his property without due process of law. Therefore the only function of the courts is to determine whether the rates fixed violate this constitutional principle.

Courts should be very slow to interfere with the deliberate judgment of the legislature or a legislative commission in the exercise of what is confessedly a legislative or administrative function. To warrant such interference, it should clearly appear that the rates fixed are so *grossly inadequate* as to be confiscatory, and hence in violation of the Constitution. It is not enough to justify a court in holding a rate "unreasonable," and hence unconstitutional, that, if it was its province to fix rates, it would, in its judgment, have fixed them somewhat higher. Any such doctrine would result, in effect, in transferring the power of fixing rates from the legislature to the courts, and making it a judicial and not a legislative function. When there is room for a reasonable difference of opinion, in the exercise of an honest and intelligent judgment, as to the reasonableness of a rate, the courts have no right to set up their judgment against that of the legislature or of a legislative commission. In my opinion, it is only when a rate is manifestly so grossly inadequate that it could not have been fixed in the exercise of an honest and intelligent judgment that the courts have any right to declare it to be confiscatory.

So the supreme court of Minnesota declined, although directed by statute, to assume the rate-making function, and limited its inquiry into the question as to whether or not the rates were so low as to be confiscatory. The Supreme Court of the United States, on appeal from a judgment of the supreme court of Minnesota in a similar case to this (186 U. S., 257), took the same position, and confined its investigations to the question as to whether the rates fixed by the Minnesota commission were so unreasonably low as to amount to a taking of the property of the carrier without just compensation.

THE SUPREME COURT OF TEXAS TAKES A DIFFERENT VIEW.

But the supreme court of Texas, in the Railway Commission case (90 Tex. Rep., 353), construed differently the provision in the railroad-commission law of Texas. After referring to article 4565, set out in full in the document referred to by the Senator from Pennsylvania, the court considered the following article, 4566:

In all trials under the foregoing article the burden of proof shall rest upon the plaintiff, who must show by clear and satisfactory evidence that the rates, regulation, order, classification, act or charges complained of are unreasonable and unjust to it or them.

The court then says:

It is claimed by the Attorney-General on behalf of the railroad commission, that the courts have no power under this law to review the action of the railroad commissioners in regard to any of the matters enumerated unless the complainant shall show that the act complained of amounts to a taking of property without proper compensation or without due process of law, and in support of this position it is asserted that prior to the enactment of this law the words "unreasonable and unjust," when used in reference to the action of legislative bodies and of commissions created by them, had received the interpretation that such acts must be unreasonable and unjust to the extent of being violative of the Constitution, and that the words "unreasonable and unjust" must be so construed because it will be presumed that the legislature used them in that sense. We know of no decision of any court which has defined either "unreasonable" or "unjust" to mean that the act so characterized is the taking of property without proper compensation or without due process of law.

I wish to call the special attention of Senators to this part of the decision of the supreme court of Texas:

It is true that the courts have *established the rule* that the reasonableness and justice of rates *fixed by the legislature, or by a commission* empowered by it so to do, are ordinarily questions committed to the discretion of those bodies, and not subject to revision by the courts, but in such cases the *law did not authorize any revision* of such action by the judicial department.

I desire to call the attention of Senators to this, showing that the decision of the supreme court of Texas and the jurisdiction which they assumed was by reason of the insertion in the provision for court review of the words that "they may prove that the charges are unjust and unreasonable to it or them."

The court then said that the courts, acting under the general rule, did not revise the exercise of discretionary power on the part of the legislature or the commission, but only protected parties against a violation of the constitution. The court said the question in this case was whether the statute quoted had *changed the law*, and if it had not, the same test would be applied. After discussing the facts of the case, the court said that it was evidently the intention of the legislature to establish *a much more liberal rule* than previously existed on this subject. The court then says:

The language of the law is so antagonistic to the rule established by the decisions, which construction is claimed to have been adopted by the legislature, that we must conclude that the legislature intended to change those rules in their application to the subjects embraced in the articles quoted, otherwise there was no need for the articles 4565 and 4566. Indeed, the conferring of that jurisdiction upon the courts of itself imposed the duty to try the case by the ordinary rules of procedure, unless otherwise provided. The attorney-general urges the inconveniences of such a rule and the possibility of blocking the business of the commission by such proceedings. It may not be a wise policy to extend this liberality to those who are affected by the exercise of the powers conferred upon the commission, but that question is for the legislative branch of the government, and not for the courts, to deal with.

It will thus be seen that the supreme court of Texas, under a statutory provision that permits the court on review to determine the *justness* and *reasonableness* of the rates fixed by the commission, held that the effect of this statute is to change the rule laid down by the courts that they will only set aside the order of the commission when the rate is so unreasonably low or so manifestly unjust as to amount to a confiscation of the property of the carrier. This case has been followed in Railroad Commission case (96 Texas, 394).

THE KANSAS COURT OF VISITATION CASE.

In 1898 an act was passed by the legislature of the State of Kansas creating a court of visitation. That act was considered by the United States circuit court in the case of the Western Union Telegraph Company *v.* Myatt (98 Fed. Rep., 335), and by the Kansas supreme court in the case of State *v.* Johnson (61 Kans., 803). The court created by the legislature was inferior to the supreme court, and there is a provision in our constitution authorizing the legislature to create courts inferior to the supreme court. Provision was made in the act for a full review of the decisions of the court by the supreme court, but the attempt was made in this legislation to confer upon this judicial tribunal the power to fix rates and the power to perform the usual functions performed by a board of railroad commissioners.

Full jurisdiction and authority was given to this court to hear complaints in regard to rates, to fix rates when it found that the rates of the carrier were unreasonable and unjust, and to perform the functions and powers usually performed by a board of railroad commissioners. At the same session of the legislature the law which had provided for a board of railroad commissioners and which had been upon the statute books for many years was repealed, showing clearly that it was the intention of the legislature to confer all powers and supervision in the fixing of rates on the court of visitation. The act was first considered in a suit brought in the United States circuit court, involving as it did the fixing of telegraph charges, and it was declared unconstitutional because of the intermingling of judicial, executive, and legislative functions in a very able decision by Judge Hook, now United States circuit judge. The supreme court of Kansas took the same position, that it was not within the power of the legislature to confer the rate-making power upon a judicial tribunal (61 Kans., 820). It was said in that case:

The rate-making power, being essentially legislative in its nature, whether exercised directly by the legislature or delegated by it to a competent board or commission, can no more be imposed on or exercised by the judicial department than can the pardoning power of the governor or any other distinctively executive function. It is a cardinal principle of representative government that the making of laws and rules regulating the future conduct and fixing the rights of parties belongs to the legislative department—a power which can never be reposed in or exercised by the judiciary.

It was further said:

Counsel for petitioner do not seem to question the rule that the establishment of freight rates is a legislative prerogative. Yet, as we understand them, they contend that this establishment may be accomplished through the decrees of a judicial tribunal in furtherance of and incidental to granted power to determine what are reasonable rates. In other words, admitting that to decide what is a reasonable rate is a judicial power, they argue that when a court determines this it may proclaim its findings in respect thereto, and this declaration is binding not only upon parties to the inquiry, but upon all other parties who may thereafter be affected.

This decision has peculiar application and relation to the bill introduced by the Senator from Ohio [Mr. FORAKER].

Conceding that courts can not legislate, they insist that courts may do that which, in legal effect, is nothing more or less than legislation. It is one thing to determine whether a freight rate is reasonable in a controversy between a shipper and a carrier, and another thing to decide, at the suit of the State or a private party, what shall be charged in the future for such services. A decision made in the first case might be a precedent when a similar controversy subsequently arose; but the promulgation of the first decision, however formally done by a judicial tribunal, could not have the far-reaching effect of a legislative act, for it is peculiarly within the province of the legislature to regulate future conduct. Chief Justice Marshall said: "The legislature makes, the executive executes, and the judiciary construes the law."

COOLEY AND SUPREME COURTS OF NEBRASKA, CONNECTICUT, AND LOUISIANA ON JUDICIAL LIMITATIONS.

Judge Cooley, in his work on Constitutional Limitations, page 168, makes the following distinction between legislative and judicial power:

The difference between the departments undoubtedly is, that "the legislature makes, the executive executes, and the judiciary construes the law." And it is said that that which distinguishes a judicial from a legislative act is, that the one is a determination of what the existing law is in relation to some existing thing already done or happened, while the other is a predetermination of what the law shall be for the regulation of all future cases falling under its provisions.

In the case of Nebraska Telephone Company *v.* State, the supreme court of Nebraska (55 Nebr., 627) said:

Where a public-service corporation has performed a service and sues to recover therefor, in the absence of an express contract for a specific compensation the measure of its damages is a reasonable compensation for the services performed; and whether the compensation which it demands is reasonable is a judicial question. Where the legislature has fixed the compensation which a public-service corporation may exact for the performance of a service, then the reasonableness of the compensation so fixed by the legislature—that is, whether the limiting of the corporation to the compensation fixed by the statute would result in a confiscation of the corporation's property—is a judicial question (Smyth *v.* Ames). But the power—the jurisdiction—to determine what compensation a public-service corporation may exact for service to be rendered by it we understand to be a legislative, and not a judicial, function.

In the case of The Norwalk Street Railway Company's appeal (69 Conn., 597) the court said:

This distinction is illustrated in the decisions of the United States Supreme Court, dealing with legislative regulations of charges by railroad companies. The regulation of such charges is held to be distinctively a legislative function which may be delegated by the legislature to a subordinate legislative or administrative body, but if this subordinate body or the legislature exceeds its powers and a person is thereby injured in his rights of property, he may invoke the judicial power to determine that question of legal injury; and the reasonableness of the charges, although a question legislative in its nature, must be reviewed by the court as necessarily incident to the exercise of its judicial power. But if the court should attempt to establish for the future a schedule of charges, it would exceed the limits of judicial power; it would act as legislator in respect to a matter as to which it must also act as judge.

I refer also to a decision of the supreme court of Louisiana in the Railway Commission case. (109 La. Rep., 263.) In discussing what the court should do in an action brought to review an order of the commission, it said:

That is a matter submitted to the judgment of the commission, not that of the railroad or of this court, unless the selection trenches upon the legal rights of the railroad corporation. The mere reference of disputed issues between the parties to this court for adjudication was not intended to constitute it an "administrative" board, revisory in character over the orders and conclusions of the commission. Our action is judicial, not administrative. It was not intended that we should substitute our judgment for that of the commission every time there is a dispute touching the particular place on the line of railroad where it would be best for the public interest that a station or a depot should be placed. To come successfully before this court, the appellant must be able to point out some legal right of its own which has been infringed upon.

DECISIONS ON COURT REVIEW DO NOT AGREE.

So the decisions of the courts on the different provisions for court review collected by the Senator from Pennsylvania are at variance, different courts construing practically the same statute in an entirely different way. I call the attention of the Senate to these decisions to show the necessity for the use of great care and caution in the wording of a provision for review, for it may affect the constitutionality of this whole measure.

Early in the session the Senator from Ohio [Mr. FORAKER] introduced a bill imposing the duty of fixing rates on the courts in conjunction with Congress. That bill has so far not received serious consideration in the Senate, and up to date no support has been tendered it aside from the nurturing watch care of the Senator from Ohio.

But there is a disposition in some quarters, and especially in the literature that has been rained down upon the members of

this Senate for weeks and weeks, to take the position that this question of the regulation of rates is not one, after all, for Congress to exercise, either directly or through the instrumentality of a commission; that while the Commission under this law will fix the limit beyond which the carrier can not go in fixing rates for the future, yet in some way and in some manner, by providing for a particular kind of review, that the whole controversy can be transferred to the courts, which will finally determine the limit of rates which shall be fixed. And so it has been suggested that a provision should be incorporated in this bill providing for a review by the courts. I will favor such a provision provided that there is no attempt or suggestion in it to transfer to the courts powers that are clearly legislative and administrative. I object to any plan which proposes to confer the rate-making power on the courts, either directly or indirectly, for such power is confided to Congress and not to the courts, and the courts should not discharge the power even if it is attempted to be conferred by statute. The jurisdiction of the courts affecting orders made by the Commission has been defined in the past, and the power of Congress to enlarge the jurisdiction of the courts has been discussed by experts in railroad law in the hearings to which I shall now refer.

But before I read these statements, which may be found in the hearings, I want to refer to the admirable speech of the senior Senator from Minnesota [Mr. NELSON] made yesterday. I see nothing that can be added to it, for it clearly states this whole proposition. The question of regulating interstate-commerce rates is a power that is conferred upon Congress, as is shown by the speech of the Senator from Minnesota. It is in no respect conferred upon the courts, and they can not assume it directly, as proposed by the Senator from Ohio [Mr. FORAKER], or indirectly, as is proposed in the provisions for review in the document which has been prepared and printed at the request of the Senator from Pennsylvania [Mr. KNOX].

Mr. KNOX. Mr. President——

The VICE-PRESIDENT. Does the Senator from Kansas yield to the Senator from Pennsylvania?

Mr. LONG. Certainly.

Mr. KNOX. Do I understand the Senator from Kansas to throw out the suggestion that I am responsible for anything contained in that document?

Mr. LONG. Not at all. I simply referred to the document.

Mr. KNOX. That document is merely a transcript of the legislation of the various States to which it refers.

Mr. LONG. Certainly. Neither do I wish to imply that the Senator desires a review that will impose upon the court the function of fixing rates.

Mr. KNOX. Mr. President——

The VICE-PRESIDENT. Does the Senator from Kansas yield to the Senator from Pennsylvania?

Mr. LONG. Certainly.

Mr. KNOX. In reply to that, if I may say just a word, I will state that I do not know of anyone in the Senate who is contending for such a provision.

Mr. LONG. I am endeavoring to prove to the Senate, and especially to the Senator from Pennsylvania, that if a provision is inserted in this bill similar to the provisions which are contained in the document which he had printed, it will result in conferring the rate-making function on the courts by review.

I will now refer to the opinions found in the hearings by gentlemen, who, while they may not be as great constitutional lawyers as there are in the Senate, yet certainly on this question of the law in relation to railroads, their opinions are entitled to great consideration. It is their business to guide the operations of great corporations, to determine questions affecting those corporations, and I now want to refer to their opinions as to what can be done by Congress in conferring jurisdiction on the courts to review the orders of the Commission.

VIEWS OF VICTOR MORAWETZ.

Mr. Victor Morawetz, general counsel of the Atchison, Topeka and Santa Fe Railway Company, in the hearings before the Committee on Interstate Commerce, Volume II, page 801, said:

Congress can not vest in the courts power to fix future rates or to consider and pass upon the wisdom or policy of the Commission in prescribing a particular rate which is neither confiscatory nor unreasonably high. It is well settled that Congress can not constitutionally require the courts of the United States to perform any duties that are not of a judicial character. Congress can not require the courts, directly or indirectly, to perform duties of an administrative or of a quasi legislative character.

He further said:

Congress can require the courts to pass upon the question whether a rate fixed by a commission is confiscatory. It can also require the courts to determine whether a rate fixed by a commission or by a railway company is excessive—illegally high. But Congress can not require the courts to pass upon the mere business policy of fixing a rate anywhere between those two extremes.

The Senator from Ohio [Mr. FORAKER], in his speech, from which I have quoted, says that he wants a special statutory authority authorizing the courts to consider something in relation to a rate aside from the question whether it is unreasonably high, and therefore extortionate to the shipper, and a rate that is unreasonably low, and therefore confiscatory as to the carrier. Mr. Morawetz, in his statement, says that Congress can not confer upon the courts the power to decide anything between these two extremes.

He further said:

This precise question has never been decided nor considered by the Supreme Court, because it never arose. Congress never attempted to do such a thing. But a similar question has arisen under State legislation purporting to vest the rate-making power in the courts and this legislation has been condemned as unconstitutional.

In State *v.* Johnson (61 Kans., 803) the supreme court of Kansas decided that the act of the legislature of that State creating a court called the "court of visitation" was unconstitutional, for the reason that it conferred upon this court the power of prescribing the future rates for railway companies, that being a legislative and not a judicial function. The same conclusion was reached when the validity of this Kansas law was considered by the circuit court of the United States in Western Union Telegraph Company *v.* Myatt (98 Fed. Rep., 335). (See also Nebraska Telegraph Co. *v.* State, 55 Nebr., 627.)

He further said:

It is clear, however, that if Congress can not give to the courts original power to prescribe what rates the railway carriers shall charge, Congress can not *require* the courts to do this indirectly, by requiring them to reconsider the wisdom and policy of the Commission in fixing a rate. In other words, Congress can not make the court in effect an appellate railway commission to sit in review of the actions of the Interstate Commerce Commission, to hear de novo the questions passed upon by the Interstate Commerce Commission and to substitute the ideas of the court as to the wisdom and policy of a particular rate for the ideas of the Interstate Commerce Commission. Any statute authorizing a commission in the first instance to exercise purely discretionary power in fixing rates and requiring the courts to review this discretion of the Commission would be unconstitutional, because the discretion to be reviewed by the courts would be a legislative discretion and not a legal discretion. It is obvious that such a statute would indirectly make the courts the rate makers for all the railways in the United States, because a decision of the Commission or the action of the Commission in fixing a rate would in no case be final. Either party could ask the court to reconsider the whole question as it was considered by the Commission and substitute its ideas of the *wisdom and policy* for the ideas of the Commission.

The courts undoubtedly can be required to pass upon the question whether a rate prescribed by a commission is unreasonably high, and therefore unlawful. The courts have been required under the existing laws to pass upon the question whether the rate charged by a carrier is unreasonably high and in violation of the provisions of the interstate-commerce act. The courts also can be required to pass upon the question whether the act of a carrier in fixing a rate is in violation of any legal order of the Commission. But they can not be required to substitute their ideas as to the wisdom or policy of fixing a rate between the two extremes of legality which I have mentioned—that is, a rate which is unreasonably high and the rate which is confiscatory.

The Senator from Ohio, in his speech, states the law the same as Mr. Morawetz—that the courts will consider only whether the rate fixed by the Commission is so unreasonably high as to be extortionate to the shipper or so unreasonably low as to be confiscatory to the carrier; but the Senator from Ohio wants a provision in this bill that will permit the court to look into the wisdom and policy of the rate fixed between those two extremes, and Mr. Morawetz says that that jurisdiction can not be conferred upon the courts, because it would in effect be conferring the rate-making power.

Mr. FORAKER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Kansas yield to the Senator from Ohio?

Mr. LONG. Certainly.

Mr. FORAKER. This statement of Mr. Morawetz, to which the Senator refers, is only the giving of an opinion, and it has no binding authority, I suppose. I presume other lawyers would have the privilege of having a different opinion, especially those charged with the performance of the duties.

Mr. LONG. Certainly. Mr. Morawetz probably may not equal some Senators as a constitutional lawyer; but upon this particular question as between Mr. Morawetz, a railroad lawyer, and the Senator from Ohio, a constitutional lawyer, the Senator will pardon me for saying that I would give very great consideration to the opinion of Mr. Morawetz, who has devoted his life to questions relating to railroads, and how their powers can be restricted by legislation. But it is, of course, only his opinion.

Mr. FORAKER. I do not know just what it is Mr. Morawetz says, but——

Mr. LONG. I will say to the Senator——

Mr. FORAKER. But the only contention I have made has been that between what was confiscatory and what was extortionate, anything that the Congress might see fit to prescribe would be a lawful rate with which a court could not interfere. That I have said on all occasions. Mr. Morawetz and

I do not differ on that, so far as I know. I have not said anything at any time or any place that was in contradiction of that.

Mr. LONG. Possibly the Senator was not in the Chamber when I read from his speech, in which he defined the kind of review he desired in this bill. As I understand the Senator's language, he wishes a review that will give the court the authority to pass upon the reasonableness of a rate which is between one that is so high as to be extortionate to the shipper and so low as to be confiscatory to the carrier. The Senator wants a provision in the bill that would authorize the court to pass upon such a rate and revise the judgment of the Commission.

Mr. FORAKER. And so I do, Mr. President.

Mr. LONG. That is what I thought.

Mr. FORAKER. And not only did I contend for that, but I contended that the court ought to have the power conferred upon it in making this review to determine whether the rate that was condemned as unreasonable was in fact unreasonable, or whether it was a just and reasonable rate that should not have been condemned; and the court should have the power—and it could not have it unless we conferred it upon it—of determining whether or not the rate suggested was between the extremes of confiscatory and extortionate, and, therefore, a reasonable and just rate which the Commission had a right under the command of a statute to prescribe.

Mr. LONG. I so understood the Senator.

Mr. FORAKER. I do not think there is much difference between Mr. Morawetz and myself, although I do not remember exactly what Mr. Morawetz said. I remember I was present when he testified, but I do not remember that he said anything that was startling or anything that was in contradiction of any well-accepted ideas among lawyers.

Mr. LONG. I think the last statement of the Senator from Ohio makes it very plain as to what he wants. He wants the court given authority by a provision for review to revise a rate that is somewhere between a rate that is so high that it is extortionate to the shipper and a rate that is so low that it is confiscatory to the carrier, both of which will now be set aside without any special statutory authority. He wants a provision for review authorizing the courts to revise and set aside rates between those two extremes.

Mr. HOPKINS. And a rate that has been set aside also.

Mr. LONG. And the rate of the carrier that has been set aside by the Commission.

Mr. FORAKER. The Senator only partially states the case. This bill says the rates fixed by the Commission shall be reasonable, just, and fairly remunerative. If it be competent for us to empower a commission to fix rates in that way, it is a command which the Commission shall observe; and so they would be charged with the duty not only of fixing a rate which was between what was extortionate on the one hand and confiscatory on the other, but which, being between either, would also be fairly remunerative. It might be that the rate fixed, to illustrate, would pay but 2 per cent on the value with reference to which the rate was to be computed. It might be held—and I think it would be held by any court—that that was not a fairly remunerative rate. What I want is that the court shall have power not only to determine that a rate is between the extremes of extortion on the one hand and confiscation on the other, but that it is so between the extremes as it will be just and reasonable and fairly remunerative. That will be the command, if we pass this bill, as the Senator insists we shall, with the provision in it to which I have referred that the Congress will lay upon this Commission—and we have a right to know whether or not the Commission to which we have deputed this important power has executed it in accordance with the mandate of Congress.

Mr. LONG. The court has the right to inquire, of course, as to whether the Commission exceeded its authority under the law. It can only act within the law. It has not general rate-making power, and it is a question at all times to determine whether or not it has obeyed the law in fixing the maximum rate. But I suggest to the Senator that the Commission should perform some final function. If we pass this bill it will be the function of that Commission to fix the limit beyond which the carrier can not go in fixing its future rates. I contend, while it is a judicial question to determine whether that limit is so high that it is extortionate to the shipper or so low as to be confiscatory to the carrier, that between those two extremes it is not a judicial question if the Commission follows the law. It is an administrative question that can not be conferred upon any court on review.

Mr. FORAKER. The Senator is precisely right in the absence of legislation, but if we say to the Commission you shall make a rate that is just and reasonable, which would bring it between the two, and which, in addition, shall be fairly remunerative, that is a command which the Commission must obey. My contention is that the court should have power to review the action of the Commission and determine not simply whether a rate is between the two, confiscatory on the one hand and extortionate on the other, but whether, in addition to being just and reasonable because between the two, it should yet be fairly remunerative. Fairly remunerative is an important part which the Senator wants to overlook, and without——

Mr. LONG. I do not overlook it.

Mr. FORAKER. And without legislation with respect to which no court would have any power to review any action of the Commission.

Mr. LONG. I will say further to the Senator that the rate must be justly compensatory, which is practically the same thing.

Mr. FORAKER. Will the Senator oblige me by telling me what he means by "justly compensatory?"

Mr. LONG. In my opinion, there is no great difference between the words in this bill and the provision in the fifth amendment of the Constitution. The Senator must remember that the word "confiscatory" even, as defined by the Supreme Court, means a fair return on the property that is employed in the performance of the service. So that is a judicial question which the courts will determine and which we can not keep the courts from determining.

Mr. FORAKER. Mr. President, the Senator must allow me to interrupt him without complaining, because he has done me the honor of directly addressing himself to me and calling upon me for expressions in return to his suggestions. He uses the language "justly compensatory" as an offset, I suppose, to "fairly remunerative." What I want to know is not what is the constitutional signification, but what, in a practical way, does he mean by a rate that is "justly compensatory?" Does he refer, as I have heard Senators say, to what is a just compensation for the services rendered? Is that what the Senator means by it?

Mr. LONG. That is a question for the court to determine.

Mr. FORAKER. Well, it is a question for the Senate to determine. We are called upon to pass judgment upon it. What is meant by it? Will some Senator tell me?

Mr. LONG. It is a question for the court to determine whether the rate fixed is one that affords a fair return for the services performed. Whether it is on that particular rate or whether it is on that rate in conjunction with all the other business of the carrier is for the court and not for the Senate to determine.

Mr. FORAKER. Mr. President, I do not wish to interrupt the Senator unduly, but this expression is being employed here from time to time, and I want to find out what Senators who employ that term mean by it—whether they mean that the rate shall represent a just compensation for the services rendered in the transportation of a particular lot of freight from point to point. If that is what the Senator means, then I know what he is talking about. Can the Senator tell me whether or not that is what he means?

Mr. LONG. Later on I will discuss that particular provision in this measure.

Mr. FORAKER. What objection is there, may I ask the Senator, to discussing it now? He has been employing that term, and employing it in his references to myself. He employs it in refutation of something I am quoted as having said at some other time. I do not know how to answer the Senator until I know what he means by the term.

Mr. LONG. It is a judicial question, and it is for the court to determine just what will be considered in determining whether a rate is fairly remunerative. My own opinion is that it is not on the particular rate alone that they will determine whether there has been a fair return. Rates in this country are not based on the cost of the service. They are based more nearly on the value of the service. I believe a rate will be considered in conjunction with other rates to determine whether there has been a fair return for services performed. But this is not the question I was discussing.

Mr. FORAKER. The Senator, by his last remarks, has made clear why it is necessary, if we are to have any intelligent discussion in which this term is employed, to have the term defined. It is true, as he says, that rates are generally fixed, according to the way rates have been made heretofore, with reference to the value of the service rendered, rather than with the idea of making a just compensation for the service rendered. The term employed in the Constitution, when it is applied to the taking of private property for public use, involves a valuation of the property with a view to finding out what it is worth and how much is taken, in making whole the person from whom it is

taken; and in that there is no element of indefiniteness or speculation. The value of that property is not mixed up with the value of any other property. It is simply, What is the thing that is taken worth? The term "just compensation" was employed in the Constitution with reference, in other words, to the exercise of the power of eminent domain. Now, are we to apply that rule in the making of this statute? If we are to employ those words we ought to know what they mean, so we may know what the rule is that we are going to call upon the courts to enforce.

Mr. LONG. I want to say again to the Senator that the question is a judicial one. It is for the courts to determine, after the law is passed, as to the construction that shall be placed upon it, and whether each particular rate must be fairly remunerative or whether that rate in conjunction with all the other business of the carrier must be remunerative. The nearest approach to an opinion upon that proposition is in the Minnesota case (186 U. S., 269), where the court discussed it, but did not definitely determine it.

But this is not the question I was discussing. I was calling the attention of the Senate to the fact that the Commission, if this bill becomes a law, has delegated to it by Congress certain administrative functions. It is to determine certain facts following the standard fixed by Congress. It can determine certain questions, and it is not for a court to sit on the wisdom and policy of the decision of the Commission, but it is essentially a legislative and administrative question. Congress could make the rate. It could require that the rate should not go into effect until approved by Congress or until approved by another commission, but we can not require that it shall not go into effect until approved by a court or be set aside by a court on review, unless certain constitutional rights have been invaded.

Mr. CULBERSON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Kansas yield to the Senator from Texas?

Mr. LONG. Certainly.

Mr. CULBERSON. If it will not interrupt the Senator, I would like to ask a question explanatory of this bill which he is advocating, as I understand.

The rule heretofore has been that the measure of the rate fixed by railroad companies should be just and reasonable. This bill provides that the Commission shall fix a rate which in its judgment is just and reasonable and fairly remunerative. What I desire to know of the Senator, who is, I understand, addressing himself to this bill, is what it is intended to do by adding the words "fairly remunerative?" Is it intended to change the old standard of just and reasonable, and if so, is it intended to liberalize that standard by increasing the rates which may be fixed by the carrier or the Commission, or is it intended to restrict the measure of the rate as it has been adjudged by the courts at common law in this country? In other words, what is the effect intended to be had by the addition of the words "fairly remunerative" in the description in this bill of what the rate shall be?

Mr. LONG. I had nothing to do with the insertion of these words in the bill. I do not think they materially change the rule or standard, if at all.

Mr. CULBERSON. Would the Senator object, then, in order to avoid confusion, to striking out those words?

Mr. LONG. I would not object to striking them out.

Mr. ALDRICH. Mr. President——

The VICE-PRESIDENT. Does the Senator from Kansas yield to the Senator from Rhode Island?

Mr. LONG. Certainly.

Mr. ALDRICH. There are two things in the Senator's argument that trouble me, and I will be very glad if the Senator will permit me to ask him two questions.

This bill empowers the Commission to fix just and reasonable rates. If it fixes an unreasonable rate, does it exceed its authority, within the meaning of the amendment which the Senator has offered?

Mr. LONG. If it fixes a rate that is so unreasonable as to amount to a taking of the property of the carrier without just compensation, it does exceed its authority.

Mr. ALDRICH. How is that question to be ascertained?

Mr. LONG. By the courts.

Mr. ALDRICH. My second question perhaps has already been answered. Does the Senator think that Congress can exclude the courts from the consideration of a rate that is within the range or within the field he has talked about—between a rate that is extortionate and one that is confiscatory? Can Congress exclude the courts from considering rates fixed within those limits?

Mr. LONG. What does the Senator mean by "exclude?"

Mr. ALDRICH. To forbid the court; or can Congress undertake to give the Commission power to fix those rates finally, without any review by the courts?

Mr. LONG. Congress can not——

Mr. BEVERIDGE (to Mr. ALDRICH). "Prevent."

Mr. ALDRICH. Yes; "prevent" is a better word than "exclude." I accept the suggestion. Can Congress prevent the courts from considering that question?

Mr. LONG. Congress can not prevent the courts from considering the whole question——

Mr. ALDRICH. Certainly.

Mr. LONG. And determine what their judgment should be as to the order of the Commission.

Mr. ALDRICH. In other words, Congress must give the courts, if it gives them any power at all, power to review the question as to the reasonableness of the rates, within the Senator's meaning of the word "reasonable?"

Mr. LONG. It is not, in my opinion, necessary to give the courts authority to review these questions.

Mr. ALDRICH. That was not my question.

Mr. LONG. The courts will assume——

Mr. ALDRICH. That was not my question. My question is, Can Congress prevent the courts——

Mr. LONG. Congress can not prevent the courts, and should not—and a bill that sought to prevent the courts would be declared unconstitutional—Congress can not prevent the courts from inquiring into the whole question and determine whether the rate has been fixed so high as to be extortionate to the shipper or so low as to be confiscatory to the carrier.

Mr. ALDRICH. But that hardly answers my question, if the Senator will bear with me. The Senator is contending that there is a great field of rates between extortionate rates and confiscatory rates as to which the decisions of the Commission, acting for Congress, must be final unless the whole system is to be overthrown. Now, how can we make those final? Can you prevent the courts from considering every question which is involved in the making of those rates?

Mr. LONG. You can not prevent the court from considering the whole question, but the court will not assume to set aside the rate, if the Commission has acted within its authority, unless the limit fixed by the Commission is unreasonably high or unreasonably low.

Mr. ALDRICH. The Senator is now undertaking to say what the courts will hold.

Mr. LONG. I am giving my opinion. But I will proceed to read the opinions of experts on railroad law on this question, as found in the hearings.

Mr. Walker D. Hines, vice-president of the Louisville and Nashville Railroad Company, in his statement before the committee (Hearings, Vol. II, p. 1150), said—and I call the attention of the Senator from Rhode Island to this language:

> The court can not and will not go into the questions of wisdom and policy which the Commission may determine. The court will be practically confined to a decision whether the order so operates as to deprive the carrier of its property without due process of law. Even if the court could go beyond that, as a practical matter I do not believe it will do it. The court will say, as it has said in so many cases of a similar character, that when the legislature selects a certain administrative tribunal to decide things the decision of that tribunal is final, unless there is some palpable abuse of power or discretion or some palpable mistake on the facts.

Mr. ALDRICH. The Senator will discover, I think, the difference between these two cases. There is no attempt made here, and no proposition on anybody's part, that the Commission shall determine and prescribe wise rates, but just and reasonable rates, and that is the standard which Congress fixes and which the Commission must follow. So all attempts to change the standard by setting up a standard of wisdom, or any other standard, of course, does not touch the case at all.

Mr. LONG. The question is simply this: The standard is fixed by Congress; authority is given to the Commission; it must act within that authority; it fixes a maximum rate, and, using the language of Mr. Justice Miller, that rate is the law of the land the same as though fixed by Congress, if it is fixed within the authority the Commission had, and the court will only determine whether that rate is so unreasonably low as to be confiscatory, which takes the property of the carrier, or so high as to be extortionate, which takes the property of the shipper.

Mr. ALDRICH. The Senator is using his own language now, and not that of Judge Miller.

Mr. LONG. Yes. Mr. Hines further said—and I call the attention of the Senator from Rhode Island to this:

> If you get an order from a commission making a rate, no matter how you word the power of the judicial review, the court is not going into those facts any further than is necessary to protect the carrier from confiscation, in my judgment. So, no matter how much right you might have theoretically to do that, the matter is going to be left practically with the Commission, unless it palpably abuses its discretion.

VIEWS OF ROBERT MATHER.

Robert Mather, general counsel of the Rock Island system and the Frisco system of railways, in the hearings, on page 1460, said:

I want to make it perfectly plain that the determination of the Commission as to what a rate shall be in a given case is, in the nature of things, under our form of government, absolutely incapable of review, *except by another similar Commission, or by Congress itself.* Neither the review provided for in the Townsend bill nor the general powers of the United States court, in an application in equity to restrain the enforcement of any rate established by the Commission, could give to the carrier any reconsideration or redetermination of that question. The making of a rate is a legislative function. The only question the court can decide is whether the rate established is a reasonable rate. (Reagan *v.* Farmers' L. and T. Co., 154 U. S., 362; T. and P. Rwy. Co. *v.* Commission, 162 U. S., 197; Maximum Rate Case, 167 U. S., 234; State *v.* Johnson, 61 Kans., 803; W. U. Tel. Co. *v.* Myatt, 98 Fed., 335.)

None of the "moral and social" or other industrial considerations which might move the Commission in determining what rates should or should not be made could be considered by the court in determining whether the rate established is reasonable. The court's inquiry would be a cold case of figures, its determination being whether the rate established is confiscatory. If the company on all its other business was enabled to earn a fair return on the value of its property, the court would never interfere with the enforcement of the rate established by the Commission.

On page 1472 he also said:

The question whether in the making of a rate or of a system of rates or of a system of differentials, New York and Baltimore or any other Atlantic port shall be permitted to retain that portion of the commerce of the country which it now holds or to increase it or to lose part of it as against the Gulf ports is a political question entirely—that is, it is entirely a legislative question. It is addressed to the legislative discretion of the lawmaking body of this country. The question is, What does the good of the country demand in a case of that kind?

Mr. FORAKER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Kansas yield to the Senator from Ohio?

Mr. LONG. Certainly.

Mr. FORAKER. I beg the Senator's pardon for again interrupting him, and I break in upon his argument only to call his attention to the fact that all the witnesses from whom he has been quoting were talking about just and reasonable rates without having any other standard prescribed by the statute. The term "just rate" or "reasonable rate" is, as everyone knows, an indefinite term, and it allows great latitude. If you are to consider only whether a rate is just and reasonable, any rate is just and reasonable that is fixed between confiscation on the one hand and extortion on the other. But when you add the other element, which was put in advisedly and not until the Hepburn bill was framed, I believe—"fairly remunerative"—you have a new element and one that these witnesses did not consider at all, and an element which the court in review would have a right to consider and pass upon and to determine with respect to it whether or not the Commission had obeyed the act of Congress in that regard.

Nowhere in all that testimony, so far as my recollection goes, can the Senator find any witness testifying as to what the power of the court would be except only in the absence of all additional legislation on the subject and upon the theory that the statute prescribed as the standard the indefinite one of just and reasonable rates. After the words "fairly remunerative" came in, of course, they constituted a new factor which the court would have a right to make inquiry about and pass judgment upon.

Mr. LONG. But, as I have stated before, in my opinion these words do not materially differ from the words found in the Constitution—"just compensation."

Mr. FORAKER. Then, if the Senator comes back to that, I again insist that we shall have a definition of "just compensation" as applied to the making of railroad rates.

Mr. LONG. I say to the Senator again that it is a judicial question whether "just compensation" shall be confined to that particular rate that was challenged, or whether to that rate in conjunction with the other rates made by the carrier.

Mr. FORAKER. We heard a very earnest insistence from the Senator from Iowa [Mr. DOLLIVER] a few days ago to the effect that under the Hepburn bill as framed only one rate can be considered by the Commission at a time and only one rate can be affected at a time. Now, assuming that only one rate can be affected, let us, just for the sake of having some intelligence as to this point thrown into the discussion, get a definition, if we can, of what is meant by "just compensation" in the matter of making a rate.

Mr. DOLLIVER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Kansas yield to the Senator from Iowa?

Mr. LONG. Certainly.

Mr. DOLLIVER. I would not ask the Senator to yield, except to say that I certainly did not claim that only one rate could be included in a complaint. I said a complaint could only be made against one line of road. Of course complaints could be made against a number of rates on the same line of road if they were objectionable. I make that statement simply to correct the Senator from Ohio.

Mr. FORAKER. I think I quoted the Senator from Iowa correctly; I intended to; but we will assume that he is correct and I am not. He ought to know more about what he said than I do. We will take it that it means the rates on only one line of road. Can we not find out what would be just compensation to the carrier? Suppose you want to fix a rate on one of the roads leading from Chicago to New York, what would be the process of arriving at a justly compensatory rate for hauling a carload of anything, say from pumpkins to silk?

Mr. LONG. As I stated to the Senator before, that is a question for the court to determine. It is a question that the court will determine independent of what we may say about it.

Mr. FORAKER. The Senator forgets that if we insert those words we are commanding the Commission to fix rates that are justly compensatory, and before we lay that command on the Commission we ought to know what it is we are going to require the Commission to do.

Mr. BAILEY. Mr. President——

The VICE-PRESIDENT. Does the Senator from Kansas yield to the Senator from Texas?

Mr. LONG. Certainly.

Mr. BAILEY. I should like to inquire if this particular question was considered by the conference at the White House last Saturday afternoon. Sunday morning's paper reports a conference there, at which the Senator from Kansas was present, and reports that an amendment to this bill was agreed on there. I suppose the Senator from Kansas will have no objection to saying whether the amendment that he introduced yesterday was the one agreed on at the White House conference——

Mr. ALLISON. Mr. President——

Mr. BAILEY. I ask the Senator from Kansas if such a conference occurred. The Senator from Iowa [Mr. ALLISON] is reported to have been present, and as he is on his feet, I will ask him if such a conference did occur.

Mr. ALLISON. I shall not disturb the Senator from Kansas in answering that question. If the Senator from Texas desires an answer from me, however——

Mr. BAILEY. I should like to have it.

Mr. ALLISON. I am very glad to say to the Senator that on invitation of the President I was at the White House on Saturday, and that to my knowledge this important and complicated question of what constitutes just compensation was not considered at that time.

I should like to ask somebody now—of course the Senator from Texas is not a member of the Interstate Commerce Committee—I should like to ask some member of that committee if this whole question of just compensation was elaborately and minutely discussed in that committee, so that the members of the committee would know what is just compensation for carrying a carload of eggs from Chicago to New York.

Mr. FORAKER. Mr. President——

Mr. BAILEY. If the Senator from Ohio will permit me.

The VICE-PRESIDENT. Does the Senator from Kansas yield to the Senator from Texas?

Mr. LONG. I yield to the Senator from Texas.

Mr. BAILEY. I want to say to the Senator from Iowa that I was not permitted to doubt that a conference had been held, and while I wanted it to be confirmed, I was prompted to ask if this particular question was discussed there, because the Senator from Kansas does not seem prepared to commit himself on it.

Now, since the Senator from Iowa has set the example of making a frank answer that a conference was held, I will ask the Senator from Kansas if this amendment which he introduced yesterday morning was agreed on at that conference?

Mr. LONG. I will say to the Senator from Texas that this amendment, which I have offered, was prepared, after a consultation with several gentlemen, but not at the White House.

Mr. SPOONER. Oh!

Mr. BAILEY. Was it considered at this conference?

Mr. LONG. Was it considered at this conference?

Mr. BAILEY. Was it considered at this conference?

Mr. LONG. That conference considered the question covered by this amendment.

Mr. BAILEY. At the White House?

Mr. LONG. At the White House.

Mr. BAILEY. It would tend to clarify the situation if we could know exactly what the President desires. Of course, the Constitution provides a method whereby the President can communicate with either House of Congress, by a message, and to give him the right to recommend what he approves, and then

the right to veto what he does not approve seems quite enough power to vest in any one man in this Republic. But if the President chooses to call his party friends around him—and I read here that there were only Republican Senators invited to that conference; I say "invited," because the Senator from Iowa says he went by invitation, and I am sure he would not have gone otherwise—— [Laughter.]

Mr. ALLISON. The Senator from Texas must be exact in his statements. I was not invited to a conference.

Mr. SPOONER. At the White House?

Mr. ALLISON. At the White House.

Mr. BAILEY. You were invited to the White House.

Mr. ALLISON. That is what I stated.

Mr. BAILEY. Of course.

Mr. ALLISON. I was invited to the White House, and I appeared there in response to that invitation, and when I was there this important judicial question of just compensation was not discussed.

Mr. FORAKER. Mr. President——

Mr. BAILEY. Will the Senator indulge me for a moment? The Senator from Iowa did say distinctly that the question of what was just compensation was not discussed, but he said this other important question of an amendment was discussed.

Mr. ALLISON. I did not say so.

Mr. BAILEY. Then it was the Senator from Kansas who said it.

Mr. ALLISON. Very well. I only wish to correct the Senator from Texas.

Mr. BAILEY. Was the Senator invited to the White House to take dinner, or to discuss this question?

Mr. ALLISON. Mr. President, it is a matter of so much importance that I must beg to decline to state whether I was invited for dinner or only for luncheon, or whether there was an opportunity of having any refreshment.

Mr. BAILEY. This paper says that Senators ALLISON, CULLOM, DOLLIVER, CLAPP, and LONG, together with Attorney-General Moody, and two Interstate Commerce Commissioners, composed the conference. Now, of course, if the President chooses to confine his conferences to Senators of his own party, and only a fraction of them, I have no right to complain, but if we are trying to make a nonpartisan measure, it looks to me as if it was a matter that ought to have been considered outside of and beyond party lines.

Mr. FORAKER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Kansas yield to the Senator from Ohio?

Mr. LONG. Certainly.

Mr. FORAKER. I only want a minute in which to answer the inquiry of the Senator from Iowa. He wanted to know whether or not the term "just compensation" was used in the Interstate Commerce Committee when we were considering this important subject. I will answer the Senator by saying it was, and there were some very pronounced views with respect to it, but views with respect to that question, as to every other that Senators, members of the committee, sought to embody in amendments, were cut off by moving the previous question, so to speak; that is to say, by a motion to report the bill as it came from the House without any amendments; and having the votes, it was reported.

Now, we had views about it there; we have views about it now; there is some difference in the views entertained; and I want to get the view of the Senator from Kansas, who is making a very able speech, one in which, so far as I have been able to listen to it, I have become very much interested. I want to get the benefit of his views. That is all I want to say about that. But before I take my seat I should like to ask the Senator from Iowa a question. He told us what was not considered at the White House conference. Inasmuch as that has become important, I should like to know what was considered there.

Mr. ALLISON. Does the Senator from Ohio address that question to me?

Mr. FORAKER. Yes; to the senior Senator from Iowa [Mr. ALLISON].

Mr. ALLISON. Very well. If the Senator addresses that question to me, I will say in brief that I respectfully decline to answer as to what occurred at a conversation where the President and other gentlemen were present, which I suppose was not a public meeting or a public assembly. In addition, I should like to say——

Mr. BAILEY. How did it get into the newspapers?

Mr. ALLISON. I understand the Senator, so that we will have no difficulty in getting on with the conversation. I not only could not answer the question, but I do not think it proper that I should. However, I do not remember what was said there in detail.

Mr. FORAKER. Inasmuch as——

Mr. ALLISON. If the Senator wants to go into any further questions on that subject, if he deems it proper, I will answer as far as I can.

Mr. FORAKER. Oh, no; I would not call upon the Senator to answer about anything as to which he can not recollect distinctly, but I did not introduce this subject, and I have no improper purpose in calling upon the Senator.

Mr. ALLISON. I understand.

Mr. FORAKER. The Senator rose in his place and stated that he had attended this conference, and told what had not been considered, and I thought, inasmuch as this amendment had apparently been the result of the conference, that it might throw light on this discussion if we could know just what did take place. I should like to be fully informed, but of course if the Senator has any objection I will not insist upon it.

Mr. ALLISON. I will simply say that I suppose if the Senator from Ohio should be invited to the White House to-morrow, and if I chanced to meet him on his way from the White House to the Capitol and say to him, "What did you say to the President, and what did he say to you?" the Senator from Ohio would consider it a matter of privacy, about which, perhaps, I had no right to inquire.

Mr. FORAKER. Certainly. But I submit it would be a different case if, instead of meeting the Senator on the sidewalk, I should come into the Senate Chamber and here in the Senate refer to the fact that I had been at a conference about such an important matter, and should state a part of what occurred, or a part of what did not occur.

Mr. ALLISON. That is a matter of ethics——

Mr. FORAKER. Entirely.

Mr. ALLISON. And I will allow the Senator from Ohio to settle it for himself.

Mr. FORAKER. I say it is entirely for the Senator from Iowa to settle for himself. But if I did come into the Senate Chamber and tell a part, I would not object to being interrogated upon the subject.

Mr. BACON. If the Senator from Kansas will permit me for a moment, I think we are confronted by a very grave parliamentary question.

The VICE-PRESIDENT. Does the Senator from Kansas yield to the Senator from Georgia?

Mr. LONG. I do.

Mr. BACON. I think we are confronted by a very grave parliamentary question. It is now officially declared that this amendment comes from the White House, and the parliamentary question which has suggested itself to my mind is this: If we should presume to amend it, would that be a conclusion of the matter or would we have to refer it back to the White House to know whether the White House concurred in the amendment which we took the liberty of adding? I should like to hear the Senator from Kansas on that subject.

Mr. LONG. I have been in the Senate only a short time, but I have found that the Senator from Georgia is thoroughly familiar with parliamentary procedure, and he knows more about what is necessary to perfect legislation than I do. I presume this bill must proceed in the regular parliamentary way, be considered by the two Houses, and be submitted finally to the President for his approval.

Mr. BACON. As the Senator does me the honor to suggest that I may be able to determine that question for myself, I will say this: It has never in the past been recognized, so far as I know, that there was any possibility of the propriety of the suggestion of an amendment to a measure pending in Congress coming from the White House. But if the rule is so changed that there is the propriety of a suggestion from the Executive of what amendments should be incorporated upon a pending measure, then the consequence must necessarily and logically follow that if we should assume or presume to amend the amendment, our amendatory action must go to the White House for its approval before it can be the conclusive action of this body. If one is proper, the other is necessary.

Mr. LONG. I will say to the Senator from Georgia that the amendment I introduced stands in the Senate in a parliamentary way and in every other way like any other amendment. If he sees fit to amend it and if his amendment is satisfactory to the Senate, it will be accepted. The amendment is nothing more than a suggestion.

Mr. BACON. From the White House?

Mr. LONG. From myself.

Mr. BACON. Ah!

Mr. LONG. It does not, in my opinion, put anything into

the bill that is not in the bill now. It is not necessary to adopt it in order to broaden the right of review or limit the review. What I am contending for is that the courts will exercise certain jurisdiction over this question unless we put certain things in the bill that will liberalize their procedure. In my opinion an amendment which requires the courts to broaden their consideration of these questions will result in the whole bill being declared unconstitutional.

Mr. BACON. If the Senator will pardon me——

Mr. LONG. Certainly.

Mr. BACON. In the newspaper press it was given to the public that at a certain day and hour certain Senators, in conjunction with the Attorney-General and two members of the Interstate Commerce Commission, met at the White House and conferred with the President, and that a certain amendment was prepared and agreed upon by the President and the several gentlemen who were named. The amendment was set out in full in the paper which assumed to assert the fact that there was that gathering and that conference and the amendment agreed upon at that conference. The paper went on further to say that the learned and distinguished Senator from Kansas would present that identical amendment to the Senate.

Mr. President, if it had stopped there, if there had been no event subsequent to that to corroborate the statement, we might have passed it by as the possible suspicion or imagination of a newspaper man; but when the event is exactly that which was predicted, and when the Senator from Kansas not only introduced an amendment upon that subject, but introduced an amendment which is in the exact language of that which was published in the newspaper, we are led to believe that that was an authoritative announcement on the part of the representative of the newspaper. Not only was the fact foreseen by him that the Senator from Kansas would present this particular amendment, but we have from that corroboration conclusive proof, unless the Senator from Kansas will deny it, that the remainder of that narrative was true, and that there was an assumption on the part of certain Senators, in conjunction with the President, the Attorney-General, and two members of the Interstate Commerce Commission, to frame an amendment which, while introduced by the Senator from Kansas does not originate with the Senator from Kansas, if that narrative is correct, but which originates in a conference of those who have no right to propose an amendment to this body, either by suggestion or otherwise.

Mr. LONG. I will say to the Senator from Georgia that he has been long enough in public life to know that we can not believe all that we may see in the public prints. As has been said by the Senator from Iowa, while I am not going to inform the Senator of what took place at the White House, I will say to the Senator from Georgia, as I said to the Senator from Texas, that the amendment I have proposed was not prepared at the White House and was not prepared by the conference at the White House.

Mr. BACON. But before it could be introduced it was thought necessary to get the sanction and approval and permission of those who rule in the White House to introduce it into this body.

Mr. LONG. It was not thought necessary to get the sanction or approval of the gentleman who lives in the White House in order that it might be introduced here.

Mr. KNOX. Mr. President——

The VICE-PRESIDENT. Does the Senator from Kansas yield to the Senator from Pennsylvania?

Mr. LONG. Certainly.

Mr. KNOX. Accepting the Senator's statement, and of course fully crediting it, that he is responsible for this amendment, and that, like any other amendment, he would be willing to accept any suggestions that met his approbation, and that they could go along in the ordinary course of parliamentary procedure, I should like to inquire if he would be willing to add to his amendment the following words. I shall read a portion of the amendment before I indicate the words to which my question is directed:

> And jurisdiction is hereby conferred on the circuit courts of the United States——

I am reading from the second page, the third line——

> to hear and determine in any such suit whether the order complained of was beyond the authority of the Commission or in violation of the rights of the carrier secured by the Constitution.

Would the Senator be willing, and thereby conform to the language of the Constitution, to add, after the word "Constitution," the words "or the laws of the United States," making the last clause of the amendment read:

> Or in violation of the rights of the carrier secured by the Constitution or the laws of the United States?

I call the Senator's attention to the fact that the second section of the third article of the Constitution of the United States provides that the judicial power shall extend to all cases arising under the Constitution, the laws of the United States, and treaties made in pursuance thereof.

Before I sit down I should like to ask a further question, which I think is quite important. Would the Senator be willing to indicate on the thirteenth line, or at such other appropriate place in the amendment where it might be inserted, the right to the shipper to bring suit, if he is not satisfied with the order of the Commission, which order not only may affect the rate, but may affect the practice which if put in force might be ruinous to a shipper or to a community? Would he be willing to insert, as I have inserted in the section of the bill I introduced, that the shipper or any other person who is a party to the proceeding and who is dissatisfied with the order might likewise bring a suit to determine whether their constitutional rights or their rights under the statute of the United States had been violated?

Mr. LONG. I will inform the Senator from Pennsylvania that I am not willing at this time to accept the amendments he suggests, for the reason that we are not at this time considering amendments to the bill for the purpose of adopting them. But if the Senator will present his suggestions in the form of amendments to the amendment, at the proper time, after hearing from the Senator the reasons why the amendments should be incorporated in my amendment, I will give consideration to those suggestions, and if convinced that the amendments are proper and should be placed in the amendment I will at that time be pleased to accept them.

Mr. KNOX. Mr. President, if the Senator will permit me, I would not have risen and made this request except in response to the Senator's own voluntary statement a moment ago that he was responsible for the amendment and would be willing to accept any suggestion that met with his approval. Otherwise I should not have made the suggestion at this moment.

Mr. LONG. Now, if I may be permitted to proceed.

Mr. BAILEY. Mr. President——

The VICE-PRESIDENT. Does the Senator from Kansas yield to the Senator from Texas?

Mr. LONG. Certainly.

Mr. BAILEY. Mr. President, I only want to set myself straight, because I feel that the rather curt reply which the senior Senator from Iowa made to the Senator from Ohio——

Mr. ALLISON. I certainly did not mean to be discourteous to the Senator from Ohio in any way.

Mr. BAILEY. I am sure not.

Mr. FORAKER. I did not understand what the remark was.

Mr. BAILEY. We all know the Senator's uniform courtesy.

Mr. ALLISON. The Senator from Texas suggested that I had in some way been discourteous to the Senator from Ohio, which I wish in limine, at the very beginning, to disclaim in every way.

Mr. BAILEY. A curt reply is not always or necessarily a discourteous reply.

The Senator from Iowa rather complained that we were trying to wring from him a statement of some private conversation or transactions at the White House. I assure him that while I suggested that line of inquiry I had no thought of that kind. The public prints have given to the country an account of a conference there, and while I am not in the confidence of the people at the White House, I am sure the people who print this matter are, and I am reasonably sure that they got their version of it at the White House.

So I wanted the country to know whether it was true or not that this amendment bore the approval of the executive department. If the Senator had answered yes, then I frankly say I intended to complain that four or five Senators belonging to one party should be called in to agree on an amendment which should be presented without any consultation with the members of the other party.

The Senator from Kansas knows that without the aid of Democratic Senators this bill could never have been reported from the Committee on Interstate Commerce. The Senator from Kansas knows that without the practically united support of the Democratic side this bill could never be written into the statute books of this country. And I want publicly to complain against a proceeding which permits five or six men of one party to agree to amendments which are presented without any consultation with the other friends of the legislation. It almost passed my belief, not that these gentlemen would assemble there and confer about an amendment, but that having conferred about it they would present it to the Senate without any consultation with those whose help they must have if we are to have any legislation on this subject.

Mr. LONG. Mr. President, not desiring to continue further the controversy that has arisen in relation to the origin of the

amendment which I offered yesterday, I will state again to the Senate that I offered it on my own responsibility and it is here in the Senate like any other amendment. I expect it to be considered like any other amendment that may be offered in the Senate.

Now, recurring to the statement of Mr. Mather——

Mr. TILLMAN. Will the Senator from Kansas allow me?

Mr. LONG. Certainly.

Mr. TILLMAN. Some two or three weeks ago, when I was questioning a somewhat similar line of investigation and inquired of the Senator from Wisconsin [Mr. SPOONER] what had been the errand of himself and his colleague, of which mention had been made in the paper, he told me very courteously it was none of my business. [Laughter.] I think the Senator could get rid of this whole controversy now by just saying, "Gentlemen, it is none of your business."

Mr. LONG. I do not wish to be so discourteous to Senators. Mr. Mather, in closing his remarks before the Committee on Interstate Commerce upon the proposition we were considering, used this language:

So that the proposition I want to make perfectly clear, and to leave here as my opinion as a lawyer, is that no court, whenever such a case as that is presented to it, could ever possibly decide that political question, and there is no way by which Congress might phrase the act so as to confer upon the court the power to say that such and such a rate is a reasonable rate under existing circumstances and then provide that the existing rate was then and should be the lawful rate, or could take away from that act of the court its essential character of being a finding of a political or legislative question.

It is on that ground that I say that not under any circumstances nor by any use of language could Congress confer upon the court any power which, in its final analysis, leaves it to the court to determine what should be the rate or relation of rates in such case.

Mr. ALDRICH. Mr. President——

The VICE-PRESIDENT. Does the Senator from Kansas yield to the Senator from Rhode Island?

Mr. LONG. Certainly.

Mr. ALDRICH. Does the Senator from Kansas approve the statement made by Mr. Mather?

Mr. LONG. I am submitting it as the opinion of a gentleman who is an expert on railroad law. Mr. Mather is general counsel of the Rock Island Railroad system.

Mr. ALDRICH. I was trying to find out whether it met the approval of the Senator from Kansas.

Mr. LONG. This statement?

Mr. ALDRICH. Yes.

Mr. LONG. It does.

Mr. SPOONER. Will the Senator allow me to ask him a question?

Mr. LONG. Certainly.

Mr. SPOONER. Does the Senator from Kansas think it is in the power of Congress, the amount being sufficient, to deprive any citizen of the United States of resort to the courts to protect a right arising under the Constitution and laws of the United States?

Mr. LONG. Certainly not. That is what the courts are for.

Mr. SPOONER. That is what I thought.

NOYES ON LAW-MADE RATES.

Mr. LONG. Judge Walter C. Noyes, in his excellent work on American Railroad Rates, states the proposition, page 250, as follows:

It seems impossible to draw a constitutional statute conferring upon a court power to review upon the facts the action of the Interstate Commerce Commission in making a rate. The courts could not make a rate, for rate making is not, and can not be, a judicial function. They can not supervise the action of the Commission for precisely the same reason. There is no difference in principle between making a rate and reviewing upon its merits the action of a commission in making a rate. In both cases the exercise of legislative not judicial discretion is required. A statute requiring the courts to participate, directly or indirectly, in making rates for the future would impose *nonjudicial functions* and would be unconstitutional. To repeat what we have already pointed out—it can not be too clearly borne in mind that while the courts can determine the reasonableness of a *carrier's* charges they can not in the same way and from the same point of view determine the reasonableness of *commission-made* rates. When a rate is made by a commission, under a law, it has the effect of a law, which the courts can only review upon constitutional grounds. The distinction is between the reasonableness of a *charge* and the reasonableness of a *law*. But it may be said that the courts always have examined rates made by commissions to determine whether they are reasonable, and decisions of the Supreme Court of the United States may be pointed out where the enforcement of commission-made tariffs has been enjoined because the rates were unreasonable. But, as we have already seen, the word "unreasonable" in the sense of these decisions means confiscatory. The only ground upon which the courts could interfere with rates made by the Interstate Commerce Commission would be that they violated the fifth amendment of the Constitution—that they deprived the railroad of its property without just compensation or due process of law. And they could only have that effect when they were confiscatory.

Under the common law, the courts have power to pass upon the reasonableness of the charges of carriers. They must consider all the facts entering into the rate. They may substitute their judgment as to a just and proper charge for that of the carrier, but the courts in examining a rate made by the legislature act in a different capacity. The act of the legislature in fixing a rate is a law that such shall be the rate. The courts can no more question its wisdom or policy than in the case of any other law. It is immaterial whether they think it should have been greater or less. The courts have nothing to do with legislative-made rates, except to determine whether they violate constitutional provisions. In the case of Reagan *v.* Farmers' Loan and Trust Company (154 U. S., 397) Justice Brewer, for the court, said:

The courts are not authorized to revise or change the body of rates imposed by a legislature or a commission; they do not determine whether one rate is preferable to another, or what under all circumstances would be fair and reasonable as between the carriers and the shippers; they do not engage in any mere administrative work.

NOT OPPOSED TO COURT REVIEW.

There is a disposition by those who are not in sympathy with this legislation to insist that there is an effort here to prevent a full review of the orders of the Commission by the courts. Nothing is further from the intention of those who favor this legislation. No one *should object* to the carrier having an opportunity to have its day in court. It has its day before the Commission, where a full hearing is had and where full opportunity to examine the whole question is permitted before the rate made by the carrier is changed or modified by the Commission. But that is not sufficient. The Supreme Court has gone further and said that the carrier should have its day in court to review the orders of the Commission. The only question is, *What can be reviewed?* What can a court do after the order of the Commission is made? In the first place, the court can examine and determine whether the Commission has acted within its authority. General rate-making power is not conferred upon the Commission. The power to make rates generally is not delegated to that body. No authority is given under this bill to fix definite rates, and if a definite rate is fixed the Commission has acted beyond its authority. Authority is only given to fix rates upon complaint, and if the Commission attempts to change a rate without complaint it acts beyond its authority. And so inquiry into the question as to whether the Commission has obeyed this law—not only this, but all other laws that have been passed for its government and guidance—is always and should always be permitted in the courts, and no attempt should be made here or elsewhere to prevent such an inquiry by the courts.

One other thing has been determined, and that is that the trial before the Commission is not due process of law; that the finding of the Commission that a certain rate is fair and reasonable is not final upon the carrier; that the carrier can go into court, not claiming that some other rate would be fairer or more reasonable, not to question the wisdom and the policy of the particular rate, but can go into court and charge that the rate is *so unreasonable* as not to afford just compensation; that it is *so low* that it does not afford a fair return upon the property employed in performing the service, and the courts have held that if such proof is made the rate fixed by the Commission will be set aside, and this bill as it comes to us from the House recognizes that such proceedings may be had in court to determine this question.

THE EFFORT TO CONFER INDIRECTLY RATE-MAKING ON THE COURTS.

But there are those who are not favorable to this legislation. There has been much opposition to giving authority to the Commission to fix a maximum rate, but realizing the strength and support that this proposition has in the public mind, they have abandoned all hope of defeating this part of the bill.

The Senator from Ohio [Mr. FORAKER] presented the affirmative proposition, for all realize that there is a necessity for additional legislation, and his proposition, instead of conferring the power upon a commission to ascertain what is a just and reasonable maximum rate for the future, conferred it upon the court to determine in a particular rate that all above a certain point would be unreasonable and unjust and enjoining the collection of all above that point, leaving that below as the reasonable rate in that particular case and then providing by law that that shall be the maximum rate on this commodity between those points for the future. That is, the court is to take the first step in rate making. But this rate, instead of being made by Congress and a subordinate administrative tribunal—a plan that has been approved in the different States—is made by Congress in conjunction with the courts. This plan has not met with much popular favor. But there will be an effort made in this bill, before we get through with it, to accomplish indirectly what the Senator would rather accomplish directly, and that is, that after the Commission has fixed this maximum rate, after a final hearing upon a complaint, the controversy shall be referred to a court and there, on a review of the proceedings before

the Commission, the whole question shall be entered into and the court determine whether or not the order of the Commission is not only within its authority, not only that the rate fixed is so low as not to afford a fair return on the property employed in the service, but also whether or not it is a reasonable rate. In other words, this commission-made rate, made by Congress through the instrumentality of a commission, shall have no more standing or be entitled to no more consideration in a court of justice than a rate made by a carrier.

DANGER IN ATTEMPTING TO CONFER RATE-MAKING ON THE COURTS.

I do not believe that without special legislative authority in this bill the courts will go this far. I do not believe, further, that this authority to participate in rate-making will be exercised by the courts, even though provision is made in this bill imposing that duty on them. I believe that there is great danger in this legislation being declared invalid and unconstitutional if we insert in it a provision authorizing the courts to participate with Congress in the rate-making function.

I believe that the fullest review should be accorded anyone injured by an order of the Commission. When a suit is brought in court to set aside an order of the Commission the question will at once arise whether the order was a lawful order or not, and to determine its lawfulness the court will inquire whether the Commission acted within its authority, for there are certain limitations and restrictions placed upon the Commission by the present law and by the pending bill. It will be necessary for the court, if it finds that the Commission acted within its authority, then also to find whether the order fixing a maximum rate will afford the carrier just compensation for the service performed. The carrier can not be compelled to perform service for the public without receiving a fair return upon the property employed in performing the service. While the court will see to it that the property of the carrier is not taken without just compensation under the order of the Commission, it should not review the order of the Commission as to its wisdom or policy.

Congress under the Constitution has the power to regulate interstate commerce. It can not transfer its power to the courts. Following the decisions of the Supreme Court on the acts of legislatures, this regulation can be made through the assistance or by the interposition of a commission. I believe in Congress exercising its prerogatives, and I do not believe in its attempting to impose that duty upon the courts. It is not practicable for Congress to fix these rates itself by law. It can only do it through the interposition of a commission, but when it does so, and the commission acts, using the language of Justice Miller, "that rate becomes the law of the land," and should not be set aside unless it is so high as to be extortionate and takes the property of the shipper without just compensation or so unreasonably low as to take the property of the carrier without just compensation.

WHY I OPPOSED THE ESCH-TOWNSEND BILL.

The Esch-Townsend bill that passed the House one year ago and came to the Senate sought to impose the rate-making power upon a special court of transportation by providing for a review of the orders of the Commission as to their lawfulness, justness, or reasonableness.

I opposed the Esch-Townsend bill for this reason, among others, when it was considered sacred, and I announced my opposition publicly in my State. I called attention to the fact that that bill was constructed along the lines of the Kansas court of visitation law, which had been declared unconstitutional by both the State and Federal courts. But this bill is constructed along different lines, providing as it does for the procedure before the Commission, and not seeking to restrict or enlarge the jurisdiction of the courts in dealing with orders of the Commission.

That jurisdiction is clearly and definitely defined by the numerous decisions of the Supreme Court of the United States. We know how far the courts will interfere with the orders of State commissions. By analogy and comparison, we can readily ascertain how far and under what circumstances the courts will interfere and set aside the orders of the Interstate Commerce Commission. It has always been permissible for a shipper to go into court and attack a rate made by a carrier as unreasonble and unjust, but a rate made by legislative authority stands on a different basis. It can only be attacked in court when it is so unreasonable that it does not afford a fair return on the property employed in performing the service. There should be some tribunal to determine whether a charge is reasonable *before* and not *after* it is paid. For almost twenty years Congress has been regulating interstate commerce through the agency of the Interstate Commerce Commission. It has never imposed the duty upon it of fixing maximum rates to take the place of those it determined were unreasonable and unjust. This bill seeks to impose such a duty upon the Commission. It is an important function. It should only be imposed upon a commission which is constituted upon broad lines and whose duties are clearly and definitely defined.

ONE OF THREE COURSES WILL BE TAKEN BY THE COURTS.

If a provision for review is placed in this bill, similar to the provisions in the different States contained in the document prepared by the Senator from Pennsylvania, one of three things will occur:

First, the United States courts will follow a course similar to that taken by the supreme court of Minnesota, decline to exercise the rate-making function, and confine their consideration of the rate, as they do now, to the question as to whether it is confiscatory, and as to whether the Commission acted within the authority of the law;

or

Second, the courts will assume the jurisdiction, and if they do, then we should not assume to confer this power on the Commission, when, in fact, it is to be exercised by the courts on review, but we should adopt the plan of the Senator from Ohio, and impose the duty on the courts in the first instance;

or

Third, the Supreme Court, following its decisions and taking a course similar to that taken by the supreme court of Kansas in the Court of Visitation case, will determine that this attempt to confer upon the courts the legislative and administrative function of fixing rates is unconstitutional, for the reason that the Constitution gives to Congress the power to regulate interstate commerce, and Congress can not transfer that power to the courts, and this provision being incorporated in a bill that might not have been enacted without it, is so closely interwoven with the other provisions of the bill that the whole act is unconstitutional and void.

If the court should take the first course under such a provision for review as is desired by the Senator from Massachusetts [Mr. LODGE] and the Senator from Ohio [Mr. FORAKER], no injury would be done and those who favor this legislation would not be disappointed; but if the court should take either the second or third course which I have designated—and I think that one of these two courses would surely be taken—then the purpose and object of this legislation would entirely fail.

THE KIND OF COURT REVIEW I FAVOR.

And so while I believe that this bill would not be held unconstitutional in its present form, for it specifically recognizes the right of review and can not be construed as an attempt to prevent a review, yet I am willing to place in it provisions that are more definite along this line. But I am not in favor of any provision for review similar to those in the different States, to which reference has been made, because I believe that such a provision would imperil the constitutionality of the law and result in its being declared invalid by the courts. If a provision for a court review is inserted in this bill that is so broad as to be construed as imposing the rate-making power upon the courts, it will be done without my vote.

OPPOSED TO ATTEMPT TO ABOLISH TEMPORARY INJUNCTIONS.

I do not favor the attempt to take from the courts any of the power that they now exercise. I want a carrier that believes itself injured or damaged, or its property rights invaded by the order of the Commission, to have the same right to go into court and have that order suspended as is accorded to any other citizen of the United States who feels aggrieved by an act of Congress or the enforcement of any other law. I do not believe that Congress has the power to take from the courts their present authority to grant temporary injunctions. Believing, as I do, that the orders of the Commission can only be set aside when made beyond its authority, or when the constitutional rights of some one have been invaded, I do not believe in placing unnecessary and exacting burdens on any person whose rights have been invaded when he goes into court to have those rights protected. I believe with the senior Senator from Texas [Mr. CULBERSON] that if the courts are authorized permanently to enjoin the operation of confiscatory rates by final decree, to deny them authority to so do temporarily would limit the exercise of the judicial power.

A person can no more be deprived *temporarily* of his property without due process of law and without just compensation than he can be so deprived *permanently*. If a rate fixed by the Commission is so low that it takes the property of the carrier without just compensation by restricting its use, then the carrier should not be compelled to accept that rate a single day, for by accepting it one day or two days its property to that extent has been taken from it without just compensation. It may at the end of six months or a year obtain a final decree setting aside the order of the Commission, but it will be impossible to obtain a return from the shippers of what was unjustly taken from it

through the order of the Commission. I am opposed to such an unwise and unjust procedure. I have no objection to a provision requiring notice and a hearing to be had before the order of the Commission is suspended by temporary injunction. No attempt should be made, however, to prevent the court from issuing a temporary injunction, for the carrier should not be compelled to accept a confiscatory rate a single day, even though it is made by a commission.

Mr. MORGAN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Kansas yield to the Senator from Alabama?

Mr. LONG. Certainly.

Mr. MORGAN. Is there any provision in this bill which compels the carrier to accept the rate prescribed by the Commission?

Mr. LONG. There is.

Mr. MORGAN. I have not seen it. What is the remedy contained in this bill if the carrier should decline to accept such a rate?

Mr. LONG. There are penalties provided for refusal on the part of the carrier, and a mandamus proceeding is provided to enforce acceptance.

Mr. MORGAN. Does this bill affirm that a carrier engaged in interstate commerce has no right to stop business if it finds it unprofitable?

Mr. LONG. I do not think the bill goes so far as that.

Mr. MORGAN. It does not go so far as that?

Mr. LONG. I think not.

Mr. MORGAN. Then it seems to me the bill has a very slender underpinning.

CONGRESS SHOULD NOT ATTEMPT TO TRANSFER POWER REPOSED IN IT BY THE CONSTITUTION.

Mr. LONG. The courts of the United States can be relied upon to protect any person, whether an individual or a corporation, in his constitutional rights, for they have always done so in the past; but I do not believe that Congress should endeavor to transfer or delegate to the courts its constitutional power to regulate interstate commerce. It is a great and important function, and Congress will prove recreant to the trust reposed in it by the American people, and we will be violating the plain provisions of the Constitution, if we seek to perform this function in any other way or manner than that marked out by the Supreme Court of the United States. Rate-making will after this bill becomes a law be intrusted to the carrier, as it is to-day. The only difference will be that the Commission will have authority to fix a maximum limit, beyond which the carrier can not go in making its future rates. Congress in this bill provides what that limit shall be, and has delegated to the Commission the duty of ascertaining the facts and applying the limitation. It is essentially an administrative function that is delegated to the Commission by Congress, and not legislative. It is a function that can not be imposed upon the courts, and the attempt so to transfer it should not succeed. It would be doing a great injustice to the public to attempt to take from the courts their present power to protect the lives and property of the people when invaded. It also would be a great calamity and unworthy of us as representatives if we attempt to transfer to the courts a duty and responsibility which is imposed by the Constitution upon Congress.

I believe that this legislation is necessary. I believe that it is wise, prudent, and desirable to have a subordinate tribunal to Congress, to which complaints can be made against rates fixed by a carrier and which has the authority, after a full investigation, to set aside the challenged rate and substitute a maximum rate which, in its judgment, is just and reasonable. I believe that this power should be carefully guarded and restricted and that no attempt should be made to restrict or limit the court in its power to prevent injustice, to prevent action beyond the authority conferred by the laws and the Constitution.

We hear much in these days about the injustice of the courts and their assumption of powers not warranted by the laws and the Constitution, but it is gratifying also to know that from the possible aggression of the executive or legislative departments there is a refuge in the courts for an invasion of personal rights, and that there, independent of statute, independent of legislative or executive authority, the rights, liberties, and property of the citizen can be successfully defended and amply protected. I do not at all agree with the criticisms that have been made in this debate upon the judiciary of the United States. I think that the judges of our district, circuit, and supreme courts are generally sincere, honest, faithful public servants, and that they are endeavoring to perform their difficult duties in a way and manner that will meet with the indorsement and commendation of the people; but while I recognize that the courts are always a harbor of refuge for the injured and oppressed, yet I also know that the Constitution imposes certain duties upon Congress, among which is the regulation of commerce among the States, and that Congress can not and should not attempt to exercise this duty by either directly or indirectly transferring it to the courts.

Mr. STONE. Mr. President, I desire to give notice that to-morrow, after the Senator from Nevada [Mr. NEWLANDS] has spoken in pursuance of the notice he has given, I should like to address the Senate on the pending bill, if I can find an opportunity to do so.

The VICE-PRESIDENT. Notice will be entered.

PHILIPPINE TARIFF BILL.

Mr. STONE. While on the floor, I want to give an additional notice. I will be obliged in the latter part of the week to go to St. Louis on business of pressing moment, and will be gone some days. It has been currently reported through the Senate that at some early day the Senator from Massachusetts [Mr. LODGE], who is the chairman of the Committee on the Philippines, may in some way bring what is known as the "Philippine tariff bill" before the Senate. That might be done during my absence, and, as I am a member of that committee, I should like to submit some views upon the general subject of that bill. While the bill is not now before the Senate, I thought that on to-morrow I would offer a resolution that would make a basis for saying what I desire to say. I ask the Senate to allow me that privilege on Thursday morning, immediately after the routine business has been concluded.

Mr. LODGE. Mr. President, the Senator from Missouri [Mr. STONE] having referred to what is known as the "Philippine tariff bill," I desire to say that at the proper time I shall make a motion to discharge the committee from the further consideration of that bill. That is the only method open to me of taking the sense of the Senate as to whether that proposed legislation shall be considered at all by the Senate at this session. But I have no intention of making that motion while the railroad rate bill is pending, or of doing anything that would interfere with the consideration of that important legislation, which ought to be disposed of at once. My own judgment would be that the Senator could go to St. Louis with perfect assurance that that motion will not be made before he returns, unless he is gone for a considerable length of time. I have no intention of making that motion until, as I have said, the rate bill is disposed of, and of that the Senator, I am sure, will have ample notice.

Mr. STONE. In view of the statement of the Senator from Massachusetts that the motion is not likely to be made for several weeks, I will withdraw the notice I gave in which I asked to speak on Thursday morning on that question.

Mr. STONE subsequently said: After talking with the Senator from South Carolina [Mr. TILLMAN] in charge of the rate bill, I desire to give notice that on Thursday morning I will ask to address the Senate on that bill.

The VICE-PRESIDENT. Notice will be entered.

Mr. HALE. The Senator from Massachusetts [Mr. LODGE] has left the question, which may arise later, about the Philippine tariff bill, I think, just right. I am entirely willing to leave that to his discretion, considering the business of the Senate. He will not make the motion, I take it, to discharge the committee and bring the bill before the Senate until there has been conference about it and ample notice that he is ready to do so.

I only wish to say now that there is an appropriation bill which I desired to bring up this morning, but, as the Senator from Kansas [Mr. LONG] wished to go on, I did not ask the Senate to give it consideration. The Senator from Minnesota [Mr. CLAPP] desires to-night to get out of the way the conference report on the bill in relation to the Five Civilized Tribes; but I give notice that to-morrow morning, after the routine morning business, I will ask the Senate to take up what, by our rules and consent, always has preference—an appropriation bill.

Mr. SPOONER. What appropriation bill?

Mr. HALE. The urgent deficiency appropriation bill. In the meantime the Senator from Minnesota can dispose of the conference report on the Five Civilized Tribes bill.

Mr. LODGE. If the Senator from Maine has concluded—I do not desire to take the floor from him——

Mr. HALE. I have finished.

Mr. LODGE. I do not want to be misunderstood. I have no intention of making the motion to discharge the Philippine Committee from the consideration of the tariff bill while the rate bill is pending. When the rate bill is disposed of, I shall then make the motion, but, of course, under the rules, that motion has to go over for a day. I am glad to take this opportunity of giving what may be a somewhat protracted notice, that when the

rate bill is out of the way I shall take occasion to make the motion to which I have referred.

FIVE CIVILIZED TRIBES.

The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 5976) to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory, and for other purposes.

Mr. SPOONER. I ask the Senator from Minnesota to state to the Senate what has been done by the conference committee with reference to the disposition of the coal lands?

Mr. CLAPP. The conference committee felt that the proposition to sell the coal lands was practically rejected. They therefore adopted the House provision, restricting the right of leasing the lands; but in view of the debate the other day I think it is safe to say that the understanding is that the committee would abandon that report. That would be the view of the chairman of the committee, at least.

Mr. SPOONER. Assuming that the lands are to be leased, has the committee agreed upon restrictions which should be embodied in a lease?

Mr. CLAPP. They have not. They have agreed to leave the matter to the Secretary of the Interior. But I think I can say to the Senator from Wisconsin that, after the debate which has been had, it is not at all probable the conferees will report back any provision for a disposition in any way of the coal lands at this time.

Mr. SPOONER. I think that is wise. I should like to ask the Senator in regard to section 19, which provided restrictions in regard to the alienation or leasing of lands to the Indians, and so forth. Does the conference report leave the bill so that restrictions upon alienation will be removed?

Mr. CLAPP. The conference committee reported back the Senate amendment about section 19 with an amendment, that no lease for coal or oil lands should be made without the approval of the Secretary of the Interior. "Oil, gas, and mineral" is the language employed.

Mr. SPOONER. Yes; but does it leave it so that all restrictions upon alienation are removed?

Mr. CLAPP. Yes. The bill as reported back by the conference committee reads as follows:

SEC. 19. That all restrictions upon alienations and leasing of lands of Indian allottees of the Choctaw, Chickasaw, Cherokee, Creek, and Seminole tribes of less than full blood are, except as to homesteads, hereby removed on and after the 1st day of July, 1906: *Provided*, That nothing in this act contained shall be construed or held to authorize the leasing of such lands for oil, gas, or other mineral without the approval of the Secretary of the Interior.

Mr. SPOONER. Does the committee insist upon that provision as it is?

Mr. CLAPP. I do not know to which provision the Senator refers.

Mr. SPOONER. We discussed here the other day the propriety of removing restrictions upon alienation and yet retaining restrictions on leases. It is perfectly obvious that that is absolutely trifling with the rights and interests of the Indians. When the Indian leases he does not part with the fee. He may lease for an inadequate rental or royalty, but when the term of the lease shall have expired the fee is still vested in him. But if you give him the full power of alienation, he may be made drunk and robbed of the fee of the land utterly and absolutely.

Mr. BEVERIDGE (in his seat). He may under a lease be robbed of the value of the land.

Mr. SPOONER. He may not be robbed of the value of the land under the lease, because that is made subject to the approval of the Secretary of the Interior, who it is assumed will do his duty.

Mr. BEVERIDGE. What the Senator from Wisconsin says now is in response to a remark I made sitting in my seat. I do not think, if the Senator will permit me, that there is very much distinction. It is true that under the lease the Indian retains the fee, but the value of this particular land is in the oil and gas which, under the lease, would be taken off. He would not then retain the fee in that which gives the land value.

Mr. SPOONER. Ah, Mr. President, but the Secretary of the Interior may decide as to the terms of the lease.

Mr. BEVERIDGE. Yes.

Mr. SPOONER. It may be for one year or two years or ten years. The rental or the royalty is subject to the approval of the Secretary of the Interior. Now, why throw restrictions around the power to lease and yet give the Indian, if he chooses to exercise it, as he will, the power to alienate without restriction?

Mr. BEVERIDGE. In answer to the Senator's question I will say that I do not think the restrictions upon alienation should be removed.

Mr. SPOONER. Ah! Then we agree.

Mr. BEVERIDGE. What is more, I doubt whether the restriction on leasing should be removed.

Mr. SPOONER. We agree.

Mr. BEVERIDGE. I did not know that the Senator had gone that far.

Mr. SPOONER. I have gone that far and further.

Mr. BEVERIDGE. How much further?

Mr. SPOONER. So much further as is necessary to protect the Indians against spoliation by the white man.

Mr. BEVERIDGE. Certainly; whether by lease or alienation.

Mr. SPOONER. I am opposed to doing away with restrictions upon alienation.

Mr. BEVERIDGE. And leasing also.

Mr. SPOONER. Of course. The bill provides for restrictions upon leasing, but it removes all restrictions upon alienation.

Mr. CLAPP. As to mixed bloods.

Mr. SPOONER. As to mixed bloods. The restriction in this bill on leasing is based on the assumption that a mixed blood is not competent to take care of his own interests. But to provide restrictions on leasing upon the theory that he should still remain under guardianship and yet confer upon him the power absolutely to alienate the land at his will seems to be an absurdity. I hope the Senator from Minnesota will be able to say that the committee take that view of it.

Mr. CLAPP. I can not speak for the remainder of the committee. I think myself a restriction as to alienation should apply to the same character of land as the restriction on leasing, but how the other members of the committee may feel on that question I can not tell. I can not speak for them.

Mr. BEVERIDGE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Indiana?

Mr. SPOONER. Certainly.

Mr. BEVERIDGE. I want to address to the Senator from Wisconsin, and to the Senator from Minnesota also, this question: Why not throw restrictions about alienation, and also not only throw restrictions around leasing, but prevent leasing at present? If the land is leased for five years or ten years or any other number of years, all that gives value to the land will be taken by the lessee.

Mr. SPOONER. These restrictions upon alienation already exist.

Mr. BEVERIDGE. Yes.

Mr. SPOONER. This is a proposition to remove them, but at the same time that the restrictions upon alienation are removed the bill imposes restrictions upon leasing.

Mr. BEVERIDGE. My question to the Senator is, Why not prevent leasing? Not why not permit leasing under restriction, but why not prevent leasing of these oil and mineral lands?

Mr. SPOONER. I am not prepared to say that the Indian ought not to be permitted to utilize his land; that he ought not to be permitted, at a fair rental and under leases which are properly safeguarded, to derive what benefit there is to be derived from the use of his land.

Mr. BEVERIDGE. That would be true if it were merely the agricultural use of his land, but where it is a use of the land which takes from the land its peculiar value, to wit, its richness in oil or coal or whatever mineral is there, it becomes a different question. It amounts really to an alienation of the land.

Mr. SPOONER. Oh, no.

Mr. BEVERIDGE. Not the fee of the land.

Mr. SPOONER. The man would want some value for his land before he died.

Mr. BEVERIDGE. For this year?

Mr. SPOONER. For some year before he died.

Mr. TELLER. I wish to make a suggestion to the Senator from Indiana. These people have lands, the patent of which contains a provision that they shall not alienate the fee for twenty-five years.

Mr. SPOONER. This removes that.

Mr. TELLER. It does under certain conditions and with a certain class of Indians——

Mr. SPOONER. Yes.

Mr. TELLER. And with the approval of the Secretary of the Interior; that is, with some regulations of that kind.

I want particularly to call the attention of the Senator from Indiana to the lease question. There is no provision of law which forbids leasing of these lands. There is nothing in their patent. The limitation is confined entirely to the alienation. The Department has been allowing the Indians to lease their lands for a year or so. These people are citizens of the United States, and I say it is impossible to put any restrictions upon

their title that is not already on. There is where I differ with the Senator. This provision for leasing the land and putting the matter under the Secretary probably would not stand the test of the law for a minute. Yet the committee thought it best, if these people did lease their lands, to put them under a moral restraint if it could not put them under a legal restraint, and to provide that somebody should supervise that leasing. On no other theory can you put it in there at all. An Indian holds a title subject to certain conditions. He owns the land as absolutely, except as to those conditions, as any other man does his.

There is the trouble about this leasing business, and it is absolutely true, as the Senator from Indiana suggests, that the value of the land is in the oil. If the Indians should be allowed to lease the land under some regulation that we would have had the power to prescribe if we had not made them citizens of the United States, it would be very profitable to let the Indians lease it, because they would soon get more than the value of the land out of the mineral products which would be produced if the property was properly leased. I do not see now how we are to protect them at all, unless they voluntarily submit themselves to some supervision by the Interior Department, which I believe some people think they will do and others think they will not.

Mr. SPOONER. I think if the Indian has become a citizen of the United States before he acquires title to his lands it is probably impossible—I would not say absolutely—for Congress to impose restrictions upon alienation. But if before he became a citizen, while he was an Indian, the land was patented to him containing a restriction for twenty-five years upon the power of alienation, I doubt very much whether the mere fact that he becomes a citizen does away with the restriction.

Mr. TELLER. I am not asserting that it does.

Mr. SPOONER. I am not commenting on what the Senator said.

Mr. TELLER. I am not so sure, as a question of law, but that it does.

Mr. SPOONER. I doubt if it does, because he accepted the title with that restriction in the deed, and I think he would be estopped probably to challenge its validity.

Mr. TELLER. The Senator will admit we can not add any restrictions now.

Mr. SPOONER. I do not know. I will get to that point.

Mr. TELLER. I should like to hear the Senator on that proposition.

Mr. SPOONER. I do not speak dogmatically about it, but it occurs to me that if the allottee or the grantee in the patent is restricted from alienating the land during twenty-five years—the Senator from Wyoming [Mr. CLARK] says to me that there is nothing in the patent which restricts the power of alienation on the part of these half-breeds.

Mr. CLARK of Wyoming. No; I do not want to be so understood. As I understand it, these allotments were taken with restrictions, but they were not restricted for twenty-five years.

Mr. SPOONER. However long they were restricted——

Mr. CLARK of Wyoming. The restrictions are such that they are allowed to sell a certain portion of the surplus lands, over and above the homestead, within one year or two years; a certain other portion in three years——

Mr. TELLER. Provided the Secretary of the Interior approved it.

Mr. CLARK of Wyoming. Yes; and a certain other portion in five years. Now, the conference committee in bringing in this report removes that much of the restriction upon the sale of the land; that is, it lessens the restriction in the number of years which have been placed upon it.

Mr. TELLER. I think that restriction exists not in this proposed law, but in a prior act.

Mr. CLARK of Wyoming. The present law.

Mr. TELLER. The present law is to that effect. They propose to change the law to that effect.

Mr. CLARK of Wyoming. Yes.

Mr. SPOONER. If there are no restrictions upon the power to alienate, there is no sense whatever in this provision removing the restrictions upon the power of alienation. If there are restrictions lawfully existing upon the power of alienation, my proposition is that they ought not to be removed. This is an absolute removal of them. I do not find in this provision anything which indicates that they are to be removed or not as the Secretary of the Interior may say.

Mr. CLARK of Wyoming. That is the present law.

Mr. TELLER. I am speaking of the present law. The statute now in existence provides that they may sell, not their homesteads, but the surplus lands. They may sell a portion this year, a certain portion the next, and so on, provided the Secretary of the Interior agrees to it.

Mr. CLAPP. The Senator will pardon me. The present law provides for each one of these tribes a different rule.

Mr. TELLER. I know that.

Mr. CLAPP. Some of the tribes can alienate a certain percentage in one year and so on. Others can alienate all in 1907. The Creeks, I think, can alienate in 1908, but I am not certain as to those dates. But, independent of that, the Secretary can, at present, under existing law, remove the restrictions as to any allottee.

Mr. TELLER. Yes; except the homestead.

Mr. CLAPP. Except the homestead.

Mr. HALE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Maine?

Mr. HALE. I thought the Senator from Wisconsin was through.

Mr. SPOONER. I yield to the Senator from Maine.

Mr. HALE. Mr. President, I only wish to say that I think this discussion is largely advisory.

Mr. GALLINGER. It is entirely so.

Mr. HALE. It shows the large way the Senate has of doing business. The Senator from Minnesota who is in charge of this bill has done what seems to me a very wise thing. Instead of exhibiting any pride in a conference report and a desire to pass it, he has invoked the expression of the Senate as to a very essential and important matter in the bill, and has sought for that opinion, that sentiment of the Senate in order to guide him when he resumes the conference, because when he withdraws his report and goes into conference it will be absolutely a new conference. The mere fact that the conferees have signed a report, unless it is approved by one or both Houses, does not make it a conference report. When the Senator takes this matter back into conference, the whole question is open and all the subjects are open.

Our discussion and the expression here, almost without opposition, have been that the Senate conferees upon every one of these provisions should take the ground that the Indians shall not be further despoiled, whether in lease or in outright conveyance, and that every safeguard which can be placed about this bill to prevent that spoliation shall be employed.

I think the wise course of the Senator from Minnesota who is in charge of this bill has brought about not instructions, for the Senate's position has always been that we do not instruct (when you instruct you have not a free conference), but an expression of the sentiment of the body for the instruction morally of the Senate conferees. I am entirely willing, after what has been done and said, with the feeling of the Senate as it has been shown, to leave the matter to the conferees, headed by the Senator from Minnesota. I hope he will understand that when he goes back and calls for a conference it will be an absolutely new conference; that nothing has been done by the signing of the report; but that it is all open.

Mr. DUBOIS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Idaho?

Mr. SPOONER. I do.

Mr. DUBOIS. I will say to the Senator from Maine that the conferees were laboring under the impression that they were trying to prevent the Indians from being despoiled. Does the Senator from Maine understand that the conferees are to take as an order, for instance, the discussion to-day in regard to the word "documentary?"

Mr. HALE. Oh, no.

Mr. DUBOIS. I will say to the Senator from Maine that in the opinion of the conferees—all of them, from both Houses—the leaving of these coal lands open will be the avenue to despoiling the Indians; and I should like to know what the Senator from Maine really means by saying that this debate is an instruction to the conferees——

Mr. HALE. No; I do not——

Mr. DUBOIS. That the Senate means the Indians shall be saved from spoliation.

Mr. HALE. I said in the beginning it was advisory. It is advisory in its nature to the conferees to see to it that the Indian is not despoiled. As to the methods, as to how far they should go, whether you shall introduce the word "documentary" or not, as has been suggested, are all for the discretion of the conferees. But I have no doubt the conferees will take the sentiment of the Senate, which is obvious, as in their discretion they shall see fit, that no legislation is submitted to it, when they make their report, which in any way destroys the right the Indians should have.

I must say, Mr. President, that I am not wholly confident that that can be done. I do not suppose that anything we do here will stand in the way of what the years and generations

will bring about, and that is the disappearance of the Indian and his rights. It is a pathetic story. Some of us in boyhood read that fine essay of Charles Sprague about the American Indian as he was and as he is, written seventy years ago, treating upon the disappearance of the Indian and all of his rights by—I will not say the encroachment—but by the natural march of civilization.

I have very grave doubts, if we pass a statehood bill and the Indian is submitted to the legislation of the State, whether the legislation of the State will not be dictated by that merciless epigram of the frontiersman—"there are no good Indians except dead ones." But I think in the meantime that in anything we do here we should try, so far as we can, to protect the rights of these Indians. I am entirely willing to leave that with the committee of conference.

Mr. SPOONER. Mr. President, I agree entirely with the commendation, which the Senator from Maine has expressed better than I could express it, of the spirit and attitude of the Senator from Minnesota [Mr. CLAPP], as I have known him for a great many years. He wants to do the right thing always.

My interest in this subject is not derived from books. My interest in the Indians and my knowledge of the Indian character carry me back a great many years to when I served in the Army among the Indians on the frontier—not among half-breeds, but among real Indians.

Mr. HALE. American Indians.

Mr. SPOONER. American Indians. It is not true that the only good Indian is a dead Indian.

Mr. HALE. I hope the Senator will not attribute that sentiment to me.

Mr. SPOONER. Oh, no; I do not attribute it to the Senator. I think General Sheridan said that.

Mr. HALE. It is a frontier epigram.

Mr. SPOONER. I know it is.

I have known some good Indians; some Indians who were as loyal and devoted friends as any white men could be; some Indians who were not only hospitable, but grateful for hospitality; Indians who remembered a kindness. I remember a little band of Indains who fought and some of whom died to rescue from another band of the same tribe some women and children who had been captured at the New Ulm massacre. Congress recognized those men on the petition of Senator Quay only a session before that Senator died.

This is pretty nearly the last act in the drama. The Indian is utterly improvident, Mr. President. He has always been. I do not speak of exceptional Indians, but of Indians generally. He is an easy prey to the white man. I have believed that the policy which was adopted a great many years ago of imposing restrictions upon the Indian's power of alienation of land was a wise one, and not only was obviously a wise one but the only honorable and decent thing a trustee could do. So I have looked with suspicion and with something of resentment upon the provisions which I have found for years here in the Indian bill, so called, removing these restrictions upon the power of alienation. There are Indians who are incapable of protecting their own interests. There are Indians who can not protect their own interests, but whose squaws or wives have more forethought and care, and whose influence is adequate to protect the interest of the male.

But as a body, Mr. President, the Indian is not capable of looking after his own business interests. We made them American citizens, I think improvidently, I think wickedly. I think it was a crime against them, whatever those gentlemen who have for years been promoting this scheme have thought about it, to have made American citizens of the Indians. It did not change their natures; it could not. It did not render them any less susceptible of sinister influence—influences, I might say—by the white man who sought to despoil them.

Mr. HALE. It rendered them more susceptible.

Mr. SPOONER. As the Senator from Maine says, it rendered them more susceptible, for it clothed them with a dignity which they were not fit to appreciate, and with functions to the exercise of which they had not been trained.

Now, here comes this bill. There are restrictions, or there would be no sense whatever in the provision which provides for their removal. Whether the restrictions are to last a long time or a short time, they ought not to be removed at all unless it be in exceptional cases, after thorough investigation by the Interior Department, which may develop the fact that this Indian or that or the other is capable of protecting his own interests. But to provide that the restrictions upon the power of alienation shall be entirely removed and yet that he may surrender the dominion in a lesser degree of alienation for a year or two years or three years by lease be subject to the approval of the Secretary of the Interior is simply nonsense. It is trifling with the Indian, Mr. President, because there will be found means enough among the white men who follow the trail of the half-breed until their toes turn in in order to beguile from them their estate. They will convey; they will alienate.

I agree entirely that they should be permitted, for they may need it, to lease, but not for a long time. I do not like this provision for a year or more, for that is indefinite, although it is subject to the approval of the Secretary of the Interior. I think there ought to be a limit upon the power to lease so far as time is concerned. But certainly it is true that to remove restrictions upon the power of alienation and yet to leave the power to lease for a year or more subject to restriction is an absurdity.

Congress is pressed all the time to remove these restrictions. I believe, although I know the perfect good faith of the committee, this pressure to remove restrictions is not in the interest of the Indians. Now, here is a provision in the bill——

Mr. MCCUMBER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from North Dakota?

Mr. SPOONER. Certainly.

Mr. MCCUMBER. The Senator suggested a short time ago that there might be some Indians who were capable of having their restrictions removed.

Mr. SPOONER. Certainly.

Mr. MCCUMBER. There have been a great many special bills introduced here for the removal of restrictions, and they have passed from Congress to Congress. I do not believe there is a single one of the Indians who sold under the power which removed the restrictions who has anything of the proceeds of the sale to-day. As a matter of fact, I think the Senator can be general in his statement, and say that the policy of removing restrictions at all, in isolated cases or any other cases, is detrimental to the Indians.

Mr. SPOONER. I have no doubt that is true. I called the attention of the Senator at a former session to a case where an Indian was permitted to sell without restriction the timber on his land in my State. He received $2,300 for one installment. He took his squaw and papooses to St. Paul, and when he came back to Ashland with them he came back with a pair of horses, a magnificent set of harness, and a silver-plated hearse. They were unloaded, the horses were hitched to the hearse, the squaw and the family took their places in the hearse, and the father of the family mounted the front seat and drove through the city of Ashland as proud as Lucifer. They were beguiled at St. Paul under the influence of drink into the squandering of the money which they had. That is in line with what the Senator says.

Mr. BEVERIDGE. How are the Indians permitted to sell the timber?

Mr. SPOONER. It was done under the supervision of the Secretary of the Interior. I expect that the purchasers made a very handsome profit. They did not do the business at a loss, the Senator may be certain.

Mr. HALE. I suppose also, though I have never been on this committee, but we have it up now and then in other committees——

Mr. TELLER. Mr. President, we can not hear on this side what is being said. This is a subject that some of us are interested in, and I should like to hear what the Senator says.

Mr. HALE. I suppose that in almost all cases the pressure that is brought upon us here for just such legislation as the Senator has referred to does not come from the Indians; it comes from the rapacious whites, who ask us to legislate upon the general theory that, having made the Indian a citizen, which was a mistake, as the Senator from Wisconsin says, we must give him the right of a citizen and give him an opportunity to alienate and to lease.

I agree with the Senator from Indiana [Mr. BEVERIDGE] that we ought to limit the right of leasing, because if we permit it unrestricted it may separate the Indian from all the valuable part of his property. The Senator from Colorado knows more about this general subject than any of us, and I presume he will bear me out in the statement that the movement, the pressure for legislation to give the Indian more and more power to alienate and rob himself of his title and his property, does not come from the Indian. It comes from the other source, from the people who want to take advantage of the improvident nature of the Indian. Whether, confronted by that natural disposition of the Indian, we can for any length of time protect him and secure him, I have very grave doubts, but I think we ought to keep on trying to do it just as long as we can.

Mr. MCCUMBER. If the Senator from Wisconsin will permit me, I think the Senator from Maine leaves out one important point, and that is the influence of the people of the State or the

county wherein the Indian is located. They want these lands, first, for white settlers; secondly, they want the lands made taxable, so that they will pay a part of the burden of carrying on the government. The influence from that section, especially from Oklahoma and the Indian Territory, to drive the Indian out for the very purpose of getting hold of the land and making it taxable is simply terrific.

Mr. HALE. I had all that in mind. The movement comes not from the Indians, but from just such sources as the Senator indicates.

Mr. SPOONER. The Senator from North Dakota will allow me to call attention to the fact, in connection with his observation, that the last proviso of section 19 is as follows:

Provided further, That all lands upon which restrictions are removed shall be subject to taxation.

That is a part of the provision.

Mr. CULLOM. Will the Senator from Wisconsin allow me a moment?

Mr. SPOONER. Certainly.

Mr. CULLOM. As I am compelled to leave the Senate, I ask to have printed as a document a letter from Mr. Albert J. Lee on the subject of this bill; and I should like to have it referred to the conference committee when the bill shall go back.

The VICE-PRESIDENT. Is there objection to the request of the Senator from Illinois? The Chair hears none; and it is so ordered.

Mr. SPOONER. There is a prohibition in this clause that—

No full-blood Indian of any of said tribes shall have power to alienate, sell, dispose of, or encumber in any manner any of the lands allotted to him for a period of twenty-five years from and after the passage and approval of this act, unless such restriction shall, prior to the expiration of said period, be removed by act of Congress.

Does that apply to citizens?

Mr. TELLER. I think that refers to the condition which exists. I think it is badly worded. It was intended to say these people having a twenty-five years' restriction——

Mr. SPOONER. Oh, no.

Mr. CLAPP. They are barred from restriction.

Mr. SPOONER (reading)—

That no full-blood Indian of any of said tribes shall have power to alienate, sell, dispose of, or encumber in any manner any of the lands allotted to him for a period of twenty-five years from and after the passage and approval of this act, unless such restriction shall, prior to the expiration of said period, be removed by act of Congress.

Mr. TELLER. I understand the chairman of the committee to say that that is an extension of the restriction. I did not know exactly what it was.

Mr. McCUMBER. It is an amendment which I prepared and introduced and had attached to the bill. The chairman has already stated in the session to-day that the limitation upon the restriction on full bloods and others expired, some of it in 1906, some by 1908, some by 1913, and it was for the very purpose of preventing the period of expiration from attaching that I introduced it as an amendment and put it all for a period of at least twenty-five years, so that it will cover all of those cases and cover both homesteads and the allotted lands which are not homesteads.

Mr. SPOONER. Have these Indians become citizens of the United States?

Mr. McCUMBER. There is a provision which says that they shall be citizens of the United States when they are allotted, but I call the Senator's attention to the fact that there have been a number of decisions (and I had them here the other day) stating that the mere granting of citizenship to them did not affect their property, which was held under agreements with the Government, and as long as they continue their tribal relations, although they are citizens, the Government still has control over their property. My position has been, and is yet, that although the Government has declared that it will remove a restriction within a certain time, if that time has not lapsed and the ward has not disposed of the property, as long as the wardship continues the Government may still extend the provision for another period of years.

Mr. SPOONER. I am entirely in accord with the Senator.

Mr. McCUMBER. It is the view I took here, although I am free to say that many Senators did not agree with my legal proposition.

Mr. SPOONER. Now, Mr. President, I do not care to take the time of the Senate any further. I defer very much to the better knowledge of the Senator from Colorado [Mr. TELLER] and of the chairman of the committee upon this subject. In conclusion, I wish to say that I do not think we ought to loosen this business and remove the restrictions which now exist. I have a little bit of a personal reason to remember the fidelity of some Indians. I have great sympathy with them. If we do not look to their interests no one will. So I venture to hope that when the bill goes back to conference it will be so changed, at least, that the provision removing all restrictions upon alienation will be omitted from it.

Mr. TELLER. Mr. President, I understand the chairman of the committee wishes to make a statement, and I defer to him for the present.

Mr. CLAPP. The Senator from South Carolina has called attention to section 9, where the Senate amendment was concurred in. I think the Senator is quite correct, and so far as the chairman is concerned, it will be the sense of the conferees to strike that out in conference.

Mr. TELLER. What provision is that?

Mr. CLAPP. The Brown provision.

Mr. SPOONER. That ought to be done.

Mr. CLAPP. Mr. President, I fully concur in all that has been said by the Senator from Wisconsin [Mr. SPOONER], the Senator from Maine [Mr. HALE], and the Senator from North Dakota [Mr. McCUMBER] in regard to the question of alienating Indian lands. But one thing is very certain. As the Indian advances one means of his advancement is to enlarge his opportunity. Everyone concedes that there comes a time to some of the Indians when they ought to have the right of alienation.

Now, we are confronted by this condition, and it is no easy matter to solve the question. If we leave it subject to the approval of the Secretary of the Interior to remove a restriction, while it may develop a roll of honor according to the thought of that Department, while it may encourage Indians to pursue a course that will warrant the Secretary in removing their restrictions, at the same time the man who is going to purchase the land knows and the Indian knows that before he can sell he must get those restrictions removed. The consequence is, it lessens the prospective value of the Indian's allotment. Then, the Indian is made to believe another thing, that before he can get those restrictions removed he has got to employ somebody; and another slice is taken out of the Indian's property.

So, it is no easy question to determine whether we should remove by classes, leaving perhaps in a class some who have not advanced far enough, or whether we should remove singly in individual cases. I say frankly, from a study of this question, with all its inequalities, with all its evils, I am rather inclined to think that the better plan as the Indian advances in development is to take those of mixed blood and remove the restrictions by statute, saving them from the necessity of paying attorneys' fees as individuals to get them removed.

Mr. TELLER. Five hundred dollars a claim.

Mr. CLAPP. It is $500 a claim in some instances. Then adopting the policy of the Senator from North Dakota [Mr. McCUMBER], we should allow no restriction on these full bloods to be removed until such time as Congress can by act remove them and relieve them from the process of being preyed upon by those who make them think that they can not reach the Department themselves.

Mr. TELLER. Mr. President, section 9 of the bill the chairman says he thinks ought to go out. The senior Senator from Wisconsin [Mr. SPOONER] says he thinks it ought to go out. There is not anyone in the Senate who knows anything about section 9 except the members of the committee; and I am going to state the facts briefly.

When the war broke out a part of the Seminole Indians were loyal to the Government and a part were disloyal. There was a regiment of them raised and they were the loyal Seminoles. Their houses, barns, and fields were raided by the Confederates. Their horses were stolen and there were various things done. They set up a claim against the Government. That claim existed until about five or six years ago. Various committees reported it favorably at times, but never any redress was given to those loyal Indians. About two years ago, and after they had become citizens of the United States, they appointed a committee that made a contract with some lawyers to prosecute this case here. One of the gentlemen who prosecuted it had been one of the officers of that regiment. They came here and a bill was passed. I do not know just how the provision was settled, but, anyway, there was an appropriation made to pay them something less than $200,000.

Now, remember, Mr. President, these were not Indians when the claim was allowed; they were citizens of the United States, and ex-soldiers and the heirs of ex-soldiers. Every one of them was a citizen of the United States. There was no necessity for them to go to the Department for the approval of the contract. When this money was paid out the Department sent the money to a man by the name of Brown, and authorized him, after he gave a bond, I think for $300,000 or $400,000, to pay it out. Mr. Brown proceeded to pay, amongst others, the attorneys of these Indians. He paid the bills of these

Indians at certain stores where they had been running on credit.

Later it was claimed that there was irregularity in the payment; that the payment ought to have been made through Mr. Brown, who was the treasurer of the Indians when they had their tribal relations, and he had paid out the money as the agent of the Interior Department and under their authority. There was a man at that time, and the country is full of them, who thought he saw a chance to get a fee out of it, and he induced some of the Indians, how many I do not know, to bring suits. The Department took it up, as it was an Indian matter, and 211 suits were brought against Mr. Brown by men who had received the money and who had it in their pockets or had spent it. He had paid it to them, or he had paid it to men they owed, in accordance with the custom down there. The Department has no more to do with that than it has with a claim against me; and yet to-day the Government of the United States is paying the expenses of this prosecution, which if it can be maintained at all could be maintained only upon a technical ground, and in my judgment can not be maintained at all.

This is to ratify that act. It may be that there is something crooked about it, but there has been no claim that I know of, at least there has been no evidence that would substantiate any position that these people had been robbed.

Now, that is one of the things that we have to deal with. We had no business to have anything to do with it at all—none whatever.

Mr. CLAPP. Will the Senator pardon me?

Mr. TELLER. Certainly.

Mr. CLAPP. It was, in my judgment, somewhat of a close question. The invalidity of the payment rests upon the fact that the account of the guardian was allowed by the judge in chambers——

Mr. TELLER. That was only a part of it.

Mr. CLAPP. Under a law which required that it should be done in open court. But there is a good deal of evidence in that matter which, to speak guardedly, perhaps throws some suspicion around the transaction. There seems to have been a sort of circuitous route by which a good deal of the money went to many who were very closely connected with the administration of the affairs down there, at least so much so that I felt no hesitation, if there was any demand for it, in leaving it out, though I am not as clear on the subject, perhaps, as I might be.

Mr. ALLISON. I see there is an elaborate amendment here agreed to in conference.

Mr. CLAPP. Yes; that was agreed to.

Mr. TELLER. I wish to say a little further that there is a provision here which leaves these suits pending if they want it. It is time that the Government of the United States should learn that it should not maintain suits in the name of individuals and pay the expenses out of the Treasury of the United States. That is what we are doing in this litigation.

Mr. President, I want to say something else about this bill. The Senator from Minnesota is very anxious to close it and I wish to say it now, as I want to drop that question. It is not a very important question one way or the other. Mr. Brown, who served the Government in that capacity, may be ruined by this proceeding, and that will go with a thousand other cases of the same kind.

Mr. President, the Senator from North Dakota [Mr. McCUMBER] raised the question as to whether these people are citizens. There is not any doubt about that. By positive law, by statute, some of them have been made citizens of the United States.

Mr. McCUMBER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Colorado yield to the Senator from North Dakota?

Mr. TELLER. Certainly.

Mr. McCUMBER. I simply want to say that that is not my position. My position is that they are citizens, but that citizenship of itself does not dissolve the tribal relation, nor does it by itself necessarily dissolve the relation of guardian and ward. So long as the Indians continue to be our wards, we have control over their property.

Mr. TELLER. Then I misunderstood the Senator. If they have become citizens, I do not think it needs any argument to show that the United States are not the guardians of anyone. There is not any power in the General Government to become the guardian of anybody. The Indians, however, are not the wards of the Government of the United States. The Supreme Court has settled that question. The moment they become citizens of the United States, to all intents and purposes they are full-fledged citizens. Citizenship is not a thing that can be put on and taken off. It is a great privilege for a man to be a citizen of the United States, and it carries with it great obligations also. All those we have conferred upon those people. Whether it was wise to do so or not is not now a question. It is an act which can not be retraced. There is no way under the sun that these men, having become citizens, can now be deprived of their citizenship, except after trial and conviction as a punishment for the commission of a crime. They are citizens of the United States.

The Senator from Wisconsin [Mr. SPOONER] thinks because the Indians took land with an obligation that they should not sell it in five years, we will say, or in six years, that Congress now, after they have become citizens of the United States—if I understood him correctly, and if I did not he will correct me—can put a further limitation on their right to dispose of their lands. Their right to these lands becomes absolute, say, in five years from now. Can we extend that to ten years?

Mr. President, if the Senator will stop for a moment to think, I do not believe that he or any other lawyer here will make that statement. It can not be defended upon principle, and certainly no precedent can be found for it. This provision seems to be an attempt to extend the time, which I did not understand, for I thought it had reference to another condition; but the Senator from Minnesota says it means that it is an attempt to extend the time. This amendment was put on in the last hours of the consideration of this bill here, was it not?

Mr. CLAPP. Yes; just before we adjourned.

Mr. TELLER. It was put on just before we adjourned and disposed of the matter. If I have done the Senator from Minnesota any injustice in that remark, I should like to have him state it.

Mr. SPOONER. Mr. President, if the Senator understood me to say that the Government possessed any right to restrict a citizen as to the power of alienation of his property acquired after he became a citizen, he misunderstood me. I understood the Senator from North Dakota [Mr. McCUMBER] to say that it had been decided that after an Indian had been made a citizen, so long as he maintains his tribal relations he is still a ward of the Government, and that so long as he remains a ward of the Government——

Mr. TELLER. If there is any decision of that kind, it is a very foolish one; but I do not believe there has been any such decision. I did not understand the Senator from North Dakota to state that.

Mr. SPOONER. That so long as the Indian was the ward of the Government Congress might extend the time or duration of these restrictions. I said if that were true I was entirely in accord with him that it ought to be done. That is all.

Mr. TELLER. What ought to be done and what we can do are two distinct things.

Mr. SPOONER. I did not say we could do it.

Mr. TELLER. But we must consider it from the standpoint of what we can properly do.

Mr. HALE. Does the Senator think that when we conferred nominal citizenship on the Indian that he passed from the domain of guardianship legislation on the part of Congress? If that be so, we need spend no more time in safeguarding the rights of the citizen Indian, but must leave him in the same position we leave the citizen of Colorado, of Wisconsin, or of the Dakotas, and of Maine. I did not quite understand that that was the operation of the conferring of citizenship when the Indian remained in the tribal relation.

Mr. TELLER. The Supreme Court settled that case this last summer.

Mr. HALE. How?

Mr. TELLER. By declaring that the Indian had absolutely all the rights of any other citizen.

Mr. CLAPP. That is, political rights.

Mr. TELLER. Yes; political rights.

Mr. McCUMBER. But I wish to say that the Supreme Court has decided absolutely to the contrary in a number of cases. I had a case here the other day, which held that the mere granting of political rights did not in any way effect civil rights over property of the Indian so long as he maintained his tribal relations. There are two or three cases that have been decided quite lately.

Mr. HALE. I have so understood.

Mr. CLARK of Wyoming. Mr. President——

The VICE-PRESIDENT. Does the Senator from Colorado yield to the Senator from Wyoming?

Mr. TELLER. I do.

Mr. CLARK of Wyoming. I simply wish to make a statement to the Senator from Maine [Mr. HALE] in the consideration of this matter. As I understand the whole question of allotment and alienation, it is this: When these Indians consented to the plan of the Government to allot this land in severalty, it was done upon certain stipulations made and entered

into between the Government and the Indians—a solemn contract, under which they took their allotments. Now, to vary the terms of that contract against the Indians, seems to me as violative of the good faith with which it was entered into, to say nothing as to the law, and without reference to the law or the decisions of the Supreme Court of the United States. If the Indian took his allotment with the distinct understanding and agreement with the Government that a certain portion of that allotment he could alienate in one year, a certain other portion in two years, and a certain other portion in three years, the attempt to extend the limitation for more years than that, it seems to me, is a breach of contract on the part of the United States. I submit that to the Senator from Maine for his consideration in this matter.

Mr. HALE. I have always had very grave doubts about that.

Mr. CLARK of Wyoming. We have always taken the authority to deal as we pleased with the Indians in the Indian Territory and everywhere else. We have taken upon ourselves to violate year after year, by our legislation, every solemn covenant that we have entered into with the Indians. It is a breach of morality, but we seem to have the power to make that breach.

Mr. SPOONER. We have done that with all Indians.

Mr. CLARK of Wyoming. We have done that with all Indians; and I think it is time we should stop it. So I am in favor of living up to the agreements we have made with the Indians.

Mr. SPOONER. It has been for the protection of the Indians against spoliation. There is no selfishness in it.

Mr. CLARK of Wyoming. There is no selfishness in it probably, but you are violating the agreement you made with them.

Mr. HALE. Quite likely.

Mr. McCUMBER. Suppose we found the agreement to be injurious to our wards, would we not be justified in violating it?

Mr. CLARK of Wyoming. I think not, under the conditions as they exist in the Indian Territory. I do not think we have any right to enter into an agreement and violate it, because when we entered into it it was one of the essential things that gained the assent of the Indians to taking this land in severalty, that at some time they would be able to deal with it, and would be allowed to deal with it themselves. They never would have consented to taking the land unless that had been done.

Mr. HALE. It seems to me that we were too sentimental and went too far.

Mr. SPOONER. We were not sentimental enough.

Mr. HALE. I have always had very grave doubts about the making of those allotments. It was done somewhat upon the theory that we made some very disastrous experiments in the South, conferring rights upon people who were not competent to exercise them, and we have had nothing but trouble ever since. We went too far and trusted too much to our sentiment in regard to the Indians. We afterwards found that it did not work; that we could not, simply as if it had been a compact between two nations which we were obliged to maintain; we found as to the Indians that we had got to interpose and save them from the result of our own legislation. We have been doing that ever since, and we are trying to do it now, as I have said.

Mr. McCUMBER. I should like to ask the Senator just one question, and that is, which he considers the most sacred obligation, an obligation simply to keep our word to our ward, to keep our contract with our ward, or our obligation to do our duty by that ward which will be for his best interest? If we are to do one of the two things, had we not far better break our original contract and make a new one that shall protect him?

Mr. CLARK of Wyoming. Yes; but why hold the Indian to his contract? If we are going to break the contract on our part, why not allow the Indian to break it on his part, and take back these lands as they were when he made the contract with us?

Mr. McCUMBER. Those are conditions that it would be impossible to fulfill because the lands have been disposed of.

Mr. TELLER. We should have less trouble if Senators would get out of their minds the idea that these people are the wards of this Government. Why are they the wards of this Government?

Mr. McCUMBER. If they are not, then all of our legislation concerning them is void.

Mr. TELLER. No; it is not.

Mr. McCUMBER. I do not know how we can legislate for them as our wards if they are an independent people.

Mr. TELLER. We have put certain restrictions on them. If we have not the power to do that, then the contention of the Senator is all right. But, Mr. President, this bill has a number of things in it that we might do if those people are citizens, because we are carrying out the treaties with them.

Mr. President, there is not an Indian in the Indian Territory—not one. The 90,000 people who were Indians are not Indians to-day. You can go down into Alabama or Mississippi and find 90,000 people less qualified to discharge the duties of citizenship than are these men. Shall we go down there and take them in as our wards? Every citizen in this country, whether he be black, red, or white, whether he be rich or poor, whether he be learned or ignorant, is the same before the law. The Government has as much control over the wisest and richest man in the country as it has over the poorest and the most ignorant man, who can say, "I am an American citizen," as Paul of old said, "I am a Roman," when his enemies shrank back and did not inflict the blows upon him they had intended to. He can say, "I am an American citizen; I take the full protection of the law. The Government of the United States, great as it is, can not make me anything less than a citizen." Red, white, or black, ignorant or wise, the right belongs to him, and you must recognize it, and it is an invasion of his right when you talk about protecting him and taking care of him.

Mr. HALE. Then, let me ask the Senator, why should we spend our time here in attempting to legislate upon it at all if the Indian has all the attributes that a citizen has?

Mr. TELLER. A citizen of the United States may hold a title that is not a perfect title. If I give him that title, I can release——

Mr. HALE. No; that is left to the courts.

Mr. TELLER. Can I not?

Mr. HALE. That is left to the courts.

Mr. TELLER. Oh, no. If I grant to any man a title that is not full and absolute, to-morrow I can give him a new and complete title, if I see fit. He does not have to go into court.

Mr. HALE. That is new doctrine to me. I have not considered, and never did consider, that the granting of political citizenship to the Indian absolutely separated him from the care and guardianship of the United States, because, if that proposition is true, all the time that we have spent on this subject since then has been utterly and entirely lost, and we might just as well have dismissed it.

Mr. TELLER. Well, Mr. President, suppose that is true. We may as well dismiss it. Let us face the question here.

Mr. McCUMBER. May I ask the Senator a question right there?

Mr. TELLER. Not just now. Let us face this question. Are these men citizens? If they are, is there any distinction between them and other citizens? What is that distinction? Poverty? There are millions of men poorer than they. Is it ignorance? There are millions of men more ignorant than they. Is it inability to take care of themselves? They can take care of themselves better than one man out of a hundred in the slums of the great cities.

Mr. President, there is not anything in law, there is not anything in morals that will justify us in depriving the Indian of any right or assuming the control over him that we do not assume over every other man. I do not know anything in the Constitution of the United States that will justify you or me or the National Government in finding a difference in citizenship. When you depart from the principle that every citizen is the equal of every other citizen under the law, and that the hand of the Government must be as light upon one as upon the other—the moment you depart from that principle there is an end of free government; there is an end of the boasted liberty that is talked about in this country. Every man must stand before the law the equal of every other man, and he must perform every duty that is incumbent upon him, so far as his condition will permit. The Indian took the duties of citizenship upon himself, but when he took them he took other things besides, so that he might stand before the world and assert, "I am free from the control of everything except only the law that is put over me, and which I must observe as other men, and only as other men." He is a man.

This may go to the courts. There can be no two sides to this question. I do not deny that, having given a patent with certain restrictions, we may adhere to those restrictions. I do not insist that because he had taken a deed from me when he was a citizen, nobody but the man who took the deed and myself could change that deed.

I want to say a word or two more about this matter. The Senator from Maine [Mr. HALE] speaks about the frontier idea that there are no good Indians but dead Indians. I have had forty-five years' experience with the Indians on the frontier, and I want to say that, except during a state of war, there has never been an outrage perpetrated by any frontiersman on the Indians. They have been the best friends the Indians have

had. They have done more for their elevation and civilization than have the people in any other portion of the United States.

We have had wars with the Indians. Sometimes they have come into our neighborhoods and massacred our people, and it is but human nature that when the frontiersmen went out after them some cruelties would be perpetrated upon them; but in time of peace we have welcomed the Indians to our towns; we have assisted them with our efforts to make them better in every way. It can not be charged against the western people, nor the pioneers, that they have not been friendly to the Indians. They have been not merely friendly, but they have been deeply interested in elevating the Indians. The severe and difficult and destructive laws that have been passed were not passed at the instigation of the people of the West. They were passed in defiance of our protest. The records of the Senate will show that for twenty-five years, and more, I have protested against giving to the Indian land in severalty, because he was not fit to take care of it and would not occupy it. Again and again I have entered my protest in the Senate. I have predicted what would happen—what now every man knows he is facing—a landless Indian.

We added to that great mistake by making them citizens of the United States. The people of the West did not ask it; the Indians did not ask it; but it was believed by some that citizenship would civilize and elevate them.

The Indian is an expiring race. Time will settle this problem. Whether we have acted wisely or foolishly, the time will come when the red man will disappear; but we have hastened it by many years. We have brought about that which in the course of time might have occurred with less friction and with less trouble, but it is coming.

As I said the other day, the only thing left for us is to do what we can for these people in the Indian Territory, and if we can, to still keep our hands upon those who have not become citizens.

I will not repeat what I said the other day, that I felt very anxious, and as I do now, that something shall be done that these 90,000 citizens of the United States may, if possible, be fitted for citizenship; may, if possible, be made to understand the great privilege that they now are enjoying, and may, if possible, be taught to discharge some of the duties of citizenship, so that it will be a benefit to us and a benefit to them.

Mr. HALE. Mr. President, I rise now to a question of the order of business. It is getting late, and there ought to be an executive session. I should like very much if we could dispose of the conference report so that it would not be in the way of the appropriation bill to-morrow morning.

Mr. CLAPP. Unless objection is made, I will now formally withdraw the conference report from the Senate.

Mr. SPOONER. I should like to say a word about the Brown case in reply to the Senator from Colorado.

Mr. KEAN. Let us have an executive session.

EXECUTIVE SESSION.

Mr. HALE. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were reopened, and (at 5 o'clock and 35 minutes p. m.) the Senate adjourned until to-morrow, Wednesday, April 4, 1906, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate April 3, 1906.

JUDGE OF JUVENILE COURT.

William H. DeLacey, of the District of Columbia, to be the judge of the juvenile court of the District of Columbia, as provided for by the act approved March 19, 1906.

MARSHAL.

Harmon L. Remmel, of Arkansas, to be United States marshal for the eastern district of Arkansas, in the place of Asbury S. Fowler, whose term expires May 7, 1906.

AUDITORS.

Caleb R. Layton, of Delaware, to be auditor for the State and other Departments, to succeed Ernst G. Timme, resigned.

Ernst G. Timme, of Wisconsin, to be auditor for the Post-Office Department, to succeed Joseph J. McCardy, resigned.

DEPUTY AUDITOR.

Charles H. Keating, of Ohio, to be deputy auditor for the Post-Office Department, in place of William J. Anderson, deceased.

COLLECTOR OF CUSTOMS.

Clarence G. Smithers, of Virginia, to be collector of customs for the district of Cherrystone, in the State of Virginia. (Reappointment.)

PROMOTIONS IN THE ARMY.

Medical Department.

Capt. Charles Lynch, assistant surgeon, to be surgeon with the rank of major from April 2, 1906, vice Egan, retired from active service.

Corps of Engineers.

Maj. Solomon W. Roessler, Corps of Engineers, to be lieutenant-colonel from April 2, 1906, vice Powell, appointed brigadier-general.

Quartermaster's Department.

Maj. Frederick G. Hodgson, quartermaster, to be deputy quartermaster-general with the rank of lieutenant-colonel from March 31, 1906, vice Miller, appointed brigadier-general.

Capt. Arthur W. Yates, quartermaster, to be quartermaster with the rank of major from March 31, 1906, vice Hodgson, promoted.

Cavalry Arm.

First Lieut. Albert N. McClure, Fifth Cavalry, to be captain from March 31, 1906, vice Harris, Fourth Cavalry, resigned.

Second Lieut. William M. Cooley, Fifth Cavalry, to be first lieutenant from March 29, 1906, vice Abbott, Sixth Cavalry, detailed in Signal Corps.

Artillery Corps.

Lieut. Col. Robert H. Patterson, Artillery Corps, to be colonel from April 1, 1906, vice Lomia, retired from active service.

Maj. George F. E. Harrison, Artillery Corps, to be lieutenant-colonel from April 1, 1906, vice Patterson, promoted.

PROMOTIONS IN THE NAVY.

Lieut. Horace G. Macfarland to be a lieutenant-commander in the Navy from the 19th day of February, 1906, vice Lieut. Commander Edward Lloyd, jr., promoted.

Lieut. Charles F. Preston to be a lieutenant-commander in the Navy from the 28th day of February, 1906, vice Lieut. Commander Richard M. Hughes, promoted.

Gunner Lewis E. Bruce to be a chief gunner in the Navy from the 10th day of March, 1906, upon the completion of six years' service, in accordance with the provisions of the act of Congress approved March 3, 1899, as amended by the act of April 27, 1904.

CONFIRMATIONS.

Executive nominations confirmed by the Senate April 3, 1906.

CONSUL.

Albert Halstead, of the District of Columbia, to be consul of the United States at Birmingham, England.

CHIEF OF BUREAU OF YARDS AND DOCKS.

Civil Engineer Mordecai T. Endicott, United States Navy, to be Chief of the Bureau of Yards and Docks, in the Department of the Navy, with rank of rear-admiral, from the 4th day of April, 1906.

PENSION AGENT.

Michael Kerwin, of New York, to be pension agent at New York City, to take effect April 30, 1906.

POSTMASTERS.

CONNECTICUT.

James P. Glynn to be postmaster at Winsted, in the county of Litchfield and State of Connecticut.

Benjamin J. Maltby to be postmaster at Northford, in the county of New Haven and State of Connecticut.

ILLINOIS.

J. H. Abercrombie to be postmaster at Aledo, in the county of Mercer and State of Illinois.

John W. Fornof to be postmaster at Streator, in the county of La Salle and State of Illinois.

Joseph H. Pierson to be postmaster at Carrollton, in the county of Greene and State of Illinois.

John G. Seitz to be postmaster at Upper Alton, in the county of Madison and State of Illinois.

William Wiese to be postmaster at Nashville, in the county of Washington and State of Illinois.

INDIANA.

William A. Fordyce to be postmaster at Shelburn, in the county of Sullivan and State of Indiana.

Miles K. Moffett to be postmaster at Connersville, in the county of Fayette and State of Indiana.

MAINE.

George Downes to be postmaster at Calais, in the county of Washington and State of Maine.

Joseph W. Gary to be postmaster at Caribou, in the county of Aristook and State of Maine.

MASSACHUSETTS.

Benjamin F. Brooks to be postmaster at Barre, in the county of Worcester and State of Massachusetts.

Arthur G. Clapp to be postmaster at South Deerfield, in the county of Franklin and State of Massachusetts.

William R. Hall to be postmaster at Maynard, in the county of Middlesex and State of Massachusetts.

William Parsons to be postmaster at Rockport, in the county of Essex and State of Massachusetts.

MISSOURI.

Ida Blackburn to be postmaster at Savannah, in the county of Andrew and State of Missouri.

E. E. Codding to be postmaster at Sedalia, in the county of Pettis and State of Missouri.

Charles A. Crow to be postmaster at Caruthersville, in the county of Pemiscot and State of Missouri.

NEW JERSEY.

William H. Pulis to be postmaster at Ramsey, in the county of Bergen and State of New Jersey.

George H. Tice to be postmaster at Perth Amboy, in the county of Middlesex and State of New Jersey.

Peter F. Wanser to be postmaster at Jersey City, in the county of Hudson and State of New Jersey.

NEW YORK.

William H. Bartlett to be postmaster at Amenia, in the county of Dutchess and State of New York.

Frederick Gorlich to be postmaster at Hastings upon Hudson, in the county of Westchester and State of New York.

George T. Reeve, jr., to be postmaster at Riverhead, in the county of Suffolk and State of New York.

George Ripperger to be postmaster at Long Island City, in the county of Queens and State of New York.

PENNSYLVANIA.

Fred J. Andrus to be postmaster at Cross Fork, in the county of Potter and State of Pennsylvania.

I. Warner Arthur to be postmaster at Bryn Mawr, in the county of Montgomery and State of Pennsylvania.

Edward C. Burns to be postmaster at Reynoldsville, in the county of Jefferson and State of Pennsylvania.

Delazon P. Higgins to be postmaster at Lewisburg, in the county of Union and State of Pennsylvania.

William H. Michener to be postmaster at Ogontz, in the county of Montgomery and State of Pennsylvania.

Milton P. Schantz to be postmaster at Allentown, in the county of Lehigh and State of Pennsylvania.

George W. Schoch to be postmaster at Mifflinburg, in the county of Union and State of Pennsylvania.

George W. Shaeff to be postmaster at Susquehanna, in the county of Susquehanna and State of Pennsylvania.

James W. Specht to be postmaster at Beaver Springs, in the county of Snyder and State of Pennsylvania.

TEXAS.

Thomas D. Bloys to be postmaster at Honey Grove, in the county of Fannin and State of Texas.

John B. Schmitz to be postmaster at Denton, in the county of Denton and State of Texas.

VERMONT.

George T. Childs to be postmaster at St. Albans, in the county of Franklin and State of Vermont.

George H. Richmond to be postmaster at Northfield, in the county of Washington and State of Vermont.

HOUSE OF REPRESENTATIVES.

TUESDAY, *April 3, 1906.*

The House met at 12 o'clock m.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of yesterday's proceedings was read, corrected, and approved.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had passed bills of the following titles; in which the concurrence of the House of Representatives was requested:

S. 1167. An act removing the charge of desertion from the military record of James B. Boyd;

S. 4530. An act granting an increase of pension to John P. Dunn;

S. 2500. An act granting an increase of pension to Lorenzo D. Huntley;

S. 4279. An act granting an increase of pension to Fannie E. Malone;

S. 1975. An act granting an increase of pension to Mary E. Dugger;

S. 4186. An act granting an increase of pension to Samuel G. Roberts;

S. 487. An act granting an increase of pension to William Sprouse;

S. 2790. An act granting an increase of pension to William J. Millet;

S. 3525. An act granting an increase of pension to Robert G. Harrison;

S. 4110. An act granting an increase of pension to Absalom Wilcox;

S. 3985. An act granting an increase of pension to Matilda E. Nattinger;

S. 3984. An act granting an increase of pension to Sarah E. Yockey;

S. 4917. An act granting an increase of pension to Alfred B. Chilcote;

S. 4309. An act granting a pension to Adele Jeanette Hughes;

S. 4622. An act granting an increase of pension to Isaiah McDaniel;

S. 4102. An act granting an increase of pension to John Broadwell;

S. 3024. An act granting an increase of pension to David S. Trumbo;

S. 4088. An act granting an increase of pension to Charles E. Chapman;

S. 4258. An act granting an increase of pension to James F. Hackney;

S. 1407. An act granting a pension to John McCaughn;

S. 4432. An act granting an increase of pension to James Drewry;

S. 2832. An act granting a pension to Susan Pennington;

S. 1406. An act granting an increase of pension to Moses Hill;

S. 3465. An act granting an increase of pension to John T. Vincent;

S. 3493. An act granting an increase of pension to Thomas Reed;

S. 5016. An act granting an increase of pension to Charles G. Polk;

S. 524. An act granting an increase of pension to Lestina M. Gifford;

S. 4548. An act granting a pension to Elizabeth Wilmer, widow of Edwin Wilmer, and to the orphan children of said soldier;

S. 3821. An act granting an increase of pension to Henry Wilhelm;

S. 5121. An act granting an increase of pension to James H. Haman;

S. 2689. An act granting an increase of pension to Alonzo M. Bartlett;

S. 2094. An act granting an increase of pension to Rodney W. Torrey;

S. 4556. An act granting an increase of pension to William Jandro;

S. 920. An act granting an increase of pension to Abraham S. Brown;

S. 3842. An act granting an increase of pension to Truman R. Stinehour;

S. 4683. An act granting an increase of pension to William McCann;

S. 2733. An act granting an increase of pension to Charles Crismon;

S. 1248. An act granting a pension to Elizabeth Bean;

S. 558. An act granting an increase of pension to Abijah Chamberlain;

S. 4972. An act granting an increase of pension to Sarah E. Hull;

S. 98. An act granting an increase of pension to Doris Florence Clegg;

S. 4650. An act granting an increase of pension to Thomas McDonald;

S. 2378. An act granting an increase of pension to Maria Leuckhart;

S. 4826. An act granting a pension to Agnes B. Earl;

S. 4675. An act granting an increase of pension to Fannie Parker Norton;

S. 4315. An act granting an increase of pension to Elizabeth A. Vose;

S. 2745. An act granting an increase of pension to Zerelda N. McCoy;

S. 4440. An act granting an increase of pension to Joseph Kauffman;

S. 4785. An act granting an increase of pension to Nehemiah Brandegee;

S. 4786. An act granting an increase of pension to George W. Coughanour;

S. 4247. An act granting an increase of pension to Carrick Rutherford;

S. 2287. An act granting an increase of pension to James V. Pope;

S. 2549. An act granting an increase of pension to George W. Boyles;

S. 4797. An act granting an increase of pension to Jacob Franz;

S. 250. An act granting an increase of pension to Alfred A. Woodin;

S. 1398. An act granting an increase of pension to Edmund Morgen;

S. 450. An act granting an increase of pension to James Flynn;

S. 3843. An act granting an increase of pension to Rollin T. Waller;

S. 1376. An act granting an increase of pension to Adam Werner;

S. 1377. An act granting an increase of pension to John R. Brown;

S. 674. An act granting an increase of pension to Thomas A. Agur;

S. 2705. An act granting an increase of pension to John Albert;

S. 3298. An act granting an increase of pension to John B. Ashelman;

S. 1353. An act granting an increase of pension to Charles M. Benson;

S. 1162. An act granting an increase of pension to Nelson Cook;

S. 4457. An act granting an increase of pension to Mary J. Reynolds;

S. 1962. An act granting an increase of pension to Julia Baldwin;

S. 2650. An act granting an increase of pension to J. Tilden Moulton;

S. 2670. An act granting an increase of pension to Marie J. Spicely;

S. 2508. An act granting an increase of pension to Charles D. Brown;

S. 3834. An act granting an increase of pension to Robert McCafey;

S. 3023. An act granting an increase of pension to Newton G. Cook;

S. 2772. An act granting an increase of pension to Charles H. Niles;

S. 835. An act granting an increase of pension to John W. Scott;

S. 4757. An act granting an increase of pension to John R. McCrillis;

S. 4834. An act granting an increase of pension to Octave Comber;

S. 1352. An act granting an increase of pension to Michael Scannell;

S. 1165. An act granting an increase of pension to James Moss;

S. 944. An act granting an increase of pension to Edwin R. Hardy;

S. 4086. An act granting an increase of pension to Alfred Behem;

S. 2263. An act granting a pension to Harriett Summers;

S. 1884. An act granting an increase of pension to Frederick W. Swift;

S. 518. An act granting an increase of pension to William T. Godwin;

S. 5074. An act granting an increase of pension to James I. Mittler;

S. 5324. An act granting an increase of pension to Peter Shoup;

S. 5244. An act granting an increase of pension to Horace A. Gregory;

S. 3839. An act granting an increase of pension to William H. Houston;

S. 3112. An act granting an increase of pension to James H. Gardner;

S. 1733. An act granting an increase of pension to George W. Trice;

S. 5079. An act granting an increase of pension to Andrew J. Hunter;

S. 3182. An act granting an increase of pension to Walter Lyon;

S. 5087. An act granting an increase of pension to John M. Frentiss;

S. 3996. An act granting an increase of pension to David Morehart;

S. 1308. An act granting an increase of pension to Emilie Wood Reich;

S. 2952. An act granting an increase of pension to William A. Gipson;

S. 3252. An act granting an increase of pension to David F. Crampton;

S. 5172. An act granting an increase of pension to John M. Du Puy;

S. 4520. An act granting an increase of pension to Albert L. Callaway;

S. 2507. An act granting an increase of pension to William Wheeler;

S. 2115. An act granting a pension to Carrie E. Constinett;

S. 2568. An act granting an increase of pension to Noah C. Fowler;

S. 5215. An act to fix the regular terms of the circuit and district courts of the United States for the southern division of the northern district of Alabama, and for other purposes;

S. 4250. An act to enlarge the powers and authority of the Public Health and Marine-Hospital Service and to impose further duties thereon; and

S. R. 46. A joint resolution to fill a vacancy in the Board of Regents of the Smithsonian Institution.

The message also announced that the Senate had passed without amendment bills of the following titles:

H. R. 14086. An act granting an increase of pension to Daniel Pence;

H. R. 14098. An act granting a pension to Mary Winfrey;

H. R. 13697. An act granting an increase of pension to William Shoemaker;

H. R. 12443. An act granting an increase of pension to Nathaniel Southard;

H. R. 14642. An act granting a pension to James P. Himes;

H. R. 15062. An act granting an increase of pension to Thomas Sparrow;

H. R. 14834. An act granting an increase of pension to Ruth J. McCann;

H. R. 13028. An act granting an increase of pension to Mary E. Bennett;

H. R. 12900. An act granting an increase of pension to James D. Havens;

H. R. 12403. An act granting a pension to Lydia A. Fiedler;

H. R. 13584. An act granting an increase of pension to Anna M. Jefferis;

H. R. 14039. An act granting an increase of pension to Anna H. Wagner;

H. R. 14092. An act granting a pension to Frances Coyner;

H. R. 14057. An act granting an increase of pension to William S. Nagle;

H. R. 14287. An act granting an increase of pension to Martha Brooks;

H. R. 15041. An act granting a pension to Lydia A. Keller;

H. R. 15199. An act granting an increase of pension to John T. Cook;

H. R. 13610. An act granting an increase of pension to James Hann;

H. R. 14639. An act granting an increase of pension to Sarah J. Merrill;

H. R. 10753. An act granting an increase of pension to Jacob Keller;

H. R. 14112. An act granting an increase of pension to Andrew J. Baker;

H. R. 14748. An act granting an increase of pension to William F. Burks;

H. R. 12417. An act granting an increase of pension to Samuel G. Raymond;

H. R. 13005. An act granting an increase of pension to Robert R. Wilson;

H. R. 14768. An act granting a pension to Orlando W. Frazier;

H. R. 14140. An act granting an increase of pension to Josephine M. Cage;

H. R. 14988. An act granting an increase of pension to James B. Cox;

H. R. 14694. An act granting an increase of pension to Samuel R. Dummer;

H. R. 13712. An act granting an increase of pension to Caroline D. Scudder;

H. R. 13634. An act granting an increase of pension to Frederick Hildenbrand;

H. R. 12584. An act granting an increase of pension to William R. Guion;

H. R. 13341. An act granting an increase of pension to Robert C. Pate;

H. R. 12578. An act granting an increase of pension to John B. Craig;

H. R. 11691. An act granting an increase of pension to John Clark;

H. R. 11690. An act granting an increase of pension to Lewis Lowry;

H. R. 14277. An act granting an increase of pension to George N. Scott;

H. R. 14327. An act granting an increase of pension to Amelia Nichols;

H. R. 13798. An act granting an increase of pension to Alida King;

H. R. 13136. An act granting an increase of pension to William Gaynor;

H. R. 13148. An act granting an increase of pension to William Davis;

H. R. 13587. An act granting an increase of pension to August Frahm;

H. R. 12455. An act granting an increase of pension to John Jordy;

H. R. 7331. An act granting an increase of pension to Henry Porter;

H. R. 14258. An act granting an increase of pension to John S. Miles;

H. R. 12643. An act granting an increase of pension to William H. Franklin;

H. R. 12795. An act granting an increase of pension to Henry Stimon;

H. R. 13417. An act granting an increase of pension to John W. Bookman;

H. R. 14653. An act granting an increase of pension to Sophronia Lofton;

H. R. 13826. An act granting an increase of pension to Frank S. Pettingill;

H. R. 14367. An act granting an increase of pension to Lemuel C. Gilman;

H. R. 12541. An act granting an increase of pension to Edward V. Miles;

H. R. 14369. An act granting an increase of pension to Sumner P. Wyman;

H. R. 15870. An act granting a pension to Mary Palmer;

H. R. 6946. An act granting an increase of pension to Elias Clamneh;

H. R. 14888. An act granting an increase of pension to Eliza A. Bunker;

H. R. 13959. An act granting an increase of pension to Thomas B. Monser;

H. R. 14563. An act granting an increase of pension to Edwin L. Higgins;

H. R. 13627. An act granting an increase of pension to Homer F. Herriman;

H. R. 13710. An act granting an increase of pension to Anna M. Wilson;

H. R. 12393. An act granting an increase of pension to William Hardy;

H. R. 12540. An act granting an increase of pension to Morris J. James;

H. R. 7585. An act granting an increase of pension to Joseph Girdler;

H. R. 6557. An act granting an increase of pension to Charles H. Jasper;

H. R. 9617. An act granting an increase of pension to David A. Kirk;

H. R. 14089. An act granting an increase of pension to Martin Harter;

H. R. 4809. An act granting an increase of pension to John W. Hatfield;

H. R. 9896. An act granting an increase of pension to William McKenzie;

H. R. 9995. An act granting an increase of pension to Elias Johnson;

H. R. 11638. An act granting an increase of pension to John N. Vivian;

H. R. 10594. An act granting an increase of pension to James Martin;

H. R. 12044. An act granting an increase of pension to Frank H. Frasier;

H. R. 13150. An act granting an increase of pension to Cate F. Galbraith;

H. R. 13597. An act granting an increase of pension to Abram J. Bozarth;

H. R. 12825. An act granting an increase of pension to Daniel Bloomer;

H. R. 13505. An act granting an increase of pension to Martha E. Chambers;

H. R. 7144. An act for the relief of Aaron Everly;

H. R. 13502. An act granting an increase of pension to John N. Buchanan;

H. R. 13088. An act granting an increase of pension to Mary McMahon;

H. R. 14538. An act granting an increase of pension to Eliza L. Norwood;

H. R. 14426. An act granting an increase of pension to Thomas S. Menefee;

H. R. 14925. An act granting an increase of pension to James Grizzle;

H. R. 14425. An act granting an increase of pension to Robert Henderson Griffin;

H. R. 14890. An act granting an increase of pension to James H. Posey;

H. R. 14848. An act granting an increase of pension to Samantha E. Herald;

H. R. 13761. An act granting an increase of pension to John Cook;

H. R. 13525. An act granting an increase of pension to Martha J. Hensley;

H. R. 13081. An act granting an increase of pension to Orren R. Smith;

H. R. 13083. An act granting an increase of pension to Mordicai B. Barbee;

H. R. 13230. An act granting an increase of pension to Elizabeth Webb;

H. R. 13231. An act granting an increase of pension to Gatsey Mattucks;

H. R. 13527. An act granting a pension to Willard V. Shepherd;

H. R. 12834. An act granting an increase of pension to Theodor Schramm;

H. R. 13082. An act granting an increase of pension to Herbert Williams;

H. R. 5485. An act granting a pension to Horace D. Mann;

H. R. 14703. An act granting an increase of pension to William W. Howell;

H. R. 14389. An act granting an increase of pension to Amos Hart;

H. R. 13872. An act granting an increase of pension to Alvin D. Hopper;

H. R. 13891. An act granting an increase of pension to Hugh G. Wilson;

H. R. 13038. An act granting an increase of pension to Rebecca Ramsey;

H. R. 13238. An act granting an increase of pension to William Strasburg;

H. R. 13311. An act granting an increase of pension to John Wilkinson;

H. R. 13310. An act granting an increase of pension to James McKee;

H. R. 13138. An act granting an increase of pension to Eada Lowry;

H. R. 12760. An act granting an increase of pension to William Ralston;

H. R. 5434. An act granting an increase of pension to Hugh Green;

H. R. 3806. An act granting a pension to Eva L. Martin;

H. R. 11930. An act granting an increase of pension to Daniel M. Coffman;

H. R. 9705. An act granting a pension to George W. Robinson;

H. R. 15449. An act granting an increase of pension to Rhoda Kennedy;

H. R. 14078. An act granting an increase of pension to Catherine Summers;

H. R. 7839. An act granting a pension to Ray E. Kline;

H. R. 8333. An act granting an increase of pension to John G. Honeywell;

H. R. 9087. An act granting an increase of pension to William Winn;

H. R. 5923. An act granting an increase of pension to Winnie Pittenger;

H. R. 7856. An act granting an increase of pension to Norman C. Potter;

H. R. 9898. An act granting an increase of pension to Abraham H. Miller;

H. R. 9904. An act granting an increase of pension to Neeta H. Marquis;

H. R. 11214. An act granting a pension to Isaac Baker;

H. R. 11209. An act granting an increase of pension to Thomas Griffith;

H. R. 11905. An act granting an increase of pension to Elizabeth E. Atkinson;

H. R. 12897. An act granting an increase of pension to Robert B. Malone;

H. R. 14646. An act granting an increase of pension to Ambrose R. Fisher;

H. R. 14677. An act granting an increase of pension to George W. Chesebro;

H. R. 14676. An act granting an increase of pension to William Sanders;

H. R. 13694. An act granting an increase of pension to Francis A. Barkis;

H. R. 8329. An act granting a pension to Vienna Ward;

H. R. 12656. An act granting a pension to Louise Ackley;

H. R. 6147. An act granting a pension to Maud O. Worth;

H. R. 11873. An act granting an increase of pension to Joseph B. Fonner, alias John Havens;

H. R. 3107. An act granting an increase of pension to Milo G. Gibson;

H. R. 3607. An act granting an increase of pension to Thomas Carder;

H. R. 7515. An act granting an increase of pension to Firman F. Kirk;

H. R. 7081. An act granting an increase of pension to James M. Miller;

H. R. 7738. An act granting an increase of pension to Franklin J. Keck;

H. R. 8578. An act granting an increase of pension to Franklin G. Mattern;

H. R. 9063. An act granting an increase of pension to Farrie M. Allis;

H. R. 10326. An act granting an increase of pension to Edmund Chapman;

H. R. 10404. An act granting an increase of pension to John Moules;

H. R. 10622. An act granting an increase of pension to James H. Ward;

H. R. 2202. An act granting a pension to Ellen Harriman;

H. R. 14761. An act granting an increase of pension to John L. Decker;

H. R. 2780. An act granting an increase of pension to Mary E. Fifield;

H. R. 2705. An act granting an increase of pension to Andrew J. Benson;

H. R. 2195. An act granting an increase of pension to Hannah A. Sawyer;

H. R. 533. An act granting an increase of pension to Sumner P. Hunnewell;

H. R. 1055. An act granting an increase of pension to Henry A. Wheeler;

H. R. 3484. An act granting an increase of pension to Edson J. Harrison;

H. R. 2984. An act granting an increase of pension to William H. Gildersleeve;

H. R. 6775. An act granting an increase of pension to William A. Lincoln;

H. R. 6142. An act granting an increase of pension to David Davis;

H. R. 4261. An act granting an increase of pension to Louisa S. McWhinnie;

H. R. 1943. An act granting an increase of pension to Charles H. Conley;

H. R. 1322. An act granting an increase of pension to Katherine F. Wainwright;

H. R. 3281. An act granting an increase of pension to Thomas F. Underwood;

H. R. 3314. An act granting an increase of pension to Henry Sanborn;

H. R. 8725. An act granting an increase of pension to Moses B. Davis;

H. R. 10252. An act granting an increase of pension to Joseph J. Vincent;

H. R. 2396. An act granting an increase of pension to Charles Hull;

H. R. 1468. An act granting an increase of pension to Morris B. Drake;

H. R. 552. An act granting an increase of pension to William H. Nortrip;

H. R. 2649. An act granting an increase of pension to Decatur Harmon;

H. R. 4717. An act granting an increase of pension to Marshall U. Gage;

H. R. 4766. An act granting an increase of pension to John Dearlourff;

H. R. 8565. An act granting an increase of pension to Andrew La Forge;

H. R. 8665. An act granting an increase of pension to Hiram Long;

H. R. 9839. An act granting an increase of pension to Jesse Siler;

H. R. 10019. An act granting an increase of pension to Jonathan Shook;

H. R. 10490. An act granting an increase of pension to Lucius A. West;

H. R. 12880. An act granting an increase of pension to Lorenzo D. Mason;

H. R. 11509. An act granting an increase of pension to Josephine Hoornbeck;

H. R. 15276. An act granting an increase of pension to Wesley Smith;

H. R. 6888. An act granting an increase of pension to John W. Hannah;

H. R. 5252. An act granting an increase of pension to Thomas Howard;

H. R. 6110. An act granting an increase of pension to Abram W. Davenport;

H. R. 8062. An act granting an increase of pension to John K. Miller;

H. R. 7951. An act granting an increase of pension to William H. Pitchford;

H. R. 8042. An act granting an increase of pension to Bottol Larsen;

H. R. 10900. An act granting an increase of pension to Arthur R. Dreppard;

H. R. 14655. An act granting an increase of pension to Henry Gilham;

H. R. 10879. An act granting an increase of pension to Thomas E. Myers;

H. R. 3233. An act granting an increase of pension to Lucius R. Simons;

H. R. 6465. An act granting an increase of pension to Augustus Joyeux;

H. R. 7225. An act granting an increase of pension to Mary O. Arnold;

H. R. 7609. An act granting an increase of pension to Charles W. Henderson;

H. R. 7806. An act granting an increase of pension to Johanna Walgwist;

H. R. 4946. An act granting an increase of pension to William H. Lewis;

H. R. 8328. An act granting an increase of pension to Ira Grabill;

H. R. 9053. An act granting an increase of pension to John M. Jones;

H. R. 9126. An act granting an increase of pension to Nathan Parish;

H. R. 6058. An act granting an increase of pension to Emilie Scheldt;

H. R. 2267. An act granting an increase of pension to Joseph Rupert;

H. R. 3978. An act granting an increase of pension to Samuel Greenlee;

H. R. 4209. An act granting an increase of pension to Martin Callahan;

H. R. 8315. An act granting an increase of pension to Martin V. Cannedy;

H. R. 8206. An act granting an increase of pension to Carner C. Welch;

H. R. 1027. An act granting an increase of pension to Charles H. Friend;

H. R. 10562. An act granting an increase of pension to Alphenis M. Beall;

H. R. 10785. An act granting a pension to Thomas J. Chambers;

H. R. 5486. An act granting a pension to Margaret Corroll;

H. R. 15249. An act granting an increase of pension to Isaac N. Seal;

H. R. 3541. An act granting an increase of pension to Dora A. Weathersby;

H. R. 6407. An act granting an increase of pension to William Blair;

H. R. 8316. An act granting an increase of pension to William Smith;

H. R. 8930. An act granting an increase of pension to Margaret Becker;

H. R. 9406. An act granting an increase of pension to Francis W. Preston;

H. R. 2341. An act granting an increase of pension to Helen H. Hulbert;

H. R. 3660. An act granting an increase of pension to James H. Hill;

H. R. 5725. An act granting an increase of pension to John G. Davis;

H. R. 5726. An act granting an increase of pension to Cate E. Cobb;

H. R. 7823. An act granting an increase of pension to Annie E. Peters;

H. R. 10816. An act granting an increase of pension to August Bauer;

H. R. 10907. An act granting an increase of pension to John N. Boyd;

H. R. 14878. An act granting an increase of pension to Charles Rattray;

H. R. 1897. An act granting an increase of pension to William R. Duncan;

H. R. 10293. An act granting an increase of pension to Sarah F. Galbraith;

H. R. 14113. An act granting an increase of pension to Isaac N. Ferry;

H. R. 14840. An act granting an increase of pension to Nathaniel H. Rome;

H. R. 2697. An act granting an increase of pension to Rufus G. Childress;

H. R. 4352. An act granting an increase of pension to Thomas Wolcott;

H. R. 8530. An act granting an increase of pension to Benjamin Q. Ward;

H. R. 4593. An act granting a pension to William C. Short;

H. R. 4598. An act granting an increase of pension to James B. Barry;

H. R. 10396. An act granting an increase of pension to John A. Malone;

H. R. 10448. An act granting an increase of pension to George M. Frazer;

H. R. 10450. An act granting an increase of pension to Silas H. Ballard;

H. R. 1241. An act granting an increase of pension to John G. Wallace;

H. R. 4691. An act granting an increase of pension to George L. Janney;

H. R. 6128. An act granting an increase of pension to Thomas Patterson;

H. R. 4888. An act granting an increase of pension to William Moore;

H. R. 2082. An act granting an increase of pension to Siotha Bennett;

H. R. 8823. An act granting an increase of pension to Charles C. Briant;

H. R. 8942. An act granting an increase of pension to Marquis L. Johnson;

H. R. 10230. An act granting an increase of pension to Clark A. Winans;

H. R. 10390. An act granting an increase of pension to George C. Sackett;

H. R. 10923. An act granting an increase of pension to Matilda Rockwell;

H. R. 9296. An act granting an increase of pension to Elizabeth D. Hoppin;

H. R. 13198. An act granting an increase of pension to Josiah F. Allen; and

H. R. 2090. An act granting an increase of pension to Ellen M. Brant.

The message also announced that the Senate had passed with amendments bills of the following titles; in which the concurrence of the House of Representatives was requested:

H. R. 13151. An act granting a pension to Christopher C. Harban;

H. R. 11129. An act granting an increase of pension to Thomas J. Lindsey;

H. R. 8891. An act granting an increase of pension to Josephine Rogers; and

H. R. 3924. An act granting an increase of pension to Carrie A. Conley.

The message also announced that the Senate had agreed to amendments of the House of Representatives to bills of the following titles:

S. 4825. An act to provide for the construction of a bridge across Rainy River in the State of Minnesota;

S. 5181. An act to authorize the construction of a bridge across the Snake River between Whitman and Columbia counties, in the State of Washington;

S. 5182. An act to authorize the construction of a bridge across the Columbia River between Franklin and Benton counties, in the State of Washington; and

S. 5183. An act to authorize the construction of a bridge across the Columbia River between Douglas and Kittitas counties, in the State of Washington.

The message also announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3899) granting authority to the Secretary of the Navy, in his discretion, to dismiss midshipmen from the United States Naval Academy and regulating the procedure and punishment in trials for hazing at the said academy.

The message also announced that the Senate had passed the following resolutions; in which the concurrence of the House of Representatives was requested:

Senate concurrent resolution No. 21.

Resolved by the Senate (the House of Representatives concurring), That there be printed 1,000 copies of the Topical Index to the Twelve Annual Reports of the Commission to the Five Civilized Tribes to the Secretary of the Interior, 200 copies for the use of the Senate, 400 copies for the use of the House of Representatives, and 400 copies for the use of the Department of the Interior.

Senate concurrent resolution No. 11.

Resolved by the Senate (the House of Representatives concurring), That the Public Printer be, and he is hereby, authorized and directed to print from stereotyped plates 100 copies each of volumes 11 and 12, Decisions of the Department of the Interior Relating to Public Lands, and part 1 of digest of volumes 1 to 30, Land Decisions, and also 100 copies of volume 15, Decisions of the Department of the Interior Relative to Pensions and Bounty Land, and to deliver the same to the Secretary of the Interior for distribution and sale.

The message also announced that the Senate had insisted upon its amendments to the bill (H. R. 13103) making appropriations for the payment of invalid and other pensions of the United States for the fiscal year ending June 30, 1907, and for other purposes, disagreed to by the House of Representatives, had agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. McCUMBER, Mr. SCOTT, and Mr. TALIAFERRO as the conferees on the part of the Senate.

EMPLOYERS' LIABILITY BILL.

Mr. PEARRE. Mr. Speaker, I ask unanimous consent to make a statement in regard to the employers' liability bill.

The SPEAKER. The gentleman from Maryland asks unanimous consent to make a statement—of how long?

Mr. PEARRE. About a minute.

The SPEAKER. Of a minute in regard to the employers' liability bill. Is there objection? [After a pause.] The Chair hears none.

Mr. PEARRE. Mr. Speaker, I desire to say that when the bill was up yesterday for consideration, I was unavoidably detained out of the city, and was therefore unable to be here. I wanted to say that if I had been here I would have voted for that bill in the House to sustain the report of the committee. I would like to be recorded as having made a statement in favor of the passage of the employers' liability bill.

FEDERAL QUARANTINE.

Mr. WILLIAMS. Mr. Speaker, I offer the following resolution from the Committee on Rules:

The Clerk read as follows:

The Committee on Rules, to whom was referred the resolution of the House No. 371, have had the same under consideration and respectfully report the following in lieu thereof:

Resolved, That immediately upon the adoption of this resolution it shall be in order to consider the bill (H. R. 14310) entitled "A bill to further enlarge the powers and authority of the Public Health and Marine-Hospital Service, and to impose further duties thereon," with the amendment in the nature of a substitute as proposed by the Committee on Interstate and Foreign Commerce and printed on pages 4669 and 4670 of the RECORD of March 31, 1906; and the said amendment in the nature of a substitute shall be read by sections for consideration in the House as in Committee of the Whole.

General debate shall continue until 4 o'clock p. m., and thereafter debate under the five-minute rule until 5 o'clock p. m., at which time the previous question shall be considered as ordered upon the bill and all pending amendments to the final passage. Amendments shall be in order at any time during the consideration of the bill under the five-minute rule, to any paragraph thereof, whether the same shall have been reached or not.

Mr. WILLIAMS. On that I ask the previous question.

Mr. DALZELL. I want to ask the gentleman a question: What his wishes are with respect to debate before the adoption of the rule, or whether he wants any debate on the rule at all.

Mr. WILLIAMS. I am going to submit a statement immediately after the passage of the resolution. It has been agreed, I think, that the twenty minutes' time usually consumed in the discussion of the rule shall be added to the debate on the bill itself. I want to get unanimous consent for that, and I will ask it after the rule is adopted.

The SPEAKER. The gentleman from Mississippi demands the previous question.

The previous question was ordered.

The SPEAKER. The gentleman from Mississippi is entitled to twenty minutes and the gentleman——

Mr. WILLIAMS. The gentleman from Missouri [Mr. DE ARMOND] is entitled to twenty minutes in opposition, as he is against the rule.

The SPEAKER. That is correct.

Mr. WILLIAMS. Now, Mr. Speaker, I ask unanimous consent that the forty minutes usually consumed in the discussion of the rule be dispensed with, so that the time may be added to the time of the House for the discussion of the measure itself.

Mr. DALZELL. Mr. Speaker, I am not going to object to that, although I had hoped that possibly I might have perhaps two minutes in which to call the attention of the House to the outrage that the gentleman from Mississippi is proposing to perpetrate upon it. [Laughter.]

Mr. WILLIAMS. Mr. Speaker, in response to the gentleman from Pennsylvania——

Mr. DALZELL. I want the gentlemen on the other side of the House to know that here is a great constitutional question, involving the rights of the States and of the Federal Government, a question that might be debated in this House for a week or two weeks or three weeks, and yet the gentleman from Mississippi proposes to gag us into four hours' debate. [Laughter.]

Mr. WILLIAMS. Mr. Speaker, in response to the gentleman from Pennsylvania, I will say that he shall have the two minutes, and more time if he shall desire it; and at the same time, or immediately subsequent thereto, I shall take the opportunity of expressing my opinion of the system of rules which forces a man, even when he desires to do so laudable a thing as to protect the women and children of one-third of the country from the ravages of yellow fever, the invasion of an army worse than an armed host, to resort to this method to get it before the House. [Laughter.]

Mr. DALZELL. I wish to call the gentleman's attention to the fact that it is due to the rules of the House that he is able at this time to take up this measure, and thereby protect the women and children and all the rest of the people who are interested.

Mr. WILLIAMS. And it is owing to the rules of the House that I could not get it in regular order in any other way.

Mr. BARTLETT. Mr. Speaker——

The SPEAKER. Does the gentleman from Mississippi yield to the gentleman from Georgia?

Mr. BARTLETT. I reserve the right to object.

The SPEAKER. The gentleman from Missouri [Mr. DE ARMOND] is entitled to twenty minutes in opposition.

Mr. DE ARMOND. I yield five minutes to the gentleman from Georgia.

Mr. DALZELL. Mr. Speaker, I do not object.

Mr. BARTLETT. Mr. Speaker, I understood the gentleman from Mississippi to ask unanimous consent, and it was upon that question that I arose, and not for the purpose of objecting.

The SPEAKER. One moment. The gentleman from Mississippi did ask unanimous consent, and the Chair will put it to the House. Is unanimous consent given to dispense with further debate on agreeing to the resolution?

Mr. BARTLETT. Mr. Speaker——

The SPEAKER. Does the gentleman object?

Mr. BARTLETT. I reserve the right to object.

The SPEAKER. Well, the Chair fancies that after all it would have to be taken that unanimous consent is to be given. It seems to the Chair that it ought to be within——

Mr. BARTLETT. I have never seen the rule undertaken to be enforced in that way, Mr. Speaker.

The SPEAKER. On this kind of a proceeding, if it has not been enforced, there ought to be the power to enforce it; but by the unanimous consent of the House, outside of the twenty minutes, the Chair will——

Mr. DALZELL. Mr. Speaker, I want to make a suggestion.

Mr. BARTLETT. I do not desire to proceed by the unanimous consent of the House when I have the right to proceed by the courtesy of the gentleman from Missouri, who has yielded to me five minutes.

The SPEAKER. Undoubtedly——

Mr. BARTLETT. I do not desire at this time to have the unanimous consent of the House.

The SPEAKER. The gentleman from Georgia is recognized for five minutes, yielded to him by the gentleman from Missouri.

Mr. WILLIAMS. Mr. Speaker, a parliamentary inquiry. After unanimous consent has been asked to dispense with debate on the adoption of the rule, the gentleman from Missouri [Mr. DE ARMOND], in control of the time in opposition of the rule, grants five minutes for debate.

The SPEAKER. That is equivalent to an objection.

Mr. WILLIAMS. That is what I thought.

The SPEAKER. The gentleman from Georgia——

Mr. WILLIAMS. If the gentleman from Georgia merely wants to reserve the right to object while he asks a question, I will yield to the gentleman from Georgia for that purpose.

Mr. HEPBURN rose.

The SPEAKER. For what purpose does the gentleman rise?

Mr. HEPBURN. I want to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HEPBURN. I want to ask if the request of the gentleman from Mississippi as he stated it, namely, that the forty minutes' debate be dispensed with and that that time be applied to the general debate upon the bill, has been submitted to the House?

The SPEAKER. That has been submitted to the House and the gentleman from Missouri [Mr. DE ARMOND], who is entitled to twenty minutes, has yielded five minutes to the gentleman from Georgia [Mr. BARTLETT]. That is equivalent to an objection.

Mr. DALZELL. Mr. Speaker, if the gentleman from Georgia will yield for a moment——

Mr. BARTLETT. I will.

Mr. WILLIAMS. Well, Mr. Speaker, I have the floor. I have a request pending for unanimous consent.

Mr. DALZELL. I think I can help the gentleman out, perhaps. I think the gentleman from Georgia has in mind the matter of controlling the time on general debate. That is what is in the mind of the gentleman from Georgia.

Mr. BARTLETT. I want to make a statement for about a minute.

Mr. DALZELL. I suggest to the gentleman from Georgia, as he made the minority report on the bill, that he ask unanimous consent that the time be equally divided, and that he may control one-half of it.

Mr. WILLIAMS. That will come after we get through with the rule.

Mr. DALZELL. And the gentleman who made the report for the majority may control the other half.

Mr. BARTLETT. I could not hear what the gentleman from Pennsylvania said.

Mr. DALZELL. As I understand, the object of the gentleman from Georgia is not to discuss this rule, but to settle the question as to debate, and I therefore ask unanimous consent that the time for debate may be equally divided, one-half to be controlled by the gentleman from Georgia, who made the minority report, and the other half by the gentleman who made the majority report.

Mr. UNDERWOOD. I suggest to my friend from Pennsylvania that he is asking to control debate in a matter that the House has not determined to take up. He is putting the cart before the horse.

Mr. DALZELL. I thought, from what the gentleman from Georgia said, that we could settle both matters at once.

Mr. WILLIAMS. Mr. Speaker, I make the point of order that this is out of order. The previous question has been ordered and the rule has not yet been adopted. After the rule has been adopted and the House has decided to consider the subject-matter, then unanimous consent will be asked, and, I have no doubt, granted, to do what the gentleman from Pennsylvania desires.

The SPEAKER. All this conversation is proceeding in the time of the gentleman from Georgia.

Mr. BARTLETT. I desire to say that if I have the floor now——

The SPEAKER. The gentleman has had it for four minutes.

Mr. BARTLETT. I was not aware of it. The gentleman from Mississippi was claiming it. Mr. Speaker, I do not desire to discuss the rule, nor shall I do so. I am opposed to the rule and I am opposed to the bill, and because of the importance of the question I do not desire to have the time which ought to be devoted to general debate taken up with the discussion of the rule, and I shall content myself with voting against the rule and calling for a division.

Mr. WILLIAMS. Now, Mr. Speaker, I renew my request for unanimous consent.

The SPEAKER. The gentleman from Mississippi asks unanimous consent to dispense with further debate on the rule and that that time be added to general debate. Is there objection? [After a pause.] The Chair hears none. The question is on agreeing to the resolution.

The question was taken; and on a division (demanded by Mr. BARTLETT) there were—ayes 109, noes 22.

So the resolution was agreed to.

Mr. WANGER. Mr. Speaker, I ask unanimous consent that the time for general debate be equally divided, and that the gentleman from Georgia [Mr. BARTLETT] control one half and that I control the other half.

The SPEAKER. The gentleman from Pennsylvania asks unanimous consent for an equal division of the time from the present until 4 o'clock and that the same may be controlled by the gentleman from Pennsylvania and the gentleman from Georgia. Is there objection?

There was no objection.

Mr. BARTLETT. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BARTLETT. Does the rule provide for a discussion of the bill in the House as in Committee of the Whole, or in Committee of the Whole?

The SPEAKER. The rule provides for consideration in the House as in Committee of the Whole. General debate is to continue until 4 o'clock, and after that the bill is to be read under the five-minute rule.

Mr. WANGER. Mr. Speaker, I ask unanimous consent to dispense with the reading of the bill.

The SPEAKER. The gentleman from Pennsylvania asks unanimous consent to dispense with the reading of the original bill. Is there objection? [After a pause.] The Chair hears none.

Mr. WANGER. Mr. Speaker, the country has been too often reminded of the disasters which flow from the invasion of yellow fever into the United States, and the consensus of expert opinion seems to be that yellow fever never exists within the borders of the United States except by its importation from without. It is therefore a matter peculiarly for national prerogative to protect the citizens of the Republic from the dire calamities which result from that dread disease.

The citizens of the Gulf and South Atlantic Coast States, which have been particularly affected by yellow fever, have endeavored through State quarantine regulations to protect themselves and without satisfactorily doing so. They have accordingly endeavored from time to time to secure such national cooperation as would give effectual protection, and last year, in a convention held at Chattanooga, they resolved, I believe with unanimity, that they request the Senate and House of Representatives in Congress assembled to enact a law whereby coast maritime and national frontier quarantine shall be placed exclusively under the control and jurisdiction of the United States Government, and that matters of interstate quarantine shall be placed under the control and jurisdiction of the United States Government, acting in cooperation with the several State boards of health. It seemed to the Committee on Interstate and Foreign Commerce that only the first part of that resolution required legislation at this time, to wit, so much of it as authorized the National Government to establish effective quarantine against the importation of yellow fever. Accordingly the substitute reported by the committee for the bill H. R. 14336 authorizes the Secretary of the Treasury to establish so many quarantine stations as in his judgment are necessary to protect the United States against the invasion of yellow fever. That refers to ordinary quarantine stations, and it also authorizes him in his discretion, if further necessary, to establish a large and more comprehensive station at the Dry Tortugas, or at such, not exceeding three, additional places as he may deem necessary, whereto vessels may be sent that have on board anybody affected with the fever.

Mr. CRUMPACKER. Mr. Speaker, will the gentleman permit an interruption?

Mr. WANGER. Yes.

Mr. CRUMPACKER. This bill is, of course, intended to be a permanent measure for the protection of the people of the United States against yellow fever. I have wondered why it is expressly limited in its terms to protection against yellow fever, why it does not include other contagious and infectious diseases. Is there any special reason why?

Mr. TAWNEY. The act of 1888 and the act of 1893 cover that.

Mr. CRUMPACKER. This bill, I understand, then goes beyond the act of 1893, and provides for extraordinary protection against yellow fever. Why is it not as important to apply the provisions of this bill to cholera and other contagious and infectious diseases as well as to yellow fever?

Mr. WANGER. Yellow fever seems to be the only one of these dread diseases which continually recurs and periodically threatens the health and welfare of the country, and the committee was averse to lodging in anybody the wholesale general authority to establish quarantine stations. It was quite willing, and it seemed to be necessary, that the Secretary of the Treasury, having been recognized heretofore as the proper officer with respect to that subject, might have the power as to this phase of the problem, and should establish all such stations as were necessary to give effective protection from this disease.

Mr. CRUMPACKER. I will say to the gentleman that I have the supposition there was some satisfactory reason why this bill was confined to the one disease, and I am glad to have had his explanation of the reasons.

Mr. WANGER. It is a limitation upon his jurisdiction in establishing quarantine stations.

Mr. TAWNEY. Mr. Speaker, will the gentleman permit an inquiry?

Mr. WANGER. Yes.

Mr. TAWNEY. The gentleman is speaking of the Dry Tortugas station. When was the quarantine station at that point abolished?

Mr. WANGER. In 1900—that is, the legislation was enacted in 1900.

Mr. TAWNEY. What was the reason for it?

Mr. WANGER. The reason for it was that it was represented by Admiral Bradford on behalf of the Navy Department that it was highly important to have a coaling station at that place. The Navy Department now does not deem it essential to continue that coaling station and consents to its abolition. Our committee, however, was not convinced of the need of a quarantine station at the Dry Tortugas, and therefore left its establishment at that place to the discretion of the Secretary of the Treasury. Now, the importance of having the Secretary armed with this discretion seems to be shown from the experience of the past. The States have established quarantine stations along the Gulf and on the South Atlantic seaboard, but the quarantine has not proven effective, and when we consider that it is not a question of how effectively this port or that port may be quarantined, but that to be effective the quarantine must cover all ports, and remember, further, that in the establishments of State and municipal quarantines the element of commercial enterprise enters, and as against a drastic quarantine established at one port some other port may conceive an opportunity to get important trade by having less severe regulations, thereby leading to confusion in the matter of regulations, it seems to be of the highest importance that there should be national control in order to secure uniform regulations as to the entire quarantine against yellow fever, effective along the entire border line at every point where the infection or cause of infection may be introduced.

Now, Mr. Speaker, I do not care to discuss the measure further at this time, and will yield one-half of the time which was originally at my disposal to the gentleman from Mississippi [Mr. WILLIAMS], who introduced the bill.

The SPEAKER. The gentleman from Pennsylvania leaves one-half of his original time to the disposal of the gentleman from Mississippi [Mr. WILLIAMS].

Mr. WILLIAMS. How much time does that give me—an hour?

The SPEAKER. The gentleman from Pennsylvania had an hour and forty-seven minutes when he took the floor. The gentleman from Mississippi is entitled to fifty-three minutes.

Mr. WILLIAMS. Mr. Speaker, as the author of the bill, I had hoped to have a disposal of at least an hour's time for the general debate, there being two hours of time on this side, and I would ask the gentleman from Pennsylvania, who is in control of the time on this side, to grant me at least an hour for me to dispose of to those in favor of the bill on this side. That will leave an hour still for him and other members of the Committee on Interstate and Foreign Commerce.

Mr. WANGER. No; it does not leave an hour.

Mr. WILLIAMS. With what you have consumed, it does.

Mr. WANGER. Oh, no.

Mr. WILLIAMS. Very well. Then I am very glad to have the time I have. I now yield twenty minutes to the gentleman from Georgia [Mr. BRANTLEY].

Mr. BRANTLEY. Mr. Speaker, the measure now under consideration is the most important to the people of the South of any measure pending before this Congress. It not only should be enacted into law, but the enactment should come speedily, for the summer is almost upon us, and if we are to have the benefits of the great protective power of this Government in keeping yellow fever from our shores during this year that power should be exercised without delay. The bill now before the House contains several features, each one of value, but in my opinion its principal and best feature is that one which places within the control of the Federal Government the quarantines at all the ports where there is danger of the introduction of yellow fever. The present law, enacted in 1893, leaves the control of port quarantines largely in the discretion of the States. Any State may, at its pleasure,

surrender its port quarantines to the Federal Government, and when thus surrendered the Federal Government is authorized to take charge of them. This bill makes it mandatory upon the Federal Government to establish a quarantine station at every port where there is danger of the introduction of yellow fever. Provision is made to purchase the State quarantine stations, if any State desires to sell its stations to the Federal Government, but the duty is made mandatory upon the Federal Government to either purchase quarantine stations from the States, and take charge of them, or to establish quarantine stations of its own.

The bill also authorizes the establishment of places of refuge, not exceeding four in number, at such points off the coast as may be selected, to which infected vessels turned back from the ports may be sent for the purpose of disinfection and treatment of their sick or diseased passengers and crews.

The bill also carries an appropriation of $500,000 to be used by the Secretary of the Treasury for the purpose of carrying into effect the provisions of the bill, as well as for the purpose generally of preventing the importation of yellow fever into the United States, and for the further purposes, in cooperation with State or municipal health authorities, of eradicating it, should it be imported, of preventing its spread from one State into another State, and of destroying its cause.

The bill also undertakes the regulation of interstate quarantines to the extent only of providing for the transportation of freight and passengers through a State, where the regulations, restrictions, and safeguards of the Secretary of the Treasury are complied with, and where such freight or passengers have been discharged and properly certified in accordance with the resolutions of the Public Health and Marine Hospital Service.

The rights of the States, however, even in this regulation, are provided for in a very marked degree, for it is further prescribed that neither passengers nor freight shall be debarked or landed in any locality contrary to its lawful regulations. The provision as to interstate quarantine is only to allow trains and vessels and other instrumentalities of commerce, under proper restrictions, to pass through a State.

The presentation of this bill has raised the question of the constitutional power of Congress to enact it. We are confronted again with those two old schools of conflicting constitutional thought. We have the one school contending that, as to all matters of interstate and foreign commerce, including quarantine and health regulations that affect them, the jurisdiction of Congress is exclusive. Upon the other hand we have the school of constructionists contending that in all matters of health regulations, even though involving a regulation of interstate and foreign commerce, the jurisdiction of the State is exclusive. It is with some diffidence that I undertake at all the discussion of a constitutional question, and I do so in this instance with the utmost deference to the views of such gentlemen as may disagree with me. I do not subscribe, however, to either one of the contentions to which I have just referred, for I don't believe, under the Constitution and the construction given it by the Supreme Court, that in the matter now under consideration the jurisdiction of either the Congress or the States is necessarily exclusive. It seems to me that there is frequently more or less misunderstanding and confusion as to what is meant by the police power of a State.

POLICE POWER.

Police power, as I understand it, is equivalent to and the same as sovereign power—that is, the power of a sovereign. Mr. Chief Justice Taney, in the License cases, in 5 Howard, 583, said:

> But what are the police powers of a State? They are nothing more or less than the powers of government inherent in every sovereignty to the extent of its dominions. And whether a State passes a quarantine law, or a law to punish offenses, or to establish courts of justice, or requiring certain instruments to be recorded, or to regulate commerce within its own limits, in every case it exercises the same powers; that is to say, the power of sovereignty, the power to govern men and things within the limits of its dominion.

Unquestionably, in the beginning each State was a sovereign unto itself, not only as affecting its own people, but as affecting all other people. With the formation of the Union, however, the States yielded some of their sovereignty and transferred it to the General Government. As to the subjects over which the State has transferred sovereignty to the United States Government, the State no longer has over them sovereign or police power. As to the subjects over which the power of the State has not been transferred, the State is still sovereign and can exercise its police power. The State is sovereign to-day and has exclusive power over all matters that are strictly internal and that do not affect the commerce or the people of other States or of other countries. It is also sovereign as to all things that are not legitimate commerce. The power of the State that has not been yielded to the United States Government in the matter of health laws is clearly stated by Mr. Justice Harlan in the Compulsory Vaccination case, from Massachusetts, reported in 197 United States Reports. On page 24 he said:

> The authority of the State to enact this statute is to be referred to what is commonly called the "police power"—a power which the State did not surrender when becoming a member of the Union under the Constitution. Although the court has refrained from any attempt to define the limits of that power, yet it has distinctly recognized the authority of a State to enact quarantine laws and "health laws of every description;" indeed, all laws that relate to matters *completely within its territory* and which do *not* by their necessary operation *affect the people of other States.*

He further said, on page 25:

> A local enactment or regulation, *even if based on the acknowledged police powers of a State, must always yield in case of a conflict with the exercise by the General Government of any power it possesses under the Constitution, or with any right which that instrument gives or secures.*

Inasmuch as health regulations necessarily affect commerce, the following from Mr. Justice MacLean, on page 400 of 7th Howard Reports, in the Passenger cases, is also pertinent, to wit:

> All commercial action *within the limits of a State* and which does not extend to another State or foreign country *is exclusively* under State regulation.

The language of Mr. Justice White in a quarantine case, reported in 186 United States Reports, also illustrates what it is that the State has exclusive power over. In discussing the power of the States in the matter of quarantines, he said that the States have (p. 391) "the power to absolutely *prohibit*, additionally, where the *thing prohibited is not commerce* and hence not embraced in either interstate or foreign commerce."

This bill does not undertake by a line or a word in it to expressly repeal a single health law in any State of the Union, nor will it have the effect of repealing any single State law, except such as may come squarely in conflict with its provisions or the regulations made under it. No regulations can be made under it except in reference to commerce. As to things that are not commerce the States will remain as supreme after the passage of this bill as they were before. The Supreme Court has said time and again that where a valid law of any State, whether enacted under its police or any other power, comes into conflict with a law enacted within the constitutional power of Congress, the law of Congress must prevail, and for the reason that the Constitution in its sixth article says:

> This Constitution and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding.

INSPECTION LAWS.

The framers of our Constitution were not unmindful of the necessity for quarantine laws in the preservation of health, and if gentlemen will turn to the Constitution they will find that by the very letter of that instrument the power of the State and the power of the Congress, at least so far as port quarantines are concerned, are both clearly defined. In the first clause of section 10 of Article I of the Constitution it is declared that no State shall do certain things with or without the consent of Congress, to wit:

> No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.

In the second clause of this section it is provided, however, that with the consent of Congress the States may do certain things, to wit:

> No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts laid by any State on imports or exports shall be for the use of the Treasury of the United States; *and all such laws shall be subject to the revision and control of the Congress.*

What are inspection laws? In Gibbons *v.* Ogden (9 Wheat.) Mr. Chief Justice Marshall said (p. 202):

> That inspection laws may have a remote and considerable influence on commerce will not be denied, but that a power to regulate commerce is the source from which the right to pass them is derived can not be admitted. The object of inspection laws is to improve the quality of articles produced by the labor of a country. * * * They form a portion of that immense mass of legislation which embraces everything within the territory of a State not surrendered to the General Government, all which can be most advantageously exercised by the States themselves. Inspection laws, *quarantine laws, health laws of every description*, as well as laws for regulating the internal commerce of a State and those which respect turnpike roads, ferries, etc., *are component parts of this mass.*

If the great Chief Justice was correct in saying that quarantine laws and health laws of every description are embraced within the term "inspection laws" as used in the Constitution, and I have never seen any dissent from the correctness of his interpretation, then I am justified in declining to accept the

theory of exclusive control over port quarantines, whether claimed by the State or by the Congress. When gentlemen contend for the exclusive jurisdiction of Congress over port quarantines affecting foreign commerce, we point them to the Constitution, which expressly confers jurisdiction upon the State, and when gentlemen contend for the exclusive control of the State over all matters of health, even though affecting foreign commerce, we point them to the Constitution, wherein it is expressly provided that all the laws of their State in this regard are subject to the revision and control of Congress.

COMMERCE CLAUSE OF THE CONSTITUTION.

The inspection clause of the Constitution is not the only provision of that instrument that directly affects the subject of quarantines, for it is provided in the Constitution, in Article I, section 8, that the Congress shall have power to "regulate commerce with foreign nations and among the several States and with the Indian tribes." All writers upon the Constitution and all the courts that have ever dealt with the subject have agreed that the primary cause of the creation of the Constitution was the desire to make commerce free and that the purpose of the clause just quoted was to take away from the States the power to interfere with or to impede or obstruct the free movement of commerce. The great purpose of the Constitution was to keep the markets of each State ever open to the products of all the other States, and so it was that in the very first article of the Constitution we find the commerce clause quoted.

In the great case of Gibbons *v.* Ogden and from that decision down to the present day the Supreme Court of the United States with perfect unanimity has held that the commercial power of the Congress is exclusive and that the States have no part therein. In Gibbons *v.* Ogden (9 Wheaton, 195), Mr. Chief Justice Marshall said:

> This power, like all others vested in Congress, is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations, other than are prescribed in the Constitution. * * * If, as has always been understood, the sovereignty of Congress, though limited to specified objects is plenary as to those objects, the power over commerce with foreign nations and among the several States is vested in Congress as absolutely as it would be in a single government, having in its constitution the same restrictions on the exercise of the power as are found in the Constitution of the United States.

Mr. Chief Justice Marshall also said (p. 209):

> In argument, however, it has been contended that if a law passed by a State, in the exercise of its acknowledged sovereignty, comes into conflict with a law passed by Congress in pursuance of the Constitution, they affect the subject and each other, like equal opposing powers. But the framers of our Constitution foresaw this state of things, and provided for it by declaring the supremacy, not only of itself, but of the laws made in pursuance of it.

If it be true, then, that the jurisdiction and power of the Congress is exclusive over interstate and foreign commerce, it necessarily follows that whenever a State in the enactment of health laws, quarantine laws, or any other kind of laws, undertakes to regulate, control, or affect interstate or foreign commerce, or to interfere with its free movement, it invades the exclusive domain of the Congress. It requires no argument to demonstrate this proposition. But gentlemen say that this invasion has been made and that States have enacted quarantine laws that affect interstate and foreign commerce. Let us see how this has been done. In 1799 the Congress passed a law whereby it practically and in effect adopted the various State quarantine laws as its own, and called upon the officers of the United States Government to aid in their enforcement. It is pertinent here to suggest that if the States had been sovereign in this matter their quarantine laws would have rested upon such sovereignty and would not have required any consent from Congress or any sustaining act by Congress in order to make them valid. In discussing these very laws in Gibbons *v.* Ogden, Mr. Chief Justice Marshall, on page 204, said:

> But they do not imply an acknowledgment that a State may rightfully regulate commerce with foreign nations or among the States, for they do not imply that such laws are an exercise of that power.

He said further:

> But in making these provisions the opinion is unequivocally manifested that *Congress may control the State laws, so far as it may be necessary to control them, for the regulation of commerce.*

In this same case, Mr. Justice Johnson, in his concurring opinion, said (p. 234):

> It was obvious that inspection laws must combine municipal with commercial regulations; and while the power over the subject is yielded to the States, for obvious reasons, *an absolute control is given over State legislation on the subject, so far as that legislation may be exercised, so as to affect the commerce of the country.*

On the same page, in speaking of section 10 of Article I of the Constitution, he also said:

> The first clause of it specifies those powers which the States are precluded from exercising, even though the Congress were to permit them. The second, those which the States may exercise with the consent of Congress. And here the sedulous attention to the subject of State exclusion from commercial power is strongly marked. Not satisfied with the express grant to the United States of the power over commerce, this clause negatives the exercise of that power to the States as to the only two objects which would ever tempt them to assume the exercise of that power, to wit, the collection of a revenue from imposts and duties on imports and exports; or from a tonnage duty. As to imposts on imports or exports, such a revenue might have been aimed at directly by express legislation, or indirectly in the form of inspection laws; and it became necessary to guard against both. Hence, first, the consent of Congress to such imposts or duties is made necessary, and as to inspection laws, it is limited to the minimum of expenses. Then the money so raised shall be paid into the Treasury of the United States, or may be sued for, since it is declared to be for their use. *And, lastly, all such laws may be modified or repealed by an act of Congress.* It is impossible for a right to be more guarded.

The States have exercised quarantine powers and have thereby affected interstate and foreign commerce not alone by reason of the act of 1799 just referred to, but they have done so under the construction given by the Supreme Court to the commerce clause of the Constitution. The Supreme Court has said that, in the absence of legislation by Congress, the States may to a certain extent pass laws affecting interstate and foreign commerce. What the court has said can best be stated in the language of the court itself, as found in the Kentucky Bridge case, reported in 154 United States, page 269, as follows:

> The adjudications of this court with respect to the power of the States over the general subject of commerce are divisible into three classes. First, those in which the power of the State is exclusive; second, those in which the States may act in the absence of legislation by Congress; third, those in which the action of Congress is exclusive and the States can not interfere at all. The first class, including all those wherein the States have plenary power and Congress has no right to interfere, concern the strictly internal commerce of the States. * * * Within the second class of cases—those of what may be termed concurrent jurisdiction—are embraced laws for the regulation of pilots (12 Howard, 299; 2 Wall., 450; 13 Wall., 236; 102 U. S., 572), *quarantine* and inspection *laws*, and the policing of harbors (9 Wheaton, 1-203; 11 Peters, 102; 107 U. S., 381), etc.

The statement made in this opinion that quarantine laws come within that class of laws affecting commerce which the States may enact, in the absence of legislation by Congress, has been the rule always adhered to by the Supreme Court. There has never been any departure from it. In the Passenger cases, reported in 7 Howard, and in the very opinion of Mr. Justice Wayne, relied upon by those who deny the constitutional power of Congress to pass this bill, appears the following language, reported on page 424:

> How much of it [police and sovereign power] have the States retained?
>
> I answer unhesitatingly, all necessary to their internal government. Generally, all not delegated by them in the Articles of Confederation to the United States of America; all not yielded by them under the Constitution of the United States. Among them *qualified rights to protect their inhabitants by quarantine from disease; imperfect and qualified, because the commercial power which Congress has is necessarily connected with quarantine;* and Congress may, by adoption, presently and for the future provide for the observance of such State laws, making such alterations as the interests and conveniences of commerce and navigation may require, always keeping in mind that the great object of quarantine shall be secured.

In the case of Gilman *v.* Philadelphia, reported in 3 Wallace, Mr. Justice Swayne, on page 730, is quoted by those opposing this measure, as follows:

> Under quarantine laws, a vessel registered or enrolled and licensed may be stopped before entering her port of destination or be afterwards removed and detained elsewhere for an indefinite period; and a sale of goods upon which the duties have or have not been paid, laden with infection, may be seized under "health laws," and if it can not be purged of its poison may be committed to the flames.
>
> The inconsistency between the powers of the States and the nation as thus exhibited is quite as great as in the case before us, but it does not necessarily involve collision or any other evil. None has hitherto been found to ensue. The public good is the end and aim of both.
>
> If it be objected that the conclusion we have reached will arm the States with authority potent for evil and liable to be abused, there are several answers worthy of consideration. The possible abuse of any power is no proof that it does not exist. Many abuses may arise in the legislation of the States which are wholly beyond the reach of the Government of the nation. The safeguard and remedy are to be found in the virtue and intelligence of the people. They can make and unmake constitutions and laws, and from that tribunal there is no appeal. If a State exercise unwisely the power here in question, the evil consequences will fall chiefly upon her own citizens. They have more at stake than the citizens of any other State. Hence there is as little danger of the abuse of this power as of any other reserved to the States. Whenever it shall be exercised openly or covertly for a purpose in conflict with the Constitution or laws of the United States it will be within the power, and it will be the duty, of this court to interpose with a vigor adequate to the correction of the evil.

It is interesting to consider in connection with this quotation that the court, in this opinion, was not dealing with quarantine laws at all. The question before the court was as to the power of the State of Pennsylvania to authorize the erection of a bridge over a navigable river. The court held that the act of the State was not in violation of the commerce clause of the Constitution, because the erection of bridges over navigable rivers was not such a matter as required a uniform rule, and, in the absence of legislation by Congress on the subject, the States could establish such bridges under their own regulations and to that extent affect commerce. In discussing the question that was before the court and preceding the language quoted the court referred to the power of the States to maintain pilot-

age systems, to regulate the sale of imported liquor, and in the same connection to impose quarantine laws, and then used the language quoted. The significant part of the opinion, however, follows the quoted language and fully sustains the contention I am making that all such laws of the State—bridge laws, pilotage laws, quarantine laws, etc.—are only valid in the absence of legislation on the same subject by Congress. On page 731 the court said:

Lastly, Congress may interpose, whenever it shall be deemed necessary, by general or special laws. It may regulate all bridges over navigable waters, remove offending bridges, and punish those who shall thereafter erect them. Within the sphere of their authority, both the legislative and judicial power of the nation are supreme. *A different doctrine finds no warrant in the Constitution and is abnormal and revolutionary.*

The License cases, reported in 5 Howard, are also relied upon by those who attack the constitutionality of the pending bill, and yet Mr. Chief Justice Taney, in these cases (p. 578), said:

The controlling and supreme power over commerce with foreign nations and the several States is undoubtedly conferred upon Congress. Yet, in my judgment, *the State* may nevertheless, for the safety and convenience of trade, or *for the protection of the health of its citizens, make regulations of commerce for its own ports* and harbors and for its own territory, and such regulations are valid, unless they come in conflict with a law of Congress.

The License cases, of course, were not dealing with a quarantine law, and the references made to quarantines—those quoted by gentlemen on the other side and by me—were made as matter of argument, and yet the very reference just quoted shows the opinion of the court that no quarantine law passed by a State and affecting interstate or foreign commerce will be valid where it comes into conflict with a similar or any law passed by Congress acting within its power.

Story on the Constitution (4th ed., 2d vol., secs. 1074 and 1075) sustains the rule laid down by the Supreme Court. He said, in discussing the commercial power of Congress and the extent to which it can be constitutionally applied:

It is not doubted that it extends to the regulation of navigation and to the coasting trade and fisheries within as well as without any State, wherever it is connected with the commerce or intercourse with any other State, or with foreign nations. It extends to the regulation and government of seamen on board of American ships, and to conferring privileges upon ships built and owned in the United States in domestic as well as foreign trade. *It extends to quarantine laws* and pilotage laws and wrecks of the sea, etc.

Much stress is also laid by those who oppose this measure on the case of New York *v.* Miln, in 11 Peters, 133. In this case the court upheld the first section only of a certain law of the State of New York in reference to immigration. The first section exacted a requirement of every master of a vessel landing passengers to furnish the mayor, on oath, with a correct description of the names, occupations, place of residence, place where going, etc., of his passengers. It was held by the Supreme Court that this requirement came within the police power of the State. The further requirements of this act were held invalid in 7 Howard, 283. The difficulty in relying upon New York *v.* Miln as an authority grows out of the fact that this decision was practically and substantially overruled in 92 United States, 259. The New York law, reviewed in New York *v.* Miln, was amended to meet the decision in 7 Howard, and, as amended, still included the first section that was upheld in New York *v.* Miln. The entire law came on to be reviewed by the Supreme Court, in 92 United States, in the case of Henderson *v.* New York, and the court held the entire law to be beyond the power of the State. Mr. Justice Miller, delivering the opinion and reviewing the case of New York *v.* Miln, said (p. 266):

From this decision Mr. Justice Story dissented, and in his opinion stated that Chief Justice Marshall, who had died between the first and the second argument of the case, fully concurred with him in the view that the statute of New York was void, because it was a regulation of commerce forbidden to the States.

He also said (p. 267):

As the law now stands, the master or owner of every vessel landing passengers from a foreign port is bound to make a report similar to the one recited in the statute held to be valid in the case of New York *v.* Miln.

He said further (p. 271):

We are of opinion that this whole subject has been confided to Congress by the Constitution; that Congress can more appropriately and with more acceptance exercise it than any other body known to our law, State or national; that by providing a system of laws in these matters, applicable to all ports and to all vessels, a serious question, which has long been matter of contest and complaint, may be effectually and satisfactorily settled. *Whether in the absence of such action the States* can, or how far they can, by appropriate legislation *protect* themselves *against* actual paupers, vagrants, criminals, and *diseased persons* arriving in their territory from foreign countries *we do not decide.*

Since this opinion was handed down the Congress has taken charge of the admission of immigrants into this country and has prescribed who may come in and who may not. "Persons afflicted with a loathsome or with a dangerous contagious disease" can't come in at all. (Acts 1903.)

DECISIONS DIRECTLY ON QUARANTINE.

It was in accordance with the fundamental principles of the Constitution, as they have been defined and construed by the Supreme Court in the cases I have quoted and in many others that could be quoted, that when this court came to pass directly upon the validity of State quarantine laws they upheld such laws upon the sole and only ground that Congress had not legislated upon the subject. In doing so the court announced no new or revolutionary doctrine. The opinions in these cases are in strict accord with repeated rulings previously made.

In the case of Morgan *v.* Louisiana, reported in 118 United States Reports, the court said (p. 465):

Quarantine laws belong to that class of State legislation which, whether passed with intent to regulate commerce or not must be admitted to have that effect, and which are *valid until displaced or contravened by some legislation of Congress.*

The court also said (p. 463):

But it may be conceded that *whenever Congress* shall undertake to provide for the commercial cities of the United States a general system of quarantine or shall confide the execution of the details of such a system to a national board of health or to local boards, as may be found expedient, *all State laws on the subject will be abrogated,* at least so far as the two are inconsistent. But until this is done the laws of the State on the subject are valid.

In another quarantine case, reported in 186 United States, Mr. Justice White said (p. 387):

That from an early day the power of the States to enact and enforce quarantine laws for the safety and the protection of the health of their inhabitants has been recognized by Congress is beyond question. *Yet until Congress has exercised its power on the subject* such State quarantine laws and State laws for the purpose of preventing, eradicating, or controlling the spread of contagious or infectious diseases are not repugnant to the Constitution of the United States, although their operation affects interstate or foreign commerce, is not an open question.

On page 391 he also said:

In other words, the power exists until Congress has acted to locally regulate by health and quarantine laws, even although interstate and foreign commerce is affected and the power to absolutely prohibit additionally obtains where the thing prohibited is not commerce, and hence not embraced in either interstate or foreign commerce.

There was a dissenting opinion in this case upon the ground that the quarantine law of the State of Louisiana under consideration went beyond the power of the State in prohibiting the landing of well people in an infected locality, but in this dissenting opinion it is said (p. 397):

The power of the several States, in the absence of legislation by Congress on the subject, to establish quarantine regulations, to prohibit the introduction into the State of persons infected with disease or recently exposed to contagion, and to impose a reasonable charge upon vessels subjected to examination at quarantine stations is so well settled by repeated decisions of this court as to be no longer open to doubt.

Another very interesting quarantine case is reported in 176 United States, page 1. This is the case of Louisiana *v.* Texas, and is a case that illustrates in a striking degree the necessity for the very legislation that is being proposed. It may also possibly illustrate to some extent the cause of some of the opposition to the pending measure. In this case it appears that the State of Louisiana, by her governor, filed an original bill with the Supreme Court against the State of Texas, her governor and health officer claiming original jurisdiction for the Supreme Court in the matter. The bill alleged that the quarantine laws of the State of Texas were unjust, unreasonable, and unnecessary, and that they were enacted and enforced not for the purpose of protecting the health of the people of Texas, but for the purpose of laying an embargo upon the port of New Orleans in the interest of the port of Galveston and other Texas cities. The bill alleged that as the result of these laws the cotton receipts of New Orleans had been diminished and that its commerce had very materially suffered, while the commerce of Galveston and other Texas cities had grown. The bill prayed for an injunction against the enforcement of the Texas quarantine laws. The Supreme Court declined to take jurisdiction, holding that the matters stated did not present a controversy between two States. The court thought that the real parties at interest were certain citizens of the respective States and that the States as States were not involved. The court also decided that the State of Louisiana, having no jurisdiction or power over interstate commerce, could not go into court and ask for its protection. The court, however, in rendering its opinion, and speaking through Mr. Justice Fuller, said (p. 21):

It is not charged that this statute is invalid, nor could it be if tested by its terms. While it is true that the power vested in Congress to regulate commerce among the States is a power complete in itself, acknowledging no limitations other than those prescribed in the Constitution, and that where the action of the States in the exercise of their reserved powers comes into collision with it the latter must give way, yet it is also true that *quarantine laws* belong to that class of State legislation which is *valid until displaced by Congress,* and that such legislation has been expressly recognized by the laws of the United States almost from the beginning of the Government.

The court further said on page 22:

Although, from the nature and subjects of the power of regulating commerce, it must be ordinarily exercised by the National Government exclusively, this has not been held to be so where in relation to the particular subject-matter different rules might be suitable in different localities. *At the same time Congress could by affirmative action disapprove the local laws, substitute laws of its own, and thus correct any unjustifiable and oppressive exercise of power by State legislation.*

Gentlemen tell us that the language of the court in these three quarantine cases is all mere dicta. The authority for such an assertion is not revealed. These cases deal directly with quarantines. Their determination involved a determination of the power of Congress and the power of the State in matters of quarantine, and the conclusions reached by the court in each of these cases determined these relative powers and necessarily had to determine them in order to pass upon the allegations made in each case that the State quarantine laws were in violation of the commerce clause of the Constitution.

If any question has been clearly and definitely settled by the Supreme Court, it appears to be the quarantine question. This great court has said as plainly and unequivocally as language can state a proposition that the State may, in the absence of legislation by Congress, and only in such absence, make quarantine regulations that affect interstate and foreign commerce. They have also stated that whenever Congress establishes its own quarantine regulations for interstate and foreign commerce, the regulations of the State in conflict therewith shall be void.

Perhaps the most striking and far reaching of all the opinions of the Supreme Court on this subject is found in the case of Reid *v.* Colorado, reported in 187 United States, 137. The court was dealing with a cattle quarantine and inspection law of the State of Colorado and was considering among other questions the question as to whether or not the State law was in conflict with the act of Congress of May 29, 1884, to prevent the exportation of diseased cattle to prevent the spread of pleuro-pneumonia and other contagious diseases among domestic animals. The court said (page 147):

Congress has not by any statute covered the whole subject of the transportation of live stock among the several States, and except in certain particulars not involving the present issue has left a wide field for the exercise by the States of their power by appropriate regulations to protect their domestic animals against contagious, infectious, and communicable diseases.

The court also said on page 146:

It is quite true, as urged on behalf of the defendant, that the transportation of live stock from State to State is a branch of interstate commerce, and that any specified rule or regulation in respect to such transportation which Congress may lawfully prescribe or authorize, and which may properly be deemed a regulation of such commerce, is paramount throughout the Union. *So that when the entire subject of the transportation of live stock from one State to another is taken under direct national supervision and a system devised by which diseased stock may be excluded from interstate commerce, all local or State regulations in respect of such matters and covering the same ground will cease to have any force, whether formally abrogated or not;* and such rules and regulations as Congress may lawfully prescribe or authorize will alone control. * * * The power which the States might thus exercise may in this way be suspended until national control is abandoned and the subject be thereby left under the police powers of the States.

Also:

The State—*Congress not having assumed charge of the matter, as involved in interstate commerce*—may protect its people and their property against such dangers, taking care always that the means employed to that end do not go beyond the necessities of the case or unreasonably burden the exercise of privileges secured by the Constitution of the United States.

It would be equally true, under this opinion, if Congress undertook complete supervision of interstate commerce and devised a system for excluding diseased or infected commerce, that all State laws on the subject would be abrogated. Congress, under this opinion, has far greater power than the pending bill seeks to exercise.

LEGISLATIVE PRECEDENT.

I think I have demonstrated that the pending measure marks no departure from judicial precedent. Indeed, it does not go to the length that judicial precedent authorizes. I purpose to show further that it marks no departure from legislative precedent. If gentlemen will turn to the act of 1893, approved February 15 of that year, the same being an act granting additional quarantine powers and imposing additional duties upon the Marine-Hospital Service and Bureau of Public Health, it will be found that in section 6 of this act, when the United States Government takes charge of port quarantines, very broad powers are given to its quarantine officers, as will appear by the following language:

And after treatment of any infected vessel at a national quarantine station and after certificate shall have been given by the United States quarantine officer at said station that the vessel, cargo, and passengers are each and all free from infectious diseases or danger of conveying the same, *said vessel shall be admitted to enter into any port of the United States named in the certificate.*

The pending measure only supplements the act of 1893 by making it mandatory upon the Federal Government to take charge of port quarantines. The duty of the Federal Government, as well as its power and authority, when it does take charge of them, are now set forth at length in the act of 1903.

Another broad and far-reaching law was enacted February 2, 1903, in reference to cattle, and enacted directly in pursuance of the opinion of the Supreme Court in Reid *v.* Colorado. This is an act to enable the Secretary of Agriculture to more effectually suppress and prevent the spread of contagious and infectious diseases of live stock, and for other purposes, and among other things provides that the Secretary of Agriculture—

Is hereby authorized and directed from time to time to establish such rules and *regulations* concerning the exportation and *transportation* of *live stock* from any place within the United States where he may have reason to believe such diseases may exist *into and through any State* or Territory, including the Indian Territory, and into and through the District of Columbia and to foreign countries, as he may deem necessary, and all such rules and regulations shall have the force of law. *Whenever any inspector or assistant inspector* of the Bureau of Animal Industry *shall issue a certificate* showing that such officer had inspected any cattle or other live stock which were about to be shipped, driven, or transported from such locality to another, as above stated, and had found them free from Texas or splenetic fever infection, pleuro-pneumonia, foot-and-mouth disease, or any other infectious, contagious, or communicable disease, *such animals so inspected and certified may be shipped, driven, or transported from such place into and through any State or Territory, including the Indian Territory, and into and through the District of Columbia.*

It is interesting to recall, as many of us here do, that when this act of 1903 was passed no serious question as to the invasion of States rights was raised or insisted upon. While there was some little discussion of that question, the bill passed the House with practical unanimity and without even the formality of a roll call or a division. Surely it will not be contended that there is any greater duty resting upon the United States Government or any greater power vested in it to protect the lives of dumb beasts than to protect the lives of human beings. Nor can it be argued that the interstate commerce in cattle, or in other animals, is of any greater importance, or of as much importance, as the interstate commerce in the other great articles of commerce of this country. If the act of 1903 was justifiable, and everybody seemed to think it was justifiable at the time it was enacted, and no bill has, as yet, been offered to repeal it, the pending measure is certainly authorized.

The act of 1893, which I have just referred to, and which authorizes a certificate of a United States quarantine inspector to admit a vessel into any port of the United States named within the certificate, is a more specific and direct invasion of what gentlemen are pleased to term "States rights" than anything in the pending measure, and yet, upon examination of the CONGRESSIONAL RECORD, I find that at the time it finally passed the House in its present form it provoked so little opposition that the gentleman from Texas, Mr. Kilgore, who opposed it, was never able to muster at any time more than two or three votes in the dilatory motions he made to delay its passage.

The present Congress is not bound to follow a precedent established by a previous Congress in matters of legislation; but when gentlemen speak of the pending measure as being revolutionary and unheard of, we point them to these acts of previous Congresses, adopted with practical unanimity, and show them that these acts claim a much broader power for Congress as against the power of the States than does the pending measure.

POLICY OF THE MEASURE.

The pending measure being fully sustained and authorized by judicial and legislative precedents, presents, in my judgment, the question of policy only for our consideration. I maintain that the United States Government, as a matter of broad national policy, should assume charge of the port quarantines, and for the simple reason that such quarantines deal with the people of foreign countries, with whom the States, as States, can have no relations. The only government we have that can deal with a foreign country is the United States Government, and, therefore, it should regulate all our intercourse with foreign people.

In the case of Brown *v.* Maryland, reported in 12 Wheaton, 419, the Supreme Court held a law of the State of Maryland exacting a license of foreign importers unconstitutional. The court held that the foreigner, having paid the duties exacted by the United States Government, was entitled to enter his goods in the United States and to sell them in the original package without paying a license therefor to the State.

Mr. Chief Justice Marshall said (p. 446):

What would be the language of a foreign government which should be informed that its merchants, after importing, according to law, were forbidden to sell the merchandise imported? What answer would the United States give to the complaints and just reproaches to which such an extraordinary circumstance would expose them? * * * Such a state of things would break up commerce.

The same reasoning would apply in the case of a quarantine imposed by a State, where it was contended by the State on the one hand that the article proposed to be imported was infected, and was contended by the foreign government upon the other hand that such article was not infected. What answer would the United States Government make to a foreign government in such a case? Will it be insisted that the United States Government, with its exclusive power over foreign commerce has no power to regulate its admission into this country? In the case of Chy Lung *v.* Freeman (92 U. S., p. 275) the Supreme Court held unconstitutional a statute of California creating a State commissioner of immigration and giving him practically unlimited and arbitrary power to say what foreigners could come into the State and upon what condition they could come. The court said (p. 280):

> The passage of laws which concern the admission of citizens and subjects of foreign nations to our shores belongs to Congress, and not to the States. It has the power to regulate commerce with foreign nations. The responsibility for the character of those regulations and for the manner of their execution belongs solely to the National Government. If it be otherwise, a single State can at her pleasure embroil us in disastrous quarrels with other nations.

The Federal Government, however, should take charge of port quarantines upon the further ground that the protection to be afforded by such quarantines is national and not local. If yellow fever is permitted to enter one of our ports, its invariable tendency is to spread from the port into the State and from the State into another State and from State to State, and where it does not actually spread from State to State, the alarm and apprehension that its appearance arouses invariably result most disastrously to the commerce of the country. It is therefore of great importance to keep yellow fever out of this country, not for the protection of any particular port, but for the protection of all the people in all the States and for the protection of the commerce of the country. Yellow fever is almost as disastrous to human life and far more destructive to commerce than would be a foreign army invading our shores. The United States Government stands guard with its Navy and Army to keep out the foreign army for the protection of all the people. It should also stand guard at each of our ports to keep out yellow fever, for yellow fever, too, is a foreign enemy. It is not a native of this country, and it never exists in this country except when imported from foreign shores.

The United States Government should take charge of our port quarantines also, because in no other way can we have that uniform system of protection that really protects and really inspires the confidence necessary to allay apprehension and protect commerce in time of alarm.

In my own city, the port of Brunswick, Ga., the United States Government has charge of our quarantine station, because we long ago surrendered it to the Government. We have all the protection that this great Government can give us in keeping yellow fever from entering our port through a foreign vessel. We are constantly menaced, however, by the ports of other States, where the United States Government has not taken charge of their quarantine stations. Where a State maintains its own quarantine system, it frequently and usually happens that the quarantine stations at the ports are controlled by the municipal governments at the ports. Quaranine regulations are prescribed by city governments. We thus have the power that is charged with the responsibility of upbuilding commerce at the port, also charged with the responsibility of enforcing health regulations. In such cases it will frequently happen, and has happened in the past, that the matter of health will be subordinated to the matter of commerce. In other words, that the city in order to prevent an injury to its commerce by the loss of trade, will take chances in the matter of health and will from time to time relax its health rules in order to avoid losing business.

If the result of such laxness was only to endanger the particular municipality guilty of the laxness, there could, perhaps, be no complaint on this score, but inasmuch as that laxness, if it results in the introduction of yellow fever, will not only affect that particular city, but will affect the people in the interior and will affect other States, the matter is one of very grave concern as well as of national concern. In my judgment, the commercial power and the health power should be absolutely divorced. The authority charged with the duty of keeping out disease should have no interest in the promotion of commerce. I do not know of any way by which such divorce can be had except by imposing upon the United States Government the duty and the responsibility of keeping yellow fever out of this country. To my mind it is a wholly unauthorized and untenable position to say that the Congress, which has the exclusive power to regulate interstate and foreign commerce, has not the power to so regulate it as to keep it free from yellow fever. I believe that Congress not only has the power to regulate it so as to keep yellow fever out of this country, but that it is the duty of Congress to do so. I believe that the Congress would be derelict in its chiefest and highest duty and would violate the fundamental principles upon which the Constitution is founded if, in the exercise of its power to regulate interstate and foreign commerce, it did not so regulate such commerce as to secure not only its freedom from disease, but also in such manner as to protect the people and the States against the introduction of disease through any instrumentality of that commerce.

INTERSTATE QUARANTINE.

Section 7 of the pending bill has provoked more criticism than any other part of the bill. That section reads as follows:

> That every common carrier engaged in interstate commerce shall, under such regulations, restrictions, and safeguards as may be promulgated by the Secretary of the Treasury, receive, carry, and transport through any State or Territory necessary to complete the journey or carriage into a State wherein delivery or debarkation may be lawful all passengers, freight, or baggage which may have been discharged and properly certified in accordance with the regulations of the Public Health and Marine-Hospital Service; and every person interfering with or obstructing such carrier or any passenger or any instrumentality of commerce in any such carriage or journey shall be guilty of a misdemeanor, and on conviction thereof be punished by a fine not exceeding $300 or be imprisoned for a period not exceeding one year, or both, in the discretion of the court: *Provided*, That this section shall not be construed as giving authority to any person to delay or unload freight in any locality contrary to the lawful regulations thereof.

The authorities I have already quoted show that the jurisdiction and power of the Congress is just as absolute in interstate commerce as it is in foreign commerce. If the exclusive power of Congress over interstate commerce be conceded, there can be no question as to our authority to incorporate section 7 in the pending bill.

Those of us who live in the South and who recall our experiences last year, and in many other years, in the matter of State quarantines, can appreciate the necessity for section 7 or for some similar provision. We have seen an entire train turned back at a State line and not permitted to cross the State, not because it was infected with disease, but because it was alleged to have come from an infected district. We have seen people sent hundreds of miles out of their way in order to reach their destination. We have seen them delayed indefinitely. We have seen shotgun quarantines. We have witnessed the almost complete disruption and breaking up of commerce, costing the South thereby millions of dollars. We have almost seen civil war threatened between two sovereign States. Those of us who have witnessed these things can appreciate the importance and desirability of devising some way or plan by which they will not occur again. The difficulties we have encountered have not been over the admission of disease into a State—nobody wants it admitted—but have been over the admission of commerce. It seems to me that gentlemen who insist upon the right of their State to say whether or not a train shall enter it, lose sight of the fact that the State out of which the train proposes to come has an equal right to say that its commerce shall move, and it must be remembered that the transportation of people is just as much commerce as the transportation of merchandise. We have thus presented the conflicting rights of two equal opposing powers. Who is to settle such conflict? Gentlemen who say that they are opposed to the centralization of power in the United States Government, and who argue that the States and the people at home can and should remedy the most of the evils about which they complain and not come to Congress for relief in every instance, have my full and entire sympathy in all the argument they have made or can make on this line, but I do not believe that such argument applies to the situation I am presenting. With two sovereign States contending with each other, the one saying that its commerce and its people are uninfected and constitute interstate commerce and have the right to proceed, and the other sovereign State saying that such commerce and people are infected and shall not come within its domain, and therefore shall not proceed, there is presented a controversy that is beyond the power of the people or the States to settle. Which State is to settle it? Which people are to decide it? I ask the question in vain, for everyone knows that neither State nor the people of either State have the right or the power to settle it. Indeed, such a controversy can not be settled in the courts, if the issue be raised by a State. If the State seeking to have its commerce move applies to the courts for relief, it will be told that the courts can give no relief. The State will be confronted with the opinion of the Supreme Court in the case of Louisiana *v.* Texas, in 176 United States, where, on page 19, the court said:

> Inasmuch as the vindication of the freedom of interstate commerce is not committed to the State of Louisiana, and that State is not engaged in such commerce, the cause of action must be regarded not as involving

any infringement of the powers of the State of Louisiana, or any special injury to her property, but as asserting that the State is entitled to seek relief in this way, because the matters complained of affect her citizens at large.

No State can maintain a bill to protect the freedom of its interstate commerce, for no State has such proprietary interest in interstate commerce as will authorize it to file a bill for its protection. Such a controversy as we have suggested and as has existed time and again presents absolutely no question except the question of the regulation of interstate commerce, over which the Congress has exclusive jurisdiction. The place to go to get relief, and absolutely the only place, is the Congress. It was to avoid and prevent just such controversies over commerce that the Constitution was framed and the commerce clause placed in it. The matter is peculiarly and exclusively within the control of Congress and Congress should act in the matter.

Gentlemen who express themselves as being afraid of vesting this power in Congress and as being afraid that the officials of the United States might, in the exercise of their power, introduce yellow fever into a State, forget that we are not proposing by this measure to vest any power whatsoever in Congress. The Constitution has already vested it, and we are simply seeking its exercise. The framers of the Constitution thrashed out the question of the possible abuse of power by Congress and decided that the possibility of such abuse was no argument against the grant of the power or against its exercise. Congress possesses many powers that it might abuse to the hurt of the States. It might abuse its power to declare war, to coin money, to impose duties, and in many other ways; but the fact that these powers might be abused has never been held or deemed an argument against their existence. Section 7 of the proposed bill, instead of being aimed at the reserved powers of the States, or against the integrity or sovereignty of the States, is aimed directly in support of the power of each and every State to send its goods and its people, constituting its legitimate commerce, into all the other States. Its purpose is to foster, encourage, and protect the people and the commerce of each one of the States. A state has no extraterritorial power. Therefore it can not purge and safeguard its own commerce and demand its passage through another State. Congress alone has the power to do this, and it is this power that is now invoked. This bill is not to introduce yellow fever into a State, but to purge commerce of it, so that commerce can proceed.

The framers of our Constitution foresaw with unerring wisdom that the only way by which the commerce of the several States could be protected was by vesting all power over commerce between the States in the Congress. To-day we seek to invoke the exercise of the power that these wise men granted to the Congress, and we invoke it as the one power that can protect all the people and all the commerce of all of the States. It must be borne in mind that the power of Congress, while absolute over interstate commerce, does not extend beyond such commerce. Congress has no power to compel a State to allow persons or goods to remain within its domain. Congress may provide for the admission of people and goods into a State, where they form a part of interstate commerce, but the moment the interstate journey is completed and the goods are delivered to the consignee, or the passengers landed at their destination, both goods and passengers cease to be interstate commerce, and the State may expel them in the exercise of its police power.

In the Passenger cases (7 Howard) Mr. Justice MacLean said (p. 405):

If the transportation of passengers be a branch of commerce, of which there can be no doubt, it follows that the act of New York in imposing the tax is a regulation of commerce.

Also:

Passengers, when they leave the ship and mingle with the citizens of the State, become subject to its laws.

As illustrating further the power of Congress over interstate commerce, and the want of such power in the States, the Supreme Court, in 163 United States, page 154, said:

The State may make reasonable regulations to secure the safety of passengers, even on interstate trains, while within its borders, but the *State can do nothing which will directly burden or impede the interstate traffic of the company*, or impair the usefulness of its facilities for such traffic.

The Supreme Court also said, in this connection, in 118 United States Reports, page 572:

It can not be too strongly insisted upon that the right of continuous transportation from one end of the country to the other is essential in modern times to that freedom of commerce from the restraints which the States might choose to impose upon it. * * * And it would be a very feeble and useless provision, but poorly adapted to secure the entire freedom of commerce among the States which was deemed essential to a more perfect union by the framers of the Constitution, if, at every stage of the transportation of goods and chattels through the country, the State within whose limits a part of the transportation must be done could impose regulations concerning the price, compensation, or taxation, *or any other restrictive regulation interfering with or seriously embarrassing this commerce*.

Care has been taken in framing the pending bill to see to it that Congress exercises the power it possesses over interstate commerce to as limited an extent as is possible to let commerce move. Section 7 distinctly provides that the health certificate of the Bureau of Public Health shall not be sufficient to let a passenger debark or goods be landed in any State over the objection of the State. This section provides simply that the certificate of the Bureau of Public Health shall permit a train or a vessel to pass through a State. Unless we are going to deny Congress all power over interstate commerce, what greater recognition of the reserved power of the States could be asked than is acknowledged in this section?

IN CONCLUSION.

I feel very earnestly the necessity for the passage of this bill or some similar bill. I am not committed to the particular wording of this bill or of any other bill. I am only desirous that the health of my people shall be protected, in so far as it is within the power of the Congress to give protection, and that the commerce of my section of the country shall be permitted to move and flow at all times in usual and natural channels. I have been willing to accept the bill without section 7 in it, not because I have questioned or now question the power of Congress to enact it or the wisdom of enacting it, but because in the interest of port quarantine and the appropriation contained in the bill I have been willing to make such concessions as would insure the passage of legislation securing these things. My judgment is that the Committee on Commerce has improved the bill by adding this section to it, and for my own part I shall be glad to see it remain in the bill. In supporting the bill, with or without section 7, I do not feel that I am doing any violence to the Constitution. I believe that I am acting strictly within the letter of the Constitution. I believe in States rights. I stand for their observance and maintenance. I stand for all the reserved powers of the States, but while I do this I also stand for the observance and maintenance of all the powers delegated to the United States Government. I not only stand for the observance and maintenance of the delegated powers of the United States Government, but I am ready to invoke the exercise of these powers whenever, in my judgment, they can be exercised to the benefit of my people.

When I saw published in Southern newspapers last fall letter after letter from our friends who sit on the other side of this Chamber pledging their support to a yellow-fever appropriation and pledging their support to any measure we of the South might agree upon for our protection against yellow fever, I was impressed with the greatness and the generosity of the American heart. I was also impressed with the living, glorious fact that in time of emergency, in time of peril, and in time of need there is no sectionalism in this great country, but that each and all of us are Americans. I regret inexpressibly that all my colleagues on this side of the Chamber are not lined up in solid support of this bill, and yet, despite the objections that are here made to its passage, objections I doubt not that are founded in high conceptions of duty and patriotism, I none the less believe that the great majority of the people of the South who have given serious thought to the necessity for it, earnestly desire its passage, and that they are grateful beyond expression to our friends upon the other side for the generous support they are giving it. [Loud applause.]

Mr. BARTLETT. Mr. Speaker, I yield to the gentleman from Texas [Mr. HENRY] such time as he may desire, not exceeding one hour.

Mr. HENRY of Texas. Mr. Speaker, the gentleman from Georgia [Mr. BRANTLEY] said there might be some animosity on the part of Texas against other States because of the litigation between Louisiana and Texas. Let me say to this House that Texas is too broad and generous to entertain animosity against any State in this Union. [Applause.]

Mr. Speaker, I send to the Clerk's desk a dispatch from Jackson, Miss., to be read by the Clerk, Jackson being the capital of that State.

The Clerk read as follows:

JACKSON, MISS., *March 29, 1906.*

The house appropriation committee has agreed to unfavorably report the appropriation bill for the State board of health. This is the surprise of the session, and has aroused the keenest interest in both branches of the lawmaking body.

The report of the committee does not allow the health board a penny, not even allowing the usual support fund, and cutting out the $75,000 emergency fund for quarantine purposes for the next two years.

The only explanation offered for the action is that Mississippi does not care for any more quarantines.

Mr. HENRY of Texas. Mr. Speaker, the legislature of the State of Mississippi has failed to appropriate money for health and quarantine laws. May not that be the foreshadowing of a policy of that State and some others of the South to shift the burden and expense of quarantine laws upon the Treasury of the Federal Government? The gentleman from Georgia [Mr.

BRANTLEY] consumed twenty minutes discussing the power of Congress to regulate interstate commerce. That is a plain provision of the Constitution, and if any gentleman here doubts it, I assume he has not read the Constitution.

Mr. Speaker, it is firmly believed that section 7 of this bill annuls every inspection law of the States of the Union; that the quarantine stations of the various States must come down; that they can not longer charge an inspection fee when ships pass from the ports of one State to another.

Section 7 destroys the police powers of the State and nullifies them. No gentleman doubts that Congress has the power to regulate interstate commerce, but disease, contagion, and pestilence are not commerce. From the language of that great jurist, Chief Justice Taney, who adorned the Supreme bench for so long, let me read:

> It must be remembered that disease, pestilence, and pauperism are not subjects of commerce, although sometimes among its attendant evils. They are not things to be regulated or trafficked in, but to be prevented as far as human foresight and human means can guard against them.

We do not question the plenary power of Congress to regulate interstate commerce. That power comes from the express grant given by the people of this country when the Constitution was adopted. It is undeniable that the people of the various States reserved to themselves and the respective States their police powers to guard the health, the morals, and the welfare of the people of the States of this Union.

Mr. Speaker, the police power comes not from the Constitution of the United States. It comes from the inherent sovereignty of the States of the Union. The power to regulate commerce comes from the express grant by the States when the Government was formed. The distinguished leader of the minority [Mr. WILLIAMS] said this measure was in the interest of women and children of two-thirds of the South. Let me remind him that for one hundred and seven years, under quarantine laws enacted by the Federal Government, strictly within its authority, the people of the South—the people of his State and all Southern States—have coped with all sorts of disease and contagion, and have protected themselves with their own local laws emanating from their police powers. Ah, but they say, "We have had yellow fever, and there is some animus on the part of Texas." There is no animus here or there. Let me remind him that last year when contagion was sweeping New Orleans, and practically every parish in the State of Louisiana, not one case got across the borders of Texas into our State against our quarantine laws. We administer humane quarantine regulations.

Let me analyze section 7 of this bill. It nullifies the police power of the States. It renders the State helpless to pass health and quarantine laws. It strikes down the inspection laws, and means tearing down the quarantine stations of every State. It uproots and overrides all local health, inspection, and quarantine laws, making them subordinate to the Federal power. Heretofore Federal health laws have been in "cooperation and aid" of State laws. This is a reversal of the policy, and now the local State laws must be strictly subordinate and subservient to the General Government. Until this modern doctrine now proposed by this bill it has been believed and accepted by the people and the courts that the police power of the States was an inalienable right bottomed upon inherent sovereignty, remaining with and retained by the States when the Constitution was adopted. The doctrine can not be better stated than to quote from the report recently made by the Committee on the Judiciary of the House of Representatives touching the question of insurance not being commerce. That committee, through its able and distinguished chairman, said:

> The two great questions decided by the Supreme Court at present of great interest have never been shaken or weakened by the Supreme Court in any subsequent case—that insurance is not commerce; that Congress can not impair the police power of the States.

Again he said:

> The people and the States gave the Federal Government all the powers it enjoys, reserving by the Constitution to the States or to the people all powers not delegated to the United States. Power to regulate interstate commerce was given to Congress, while the police power was expressly retained by and reserved to the States. And, as so aptly and repeatedly said by the Supreme Court: "That which belongs to commerce is within the jurisdiction of the United States, but that which does not belong to commerce is within the jurisdiction of the police power of the State."

Then, in strong language, he adds:

> Let it be said kindly and not offensively that it is a monstrous doctrine, subversive of our dual system of government, to even suggest, after the distribution of these great powers between the Federal Government and the States, that the Federal Government, created by the States, can take from the States the power they have always enjoyed and expressly reserved to them by the Constitution exclusive in the States. Hamilton himself never made such a claim.

There had been a clamor from all over the country for Congress to regulate insurance. But when the Judiciary Committee made this unanimous report to Congress announcing that insurance is not commerce the whole country readily and cheerfully accepted it.

What is section 7? The proponents of the bill have changed it time after time, and after about the third or fourth effort bring it in containing this language:

> That every common carrier engaged in interstate commerce shall, under such regulations, restrictions, and safeguards as may be promulgated by the Secretary of the Treasury, receive, carry, and transport through any State or Territory necessary to complete the journey or carriage into a State wherein delivery or debarkation may be lawful, all passengers, freight, or baggage which may have been discharged and properly certified in accordance with the regulations of the Public Health and Marine-Hospital Service, and every person interfering with or obstructing such carrier or any passenger or any instrumentality of commerce in any such carriage or journey shall be guilty of a misdemeanor, and, on conviction thereof, be punished by a fine not exceeding $300 or be imprisoned for a period not exceeding one year, or both, in the discretion of the court: *Provided*, That this section shall not be construed as giving authority to any person to debark or unload freight in any locality contrary to the lawful regulations thereof.

In my judgment, this section undoubtedly repeals the health, quarantine, and inspection laws of every Southern State. It can not be disputed that it authorizes and compels an interstate ship, vessel, passenger or freight train, after it receives a discharge and certificate from the Public Health and Marine-Hospital Service, to cross State lines and pass through the States against the interference or obstruction of State health or quarantine laws or inspection officers. If State authorities stop them, investigate them, or detain them to collect a fee for inspection services under this act, or for any other purpose, they are guilty of a crime and must be drawn up in a Federal court for trial. The ship or train may be laden and reeking with contagion, disease, and plague developed after receipt of the health certificate from the Federal officer, yet the State health officers remain powerless to "obstruct" or "interfere" with it in any way. Such is the plain language of the bill. I reiterate—and measure my words when I do—that section 7 abrogates and nullifies State health and quarantine laws as against any and all kinds of interstate commerce, even if such commerce be accompanied with disease and contagion. Congress has no constitutional power to pass such an act. For a century the Supreme Court has held to the contrary. The line between commerce and the police power has been drawn by the court in no uncertain language, and in an irresistible stream of decisions the court has held that Congress can not invade or impair the police power; that it is *inalienable* and remains with the States as an inherent and *exclusive jurisdiction*. Chief Justice Fuller said, in the case of Leisey *v.* Hardin:

> The power to pass laws in respect to internal commerce, inspection laws, quarantine laws, health laws, and laws in relation to bridges, ferries, and highways belongs to the class of powers pertaining to locality, essential to local intercommunication, to the progress and development of local prosperity, and to the protection, the safety, and welfare of society, originally necessarily belonging to, and upon the adoption of the Constitution reserved by, the States, except so far as falling within the scope of a power confided to the General Government.

In the same case Mr. Justice Gray said:

> This power, being essential to the maintenance of the authority of local government and to the safety and welfare of the people, is inalienable. As was said by Chief Justice Waite, referring to earlier decisions to the same effect, "No legislature can bargain away the public health or the public morals. The people can not do it, much less their servants. The supervision of both these subjects of governmental power is continuing in its nature, and they are to be dealt with as the special exigencies of the moment may require. Government is organized with a view to their preservation and can not divest itself of the power to provide for them. For this purpose the largest legislative discretion is allowed and the discretion can not be parted with any more than the power itself."

Indeed, this is but the bringing forward and reaffirming the doctrine announced by that great Chief Justice, John Marshall, who, in 1824, in the fire of his federalizing genius first construed the interstate commerce clause of the Constitution. In convincing language he said:

> But the inspection laws are said to be regulations of commerce, and are certainly recognized in the Constitution as being passed in the exercise of a power remaining with the States. That inspection laws may have a remote and considerable influence on commerce will not be denied, but that a power to regulate commerce is the source from which the right to pass them is derived can not be admitted. The object of inspection laws is to improve the quality of articles produced by the labor of a country; to fit them for exportation, or, it may be, for domestic use. They act upon the subject before it becomes an article of foreign commerce, or of commerce among the States, and prepare it for that purpose. They form a portion of that immense mass of legislation which embraces everything within the territory of a State not surrendered to the General Government, all which can be most advantageously exercised by the States themselves. Inspection laws, quarantine laws, health laws of every description, as well as laws for regulating the internal commerce of a State, and those which respect turnpike roads, ferries, etc., are component parts of this mass.

Mr. Justice Johnson restated the same proposition in the same case:

> It is no objection to the existence of distinct substantive powers that, in their application, they bear upon the same subject. The same bale

of goods, the same cask of provisions, or the same ship that may be the subject of commercial regulation may also be the vehicle of disease. And the health laws that require them to be stopped and ventilated are no more intended as regulations than the laws which permit their importation are intended to inoculate the community with disease. Their different purposes mark the distinction between the powers brought into action and, while frankly exercised, they can produce no serious collision.

Let us illustrate the practical workings of this section. An interstate train may start from the city of New Orleans loaded with passengers, not one of them having a case of yellow fever; but before it reaches the borders of Texas there are several cases of yellow fever on the train. By the terms of this section the State of Texas is powerless to interfere either by its quarantine officers or through any individual to obstruct that train at the border or as it goes through Texas. Yea, further than that, the section provides that interstate passengers and freight can not be debarked in a State contrary to local regulations. By the very act of assuming to prevent debarkation of passengers the power is undeniably implied by Congress that it may permit debarkation whenever it chooses. The power to deny it is an absolute assumption of the right to do it whenever Congress sees fit. It is a specific denial of the rights of the States to prevent it whenever Congress chooses to interdict State authority. It unerringly follows that if Congress can follow passengers or commerce through a State against her local laws, it can, whenever it desires, permit their debarkation. It is an assumption of Congressional power over interstate commerce whether it bears disease or not. If Congress can override State quarantine laws in part, enacted for the purpose of preventing disease, it can utterly eradicate them in their whole vigor. This proposition can not be successfully disputed. The doctrine is worse than monstrous, for if Congress can do this, it can forbid the States to defend the lives and health of their people against disease and death under any and all circumstances whenever transportation, interstate passengers, and freight are involved.

Permit me here to quote some principles of law that have not been shaken in a hundred years. They have been affirmed and reaffirmed down to this very moment. Mr. Chief Justice Taney said:

So also in regard to health and quarantine laws. They have been continually passed by the States ever since the adoption of the Constitution, and the power to pass them recognized by acts of Congress, and the revenue officers of the General Government directed to assist in their execution. Yet all of these health and quarantine laws are necessarily, in some degree, regulations of foreign commerce in the ports and harbors of the State. They subject the ship and cargo and crew to the inspection of a health officer appointed by the State; they prevent the crew and cargo from landing until the inspection is made, and destroy the cargo if deemed dangerous to health. And during all this time the vessel is detained at the place selected for the quarantine ground by the State authority. The expenses of these precautionary measures are also usually, and I believe universally, charged upon the master, the owner, or the ship, and the amount regulated by the State law and not by Congress. Now, so far as these laws interfere with shipping, navigation, or foreign commerce, or impose burdens upon either of them, they are unquestionably regulations of commerce. Yet, as I have already said, the power has been continually exercised by the States, has been continually recognized by Congress ever since the adoption of the Constitution, and constantly affirmed and supported by this court whenever the subject came before it.

Mr. Justice MacLean said:

The acknowledged police power of a State extends often to the destruction of property. A nuisance may be abated. Everything prejudicial to the health or morals of a city may be removed. Merchandise from a port where a contagious disease prevails, being liable to communicate the disease, may be excluded; and, in extreme cases, it may be thrown into the sea. This comes in direct conflict with the regulation of commerce, and yet no one doubts the local power. It is a power essential to self-preservation, and exists, necessarily, in every organized community. It is, indeed, the law of nature, and is possessed by man in his individual capacity. He may resist that which does him harm, whether he be assailed by an assassin or approached by poison. And it is the settled construction of every regulation of commerce that, under the sanction of its general laws, no person can introduce into a community malignant diseases or anything which contaminates its morals or endangers its safety. And this is an acknowledged principle applicable to all general regulations. Individuals in the enjoyment of their own rights must be careful not to injure the rights of others.

And that great jurist, Mr. Justice Catron, said:

The assumption is that the police power was not touched by the Constitution, but left to the States as the Constitution found it. This is admitted; and whenever a thing, from character or condition, is of a description to be regulated by that power in the State, then the regulation may be made by the State and Congress can not interfere. But this must always depend on facts subject to legal ascertainment, so that the injured may have redress, and the fact must find its support in this, whether the prohibited article belongs to, and is subject to be regulated as part of, foreign commerce or of commerce among the States. If, from its nature, it does not belong to commerce, or if its condition, from putrescence or other cause, is such when it is about to enter the State that it no longer belongs to commerce, or, in other words, is not a commercial article, then the State power may exclude its introduction. And as an incident to this power, a State may use means to ascertain the fact. And here is the limit between the sovereign power of the State and the Federal power. That is to say, that which does not belong to commerce is within the jurisdiction of the police power of the State; and that which does belong to commerce is within the jurisdiction of the United States.

And from that keen and luminous intellect of Mr. Justice Grier we have the following vigorous logic:

It has been frequently decided by this court "that the powers which relate to merely municipal regulations, or what may more properly be called internal police, are not surrendered by the States, or restrained by the Constitution of the United States; and that consequently, in relation to these, the authority of a State is complete, unqualified, and conclusive." Without attempting to define what are the peculiar subjects or limits of this power, it may safely be affirmed that every law for the restraint and punishment of crime, for the preservation of the public peace, health, and morals, must come within this category. * * * If the right to control these subjects be "complete, unqualified, and exclusive" in the State legislatures, no regulations of secondary importance can supersede or restrain their operations on any ground of prerogative or supremacy. * * * It is for this reason that quarantine laws, which protect the public health, compel mere commercial regulations to submit to their control. They restrain the liberty of the passengers, they operate on the ship, which is the instrument of commerce, and its officers and crew, the agents of navigation. They seize the infected cargo and cast it overboard. The soldier and the sailor, though in the service of the Government, are arrested, imprisoned and punished for their offenses against society. Paupers and convicts are refused admission into the country. All these things are done, not from any power which the States assume to regulate commerce or to interfere with the regulations of Congress, but because police laws for the preservation of health, prevention of crime, and protection of public welfare, must of necessity have full and free operation, according to the exigency which requires their interference.

In pursuance of the salutary provisions of law here laid down, if this train carrying interstate commerce is laden with disease, the State of Texas has the right to detain the passengers, and we have the power under our inherent jurisdiction to burn up the train itself, to destroy it and all the freight and baggage upon it if we pay a just compensation. Under this act the State has no authority to stop the train for any purpose. This act is dealing not only with yellow fever, but it embraces all sorts of pestilence, contagious diseases, and all kinds of epidemics injurious to the people of a State. It will include cholera, smallpox, bubonic plague, and also every disease known to the stock industry of this country. This act, I say to you gentlemen from the West and Northwest, repeals your stock-inspection laws as well as the health laws of the various States. For one hundred and seven years the decisions of the Supreme Court have been uniform on one proposition, and that is that the power of Congress to regulate commerce comes from the Constitution, and the rights of the States to enact health laws were retained by the people and never surrendered to the Federal Government.

If any question is settled by the Supreme Court of the United States it is that Congress can not impair the police powers of the State.

Mr. WILLIAMS. Does anybody doubt that?

Mr. HENRY of Texas. They certainly do doubt it. Let me put this question to my friend: Here is a ship loaded at New Orleans bound for Galveston, Tex. The ship is compelled to take the passengers and baggage and freight to Galveston. Then the passengers, freight, and baggage are bound from Galveston, through Texas and California, to San Francisco. Section 7 forbids the quarantine officers at Galveston to detain that ship or passengers or levy any fee against it, and if they do they are subject to a penalty under this statute and must go to the Federal court. Yes; they doubt it. The gentlemen who are behind this bill must doubt the proposition of law I have announced if they are consistent. Who is better able to judge for the people of the State—the inhabitants of the State or a Federal officer located far from the seat of contagion, perhaps in Washington? Gentlemen talk about shotgun quarantine, mobs, and riots. Whenever it is undertaken to run an interstate train through a State against the police regulations and quarantine laws of that State the consequences may become direful.

Mr. Speaker, permit me to illustrate further the disastrous effects of this section upon the reserved rights of the States. A cargo of passengers and freight is placed upon a steamer at New Orleans bound for Galveston, and thence by rail through Texas, Missouri, Kansas, Nebraska, Wyoming, Montana, Idaho, and Washington, to Seattle. After the steamer is loaded and the Federal officer gives his certificate of discharge to the vessel and passengers, yellow fever, smallpox, or cholera breaks out on the same while on the voyage to Galveston. When the ship reaches Galveston it has the right under this section to go by the quarantine station at Galveston unmolested, steam into the Texas harbor, transfer its cargo of people and freight to the railway trains, and send them through the very hearts of the States mentioned to Seattle. Not one of those States can detain them or interfere with their progress. No fee can be collected at Galveston for inspection services. If the State health or quarantine officers touch this cargo of people and freight, they are amenable to section 7 and must be fined $300 or imprisoned not more than one year, or both fine and imprisonment may be inflicted.

Let me illustrate by another case, and it is not extreme. Bubonic plague breaks out in San Francisco. An interstate train takes aboard hundreds of passengers and their baggage, and train and passengers are "discharged and properly certified" under section 7. The train steams out into California on its journey across the continent, through Arizona, New Mexico, Texas, Louisiana, Mississippi, Alabama, Georgia, North Carolina, Virginia, Maryland, Pennsylvania, Delaware, New Jersey, and into New York through the very density and heart of population in all those States. The health authorities of those States can not "interfere with or obstruct" such train, but must throw up their sovereign hands and salute this great vehicle of disease and pestilence. Case after case may break out on the journey, the train may become a reeking mass of disease, putridity, death, and corruption, but no State may rise in its sovereign capacity and protect the lives and health of its people against this train of death and destruction. We must bow and say that the States have surrendered this right, although the decisions of courts for a hundred years say not—that we only surrendered the naked right of regulating interstate commerce to the Federal Government and kept the sacred power to safeguard the health and welfare of our people against any kind of outside invasion or jurisdiction. This same argument may be applied with equal force of logic to the stock-quarantine laws of every State. Let me commend it to you gentlemen of the great West and Northwest, for this section 7 applies to all sorts of freight bound from one State to another. Live stock on such trains are commerce falling within its terms. Let some gentleman tell me, if an interstate train starts from Louisiana through Mississippi or Texas or Arkansas and yellow fever develops upon it, the authorities of one of those States undertake to stop it, is there any authority in this bill authorizing any kind of interference by either State? Ah, gentlemen, you have left no such power.

Mr. PUJO. Did the gentleman ask for the power?

Mr. HENRY of Texas. Yes.

Mr. PUJO. Kindly turn to the last section of the last paragraph of section 7, and you can see the authority is there expressly conferred upon the local authorities, either State or municipality or local, to prevent the landing of persons or property against the local regulations.

Mr. HENRY of Texas. No; it says they shall not be permitted to debark. I ask where is the authority to free a train of a pestilence, whether it be yellow fever, smallpox, or bubonic plague?

Mr. PUJO. Why, that is authority that exists by operation of law because it is vested in the State, and that can not be taken away.

Mr. HENRY of Texas. I am glad to have made a Christian out of the gentleman from Louisiana on that question.

Mr. BOWERS. Does the gentleman deny that the very authorities he has just read declare that when that which was theretofore commerce ceases to be commerce by reason of becoming infected the power of the State authorities attaches?

Mr. HENRY of Texas. I do deny that there is recognition of any such authority in this bill, and the object of section 7 is to send an interstate train and passengers through a State under Federal protection, overriding those very powers of the States.

Mr. WILLIAMS. Will the gentleman yield?

Mr. HENRY of Texas. I must decline to yield.

Mr. WILLIAMS. Does the gentleman object to my reading part of section 7 to him?

Mr. HENRY of Texas. Read that in your own time.

Ah, that is not all, Mr. Speaker. I challenge any gentleman to read the section and show me the power left with the States to touch a train carrying interstate commerce through her confines.

Mr. GAINES of Tennessee. Will the gentleman permit me to interrupt him for a question?

Mr. HENRY of Texas. I will yield to the gentleman just one time, as my friend is always so amiable.

Mr. GAINES of Tennessee. Now, when Congress acts, as it is now about to do, I want to know if Congress has not the complete right to control commerce, and that the States can not conrol interstate commerce when Congress acts?

Mr. HENRY of Texas. No, sir; not at all; and the only authorities that ever squinted that way are what lawyers call obiter dictum, and I will be perfectly candid with gentlemen, because I know they will rely on those cases. Such cases are found in 118 and 187 United States Reports. In the Reid case the Supreme Court of the United States upheld the State laws of the State of Colorado, and overruled a Federal statute and certificate even on your proposition. The court went out of its way to indulge in some obiter dicta. And to what does the obiter dictum amount? Simply nothing. If disease is commerce, so is insurance. If pestilence and contagion are commerce, so are the perfumes that are wafted to us from the orange orchards of sunny Florida. If plague and destruction are commerce, the breezes that sweep across our western prairies, invigorated with the loftiness and strength of the Rocky Mountains, are within that classification. And the great storms that lower over the angry bosom of the Gulf of Mexico and in their wild fury and rage sweep our coasts and devastate our shores must be commerce, too, within such definition. Whatever is legitimate commerce Congress has the right to regulate between States; but whenever it becomes a vehicle of disease the State has the right to meet the soldiers of the Federal Government at the seacoast, to meet her battle ships, her officers and sailors, and cast her cargo overboard if it is necessary for the protection of the health of our inhabitants. Let me read a better way to state it than I could put it. This is the language of a great lawyer, who argued the "Passenger cases." Standing before the Supreme Court, he said:

> Suppose a citizen or an alien, no matter whom, the President of the United States or the humblest individual that ever entered the harbor to approach our city, bringing infection, bearing death to thousands—an approach more terrible than that of an invading army—he is repelled, justly repelled, by the express authority of the law of nations. By whom is he repelled? By the Federal Government? Under what clause of the Constitution? Under which of its powers? Under its commerce power? A traffic in contagion! A tariff on disease! Under its war power? A war with the king of terrors? No. The State, and the State alone, has the power, and alone is charged with the duty of repelling disease and guarding its confines from the entrance of whatever may injure the citizen.

Ah, gentlemen, Alexander Hamilton in his better and palmier days never claimed such power for the Federal Government as you are advocating here to-day. No matter how others may vote, how others may look at it, representing in part more than 3,000,000 enlightened people, I shall stand here and resist you to the last extremity. We have no right as individuals or Representatives to rob the people of their sovereign functions. They have never surrendered them, and we can not do it for them.

The gentleman from Georgia alluded to the health laws of Texas and called them an embargo. They were not an embargo. Yellow fever had appeared in New Orleans last year. Texas only undertook to guard against the contagion that was dealing death and destruction to our neighbors. Our quarantine was humane. It was not an embargo. Thanks to our most capable State health officer and his noble band of assistants, not a case of yellow fever reached Texas. We freed ourselves from it. This seemed to wound our Louisiana friends, and now they seek to put this burden on surrounding States. We protest and deny the authority here. Texas people are practically unanimous against this quarantine law. Here is a telegram from the State health officer of Texas, announcing that the legislature, which happens to be in session, by a unanimous vote of the senate and house of representatives, congratulates the Senators and Representatives from that State for the stand they have taken against this pernicious measure. I ask that it be inserted in my remarks.

The telegram is as follows:

AUSTIN, TEX., *April 2, 1906.*

Hon. R. L. HENRY, M. C., *Washington, D. C.:*

House concurred in Senate resolution indorsing position of Texas delegation opposing Federal control of quarantine. I find upon careful investigation sentiment of people of Texas almost unanimous against Federal control. This resolution was not hastily acted upon, but held up in Senate two days, thoroughly debated, then passed both houses unanimously.

TABOR.

Mr. HEPBURN. Mr. Speaker——

The SPEAKER. Does the gentleman yield?

Mr. HENRY of Texas. I will.

Mr. HEPBURN. This constitutional argument of the gentleman on the power of the States and the power of the Federal Government is certainly very interesting. I would like to ask the gentleman, however, how he differentiates between the exercise of power upon the part of the General Government in the two cases that I will suggest—the one that is now before the House and embodied in this bill, and another one to which I will call his attention. I understand the gentleman to say that the Federal Government has no power in any way to interfere with the quarantine regulations of the State of Texas.

Mr. HENRY of Texas. I do.

Mr. HEPBURN. But I understand the gentleman to say that the Government has the power, and that Congress has the power, to take of the common treasure of the Government the proceeds of the sale of public lands and apply that fund, to which Texas has not contributed a dollar, to the improvement of the lands of Texas.

Mr. HENRY of Texas. I do.

Mr. HEPBURN. Now, will the gentleman differentiate, if he

can, between the exercise of the power in the one case and the other?

Mr. HENRY of Texas. I will say to the gentleman that I will not discuss that now, for it is not relevant.

Mr. HEPBURN. I want the gentleman to discuss the two questions in conjunction.

Mr. HENRY of Texas. I do not think there is any more similarity between the two questions than there is between the mosquito theory and the grasshopper theory.

Mr. Speaker, the Senate has just passed a Federal quarantine bill which is fashioned along the right lines. The Senate, with a unanimity that is striking and patriotic, failed to include section 7 or anything like it. While others here are undertakng to enforce this doctrine under Republican rules, it is pleasing to reflect that the Senate is at least a deliberative body. [Applause.] There is no section 7 there, and it looks hopeful that it will not go in by consent of the Senate.

It is instructive to briefly review the history of Federal quarantine legislation. In 1793 yellow fever invaded New York. In 1795 it was epidemic in Philadelphia. In 1798 it again invaded New York. The Federalist party was at the height of its power. The idea of centralization in government amounted almost to madness. Yet no one proposed to go as far as this act when Congress came to enact a quarantine law. When Mr. Adams sent his recommendations to Congress he only urged that contemplated quarantine laws be "in aid of the health laws of the respective States." Then came the statutes of 1799. When they were passed they carried in their provisions that Federal officers of the United States "shall faithfully aid in the execution of such quarantine and health laws"—the State laws. The next change came in 1878, and it expressly provided that "Federal officers should cooperate with and aid State and municipal boards of health." In 1893 the act was again amended and the same language and idea carried forward in every material respect. Federal officers were still commanded to cooperate with and aid State officers. In 1902 the sundry civil bill, appropriating money to be used by the Federal Government, provided that it should be used "in aid of" State quarantine laws.

Gentlemen, for one hundred and seven years the States, in quarantine matters, have been commanding officers and the Federal officers have been their lieutenants.

Not until recent years has any other doctrine been promulgated. Up to this time it has been understood that all these laws were in aid of State laws. It is now for the first time proposed to dismiss the language "in cooperation and aid of." A new dogma has arisen, demanding that interstate commerce shall fall under exclusive Federal jurisdiction, whether it be burdened with disease and contagion or not. Such is the simple proposition.

Mr. WILLIAMS. Will the gentleman yield for a question?

Mr. HENRY of Texas. I will for this once.

Mr. WILLIAMS. The gentleman from Texas has two or three times made the assertion that section 7 was applicable to trains that were infected. I want to call the gentleman's attention to the fact that section 7 in not applicable to all trains, but only to such trains used—to use the language of the bill—as may have been discharged and properly certified in accordance with the regulations of the Public Health and Marine-Hospital Service. In other words, such trains only as have been examined and have no infection. Later on in this clause it says "such carriers and such carriages." The State laws are not prevented by this section from taking hold of it.

Mr. HENRY of Texas. I anticipated the question and knew what the gentleman intended saying. The section presupposes that the trains will be discharged and examined by Federal officers. If they do not do so, and contagion breaks out, then I say that under the language of the statute the State can not stop them. It presupposes that the Federal officers will do their duty. In most cases, perhaps, they will. There is no protection either to the people of my State, where the infection has broken out *after the train has started*, and no refinement or reasoning can make section 7 read that way.

Mr. Speaker, while there is a great deal more I would like to say, there are others who are interested and who have the right to speak, and I shall conclude in a few moments. In concluding, let me say that from the first case of Gibbons *v.* Ogden, in 1824, construing the interstate-commerce clause, the line has been followed as then marked. Interstate commerce over on one can be regulated by Congress, and quarantine and health laws are on the other and can not be surrendered by the people. They abide with the States, and the power to regulate interstate commerce and to enact quarantine measures are as distinct as night from day.

Whenever Congress assumes the jurisdiction to partially paralyze the police power of a State it asserts a doctrine meaning its total annihilation. If it can touch it, the power to destroy results from the same logic. In concluding my remarks I can not refrain from quoting parts of two or three decisions evidencing how sacredly the courts have guarded this power of the States.

In the case of Patterson *v.* Kentucky the court said:

> By the settled doctrines of this court the police power extends, at least, to the protection of the lives, the health, and the property of the community against the injurious exercise by any citizen of his own rights. State legislation, strictly and legitimately for police purposes, does not, in the sense of the Constitution, necessarily intrench upon any authority which has been confided, expressly or by implication, to the National Government. * * * In recognition of this fundamental principle, we have frequently decided that the police power of the States was not surrendered when the Constitution conferred upon Congress the general power to regulate commerce with foreign nations and between the several States. Hence the States may by police regulations, protect their people against the introduction within their respective limits of infected merchandise. "A bale of goods upon which the duties have or have not been paid, laden with infection, may be seized under health laws, and if it can not be purged of its poison, may be committed to the flames." (Gilman *v.* Philadelphia.) So may the States, by like regulations, exclude from their midst not only convicts, paupers, idiots, lunatics, and persons likely to become a public charge, but animals having contagious diseases. (Railroad Co. *v.* Husen.)
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> This court has never hesitated, by the most rigid rules of construction, to guard the commercial power of Congress against encroachment in the form or under the guise of State regulation, established for the purpose and with the effect of destroying or impairing rights secured by the Constitution. It has, nevertheless, with marked distinctness and uniformity, recognized the necessity, growing out of the fundamental conditions of civil society, of upholding State police regulations which were enacted in good faith and had appropriate and direct connection with that protection to life, health, and property which each State owes to her citizens.

In the case In re Rahrer, as late as 1900, Chief Justice Fuller said:

> The power of the State to impose restraints and burdens upon persons and property in conservation and promotion of the public health, good order, and prosperity is a power originally and always belonging to the States not surrendered by them to the General Government nor directly restrained by the Constitution of the United States, and essentially exclusive. * * * In short, it is not to be doubted that the power to make the ordinary regulations of police remains with the individual States, and can not be assumed by the National Government, and that in this respect it is not interfered with by the fourteenth amendment.

This principle is reaffirmed in the Sugar Trust case, in 156 United States Reports, and in the Coffee case, from New York, in 192 United States Reports. So it has been reiterated down to this very moment.

Mr. Speaker, in 1865, before the roar of cannon had died away from the desolation and gloom of many bloody fields of carnage, to be succeeded by that black night of reconstruction, when it was supposed that State sovereignty had gone out forever in the smoke of battle, the Supreme Court declared that the police powers of the States had not died too. Read the case of Gilman *v.* Philadelphia, 3 Wallace, and such powers stand out in bold relief, undiminished by the shock of that terrific contest. It must be admitted, however, that there is an unhealthy sentiment in some quarters to dwarf those inalienable rights and unduly stretch the jurisdiction of Congress. As for me, I shall not deny to this Government by my voice any proper constitutional grant; but the proudest moment of my life shall be when I vote to stay iconoclastic hands by my effort to transmit unimpaired to future generations the integrity, rights, and sovereignty of the States as our fathers bequeathed them to us. [Prolonged applause.]

Mr. BOWERS. Mr. Speaker, in the time allotted to me I desire in the outset to call attention to a few facts in connection with the outbreaks of yellow fever that have ravaged this country since the disease was first introduced into North America. It appeared for the first time in 1668, when it was introduced into the city of New York from the West Indies, and since that time there have been 143 separate introductions of the infection from foreign shores, a great part of which, 78 in all, have become epidemic and spread from one portion of the country to the other.

The first year for which any figures as to its mortality are available is 1699, which is also the first year in which it reached the epidemic stage, and 220 people are known to have died of it in Philadelphia out of a population of two to three thousand. It was brought in a ship from Barbados, and at that time was known as "Barbados fever."

In 1702 it was again brought to New York from St. Thomas, and a most severe epidemic raged. Five hundred and seventy deaths are known to have occurred in that city. It was carried as far south along the lines of travel as Biloxi, Miss. This was the first year in which it appeared south of Charleston, and the spread from the initial focus at New York was general.

The next known epidemic was 1732, when 8 to 10 deaths daily occurred in Charleston, and 250 all told in Philadelphia.

In the first hundred years of its history there were thirty-four outbreaks in all, ten of which were epidemic. Only partial figures are available, and only for seven years during this period, which show 2,806 deaths.

Its first appearance from abroad on the South Atlantic coast was at Charleston in 1693, and on the Gulf coast in 1702. It did not reach New Orleans until 1769, one hundred and one years after its first introduction into New York, and it did not reach the epidemic stage in New Orleans until 1793. In this year it extended from Portsmouth, N. H., to New Orleans; and in Philadelphia, out of a population of 55,000, there is known to have been 4,044 deaths.

In 1795 it was introduced from the West Indies into New York, raged at New York, Philadelphia, Boston, Providence, R. I., New Orleans, Charleston, Norfolk, and Baltimore, and extended generally from Boston to New Orleans, 700 deaths occurring in New York in three months out of a population of 40,000.

Up to the beginning of the nineteenth century there had been fifty-one outbreaks and, as far as incomplete figures are obtainable, 13,665 deaths from the disease. Its scope had been widespread, the States of New York, Massachusetts, Pennsylvania, South Carolina, Virginia, Mississippi, Alabama, Connecticut, Florida, Maryland, New Hampshire, Louisiana, Rhode Island, Delaware, and North Carolina all having been visited by the disease. One of the worst epidemics was in Nantucket in 1763, where 259 deaths occurred.

In the first twenty-five years of the nineteenth century there was an outbreak each year, and there are records of 5,641 deaths during this time. Ten of these years the fever was in the New England States. During this time the first known importation from Cuba occurred, in 1818, the disease having invariably come from the West Indies before.

Following its history from 1825 to 1893, when the records became more perfect, there were 60 outbreaks and 55,065 deaths. It reached the worst stages in the fifties, in 1853 alone there being a record of 10,475 deaths. This is the last year in which an epidemic occurred north of Virginia, though the disease has appeared and spread since that time. Up to that date it had raged about as often on the North Atlantic seaboard as on the South Atlantic and Gulf coast. Its last appearance in the far North was in New York in 1872.

The comparative freedom from epidemics during the civil war is to be noted. This was caused by blockades, and shows that the disease does not originate in the United States.

The year 1878 furnishes the first complete record of the number of cases and deaths, when there were 125,000 cases and 12,000 deaths.

Since 1893 there have been seven outbreaks, with 9,551 recorded cases and 704 deaths, not including the epidemic of 1905, for which figures are not complete, making a total of 142 outbreaks, 77 epidemics, and 75,075 recorded deaths to 1905, exclusive of that year, for which no figures have yet been compiled.

At some time or other the infection has been introduced into, and spread from, the ports of every State on the Atlantic and Gulf seaboards except the State of Maine.

The loss of life has mounted up into the hundreds of thousands. The stagnation of business and the interference with commerce have been so great as to be almost impossible of statement, and the great depreciation in values of all character, the conflicts between the health authorities of different States, and in many instances between State and municipal authorities, and the varying and conflicting regulations, have been such as to bring sharply to the attention of the people of this country the urgent and immediate need for a different and more efficient system of quarantine, and the inquiry is, How and by whom shall that quarantine be administered?

From the facts which I have stated, and from the history of the disease I deduce two propositions: First, that yellow fever is not indigenous to the United States, but is always introduced from abroad, and that both its introduction and spread are preventable; second, that because it does come from abroad as an incident to foreign commerce, and because of the fact that when it once enters it may, at least before it is discovered, stalk free and unhampered from one State to another, the question of preventing its entry, as an incident to the commerce with foreign nations, is one not only of national import and concern, but of national duty as well.

A proper presentation of this matter naturally divides itself into two parts—first, the authority of Congress to pass the pending measure, and, secondly, that being granted or demonstrated, the wisdom, advisability, and necessity of enacting the legislation. I shall devote myself to those two propositions in the order in which I have stated them.

In the outset let me say that ever since the case of McCulloch *v.* Maryland (4 Wheaton, p. 405), it has been the settled law of this country, as to conflicting State and Federal powers, that whenever two statutes, one enacted by the Congress of the United States in pursuance of a delegated power, and the other by one of the States in pursuance of one of its reserved powers, the police power if you please, conflict, the Federal law is paramount and controls. That doctrine was stated for the first time in the case of McCulloch *v.* Maryland in the following language:

> We admit, as all must admit, that the powers of the Government are limited, and that its limits are not to be transcended. But we think the sound construction of the Constitution must allow to the National Legislature that discretion, with respect to the means by which the powers it confers are to be carried into execution, which will enable that body to perform the high duties assigned to it, in the manner most beneficial to the people. Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the Constitution are constitutional.

If the means selected be appropriate, its propriety, necessity, or advisability is for the determination of Congress alone.

> On this ground the counsel for the bank place its claim to be exempted from the power of a State to tax its operations. There is no express provision for the case, but the claim has been sustained on a principle which so entirely pervades the Constitution, is so intermixed with the materials which compose it, so interwoven with its web, so blended with its texture, as to be incapable of being separated from it without rending it into shreds. This great principle is that the Constitution and the laws made in pursuance thereof are supreme; that they control the constitution and laws of the respective States, and can not be controlled by them. From this, which may be almost termed an axiom, other propositions are deduced as corollaries, on the truth or error of which, and on their application to this case, the cause has been supposed to depend. These are, first, that a power to create implies a power to preserve; second, that a power to destroy, if wielded by a different hand, is hostile to and incompatible with these powers to create and to preserve; third, that where there is repugnancy, that authority which is supreme must control, not yield to that over which it is supreme.

And was reenforced and accentuated in Gibbons *v.* Ogden (9 Wheaton, p. 209), in the following language:

> Since, however, in exercising the power of regulating their own purely internal affairs, whether of trading or police, the States may sometimes enact laws the validity of which depends on their interfering with and being contrary to an act of Congress passed in pursuance of the Constitution, the court will enter upon the inquiry whether the laws of New York, as expounded by the highest tribunal of that State, have, in their application to this case, come into collision with an act of Congress and deprived a citizen of a right to which that act entitled him. Should this collision exist, it will be immaterial whether those laws were passed in virtue of a concurrent power "to regulate commerce with foreign nations and among the several States" or in virtue of a power to regulate their domestic trade and police. In one case and the other the acts of New York must yield to the law of Congress, and the decision sustaining the privilege they confer, against the right given by law of the Union, must be erroneous. This opinion has been frequently expressed in this court, and is founded as well on the nature of the Government as on the words of the Constitution. In argument, however, it has been contended that where a law passed by a State in the exercise of its acknowledged sovereignty comes into conflict with a law passed by Congress in pursuance of the Constitution, they affect the subject and each other like equal opposing powers. But the framers of our Constitution foresaw this state of things, and provided for it by declaring the supremacy not only of itself but of the laws made in pursuance of it.
>
> The nullity of any act inconsistent with the Constitution is produced by the declaration that the Constitution is the supreme law. The appropriate application of that part of the clause which confers the same supremacy on laws and treaties is to such acts of the State legislatures as do not transcend their powers, but though enacted in the execution of acknowledged State powers, interfere with or are contrary to the laws of Congress made in the pursuance of the Constitution or some treaty made under the authority of the United States. In every such case the act of Congress or the treaty is supreme, and the law of the State, though enacted in the exercise of powers not controverted, must yield to it.

Brown *v.* Maryland (12 Wheat., p. 419), not only followed in the same line, but announced the supreme control of Congress over foreign commerce, as Gibbons *v.* Ogden had done as to the interstate commerce, and I quote as follows:

> We think, then, that the act under which the plaintiffs in error were indicted is repugnant to that article of the Constitution which declares that "no State shall lay any impost or duty on imports or exports."
>
> (2) Is it also repugnant to that clause in the Constitution which empowers "Congress to regulate commerce with foreign nations, and among the several States, and with Indian tribes?" The oppressed and degraded state of commerce previous to the adoption of the Constitution can scarcely be forgotten. It was regulated by foreign nations with a single view to their own interests; and our disunited efforts to counteract their restrictions were rendered impotent by want of combination. Congress, indeed, possessed the power of making treaties; but the inability of the Federal Government to enforce them had become so apparent as to render that power in a great degree useless. Those who felt the injury arising from this state of things, and those who were capable of estimating the influence of commerce on the prosperity of nations perceived the necessity of giving the control over this important subject to a single government. It may be doubted whether any of the evils proceeding from the feebleness of the Federal Government contributed more to that great revolution which introduced the present system than the deep and general contic-

tion that commerce ought to be regulated by Congress. It is not, therefore, a matter of surprise that the grant should be as extensive as the mischief and should comprehend all foreign commerce and all commerce among the States. To construe the power so as to impair its efficacy would tend to defeat an object in the attainment of which the American public took, and justly took, that strong interest which arose from a full conviction of its necessity.

These three great cases, all decided by Chief Justice Marshall, are the foundation of our jurisprudence on this subject, and upon them "hang all the law and the prophets," as to the respective rights of the State and nation as to interstate and foreign commerce. By an unbroken line of cases, without deviation or shadow of turning, without even a murmur of dissent to break the harmony of accord and the force of decision, the law has come down to us to-day as declared in that day of early construction, and I state, without fear of successful contradiction, that it is not only within the power of the Federal Government to purge the foreign commerce which it regulates, and which it alone can regulate, of the disease which may be incident to it, but that it is its plain and manifest duty to so purge it. [Applause.] I submit that it is the plain duty of the Federal Government to protect the citizens of this country against the introduction of any disease that may be incident to the commerce which is solely under its control, and as its authority over interstate commerce is the same as its control of foreign commerce, and flows from the same grant of power in the same clause of the Constitution, its duty as to interstate commerce is the same as to foreign trade.

Now, along those lines, and dealing directly with the question of quarantine, I desire to call the attention of the House to what the Supreme Court of the United States has said on that question. The gentleman from Texas [Mr. HENRY], who preceded me, has characterized every statement of the courts with reference to the Federal power of quarantine, as incident to the control of commerce, as dictum, and has wholly overlooked the fact that two-thirds, if not more, of the quotations read by him were arguendo, and incidental, if not foreign, to the main questions decided, and therefore, under his rule of statement of what is dicta, certainly within that category.

But I deny that the utterances of the Supreme Court in the later cases—the cases which involve specifically the question of quarantine and which I shall now read—were dicta, and shall insist that they were uttered in the decision of the very vitals of the cases in which they appear.

The first utterance on that subject—the first clear utterance—was in the case of the Morgan Steamship Company *v.* Louisiana (118 U. S., p. 455).

In this case the Morgan Steamship Company assailed the health laws of Louisiana as invalid, because, as charged by the steamship company, they invaded a domain which under the Constitution was committed exclusively to Congress. Two questions therefore had to be decided—first, the power of Congress, and, second, whether that power was infringed upon by the State statute; and the decision of both questions was necessary to the determination of the case.

The court, after having upheld the statute of the State—that is, after having declared that it was within the power of the State of Louisiana to enact quarantine laws for the protection of its citizens and commerce—at page 463 said:

> Is the law under consideration void as a regulation of commerce? Undoubtedly it is in some sense a regulation of commerce. It arrests a vessel on a voyage which may have been a long one. It may affect commerce among the States when the vessel is coming from some other State of the Union than Louisiana, and it may affect commerce with foreign nations when the vessel arrested comes from a foreign port. This interruption of the voyage may be for days or for weeks. It extends to the vessel, the cargo, the officers and seamen, and the passengers. In so far as it provides a rule by which this power is exercised, it can not be denied that it regulates commerce. We do not think it necessary to enter into the inquiry whether, notwithstanding this, it is to be classed among those police powers which were retained by the States as exclusively their own and therefore not ceded to Congress. For, while it may be a police power in the sense that all provisions for the health, comfort, and security of the citizens are police regulations and an exercise of the police power, it has been said more than once in this court that, even where such powers are so exercised as to come within the domain of Federal authority, as defined by the Constitution, the latter must prevail. (Gibbons *v.* Ogden, 1 Wheat., 210; Henderson *v.* The Mayor, 92 U. S., 259, 272; New Orleans Gas Co. *v.* Louisiana Light Co., 115 U. S., 650, 661.)
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> But it may be conceded that whenever Congress shall undertake to provide for the commercial cities of the United States a general system of quarantine, or shall confine the execution of the details of such a system to a national board of health or to local boards, as may be found expedient, all State laws on the subject will be abrogated, at least so far as the two are inconsistent. But until this is done the laws of the State on the subject are valid.

Mr. HENRY of Texas. Will the gentleman yield?

Mr. BOWERS. My time is very brief, and I can not yield.

Mr. HENRY of Texas. I just want to ask one question.

Mr. BOWERS. I have only twenty minutes, and I will need forty. I want to call attention to the fact that this "dictum," as the gentleman from Texas styles it, has been sanctified by repetition and approval by that august tribunal in every subsequent case which has come before it since its first utterance, in which quarantine or any kindred subject was involved or even remotely touched, and has been made by the Supreme Court the rock and sheet anchor of the law on that subject.

Again, the court in the same case, further says:

> But aside from this, quarantine laws belong to that class of State legislation which, whether passed with the intent of regulating commerce or not, must be admitted to have that effect and which are valid.

When and how long?

> Valid until displaced or contravened by some legislation of Congress.

Again, in the case of the French Company *v.* The Louisiana Board of Health (186 U. S., p. 380), another quarantine case, the court repeats Justice Miller's language in the Morgan Steamship case with approval, and further says:

> Again, in Louisiana *v.* Texas (176 U. S., 1, 21) the court was called upon to consider a quarantine law of the State of Texas which, by its terms, was applicable to and was enforced as to both interstate and foreign commerce. After referring approvingly to the case which we have above cited, the court, speaking through Mr. Chief Justice Fuller, said:
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> "It is not charged that this statute is invalid nor could it be if tested by its terms. While it is true that the power vested in Congress to regulate commerce among the States is a power complete in itself, acknowledging no limitations other than those prescribed in the Constitution, and that where the action of the States in the exercise of their reserve powers comes into collision with it, the latter must give way, yet it is also true that quarantine laws belong to that class of State legislation which is valid until displaced by Congress, and that such legislation has been expressly recognized by the laws of the United States almost from the beginning of the Government."
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> Further, in calling attention to the fact, as remarked by the court in Morgan Steamship Company *v.* Louisiana Board of Health, supra, that in the nature of things quarantine laws and laws relating to public health must necessarily vary with the different localities of the country, it was said:
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> "Hence even if Congress had remained silent on the subject, it would not have followed that the exercise of the police power of the State in this regard, although necessarily operating on interstate commerce, would be therefore invalid. Although from the nature and subjects of the power regulating commerce it must be ordinarily exercised by the National Government exclusively, this has not been held to be so where in relation to the particular subject-matter different rules might be suitable in different localities. *At the same time, Congress could by affirmative action displace the local laws, substitute laws of its own, and thus correct any unjustifiable and oppressive exercise of power by State legislation.*"

And Congress has exercised that power, Congress has displaced local laws. Congress has by the quarantine act of 1893 displaced local laws, and to a certain extent substituted Federal laws in their place. Congress has, by the animal-industry act, which it passed in 1903, in the Fifty-seventh Congress, in which the State of Texas was greatly interested and by which it greatly benefited, responding to the suggestion of the Supreme Court in the case of Reid *v.* Colorado (187 U. S., p. 137), to a certain extent abrogated and displaced local cattle quarantine laws, and displaced them because of the fact that the Supreme Court of the United States in deciding that Reid case, declared that the Federal power could not, in the case at bar, be invoked to protect an interstate shipment of Texas cattle, only because Congress had not undertaken to assume complete and entire jurisdiction of the matter.

Now, two of the judges, Justice Brown and Justice Harlan, dissented from the opinion of the court in the case of the French Company *v.* the Louisiana Board of Health, supra, not because they dissented from the proposition which I have read, but because they went further on that question than the majority of the court were willing to go. I quote this from the dissent of those two great judges:

> The power of the several States in the absence of legislation by Congress on the subject—

And only in the absence of legislation on the subject, as demonstrated by the gentleman from Georgia by his references to the provisions of the Constitution itself this morning—

> is to establish quarantine regulations and prohibit the introduction into the State of persons infected with disease or recently exposed to contagion, and to impose reasonable charges, etc.

But I come now, gentlemen, to a case closer to the point now at issue and under discussion than any other I have been able to find after a somewhat exhaustive study of the books, and in my humble judgment absolutely in point. I refer to Reid *v.* Colorado (187 U. S., p. 137). My friend from Texas says this is also dictum, but let us examine it and see if he is correct. The Reid case arose under this state of facts: Reid claimed the right, after having had his cattle inspected under the animal-industry act of 1884, to take them into the State of Colorado, in violation of a statute of that State, insisting that Congress had complete, supreme, and exclusive power over interstate commerce whenever it chose to assume jurisdiction and control, and that by the animal-industry act of 1894 it had taken entire and exclusive control, thereby ousting and annulling all State regulations which conflicted with the Federal law. Two ques-

tions were therefore, as heretofore, involved, nay, they necessarily inhered in the cause. First, the power of Congress to enact a law which would control; second, was the animal-industry act such a law; did it assume entire control and furnish a sole rule of conduct with reference to the shipment of cattle?

The first question was answered in the affirmative and the power of Congress upheld and defined; the last in the negative. In other words, the Supreme Court in that case said that Congress did have the clear and undisputed right to assume entire, absolute, and exclusive jurisdiction of the matter; but, secondly, that it had not done so, and it pointed out what would be necessary to assume exclusive control, and that decision, rendered on the 2d day of December, 1902, was responded to by the Fifty-seventh Congress, of which my friend from Texas was a Member, by the enactment of another statute, which did take sole and exclusive jurisdiction of the subject-matter, so as to bring it within the decision of the Supreme Court, and——

Mr. WILLIAMS. So that men could take the cattle into the State?

Mr. BOWERS. Yes; and, contrary to what I would approve, to leave them there; and if the gentleman wants to see the statute——

Mr. HENRY of Texas. I do not think I voted for such a statute; and if I did, I hope God Almighty will forgive me here for doing so.

Mr. BOWERS. Perhaps my friend needs forgiveness. I do not think there was a division or any yea-and-nay vote. I think it was so manifestly and so generally approved that no division was taken on it.

Mr. WM. ALDEN SMITH. But the gentleman is bound by it.

Mr. BOWERS. He is; and it is the law of the land; and if the gentleman wants to find it he will find it in volume 32, part 1, page 792, United States Statutes at Large.

Mr. HENRY of Texas. The gentleman is not——

Mr. BOWERS. I decline to yield, and before I leave that question I want to say further that on the question of the matter of inspection and certification by the Federal authorities, of a ship from abroad that may attempt to enter any port of the United States, that seems to trouble my friend so much, if he will examine the quarantine act of 1893, which he will find as an appendix to the minority report, and read section 6, he will find by that act that it is now and has been for thirteen years within the power of the Federal authorities to certify a vessel as free from infection, and on that certification it shall pass, without let or hindrance, into any port of the United States, free from any further burden. The only difference between the proposed act and the present law is that under the present law the Federal authorities are not peremptorily required to establish maritime quarantine, but may do so in their discretion. As a matter of administration the Department has declared that it will not establish any such quarantine, *unless commanded by Congress to do so*, except where the States invite them to take over and administer their quarantines. Some States—Florida, Georgia, and Mississippi—have done this, but unless the law is changed and made mandatory we will have no general national quarantine or national protection. The object of this measure is to make it mandatory, and to secure an effective and uniform system at all the ports, freed from the jealousies of trade and from the dangers incident to bidding for business at the expense of health.

Now, let us see what was said in the Reid case. I read from page 146:

> It is quite true, as urged on behalf of the defendant, that the transportation of live stock from State to State is a branch of interstate commerce and that any specified rule or regulation in respect of such transportation which Congress may lawfully prescribe or authorize, and which may properly be deemed a regulation of such commerce, is paramount throughout the Union. So that when the entire subject of the transportation of live stock from one State to another is taken under direct national supervision and a system devised by which diseased stock may be excluded from interstate commerce, all local or State regulations in respect of such matters and covering the same ground will cease to have any force, whether formally abrogated or not; and such rules and regulations as Congress may lawfully prescribe or authorize will alone control. (Gibbons *v.* Ogden, 9 Wheat., 1, 210; Morgan *v.* Louisiana, 118 U. S., 455, 464; Hennington *v.* Georgia, 163 U. S., 299, 317; N. Y., N. H. and H. R. R. Co. *v.* New York, 165 U. S., 628, 631; Missouri, Kansas and Texas Railway Co. *v.* Haber, 169 U. S., 613, 626; Rasmussen *v.* Idaho, 181 U. S., 198, 200.) The power which the States might thus exercise may in this way be suspended until national control is abandoned, and the subject be thereby left under the police power of the States.
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> But the difficulty with the defendant's case is that Congress has not by any statute covered the whole subject of the transportation of live stock among the several States, and, except in certain particulars not involving the present issue, has left a wide field for the exercise by the States of their power, by appropriate regulations, to protect their domestic animals against contagious, infectious, and communicable diseases.

And again, on page 148:

> It should never be held that Congress intends to supersede or by its legislation suspend the exercise of the police powers of the States, even when it may do so, unless its purpose to effect that result is clearly manifested. This court has said, and the principle has often been reaffirmed, that "in the application of this principle of supremacy of an act of Congress in a case where the State law is but the exercise of a reserved power, the repugnance or conflict should be direct and positive, so that the two acts could not be reconciled or consistently stand together." (Sinot *v.* Davenport, 22 How., 227, 243.)

And again, at page 150:

> Our conclusion is that the statute of Colorado, as here involved, does not cover the same ground as the act of Congress, and therefore is not inconsistent with that act; and its constitutionality is not questioned unless it be in violation of the Constitution of the United States, independently of any legislation by Congress. The latter question we now proceed to examine.
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> Certain principles are well settled by the former decisions of this court. One is that the purpose of a statute, in whatever language it may be framed, must be determined by its natural and reasonable effect. (Henderson *v.* Mayor of New York, 92 U. S., 259, 268.) Another is that a State may not, by its police regulations, whatever their object, unnecessarily burden foreign or interstate commerce. (Railroad Company *v.* Husen, 95 U. S., 465, 472.) Again, the acknowledged police powers of a State can not legitimately be exerted so as to defeat or impair a right secured by the National Constitution any more than to defeat or impair a statute passed by Congress in pursuance of the powers granted to it. (Gibbons *v.* Ogden, 9 Wheat., 1, 210; Missouri, Kansas and Texas Railway Co. *v.* Haber, 169 U. S., 613, 625, 626, and authorities cited.)
>
> Now, it is said that the defendant has a right, under the Constitution of the United States, to ship live stock from one State to another State. This will be conceded on all hands. But the defendant is not given by that instrument the right to introduce into a State against its will live stock affected by a contagious, infectious, or communicable disease, and whose presence in the State will or may be injurious to its domestic animals. The State—Congress not having assumed charge of the matter as involved in interstate commerce—may protect its people and their property against such dangers, taking care always that the means employed to that end do not go beyond the necessities of the case or unreasonably burden the exercise of privileges secured by the Constitution of the United States.

From all of which it will be seen not only that the Congress has the right to protect interstate commerce, but that the courts of the United States claim and exercise the jurisdiction to inquire into the reasonableness of any State statute in the nature of a quarantine law, in so far as that law affects interstate commerce.

But let me pile the authorities mountain high upon this question. In Missouri, Kansas and Texas Railroad *v.* Haber (169 U. S., p. 613) the question was whether the statutes of Kansas were valid, or contravened the animal-industry act of 1884. In examining that point the court, through Judge Harlan, said, at page 623:

> May not these statutory provisions stand without obstructing or embarrassing the act of Congress? This question must of course be determined with reference to the settled rule that a statute enacted in execution of a reserved power of the State is not to be regarded as inconsistent with an act of Congress passed in the execution of a clear power under the Constitution, unless the repugnance or conflict is so direct and positive that the two acts can not be reconciled or stand together (citing Sinnott *v.* Davenport, 22 How., pp. 227–243).

And again at 625, etc.:

> In fact the State law is in aid of the objects which Congress had in view when it passed the animal-industry act. It was passed in execution of a power with which the State did not part on entering the Union, namely, the right to protect the people in the enjoyment of their rights of property, and to provide for the redress of wrongs within its limits. * * * We must not be understood as saying that this power may be so exercised as to defeat or burden any power granted to Congress. On the contrary, a State statute, although enacted in pursuance of a power not surrendered to the General Government, must, in the execution of its provisions, yield in case of conflict to a statute constitutionally enacted under authority conferred upon Congress; and this, as was said by Mr. Justice Nelson, speaking for the court in Sinnott *v.* Davenport, above cited, without regard to the source of power whence the State legislature derived its enactment.
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> This results, as was said by Chief Justice Marshall, as much from the nature of the Government as from the words of the Constitution. In that case it was pressed that if a law passed by a State in the exercise of its acknowledged sovereignty comes into conflict with a law passed by Congress in pursuance of the Constitution, they affect the subject and each other like equal opposing powers.

And again the court repeats the language from Gibbons *v.* Ogden that I read in the outset.

In Hennington *v.* Georgia (163 U. S., 309) the court said:

> Of course, if the inspection, health, or quarantine laws of a State, passed under its reserve power to provide for the health, comfort, and safety of its people, come into conflict with an act of Congress passed under its power to regulate interstate and foreign commerce, such local regulations, to the extent of the conflict, must give way, in order that the supreme law of the land—an act of Congress passed in pursuance of the Constitution—may have unobstructed operation. The possibility of conflict between State and national enactments, each to be referred to the undoubted powers of the State and nation, respectively, was not overlooked in Gibbons *v.* Ogden, and Chief Justice Marshall said, etc.

I commend this case, which collates and comments on all the antecedent cases and authorities, to my friends who oppose this bill, as well as to anyone interested in the subject.

In New York, New Haven and Hartford Railroad *v.* New York (165 U. S., p. 631) the court said:

> While the laws of the States must yield to acts of Congress passed in execution of the powers conferred upon it by the Constitution (Gibbons *v.* Ogden, 9 Wheat., 1), the mere grant to Congress of the power to regulate commerce did not *of itself and without legislation* by Congress impair the authority of the States to establish such reasonable

restrictions as were appropriate for the protection of the health, the lives, and safety of their people.

Thus again reiterating the undisputed doctrine of Federal control.

In Peete *v.* Morgan (19 Wall., p. 582) the court said in deciding the case:

That the power to establish quarantine laws rests with the States, and has not been surrendered to the General Government, is settled in Gibbons *v.* Ogden. The source of this power is in the acknowledged right of a State to provide for the health of its people, and although this power, when set in motion, may in a greater or less degree affect commerce, yet the laws passed in the exercise of this power are not enacted for such an object. They are enacted for the sole purpose of preserving the public health, *and if they injuriously affect commerce, Congress, under the power to regulate it, may control them.*

In Louisiana *v.* Texas (176 U. S., p. 1) the court said at page 22:

Although from the nature and subjects of the power of regulating commerce it must be ordinarily exercised by the National Government exclusively, this has not been held to be so where in relation to the particular subject-matter different rules might be suitable in different localities. At the same time, Congress could by affirmative action displace the local laws, substitute laws of its own, and correct any unjustifiable and oppressive exercise of power by State legislation.

Railroad Company *v.* Husen (95 U. S., p. 465) held a statute of the State of Missouri void, because an unreasonable burden and restriction upon interstate commerce. This was the cattle case in which all cattle were excluded during certain seasons of the year. The court said:

The police power of a State can not obstruct foreign commerce or interstate commerce beyond the necessity for its exercise; and under the color of it objects not within its scope can not be secured at the expense of the protection afforded by the Federal Constitution. And as its range sometimes comes very near to the field committed by the Constitution to Congress, it is the duty of the courts to guard vigilantly against any needless intrusion.

So that it has been clearly decided that the entire subject of transportation of live stock from one State to another may be taken under direct national supervision and a system devised by which diseased stock may be excluded from interstate commerce. In this case we have diseased people; and my Heavens! are not people as important as cows? Is not the health of all the citizens of this broad land, their movements and intercourse, and their vast and valuable commerce as sacred in the eye of the law and of the public as a drove of bull yearlings, and is not the suppression of the dread yellow peril of disease as important as the prevention of black tongue and Texas tick fever? Shall we halt or falter here, when we have not only a plain warrant of law, but also a plain mandate of duty, and when the issue involved is thousands of lives and millions of commerce?

These positions involve no war upon the rights of the States. I yield to no man in my contention for a strict construction of the Constitution and for the preservation of every right reserved to them. But I recognize that in this, as in all other situations, the best safeguard of one's own rights is to yield full assent to all the just rights of others. The rights of the States are safest when no attempt is made to encroach upon clear Federal power or to shear the Federal Government of its lawful authority. They are most in peril when the States, momentarily unmindful of the right, attempt to infringe the domain of exclusive Federal jurisdiction.

In the early days of this Republic Thomas Jefferson sounded this warning, and said, in effect, that while the rights of the States should be constantly guarded with jealous care, the same care should be taken to see that the General Government should be fully secured in the enjoyment and exercise of all its delegated powers. Surely we may safely follow him and unquestioningly accept his advice. This rule was correctly stated in Ex parte Siebold (100 U. S., p. 393), where Mr. Justice Bradley said, inter alia:

The true interest of the people of this country requires that both the National and State governments should be allowed, without jealous interference on either side, to exercise all the powers which respectively belong to them, according to a fair and practical construction of the Constitution. State rights and the rights of the United States should be equally respected. Both are essential to the perservation of our liberties and the perpetuity of our institutions. But in endeavoring to vindicate the one we should not allow our zeal to nullify or impair the other.

There is no question of any State's right to quarantine, nor does anyone deny that the States are the sole repositories of the police power. This is clear, and I will reenforce my friends' citations with some others, perhaps even stronger than theirs.

In the Morgan Steamship case it was said:

Nor is it denied that the enactment of quarantine laws is within the province of the States of this Union. (Morgan Steamship Company *v.* Louisiana, 118 U. S., 400.)

And in the French Company case, heretofore read by me, the court, at page 387, said:

That from an early day the power of the States to enact and enforce quarantine laws for the safety and protection of the health of their inhabitants has been recognized by Congress, is beyond question. That until Congress has exercised its power on the subject such State quarantine laws and State laws for the purpose of preventing, eradicating, or controlling the spread of contagious or infectious diseases are not repugnant to the Constitution of the United States, although their operation affects interstate or foreign commerce, is not an open question. The doctrine was elaborately examined and stated in Morgan Steamship Company *v.* Louisiana Board of Health (118 U. S., 455). That case involved determining whether a quarantine law enacted by the State of Louisiana was repugnant to the commerce clause of the Constitution because of its necessary effect upon interstate and foreign commerce.

And here follows the extract from that case which I have heretofore quoted at length.

Note further the utterances to the same effect which I have read from Reid *v.* Colorado (187 U. S.) and Missouri, Kansas and Texas Railroad *v.* Haber (169 U. S.), all of which abundantly establish the State's right to quarantine. But the difficulty with our friends who oppose this measure, is that they can not see where the right of the State ends and that of the Federal Government begins. The State may and should legislate to prevent the introduction of disease within its borders, but it may not control, clog, or stop foreign or interstate commerce; and it may not, under the guise of health laws and the police power, defeat the right of other States to pass their uninfected citizens and property *through* its borders. I am contending for no right to *stop* either freight or passengers in any State contrary to its regulations, but I do contend for the *right of passage through, under proper safeguards* and after due inspection and certification, and in that contention I am justified and supported by every utterance of the Supreme Court, from McCullogh *v.* Maryland to this very hour.

Mr. Speaker, how much time have I remaining?

The SPEAKER pro tempore. The gentleman has three minutes remaining.

Mr. BOWERS. I desire to turn now from the legal question involved to the issue of fact, the need for the legislation proposed. I dismiss the question of the advisability of the Federal Government taking entire control of maritime or foreign quarantine with the suggestion that I made at the outset. Inasmuch as the Constitution and the power of the Federal Government to make treaties give it control of our relations with foreign countries and of our commerce with them, and because of the fact that, in this matter of excluding disease, no State can live unto itself alone, for whatever comes into your borders by the Government's permission comes into mine; the question is national and not local in its importance and effect, and it is right and proper that the Federal Congress should act in the matter.

It has been suggested by some of the opponents of this measure, who seek to prejudice our northern friends against it on the idea that it is useless extravagance, that this bill marks a new policy of putting the entire burden and expense of international and interstate quarantine upon the Federal Government. I freely confess that it does, and boldly proclaim that it is manifestly right that the United States should carry the load and foot the bills. Does it not control our foreign trade and our relations with foreign powers? Does it not exercise exclusive jurisdiction over interstate commerce and regulate all interstate carriers? Is it not true that yellow fever comes in only as an incident to foreign commerce, and spreads from State to State only because of intercourse between them? Why, then, should not the National Government, at its own expense, purge and purify the commerce which it declares must move, and which it alone regulates? To ask these questions is to answer them. But I hear some complaints at the omission of the reinspection feature of the Williams-Mallory bill that I desire to answer.

I confess that I would like the bill better if it had been retained, because, as to foreign commerce, I believe in the double rather than the single line of defense, but how are we hurt by its omission from this bill? The law of 1893 makes the national inspection final, and I shall not refuse to support this most necessary and meritorious measure because I can't get all I want, or because it does not repeal some provisions of existing law that will, of course, remain law, whether this bill is passed or not. If it were a question of now providing exclusive national inspection at the ports by this bill, that would be another matter and I might not see my way clear to do so, but inasmuch as defeating this measure can not change the existing order of things in that regard, and as the bill is satisfactory in practically every other respect, I cheerfully support it. Indeed, it may be very plausibly argued that this measure enlarges the State's right of reinspection of vessels from foreign ports. At least it contains no prohibition against such reinspection, as does the act of 1893. Besides, whenever the person or thing is once landed and the journey completed, the State's jurisdiction attaches. It is clear beyond doubt that the interstate clause of the Federal Constitution, and the statutes on the sub-

ject, follow and protect a shipment—a person or thing—only so long as it is in transit. (See Wabash Railway Co. *v.* Illinois, 118 U. S., p. 557.) This question is fully discussed in Judson on Interstate Commerce, pages 58–62, where all the cases are collected and the substance of the statute set out.

That as soon as the person or thing has completed the journey and become located, even though temporarily, it becomes subject to the local jurisdiction and local law, is shown by the following authorities: Woodruff *v.* Parham, 8 Wall., 123; Brown *v.* Heusten, 114 U. S., 622; Pittsburg, etc., Coal Company *v.* Bates, 156 U. S., 577; Judson on Interstate Commerce, page 25. Judson, citing many cases, says:

> Goods brought from one State into another are subject to the taxing power of the State, whether they are in original packages or not.

And, further, he adds:

> The original-package doctrine introduced in Brown *v.* Maryland (12th Wheat., 419), in reference to foreign importations, becomes material in interstate commerce in limiting the police power of the State. The termination of transit means that the property is subject to taxation in common with other property in the State.

On this point he cites numerous cases. See page 26.

But, after all, this question is more academic than practical. Whenever the Government shall establish a uniform system of quarantine at all the ports, the State stations will be abandoned. Such has been the history of the past. Indeed, I am sure the State stations and plants will all be sold to the Government. Georgia, Florida, and Mississippi have already turned over to the National Government, and the Macedonian cry from Louisiana last year shows the trend of thought and action.

The difficulty heretofore has been that the various ports bid for trade, forgetting for the while the necessary sanitary precautions, and taking too many chances in dealing with possible pestilence. It is hardly to be supposed that they will suddenly and almost over night reverse their policy, and become overcautious where they have been heretofore too lax. And so, after all, to contend further on this point is to sacrifice the substance in a vain pursuit of the shadow.

All this reasoning, gentlemen, applies with equal force to interstate quarantine, and to the much abused and more misunderstood section 7.

It is not proposed by this act, or by that section, to repeal or displace local quarantine laws. They are to be left in full force, to maintain and protect the health of the citizens for whose benefit they were enacted. Section 7 contains a most stringent provision against violation of local laws by the stopping or landing of any person or thing forbidden by the State or municipal regulations. Only the right of *passage through* is provided for, and that only after the most rigid inspection, disinfection, and certification, and only under the most elaborate precautions, safeguards, and regulations to prevent any possible contagion.

"But," say some of those who captiously criticise this measure, "suppose passengers become sick en route, what is then to be done?" My reply is that such a contingency is a matter of detail in execution and administration, that can and will be easily provided for. The trains will be screened, and ample facilities of all kind to meet every emergency will be provided. The bill expressly contemplates such regulations. But another and perhaps more conclusive answer is that the case supposed can never happen, at least there is not one chance in a thousand that it ever will. Detention camps will be established, passengers will be inspected with great and minute care, their movements for the time in which the disease is known to incubate will be known, and only such as are not only free from disease, but from danger of developing the disease, will be passed; in other words, only *uninfected persons*. Besides, what is there in section 7 that prevents the State from dealing with passengers who develop disease? I repeat that the decisions quoted by the gentleman from Texas [Mr. HENRY], establish beyond controversy that disease is not commerce, and defeat his own argument, because they demonstrate that whenever disease or infection appear the State has power, even under this act, to deal with it. Section 7 refers only to healthy, uninfected passengers, known from inspection to be such, and identified by certificates to that effect. It has reference to interstate *commerce* alone, and disease is not commerce. But while localities may deal with disease, they must not, and section 7 wisely says they shall not, hold up uninfected persons and commerce at their borders and deny the right of *passage through*. They may prevent *stoppage*, but they may not, and should not, prevent *passage*. On this point I desire to quote from a recent paper by Edgar H. Farrar, esq., of New Orleans, La., one of the most distinguished lawyers of the South, whose friendship I have enjoyed for many years, for whom and for whose opinions I have the highest regard, and whose luminous contribution to this subject has greatly lightened the labors of all those who have attempted thoughtfully and conscientiously to examine it. In the course of his great and entertaining argument—by great odds the ablest and strongest that has been made against national quarantine since that question was agitated about ten years ago—he says:

> If the States can not agree upon any settlement of the momentous question of quarantine on interstate commerce, and if the present unsatisfactory conditions are not rectified, it will, in my judgment, be the duty of Congress to pass some stringent penal statute punishing any person, whether health officer or not, who shall unlawfully interfere with uninfected interstate trains and uninfected interstate passengers passing through a State. No State has any power to block the highways of interstate commerce, or to lay embargo on interstate commerce under the pretense of exercising quarantine power. That power can be lawfully exercised without any such harsh measures. The limit of its exercise is "necessity." As was said in the Husen case:
>
> "The police power of the State can not obstruct foreign or interstate commerce, beyond the *necessity for its exercise*, and it is the duty of the courts to see that under color of it objects not within its scope be not secured at the expense of Federal quarantine."
>
> *The same duty rests upon the Congress that rests upon the courts, and the Congress has the same measure of power to legislate that the courts have to adjudge.*

What, I ask again, does section 7 do, beyond what is proposed by this great lawyer and equally great exponent of States rights? The reply is nothing, and it seems as if the framer of that section must have had Mr. Farrar's paper before him when he drafted the paragraph, and must have prepared it with the express purpose of meeting his wise advice and of responding to his suggestion, that *the same duty rests upon Congress as the courts, and Congress has the same power to legislate as the courts have to adjudge.*

Now, let us for a moment examine how the existing system operates. Outbreaks of yellow fever are uniformly attended with more or less—usually more—panic and hysteria. Towns, villages, localities, and even States become wild with fright, and travel and intercourse is restricted without reason, often cruelly and heartlessly. The rule in interstate quarantine seems to have been exactly the reverse of foreign quarantine. Before the disease enters, the disposition seems to be extremely careless, so long as trade is induced, but after it has once appeared there seems to be a mania to senselessly, needlessly, and cruelly restrict travel and movement of every character. Quarantines are levied against wholly uninfected communities. Towns, counties, and sometimes even States that are free, not only from infection, but also from suspicion of infection, are cut off. Communities set the law at defiance. Great mobs assemble, and in some cases railroad tracks have been torn up and bridges destroyed. I recall an instance in 1898 when a State board of health quarantined a whole section of Mississippi, absolutely free from infection, *with a full knowledge of the fact that it was not only clean, but was in no danger, and despite the fact that the inspectors of its own board so reported after having personally examined the situation*, which report was confirmed by another State board of health and the Marine-Hospital Service, both of which had thoroughly examined the ground. And this State board of health not only refused to raise, or in any way ameliorate, that quarantine, but threatened to quarantine any other State or locality which did release it, until it was confronted by a bill filed in the Federal courts by a citizen whose right of passage and attention to his business was destroyed, when on the very day set for a hearing of the application for a restraining order, and upon a bill charging that the quarantine had been levied for commercial purposes and as an advertisement of vigilance only, the quarantine was raised. During the year 1897 citizens along a certain line of railroad prohibited the passage of trains of any character whatever over the road, completely held up and stopped interstate commerce, and in order to enforce their prohibition destroyed a bridge and considerable amount of track. During the same year traffic was stopped in other parts of the country and more or less damage wrought, but this instance is cited because it was the most flagrant.

Coming down to the epidemic of yellow fever during the past year, we find that while violence and mob rule were not so rampant the restrictions upon travel were almost as burdensome and perhaps more ludicrous. It is only necessary to cite an instance in which two sovereign States were almost involved in hostilities, the situation at one time growing so serious and acute as to induce the calling out of the entire naval militia of one of them, and the arrest of officials of the other, a situation which was only relieved by the Government stepping in and, under the act of 1893, taking charge of the quarantine between these States.

Again, we have the spectacle of the authorities of a State, backed by its militia and by its special police armed with shotguns and other weapons, acting by and under the authority of the State, claiming to be the guardians of law, absolutely prohibiting fleeing refugees seeking escape from the pest and contagion, the right to pass through the borders of their State, even though

it was known that the train which bore them did not expect to stop, except for the purpose of taking fuel and water.

Another instance that came to my knowledge, of hysteria, fear, and panic and stoppage of travel within a State, is a case which took such shape that the health authorities were unable to send nurses, medicines, and physicians to a stricken community in their own State, and were actually forced to smuggle them, by the consent of the authorities of the State of Mississippi, through that State and back into their own, in order that the stricken communities which so sadly needed succor and help might have medical attention and aid. Even in those instances where the right of passage through—*and you will understand that my argument is addressed solely to right of passage and not to the right of stoppage*—was permitted, it was attended with such restrictions, and granted under such circumstances of hardship, as to loudly call for relief. My own experience will serve to illustrate the point. I live upon the seacoast of Mississippi, in a county contiguous to the Louisiana line and in a town about 50 miles from New Orleans. That town during the whole of the outbreak, and the country except for a few days—and with the exception of two imported cases, which occurred in the northern end of it more than twenty-odd miles from the coast, which were stamped out at once without any spread whatever—were entirely free from the disease.

Notwithstanding these facts, all of this territory, together with a large additional area, absolutely clean and free from infection, *inspected by the health authorities of interested States and known to be so*, was quarantined and kept under quarantine during the whole season. This would not have been burdensome at the time, if a reasonable right of passage had been granted, but, mark you, that was not done. If any person from that section, properly armed with a health certificate, and with a certificate that he had not been in any infected territory or exposed to contagion, wanted to go north or east, he could travel through the quarantining State in a closed car, *confined, perforce, with passengers from the stricken city of New Orleans;* but if after he had transacted his business north or east he desired to return to his home again, seeking only to pass through *under such surveillance* as the authorities might see fit to impose and under the most thorough guaranty that there was no danger of his disembarking within the State, he was met at the border with a refusal, and with the statement that while he might go out he could not return until he had stayed out seven days; and this information was coupled with a statement that if he remained on the train and the conductor and railroad company failed to eject him, the train would be held up at the State line and not permitted to enter or pass through. These are actual experiences—experiences that I, in common with many others, underwent, and, in my judgment, they call for relief.

To my mind to state these conditions is to make manifest the necessity for some regulation that will permit reasonable and sensible travel—to demonstrate that there should be some power, some central authority, some uniform regulation, to which all can conform and which will permit sane and sensible intercourse.

My friend from Texas [Mr. HENRY] says that for one hundred and seven years we have satisfactorily coped with the disease and permitted travel, under existing laws.

Does this look like it? Do the outbreaks and epidemics that have recurred in swift succession, with their attendant sacrifice of hundreds of thousands of lives and millions of property, indicate that our present laws and methods are all that is needed?

The one question of conflict of regulations, with a different law and different set of rules at each State line, is alone enough to demand relief. Why, the situation between Mississippi and Alabama grew such during last year that a friend of mine at Meridian, Miss., who was a victim of the quarantine between these States, sent up a touching petition in verse for cold weather to regulate the quarantines. I give it to the House:

O Lord, Thou seest how we are lost
In this awful quarantine.
Unless Thou send a little frost,
Our finish can be seen.
There is no peace or counsel calm
'Twixt "Mississip" and "Alabam."

O Lord, in all this sultry weather
No comfort can we get.
If Thou wilt change it altogether,
We'll not forget—we'll not forget.
For there is not a happy spot,
While it's so hot—while it's so hot.

O Lord, upon our bended knees
The common people all together
Beseech Thee for one honest freeze—
Real hard, cold, winter weather.
And boards of health will have no terrors
If the north wind through the forest wanders.

My friend from Texas [Mr. HENRY] says that Texas can take care of this matter, as far as she is concerned, and cites us to the fact that they kept the yellow fever out last year. True, Mr. Speaker, but he forgets that since 1844 the yellow fever has been introduced into the United States twelve different times through the Texas ports and over her Mexican border.

That may have been taking care of Texas, but it played havoc with the other States.

And now, Mr. Speaker, let me disclaim any intention to criticise or animadvert on any health officer or board of health. I am willing to concede to all of them the desire to do right, and I know that much good has followed their efforts. My argument and criticism is aimed at the system and method, which permits such outrageous and varied abuses, which I would change, and for which I would substitute a broad, national system, contemplated and authorized by the Constitution, and which will not only protect commerce, but preserve the health of all the people of this Union. [Loud applause.]

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. BOWERS. I ask unanimous consent to revise, enlarge, and extend my remarks in the RECORD. [Loud applause.]

Mr. WANGER. In connection with that request, Mr. Speaker, I would like to ask that all Members who speak on this question may have permission to extend their remarks in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania? [After a pause.] The Chair hears none.

Mr. BARTLETT. Mr. Speaker, I would inquire how much time is left on this side? Fifty-six minutes, I think.

The SPEAKER pro tempore. The gentleman has fifty-four minutes remaining.

Mr. BARTLETT. I yield six minutes to the gentleman from Texas [Mr. BURLESON].

[Mr. BURLESON addressed the House. See Appendix.]

Mr. BARTLETT. I yield five minutes to the gentleman from Texas [Mr. BEALL].

[Mr. BEALL of Texas addressed the House. See Appendix.]

Mr. WILLIAMS. Mr. Speaker, how much time is left on each side?

The SPEAKER. The gentleman from Mississippi and his side have fifty-two minutes remaining. The other side has forty-three minutes.

Mr. WILLIAMS. How much time have I of the fifty-three?

The SPEAKER. The gentleman has eleven minutes.

Mr. WILLIAMS. Mr. Speaker, I think there has been, to use the words of an old friend whose language I have frequently repeated, "a great deal of qui viveness and not very much appropriousness about the debate against this bill." The thing to be discussed is the bill, and gentlemen on the other side have been careful not to discuss it. Anybody can lay down the proposition that the reserved police power of a State is sacred, and the Federal Government can not interfere with it. Anybody upon the other side can lay down the proposition that the clear and express power of the Federal Government to regulate interstate commerce and foreign commerce is sacred and can not be interfered with by the State; but the point is, Where does the line of demarcation come? The point is, Where and how does this bill affect either one or the other? The gentleman who drew up the minority report takes eleven pages, quoting a whole lot of decisions of the Supreme Court, and when he gets through all that he has done is to prove that States have exclusive police power within their respective territories. Nobody but a fool ever thought they did not. Nobody ever disputed it; no man that deserves a law license ever would raise the issue against them on that proposition. But there is not a word in his report, and not a word in the debate on the other side upon the floor, to show that there is a single provision of this bill which trenches upon the police power of the State within its territory. That is all the police power there is. The State has no jurisdiction of any sort, no police power or anything else outside of its territory, and the State has such jurisdiction within its territory, even, as has not, by the voluntary action of the States, been delegated to the Federal Government, either expressly or by necessary implication.

In answer to a remark by the gentleman who last spoke, I wish to say that the gentleman from Mississippi and the gentleman from Georgia are standing here to-day as strict constructionists. There is not a thing in this bill that John C. Calhoun could have voted against. There is not a thing in this bill any more touching the sacred rights of a State reserved and not delegated than the effluvia of a dead cat in the Desert of

Sahara could affect the purity of the atmosphere of the Arctic Circle. [Laughter.]

I am not frightened by any tirade of criticism because I procured a special rule to consider this important and emergency legislation. I am confronted with certain parliamentary machinery. I did not create it. I must work with it if I am to procure results. I am not fool enough to leave Republicans alone to avail themselves of it and leave the South helpless to the ravages of another epidemic because I will not use the House machinery. I am not at all afraid about an attack upon my devotion to the doctrine of State rights. I am standing here to-day for the most sacred of all State rights, and what is it? The right of the people of a State to demand, when they have rendered themselves powerless and helpless by the delegation of a given authority, that the Federal Government, to whom the authority has been delegated, shall assert it for the protection of the people of the State. The gentleman who took his seat just before the last gentleman, my friend from Texas [Mr. BURLESON], said we wanted to unload on the Federal Government the expense of meeting this foe who never attacks us save by importation. Yes; we ought to unload it, and it ought to take it up. It is not only within the power, but it is the duty of the Federal authorities, and they are recalcitrant to their duty when they do not. The gentleman says that when a public enemy comes to our shores the people of the States meet him. Yes; the public enemy is met by the power of the State and by the power of the Federal Government both acting in cooperation with one another. "Unload the expense!" Yes; you have unloaded all other imports upon the Federal Government, and why not unload the expense of yellow-fever importation? You have unloaded the Army, you have unloaded the Navy, you have unloaded everything else that is absolutely national. You have unloaded the jurisdiction over foreign commerce upon the Federal Government. The States when they established the Constitution did this wholesale "unloading." The gentleman says: "Oh, well; but disease is not commerce." Who in the world ever said it was; who in the world ever imagined it was? But the things and the persons that carry disease are commerce, and in so far as foreign commerce and interstate commerce are concerned, they ought to be regulated in such a way as to be purged of disease. Why, gentlemen talk as if the object of this bill was to import yellow fever into Texas. The object of the bill is to get the aid of the Federal Government to keep yellow fever out of Texas; to get the aid and the money of the Federal Government to keep yellow fever out of Texas.

Mr. BURLESON. But Texas can do that for herself.

Mr. WILLIAMS. Judging by what I know of that post, I would rather have the strong arm of the Federal Government to help her. Then the gentleman says disease is not commerce. Of course it is not, and this bill does not say that disease is commerce. Now, section 7 was not in the original Mallory-Williams bill. It was put in as an amendment by the Interstate and Foreign Commerce Committee of this House. I am not tied to it, but I am prepared to defend it as absolutely constitutional and as not interfering with a single dogma of States rights, even of the John C. Calhoun or the JOHN SHARP WILLIAMS school, because I take my footing there with Calhoun. There is not a thing in section 7 that hints even at the idea that disease is or can be commerce. What does it say? Why, the gentleman from Texas [Mr. HENRY] I do not believe ever read section 7 from the way he talked about it and from the way he answered questions put to him concerning it. It says—and I wish you to mark the language:

Every common carrier engaged in interstate commerce shall—

How?—

under such regulations, restrictions, and safeguards as may be promulgated by the Secretary of the Treasury, receive, carry, and transport through—

"Through," "through," "through"—not "into" any State or Territory of the United States—

through any State or Territory necessary to complete the journey or carriage into—

Where?—

into a State where its delivery or debarkation may be lawful.

That is to say, into a State beyond the yellow-fever zone.

Mr. BURLESON. How can they go through a State without going into it?

Mr. HENRY of Texas rose.

Mr. WILLIAMS. I can not yield now. To continue—

All passengers, freight, or baggage—

And does it stop there? No, a thousand times no. If it had stopped there, the gentleman from Texas might have been, to some slight extent, justified in what he said; but, no, it does not stop there—

all passengers, freight, or baggage which may have been discharged and properly certified in accordance with the regulations of the Public Health and Marine-Hospital Service.

Expressly, then, the bill refers only to trains examined, inspected, found to be uninfected, and certified to be so. Any other sort of train can be dealt with by the State and turned back by its police. It is when disease begins that regulation of it as commerce ends and the police power attaches.

Mr. HENRY of Texas. Mr. Speaker, will the gentleman yield?

Mr. WILLIAMS. No; I can not yield.

Mr. HENRY of Texas. But the gentleman said that I never read the section, whereas in fact I read it to the House. I want to ask this question.

Mr. WILLIAMS. Oh, I had just eleven minutes in which to talk to a great question on a bill of which I am the author, and the gentleman, who had unlimited time, yielded to me so unwillingly twice and declined twice that I will now "return good for evil" and yield to him.

Mr. HENRY of Texas. Very well. If the Federal Government has a right to take interstate commerce through a State, hasn't it the same right to take it there and land it in the State?

Mr. WILLIAMS. The gentleman voted that way in the cattle-quarantine case, where the object was to prevent the passage of cattle—Texas cattle—from being interfered with by the exercise of the police power of Colorado.

Mr. HENRY of Texas. I did not.

Mr. WILLIAMS. Oh, I think the gentleman did. I remember distinctly when it came before the House that every member of the Texas delegation voted for it who was in the House at that time. I wish I had time to read the drastic and rigid provisions of that bill, so much further reaching in the assertion of Federal power and the prohibition of local interference than this bill is.

Mr. HENRY of Texas. That does not answer the question.

Mr. WILLIAMS. I do not say so; but I am answering this now; and let me finish this particular point. Section 7 does not apply to any infected train—"disease-laden" train as one of the gentlemen phrased it. Section 7 expressly applies only to such trains as are declared and pronounced and certified as noninfected, and to no other sort of a train. Later on it says that every person interfering with or obstructing "such" carrier or with any passenger or any instrumentality of commerce in any "such" carriage or journey shall be guilty of a misdemeanor, etc.

Interfering with a "disease-laden" train is not forbidden nor punished by this act. It is true that the Marine-Hospital Service under this bill will judge and say whether the train or ship is infected or not, but whence arises the presumption that it will certify falsely?

I may have misunderstood my friend, but I understood him to say this bill would enable them to land a yellow-fever patient or goods from a yellow-fever port in Texas.

Mr. HENRY of Texas. I said the same power would give the right to do it.

Mr. WILLIAMS. I do not believe a man ever had before the House a bill as large and important as this with as short a time to discuss it in, but the bill itself contradicts the gentleman and says that this section "shall not be construed as giving authority to any person to debark"—that is, to debark as a passenger—"or unload freight in any locality contrary to the regulations" of the State or locality.

Mr. GARNER. Mr. Speaker——

Mr. WILLIAMS. I can not yield now. Now, the gentleman says Texas will not have the right to stop and inspect a train going through. In the name of God, what do you want to stop it for? If an infected train should go through Mississippi, if it ever did, and it could not go under this law, but if it should go through there every Mississippian with common sense would say, "hustle it through as fast as you can." We do not want any right to stop it; we do not want to fool with it; all we ask is for it to go at the rate of 50 miles an hour and get outside of the State as rapidly as possible. Now, I yield to the gentleman from Texas.

Mr. GARNER. If I understood the gentleman, it can not stop in Texas. If it is a train to Mexico and the Republic of Mexico refuses to let it in, would it not have to stop in Texas?

Mr. WILLIAMS. Oh, undoubtedly in that case. Mexico can do that anyhow under existing law or any law. Congress can not circumscribe the sovereign and independent power of the Republic of Mexico.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. WILLIAMS. Now, Mr. Speaker, I am very sorry I have had only this time of eleven minutes wherein to discuss this bill.

Mr. WANGER. Will the gentleman from Georgia yield some of his time?

Mr. BARTLETT. I yield fifteen minutes to the gentleman from Missouri [Mr. DE ARMOND].

Mr. DE ARMOND. Mr. Speaker, this bill naturally divides itself into two parts, one relating to quarantine and the other relating to interstate commerce. It is called a "quarantine bill," and the main part relates to the establishment of stations for inspection and detention, with a view of preventing the introduction into this country of yellow fever, but section 7 entirely departs from the purpose of the bill and provides for the business of transportation. It goes from the general provision and the general purpose with reference to quarantine and deals with the subject of transportation. Section 7 has no harmony with or reasonable part in this bill. It is out of harmony with every other part of it. Section 7 evidently must have been introduced, not with a view of preventing the introduction or spread of yellow fever, but with a view of placating some corporation engaged in transportation. How can section 7, in any construction of it, by any application of it, lessen the amount of yellow fever coming into the country or remaining in the country or spreading through it when once introduced? Section 7 might just as well and just as constitutionally provide, as the gentleman from Texas [Mr. HENRY] has argued, for the disembarkation of freight and passengers within a State as to provide for their transportation through a State. It is not at all a quarantine measure, but its presence in the act, if it becomes a law, will tend to the spread of yellow fever instead of tending to check the spread of yellow fever. If upheld by the courts it would take away the power of the States to prevent yellow fever from coming within their borders. Suppose, nowithstanding the inspection and the O. K. provided by this bill, a train carrying infected persons enters a State—crosses the line of the State or passes through the State—all possibility of excluding or checking the disease by any State agency is taken away by the provisions of this section 7, if valid.

Now, I think it has been demonstrated, and I suppose anybody who knows anything about it understands, that the mosquito is the agency for the spread of yellow fever. Suppose that a single mosquito, a single infected mosquito, were to be in a train coming from an infected point——

Mr. WILLIAMS. Mr. Speaker——

Mr. DE ARMOND. That mosquito of itself could bring yellow fever into a community and communicate it to any person——

Mr. WILLIAMS. Will the gentleman yield to an interruption? Is the gentleman aware of the fact one of the regulations of the Marine-Hospital Service in connection with these trains starting from infected points is that they shall be screened from beginning to end of them, and a mosquito could not land to save his life?

Mr. DE ARMOND. That has nothing to do with the proposition I am upon. The proposition I am on has reference to section 7. It is not legislation to prevent the spread of yellow fever, but legislation to facilitate the operations of the great railroad companies. [Loud applause.] Evidently it was put in at their suggestion. It is not fair for them or for anybody to urge legislation as a protection against yellow fever when it tends to increase the danger by taking away the possibility of meeting and lessening it by action of the State authorities. But if one object of this bill is to facilitate reckless interstate commerce, then section 7 is a very important and essential part of it. If the sole object is to bring an additional agency into the field to prevent the introduction and the spread of yellow fever, then section 7 ought to go out, because it weakens the bill.

Mr. Speaker, to some of us it hardly appears necessary at one and the same time, by one and the same bill, to force Members to vote against some wholesome quarantine legislation or to vote for reckless freedom of traffic at the sacrifice of wholesome State inspection. But as the Senate has passed a quarantine bill free from the contamination of selfish railroad interests and free, also, from the unwise and needless elimination of the agency of the States in the contest against this dread disease, yellow fever, we may hope later on for that decent division of the question which is denied here and now.

Why not leave the railroads and their desires, manifested in the cold count of dollars, for some other day?

With section 7 eliminated not an atom of efficiency would be taken from the General Government fight against disease. Upon the contrary, with section 7 out of the bill, the force fighting the fever would be increased by every State agency organized for the contest. Section 7 rejects the aid of the States in fighting the fever in order to help the railroads to introduce and scatter it in communities which but for them would be free from its ravages.

We have heard about the iniquity of putting "riders" upon appropriation bills. Here we have railroad interests as riders upon a quarantine bill. Keep out the yellow fever, if you can, after providing for the gentle railroaders at the expense of the States.

If section 7 were not in the law, and if the authorities of a State should stop a train from an infected point, and if the train were entirely free from every agency by means of which the disease could be communicated—even then no harm would be done as to the quarantine or any of its legitimate objects. The railroad company, however, might be delayed in the movement of its train, or might even be forced to a longer or less desirable route. Who, then, will say that section 7 is a quarantine provision? Who will deny that it is a railroad section?

But suppose—and the supposition is not unreasonable—that the train stopped by the State authorities, in the exercise of the police powers of the State, carried the agencies for introducing into the State—bringing upon the people of the State—the scourge of yellow fever; then would not the State be a most efficient aid to the General Government in the quarantine work? What, then, would be the office of section 7? It would strike down the defender of the lives of the people to clear the track for some soulless corporation pitilessly devoted to money making.

Why not have the National Government and the State governments working in harmony? Why legislate for the railroads in a way to remove State agency from its useful work? Why put railroad interests above the interests of humanity? Such incongruous legislation is not born of necessity, but of choice. Will the time ever come when any matter of great public policy can have consideration and treatment free from the taint of corporate touch?

Divorce the people's interest in protection against dreadful epidemics of yellow fever and other terrible scourges from the interests of railroad operators in accumulating wealth, and you will no longer find such sections as section 7 in a quarantine bill. I shall vote against this section 7 if to do so I must vote against the bill, for which, with section 7 stricken out, I would be glad to vote.

Mr. WANGER. I yield five minutes to my colleague on the committee.

Mr. STEVENS of Minnesota. Mr. Speaker, on this side of the House we have not participated much in the discussion of the constitutionality of the various provisions of this bill. There is nothing particularly personal to us in it. But we have considered our duty to it must be to legislate as best we could and as we ought to do for the interest of the whole country. When this measure was presented to the Committee of Interstate and Foreign Commerce, I must admit my own prejudice against it. I did not believe that there ought to be taken from the States any of their reserve police powers or any which they were capable of exercising or have ever exercised. I did not favor the creation of any additional offices or the granting of any additional powers to the National Government, because all such always entail added responsibility and much larger expense; and especially as a matter of good legislation I did not favor any floating grant of power so that a large amount of money could be expended anywhere that any executive officer should deem necessary without an express direction of Congress therefor.

But when the reasons for this measure were fully presented to us, after conference with our colleagues, when we realized the deplorable condition of the Gulf States, the members of the majority of your committee did not believe it their duty to deliberate and discuss constitutional propositions when pestilence might stalk within our borders, when men would die, when the commerce of our people would languish, when disaster might come upon a large section of our people. We believed it was a duty incumbent upon us to adopt such protectionary measures as should best protect these people and preserve these great interests. This bill, in essence, provides two things: First, adequate measures to protect the borders of our country, to keep pestilence without our territory, and, second, adequate measures to inspire confidence among the people so that they could pursue their usual avocations and preserve their courage, composure, and health. These two subjects were impressed upon us as equally important; to prevent pestilence coming, and then to inspire confidence in our people that they

should be protected. Considering this measure in these lights, we found it necessary to considerably amend the bill, and we have amended it, and it seems to me that the argument of the gentlemen from Mississippi [Mr. WILLIAMS and Mr. BOWERS] clearly meets our views as to our power and duty in the premises.

Mr. DE ARMOND. I would like to ask the gentleman in what respect section 7 is an amendment to the existing bill, and how that will keep out yellow fever?

Mr. STEVENS of Minnesota. If the gentleman will allow me, I will get to it in a minute, if my time permits.

We found it necessary that quarantine stations should be established which would aid in excluding yellow fever from the country; second, that stations and anchorages for vessels should be established, not now provided by law, but limiting the number of them to four. These could be employed in keeping yellow fever out of the country, and if it were found here, would confine it and protect the people; and in that way confidence would be established, and the people would be protected. Now, as to the provision in section 7. One of the necessary things which we believed necessary to protect the people, necessary to inspire confidence because that is equally as important as protection, was that the people should have the right of ingress and egress, so that they would be able to go where they believed it to be necessary, and be sure wherever they went that they were protected. They realizing in these Gulf States that the laws and administration of local measures did not protect them, and that it was necessary to have the great arm of the Federal Government over them with its rules and regulations, restrictions and safeguards established by a competent authority with the great treasurer and power of the National Government, by all these they know that they will be protected. This inspires confidence in each other, in the administration of the law, and this protects the interests of the people and their commerce. [Loud applause.]

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. WANGER. Does my colleague on the committee, Judge DAVEY, desire any time? If not, I will yield to my colleague [Mr. ADAMSON] such time as he may desire.

Mr. WANGER. Mr. Speaker, I yield to the gentleman from Georgia [Mr. ADAMSON], my colleague on the committee, such time as he may desire to use.

Mr. ADAMSON. Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. WANGER] for his great generosity and courtesy, which I can not afford to abuse. The debate is limited to this day, and up to this time the House has heard but two members of the committee, both Republicans. None of the four Democratic members of the committee who helped shape this substitute, and are able intelligently and satisfactorily to explain its provisions, have yet spoken. I desire that several of my Republican colleagues on the committee shall be heard, and I am especially anxious that the Democratic committeemen who support the substitute should say something in its behalf. All of the six Democratic members of the committee labored faithfully and conscientiously to solve the problems presented. It is regretted that two of them were not able finally to agree with us. Not only were we unable to satisfy them, but opposition from the majority was also so intense at one time that no hope of favorable action was felt; yet four Democrats continued to labor with our Republican brethren until an agreement was reached by sixteen members of the committee—all but two. The distinguished gentleman from Alabama [Judge RICHARDSON] can not be too highly commended for the patriotic efforts which he never ceased to put forth. He "poured oil on the troubled waters," and by his courtly grace and legal knowledge secured the action of the committee. The Williams-Mallory bill was dead. Judge RICHARDSON alone saved it; and with the help of his first three Democratic colleagues, together with the patriotic, conciliatory spirit of the Republican members, agreed upon such amendments as made this substitute bill possible. To Judge RICHARDSON of Alabama is due the credit for whatever legislation results from the action of our committee, as I believe every member thereof will testify. I am proud to have been one of his humble helpers.

Quarantine is derived from quaranta or quarantina, which originally signified forty, and in ancient times denoted the period of forty days during which an incoming vessel was compelled to isolate herself and abstain from contact with persons and things on shore, on the theory that if she or any of her passengers had been exposed to contagion or infection of any character it would certainly develop within six weeks, and during that time danger of transmission through baggage or merchandise was obviated by general purification of everything on board, so that if at the end of that period of restraint no person became affected all restraint was removed; passengers and crew were permitted to communicate freely with persons on shore and to deliver baggage and commodities without restriction. From antiquity the common sense of mankind, constantly enlightened by growing experience, recognized that one way to preserve health was to prevent the introduction of disease, and the surest way to accomplish that was to prohibit persons and property suspected of contagion from going into localities which were free from disease. It was not the custom to limit the restraint to known cases of infection, but it was extended to persons and things, usually ships (because trains had not been invented), which were only suspected of hailing from infected ports.

In modern times the advance of science has reduced the time of detention, fixing different periods for different diseases, according to their nature and the known requirements for their prevention and treatment. The application of the scriptural doctrine that cleanliness is next to godliness has shed great light on the subject, resulting in more intelligent and effectual methods both in dealing with infection and in removing the causes thereof.

In the case of yellow fever, against which this bill is chiefly directed, it has been demonstrated that the only isolation necessary is screening the person afflicted so that the mosquitoes, which alone communicate the disease, can not sting or bite him. He may remain in the immediate presence and sight of people who see and converse with him, breathe the same air, eat and drink with him, touch him, sleep with him, may even be bitten by the same mosquito in his presence, and yet be perfectly immune against the disease, unless the same mosquito has bitten him first. The contagion can not be transmitted unless the virus is extracted from his fever-stricken blood and infused into the others. That is done through the medium of the mosquito, which first bites the sick man and then bites others.

There has been some hint of objection to this appropriation for the alleged reason that it is intended to benefit only a part of the country, and it has been suggested that the provision should be uniform and so broadened as to apply to all contagious diseases which are liable to appear in any part of the Union. The word "uniformity" is used in existing laws, but it is not construed to mean the same treatment for all regions and all diseases. It is proper to observe uniformity in regulations relating to any single disease which may threaten or infect any particular portion of our country subject to its ravages, or the ports of which may be portals for its entry. In such case the advantage of uniformity is twofold. First, it prevents discrimination between ports and localities; second, it clearly informs all persons of the regulations applicable to all places controlled by the regulations as to the particular disease. One uniform system covering all diseases threatening the entire country is impossible. The Secretary of the Treasury recognizes the fact in promulgating regulations to govern quarantine. He first defines and classifies the various quarantinable diseases, and then, with scrupulous regard for conditions affecting, introducing, preventing, and eradicating the various diseases, prescribes different rules and regulations for each.

The Supreme Court has denied that uniformity is attainable or even desirable in quarantine regulations designed to operate through and around a great Republic 3,000 miles in extent, whose territory partakes of every condition of climate, and which at various ports may have to battle with all the different contagions that afflict any portion of the globe. (118 U. S., 465–466.)

We limit this bill to yellow fever, because at present that looms up as the most threatening great foreign foe against which our country needs protection. It is true the disease can not afflict and kill people in all parts of the country, but it can demoralize the business of the people by its effects on commerce. Inroads of other contagions upon other parts of the country would operate in similar manner, but in reverse order. The people directly afflicted might languish and die while we retain life and health, but in greater or less degree the business of the country would suffer, while the pall of gloom spread over the entire Union would scarcely equal our heartfelt sympathy for our fellow-countrymen immediately involved in the pestilence.

We are willing to do as much in protecting against invasion of any other part of the country by any other disease when necessary as we ask Congress to do in this case. It is not right for one city or State to bear all the brunt of the battle waged for the common benefit of us all. A scourge at New Orleans is not destructive to that city and her people alone, but menaces, if it does not attack, the health of thirty millions of people, and may paralyze the business and suspend the communication and mar the peace and happiness of our entire eighty millions. Such a city may be likened unto Thermopylae, but whether or not all the brave defenders perish and expend

all their substance, the insidious enemy may baffle their efforts and ravage the entire Atlantic and Gulf slope, with the Mississippi Valley. Those devoted and stricken patriots fight for us all as well as themselves.

Other States like my own, after having surrendered their quarantine stations to the Federal Government, or having exercised all vigilance themselves, may have secured as complete immunity from foreign importation of disease as human ingenuity can vouchsafe, and yet from insufficient protection or unwise relaxation of energy, whether from selfish commercial reasons or otherwise, the dread disease may enter the country a thousand miles away, and, wafted across the country with an afflicted passenger in commerce, may find the ever-ready mosquito to disseminate the malady to destroy the very people who, having discharged their full duty, entertain such high sense of security. It is therefore manifest that there should be no objection to the expenditure contemplated in this bill on the score of local benefit. The pending bill proposes that the Federal Government take a long step forward in the discharge of its plain duty to the people. That beneficent progress should not be impeded nor questioned by doctrinaires of any persuasion. Congressmen ought to know the Constitution which they have sworn to support and permit neither prejudice against State lines nor jealousy of Federal power to becloud their correct understanding thereof.

We are sworn to support the Constitution as it is, which was made by States and can only be amended by States, but provides as sacredly for the power and integrity of the Federal Government in the exercise of its delegated functions as for the dignity and sovereignty of the States in performing the great mass of the duties of government under their reserved rights. The Constitution forms and perpetuates neither an autocratic, centralized, and paternalistic empire nor a discordant aggregation of independent and belligerent States, but constitutes the palladium and shield of a great Republic in which indestructible sovereign States constitute an indissoluble union, the general affairs of which are to be administered by the Federal Government for the benefit of all the people, at once the citizens of the States and beneficiaries of all the protection of this great Republic. True the expense of administration and protection grows greater, but dangers increase and multiply as the population grows, and the States and the Republic advance in wealth, power, greatness, and glory. The pending bill makes no departure from the system heretofore pursued by the Federal Government, but is only a meritorious enlargement thereof.

Recognizing that quarantine belongs properly to the reserved police powers of the States, and that no quarantine power as such ever vested in the Federal Government, but is only implied as necessary to regulate commerce, Congress and the Executive have, through all administrations and changes of parties, limited their efforts in the nature of quarantine to aiding the State authorities. They have never claimed any such power within a State even as an incident of commerce, but have cooperated with the States in protecting the people. As to the well-established right and duty to exercise exclusive control as to matters of police, including health and morals, together with a great mass of subjects of internal regulation, a long and unvarying line of decisions by our Supreme Court leaves no doubt.

The Federal Government, however, is vested with exclusive power to regulate interstate and foreign commerce. Its duty is coextensive with its power. With scrupulous fidelity and caution it should so discharge that duty as not to imperil the health and safety of the people nor interfere with the efforts of the State to preserve such health and safety. Though clothed with no quarantine power as such, the Federal Government should, under its incidental power, protect every inch of our borders by throwing around our foreign commerce such safeguards that no infection can overleap or evade to bring disease among our people. We should likewise provide that interstate commerce should facilitate the transit of passengers, freight, and baggage under Federal supervision so faithful and vigilant as absolutely to prevent that commerce from transmitting contagion from one State to another. The commerce clause, like any other grant of power, implies and carries with it the right to do all things natural, necessary, and proper to exercise the power delegated. That has been clearly held. As quarantine stations, agents, and foreign inspection are recognized as the proper and necessary means in the regulation of foreign commerce to guard against infection accompanying that commerce, and as faithful supervision and precautions are unquestionably the proper means to prevent interstate commerce from impairing the health and safety of the people, it is by necessary legal implication clearly within the power of Congress to extend and broaden its traditional policy as to health laws by passing the present bill in the form substituted by the committee.

Present law is defective in three particulars. While amply providing for information and inspection in foreign ports and due precaution as to inspecting and certifying vessels bound for our ports it is inadequate, first, to establish quarantine grounds and anchorages of refuge to receive infected ships with their cargoes and passengers sent thither for the disinfection of ship and cargo and the treatment of the passengers; and, second, it fails to secure the vital and most essential element of protection known as "quarantine stations and anchorages" for vessels, which acting as sentinels police and guard our ports, to apprehend and inspect suspicious ships and compel such as are infected to repair for treatment to the quarantine stations and anchorages of refuge; and, third, it fails specifically to authorize the Federal authorities to discharge the manifest duty to preserve and maintain through traffic as to passengers, freight, and baggage under such faithful supervision as will aid rather than impair or question the efforts of the various States to preserve the health and safety of the people remembering that quarantine is not an active agency by which travelers and commodities may be forced upon unwilling communities, but in fact is a negative instrumentality by whatsoever authority resorted to, the purpose of which is to suspend movement and operation until safety is reasonably assured.

"Quarantine" means only the right to prohibit or qualify entrance, and never to compel entrance, a right inherent in and reserved to the States, which the State may exercise whether the Federal Government protects or not. The same port may at one time have the protection of both. One may withdraw its negation, leaving the protection of the other. Both may withdraw their objections and leave the port without any established quarantine at all, but no constitutional authority exists to compel the landing at any port of anything or anybody over the objection of either Federal or State authorities. Any statute attempting such action would be absolutely void.

Section 6 of the act of 1893 is sometimes misconstrued to be an attempt, whether successful or not, to break down local authority, in that it provides "that any vessel certified by the Federal authorities may enter any port of the United States." Then, in its misconstrued shape, certain statesmen regard it as not only authority, but a precedent for other legislation on which they base the erroneous doctrine that the Federal Government, having examined a vessel, may force the landing of passengers, crew, and freight and baggage despite the inhibition of local quarantine, although the same statesmen admit that immediately after landing they all become subject to the police control of the State.

A series of errors from false premises, through illogical argument to ridiculous and disastrous conclusion. The language in section 6 clearly means that so far as concerns Federal law, Federal authority, and Federal interference, entrance and landing shall not be further opposed. The concurrent operation of the two—Federal and State—authorities, each exercising a negative or veto power against the entrance of a ship or its contents to that port, is nowhere denied in that section. But, on the contrary, is expressly recognized by authorizing vessels bound for certain ports to undergo local quarantine in lieu of Federal quarantine wherever sufficient quarantine provision has been made by the State. If the other construction were correct, the provision would be unconstitutional and absolutely void.

Our path of duty is outlined in the pending bill, and is plain, simple, and unquestioned. Having no delegated quarantine power as such under the Constitution, but being vested with the exclusive control and regulation of interstate and foreign commerce, with necessary power and means of exercise implied, we can and should see to it that foreign commerce is so regulated that it shall bear no infection to our shores. But that by no means supports the monstrous doctrine that we should unconstitutionally seek to prevent the State in which a port may be situated from exercising its undisputed right, through its police authorities, to exercise quarantine surveillance to prevent the entrance of the same infection.

Our other plain duty, fully undertaken in this bill, is in connection with interstate commerce, and Congress should authorize such regulation as will insure the passage of through travel and traffic on through trains through any and all the States. With health certificates from competent authorities at the initial point, passengers, freight, and baggage should be taken and conveyed through the States under rules, regulations, and safeguards prescribed by the Federal authorities. But there is no reason why the Federal authorities should be inimical to the people of any State, and seek to endanger their health and safety by disregard of the State regulations as to health. Our

regulations should prevent unnecessary stops within a State; we should be cautious to allow no contact with the people through whose State the train passes; and we should forbid any passenger, freight, or baggage to leave the train in any State in which the quarantine regulations prohibit such.

The officials of the common carriers, the officials of the Federal Government, the passengers alighting, and the persons receiving and delivering the freight and baggage should be punished in the Federal courts, as well as for making unnecessary stops of the train or indulging in contact or communication with the people. We should likewise provide for the severe, speedy, and certain punishment of all persons, official or otherwise, who obstruct or interfere with the officials and servants of any common carrier operating trains in interstate commerce under the regulation and supervision of the Federal authorities. This is all there is in it, just as plain as day, and involves no friction whatever between State and Federal authorities, and justifies no talk about the supremacy of jurisdiction. The Federal Government should do its duty, and the States should do their duty. There should be no conflict between them. We would then have intelligent quarantine, which would revive and facilitate commerce when already prostrate and demoralized by infection and death or the dread thereof.

The conflicts which make trouble arise between one State and another rather than between anybody and the Federal Government, the danger feared being that the State on guard at the danger point might not provide adequate protection for itself and its neighbors. The Federal authorities would probably never encounter any local resistance or question of supremacy unless in the following way: The State has reserved exclusive jurisdiction over quarantine. The Federal Government has by delegation exclusive power over interstate and foreign commerce and, incident thereto, all the authority necessary to exercise the power. Quarantine, though apparently a hindrance and burden on commerce, is actually the reverse. It is not applied until either invasion or apprehension thereof has already demoralized commerce. If wisely established, so as to inspire confidence in its efficiency and fairness, its effect will be to revive and stimulate commerce, thus proving a blessing rather than a hindrance.

The exercise of the police power is held by the Supreme Court to be independent of and unaffected by the power of Congress to regulate commerce, for the simple and sufficient reason that disease, pestilence, and pauperism are not subjects of commerce, not things to be regulated and trafficked in, but to be prevented as far as human foresight and human means can guard against them, and it is clearly the right and duty of the States to do that. (12 Wheaton, 419; 5 Howard, 504, 574, and 576; 118 U. S., 455.)

The same and several other cases discuss and deal with the validity of State laws, possibility of conflict with Federal laws, and the extent to which State laws must yield, distinctly demonstrating that as to purely police and health laws, in apparent good faith enacted, there can be no question of the State's exclusive power and duty; that for such purposes restrictions and even necessary destruction may be imposed on interstate and foreign commerce, and only when the State attempts to deal with interstate commerce as such, or to interrupt it by palpably misdirected and unwarranted regulations, under pretense of health or police laws, is the constitutional provision infringed and a case of conflict presented, in which the State regulation must yield; but it is clearly stated that the Federal law must be constitutional and the State law manifestly unconstitutional. (5 Howard, 587, lower half page, Gibbons *v.* Ogden.)

In same case (5 Howard, 590) Mr. Justice MacLean says:

> These exceptions are always implied in commercial regulations, where the General Government is admitted to have exclusive power. They are not regulations of commerce, but acts of self-preservation. And although they affect business to some extent, yet such effect is the result of the exercise of an undoubted power in the State.

In 141 U. S., 61, the court declares that such things as are clearly injurious to the lives and health of the people are placed beyond the protection of the commerce power of Congress. Our court clearly recognizes that quarantine restrictions and police provisions, in good faith enacted as such, can not be overridden under pretense that they are attempts to regulate commerce, and therefore obnoxious to the commerce clause of the Constitution. It is possible for commerce to be affected in a number of ways, and utterly suspended as often as disease and death ride on every tainted breeze, but no such condition is a regulation or an attempt to regulate commerce. (95 U. S., 469; 93 U. S., 103; 114 U. S., 214.)

The rule appears to be that only in case local laws are obvious shams, without substantial relation to their pretended objects, or constitute palpable invasion of fundamental law, will courts question their validity. (163 U. S., 303, bottom of page; 123 U. S., 661; 136 U. S., 313-350.)

It is as well established as any earthly fact that commerce can not force into any State any person or thing contrary to a police regulation established expressly for the preservation of health or morals, but it is equally clear that no such regulation shall be enacted for the real though not expressed purpose of regulating commerce or interfering with a Federal regulation of commerce. When a dispute arises, if it ever does, between the authorities of a State exercising quarantine and the authorities of the Federal Government regulating and supervising commerce, the Supreme Court will be the final arbiter; the supremacy of the Federal Government will be absolute, because its court will determine and control the situation. But it will not necessarily determine that either the State was without exclusive police jurisdiction or that the Federal Government was wanting in exclusive commerce power. It will simple decide whether the State regulation was a bona fide effort necessary to protect health or whether it was a sham or subterfuge really designed as a regulation of commerce.

That is all there is in it. No conflict can arise between efforts of both authorities to preserve health. The talk about conflict between Federal and State authorities proceeds from a distempered imagination. If it is the wish of Congress to assume as an incident to interstate and foreign commerce the entire burden and expense of protecting the country against contagion from abroad and from State to State, which I believe it is our duty to do, because the authority is implied by the commerce clause and for which the pending bill provides, I believe the proposed relief would be welcomed with glad acclaim by the people of every State subject to invasion. When the Federal Government demonstrates its disposition, as declared in this bill and indicated in former legislation, to protect the health of the people, it will inspire such confidence and impart such a sense of security as will induce all States to relax their own efforts as no longer necessary and do as my State has done, transfer its quarantine stations to the Federal Government and rely upon the efficiency and integrity of its officials for security against contagion and death.

If we desire to dispense with local efforts for the protection of health, it should not be by resort to offensive and unconstitutional methods, but we should assure the people by the beneficence of our regulations that their efforts are unnecessary; that as citizens of the United States the Federal Government, in its power, justice, and benevolence, will see to it that its magnificent commerce with foreign ports and its infinitely greater commerce throughout the splendid States of this glorious Union shall never bear contagion and death to its citizens and children whose exalted characters, achievements, and patriotism sustain and perpetuate the greatness and glory of this Republic. [Loud applause.]

Mr. WANGER. Mr. Speaker, I yield ten minutes to the gentleman from Alabama [Mr. RICHARDSON].

Mr. RICHARDSON of Alabama. Mr. Speaker, I thank the gentleman from Georgia [Mr. ADAMSON] for the kind reference he has made to me in connection with my work in behalf of this bill on the committee. I confess that I am anxious to see a fair and reasonable quarantine law passed at once. In the limited time allowed me in which to discuss this important bill I shall attempt to avoid, as far as I can, entering upon a discusssion of abstract questions, nor do I desire to review the old battle ground over which the issues of strict construction, liberal construction, and implied powers of the Constitution have been fought over for the last hundred years. Sush a discussion or such a review will hardly instruct or entertain us in the consideration of the plain and simple terms of this bill as it came from the Interstate Commerce Commission practically with the approval of sixteen of the eighteen members.

I am aware of the great difficulties to be encountered in drawing the lines of demarcation between the rights of the States and the rights of the Federal Government upon many questions and upon many subjects. I think that it is especially difficult to define these lines in connection with quarantine as related to commerce. But however difficult it may be, there is one principle that can well guide us. It is this: That wherever we find the Federal Government exercising a power delegated by the State, then that authority is supreme. I take occasion to say here, now, that I do not believe that the results of the great civil war between the States of this Union impaired, injured, or destroyed one single positive reserved police right that the States had when hostilities began. [Applause.] I believe that the question settled by that mighty struggle was that the States had no right to secede from the Union of States and the question of chattel rights of property in slaves. I do not hesitate to say, Mr. Speaker, that I do not believe that the Congress can frame

any quarantine law within the limits of the Constitution that clothe the Federal authorities with the supreme, exclusive right of quarantine in the maritime ports of our coast or within the States.

I yield to no man on this floor the palm of being more devoted to the real, true theory of the reserved positive rights of the States than I myself entertain and cherish. To ignore the police right of the State to preserve the health of its people, to punish criminals, and maintain order and peace is to shut one's eyes to the vital theory of our republican form of government. This bill, Mr. Speaker, is framed on that theory.

I recognize, Mr. Speaker, that there are two spheres under this system of republican form of government, the one appertaining to the State and the other to the Federal Government. Each can move exclusively in its own sphere without conflict or interfering with the other. But, Mr. Speaker, I say the man who refuses to recognize the supreme and exclusive authority of the Federal Government when by an act of Congress Federal authorities are clothed with a power or authority which has been delegated by the States to the General Government makes as great a mistake as he does when he declares that the State, in the exercise of its police power for the protection of health, can trespass upon, obstruct, or usurp the unquestioned right of the Federal Government to direct and control interstate commerce.

Mr. Speaker, let us look at this bill. It is a plain, simple bill in all its provisions. I say there is not a paragraph, there is not a word in this bill, from beginning to end, that interferes or conflicts with the reserved police rights of the States to protect health. Not one in any way. The bill recognizes both the authority of the Government and the States. The bill in paragraph 1 declares that the Federal Government shall have control of only such quarantine stations, grounds, and anchorages as the Government establishes. That certainly is clear and can not be misunderstood by any on a search for the truth. Section 4 prohibits all other persons except State health or quarantine officers entering within the limits of quarantine grounds of the Federal Government. Section 5 of the bill provides that the Government may negotiate to purchase, if the State desires to sell, any quarantine station that the State controls at a port. Nothing is said about forcing the State to abandon its quarantine station. And the last section of the bill provides for cooperation between the States. And why, Mr. Speaker, does any man contend seriously that a State has a right to stand with an armed force on its border under the guise of protecting the health and interrupting interstate commerce?

Mr. HENRY of Texas. Will the gentleman allow me to ask him a question right there?

Mr. RICHARDSON of Alabama. Yes; if the gentleman will be quick about it. I have only a few minutes.

Mr. HENRY of Texas. I will ask you this question: Suppose a Federal officer certifies that the passengers on an interstate train are free from disease, gives it a certificate, arms the officers with it, and just as it arrives at the border of the State it transpires that there is yellow fever on the train. Let me ask you, Would your health officers have a right to detain that train for five days at a detention camp?

Mr. RICHARDSON of Alabama. No; the State has no right to do it. But under this bill the train with its passengers would pass through the State to its point of destination beyond the zone of fever.

Mr. HENRY of Texas. That is all I want the gentleman to say.

Mr. RICHARDSON of Alabama. Mr. Speaker, the gentleman from Missouri who has just taken his seat has discussed the mosquito theory. Does the gentleman from Texas believe in the mosquito theory, as proclaimed by the scientists?

Mr. HENRY of Texas. I think it is true.

Mr. RICHARDSON of Alabama. Then if you do, I want to read you what a man has said about it that you can worthily follow in protecting your own people of your own State—great as it is—and the people of the country. He said:

> If the medical fraternity and scientists, from whom we gather our views on these important matters, agree by reason of their researches that the mosquito is the sole method of propagating yellow fever, and that goods in transmission can not convey infection, and that individuals who have been declared immune after proper detention can not convey infection, then the question ceases to be one affecting the police powers of the States, and places the matter directly within the purview of the United States Government in its relation to the handling of interstate commerce.

Now, who said that? The Hon. JOSEPH W. BAILEY, the Senator from Texas, an able and distinguished Democrat, who so worthily represents in part the magnificent State of Texas.

Mr. HENRY of Texas. I know that the gentleman from Alabama does not want to convey the impression that Senator BAILEY would support section 7, for I know he would not.

Mr. RICHARDSON of Alabama. I want to convey the impression that that is what Senator BAILEY has said in his interview at New Orleans.

Mr. GILLESPIE. Does the gentleman from Alabama know that Senator Bailey has seen the report of that interview?

Mr. HENRY of Texas. I understand that he denies it.

Mr. RICHARDSON of Alabama. In answer to the question of the gentleman from Texas [Mr. GILLESPIE], I say I do not know whether Senator BAILEY has seen the published interview or not. I have seen no denial.

I fully concur in what Senator BAILEY says about the mosquito. If it be true that the mosquito is the medium of transmission of the virus of yellow fever, then your theory about police rights of the State being usurped and violated is exploded and "gone where the woodbine twineth." It is all in the air. Certainly you will not contend that the stegomyia fasciata mosquito confines herself to the limits of a State. She has no regard for the sacredness of State lines. It is a credit to Senator BAILEY that he illumined the whole subject through the mosquito with such splendid common sense.

I now refer, Mr. Speaker, to similar comments made by one of the leading newspapers of the States of the South interested and concerned in this subject of yellow fever, so vital to the Gulf States of the South. I refer to the Age-Herald, published at Birmingham, Ala. It says in a recent editorial when commenting on the provisions of section 7 of this bill, which the gentleman from Texas [Mr. HENRY] denounces as destructive of all the police powers of the States for the protection of health:

> No believer in the mosquito theory can consistently oppose it, and no one who desires to get rid of shotgun quarantines will lift a hand against it. It will be remembered that Mississippi and Alabama kept interstate routes open last summer, while Texas closed its doors against all infected points. No harm arose over the Alabama and Mississippi policy, and none can arise, because the mosquito is now known to be a necessary intervening agent in the spreading of the disease.

I will refer now, Mr. Speaker, to an extract from another great newspaper, whose editor has had every opportunity to become acquainted with the ravages and horrors of the fearful epidemic of yellow fever. I refer to the Times-Democrat, of New Orleans. This great newspaper, in commenting on section 7 of the bill, which seems to draw the chief fire of the opponents of the bill, in a recent editorial, says:

> That the Richardson amendment is right in principle and sound in law no one can dispute. It was generally advocated at the Chattanooga quarantine convention, and has been called for earnestly by most of the southwestern papers. We had evidence last summer of the necessity of some provision to this effect, and the system of bottling up a State, section, or city pursued by Texas was found cruel in the extreme. Had Mississippi or Alabama followed its example in this matter there would have been more persons shut up in the infected towns, and, as a consequence, more cases of fever and more deaths. There were a number of towns in Louisiana and Mississippi which wanted to follow the Texas example, but Governor Vardaman prevented this in Mississippi, and the Louisiana State board of health finally succeeded in breaking up similar embargoes in this State.
>
> It will unquestionably be to the public advantage and greatly reduce the suffering and loss of life in an epidemic if a route is preserved for refugees to points outside the yellow-fever zone, and no one can dispute the right of the Federal Government, under the interstate-commerce clause, to keep open the highways of commerce and travel, due care being taken to assure protection from disease in cases where refugees are carried from an infected section through neighboring towns or States. Experience has shown this to be simple and easy, and in not a single instance did this transportation produce any infection or bad results.

I have taken the liberty of quoting from these two representative papers merely to present to the House the strong practical side to this question. This is worthy of our thoughtful consideration. When I reflect, Mr. Speaker, what an epidemic of yellow fever is to the South I confess I would be reluctant indeed to take any part of the responsibility of defeating a measure even promising relief. I do not mean to say that gentlemen ought to sacrifice their honest and sincere convictions as to what they believe to be the rights of the States. While giving these gentlemen who strenuously oppose the passage of this bill full credit for honesty and sincerity, yet I can not but be surprised when I hear these gentlemen assert so earnestly that this bill usurps, invades, and destroys the rights of the States in all matters of quarantine for the protection of the health of the people.

Why, Mr. Speaker, this bloody section 7 as described by the opponents to this bill and as it originally appeared in the bill—as it stands now—simply asserts the right that the Government has to run a through train, passing through the State, and not allowing or permitting anyone to leave that train or let freight be unloaded at any place in the State contrary to the health laws of the locality or State and bearing the certificate of a Federal health officer. Are you to pen the people up in the infected locality and not have any outlet of escape? That would be the result if the theories advocated by the opponents of this

bill should prevail—the only hope of breaking up the lamentable shotgun policy so quickly and fearfully resorted to on the first alarm of yellow fever. I can not believe that anyone wants a continuation of that practice.

Now, I want to read and have gentlemen listen to what a great lawyer, a Senator who truly reflects the substantial solid principles of the rights of the States; a man who abounds with common sense and is looking to meet the great emergencies which the South has gone through in yellow fever epidemics, with the shot-gun policy, with anarchy prevailing in the different sections of the Gulf States. Listen to what he says:

The powers delegated to the Federal Government are supreme. It can protect any passenger or freight train going from one State into another, but if there is infection on either train the people at stations along the route are not compelled to allow the passengers to get off and mingle with its citizens or to receive the freight consigned to that locality. Here the peril appears and the State's authority springs into existence. But the people along the route have no right to detain the train or in any way to impede its progress to its destination. As a condition to passing through the locality, they have no right to cause the passengers to suffer any inconvenience, to be deprived of light and air; neither have they the right to prevent a passenger from going to his destination when it is necessary for him to go from one train to another. He has passed beyond State jurisdiction and is under the jurisdiction of the Federal Government.

* * * * * * *

In construing the reserved police powers of the State relative to its regulation of health, it must be remembered that citizens of the United States are citizens of every State, and that there is no expatriation in passing from one State to another and no naturalization is required in the change from one section to another. The rights which appear in national sovereignty are not possessed by them. They have not the capacity of an independent people. They are constituted in a form necessary to internal order and administration, and have none of the indices of power in which a nation appears in its external sovereignty, maintaining its own relations and acknowledging on earth no superior authority.

The construction of the meaning of the Constitution on the powers delegated and reserved should be such that neither shall be so isolated from the other as to become its opponent nor so subjected to another as to become its instrument. There should be no resort to special and temporary devices and contrivances by the one power to hinder and control the other.

* * * * * * *

In my opinion, if the Government takes charge of foreign and interstate quarantine, it will give confidence to the entire country. There will be no opposition to receiving freight anywhere if the certificate of the Public Health and Marine-Hospital Service accompanies it, nor will there be an objection to a person getting off of a train if he has a certificate stating that he has complied with conditions prescribed by the service. I believe that the confidence of the people everywhere will be so great in the Marine-Hospital Service that they will not be likely to invoke the exercise of the police powers of the State, and that local and unreasonable quarantines will be things of the past.

The present inhuman quarantine regulations suggest that in this enlightened age humanity in its full conception of the dignity and rights and respect for the person ought to be the guiding star in health legislation, and its energizing principles of right and duty should enter into legislation relative to quarantine.

That was said by a great southern judge who presided over the supreme court of the great State of Louisiana for years before he was sent to the Senate of the United States—Senator MCENERY. What broad and patriotic statesman sentiments are these uttered by Senator MCENERY, of Louisiana, in the speech he delivered at the opening of the new Real Estate Auction Exchange in New Orleans last October. It is truly refreshing to read such sentiments and contrast them with what we have heard expressed to-day by the opponents to this measure. Did Senator MCENERY think that the Federal Government had no right to exercise its prerogative of controlling interstate commerce? Now, I take pleasure, Mr. Speaker, in referring to what was recently said by a distinguished lawyer, who prides himself on adhering to the exclusive view of the rights of the States, but he also thinks that the Federal Government has some exclusive rights also which do not conflict with the rights of States.

I quote from an able speech made by Hon. Edgar H. Farrar, one of the most distinguished lawyers of the bar at New Orleans. The speech was made in 1898, and he quoted and discussed all the usual authorities relied on to show that the State was omnipotent in the exercise and enjoyment of its police powers. But since that speech was made New Orleans has suffered another visitation of the dreadful scourge. I quote now from a recent supplement that Mr. Farrar made to his 1898 speech:

If the States can not agree upon any settlement of the momentous question of quarantine on interstate commerce, and if the present unsatisfactory conditions are not rectified, it will, in my judgment, be the duty of the Congress to pass some stringent statute punishing any person, whether health officer or not, who shall unlawfully interfere with uninfected interstate trains and uninfected interstate passengers, passing through a State. No State has any power to block the highways of interstate commerce or to lay embargoes on interstate commerce under the pretense of exercising quarantine powers. That power can be lawfully exercised without any such harsh measures.

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We have had a vicious recurrence of shotgun and military quarantines, with the consequent disturbance of traffic and transportation, and the usual accompaniment of inhumanity and brutality, begotten by ignorance and cowardice. We have had many instances of States and localities pressing their undoubted right of self-protection far beyond any reasonable or lawful ground for its exercise, and making their quarantines not merely *affective of* but *regulative of* interstate commerce, and in some instances actually *prohibiting the passage of interstate trains and interstate passengers*, under circumstances which rendered the conveyance or transmission of infection by them impossible. The consequence of all these illegal actions has been to create a widespread hatred of and disgust with the exercise of quarantine powers by the States, and out of this hatred and disgust has arisen a clamor for a national system of quarantine.

It would appear from these late utterances of Mr. Farrar that he would approve section 7 of this bill. That is the true doctrine, Mr. Speaker. No one is seeking to interfere with the rights of States. We are simply recognizing, as we ought to do, the supreme authority of the Federal Government where it is supreme. For the purpose of further comment on section 7 of the bill, I will read again that section:

SEC. 7. That every common carrier, engaged in interstate commerce, shall, under such regulations, restrictions, and safeguards as may be promulgated by the Secretary of the Treasury, receive, carry, and transport through any State or Territory necessary to complete the journey or carriage into a State wherein delivery or debarkation may be lawful, all passengers, freight, or baggage which may have been discharged and properly certified in accordance with the regulations of the Public Health and Marine-Hospital Service; and every person interfering with or obstructing such carrier or any passenger or any instrumentality of commerce in any such carriage or journey shall be guilty of a misdemeanor and on conviction thereof be punished by a fine not exceeding $300 or be imprisoned for a period not exceeding one year, or both, in the discretion of the court: *Provided*, That this section shall not be construed as giving authority to any person to debark or unload freight in any locality contrary to the lawful regulations thereof.

Really, Mr. Speaker, the reading of the section puts the opponents of the bill in the attitude of fighting at mere shadows—beating the air or sounding tom-toms.

I have not, Mr. Speaker, thought it was necessary to quote from the authorities to sustain the theory of this bill. I stated, Mr. Speaker, in the opening of my remarks, that it was difficult to draw the line of demarcation between the rights of the States in the matter of health as in connection with commerce, and the exclusive control the Government has over interstate commerce as connected with health. Senator SPOONER, in his report on the Senate bill (S. 2162) to increase the efficiency and change the name of the United States Marine-Hospital Service, July, 1902, made these very apt and forcible comments on this difficult subject:

But it is often very difficult of discernment, and therefore it has often happened that State authorities have felt their province invaded by Federal authorities, and Federal authorities have insisted that the national function was invaded by State authorities, and out of it all has grown more or less of friction, necessarily detrimental to great public interests. No statute, of course, can change the power of the Federal authorities as defined by the Constitution, or take away the sovereign power of any State in respect of these matters.

The committee has been impressed with the conviction that in the general public interest some recognition by Federal legislation of the State health authorities, in the way of consultation upon subjects of vital consequence to the localities, and as to the rules to be put in operation by both State and Federal authorities in accomplishing the same end, would of necessity bring about better understanding and a cooperation which would inevitably promote a fuller accomplishment of the great purpose desired by both the Federal and the State authorities.

When we remember that the transportation of passengers from foreign ports to our coasts is considered commerce and that the Supreme Court of the United States has held that the transit of passengers on trains running through the States is identically the same thing as transporting of passengers from foreign ports, then I can not see why the authority of the Government is not as exclusive and supreme in the one as the other.

Chief Justice Marshall, in the case of Gibbons *v.* Ogden, quoted in United States Report 188, page 347, said:

The genius and character of the whole Government seem to be that its action is to be applied to all the internal concerns which affect the States generally, but not to those which are completely within a particular State which do not affect other States, and with which it is not necessary to interfere for the purpose of executing some of the general powers of the Government.

Apply that rule laid down by that great judge, and can anyone say that yellow fever does not belong to the "internal concerns" which affect the States generally? It spreads from State to State creating panic, anarchy, and prostration of all business and social relations.

In the same case Justice McLean said: "That the transportation of passengers is part of commerce is not now an open question."

This bill, Mr. Speaker, is in the nature of a declaratory bill, seeking to promote that cooperation strongly recommended by existing law. It is only by cooperation that uniformity of quarantine rules between the Federal and State authorities can ever be secured. When the quarantine rules of the States are in conformity with the rules of the Public Health and Marine-Hospital Service, then the shotgun policy will disappear. I have no

doubt that when the proper authorities of the States see that the Government officials are vigilant and efficient in preventing the introduction of yellow fever to our coasts from foreign ports that the States will cheerfully give over their stations to the Federal authorities. So we have every reason to believe when uniform rules for the discharge of persons exposed to the contagion are adopted by the States and the Federal health authorities that a man bearing a proper certificate can leave a train at any place in any State. That, in chief, is what this bill seeks to achieve.

Mr. BARTLETT. Mr. Speaker, I will divide whatever time I have left with the gentleman from Texas [Mr. BURGESS].

The SPEAKER pro tempore. The gentleman from Texas is recognized.

Mr. BURGESS. Mr. Speaker, those of us who oppose this bill base our opposition upon what we contend is a grant of unwarranted Federal power in section 7 of the pending substitute, which reads thus:

SEC. 7. That every common carrier engaged in interstate commerce shall, under such regulations, restrictions, and safeguards as may be promulgated by the Secretary of the Treasury, receive, carry, and transport through any State or Territory necessary to complete the journey or carriage into a State wherein delivery or debarkation may be lawful, all passengers, freight, or baggage which may have been discharged and properly certified in accordance with the regulations of the Public Health and Marine-Hospital Service, and every person interfering with or obstructing such carrier or any passenger or any instrumentality of commerce in any such carriage or journey shall be guilty of a misdemeanor, and, on conviction thereof, be punished by a fine not exceeding $300 or be imprisoned for a period not exceeding one year, or both, in the discretion of the court: *Provided*, That this section shall not be construed as giving authority to any person to debark or unload freight in any locality contrary to the lawful regulations thereof.

That section provides that an interstate train of passengers or freight, or both, by virtue of the health certificate issued by the Federal authorities, can go through any State in the Union, and the authorities of that State not only have no right to inspect the train, to examine the freight or passengers, to determine, in the interests of the citizens of that State, whether there be disease present or not, but actually it is made a Federal offense, punishable by fine of $300 and imprisonment for one year, if they attempt to interfere with that train; and the only proviso to this vicious provision in this bill is that passengers can not alight and get off the train, nor can freight be put off.

Now, I take it that the solitary question raised by this section of the bill is this: Can the Federal Congress suspend the right of a State, through its health officials, to inspect either freight or passengers in a vessel entering the port of a State or freight and passengers on a train entering the borders of a State? I have not the slightest doubt, Mr. Speaker, under the authority of the Supreme Court in an unbroken line for nearly one hundred years, that this power thus attempted to be asserted in this section can not legally be exercised. I assert this proposition: That health laws are a part of the reserved, exclusive powers of the States, not conferred directly or indirectly upon any branch of the Federal Government, and that, independent of what Congress may say or do, the right unimpaired will still exist upon the part of a State to inspect and detain any train or vessel, whether it bears foreign or interstate commerce, and that that precise point has been settled times without number by the Supreme Court of the United States.

The Speaker of this House said before the Union League Club of Philadelphia on February 16 of this year:

In my judgment, the danger now to us is not the weakening of the Federal Government, but rather the failure of the forty-five sovereign States to exercise, respectively, their function, their jurisdiction, touching all matters not granted to the Federal Government. This danger does not come from the desire of the Federal Government to grasp power not conferred by the Constitution, but rather from the desire of citizens of the respective States to cast upon the Federal Government the responsibility and duty that they should perform.

If the Federal Government continues to centralize, we will soon find that we will have a vast bureaucratic government, which will prove inefficient, if not corrupt.

I do not intend any reflection upon anyone in or out of this House, but these words of the Speaker and all the facts leading up to this legislation suggest the idea that one of the potent reasons for the desperate and unusual efforts to pass this bill is the desire to save expense to the States by Federal appropriations. Commercial forces, desiring uninterrupted trade, are "cooperating" with that idea, and hence but little attention is to be paid to the Constitution, for when did avarice, selfishness, and greed pay voluntary respect to law? What does the Constitution amount to between such friends as these? Let us examine this Federal power sought to be exercised by section 7 in the light of the law as laid down by the Supreme Court of the United States. That profound lawyer, Chief Justice Taney, in 5 Howard, page 576, said:

It must be remembered that disease, pestilence, and pauperism are not subjects of commerce, although sometimes among its attendant evils. They are not things to be regulated or trafficked in, but to be prevented as far as human foresight or human means can guard against them.

The principle announced in these words is important, for no man who favors section 7 of this bill attempts to sustain it on any ground save that clause of the Constitution which gives Congress the power to regulate commerce, foreign and interstate. They contend that incident to the power thus expressly conferred is the right of Federal health laws which, as affecting either foreign or interstate commerce, are superior to the health law powers of any State. This we of the opposition deny and we indorse heartily the wise words of Mr. Justice Bradley in ex parte Siebold (100 U. S., p. 393):

The true interest of the people of this country requires that both the National and State governments should be allowed, without jealous interference on either side, to exercise all the powers which respectively belong to them, according to a fair and practical construction of the Constitution. State rights and the rights of the United States should be equally respected. Both are essential to the preservation of our liberties and the perpetuity of our institutions. But in endeavoring to vindicate the one, we should not allow our zeal to nullify or impair the other.

If any gentleman will take the trouble to examine that wonderfully able work of John Randolph Tucker upon the Constitution, he will find that he treats this whole question at length, from page 534 to page 537, and cites all the various authorities, and sums up in a breath and in a very clear statement just the particular bearing that the commerce clause of the Constitution has upon the police powers of the States, and vice versa. I read:

A vessel proposes to enter a harbor of a State under Congressional commercial regulations, and the State, to protect its people from disease, quarantines it. These two powers seem to conflict, but they do not, except as both operate upon the movement of the vessel, though from different sources of power. The vessel is subject to two powers which are entirely different, but not in conflict. It does not check a rightful object of commerce. It merely erects a bar against disease. Congress regulates the rightful object of commerce, under color of which it can not authorize wrongful commerce. It can not introduce disease, but may a rightful subject of commerce. The two powers are made to consist by restraining the State, under color of quarantine, from regulating rightful commerce, and restraining Congress, under color of commerce, from regulating the unlawful importation of disease.

In other words, there does exist the negative duty upon the Federal Government, under the interstate-commerce clause, not to introduce disease in the regulation of commerce, but it leaves intact and untouched by the Constitution the reserved right of a State affirmatively to act upon all commerce entering the borders of a State in the protection of the health of its citizens. This is the doctrine laid down by the Supreme Court decisions. In Gibbons *v.* Ogden, in 9 Wheaton, Chief Justice Marshall uses these words:

The *exclusive* authority of State legislatures over this subject is strikingly illustrated in the case of City of New York *v.* Miln. In that case the defendant was prosecuted for failing to comply with a statute of New York, which required of every master of a vessel arriving from a foreign port in that of New York City to report the names of all his passengers, with certain particulars of their age, occupation, last place of settlement, and place of their birth. It was argued that this act was an invasion of the exclusive right of Congress to regulate commerce. And it can not be denied that such a statute operated, at least indirectly, upon the commercial intercourse between the citizens of the United States and foreign countries. But notwithstanding this it was held to be an exercise of the police power properly within the control of the State, and unaffected by the clause of the Constitution which conferred upon Congress the right to regulate commerce.

In his concurring opinion in the same case, Mr. Justice Johnson said:

It is no objection to the existence of distinct, substantive powers that, in the application, they bear upon the same subject. The same bale of goods, the same cask of provisions, or the same ship that may be the subject of commercial regulation may also be the vehicle of disease. And the health laws that require them to be stopped and ventilated are no more intended as regulations on commerce than the laws which permit their importation are intended to inoculate the community with disease. Their different purposes mark the distinction between the powers brought into action, and while frankly exercised they can produce no serious collision.

The clear doctrine is that as to commercial regulation the power of the Federal Government is supreme; that as to the protection of the health of the people the police powers of the States are supreme. It is the duty of both courts and Congress to make these powers harmonize and subsist, each in their proper domain, and to see to it that neither impairs, suspends, nor destroys the other. This section 7 suspends, nullifies, destroys the police power of a State over an interstate train of passengers or freight, and hence invades the exclusive domain of the States.

In Gilman *v.* Philadelphia (70 U. S., p. 730) Mr. Justice Swayne, discussing the police powers of the States, said:

Under quarantine laws a vessel registered or enrolled and licensed may be stopped before entering her port of destination, or be afterwards removed and detained elsewhere, for an indefinite period; and a bale of goods upon which the duties have or have not been paid, laden with infection, may be seized under "health laws," and if it can not be purged of its poison may be committed to the flames.

The inconsistency between the powers of the States and the nation as thus exhibited is quite as great as in the case before us, but it does

not necessarily involve collision or any other evil. None has hitherto been found to ensue. The public good is the end and aim of both.

If it be objected that the conclusion we have reached will arm the States with authority potent for evil, and liable to be abused, there are several answers worthy of consideration. The possible abuse of any power is no proof that it does not exist. Many abuses may arise in the legislation of the States which are wholly beyond the reach of the Government of the nation. The safeguard and remedy are to be found in the virtue and intelligence of the people. They can make and unmake constitutions and laws; and from that tribunal there is no appeal. If a State exercise unwisely the power here in question, the evil consequences will fall chiefly upon her own citizens. They have more at stake than the citizens of any other State. Hence, there is as little danger of the abuse of this power as of any other reserved to the States. Whenever it shall be exercised openly or covertly, for a purpose in conflict with the Constitution or laws of the United States, it will be within the power, and it will be the duty of this court to interpose with a vigor adequate to the correction of the evil.

In the same case Mr. Justice Wayne said:

That the States of the Union may, in the exercise of their police powers, pass quarantine and health laws interdicting vessels coming from foreign ports or ports within the United States from landing passengers and goods, describe the places and time for vessels to quarantine, and impose penalties upon persons for violating the same; and that such laws, though affecting commerce in its transit, are not regulations of commerce, prescribing terms upon which merchandise and persons shall be admitted into the ports of the United States, but precautionary regulations to prevent vessels engaged in commerce from introducing disease into the ports for which they are bound, and that the States may, in the exercise of such police power, without any violation of the power in Congress to regulate commerce, exact from the owner or consignee of a quarantined vessel, and from the passengers on board of her, such fees as will pay to the State the cost of their detention and of the purification of the vessel, cargo, and apparel of the persons on board.

It does seem, to my mind, that this language is as clear as can be and precisely in point.

In Patterson *v.* Kentucky (97 U. S., 505) Mr. Justice Harlan said:

We have frequently decided that the police power of the States was not surrendered when the Constitution conferred upon Congress the power to regulate commerce with foreign nations and between the several States. Hence the States may, by police regulations, protect their people against the introduction within their respective limits of infected merchandise. A bale of goods upon which duties have or have not been paid, laden with infection, may be seized under health laws, and if it can not be purged of its poison, may be committed to the flames. So may the States by like regulations exclude from their midst not only convicts, paupers, idiots, lunatics, and persons likely to become a public charge, but animals having contagious diseases. This court has never hesitated, by the most rigid rules of construction, to guard the commercial power of Congress against encroachments in the form or under the guise of State regulations, established for the purpose and with the effect of destroying or impairing rights secured by the Constitution. It has, nevertheless, with marked distinctness and uniformity recognized the necessity, growing out of the fundamental conditions of civil society, of upholding State police regulations which were enacted in good faith, and had appropriate and direct connection with that protection to life, health, and property which each State owes to her citizens.

Who doubts that under this decision a State would have the right to inspect an interstate train of passengers or freight, or both, and in case infection was discovered to detain either and take such action as would be necessary to protect the health of its people?

Under this section 7 that can not be done, no matter what the State health authorities may be informed or suspect, if that train starts originally with a bill of health from the Federal authorities it could go through 900 miles of mosquito territory in Texas, and may have forty cases break out on the train, and the whole train may be reeking with disease, and the State authorities be absolutely powerless, under this section, to interfere. Nay, if they dared do it, they would be arraigned in a Federal court and prosecuted under a Federal offense. Talk to me about a Democrat, a believer in the reserved rights of the States, a believer in the enumerated granted powers of the Federal Government, standing for this sort of Federal regulation, which suspends the right of a State to even inspect a train of passengers or freight within its own territory, to determine for itself whether action be necessary to protect its citizens against disease! We have gone a long way toward turning over our internal affairs to the Federal Government. Men are clamoring on all sides to rush to the Federal Government to control insurance, to control interstate corporations, to control quarantine, and to control everything on the face of the earth at the expense of the Federal Treasury, but it seems impossible to me that any Democrat should have ever been willing to stand in this Chamber and openly defend section 7, in the face of all Democratic authority and judicial opinions from the foundation of this Government. [Applause.] Judge MacLean, in the Passenger cases (7 How., p. 400), said:

In giving the commercial power to Congress the States did not part with that power of self-preservation which must be inherent in every organized community. They may guard against the introduction of anything which may corrupt the morals or endanger the health or lives of their citizens.

Now, if you ask me what power the Federal Government has under the commerce clause, I say I am not discussing now what powers are vested by that provision, I am asserting whatever they are they do not include the right to suspend the health laws of the State; and whatever power Congress may have to regulate commerce the Supreme Court says it did not include the right to infringe upon, detract from, or in any manner affect the health laws of any State in the Union.

In the License cases Mr. Justice Grier, speaking of State health laws, said:

If the right to control these subjects be complete, unqualified, and exclusive in the State legislatures, no regulations of secondary importance can supersede or restrain their operation on any ground of prerogative or supremacy. The exigencies of the social compact require that such laws be executed before and above all others. It is for this reason that quarantine laws, which protect the public health, compel mere commercial relations to submit to their control. They restrain the liberty of the passengers; they operate on the ship, which is the instrument of commerce, and its officers and crew the agents of navigation. They seize infected cargo and cast it overboard. These things are done, not from any power which the States assume to regulate commerce or to interfere with the regulation of commerce, but because police laws for the preservation of health must of necessity have full and free operation.

In the same case Justice MacLean said:

The license acts of Massachusetts do not purport to be a regulation of commerce. They are police laws. Enactments similar in principle are common to all the States. * * * The acknowledged police power of a State extends often to the destruction of property. A nuisance may be abated. Everything prejudicial to the health or morals of a city may be removed. Merchandise from a port where a contagious disease prevails, being liable to communicate the disease, may be excluded; and in extreme cases it may be thrown into the sea. This comes in direct conflict with the regulation of commerce, and yet no one doubts the local power. It is a power essential to self-preservation and exists necessarily in every organized community. It is indeed the law of nature, and is possessed by man in his individual capacity. He may resist that which does him harm, whether he be assailed by an assassin or approached by poison. And it is the settled construction of every regulation of commerce that, under the sanction of its general laws, no person can introduce into a community malignant diseases, or anything which contaminates its morals or endangers its safety. And this is an acknowledged principle applicable to all general regulations. Individuals in the enjoyment of their own rights must be careful not to injure the rights of others.

From the explosive nature of gunpowder a city may exclude it. Now, this is an article of commerce, and is not known to carry infectious disease, yet to guard against a contingent injury a city may prohibit its introduction. These exceptions are always implied in commercial regulations, where the General Government is admitted to have exclusive power.

They are not regulations of commerce, but acts of self-preservation. And although they affect commerce to some extent, yet such effect is the result of the exercise of an undoubted power in the State.

In Railroad Company *v.* Husen (95 U. S., p. 465) Mr. Justice Strong, speaking for the court, says:

Neither the unlimited power of a State to tax, nor any of its large police powers, can be exercised to such an extent as to work a practical assumption of the power properly conferred upon Congress by the Constitution. Many acts of a State may indeed affect commerce without amounting to a regulation of it in the constitutional sense of the term. And it is sometimes difficult to define the distinction between that which merely affects or influences and that which regulates or furnishes the rule for commerce. There is no such difficulty in the present case. While we unhesitatingly admit that a State may pass sanitary laws for the protection of life, liberty, health, or property within its borders; *while it may prevent persons and animals suffering under contagious or infectious diseases, or convicts, etc., from entering the State;* while for the purpose of self-protection it may establish quarantine and reasonable inspection laws, it may not interfere with transportation into or through the State beyond what is absolutely necessary for its self-protection. It may not under the cover of exerting its police powers substantially prohibit or burden either foreign or interstate commerce.

In that case the court annulled a Missouri statute, which, under the guise of a quarantine law, absolutely prohibited the bringing of Texas, Mexican, or Indian cattle into the State from March to November, and made no distinction between those that were healthy and those that were diseased. In his lectures on the Constitution, Judge Miller reluctantly and guardedly admits that this law would have been valid if it had provided for the inspection of cattle at the State line, admitting the healthy and excluding the infected; and in Kimmish *v.* Ball (129 U. S., p. 221) the Husen case was so interpreted by a unanimous decision, in which Judge Miller, as a member of the court, took part.

Health laws are the States' right of self-defense, which can not be impaired or suspended by any act of Congress. Congress has the right to regulate commerce. Each of these powers are supreme in their sphere, and neither can be permitted to destroy the other. They can be and must be harmonized.

In Plumly *v.* Massachusetts (155 U. S., p. 461) Mr. Justice Harlan announces the right of a State to exclude from its limits "paupers, convicts, persons likely to become a public charge, and persons afflicted with contagious or infectious diseases," and then uses these significant words:

These and other like things having immediate connection with the health, morals, and safety of the people, may be done by the States in the exercise of the right of self-defense.

Section 7 destroys the "right of self-defense" of the States

in the interest of transportation. Verily we are coming to think more of money than men!

The Supreme Court of the United States has several times since 1898 recognized the right of a State to pass and enforce proper health and quarantine laws affecting interstate and foreign commerce, and has reiterated the doctrine that all police powers were reserved to the States in the following cases: Missouri, Kansas and Texas Railroad *v.* Haber, 169 U. S., 613; L'Hote *v.* New Orleans, 177 U. S., 587; Austin *v.* Tennessee, 179 U. S., 349; Rasmussen *v.* Idaho, 181 U. S., 198; Smith *v.* St. Louis and Southwestern Rwy. Co., 181 U. S., 248; Compagnie Francaise, etc., *v.* Louisiana State Board of Health, 186 U. S., 380; Crossman *v.* Lurman, 192 U. S., 189.

In the L'Hote case, above, the court said:

It has been often said that the police power was not by the Federal Constitution transferred to the nation, but was reserved to the States, and that upon them rests the duty of so exercising it as to protect the public health and morals. While, of course, that power can not be exercised by the States in any way to infringe upon the powers expressly granted to Congress, yet until there is some invasion of Congressional power, or of private rights secured by the Constitution, the action of the States in this respect is beyond question in the courts of the nation.

That is the whole question, and if this Congress should attempt to say that Federal officials can arm and equip a train of passengers or freight so that it may go through your State, stop here and there to take water, stop here and there to take coal, or to oil the engine, and come into contact everywhere in the towns and villages where these things are with other citizens of the State, giving to this Stegomyia fasciata mosquito an opportunity to bite infected persons and scatter pestilence abroad, and still say to your health officers, "You can not inspect the passengers and freight and say whether infected mosquitoes are there, or there are infected passengers on board of the train," you may as well cease talking about the "rights of the States."

Those who favor this section attempt to defend it on the authority of three cases—Morgan *v.* Louisiana, 118 U. S., p. 464; Louisiana *v.* Texas, 176 U. S., p. 1, and Compagnie Francaise *v.* Board of Health, 186 U. S., p. 380. In the first case Judge Miller does say that—

Whenever Congress shall undertake to provide for the commercial cities of the United States a general system of quarantine, or shall confide the details of such a system to a national board of health, or to local boards, as may be found expedient, all State laws on the subject will be abrogated, at least so far as the two are inconsistent.

And substantially this new doctrine is approved in the other cases. A careful examination of these cases shows, however, that in each case this doctrine is *obiter dicta*, the point not being raised, argued, or necessary to the conclusion in either case. The doctrine so clearly set forth in the numerous cases cited, where the point was before the court, that the health laws of a State are a part of the reserved police powers of the States not granted to the Federal Government "exclusive" and absolute is not mentioned in either of the cases, much less called in question. Again, the first of these cases was prior to the case of Plumly *v.* Massachusetts (155 U. S., p. 461), which we submit is in point and disregards the Miller *dictum* in Morgan *v.* Louisiana. Again, we assert against this new, strange, and dangerous, if not damnable, doctrine that an inherent "right of self-defense" possessed, "reserved" by the States, can be abrogated by the extension of a "granted" Federal *purely commercial power*, that the ninth article of the amendments to the Constitution fixes a rule the very reverse of the contention in the *dictum* of these three cases. It reads thus:

The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

Now, then, if it be conceded that State health laws are a part of the reserved police powers of the States—and no opinion of the courts even intimates otherwise—then no such construction can be given to the commerce clause of the Constitution by Congress or the courts as will "deny" or "disparage" this right of self-defense reserved to the people of each State. This doctrine that in case a granted Federal power conflicts with a reserved State power the State power is abrogated is centralization gone mad. This ninth amendment fixes that question beyond controversy in either Congress or the courts, and cooperates with the tenth amendment to prevent the absorption by the Federal Government of a single reserved power of any of the States. All powers not delegated are reserved and none of those reserved can be denied or disparaged by those delegated. And there you are!

Mr. Speaker, in conclusion, I desire to give credit to that distinguished lawyer of the city of New Orleans, Edward H. Farrar, whose splendid address at Mobile some years ago on this very question has been of great value to me, the conclusion of which I quote:

The Congress, under the power to regulate commerce, can pass laws preventing the immigration of paupers, convicts, idiots, and insane persons. It is its duty to exercise all of its powers beneficially.

But it can not put its stamp on any such immigrant and say that no State, under its police power, shall prevent his landing and determine for itself whether he is a pauper, a convict, an idiot, or an insane person.

Under the same power the Congress may legislate to prevent the vehicles and objects of commerce from being the vehicles of pestilence, and may establish Federal quarantine stations for infected persons and ships, just as it establishes marine hospitals for sick and injured mariners.

But it can issue no bill of health to ship, passenger, crew, or cargo that will pass them through a State quarantine, in spite of and contrary to its lawful rules, any more than it can give a sick sailor a certificate of discharge from a marine hospital that will safeguard him from the jurisdiction of municipal health regulations.

It might, under the same power, organize a national board of health or a marine-hospital corps and give them authority over its quarantine stations and its regulations of commerce, and direct them to obtain information about infectious and contagious diseases at home and in foreign lands and ports, and to assist the State authorities in the execution of the State laws, but it can not make the authority of such persons paramount over that of State officers acting within the scope of their own valid powers.

It might by treaty or by statute provide in loading ports in foreign countries—a sphere entirely beyond the reach and authority of the individual States—a system of sanitary inspection and purification, but it could not provide that ships so treated, their cargoes, officers, crews, and passengers should thereby not come under the police and health authority of States whose ports they might enter.

But all of these exercises of authority do not grow out of the police or the quarantine power. They are not pitched upon any such ground. They are valid as regulations of commerce only, and not as health laws. Under the pretext of exercising its exclusive powers, the Congress can no more invade the reserved powers of the States than the States, under the pretext of exercising their reserved powers, can march within the domain of the exclusive powers of the Congress. This principle was clearly laid down in the quotation above made from Chief Justice Marshall's opinion in McCulloch *v.* Maryland, and was practically applied in the United States *v.* Dewitt (9 Wall., p. 41), where the Supreme Court declared unconstitutional an act of the Congress which undertook, as part of the internal-revenue laws, to make it a misdemeanor to mix for sale naphtha and illuminating oils, or to sell petroleum below a certain flash test. They said that such prohibition was a police regulation, solely within the powers of the States, and that it was not an appropriate and plainly adapted means for carrying into execution the power to levy and collect taxes. So that if the Congress, under the power to regulate interstate and foreign commerce, shall make regulations thereof, which are nothing more nor less than police and health regulations, the court must on the same principle declare them void.

Therefore the only way to legalize the regulations of commerce (above suggested) by the Congress is to regard them as not in substitution of, but in aid of State laws.

Each sovereign acts in its own separate and distinct sphere, and at the point where their powers come in contact they mutually adjust their legislation on each side of the line, so as to harmonize the workings of these powers and to promote the objects and end of government.

And the Congress has so interpreted its own powers in quarantine and health matters since the Federal Government was organized.

Yellow fever was epidemic in New York in 1793 and in Philadelphia in 1795. It was known to have been introduced by the vehicles and objects of foreign commerce. But the Congress undertook to pass no quarantine regulations. On the contrary, at that time, when the Federalists, the strong and broad government men, were at the height of their power, they contented themselves with the act of May 27, 1796, which authorizes the President to direct the revenue officers and those commanding forts and revenue cutters to aid in the execution of the quarantine and health laws of the States.

The yellow death again invaded the metropolis, and raged in New York during the summer of 1798 with uncommon violence and fatality.

When the Congress met in the fall, President Adams called attention to the infliction, and said:

"But when we reflect that this fatal disorder has, within a few years, made repeated ravages in some of our principal seaports, and with increased malignancy, and when we consider the magnitude of the evils arising from the interruption of public and private business, whereby the national interests are deeply affected, I think it my duty to invite the Legislature of the Union to examine the expediency of establishing suitable regulations *in aid of the health laws of the respective States.*"

In response to this message the Congress passed the act of February 25, 1799, which declares that—

"The quarantine and other restraints established by the health laws of any State respecting any vessel arriving in or bound to any port or district thereof shall be duly observed by the officers of the customs of the United States, by the masters and crews of the several revenue cutters, and by the military officers commanding in any fort or station upon the seacoast; and all such officers of the United States shall faithfully aid in the execution of such quarantine and health laws, according to their respective powers and within their respective precincts, and as they shall be directed from time to time by the Secretary of the Treasury."

The statute makes sundry other provisions in aid of the State quarantine laws relative to the discharge of cargoes of vessels in quarantine, the erection of quarantine warehouses, the deposit of quarantined goods in warehouses or inclosures, and extending the time for entry of quarantined vessels.

For one hundred years less one this law has stood unchanged on the statute books of the United States, and stands there to-day.

During all these years invasion after invasion of epidemic pestilence has marched into the country through the seaports, scourging them, and, from them, the interior inhabitants; wave after wave of contagion has spread from State to State along all the avenues of communication and commerce, and yet no one has, until within a few years, thought of invoking the Federal power.

After the epidemic of 1878 the Congress went no further than to or-

ganize a national board of health and to declare that its duties "shall be to obtain information upon all matters affecting the public health, to advise the several departments of the Government, the executives of the several States, and the Commissioners of the District of Columbia on all questions submitted by them, or whenever, in the opinion of the board, such advice may tend to the preservation and improvement of the public health." It was further authorized to make special examinations and investigations at any place in the United States, or at foreign ports, to aid in the promotion of the objects of the act. This was repealed by the act of February 15, 1893, but the Congress starved the board to death many years ago by refusing to make appropriations to support it. This was caused by the officious and meddlesome conduct of some of its members.

The last-named act (that of February 15, 1893) is generally cast on the lines of aid and assistance to State quarantine laws. It contains only one unconstitutional clause, and that makes the certificate of health given by the Federal quarantine officer admit a vessel, her crew, passengers, and cargo to any port in the United States named in the certificate.

I am informed that the officers of the United States have never attempted to enforce this provision.

Even if the power existed to establish a general quarantine system throughout the United States, as suggested by Judge Miller, covering interstate and foreign commerce, I do not believe that the people, after a century of self-government in this matter, would submit to being dominated by such regulations. A short experience with government by officials far removed from the sympathies, fears, and necessities of each locality, in such a tremendous matter as the health of the community, would, in my judgment, lead to the repeal of such laws in a whirlwind of public discontent and indignation.

The people of the United States are and ought to be passionately attached to local self-government. It is the outcome of an organic race instinct. Upon that corner stone their institutions are built, and woe be to them when that foundation is disturbed!

Mr. WANGER. I yield seven minutes to the gentleman from Ohio [Mr. KEIFER].

Mr. KEIFER. Mr. Speaker, if I understood the distinguished gentleman from Alabama [Mr. RICHARDSON] a few moments ago aright, I agree with him that the civil war did not change the Constitution of the United States either as to States rights or anything else. That war, however, settled that this was a union of States, and that it was constitutional to preserve the Constitution and the Union. The Constitution, however, seems sometimes to be regarded here as a flexible instrument. On yesterday on the other side of the House there was a universal agreement, I think, to ignore all State rights principles, and to hold that it was constitutional and not a violation of States rights at all to fix a rule by a law of Congress for the recovery of damages in suits between an employee and an interstate railroad company, or to fix a rule, regardless of State statutes or the common law, as to contributory negligence in all damage suits arising in any of the States against such railroad companies, or to set aside all contracts, regardless of their character, between employees and said railroad companies affecting the companies' liability; and that it was also no infringement of States rights to legislate so that all damage suits arising in the States against interstate railroad companies might be transferred, as existing law requires where a Federal law is involved, at the instance of the companies for trial to the United States courts, which in most cases would result in a denial of justice. To-day the other side of this House differ among themselves as to the constitutional power of Congress to legislate with reference to quarantining at our already established coast quarantine stations, some of them holding Congress may constitutionally legislate on the subject, others that only the States have such power. As to that, I am in no trouble; and I believe the power undertaken to be given by the present bill, if it should become a law, is constitutional, and I will have no trouble in voting for the bill on that account.

I will not speak of the particular details of this bill. I have some doubt about whether it is drawn to cover all that ought to be specified in it with reference to the methods of stamping out the disease of yellow fever. The bill itself seems to recognize yellow fever as the only dangerous infectious disease liable to come to our shores. It provides in the first section that vessels may be brought to "quarantine grounds, stations, and anchorages," saying that "whereat or whereto infected vessels having on board any person having yellow fever, bound for any port in the United States, may be detained or sent for the purpose of being disinfected, having their cargoes disinfected and discharged, if necessary, and their sick treated in hospitals until all danger of infection or contagion from such vessels, their cargoes, passengers, or crews has been removed."

The disinfecting of a ship save for the purpose of destroying mosquitoes of a dangerous variety, and the disinfecting of ships' cargoes is wholly useless in the prevention of the spread of yellow fever.

The bill does not seem to cover the case of an infected ship at all, unless it is carrying a person suffering from the disease; and if the bill should become a law and be technically applied it would be ineffective in that respect.

But this idea of merely disinfecting a ship or cargo is altogether behind the times. Disinfection of a ship or the freight of a ship is the most perfect folly in the light of the latest discoveries that we could engage in at this time to prevent or stamp out yellow fever. It is conceded everywhere that the disease of yellow fever is never imparted by contact with a yellow-fever patient or with his clothing or in any of the ways that it was formerly believed the disease could be communicated. At Camp Lazear, 4 miles from Habana, yellow-fever patients were put in rooms, thoroughly screened from the variety of mosquito called "Stegomyia fasciata," and with them were put persons free from the disease. They were kept there day after day, and in no instance did the disease break out among any of them, whereas in the experiments that went on there in 1900 and 1901 persons bitten by the mosquito that had bitten the yellow-fever patient within a proper period after the patient became diseased always came down with the disease.

What was accomplished in Cuba in the interest of medical science and for the benefit of the human race deserves to be told here. I regret my own inability to give the full history of the steps taken, discoveries made, and results attained by the learned, heroic, and self-sacrificing surgeons of our Army in discovering the only way the disease of yellow fever may be communicated, and then the successful efforts they inaugurated to effectually stamp out the disease in Cuba. The medical and scientific world now accept unreservedly the theory that yellow fever can only be communicated by a single variety of the mosquito—Stegomyia fasciata. This variety of mosquito must have access to a person suffering with yellow fever during the first three of four days of the disease, then about twelve days must elapse before the mosquito can impart the disease to a healthy person. It is provided by nature with an inner tube-like instrument through which the deadly virus is injected into the human body while it sucks the blood. It follows that to destroy this mosquito or to prevent its coming in contact with a yellow-fever patient puts an end to the spread of the disease. Both methods of putting an end to the disease were adopted in Cuba and most successfully.

Little less than a miracle was worked. Cuba, the continuous home of yellow fever for above one hundred and fifty years, became free from the disease in 1901, the last case in Cuba having its origin there occurred on September 20, 1901. Cuba then remained immune from the disease for four years, when it was introduced there again in September, 1905, from New Orleans, but the epidemic was by the former heroic methods stamped out in three months, and Cuba is now free from the dread disease. Mere fumigation of ships, cargoes, and clothing did not and could not accomplish this result.

When it seemed that malarial fever was caused by an animal parasite transmitted from one person to another by a mosquito, a theory arose that in some way the mosquito conveyed the unknown cause of yellow fever. Dr. Carlos Finlay, of Habana, advanced this theory, but he did not succeed in demonstrating its truth. Prior to this a somewhat generally accepted theory was that of Doctor Sanarelli, who claimed that a bacillus discovered by him was the true agent of the disease. After the close of the Spanish war, the United States still holding some sort of military occupancy at Habana, Maj. Walter Reed, of the United States Army, was sent to Cuba in June, 1900, as president of a board to study the infectious diseases common there, but especially yellow fever. Associated with him were Acting Asst. Surgs. James Carroll, Jesse W. Lazear, and A. Agramonte. These distinguished gentlemen found that the improved sanitary conditions at Habana had diminished the general diseases and mortality of that city and the other Cuban towns, but they also found that yellow fever had been wholly unaffected by any sanitary measures that had been adopted. The presence of non-immune foreigners from the United States and elsewhere had caused a severe recurrence of the disease. This board of surgeons went to work under these discouraging conditions. They were seconded and materially aided by Lieut. Col. Valery Havard and by Majors Jefferson R. Kean and W. C. Gorgas, eminent surgeons of the United States Army who had served with United States troops in Cuba during our occupancy of the Island. They, too, had, by contact with the disease and their treatment of it, become imbued with theories as to the true nature and causes of the disease which became valuable in the investigations and demonstrations about to be made. For instance, it had been generally noted that when a soldier had gone from a camp outside of the city of Habana to the city, and there become inoculated with the disease of yellow fever which developed in him while occupying and sleeping with half a dozen or more of his comrades, the disease was not directly communicated to them. Such yellow-fever patients were removed and their comrades did not take the disease. This suggested that the old theory of the communicable infectious character of the disease was not sound; that some other agency must exist.

Major Reed, in association with a Doctor Carroll, had demon-

strated that the bacillus icteroides, discovered by Doctor Sanarelli, was widely disseminated in the United States and was without any special relation to yellow fever. With this theory out of the way actual experiments were made which can not be described here. New buildings for the purpose of isolation and of screening yellow-fever patients were erected near Quemadas, a most favorable place and near enough to Habana to take advantage of developments there. Victims for experimentation were required. Volunteers from our Army fearlessly came forward offering themselves a sacrifice, if necessary, to the cause of science. Major Kean (my chief surgeon of division in the Spanish war) had already suffered from an attack of yellow fever. Doctor Carroll allowed himself to be bitten by a mosquito that had twelve days previously sucked the blood of a yellow-fever patient. He suffered from a severe attack of the disease, but recovered. Twice Doctor Lazear experimented on himself, the second experiment bringing on the disease causing his death—a martyr to science. Did ever hero die more patriotically for man or country?

There were other victims. Science never guesses; so actual demonstration was necessary. The details of the years of experiments can not here be given, intensely interesting as they are, but the principal conclusions reached by the board are now accepted throughout the scientific world. They are:

1. The specific agent in the causation of yellow fever exists in the blood of a patient for the first three days of his attack, after which time he ceases to be a menace to the health of others.

2. A mosquito of a single species, Stegomyia fasciata, ingesting the blood of a patient during this infective period is powerless to convey the disease to another person by its bite until about twelve days have elapsed, but can do so thereafter for an indefinite period, probably during the remainder of its life.

3. The disease can not in nature be spread in any other way than by the bite of the previously infected Stegomyia. Articles used and soiled by patients do not carry infection.

Special boards of several of the leading countries of Europe after long investigation found nothing to add or detract from the above summarized conclusions.

Major Reed lived to make this report and long enough to witness yellow fever disappear from Cuba and to know that the result of his and others work in the interest of science and humanity was accepted by the world, though he died November 23, 1902, a victim of appendicitis. He did not live long enough to receive the deserved official reward for his great services which the Secretary of War recommended. I quote here from the report of Hon. Elihu Root, Secretary of War, for the year 1902, to show his appreciation of the great work accomplished by the medical officers mentioned:

Especial credit is due also to the Medical Department of the Army, and particularly to Maj. Walter Reed and Maj. William C. Gorgas for their extraordinary service in ridding the island of yellow fever, described in my last report; and to Jefferson R. Kean and Dr. James Carroll for their share in that work.

The brilliant character of this scientific achievement, its inestimable value to mankind, the saving of thousands of lives, and the deliverance of the Atlantic seacoast from constant apprehension, demand special recognition from the Government of the United States.

Doctor Reed is the ranking major in the Medical Department and within a few months will by operation of law become lieutenant-colonel. I ask that the President be authorized to appoint him Assistant Surgeon-General with the rank of colonel, and to appoint Major Gorgas Deputy Surgeon-General with the rank of lieutenant-colonel, and that the respective numbers in those grades in the Medical Department be increased accordingly during the period for which they hold office.

The name of Dr. Jesse W. Lazear, contract surgeon, who voluntarily permitted himself to be inoculated with the yellow-fever germ in order to furnish the necessary experimental test in the course of the investigation, and who died of the disease, should be written in the list of the martyrs who have died in the cause of humanity. As a slight memorial of his heroism a battery in the coast-defense fortification at Fort Howard, Baltimore, Md., has been named "Battery Lazear."

Maj. W. C. Gorgas, chief sanitary officer in Habana, in February, 1901, with others, some of whom I have named, instituted the necessary measures to extinguish the disease of yellow fever naturally suggested by the report of the distinguished board. In general the disease-communicating mosquito was either exterminated or the yellow-fever patient was isolated from it, and the result was the disease disappeared from Habana in ninety days and from Cuba as already stated, and can only again exist there by reintroduction from the outside. Cuba was without yellow fever for two hundred and fifty years after discovery by Columbus; it then existed continuously for about one hundred and fifty years; then American heroes of medical science discovered its character and the agency of its transmission, and then conquered the disease by preventing its further spread in the island.

I have related this much of the history of recent discoveries relating to yellow fever to enable me to say again that mere quarantine of a ship at the Dry Tortugas, or its cargo, will have little to do with preventing the spread of the disease of yellow fever. A quarantine station may, however, be necessary there and elsewhere for ships with yellow-fever patients aboard, and the Marine-Hospital Service may safely be intrusted to inaugurate, through their accomplished, trained, and experienced medical officers, together with those of the Army and Navy who may become participants in the work, such proper and efficient methods to secure an effectual extermination of the disease of yellow fever as they may know to be best. The road to success in preventing or exterminating yellow fever is now too plainly blazed not to be followed, and successfully, by the distinguished medical staffs who will be in charge.

The bill, though imperfect in the respect pointed out, should become a law rather than leave our borders unprotected, as they now seem to be, from the introduction of the disease from Mexico, Central America, or other infected regions.

Mr. WANGER. Mr. Speaker, I ask the gentleman from Georgia [Mr. BARTLETT] to consume the remainder of his time.

Mr. BARTLETT. Mr. Speaker, the substitute bill which we are now discussing probably presents one of the most important questions that the Congress of the United States for many years has been called upon to consider. It is the first instance in the history of over one hundred years when Congress has undertaken to deviate from the course adopted in 1798, which was suggested by the then President of the United States, Mr. Adams, a Federalist. The American people are furnished to-day with the spectacle which the House presents in the solution of this question and the determination of this issue of the Representatives of the States, for the first time, undertaking to destroy the police powers of the States by a Federal law; and that, too, at the instigation and on the motion of the gentleman from Mississippi [Mr. WILLIAMS], the Democratic leader. On the 6th of March, when it was suggested by Mr. GARDNER, from Massachusetts, that the minority leader was a member of the Committee on Rules, the following colloquy occurred in the House:

Mr. GARDNER of Massachusetts. Harness, so far as I know, are not manufactured in my district, and I know nothing about the conditions of the trade. I will say this, however, that if a rule were introduced by the Committee on Rules, of which the gentleman from Mississippi is a member——

Mr. WILLIAMS. Nominally, nominally. [Laughter.]

Mr. GARDNER of Massachusetts. Of which the gentleman from Mississippi is, at all events nominally, a member and sometimes invited to the meetings, I presume——

Mr. WILLIAMS. I am invited to the séances, but never consulted about the spiritualistic appearances. [Laughter.]

But to-day, instead of being a nominal member of the Committee on Rules, the gentleman is an active member of that committee. He has abandoned his opposition to the tyranny of the Republican code of rules, and has invoked those same rules to-day in order to stifle and throttle his own friends and party associates on this side, and to leave only a short time for the discussion of this important question, involving not only the life of the States, but eventually the life of the Republic itself.

Mr. WILLIAMS. Mr. Speaker——

Mr. BARTLETT. I can not yield. I have only twenty minutes.

Mr. WILLIAMS. I only wanted to say——

Mr. BARTLETT. I decline to yield, and I appeal to the Chair to protect me from interruption.

Mr. WILLIAMS. The gentleman said he would not discuss the rule—that is all—and he has purposely thrown me off my guard.

Mr. BARTLETT. I did not say so. Mr. Speaker, I appeal to the Speaker to protect me from the intrusion of the gentleman from Mississippi. He is aware of the courtesies and amenities of debate, as well as anyone, and he should be compelled to preserve them.

Mr. WILLIAMS. Will the gentleman permit me——

Mr. BARTLETT. No; I decline to yield. Mr. Speaker, I am as courteous as anybody; but when I am throttled and muzzled by the gentleman from Mississippi, it does not lie in his mouth to complain when I decline to yield.

The gentleman from Mississippi also said he was sometimes "invited to the séances of the Republican Committee on Rules, but never consulted about the spiritualistic appearances."

The gentleman has now been converted into a happy medium for the promulgation of Republican rules by which the House has throttled his own party associates. For myself I am content with the situation and the result, if the gentleman from Mississippi is.

Now, Mr. Speaker, I say this is one of the most important bills that ever the House was called upon to consider. The gentleman was kind enough to refer to the report of the minority members of that committee, drafted by myself, and concurred in by that able lawyer, my friend the gentleman from Texas [Mr. RUSSELL], and he said that anybody who would have contended for anything else would have been a fool.

If section 7, as advocated by the gentleman from Mississippi, both in the original substitute and in the substitute for the substitute as reported by the committee, is not an attempt to

overthrow and destroy the rights of the State to exercise and control its own police regulations, then I will not say that a man who can not see it is a fool. I will not use the very delicate and refined language of the gentleman from Mississippi, but I will say that the gentleman who does not see it in that way does not view it, in my judgment, as he should under the rules of construction and under the definition given to police powers by all the law writers of the land and by the Supreme Court of the United States.

Mr. Speaker, we may, as we are entitled to, and some men may, as they are entitled to, reach to a high position by reason of great ability and learning, aided thereto by the admiration and respect which their fellows and friends have for them, but no man can occupy so exalted a position as will authorize him to designate a statement made by honorable gentlemen his equals, at least, in all things, except possibly in experience and in education; I say no man, no matter what may be his position, learning, or ability, is justified in designating a gentleman a fool because he does not agree with him. That is the narrowest partisanship, the shallowest kind of criticism that any gentleman could make.

Mr. WILLIAMS. Will the gentleman from Georgia yield for me to make an apology?

Mr. BARTLETT. Yes.

Mr. WILLIAMS. The gentleman from Georgia has totally misunderstood what I said. I said that anybody that did not agree with the gentleman's report would have been a fool; that nobody but a fool would have doubted his position. I never said that the gentleman was a fool.

Mr. BARTLETT. Now, the gentleman from Mississippi has demonstrated by his advocacy of the measure, as he has to-day, that he might be in danger of falling within the category that he has designated.

Mr. WILLIAMS. The gentleman is losing his temper.

Mr. BARTLETT. No; I am not losing my temper. I am willing to discuss this bill. Mr. Speaker, the gentleman from Mississippi was the author of this original bill, prepared at the suggestion and at the request of the Representatives from the Southern and Gulf States after a full conference on the subject. He introduced it and it was referred to the Committee on Interstate and Foreign Commerce in the House. The Senator from Florida [Mr. MALLORY] introduced a similar bill in the Senate, and I say to him and to the country that I will vote word for word for the bill that the gentleman from Mississippi himself is the author of. I will vote to-day, word for word, for the bill introduced by Senator MALLORY, that passed the Senate on yesterday.

Mr. RICHARDSON of Alabama. Will the gentleman yield?

Mr. BARTLETT. Yes.

Mr. RICHARDSON of Alabama. Does not the gentleman know that the bill introduced by the gentleman from Mississippi prohibited——

Mr. BARTLETT. Yes; I know what the gentleman refers to, and that is one of the reasons I favored it, because the gentleman from Mississippi put in the bill that he was the father of a provision that would protect the rights of the State from invasion, even if a ship or cargo had received the certificate of the health officer of the United States, and prevent it from entering the States against the laws of the States. I prefer it because the people where I come from instructed me to vote for that sort of a bill. I say I want to support the measure introduced by my friend from Mississippi. But when the chairman of the Interstate and Foreign Commerce Committee and the Republican members of that committee get control of it; when these gentlemen, who do not agree with the political principles which we have been taught to revere upon the old-fashioned theory, upon which I have often in this House undertaken to stand with the gentleman from Mississippi, sometimes alone—when these gentlemen get hold of it they make an entirely different bill, change it into an exclusive Federal quarantine bill, and destroy the powers of the States; therefore I oppose it. It was not long ago that I stood with the gentleman from Mississippi upon the broad constitutional ground that Congress had no right to charter a canal through the States, authorizing the corporation to condemn the property of the citizens of the States. I voted with him against such a bill, though it was admitted to be of great national importance. I can not now, because, forsooth, there is involved in this bill the alleged purpose to destroy the yellow fever, scourge that it is, become a coward and run away from the issue.

Now, I want to read what the gentleman from Alabama, who favors the substitute, said on the floor of this House on the 19th day of December, 1905. He is referring to national quarantine:

Why, Mr. Chairman, the statement of the proposition itself is enough to cause this House of Representatives to pause and think well before we enact any legislation on that line.

Farther on he said:

In the trail or wake of the appalling and dreadful epidemic of yellow fever in the South there is a great clamor made for Federal control. No man could take his stand on the floor of this House who is more eager and anxious to forever banish that dreaded disease and plague from the shores of the South than am I; but rather than sacrifice one of the fundamental rights of my State, or its domestic and local control of one of its reserved powers, I would be willing to fight the yellow fever for ages to come. We are encouraged to believe that under the advance of science it will not be long before we will be free from this scourge. Many public men express the opinion that we want Federal control. They do not stop to consider the far-reaching effects of such a proposition.

That is what they are after here; they want Federal control, and they do not stop to consider the far-reaching effect of such a proposition. My friend from Alabama does not stop now to even consider the far-reaching proposition contained in this substitute, especially in section 7.

If this bill passes, the State and local boards of health will have no further authority in the matter of interstate quarantine, or quarantine at the ports. Of this I think there can be no doubt should the Supreme Court uphold the constitutionality of the bill. In this view I am sustained by the Secretary of the Treasury. In a letter the Secretary says:

TREASURY DEPARTMENT,
Washington, March 13, 1906.

MY DEAR MR. BARTLETT: Replying to your letter of March 10, making certain inquiries concerning the effect of H. R. 14316, "A bill to further enlarge the powers and authority of the Public Health and Marine-Hospital Service," and asking especially whether the bill in effect enlarges the authority of the Treasury Department in the matter of the spread of contagious diseases, I beg to say:

The bill directs the establishment of a quarantine station and anchorage at the group of islands known as the Dry Tortugas. This can not be done under the authority now vested in the Secretary of the Treasury, and it is a question of some doubt in my mind whether it ought to be done. It is but 75 miles from Key West, where there is a large and fully equipped quarantine station.

If the Department were clothed with plenary authority, as proposed in the bill, and charged with ultimate responsibility, and given adequate appropriations, it is possible that the importation of yellow fever might be more effectually prevented. There is nothing in the bill, however, giving larger authority or calculated to encourage greater vigilance after a contagious disease has actually broken out.

There is possibly one other advantage in the bill. It is possible now for local authorities to interfere with the passage of boats and railroads from one town to another, and especially between points in different States. Jurisdiction in matters of this kind is transferred to the Federal Government. *Should the bill pass, local boards of health will have no authority in the premises.*

You will recognize in effect the bill proposes to place upon the General Government the responsibility of policing our entire coast and frontier for the prevention and spread of contagious diseases, and relieves, so far as may be, local authorities from responsibility in the premises. In the very nature of the case it is a step in a direction which will ultimately result in a very large and expensive Federal supervision.

Yours, very truly, L. M. SHAW.

Hon. C. L. BARTLETT,
House of Representatives.

Mr. RICHARDSON of Alabama rose.

Mr. BARTLETT. I would not do my friend an injustice.

Mr. RICHARDSON of Alabama. No; I know the gentleman would not knowingly. Why does he not read this other part of my speech? I am going to suggest to the gentleman——

Mr. BARTLETT. Because the gentleman voted to throttle me; because he has tied my hands; because he has only given me twenty minutes to discuss a question that requires an hour.

Mr. RICHARDSON of Alabama. But I did not get any time myself.

Mr. BARTLETT. All right; go ahead.

Mr. RICHARDSON of Alabama. Here is what I said on that subject: "The position that I take"—and I read from the same speech as that—"is that I concede there is no violation of the reserved rights of the States"——

Mr. BARTLETT. Oh, I will put that in my remarks.

Mr. RICHARDSON of Alabama. "In this proposition, that the Federal Government controls quarantine so as to prevent the importation of disease"——

Mr. BARTLETT. Oh, don't read any more.

Mr. RICHARDSON of Alabama. "From foreign countries, or the spread of disease from one State to the other"——

Mr. BARTLETT. I will put that in my remarks.

Mr. RICHARDSON of Alabama. "By so doing the Government is but exercising its constitutional function."

Mr. BARTLETT. Mr. Speaker, I am sorry that gentleman insists upon interrupting me. I can not yield any more to anyone. But I say another thing, and the gentleman can correct it to-morrow in the RECORD. He stated in that speech that we did not want any more quarantine law; that the Federal authority *had exhausted its power to pass a Federal quarantine law*, and if I did not read it, now I apologize for it. Here is what it says:

"That, Mr. Chairman, the Government is doing to-day, and I contend that under the present law the Government has clothed the Public Health and Marine-Hospital Service with all

the authority and power that Congress is authorized under the Constitution to give."

Now, Mr. Speaker, I decline to yield any more. I can not do it.

Mr. RICHARDSON of Alabama. But just one word——

Mr. BARTLETT. No; I can not do it. I will not do it. There is the speech. These gentlemen throttle us and then undertake to consume our time.

Mr. RICHARDSON of Alabama. But I did not mean to do that.

Mr. BARTLETT. I beg the gentleman's pardon; I take it back, then. There is the speech made on the 19th day of December, which is a repetition of that great and glorious doctrine that my friend from Alabama was the gallant champion of at the Chattanooga conference. He said—and I thought once I would incorporate it in the minority report—that Congress had *exhausted its power*, and has given to the Marine-Hospital Service all the authority it can give under the Constitution. Yet not content with that, he undertakes to arm the Marine-Hospital Service with further power that is remarkable and extraordinary. They first put in the first substitute, that if any governor or mayor or State or municipal health officer should undertake to arrest or stop a plague-laden train or a smallpox-laden train passing through the State, the governor and health officer of the State should be arrested and tried and convicted in the Federal courts and punished, and my colleague and friend from Georgia [Mr. ADAMSON], who was opposed to this section 7 in the first substitute, hugs the delusion to his soul that he has changed it in the last substitute, that by juggling words merely. I apprehend there is not another member of that committee, not a Member of this House, and I know there is not another member of that Committee on Interstate and Foreign Commerce who contends that the words with which they undertake to change section 7 in the substituted substitute mean anything less than they do in the original section 7. I will now yield time to the gentleman from Alabama [Mr. RICHARDSON] to say whether I am correct or not.

Mr. RICHARDSON of Alabama. Oh, I am very much obliged to the gentleman from Georgia for yielding me some time, but when he asked me the question whether there is any difference——

Mr. BARTLETT. In effect, I say.

Mr. RICHARDSON of Alabama. Between section 7 and the original as drawn by myself—and I still stand by and adhere to the principles set forth in section 7, because I believe it is the law under the Constitution, and the substitute for section 7 only changes it not in principle——

Mr. BARTLETT. That is all I wanted the gentleman to admit, and I will not yield any more.

Mr. RICHARDSON of Alabama. It changes it in phraseology.

Mr. BARTLETT. Now, Mr. Speaker——

Mr. RICHARDSON of Alabama. But I want to ask my friend some more.

Mr. BARTLETT. No; I decline to yield.

Mr. RICHARDSON of Alabama. Oh, I think the gentleman ought to allow——

Mr. BARTLETT. Well, go ahead and say it, then.

Mr. RICHARDSON of Alabama. I believe that the gentleman said in that minority report that he indorsed the Chattanooga conference.

Mr. BARTLETT. I did not, and the gentleman can not find it there—no, sir. Now, Mr. Speaker, it will be seen that it looks as if somebody else were lacking in gray matter besides the two gentlemen who signed the minority views, if we are going to put it to the test the gentleman from Mississippi [Mr. WILLIAMS] suggests.

Mr. Speaker, I want to discuss this question from a legal standpoint, but I have not the time. I would like to make an argument compiled from these cases, which I have referred to in the views of the minority, but I have not the time. There has not been a deviation or a turning of the Supreme Court from the doctrine that every *reasonable* State police law or regulation for the protection of the health of the people, must be sustained though they in some way may affect commerce. I could read from the opinions of judges of the courts from the earliest days, from 4 Wheaton down to 192 and 198 United States, where the courts have steadily upheld the doctrine that the State did not give up to the General Government its right to control and regulate its own local affairs by police laws, and the day is far away, and I trust will never come, when the General Government shall undertake to control the health laws of the States upon the pretext that yellow fever or plague or smallpox are commerce. Why, to quote the language of Chief Justice Marshall, quoted so often, and reiterated in Brown *v.* Maryland, the States even as against imported goods upon which the duty has been paid have the right to take the goods if they are infected or if they have been exposed to disease and tear them to pieces and burn them up in order to protect life and health of its citizens.

THE RIGHT OF THE STATE TO ENACT QUARANTINE LAWS.

I will now call attention to some of the decisions of the Supreme Court of the United States from which I am justified in saying that a *reasonable* exercise of the police power of the State has always been upheld by that court, even though the State laws may have affected or interfered with interstate commerce. The first case is the one so often quoted, decided by Chief Justice Marshall.

In Gibbons *v.* Ogden (9 Wheaton, p. 203), the Chief Justice, in rendering the decision, says:

> That inspection laws may have a remote and considerable influence on commerce will not be denied, but that a power to regulate commerce is the source from which the right to pass them is derived can not be admitted. The object of inspection laws is to improve the quality of articles produced by the labor of a country; to fit them for exportation, or, it may be, for domestic use. They act upon the subject before it becomes an article of foreign commerce or of commerce among the States and prepare it for that purpose. They form a portion of that immense mass of legislation which embraces everything within the territory of a State not surrendered to the General Government, or which can be most advantageously exercised by the States themselves. *Inspection laws, quarantine laws, health laws of every description*, as well as laws for regulating the internal commerce of a State, and those which respect turnpike roads, ferries, etc., are component parts of this mass.
>
> No direct general power over these objects is granted to Congress, and consequently they remain subject to State legislation. If the legislative power of the Union can reach them, it must be for national purposes; it must be where the power is expressly given for a special purpose or is clearly incidental to some power which is expressly given. It is obvious that the Government of the Union in the exercise of its express powers—that, for example, of regulating commerce with foreign nations and among the States—may use means that may also be employed by a State in the exercise of its acknowledged powers—that, for example, of regulating commerce within the State.
>
> If Congress licenses vessels to sail from one port to another in the same State, the act is supposed to be, necessarily, incidental to the power expressly granted to Congress and implies no claim of a direct power to regulate the purely internal commerce of a State or to act directly on its system of police. So if a State, in passing laws on subjects acknowledged to be within its control and with a view to those subjects, shall adopt a measure of the same character with one which Congress may adopt, it does not derive its authority from the particular power which has been granted, but from some other which remains with the State and may be executed by the same means. All experience shows that the same measures, or measures scarcely distinguishable from each other, may flow from distinct powers; but this does not prove that the powers themselves are identical. Although the means used in their execution may sometimes approach each other so nearly as to be confounded, there are other situations in which they are sufficiently distinct to establish their individuality.
>
> In our complex system, presenting the rare and difficult scheme of one General Government, whose action extends over the whole, but which possesses only certain enumerated powers, and of numerous State governments, which retain and exercise all powers not delegated to the Union, contests respecting power must arise. Were it even otherwise, the measures taken by the respective governments to execute their acknowledged powers, would often be of the same description and might sometimes interfere. This, however, does not prove that the one is exercising, or has a right to exercise, the powers of the other.

In Brown *v.* Maryland (12 Wheat., 419–433), Chief Justice Marshall recognized that the removal or destruction of infectious or unsound articles was undoubtedly an exercise of the police power of the State, and an exception to the prohibition resulting from the exclusive power of Congress to regulate the operations of foreign and interstate commerce, and that laws of the United States expressly sanction the health laws of the several States. In the License cases (5 Howard, 504, 576), Chief Justice Taney declared that "it must be remembered that disease, pestilence, and pauperism are not subjects of commerce, although sometimes among the attendant evils. They are not things to be regulated or trafficked in, but to be prevented as far as human foresight or human means can guard against them."

The headnotes to the case of Mayor, etc., of New York *v.* Miln, clearly and succinctly states the doctrine for which I contend—

> That a State has the same undeniable and unlimited jurisdiction over all persons and things within its territorial limits as any foreign nation, where that jurisdiction is not surrendered or restrained by the Constitution of the United States.
>
> That by virtue of this, it is not only the right, but the bounden and solemn duty of a State to advance the safety, happiness, and prosperity of its people, and to provide for its general welfare by any and every act of legislation, which it may deem to be conducive to these ends, where the power over the particular or the manner of its exercise is not surrendered or restrained in the manner just stated.
>
> That all these powers which relate merely to a municipal legislation, or what may perhaps more properly be called *internal police*, are not thus surrendered or restrained; and that, consequently, in relation to these, the authority of a State is *complete, unqualified, and exclusive.* (11 Peters, p. 133.)

In the case of Gilman *v.* Philadelphia (70 U. S. (3 Wall.), pp. 730–731) Justice Swayne, delivering the opinion of the court

and discussing the police powers of the States under the quarantine laws, said:

Under quarantine laws a vessel registered or enrolled and licensed may be stopped before entering her port of destination, or be afterwards removed and detained elsewhere, for an indefinite period; and a bale of goods upon which the duties have or have not been paid, laden with infection, may be seized under "health laws," and if it can not be purged of its poison may be committed to the flames.

The inconsistency between the powers of the States and the nation as thus exhibited is quite as great as in the case before us, but it does not necessarily involve collision or any other evil. None has hitherto been found to ensue. The public good is the end and aim of both.

If it be objected that the conclusion we have reached will arm the States with authority potent for evil, and liable to be abused, there are several answers worthy of consideration. The possible abuse of any power is no proof that it does not exist. Many abuses may arise in the legislation of the States which are wholly beyond the reach of the Government of the nation. The safeguard and remedy are to be found in the virtue and intelligence of the people. They can make and unmake constitutions and laws; and from that tribunal there is no appeal. If a State exercise unwisely the power here in question, the evil consequences will fall chiefly upon her own citizens. They have more at stake than the citizens of any other State. Hence, there is as little danger of the abuse of this power as of any other reserved to the States. Whenever it shall be exercised openly or covertly, for a purpose in conflict with the Constitution or laws of the United States, it will be within the power, and it will be the duty of this court to interpose with a vigor adequate to the correction of the evil.

In the case of Smith *v.* Turner and Norris *v.* The City of Boston, known as the "Passenger cases" (7 Howard, 400), Justice MacLean said:

In giving the commercial power to Congress, the States did not part with that power of self-preservation which must be inherent in every organized community. They may guard against the introduction of anything which may corrupt the morals or endanger the health or lives of their citizens. Quarantine or health laws have been passed by the States, and regulations of police for their protection and welfare.

In the same case Justice Wayne said:

That the States of the Union may, in the exercise of their police powers, pass quarantine and health laws interdicting vessels coming from foreign ports or ports within the United States from landing passengers and goods, describe the places and time for vessels to quarantine, and impose penalties upon persons for violating the same; and that such laws, though affecting commerce in its transit, are not regulations of commerce, prescribing terms upon which merchandise and persons shall be admitted into the ports of the United States, but precautionary regulations to prevent vessels engaged in commerce from introducing disease into the ports for which they are bound, and that the States may, in the exercise of such police power, without any violation of the power in Congress to regulate commerce, exact from the owner or consignee of a quarantined vessel, and from the passengers on board of her, such fees as will pay to the State the cost of their detention and of the purification of the vessel, cargo, and apparel of the persons on board.

In the case of Patterson *v.* Kentucky (97 U. S., 505) Justice Harlan, delivering the opinion of the court, said:

We have frequently decided that the police power of the States was not surrendered when the Constitution conferred upon Congress the power to regulate commerce with foreign nations and between the several States. Hence the States may, by police regulations, protect their people against the introduction within their respective limits of infected merchandise.

A bale of goods upon which duties have or have not been paid, laden with infection, may be seized under health laws, and if it can not be purged of its poison, may be committed to the flames. So may the States by like regulations exclude from their midst not only convicts, paupers, idiots, lunatics, and persons likely to become a public charge, but animals having contagious diseases. This court has never hesitated, by the most rigid rules of construction, to guard the commercial power of Congress against encroachments in the form or under the guise of State regulations established for the purpose and with the effect of destroying or impairing rights secured by the Constitution. It has, nevertheless, with marked distinctness and uniformity, recognized the necessity, growing out of the fundamental conditions of civil society, of upholding State police regulations which were enacted in good faith and had appropriate and direct connection with that protection to life, health, and property which each State owes to her citizens.

POWER OF A STATE TO EXCLUDE FROM ITS BORDERS PERSONS OR ANIMALS DANGEROUS TO THE HEALTH OF ITS CITIZENS.

In giving the commercial power to Congress the States did not part with that power of self-preservation which must be inherent in every organized community. They may guard against the introduction of anything which may corrupt the morals or endanger the health or lives of their citizens. Quarantine or health laws have been passed by the States and regulations of police made for their protection and welfare. (Vol. 8, Federal Statutes Annotated, p. 440 (Calvert); Smith *v.* Turner (1849), 7 Howard (U. S.), 400.)

In the exercise of the police power to adopt precautionary regulations to prevent vessels engaged in commerce from introducing disease into the ports to which they are bound a State may, without any violation of the power of Congress to regulate commerce, exact from the owner or consignee of a quarantined vessel and from the passengers on board of her such fees as will pay to the State the cost of their detention and of the purification of the vessel, cargo, and apparel of the persons on board. (Vol. 8, Federal Statutes Annotated, p. 443 (Calvert); Norris *v.* Boston (1849), 7 Howard (U. S.), 414.)

In the case of Railroad *v.* Husen, 95 United States, 465, Judge Strong said:

The police power would justify the exclusion of property dangerous to the property of the citizens of the State; for example, animals having contagious or infectious diseases. All these exertions of power are in the immediate connection with the protection of persons and property against obnoxious acts of other persons or such a use of property as is injurious to the property of others. They are self-defensive.

He further unhesitatingly admits that—

A State may pass sanitary laws and laws for the protection of life, liberty, health, and property within its borders, and it may prevent persons and animals suffering from contagious diseases from entering the State, and for the purpose of self-protection it may establish quarantine and reasonable inspection laws. (59 Am. Rep., 267–269.)

In the case of Robbins *v.* Taxing District (120 U. S., 489) Judge Bradley said:

It is also an established principle that the only way in which commerce between the States can be legitimately affected by a State law is when by virtue of its police powers and its jurisdiction over persons and property within its limits a State provides for the security of the lives, limbs, health, and comfort of persons and the protection of property, or when it does those things which may otherwise incidentally affect commerce, such as the establishment and regulation of highways, canals, railroads, wharves, ferries, and other communal facilities, the passage of inspection laws, to secure the due quality and measure of products and commodities, the passage of laws to regulate or restrict the sale of articles deemed injurious to health or morals of the community, the imposition of taxes upon persons residing within the State or belonging to its population, and upon avocations or employments pursued therein not directly connected with foreign or interstate commerce.

It follows from these views, which are supported by many other adjudications, both State and national, that the quarantine regulations of a State must be sustained when they may fairly be deemed to fall within its police power, and, furthermore, that the cases when they can be adjudged not to fall within it must be of an extreme character and of rare occurrence. This is a very general and comprehensive power, including within it the adoption and enforcement of such laws as may fairly be deemed to have been designed in good faith for the promotion of the public welfare and which are not in direct conflict with some constitutional limitation. (New York *v.* Miln, 11 Pet., 132.)

While the National Government has reserved to itself the right to regulate commerce, it does not follow that every State law which to some extent affects or regulates commerce must be disregarded as in conflict with the paramount national authority. The regulation may be with reference to a subject-matter concerning which the national authority has not deemed it proper to act, in which case, though the State action may properly be designated as a regulation of commerce, yet it will be allowed to stand. Thus, in the leading case upon this topic, the quarantine laws of the State of Louisiana were assailed because they required all vessels passing designated stations to submit to an examination by State officials, and to pay a fee therefor, and it was insisted that this was necessarily a regulation of commerce and an imposition of tonnage duties. The Supreme Court of the United States, in deciding the cause, commented upon the quarantine laws of the State and affirmed their propriety and necessity, and that the fee complained of "is not a tonnage tax within the true meaning of that word as used in the Constitution, but is a compensation for services rendered as part of the quarantine system of all countries to the vessel which receives the certificate that declares it free from further regulations." As to the supposed invalidity of the law because it operated as a regulation of commerce, the court said:

Is the law under consideration void as a regulation of commerce? Undoubtedly it is in some sense a regulation of commerce. It arrests a vessel on a voyage which may have been a long one. *It may affect commerce among the States* when the vessel is coming *from other States of the Union than Louisiana*, and it may affect commerce with foreign nations when the vessel arrested comes from a foreign port. This interruption of the voyage may be for days or for weeks. It extends to the vessel, the cargo, the officers and seamen, and the passengers. In so far as it provides a rule by which this power is exercised, it can not be denied that it regulates commerce. We do not think it necessary to enter into the inquiry whether, notwithstanding this, it is to be classed among those police powers which were retained by the States as exclusively their own, and therefore not ceded to Congress. (Gibbons *v.* Ogden, 9 Wheat., 1–210; New Orleans Gas Co. *v.* La. Light Co., 115 U. S., 650, 661; Henderson *v.* Mayor, 92 U. S., 259, 272.)

But aside from this, quarantine laws belong to that class of State legislation which, whether passed with intent to regulate commerce or not, must be admitted to have that effect, and which are valid. The matter is one in which the rules that should govern it may in many respects be different in different localities, and for that reason be better understood and more wisely established by the local authorities. The practice which would control a quarantine station on the Mississippi River, a hundred miles from the sea, may be widely and wisely different from that which is best for the harbor of New York. In this respect the case falls within the principle which governed the cases of Willson *v.* Blackbird Creek Marsh Co., 2 Pet., 245; Cooly *v.* Board of Wardens, 12 How., 299; Gillman *v.* Philadelphia, 3 Wall., 713, 727; Pound *v.* Turk, 95 U. S., 459, 462; Hall *v.* De Cuir, 95 U. S., 485, 488; Packet Co. *v.* Catlettsburg, 105 U. S., 559, 562; Transportation Co. *v.* Parkersburg, 107 U. S., 691, 702; Escanaba Co. *v.* Chicago, 107 U. S., 678; Morgan Steamship Co. *v.* La. Board of Health, 118 U. S., 455; Passenger Cases, 7 How., 283. *Therefore it must be conceded that a quarantine law will not be declared void because its effect may, to some extent, be a regulation of commerce with foreign nations or among the*

several States. (Minneapolis, etc., Rwy., *v.* Milner, 57 Fed. Rep., 276; Gilman *v.* Philadelphia, 3 Wall., 713.)

It may not, under cover of extending its police powers, substantially prohibit or burden either foreign or interstate commerce.

The court referred to and in effect overruled a decision of the supreme court of Illinois upon the same subject, saying:

We have not overlooked the decisions of very respectable courts in Illinois, where statutes similar to the one we have now before us have been sustained (Yeazel *v.* Alexander, 58 Ill., 254.) Regarding the statutes as mere police regulations, intended to protect domestic cattle against infectious disease, those courts have refused to inquire whether the prohibition did not extend beyond the danger to be apprehended, and whether, therefore, the statutes were not something more than exertions of police power. That inquiry, they have said, was for the legislature and not for the courts. With this we can not concur. The police power of a State can not obstruct foreign commerce or interstate commerce *beyond the necessity for* its exercise; and, under color of it, objects *not* within its scope can not be secured at the expense of the protection afforded by the Federal Constitution. And as its range sometimes comes very near to the field committed by the Constitution to Congress, it is the duty of the courts to guard vigilantly against any needless intrusion. (Railroad *v.* Husen, 95 U. S., 465–473.)

We think, however, that there is little or no doubt of the correctness of the subsequent decision of the supreme court of Missouri affirming that the State has authority to provide reasonable regulations prescribing the mode of transportation of diseased or infected animals through the State and restricting the manner of such transportation so as to prevent the spread of disease or contagion, and we even doubt the concession made by that court that the State is without power to forbid the transportation through it of live stock then so diseased or infected as to probably prove injurious to the health of other live stock within the State. (Grimes *v.* Eddy, 126 Mo., 168; Kimmish *v.* Ball., 129 U. S., 217.)

So, as shown by the court in the principal cases, the State authorities may provide for the inspection and disinfection of the baggage and personal effects of travelers coming from infected ports or places in other States or in a foreign country, and may place such restraints upon such travelers in the nature of quarantine regulations as *due regard for the health and safety of the citizens of the States may reasonably dictate.*

QUARANTINE LAWS OF THE UNITED STATES.

It can not be disputed that Congress has from the beginning avoided any conflict between State and national authority by, in effect, adopting the State laws and regulations, and directing the officers and agents of the General Government to aid in their enforcement. (Story on the Constitution, sec. 1075; Gibbons *v.* Ogden, 9 Wheat., 205; Lockwood *v.* Bartlett, 130 N. Y., 340.)

Thus section 4792 of the Revised Statutes of the United States declares that—

The quarantine and other restraints established by the health laws of any State, respecting any vessels arriving in or bound to any port or district thereof, shall be duly observed by the officers of the customs revenue of the United States, by the masters and crews of the several revenue cutters, and by the military forces commanding in any fort or station upon the seacoast; and all such officers of the United States shall faithfully aid in the execution of such quarantine and health laws, according to their respective powers and within their respective precincts, and as they shall be directed, from time to time, by the Secretary of the Treasury. But nothing in this title shall enable any State to collect a duty of tonnage or impost without the consent of Congress.

The succeeding section enacts that whenever, by the health laws of any State or by the regulations made pursuant thereto, any vessel arriving within a collection district of such State is prohibited from coming to the port of entry or delivery by law established for such district, and such health laws require or permit the cargo of the vessel to be unladen at some other place within or near to such district, the collector, after due report to him of the whole of such cargo, may grant his warrant or permit for the unlading or discharge thereof under the care of the surveyor or one or more inspectors at some other place where such health laws permit, and upon the conditions and restrictions which shall be directed by the Secretary of the Treasury, or which such collector may for the time deem expedient for the security of the public revenue.

By the statute of April 29, 1878, it was declared that—

No vessel or vehicle coming from any foreign port or country where any contagious or infectious disease may exist, and no vessel or vehicle containing any person or persons, merchandise, or animals affected with any infectious or contagious disease, shall enter any port of the United States or pass the boundary line between the United States and any foreign country contrary to the quarantine laws of any one of said United States in or through the jurisdiction of which such vessel or vehicle may pass or to which it is destined, and except in the manner and subject to the regulations to be prescribed as hereinafter provided.

This statute further provided that—

Whenever an infectious or contagious disease shall appear in any foreign port or country, and whenever any vessel shall leave an infected foreign port, or have on board goods or passengers coming from any port or district infected with cholera or yellow fever bound for any port in the United States, the consular officer or other representative of the United States at or nearest such foreign port shall give notice thereof to the Supervising Surgeon-General of the Marine-Hospital Service, and to the health officer of the port of destination in the United States, and that the Surgeon-General shall, under the direction of the Secretary of the Treasury, be charged with the execution of the provisions of the act, and shall frame all needful rules and regulations for that purpose, subject to the approval of the President, but that such rules or regulations shall not conflict with or impair any sanitary or quarantine laws or regulations of any State or municipal authority now existing or which may hereafter be enacted; and that at all ports where, in the opinion of the Secretary of the Treasury, it shall be necessary to establish quarantine, the medical officers or other agents of the Marine-Hospital Service shall perform such duties in the enforcement of the quarantine laws and regulations as may be assigned by the Surgeon-General of that Service: *Provided*, That there shall be no interference in any manner with any quarantine laws or regulations as they may now exist or may hereafter be adopted by State laws.

Other statutes were enacted by Congress establishing a National Board of Health and relating to contagious diseases, but their operation was restricted to four years from and after their passage. (See 20 U. S. Stats., 484; 21 U. S. Stats., 5, 46.)

By chapter 453 of the statutes of 1882 the duties of the Board of Health were restricted to the diseases of cholera, smallpox, and yellow fever. (22 U. S. Stats., 315.)

By the act of August 30, 1890, the importation of cattle, sheep, or other ruminants and swine which had been exposed to any disease was prohibited, and the Secretary of Agriculture was authorized to place and retain in quarantine all such ruminants and swine at such ports as he might designate and upon such conditions as he might by regulation prescribe, and the importation of any such animals into the United States at any other port was forbidden; and the President, whenever in his opinion it should be necessary for the protection of animals in the United States against infectious or contagious diseases, was authorized by proclamation to suspend the importation of all or any class of animals for a limited time, during which the importation of such animals should be unlawful. (26 U. S. Stats., 416.)

On February 15, 1893, was enacted another statute, granting additional quarantine powers and imposing additional duties upon the Marine-Hospital Service, making it unlawful for any vessel from any foreign port to enter any port of the United States except in accordance with the regulations prescribed by the act, among which was that the vessel should be required to obtain from an officer of the United States at the port of its departure a bill of health in the form prescribed by the Secretary of the Treasury. The Supervising Surgeon-General of the Marine-Hospital Service was also authorized to examine the quarantine regulations of all State and municipal boards of health, and, under the direction of the Secretary of the Treasury, *to cooperate with and aid State and municipal boards of health* in the *execution and enforcement of the rules and regulations of such boards* and of the rules and regulations made by the Secretary of the Treasury to prevent the introduction of infectious or contagious diseases into the United States from foreign countries or into one State or Territory or the District of Columbia from another State or Territory or the District of Columbia; and when, in the opinion of the Secretary of the Treasury, the quarantine regulations of the State or Territory or municipality were not sufficient to prevent the introduction of such diseases into the United States or the State or Territory or District, the Secretary of the Treasury was authorized to make additional rules and regulations to prevent such introduction; that when such rules and regulations had been made and promulgated by the Secretary of the Treasury, *if the State or municipal authorities should refuse or fail to enforce them, the President should execute and enforce the same, and adopt such measures as, in his judgment, should prevent the introduction and spread of such diseases, and should detail officers for that purpose.*

The President was further given authority, if he should deem it necessary, to prevent the introduction of cholera or other infectious or contagious diseases from a foreign country, to wholly prohibit the introduction of persons and property from such countries and places as he should designate, and for such period of time as he shall deem necessary. (27 U. S. Stat., 449–452.)

By reference to these laws it will be seen that the present laws afford ample protection to the people from the introduction and spread of diseases either through the ports or from one State to another. No additional legislation is needed.

Mr. Speaker, if it shall turn out, as is desired and predicted by the advocates of this substitute, that the Supreme Court of the United States will sustain such legislation by reversing all of its former rulings, then will the States be shorn entirely of any power to regulate and govern their own affairs. Then will *all power be centralized in the General Government*, and the State governments will be but governments *in name only*. "Then indeed has centralization triumphed, and the American idea of the sovereign States is but a memory of a past generation."

Mr. Speaker, how much time have I left?

The SPEAKER pro tempore. The gentleman has one minute remaining.

Mr. BARTLETT. Mr. Speaker, I have not time to complete what I desired to say, but I will conclude by saying that I shall not join in promoting the march of this federalistic juggernaut

aided by its friends as well as by its foes, to crush the life out of the remaining reserved rights of the States. They may crush them out to-day by this bill, but as sure as right lives and God reigns, the justice and the right of these principles which have been consecrated to us by our fathers and sustained by the courts will live; though crucified now, and that too with the assistance of those who have heretofore professed to be friends and apostles, they shall not perish, for there will yet come an Easter morn and a resurrection clear and bright to proclaim to our people and our children that will come after us that "government by the people, for the people, and of the people," as enunciated by the Declaration of Independence, as written in the blood of our forefathers and consecrated in the pages of the Constitution, shall not perish from the face of the earth. [Applause.]

I shall offer the following amendment after section 8 as a new section:

Nothing in this act shall be construed to interfere with the right of the State or municipality to protect its citizens from infectious, contagious, or epedemic diseases by such reasonable rules or regulations as the authorities of said State or municipality may deem necessary.

Mr. WANGER. Mr. Speaker, I yield the balance of my time to the gentleman from Iowa [Mr. HEPBURN].

Mr. HEPBURN. Mr. Speaker, I want to congratulate gentlemen upon that side of the House for the contributions they have made this afternoon to its amusement, and I would like to call the attention of the country, if I could, to this exhibition we have had here to-day of "the Constitution of the United States in the hands of its friends." [Applause.] The great trouble with gentlemen over there in their attempt to administer government is that they have never believed that the Government of the United States had any power. They have never done anything when they were in power because they did not believe that under the Constitution of the United States they had the power to do it [applause on the Republican side], and that is one of the great follies of their attempting to administer a great Government like this. It has been so from the earliest times. The great besetment of their party has at all periods been their unwillingness to believe that under the Constitution this Government of ours had power to do anything. In the earlier days, when it was proposed to do something in a national way for the betterment of the people, the early patriots of Democratic persuasion always threw up their hands, as does the gentleman from Georgia to-day, and said, "Ah, this is unconstitutional." A national bank was unconstitutional. "You have no power under the Constitution to establish a great fiscal agent or a system of tariff for the protection of American labor. Ah, no," say these gentlemen, "you have no power under the Federal Government to do anything of that kind." In the early days, when they sought to build roads, highways, and canals in the interest of commerce, the Democratic party always was ready to say, "There is no power under the Constitution to do that." Even up to forty-odd years ago, when there was rebellion threatened and it was proposed to restore by force, if necessary, the relations of the States, the same class of gentlemen said, "No; there is no power under the Constitution to coerce a seceding State," and so it has been all the way through. Whenever a great enterprise, a great measure to push forward the car of progress, to make the nation great, this body, strict constructionists, has always held back, and said, "No; there is no power under the Constituition to so act."

Some gentlemen have passed beyond that; some have gotten so far that they can say that the Government of the United States has the power to protect their farms from inundation by an expenditure from the common Treasury. Some of them have gotten so far as to say that there is power under the Constitution to appropriate the whole public domain for the purpose of reclaiming their arid lands, and even gentlemen from Texas have gone so far as to conclude that that power now rests with the Federal Government. But when you come to a proposition like this to protect the commerce of the United States from the assaults of violence; when it is proposed to protect the trains bearing the commerce of the United States passing through a State—engaged in interstate commerce—from the assaults of the quarantine officers, or of a mob in Podunk, or some other insignificant town, gentlemen say, "There is no power lodged in the Federal Government," and that the proposition to so legislate inaugurates the most solemn hour that the nation has ever yet witnessed. [Applause on the Republican side.] Mr. Speaker, what is this proposition that excites so the fears of gentlemen from Texas and from Georgia? It is simply this:

That every common carrier engaged in interstate commerce shall, under such regulations, restrictions, and safeguards as may be promulgated by the Secretary of the Treasury, receive, carry, and transport, through any State or Territory necessary to complete the journey or carriage into a State wherein delivery or debarkation may be lawful, all passengers, freight, or baggage which may have been discharged and properly certified in accordance with the regulations of the Public Health and Marine-Hospital Service, and every person interfering with or obstructing such carrier or any passenger or any instrumentality of commerce in any such carriage or journey shall be guilty of a misdemeanor, and, on conviction thereof, be punished by a fine not exceeding $300 or be imprisoned for a period not exceeding one year, or both, in the discretion of the court: *Provided*, That this section shall not be construed as giving authority to any person to debark or unload freight in any locality contrary to the lawful regulations thereof.

And the enactment of that seemingly harmless statute, the gentleman from Georgia states, creates this solemn occasion, to which he invokes the kindly care of Deity. [Laughter and applause.] Mr. Speaker, to my mind this opposition is simply ridiculous; there is nothing valid in it; it simply indicates that some gentlemen have been asleep for the last forty-five years, and are just now awakening; have not yet rubbed the sleep from their eyes; have not noticed the progress of events; have not noticed even the decisions of our Supreme Court.

The Supreme Court has settled this matter beyond peradventure. It says, in the case of Louisiana *v.* Texas:

While it is true that the power vested in Congress to regulate commerce among the States is a power complete in itself, acknowledging no limitations other than those prescribed in the Constitution, and that where the action of the States in the exercise of their reserve powers come into conflict with it it alone must give way, yet it is also true that quarantine laws belong to that class of State legislation which is to be allowed until displaced by Congress, and that such legislation has been expressly recognized by the laws of the United States almost from the beginning of the Government.

No one doubts the power of the State to legislate upon the subject of quarantine until the Government of the United States legislates, and whenever it does, whenever it asserts its authority, whenever it exercises its undoubted right that it possesses, then the statutes of the State that contravene or are in antagonism are void. That is the ruling of the Supreme Court; that is the status of the law. The Government of the United States heretofore, in the earlier periods of the Government, failing to legislate, failing to exercise its authority, gave to the States authority to act until it should exercise authority latent within it.

Now, what is the necessity of this legislation? The gentleman from Missouri [Mr. DE ARMOND], with that kindliness that often characterizes him, suggests that some railroad company has done this thing. I do not know where this section originated. I know where it was first presented to me. It was by some of my friends in the committee who are not of my political faith. It is their preparation. They were content with it, and I think wisely so, recognizing the necessity for it. I have been told by a gentleman now near to me that last summer he started upon a train engaged in interstate commerce to travel from his home to a northern city; that he came to the borders of the State of Arkansas and there by force was stopped from the prosecution of his journey. The train was not permitted to cross the frontier of Arkansas. It was turned back, and by circuitous routes at last reached its destination. I am told by another gentleman that in 1897 there was almost war between the State of Louisiana and the State of Mississippi; that by force men in Mississippi attempted to interrupt the interstate commerce of the United States, insisting that they had a right so to do. The newspapers last summer brought us the intelligence that for a period of seven weeks the trains crossing eastward from Texas were not permitted to go on their journey. Somewhere in their route they were stopped. By whom? By the local authorities of the State engaged in their health protection under their quarantine laws.

Section 7 is the only one that excites the antagonism of our friends from Texas and from Georgia. They are in favor of the appropriation. The only section that excites their wrath is directed toward the prevention of this kind of interference with interstate commerce. We have tried to throw such protection around it that in the exercise of this right no possible harm could come to the people along the line of routes that are to be used by these trains.

Mr. Speaker, I was unwilling to make this appropriation without a provision that would secure this recognition of the rights of interstate commerce. I would vote against this bill if the seventh section was stricken out of it. I was willing to compromise in this way. I knew there were certain gentlemen who were not willing, but would prefer that there should be this specific recognition of this right of the Federal Government in the statute, and I am willing to vote for the bill as a whole, but I am not willing, nor will I support the bill with the seventh section eliminated. It ought to be there. It is a wholesome declaration for the protection of the great interest of commerce of the United States; and therefore I hope that there will be no toleration of the purpose to eliminate this wholesome section from its position in the bill. [Loud applause.]

The SPEAKER. The time for general debate having expired, under the special order, the Clerk will read the substitute.

The Clerk read as follows:

Strike out the proposed substitute and insert the following:

"*Be it enacted, etc.*, That the Secretary of the Treasury shall have the control, direction, and management of all quarantine stations, grounds, and anchorages established by authority of the United States, and as soon as practicable after the approval of this act shall select and designate such suitable places for them and establish the same at such points on or near the seacoast of the United States as in his judgment are best suited for the same and necessary to prevent the introduction of yellow fever into the United States, and, in his discretion, he may also establish at the group of islands known as the Dry Tortugas, at the western end of the Florida reef, and at such other point or points on or near the seacoast of the United States (not to exceed four in the aggregate) as he deems necessary, quarantine grounds, stations, and anchorages, whereat or whereto infected vessels having on board any person with yellow fever and bound for any port in the United States may be detained or sent for the purpose of being disinfected, having their cargoes disinfected and discharged, if necessary, and their sick treated in hospitals until all danger of infection or contagion from such vessels, their cargoes, passengers, or crews has been removed."

Mr. UNDERWOOD. Mr. Speaker, I should like to ask whether under the terms of the rule this substitute is subject to amendment at the end of each paragraph, or at the end of the reading of the substitute?

The SPEAKER. It seems to the Chair that under the rule at the end of each section it would be subject to amendment, and, further, under the terms of the rule, it seems to the Chair that an amendment that is germane would be in order to any section of the bill at any time, or to the whole bill at any time, at the completion of the reading.

Mr. UNDERWOOD. Then, Mr. Speaker, I desire to offer this amendment to line 9, page 1: After the word "States" insert "or the border of the United States and a foreign country."

The SPEAKER. The gentleman moves to amend the substitute.

Mr. UNDERWOOD. To amend the substitute.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

On page 1, in line 9, after "States," insert "or the border of the United States and a foreign country."

[Mr. UNDERWOOD addressed the House. See Appendix.]

Mr. WILLIAMS. Mr. Speaker, I wish to add a word to what the gentleman from Alabama has said.

The SPEAKER. Does the gentleman from Mississippi wish to oppose the amendment?

Mr. WILLIAMS. No, Mr. Speaker; I am in favor of it.

Mr. DE ARMOND rose.

The SPEAKER. Does the gentleman from Missouri wish to oppose the amendment?

Mr. DE ARMOND. Yes.

The SPEAKER. The gentleman from Missouri is recognized.

Mr. DE ARMOND. Mr. Speaker, one of the minor and incidental objections to this bill—although it may not be sufficient to lead one to vote against it—is the inevitable multiplication of officers and the greatly increased expenditure of money, the limit of which no one can fix.

This amendment will tend largely to increase expenses without tending in a material sense to lessen the danger of yellow fever. The yellow fever might get in across the Texas line; there is no doubt, however, but that Texas would look after that. If the Government has to establish quarantine stations along all the line of territory that borders upon Mexico, the amount of expense incident to it and the multiplication of officers will be very great, and the corresponding advantage, if there be any, will be comparatively small. So far as that danger is concerned, it will be looked after by Texas and from Texas. The difference between a quarantine station on the coast line and on the land line is very great. The distinction may easily be seen. If you are to properly police the land line you enter upon a big job, one which the Government ought not to undertake needlessly, with the great temptation to multiply officials and do very little good. This amendment will tend to lessen the merit of the bill rather than to increase it. It will increase taxation and expenditure without any corresponding benefit.

Mr. WILLIAMS. Mr. Speaker, I want to add one word in reenforcement of what the gentleman from Alabama has said in behalf of the amendment. Under the existing law the establishment of quarantine stations is a matter discretionary altogether with the Surgeon-General of the Marine-Hospital Corps. He has construed his discretion to mean that he would not establish a quarantine except where he was freely furnished with the site.

Now, Mr. Speaker, the gentleman from Missouri [Mr. DE ARMOND] informs us of the fact, which happens not to be true in the light of history, that all we have got to do is to leave Texas alone and she will protect us. I have myself been through two yellow-fever epidemics in the city of Memphis, where both epidemics came through the State of Texas, so I am not certain that the State of Texas can be absolutely and altogether relied upon any more than Louisiana or any other State. I prefer two governmental guards to one and that one of them shall be the Federal guard. But without going into that I am no more certain of the State of Texas than I am of the State of Louisiana, and my last summer's experience taught that nobody was certain at all that the health authorities of the State of Louisiana, who were considering local conditions and local trade and convenience of their neighbors more than they were the welfare of the women and children of Mississippi and Arkansas, could be relied upon to keep out the fever. Gentlemen say that for one hundred and seventeen years the States have "coped with" the fever. It would be more accurate, historically, to say that for one hundred and seventeen years they had failed to cope with it. It is their proven inadequacy that has bred the demand for this very legislation.

This bill made it mandatory upon the Surgeon-General to establish quarantine stations at points along the seacoast, but it does not make it mandatory upon him to "establish such quarantine stations"—to use the language of the bill—"as in his judgment are best suited and necessary to prevent the introduction of yellow fever" on the land borders between ourselves and a foreign country. Now, the amendment of the gentleman from Alabama is to make this mandatory provision applicable not only to the seacoast, but to the land boundary between ourselves and foreign countries from which yellow fever can come, countries in which yellow fever is bred. Mexico is one of these countries. Yellow fever was at Vera Cruz, and came thence through Texas to Shreveport, La., and from Shreveport to Memphis, Tenn., and did not strike New Orleans. It seems to me the bill ought to be uniform and ought to be adaptable to the border as well as the seacoast.

Mr. BURLESON. I would like to ask the gentleman what year he says the yellow fever came up there?

Mr. WILLIAMS. In 1873 was when it came from Shreveport to Memphis and from Mexico and Texas.

Mr. BOWERS. Will the gentleman from Mississippi allow me to add to that answer? In 1903 it was introduced by railroad passengers from Monterey. There were 1,230 cases and 135 deaths.

Mr. BURLESON. And Texas took care of those.

Mr. WILLIAMS. Yes; but Texas let in, too.

The question was taken; and the amendment was agreed to.

Mr. TAWNEY. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. TAWNEY. Is it competent at this time to offer an amendment to any part of the bill not yet read?

The SPEAKER. The Chair so understands.

Mr. TAWNEY. I desire to move to strike out section 8 of the bill, the section carrying the appropriation for this service.

The SPEAKER. The Chair thinks the motion is in order.

Mr. TAWNEY. Then I make that motion.

The SPEAKER. The Clerk will report the amendment of the gentleman from Minnesota.

Mr. BARTLETT. Will the gentleman from Minnesota yield? Before section 8 is read I would like to have read for information an amendment that I have to offer to that section.

The SPEAKER. Does the gentleman from Minnesota yield?

Mr. BARTLETT. I want to have it read for information.

Mr. TAWNEY. I will yield for that purpose.

The SPEAKER. The gentleman yields for the purpose of permitting the gentleman from Georgia [Mr. BARTLETT] to offer an amendment to be considered as pending.

Mr. BARTLETT. Yes.

The SPEAKER. By unanimous consent, this may be done at this time. The Clerk will report the amendment.

The Clerk read as follows:

Add at the end of the proposed substitute a new section to read as follows:

"Nothing in this act shall be construed to interfere with the right of any State or municipality to protect its citizens from infectious, contagious, or epidemic diseases by such reasonable rules or regulations as the authorities of said State or municipality may deem necessary."

Mr. TAWNEY. Mr. Speaker, in offering the amendment to strike out section 8, I do so not in any spirit of hostility to the bill. I am in favor of the bill and will vote for it with or without the amendment. I offer the amendment for the reason that this House is not in possession of information or facts upon which to base an intelligent judgment as to the amount necessary to be appropriated for the service which the bill authorizes. There has not been submitted to any committee of the House any estimate of the approximate cost of this quarantine service. There has been no investigation into that feature of the bill whatever, and before appropriating any money for this service an opportunity should be given for such investigation. We have

now pending in this House and on the Union Calendar twenty bills that create a new Federal service. These bills carry appropriations amounting in the aggregate to almost $10,000,000. Like the appropriation now under consideration, none of them has received any consideration. This is but natural, because they come from committees that are not specially concerned either in the amount of the aggregate appropriations or in the amount of any specific appropriation carried in the bills which they report. The practice of allowing every committee of this House reporting bills creating a charge upon the Treasury to report in such bills appropriations to meet that charge without investigation is vicious and should be stopped. I have here a statement just obtained from the Surgeon-General's Office, which shows that on July 1, 1905, there was an available balance at the disposal of the Marine-Hospital Service of $331,470.69. On January 31, 1906, there was an available balance of $168,891.36, and that is in addition to the $340,000 appropriated for the maintenance of the Service during the current fiscal year. The expenditures during the first seven months of the fiscal year covering the period of the yellow-fever epidemic at New Orleans averaged a monthly expenditure of $23,225. The probable expenditures, as the Surgeon-General's Office informs me, for February and March have been $30,000, leaving an available balance for the remainder of the fiscal year of $138,891, or an average of $46,297 for each of the remaining three months of this fiscal year. Now, in view of the fact that no one can determine or ascertain with any degree of certainty the amount of money necessary to carry on the service under this bill until it is passed and becomes a law, and in view also of the fact that there is in this emergency or epidemic fund a sufficient sum to provide against any contingency until the end of this fiscal year, I think we should not appropriate any more at this time.

If the bill becomes a law the Department can then submit its estimate to Congress and the estimate can be reviewed and the amount necessary to carry on the service for the next fiscal year can be ascertained with some degree of certainty and carried in the same appropriation bill that now carries the appropriation for the quarantine service. There is absolutely no necessity for making an appropriation at this time, and it is not good legislation for this House to proceed to appropriate funds in this manner, without any investigation whatever. I do not urge this amendment in any spirit of criticism, nor do I complain of the committee that reported this bill because it carries an appropriation in violation of the rules of the House, nor do I offer it because the Committee on Appropriations is the proper committee from which the appropriation should come. It is in the interest of good legislation and in the interest of better administration and greater economy in the administration of this proposed law that I have offered the amendment.

Mr. UNDERWOOD. Mr. Speaker, will the gentleman yield?

Mr. TAWNEY. Yes.

Mr. UNDERWOOD. Mr. Speaker, the gentleman was a member of the Ways and Means Committee when the war-revenue bill was put into force, and if I recollect right, that bill carried some $300,000 to put it into force, and the gentleman voted for that bill.

Mr. TAWNEY. Yes; that was a war measure, however. The necessity for the appropriation was immediate; it is not so in this case. I know it has been the practice of this House, and the practice has grown to an enormous extent, as I have shown by the twenty bills which I hold in my hand and which are now on the Union Calendar, reported from committees having legislative jurisdiction, which bills propose some kind of new service, and carry an aggregate appropriation of $9,289,705. These appropriations, like the one under consideration, have been favorably reported without the slightest consideration as to their actual necessity, without any restriction whatever upon the discretion of the Department authorized to expend them, and with no opportunity on the part of this House to revise estimates or scrutinize expenditures. I think that the House ought to, if we are going to consider this matter, consider it intelligently, and appropriate only so much money as is necessary to carry on the service. As there is already available a balance sufficient to more than meet the demands of the service even under this bill, and that balance being available if this bill becomes a law, I hope the amendment will prevail.

[Mr. ROBERTSON of Louisiana addressed the House. See Appendix.]

Mr. BUTLER of Pennsylvania and Mr. WANGER rose.

The SPEAKER. For what purpose does the gentleman from Pennsylvania rise?

Mr. BUTLER of Pennsylvania. I would like to ask unanimous consent for two minutes time.

The SPEAKER. The gentleman from Pennsylvania asks unanimous consent for two minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. BUTLER of Pennsylvania. Mr. Speaker, I wish to ask the gentleman from Minnesota whether the money he speaks of being in the Treasury of the United States to the credit of the Marine-Hospital Service could be made available for immediate use?

Mr. TAWNEY. It can be. I will read the provision in the current law on this subject:

Assigned to duty in preventing, and preventing the spread of the same, and in such emergency—

Speaking of this fund—

shall be available in the execution of any quarantine laws which may be then in force, the same to be immediately available.

Mr. BUTLER of Pennsylvania. Mr. Speaker, I am obliged to the gentleman for his explanation, but it does not quite satisfy me. I live in a community that is not endangered by these terrible fevers, and my sympathy goes out to the people who are striving to protect themselves from the ravages of disease, and I fear very much that if the Secretary of the Treasury should establish under the first section of this bill these stations that the bill authorizes him to establish, he would not have the money before the next meeting of Congress to enable him to defray the ordinary and necessary expenses.

I agree with the gentleman from Minnesota that this is not a good way to appropriate money, but it seems to me, sir, that this is urgent. Perhaps before next fall the South may have upon it an awful scourge which might be prevented if the provisions of this bill could be put in force immediately upon its passage, and I would not like to vote against making an appropriation that would surely enable the Secretary of the Treasury to prevent disaster and distress.

Mr. TAWNEY. If the gentleman will permit me, I stated in offering the amendment that it was not offered in any spirit of hostility to the measure, but on the contrary I am in favor of it, and will report from the Committee on Appropriations an appropriation to carry it into effect as soon as the bill becomes a law. There are only three months remaining of this fiscal year, and we must yet make appropriations for the sundry civil expenses of the Government for the next fiscal year, including the quarantine service, so there is no necessity of being alarmed. There is no emergency existing at this time which demands that this appropriation be made immediately. That is why I made the motion I did.

The SPEAKER. The time of the gentleman has expired.

Mr. BUTLER of Pennsylvania. Mr. Speaker, I ask unanimous consent that I may have one minute.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. BUTLER of Pennsylvania. I agree with the gentleman from Minnesota, that perhaps the opportunity will be given in which his committee can report a provision to carry into effect the provisions of this bill. But it may happen that this measure will not become law until the very last days of this session of Congress; and for that reason, if for no other, it would seem to me that if this bill is to become law and any part of our country is to have the benefit of its valuable provision—and I do not charge my friend with any hostility to the bill—I think we ought to make it right in every part at this time. [Loud applause.]

Mr. WILLIAMS. Mr. Speaker, I rise for the purpose of opposing the amendment of the gentleman from Minnesota. The amendment of the gentleman from Minnesota will emasculate the bill. Section 8 reads:

That the sum of $500,000, or so much thereof as may be necessary, is hereby appropriated.

Mr. Speaker, that is not new language. Some months ago, not much over a year or two years ago, there was a bill which passed this House appropriating exactly this amount of money, "or so much thereof as may be necessary," without any previous estimate, for the purpose of protecting Rhode Island and Connecticut cattle from infection by Massachusetts cattle suffering with foot-and-mouth disease. The language is not new; the precedent is not new. We did not hear one word at that time from the gentleman from Minnesota saying that there ought to be previous estimates to determine how many cases of foot-and-mouth disease there were going to be. From the very nature of this sort of case, Mr. Speaker, it is impossible to estimate accurately beforehand just what is going to be required to grapple with a yellow-fever epidemic. Already mosquitoes are buzzing and already yellow fever has broken out in Central America. A case in Costa Rica, a case in Panama—and the Panama case afterwards denied; but it is mosquito time down in Dixie, and it is yellow-fever time in South and Central America.

Now, the gentleman says that later on the Appropriations

Committee will report the item. I have not the slightest doubt that he will report an appropriation. But we can not afford to wait upon it. "A bird in the hand is worth two in the bush." We would rather take the appropriation right now. The gentleman says that out of the last appropriation $147,000 or $148,000 or $149,000 was left; I have forgotten the figures. Mr. Speaker, if the yellow fever did not break out, the Marine-Hospital Corps could deal with this matter with the amount of money on hand, and perhaps not need it even. If the yellow fever does break out they can not deal with it with the amount of money left over from the last appropriation plus all this even. Why, last year when yellow fever broke out the citizens of New Orleans, in the way of voluntary contributions, gave nearly $400,000, and then besides it cost the State of Louisiana and the city of New Orleans a great deal. It cost Mississippi and the balance of the country a great deal, not alone in our intrastate quarantine, but for interstate and foreign commerce quarantine work. Now, Mr. Speaker, it seems to me that my friend from Minnesota will not insist upon his motion. He is not going to stand here and tell me that New England cattle are worth any more, stand any more sacredly in the regard of the American people than southern human beings, and I hope he will withdraw his amendment, and will not even insist on a vote upon it.

Mr. TAWNEY. Mr. Speaker——

Mr. WILLIAMS. The gentleman does not want to take the position of giving the Federal Government the power while he does not give the Federal Government the money to execute the power.

Mr. TAWNEY. Mr. Speaker, if the gentleman will permit me to answer, I will say the appropriation——

Mr. WILLIAMS. I want to say to my friend that the money on hand is not available for the purpose of buying quarantine stations.

Mr. TAWNEY. The amount now on hand is available for any purpose in the event of an emergency such as the gentleman is anticipating, in the event that it exists.

Mr. WILLIAMS. But under the laws existing now, the amount of which the gentleman speaks as having been left is to be spent under existing law, and that law does not make the establishment of quarantine stations by the United States Government mandatory.

Mr. TAWNEY. I want to read the paragraph of the current sundry civil bill:

> The President of the United States is hereby authorized, in case of threatened or actual epidemic of cholera, typhus fever, yellow fever, smallpox, bubonic plague, Chinese plague, or black death, to use the unexpended balance of the sums appropriated and reappropriated by the sundry civil appropriation act approved April 28, 1904, and $100,000 in addition thereto, or so much thereof as may be necessary, in aid of State and local boards, or otherwise, in his discretion, in preventing and suppressing the spread of the same, including pay and allowances of all officers and employees of the Public Health and Marine-Hospital Service assigned to duty in preventing and suppressing the spread of the same, and in such emergency in the execution of any quarantine laws which may be then in force, the same to be immediately available.

Mr. WILLIAMS. That gives no right to purchase and establish quarantine stations.

Mr. TAWNEY. That is left to the discretion of the President, to be expended in any manner that he may see fit in the emergency contemplated.

Mr. WILLIAMS. But that discretion has been construed to mean that they will not establish a quarantine station unless it is ceded without price.

Mr. TAWNEY. By the bill the Marine-Hospital Service have the right to expend the money for any purpose deemed necessary, in the judgment of the President, for the suppression of the disease.

Mr. WILLIAMS. Whoever told you that was mistaken—not theoretically, but practically.

The SPEAKER. The time of the gentleman has expired.

Mr. RANSDELL of Louisiana rose.

Mr. GAINES of Tennessee. Mr. Speaker, I move to strike out the last word. I want to make an inquiry of the gentleman. Suppose——

The SPEAKER. The gentleman is not recognized, but on the contrary the Chair desires to recognize the gentleman from Louisiana [Mr. RANSDELL].

Mr. GAINES of Tennessee. I was not aware of the fact that the gentleman from Louisiana had asked recognition or I would not have run so contrary to the wishes of the Chair.

The SPEAKER. The gentleman from Louisiana had asked it, and had been promised recognition, and now he has it.

Mr. GAINES of Tennessee. I had not heard of it.

Mr. RANSDELL of Louisiana. I sincerely hope that this amendment will not be insisted upon. It is very necessary, sir, if we are going to pass this act, to arm the Marine-Hospital Service with the sinews of war to carry it out. That matter has been so thoroughly explained by the gentleman from Mississippi [Mr. WILLIAMS], the leader of the minority, that I will devote the few minutes given to me to explaining why I think section 7 is necessary in this bill.

The pending bill is one of the utmost importance to my State and the entire South, especially the States bordering on the Gulf of Mexico. Its purpose is to keep out of this country by a uniform and efficient national quarantine system the terrible disease that we know as yellow fever. What are its provisions?

First. It authorizes the Secretary of the Treasury, through the Marine-Hospital and Public Health Service, to establish a uniform and efficient quarantine system along our seacoast, and thereby prevent the importation of yellow fever into the country.

Second. It appropriates $500,000 for preventing the importation of yellow fever, and for the further purpose, in cooperation with the State and municipal health authorities, of eradicating it should it be imported, of preventing its spread from State to State, and of destroying its cause wherever same may be found.

Third. It makes it unlawful for anyone to interfere with common carriers in the transportation of freight or passengers between the States, provided same shall not debark without consent of the local authorities.

These in brief are the terms of this bill. It does not prevent the States from continuing to have their own quarantine systems, maritime and otherwise, if they so desire. It does not invade or trample on any of the rights of the States in handling the disease should it break out, but merely proposes to have the health department of the General Government cooperate with and aid the local authorities to eradicate yellow fever and to prevent its spread. While Louisiana might, and doubtless would, turn over its maritime quarantine station to the National Government if this bill is enacted, just as Florida and Georgia have already done, its enactment would not affect her State and municipal boards of health. Their functions would continue unimpaired, and in case of an outbreak of yellow fever the Marine-Hospital Service, under its terms, would cooperate with our local health authorities and would furnish the money to operate on.

Instead of New Orleans being compelled to raise a quarter of a million dollars to fight this scourge, as it was forced to do last year, the greater part of the money to carry on the fight would be furnished by the nation. Instead of small communities, like Lake Providence and Tallulah in my own district, being compelled to spend, at a great sacrifice to them, about $10,000 each, a large part thereof would be furnished by the Government.

Why is this bill necessary? Yellow fever causes a panic; the people lose their reason; business is suspended; communities, even in the same State, rise up in arms against each other; each community becomes a law unto itself; steamboats are not allowed to land and transact business; railroad trains are not allowed to stop for any purpose except to take on or put off the United States mail; they can not carry freight or passengers, and practically all business is stopped. Interstate trains carrying passengers and freight are stopped at State lines by armed men and further progress prohibited. Many people die from the disease, and incalculable financial losses result from it. So many foreign and interstate questions are involved which are entirely beyond the power and control of the States that it is absolutely necessary for the nation to take charge of the situation.

Yellow fever is a foreign foe. It is not indigenous to the soil of the Union. It is imported from foreign countries, along with foreign commerce, and as it is clearly the duty of Congress to regulate and control commerce with foreign nations it should regulate and control the commerce which introduces into our country this terrible pestilence. Yellow fever is not confined to State lines when it starts, but rapidly spreads from one State to another. If unchecked and uncontrolled, it would infect the entire population of the Southern States in one year and cause incalculable loss of life and property.

Alabama, Mississippi, Louisiana, and Texas each have their separate, distinct, and independent systems of maritime quarantine, and business rivalry sometimes influences their regulations. If this disease could be confined to the State which it enters and did not speedily invade other States, thereby destroying lives and entailing heavy financial losses, we might consent for each State to take the consequences of its own mismanagement or misfortune in allowing yellow fever to enter its portals. But under the actual circumstances surrounding it the people of the entire Union are interested in the quarantine at every port, and the only way to insure a uniform and thoroughly effective service is by a national quarantine under one head, with the

same regulations at Galveston as at New Orleans, the same at New Orleans as at Gulfport, the same at Gulfport as at Mobile, Pensacola, and Brunswick. Moreover, the nation could have its representatives at every foreign port whence yellow fever comes, and whenever there is any prevalence of the disease in these places the health authorities at every station on our coast could be notified and thoroughly posted. No State would have the same right or power to maintain an effective inspection service abroad as the National Government.

The gist of this bill lies in national control of the seacoast quarantine, and if this is made effective, yellow fever will be kept out of the country, and there will be no occasion to invoke the other provisions of the bill.

Mr. Speaker, while the yellow-fever epidemic of 1905 was a terrible thing and caused not only great loss of life in the South, but also the loss of many millions of dollars, it demonstrated unmistakably the truth of the theory that yellow fever is conveyed only by the bite of the female Stegomyia fasciata mosquito, and the demonstration of that fact is of incalculable benefit to us. Prior to last year the medical men of our Army Corps had succeeded in stamping out yellow fever in Havana during our possession of that city by destroying this variety of mosquito and taking every precaution against it, but the average layman of the South, and even some of its medical men did not believe in the theory. They were "doubting Thomases." To them yellow fever was, as it had always been in the past, a hidden, mysterious foe, stealing upon them like a thief in the night, destroying their lives so quickly and with such intense agony that they felt for it a holy and great horror. During last year, however, so many articles were published about the mosquito and so many demonstrations made in every community where yellow fever existed that every intelligent man in the country now knows that yellow fever can be conveyed only by the bite of this mosquito, and we know how to fight and guard against it. We will never have the same dread of the fever that existed in the past, especially if this bill becomes a law and the wise, protecting hand of the National Government comes in to help us to guard against it. We earnestly desire and call for the nation's help. We feel that the task is too great for us, and that it is the nation's duty to help us.

Mr. Speaker, I hope I may be pardoned some personal reminiscences of the fever of last year, which demonstrate forcibly the necessity of the clause preventing interference with the passage of interstate trains. My home town, Lake Providence, La., was visited by this plague and suffered greatly. After it had existed there for some weeks and grim despair took possession of every person in the community, the physicians decided that it was best for everyone to leave who could possibly do so, in order to destroy the food supply of the mosquitoes. They said that if there were no fresh victims for the mosquitoes to feed upon the disease would soon die out. Under these circumstances, the Gould railroad, the only railroad entering the town, running north through Arkansas into Missouri, placed every facility at our disposal for the rapid movement of the people, and agreed to take them for one-half fare to any point in the North which was willing to receive them. At this juncture the governor of Arkansas decided that no train should be allowed to pass from Louisiana through that State, and, in order to enforce his rules, a body of men clothed in the State uniform and fully armed was stationed at every railroad entering the State from Louisiana with instructions to prevent the passage of trains.

Of course this effectively prevented the people of Lake Providence from going north in that direction. They were forced to go south and change at Tallulah, which was also pest ridden, to the Queen and Crescent system, going thence east and north through Mississippi, Alabama, etc. A number of large parties left for the North, and I was with the party which left last. Our heroic conductor, Riley Ferrier, in switching our train at Tallulah was bitten by a mosquito and five days later was a corpse. He died at the post of duty, attempting to save the lives of his fellow-men, and was truly a hero. Had we been allowed to pass through Arkansas—not to stop there, but merely to go as fast as the train would carry us from one side of the State to the other, for none of us wished to stop within its borders, merely to pass through to some northern point—poor Riley Ferrier might be living yet. Our train sped rapidly through Mississippi, Alabama, Tennessee, and Kentucky, and at the hospitable city of Lexington a number of our people were received and kindly treated. Before reaching that city it was ascertained that yellow fever had broken out among the passengers, and seven of them had well-defined cases. You can imagine the state of panic existing then among them. At Lexington the train was boarded by two of the health officers of the city of Cincinnati, who, being informed of the fever among our party, told us that they had no fear; that their city was willing and anxious to receive us and would take the best possible care of our sick.

Mr. BEALL of Texas. Mr. Speaker——

Mr. RANSDELL of Louisiana. I can not yield, for I have not the time.

Mr. BEALL of Texas. I want to make a point of order against the gentleman talking more than five minutes.

The SPEAKER. The time of the gentleman from Louisiana has expired.

Mr. RANSDELL of Louisiana. Mr. Speaker, I ask unanimous consent for two minutes longer.

Mr. BEALL of Texas. Will you answer a question?

Mr. RANSDELL of Louisiana. Yes.

The SPEAKER. The gentleman from Louisiana asks unanimous consent for two minutes. Is there objection?

There was no objection.

Mr. BEALL of Texas. I understand the gentleman to say that by the time he got to Lexington there were twelve cases of yellow fever.

Mr. RANSDELL of Louisiana. Yes.

Mr. BEALL of Texas. Does not the gentleman think that that justifies the governor of Arkansas in not permitting you to spread yellow fever?

Mr. RANSDELL of Louisiana. No, sir; because by that time we would have been beyond the borders of the State and the Stegomyia mosquito, the mosquito that gives the yellow fever, does not live north of the Missouri line. Moreover, the train was carefully screened and there was no opportunity for the mosquito to get in there and bite anyone.

In a short while Cincinnati was reached, and in one of its great hospitals the seven persons on this ill-fated train, sick with yellow fever, were cared for and every one of them nursed back to health. Not only were the seven sick cared for in this hospital, but ten members of their families who remained with them to assist in nursing them. The very best trained nurses and physicians in the city of Cincinnati were in constant attendance. Everything was done which science could suggest and money provide, and though every one of these seventeen people expected to pay in full for the services rendered them, and were able and willing to do so, not one cent would be received by the city authorities. They were all the city's guests. They could not even tip the waiters or pay their laundry bills.

I have told this story often, and I propose to tell it as long as I live, for, in my judgment, the action of the city of Cincinnati was so noble, so kind, and so good on that occasion that it deserves to be known and remembered among all men.

Mr. Speaker, in spite of the fact that yellow fever causes such terrible panic and such fearful financial losses as it does, and in spite of the fact that it, far more than any other disease known to us Americans, interferes with and absolutely destroys commerce between the States for months at a time, it actually causes the death of a very small number of human beings compared with other diseases. Though I was born and reared in the State of Louisiana, I was greatly surprised myself in examining the statistics of this subject to ascertain the very small percentage of deaths from yellow fever compared with other diseases. I wish to make some comparisons, and while they show that such diseases as typhoid fever, pneumonia, consumption, and scarlet fever carry off a great many more human beings than ever yellow fever does, that fact does not militate in the slightest degree against the necessity for this legislation, nor does it follow therefrom that similar legislation should be enacted to control these diseases, for none of them interfere in the slightest degree with interstate commerce, and it is under the commerce clause of the Constitution that we find our warrant and authority in enacting this bill.

During the twenty-five years beginning with 1881 and ending with 1905, the total number of deaths from yellow fever in New Orleans—a city of 325,000 people—was only 838. During the same period the deaths from pneumonia were 10,799; Bright's disease, 8,141; heart disease, 12,591; senility, 8,503; smallpox, 2,796.

Thus it appears that very few people, comparatively speaking, died of yellow fever. The largest number of deaths in any of the years in question was in 1905, when out of a total of 3,402 cases of yellow fever there were 452 deaths—a fraction over 13 per cent. During this same year, 1905, there were 1,060 deaths from tuberculosis, 440 from pneumonia, and 516 from Bright's disease—more than twice as many from consumption as yellow fever, about the same number from pneumonia, and more from Bright's disease. And yet no one in New Orleans

fears consumption, pneumonia, or Bright's disease. They are ever present, working steadily and surely in this great southern metropolis, as in every other city of the land.

In the whole State of Louisiana in 1905, including New Orleans, there were a total of 9,321 cases of yellow fever and 988 deaths—a fraction over 10.2 per cent of mortality. The disease was widely disseminated, as follows:

Table showing cases of and deaths from yellow fever in Louisiana in 1905.

Parish.	Cases.		Deaths.		Total.	
	White.	Colored.	White.	Colored.	Cases.	Deaths.
Acadia	1	0	1	0	1	1
Ascension	79	1	13	0	80	13
Assumption	53	1	5	0	54	5
Avoyelles	15	10	8	0	25	8
Caddo	3	0	1	0	3	1
Calcasieu	32	92	10	4	124	14
East Carroll	80	247	15	8	327	23
East Baton Rouge	8	0	1	0	8	1
Iberville	63	9	14	0	72	14
Iberia	18	0	1	0	18	1
Jefferson	738	40	78	3	778	81
Lafayette	4	0	0	0	4	0
Lafourche	889	2	145	0	891	145
Madison	90	950	18	5	1,040	23
Natchitoches	19	2	6	1	21	7
Plaquemines	56	2	9	0	58	9
Rapides	14	9	3	0	23	3
St. Bernard	133	4	8	0	137	8
St. Charles	179	6	30	0	185	30
St. James	7	0	0	0	7	0
St. John the Baptist	391	35	41	3	426	44
St. Mary	778	246	68	1	1,024	69
St. Tammany	12	2	3	0	14	3
Terrebonne	568	26	30	1	594	31
Texas	3	0	0	0	3	0
Vernon	1	0	1	0	1	1
City New Orleans					3,402	452
Total for State					9,321	988

I now wish to make some comparisons of yellow fever in New Orleans with other diseases elsewhere. During the year 1902, New York City had an estimated population of 3,632,501 souls. It lost in 1902 from pneumonia 9,377, or 2.58 per 1,000; from tuberculosis 8,883, or 2.45 per 1,000; from typhoid fever 764, or 0.21 per 1,000.

Now it does not appear that pneumonia was especially fatal that year, but it seems to have been about as usual. Let us compare it with yellow fever in New Orleans during the great epidemic of 1905, when there were 452 deaths out of a total population of 325,000, or at the rate of *1.34* per 1,000. Had the mortality in yellow fever been as great even during this *epidemic year 1905*, as pneumonia was in New York during the *average year 1902*, with a ratio of 2.58 per 1,000, there would have been 838 deaths from it instead of 452. Moreover I find that in the original city of New York—Manhattan and the Bronx—during the twenty-five years from 1878 to 1902, inclusive, there were *20,095* deaths from *scarlet fever*, an average annual death rate per 1,000 of *0.548*, which is over one-half of 1 per cent. In New Orleans during the twenty-five years from 1881 to 1905, inclusive, there were *838* deaths from *yellow fever*, an average annual death rate of 0.123—about one-eighth of 1 per cent. Had yellow fever been as fatal during these twenty-five years in New Orleans as scarlet fever was in New York, there would have been *3,791* deaths from it instead of *838*.

It thus appears that for a period of twenty-five years scarlet fever was about four and a half times as fatal in New York as yellow fever was in New Orelans, and that pneumonia in the ordinary year, 1902, was nearly twice as fatal in New York as yellow fever was in New Orleans during the *epidemic year of 1905*. If pneumonia in New York for twenty-five years be compared with yellow fever in New Orleans for the same period, it will be seen that there were, in proportion to population, fully twenty deaths in New York from pneumonia to one death in New Orleans from yellow fever.

In Baltimore, a city of 541,000 people, there were 938 deaths from typhoid fever in the five years from 1900 to 1904 inclusive, and the percentage of deaths to cases was 21.21 per cent. In New Orleans, with 325,000 people, there were 452 deaths from yellow fever in the five years from 1901 to 1905 inclusive, and the percentage of deaths to cases was 13.28. If we take the two diseases for the past twenty-five years the comparison will be much more striking, for during that period Baltimore had 4,528 deaths from typhoid, as against 838 from yellow fever in New Orleans. Moreover, pneumonia is nearly as fatal in Baltimore as in New York. Indeed, it is very fatal in all northern cities. Hence it appears that the percentage of deaths to cases is far larger for typhoid in Baltimore (21.21 per cent) than for yellow fever in New Orleans (13.28) and that in the past twenty-five years there were more than three deaths from typhoid in Baltimore to every death from yellow fever in New Orleans.

In Washington City—the capital of the nation—there were 4,395 deaths from typhoid fever in twenty-five years ending with 1905, an average annually of 176 persons, and at the average rate per 1,000 of 0.708. Now, Washington and New Orleans have practically the same population, and when we compare the 838 deaths from yellow fever in New Orleans—33 a year—with the 4,395 from typhoid fever in Washington—176 a year, over five times as many—it makes a good showing for the latter city.

Similar comparisons with fatal diseases could be made for each of the great cities, but these suffice to show that yellow fever kills very few persons compared with pneumonia, consumption, Bright's disease, scarlet fever, typhoid fever, etc.

A common impression prevails that New Orleans is an unhealthy city. That is a great mistake. In spite of the occasional ravages of yellow fever, it is as healthy as most any of our large cities. Statistics of mortality are usually given for the entire population of a city. Now, New Orleans has a large negro population, and the mortality among negroes is very much greater than among the whites. During the year 1904, the death rate of whites was 17.66 per 1,000, and of negroes, 30.19, or an average for the city of 20.98. About the same percentage of race mortality exists in cities like Baltimore and Washington, which also have a large negro population. For the purpose of comparison with great northern cities like New York, Philadelphia, etc., where practically all the citizens are whites, I think it fair to eliminate the negroes, and on that basis we have the following table, which makes a very favorable showing for New Orleans:

City.	Year.	Deaths per 1,000.
New York	1902	[a] 18.75
Philadelphia	1904	[a] 18.44
Boston	1904	[a] 17.50
St. Louis	1904	[a] 17.14
Cincinnati	1904	[a] 20.34
San Francisco	1901-2	[a] 19.42
Baltimore	1904	[b] 17.02
Washington	1904	[a] 16.08
New Orleans	1904	[a] 17.66

[a] Total population. [b] White population.

The year 1902 is taken for New York and San Francisco, as those were the latest available statistics.

It thus appears that the death rate among the whites in New Orleans during 1904 was actually much less than in Philadelphia and Cincinnati, and much less than the rate for 1902 in New York and San Francisco.

In conclusion, Mr. Speaker, permit me to say that the people of the South, and especially of Louisiana, are watching our actions here to-day with great solicitude and anxiety. They regard the passage of this bill as essential to their welfare. They love and revere the old doctrine of State rights, but they are as loyal and true to the Union as to their States. Their wisest statesmen tell them that this bill infringes no rights of the States, but exercises power clearly delegated to Congress by the foreign and interstate commerce clause of the Constitution. They believe this, and they are firmly convinced that this legislation will prove of the greatest benefit to the entire nation. They believe, sir, that if this bill becomes a law and the dreaded pestilence of yellow fever should again invade our land, the knowledge that the National Government is in charge, that its officials are in every pest-stricken community, armed with the power and authority of the nation to assist in stamping it out and protecting every other community, regardless of local or selfish interests, would be like the voice of the Master saying to the winds and waves, "Peace, be still."

Mr. HUMPHREYS of Mississippi. Mr. Speaker, if there is any proposition which is beyond question it is that the Federal Government is a ,government not only of limited powers, but a government of enumerated powers. Strict constructionists and latitudinarians are all agreed here. It is hornbook law. When they met in Philadelphia and adopted the Constitution which brought into being the more perfect Union, the States met as independent States clothed with every attribute of sovereignty. They then formed the Federal Union, delegating to it such powers as their judgment commended, but "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, were reserved to the States, respectively, or to the people." Such is the language of that great instrument. In the first article of the Constitution Congress was given power "to regulate commerce with foreign nations and among the several States and

with the Indian tribes." It is an interesting fact that the necessity for this section more than all else was the impelling cause which brought the States together, first at Annapolis, and finally at Philadelphia, and led them eventually into "the more perfect Union." It was never dreamed by the authors of that section that they were then surrendering the police powers of the States to the Federal Government, and had any such theory stalked unbidden into their deliberations the convention would have ended in a day.

In conferring upon Congress the regulation of commerce—

Says Justice Field, in Sherlock *v.* Alling (93 U. S.)—

It was never intended to cut the States off from legislating on all subjects relating to the health, life, and safety of their citizens, though the legislation might indirectly affect the commerce of the country. Legislation in a great variety of ways may affect commerce and persons engaged in it without constituting a regulation of it within the meaning of the Constitution.

In the early days of our political history John Marshall was most harshly criticised by the strict constructionists and denounced as a latitudinarian whose theories of constitutional construction were leading us headlong into a centralized government. When we hold up the Constitution to-day and insist upon the limitations to Federal power which Marshall himself pointed out, we are smiled at, if indeed we are not laughed at, as sticklers and doctrinaires. As for myself, I am not a strict constructionist, but I do believe there are some limitations upon the Federal authority. I believe John Marshall was the greatest jurist who ever graced the Supreme bench, and he was a Federalist. In the great case of Gibbons *v.* Ogden, which we have heard quoted so frequently this session, he said:

Inspection laws, quarantine laws, health laws of every description, as well as laws for regulating the internal commerce of a State and those which respect turnpikes, roads, etc., form a portion of that immense mass of legislation which embraces everything within the territory of a State not surrendered to the General Government. No direct general power over these subjects is granted to Congress, and consequently they remain subject to State legislation.

And again, in the same opinion, he says:

The acts of Congress, passed in 1796 and 1799 (1 U. S. Stat., 474, 619), empowering and directing the officers of the General Government to conform to and assist in the execution of the quarantine and health laws of a State, proceed, it is said, upon the idea that these laws are constitutional. It is undoubtedly true that they do proceed upon that idea; and the constitutionality of such laws has never, so far as we are informed, been denied. But they do not imply an acknowledgement that a State may rightfully regulate commerce with foreign nations or among the States, for they do not imply that such laws are an exercise of that power, or enacted with a view to it. On the contrary, they are treated as quarantine and health laws, are so denominated in the acts of Congress, and are considered as flowing from the acknowledged power of a State to provide for the health of its citizens. But as it was apparent that some of the provisions made for this purpose and in virtue of this power might interfere with and be affected by the laws of the United States made for the regulation of commerce, Congress, in that spirit of harmony and conciliation which ought always to characterize the conduct of governments standing in the relation which that of the Union and those of the States bear to each other, has directed its officers to aid in the execution of these laws.

Alas for that "spirit of harmony and conciliation" if section 7 of this bill becomes the law. I could read innumerable decisions from our courts holding that quarantine laws are a part of the police powers of a State "which unquestionably remain and ought to remain with the State." The Miln case (in 11 Peters), Gilmans case (3 Wallace), the Slaughter House cases, and a great many others, all reaffirming the doctrine announced in Gibbons *v.* Ogden, could be quoted. Some people think, and I sometimes incline to the opinion that most people think, that when General Lee surrendered at Appomattox the Constitution of the United States, so far as the rights of the States are concerned, passed into innocuous desuetude. When I listened to the remarks of the distinguished gentleman from Iowa [Mr. HEPBURN] to-day and heard the applause with which his sentences were punctuated, I concluded that that opinion had found lodgment even in this House. Let me read, Mr. Speaker, from a most masterful address on this subject, delivered at Mobile several years ago by E. H. Farrar, esq., of the New Orleans bar. I commend it to every Member of this House:

In Gilman *v.* Philadelphia, supra, a case decided in December, 1865, almost before the Virginia valleys had ceased to reecho the thunder of battle in a strife, the result of which some people think wiped out and destroyed the rights of the several States and their people and altered their position under the Constitution of the United States, Mr. Justice Swayne for the court said:

"The National Government possesses no powers but such as have been delegated to it. The States have all but such as they have surrendered."

I will read only one more case, Mr. Speaker, on this point, and will then discuss the provisions of the bill and endeavor to demonstrate the vice of the amendment which the committee has ingrafted upon the bill as originally introduced by Mr. WILLIAMS, and which now appears as section 7. I am glad to note that the section 7 which appeared in the bill as reported has been stricken out and a new section offered in its stead. The first one was so vicious that even the committee have abandoned it, and I still hope that even at this late hour they may recognize how utterly wrong in principle, as it will be in practice, is the substitute which they now offer. I read, Mr. Speaker, from the opinion of Justice MacLean in the License cases, reported in 5 Howard:

The license acts of Massachusetts do not purport to be a regulation of commerce. They are police laws. Enactments similar in principle are common to all the States. * * * The acknowledged police power of a State extends often to the destruction of property. A nuisance may be abated. Everything prejudicial to the health or morals of a city may be removed. Merchandise from a port where a contagious disease prevails, being liable to communicate the disease, may be excluded; and in extreme cases it may be thrown into the sea. This comes in direct conflict with the regulation of commerce; and yet no one doubts the local power. It is a power essential to self-preservation and exists necessarily in every organized community. It is indeed the law of nature, and is possessed by man in his individual capacity. He may resist that which does him harm, whether he be assailed by an assassin or approached by poison. And it is the settled construction of every regulation of commerce that, under the sanction of its general laws, no person can introduce into a community malignant diseases, or anything which contaminates its morals or endangers its safety. And this is an acknowledged principle applicable to all general regulations. Individuals in the enjoyment of their own rights must be careful not to injure the rights of others.

From the explosive nature of gunpowder a city may exclude it. Now, this is an article of commerce, and is not known to carry infectious disease; yet to guard against a contingent injury, a city may prohibit its introduction. These exceptions are always implied in commercial regulations, where the General Government is admitted to have exclusive power.

They are not regulations of commerce, but acts of self-preservation. And although they affect commerce to some extent, yet such effect is the result of the exercise of an undoubted power in the State.

Just one more sentence from the same case. I read now from the opinion of Justice Grier, speaking of the police powers:

As subjects of legislation they are from their very nature of primary importance; they lie at the foundation of social existence; they are for the protection of life and liberty, and necessarily compel all laws on subjects of secondary importance which relate only to property, convenience, or luxury to recede when they come in conflict or collision. Salus populi suprema lex.

Such was the universal rule, Mr. Speaker, announced by all the judges in all the decisions for nearly a hundred years of our national life, but in recent years there have been one or two suggestions thrown out by some Supreme judges which indicate a possible departure from this ancient and honored doctrine.

If I were certain that the Supreme Court would follow the opinion in Gibbons *v.* Ogden, reproduced, reaffirmed, and commended in so many opinions delivered by that court, I would not have so many misgivings as to this bill, because I am quite sure it would be declared unconstitutional. But it is because I am afraid that that court is going to adopt the opinion of Judge Miller in the Morgan Steamship case that I am so much opposed to it as it is now framed. I was in favor of the Mallory bill. I was in favor of the bill introduced by my colleague [Mr. WILLIAMS], but I can not give my support to the bill which the Interstate and Foreign Commerce Committee has reported and which we are asked to pass to-day.

In dealing with interstate trains the State health authorities have no unlimited power. They can make no regulations which affect interstate commerce as to passengers or freight which are not reasonable. The courts have held this uniformly. They have a right under the exercise of the police power to make reasonable regulations, and, in my opinion, no correct construction of the Federal Constitution can take that right from them. Although the courts have held that the police power remains with the States and that it is exclusive with the States, in the light of Judge Miller's opinion, and especially since that opinion has been quoted approvingly by several judges in decisions since then, I am not at all certain that they will hold that section 7 of this bill is unconstitutional. For fifty years the Supreme Court, following the common law, held that the jurisdiction of courts of admiralty extended only to such waters as were affected by the ebb and flow of the tide. For the past fifty years they have as consistently held that the ebb and flow of the tide has nothing to do with the question of jurisdiction. In a very interesting, instructive, and I was about to say masterful, speech on this floor a few days ago my distinguished friend from Tennessee [Mr. GARRETT] cited a long array of decisions from the earliest days of the Republic, in which John Marshall and Story and a number of other eminent judges had held for sixty-five years that a corporation was not a citizen of a State in which it was incorporated in the sense that suits to which it was a party might be transferred to the Federal courts solely on the ground that the other party to the suit was a citizen of another State. Yet for more than sixty years, and ever since the decision of Chief Justice Taney in the case of Railroad Company *v.* Letson, that court has uniformly held the contrary doctrine. In nearly every case involving a great constitutional question which comes before the court to-day they are divided five to four. While I have great respect for stare decisis, I am

not willing to stake the life of the State on my conviction that our Supreme Court will hold to that most salutary doctrine.

Those who advocate section 7 proceed upon the theory of the infallibility of Federal officials. They seem to believe that there is some divinity which doth hedge about the officers of the Marine-Hospital Service, which exempts them from that liability to err common to all other flesh. If only he will properly certify that the train is clean, that its passengers and freight are free from yellow fever, every person who interferes with or obstructs such cars or any passenger thereon shall be punished in the Federal courts by fine and imprisonment. If the certificate says the horse is 17 feet high, he who questions it does so at his peril. If a passenger should board a train at New Orleans for Memphis, armed with a health certificate from the Federal officer, and should develop yellow fever along the route, he would nevertheless be permitted to pass through the State of Mississippi, beyond the power of molestation by any health authorities of the State, and the citizens of the State would have to depend absolutely and wholly upon the Secretary of the Treasury to make proper regulations for their protection from the contagion of his disease.

The thought of the State surrendering the right to enforce reasonable precautionary regulations against such an infected passenger, while he passed through the length of the State, is to me monstrous. If the train be filled with yellow-fever patients with every window open, with never a screen about it, that train can pass through the State making necessary stops at every water tank, at every coal tipple, be sidetracked in every town in order that some other train may pass down the main line, with nothing to prevent the Stegomyia entering the train and becoming infected and flying thence on her mission of death. And any officer, from the governor of the State down, who would attempt to interfere with the train in any way, who would insist upon having the train properly screened, or who would attempt to enforce any reasonable regulations prescribed by the State health officers, would be subject to arrest and imprisonment for a Federal offense. It is urged by those who favor the bill that this would never happen because the Secretary of the Treasury would provide the necessary "regulations, restrictions, and safeguards." Why should any community be left to the mercy of the Secretary of the Treasury or any other Federal officer? Why arm him with such plenary power? Why confide so completely in the infallibility of his judgment? It was the Secretary of the Treasury who, in the administration of the Dingley tariff law, decided that frog legs were dressed poultry. We authorized him to make such rules and regulations for the government of his office as to him seemed best calculated to promote the public interest, and he thereupon "promulgated a regulation" which forbids every internal-revenue collector in the service to give evidence in State courts against illicit whisky sellers. What more unjust and indefensible invasion of the police power of the State can be imagined? Why intrust to an officer who shows such disregard for the moral well-being, the civic health of a community as to use the tremendous power of his great office to shield the blind tiger? Why, I repeat, intrust to him the exclusive right to make "regulations, restrictions, and safeguards" to protect the physical health of our people?

What earthly objection can there be to permitting the local health authorities to prescribe reasonable regulations to protect the people in the several communities through which these interstate trains must pass from the deadly infection which the train bears? It is insisted that this is an extreme view and one altogether unlikely to happen. This is no answer at all. Under the provisions of section 7 it may happen. It is not impossible to happen, and I shall never vote for any bill which surrenders this, in my opinion, the most necessary power that any State ever had. You talk of sovereign States! You had as well talk of the sovereign county of Washington as the sovereign State of Mississippi, when the police power, the power to protect the health of the people from pestilence and disease, is surrendered to the Secretary of the Treasury. The whole theory of this section is predicated on the idea that interstate passengers are entitled to rights paramount and superior to all other persons. In my opinion those who remain at home, and who in times of epidemic nurse the sick and bury the dead, are equally entitled to consideration. I do not believe the State has any power to regulate interstate commerce or to interfere with interstate trains under the exercise of the police power except by regulations which are reasonable, and if any other interference has ever been attempted or practiced by any State its action was in contravention of the Constitution, and was therefore unlawful. What individuals have done or may do I will not undertake to say. As long as men organize in mobs to override the law of the land and execute vengence on individuals, I have no doubt that interstate trains will be interfered with and that interstate passengers will be inconvenienced in times of yellow-fever panic and excitement. The illustration of the unwarranted interference by State officers with interstate trains most frequently given in the cloakroom and referred to here on the floor of the House in this debate and paraded almost constantly in that part of the press most actively supporting this bill is the case referred to by the gentleman from Louisiana [Mr. RANSDELL], where a train load of refugees from Lake Providence, La., were stopped at the border of Arkansas and denied permission to cross the State. Strange to relate, this instance is held up to this House and to the country as furnishing alone sufficient reason and ample justification for the adoption of section 7 of this bill, and yet we are assured by its advocates that section 7 relates only to interstate trains which, to quote the bill, "may have been discharged and properly certified in accordance with the regulations of the Public Health and Marine-Hospital Service."

Will anybody venture the opinion that this particular train was or could have been so certified? If not, under the same circumstances, they could be met again at the border line of the State of Arkansas, exactly as they were before, and the train turned back exactly as it was turned back before, even were section 7 the law. Will any advocate of this bill hazard the opinion that a train similarly circumstanced will be certified hereafter if this section is adopted? If not, it would not be protected by the provisions of section 7, because that applies only to such trains as "*may be properly certified*," etc. If, on the contrary, they believe it would have been so certified, then their faith in the infallibility of these officers must suffer a rude shock, because my good friend Mr. RANSDELL of Louisiana, who was on that train, tells you that before they reached Cincinnati seven cases of yellow fever developed among the passengers.

Mr. Speaker, I have no objection to penalizing any unlawful obstruction or interference with interstate trains. I believe trains have a right to cross the State of Mississippi, but as long as they are within the borders of that State they must be subject to such reasonable regulations as the health authorities of Mississippi may prescribe. They have a right, by virtue of their interstate character, to pass through the State, but they have no right to scatter the germs of disease and death among the citizens of the State in the course of their transit. In the language of Judge MacLean in the Passenger cases:

> In giving the commercial power to Congress the States did not part with that power of self-preservation which must be inherent in every organized community. They may guard against the introduction of anything which may corrupt the morals or endanger the health or lives of their citizens.

In order to preserve the peace and provide for the comfort of the passengers the State may prescribe any and all reasonable regulations for the government, the conduct, and the management of the trains while in its borders. It may require separate coaches for the two races, in the interest of peace and for the comfort of the passengers. This is purely a matter of police, exclusively within the power of the State. It may require screens in times of yellow-fever epidemic to prevent the entrance into, or the escape from, the trains of the deadly Stegomyia. It may enforce reasonable regulations as to fumigation of freight cars and steamboats, and I shall never vote for any measure which denies or attempts to take from the States this power. The advocates of the bill on this side of this Chamber insist that this right is not taken from the State by this section and assert that no decision of the Supreme Court even squints at the possibility of such power being vested in the Federal Government. In the Morgan Steamship case Judge Miller says:

> But it may be conceded that whenever Congress shall undertake to provide for the commercial cities of the United States a general system of quarantine, or shall confide the details of such a system to a national board of health, or to local boards, as may be found expedient, *all State laws on the subject will be abrogated, at least so far as the two are inconsistent.*

And this opinion has been quoted with approval in several cases since that time. I know this is regarded as dicta by some of the ablest lawyers in this House, but other able lawyers here are equally as certain that it is not. Mr. E. H. Farrar, of the New Orleans bar, in the address before referred to at the quarantine convention at Mobile in 1898, and which has been very extensively quoted in the debate on this bill, is universally conceded to be one of the strongest and ablest lawyers in the country, and no man will lightly consider his opinion. Referring to this opinion of Judge Miller's, he says:

> In my humble opinion, unless the Supreme Bench of the United States shall be packed for the purpose, or unless some grizzly horror shall stalk through this land and make men forget the principles upon which this Government was founded, and abandoning the sacred right of local self-government and the inherent right of self-protection, huddle, like curs, under the protecting wing of a centralized power, no practical application of Judge Miller's new-fangled doctrine will ever be made, and when fairly presented and discussed and its clear repugnance to an imme-

morial interpretation of the Constitution demonstrated it never will be recognized as making part of the Constitution and laws of the United States.

I hope he is correct in this view, but to my mind section 7 of this bill is an attempt to make "practical application of Judge Miller's new-fangled doctrine."

If I am permitted to do so under the rule which has been reported and adopted, I shall offer an amendment to this section which will make it certain that it is not the intention of the advocates of this bill, to adopt Judge Miller's expression, that "all State laws on the subject will be abrogated." That amendment, Mr. Speaker, is in these words and is offered in the hope that it may be written in this law, and so save to the State the right of self-preservation:

Provided, That nothing herein shall be construed as forbidding State or municipal authorities to enforce against such common carrier any reasonable regulation, prescribed by the health authorities of the State in pursuance of the police power reserved to the States, for the prevention of the spread of yellow fever.

If it is adopted, I shall vote for the bill, because I am in favor of a national maritime quarantine and I am opposed to senseless, reckless, and lawless interference with interstate trains; but I am not willing, in order to secure this, to surrender to the Federal Government the most necessary of all the powers which appertain to local self-government—the power to protect our homes and our families from pestilence, disease, and death. [Applause.]

The SPEAKER. The question is on the amendment offered by the gentleman from Minnesota.

Mr. TAWNEY. Mr. Speaker, I move to strike out the last word. I want to say in reply to the gentleman from Mississippi that he errs when he makes a comparison between this appropriation and the appropriation for the suppression of the foot-and-mouth disease of cattle in New England. I submit in all fairness, Mr. Speaker, that there is no parallel between this bill and the appropriation to which the gentleman from Mississippi refers. We are not to-day experiencing any yellow-fever epidemic——

Mr. WILLIAMS. Doesn't the gentleman think that this is much the stronger?

Mr. TAWNEY (continuing). Or anything of the kind. The only epidemic that we seem to be suffering from is the epidemic of hysteria in this Chamber. [Laughter.] I submit, Mr. Speaker, that if this bill becomes a law, the appropriation necessary to carry it into effect will then be made, and no one desires or would dare attempt to stop it. In that event, however, the appropriation will be made with some intelligent information as to what amount is necessary for the service authorized. Gentlemen on the other side of the House have informed me that they did not believe that $500,000 would be sufficient, while other gentlemen feel that $500,000 is more than necessary under any circumstances. We are therefore appropriating money for this service without anything but simply a guess to guide us. Those charged with the responsibility of executing the law give us no estimate of what amount will be necessary. Without such estimate, how can we act intelligently in the premises?

Mr. WANGER. Will the gentleman permit me?

Mr. TAWNEY. Yes.

Mr. WANGER. The Surgeon-General of the Marine-Hospital Service gave it as his judgment that the cost of acquiring the different stations would be between $300,000 and $400,000. That was entirely exclusive of any cost of administration.

Mr. TAWNEY. If that is the fact, the time for considering the question of the amount required for this new service is in connection with the appropriations for the entire Federal quarantine service for the next fiscal year. The Surgeon-General seems to be satisfied that the funds now on hand will carry him through the present fiscal year without this additional appropriation of $500,000.

Mr. WILLIAMS. Oh, I beg the gentleman's pardon.

Mr. TAWNEY. I see no reason why we should become panicky in appropriating $500,000 when we don't know whether it is going to be used or not.

Mr. GAINES of Tennessee. Now, Mr. Speaker, I want to ask the gentleman a question. I have been trying for a half hour, but the Speaker didn't seem to want me to do so. [Laughter.] Suppose we appropriate $500,000 and you afterwards find it is too much, can not the committee in subsequent appropriation bills limit the amount to the necessary amount?

Mr. TAWNEY. I presume that could be done.

Mr. GAINES of Tennessee. Then why make the motion here now and throw the bill and the House into confusion?

Mr. TAWNEY. In the meantime you have a lump sum available at the will of the Department without any limitations on it whatever.

Mr. GAINES of Tennessee. If you can restrict it hereafter, I see no need of the gentleman's amendment.

The SPEAKER. The question is on the amendment offered by the gentleman from Minnesota.

The question was taken; and on a division (demanded by Mr. TAWNEY) there were—ayes 55, noes 116.

So the amendment was rejected.

Mr. LOUDENSLAGER. Mr. Speaker, I desire to offer an amendment to section 7, to have it read, and have it considered as pending.

The SPEAKER. If there be no objection, the amendment of the gentleman from New Jersey will be read and considered as pending. [After a pause.] The Chair hears no objection, and the Clerk will report the amendment.

The Clerk read as follows:

After the word "Service," in line 14, page 3, insert: "*Provided*, That if the Secretary of the Navy shall be called upon, in pursuance of provisions of this act, to turn over to the Secretary of the Treasury, for the purposes of a quarantine station, the lands or plant on the island of Dry Tortugas, now used by the Navy as a coaling station, or any portion thereof, the transfer shall be made upon such conditions and after such reasonable allowance of time for the economical removal of the coal, coaling and distilling plants, and the equipment and appurtenances of the coaling station, as may be agreed upon between the Secretaries of the Treasury and of the Navy; and for the purpose of reimbursing the Navy Department for the expense of so removing such portions of the plant as shall not be turned over to the Treasury Department and for replacing elsewhere so much thereof as may be abandoned, the sum of $200,000, or so much thereof as may be agreed upon by the said two Secretaries as necessary and sufficient for such purposes, which sum shall hereafter be appropriated to be expended for the purposes aforesaid by the Navy Department as the Secretary of the Navy shall direct."

Mr. HEPBURN. Mr. Speaker, I hope that the gentleman from New Jersey will give us some explanation of the necessity for this amendment.

Mr. LOUDENSLAGER. Mr. Speaker, it will not take me more than a minute or two. Congress has from time to time appropriated money for the naval establishment which has been expended on the islands called "Dry Tortugas."

Mr. BURLESON. Mr. Speaker——

The SPEAKER. The Chair, under a fair construction of the rule, feels that it is his duty to offer an opportunity to two gentlemen to offer amendments, one the gentleman from Texas, Mr. BURLESON, and the other the gentleman from Texas, Mr. HENRY.

Mr. BURLESON. I have no desire to discuss my amendment, Mr. Speaker.

Mr. LOUDENSLAGER. Mr. Speaker, I would ask unanimous consent that I may proceed for just one minute.

Mr. BURLESON. Mr. Speaker, I offer the following amendment, and ask that it be read and considered as pending under the rule.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Add after section 7 the following: "*And provided further*, That nothing herein contained shall be construed as a prohibition against any State to establish reasonable inspection and quarantine regulations for the protection of its people, or to prevent the lawful health authorities of any such State, acting in pursuance of such regulations, to prohibit the transportation into or through said State of any interstate car or train of cars or vessel containing articles of commerce or passengers."

Mr. HENRY of Texas. Mr. Speaker, I have an amendment on the table that I desire to have read.

The SPEAKER. The Clerk will report the amendment.

Mr. HENRY of Texas. Mr. Speaker, before the amendment is reported I will state that it is the bill that passed the Senate on yesterday by unanimous vote, and my amendment merely strikes out all after the enacting clause in the pending bill and after the word "that" and to insert the Senate bill.

Mr. WILLIAMS. Now, Mr. Speaker——

Mr. HEPBURN. Mr. Speaker, I insist that under the rules of the House the amendment shall be read.

Mr. WILLIAMS. Oh, I ask the gentleman from Iowa not to do that. It will only result in shutting off my amendment if he does it.

Mr. HEPBURN. I desire to have it read.

Mr. HENRY of Texas. Then, Mr. Speaker, I ask unanimous consent that the reading of the amendment be dispensed with.

The SPEAKER. The gentleman from Texas asks unanimous consent that the reading of his amendment be dispensed with. Is there objection?

Mr. HEPBURN. Mr. Speaker, I object.

The SPEAKER. The gentleman from Iowa objects.

Mr. WILLIAMS. If the gentleman from Iowa will permit me, there is a clerical error in the bill——

Mr. HENRY of Texas. Mr. Speaker, I call for the reading of my amendment.

Mr. HEPBURN. The clerical error can be corrected by unanimous consent, I will state to the gentleman from Mississippi. I insist that the amendment shall be read.

Mr. HENRY of Texas. Mr. Speaker, I call for the reading of my amendment.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Strike out all of the proposed substitute after the first word "That," and insert in lieu thereof the following: "as soon as practicable after the approval of this act the Surgeon-General of the Public Health and Marine Hospital Service of the United States, with the approval of the Secretary of the Treasury, shall select and designate suitable places for quarantine grounds and anchorages for vessels, at such points on or near the coast lines of the United States as, in his judgment, are best suited for quarantine grounds and anchorages and necessary to prevent the introduction of yellow fever into the United States. That in cases in which the title to the land and water so selected and designated is in the United States it shall be the duty of the department, bureau, or official of the United States having custody or possession of such land and water, or any part thereof, not used by the Government for other purposes designated by law, on demand of the Secretary of the Treasury, to deliver the same into his custody and possession for the use of the Public Health and Marine-Hospital Service, evidencing such delivery by a suitable instrument in writing to be delivered to the Secretary of the Treasury. That in cases in which the title to such land and water, or any part thereof, is in any other owner than the United States it shall be the duty of the Secretary of the Treasury to secure the title and possession of the same to the United States for the use of the Public Health and Marine-Hospital Service of the United States, by purchase at a reasonable price, if possible; but if in his judgment the price demanded for such property be excessive, he is hereby authorized to apply to the Attorney-General of the United States to cause to be instituted, in the proper tribunal, condemnation proceedings in the name of the United States for the purpose of acquiring for the United States the title and possession of such land and water, and said Attorney-General shall, as soon as possible after such application by the Secretary of the Treasury, cause such proceedings to be instituted and conducted to a conclusion, and the custody and possession of such land and water, when duly acquired in accordance with the award made in such condemnation proceedings, shall be delivered to the Secretary of the Treasury for the use of the Public Health and Marine-Hospital Service.

"SEC. 2. That on acquiring possession of any land and water selected and designated by him as quarantine ground and anchorage it shall be the duty of the Surgeon-General of the Public Health and Marine-Hospital Service, with the approval of the Secretary of the Treasury, to cause to be published at least once a week for four consecutive weeks, in a newspaper published in the port nearest such proposed quarantine ground and anchorage, a notice of such selection and designation, with a description of the boundaries of such quarantine ground and anchorage, and shall forthwith establish within such boundaries a quarantine ground and anchorage, with such appliances and facilities as he may deem necessary to prevent the introduction of yellow fever into the United States, and upon plans and estimates of cost to be first approved by the Secretary of the Treasury.

"SEC. 3. That it shall be the duty of the Surgeon-General of the Public Health and Marine-Hospital Service of the United States, with the approval of the Secretary of the Treasury, as soon as practicable after the approval of this act, to establish on one of the islands of the group known as the 'Dry Tortugas,' at the western end of the Florida Reef, a quarantine station and anchorage of refuge, whereto infected vessels having on board any person with yellow fever and bound for any port of the United States may be sent for the purpose of being disinfected, having their cargoes disinfected and discharged if necessary, and their sick treated in hospital until all danger of infection or contagion from such vessels, their cargoes, passengers, or crews has been removed. And it shall be the duty of the Department, bureau, or official having the custody or possession of said Tortugas Islands, on demand of the Secretary of the Treasury, to deliver the possession of said islands to the Department of the Treasury, for the use of the Public Health and Marine-Hospital Service as provided in this act. And if it shall be necessary, in the judgment of said Surgeon-General, for the protection of any other port or ports on the coast of the United States that additional quarantine stations and anchorages of refuge shall be established, he shall, with the approval of the Secretary of the Treasury, designate such quarantine stations and anchorages of refuge at such points as will afford safe anchorages for vessels detained thereat and as will be sufficiently distant from ports or subports of entry of the United States to render danger of infection impossible. That on acquiring possession of said Dry Tortugas or any other locality, in accordance with the provisions of this act, for the purpose of establishing thereat a quarantine station and anchorage of refuge, the Surgeon-General of the Public Health and Marine-Hospital Service shall, with the approval of the Secretary of the Treasury, cause to be published in four such newspapers as he may think proper, once a week for three months, a notice of the selection and designation of such places for quarantine stations and anchorages of refuge, together with such rules and regulations, in conformity with the requirements of this act, as with the approval of the Secretary of the Treasury he shall adopt and promulgate, requiring vessels with yellow fever among their passengers or crews to go to such quarantine stations and anchorages of refuge, to be dealt with there before visiting any port of the United States. He shall establish at such quarantine stations and anchorages of refuge all necessary instrumentalities for disinfecting vessels and their cargoes, shall erect the necessary hospital buildings, and install the necessary furniture and fittings for receiving and treating the sick among the passengers and crews of vessels going to such quarantine stations and anchorages of refuge, and provide for the separation of these among their passengers and crews who are suffering from yellow fever from those who are in good health, and shall further provide for doing all things necessary to eradicate such disease from such vessels, their cargoes, passengers, and crews.

"SEC. 5. That any vessel, or any officer of any vessel, or other person other than State health or quarantine officers, entering within the limits of any quarantine grounds and anchorages, or any quarantine station and anchorage of refuge, or departing therefrom, in disregard of the quarantine rules and regulations, or without the permission of the officer in charge of such quarantine ground and anchorage, or of such quarantine station and anchorage of refuge, shall be deemed guilty of a misdemeanor and subject to arrest, and upon conviction thereof shall be punished by a fine of not more than $300 or by imprisonment for not more than one year, or both, in the discretion of the court. That any master or owner of any vessel violating any provision of this act, or any provision of an act entitled 'An act granting additional powers and imposing additional duties on the Marine-Hospital Service, approved February 15, 1893,' or violating any rule or regulation made in accordance with this act, or said act of February 15, 1893, relating to the inspection of vessels, or to the prevention of the introduction of contagious or infectious diseases into the United States, or any master, owner, or agent of any vessel making a false statement relative to the sanitary condition of such vessel or its contents, or as to the health of any passenger or person thereon, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than $500 or imprisonment for not more than one year, or both, in the discretion of the court.

"SEC. 6. That in every port or ports where quarantine stations and plants are already established by State or local authorities it shall be the duty of the said Surgeon-General, under the direction of the Secretary of the Treasury, before selecting and designating a quarantine station and grounds and anchorage for vessels, to examine such established stations and plants, with a view of obtaining a transfer of the site and plants to the United States, and whenever the proper authorities shall be ready to transfer the same or surrender the use thereof to the United States, the Secretary of the Treasury is authorized to obtain title thereto or possession and use thereof, and to pay a reasonable compensation therefor, if, in his opinion, such purchase or use will be necessary to the United States for quarantine purposes.

"SEC. 7. That from and after the approval of this act the salary of the Surgeon-General of the Public Health and Marine-Hospital Service shall be $7,000 per annum, payable monthly. That the sum of $500,000, in addition to any sum now available for the purpose, is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, to be paid on the requisition of the Surgeon-General of the Public Health and Marine-Hospital Service, approved by the Secretary of the Treasury, for the purpose of carrying into effect the provisions of this act, as well as for the purpose generally of preventing the importation of yellow fever into the United States, and for the further purposes, in cooperation with the State health authorities, of eradicating it should it be imported, of preventing its spread from one State into another State, and of destroying its cause."

The SPEAKER (during the reading). The hour of 5 o'clock has arrived, and under the order the previous question operates upon the substitute and all pending amendments. The Clerk will report the first amendment.

Mr. HUMPHREYS of Mississippi. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. HUMPHREYS of Mississippi. Mr. Speaker, I ask unanimous consent to offer an amendment to section 7 of the bill.

The SPEAKER. The gentleman from Mississippi asks unanimous consent to offer an amendment to section 7 of the bill. Is there objection?

Mr. HEPBURN. I object.

The SPEAKER. The gentleman from Iowa objects.

Mr. LOUDENSLAGER. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. LOUDENSLAGER. A parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. LOUDENSLAGER. Is the substitute offered by the gentleman from Texas now pending or only that portion which has been read?

The SPEAKER. In the opinion of the Chair the substitute is pending.

Mr. PAYNE. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. PAYNE. I understood the gentleman to offer that after the enacting clause of the bill as a substitute. Suppose that amendment should be adopted by the House?

The SPEAKER. It is to strike out all after the word "that," an amendment to the substitute. The substitute is amendable in the first degree.

Mr. PAYNE. I understand that, but suppose the substitute offered by the gentleman from Texas should be adopted by the House. That would not give it the status of the Senate bill, would it?

The SPEAKER. Not at all.

Mr. PAYNE. Then I do not see any use in the House adopting it.

The SPEAKER. The Clerk will report the first amendment, which will be to perfect the text, and will be in order before a vote is taken upon the amendment offered by the gentleman from Texas [Mr. HENRY].

The Clerk began the reading of the amendment.

The SPEAKER. The amendment has already been reported. Is there unanimous consent to dispense with rereporting it?

Mr. WILLIAMS. What is that, Mr. Speaker?

The SPEAKER. It seems to the Chair it is not in order to report it again except by unanimous consent. The question is on agreeing to the amendment offered by the gentleman from New Jersey.

The question was taken; and the amendment was rejected.

The SPEAKER. The question is on the amendment offered by the gentleman from Texas [Mr. BURLESON].

The question was taken; and the amendment was rejected.

The SPEAKER. The question next is on the amendment proposed by the gentleman from Georgia [Mr. BARTLETT].

The question was taken; and the amendment was rejected.

The SPEAKER. The question next is on the amendment proposed by the gentleman from Texas [Mr. HENRY], and the Clerk will conclude the reading of the amendment.

The Clerk resumed and concluded the reading of the amendment.

Mr. HENRY of Texas. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. HENRY of Texas. I ask unanimous consent for one-half a minute to make a statement.

Mr. WILLIAMS. Mr. Speaker, I shall make no objection to that, provided the gentleman from Iowa [Mr. HEPBURN] shall have also one-half a minute to reply.

Mr. HENRY of Texas. I shall not object.

Mr. HEPBURN. I object; I do not want the gentleman from Texas to have the half minute.

The SPEAKER. The gentleman from Iowa objects. The question is on the amendment proposed by the gentleman from Texas.

The question was taken; and the Chair announced that the noes seemed to have it.

Mr. HENRY of Texas. Mr. Speaker, I call for the yeas and nays.

The SPEAKER. The gentleman from Texas demands the yeas and nays.

Mr. WANGER. Mr. Speaker, a parliamentary inquiry——

The SPEAKER. Those in favor of taking the yeas and nays will rise and stand until they are counted. [After counting.] Forty-three gentlemen have arisen.

Mr. ROBERTSON of Louisiana. The other side, Mr. Speaker.

The SPEAKER. Before the "one mores" answered, who did not state how they would vote, the yeas were 43 and the nays were 188; and the yeas and nays are refused.

Mr. HENRY of Texas. Mr. Speaker, I call for tellers.

Mr. WILLIAMS. Mr. Speaker, a parliamentary inquiry. Is the call for tellers in order?

The SPEAKER. Yes.

The question was taken; and tellers were refused.

Mr. HENRY of Texas. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. HENRY of Texas. I move to recommit the bill.

The SPEAKER. The gentleman is not recognized for that purpose, and it is not in order at this time anyway.

Mr. HENRY of Texas. When will it be in order?

The SPEAKER. After the third reading of the bill. The question is on the substitute as amended.

Mr. BARTLETT. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. BARTLETT. To know what has become of the amendment I offered.

The SPEAKER. It has been voted down. The question is on agreeing to the substitute as amended.

The question was taken; and the amendment was agreed to.

Mr. WILLIAMS. Mr. Speaker, I move to recommit the bill——

The SPEAKER. One moment. The question is on the engrossment and third reading of the bill.

The question was taken; and the bill was ordered to be engrossed and read the third time.

Mr. WILLIAMS. Mr. Speaker, I now move——

Mr. HENRY of Texas. Mr. Speaker——

The SPEAKER. The gentleman from Mississippi [Mr. WILLIAMS] is recognized.

Mr. WILLIAMS. Mr. Speaker, I now move to recommit the bill to the Committee on Interstate and Foreign Commerce.

The SPEAKER. The gentleman from Mississippi moves to recommit the bill.

Mr. WILLIAMS. And upon that motion I call for the previous question.

Mr. HENRY of Texas. Mr. Speaker, I want to say I thought the Speaker indicated I would be recognized a little later, or I would have been on my feet quicker.

The SPEAKER. No; it is not in the power of the Chair to recognize the gentleman after the gentleman from Mississippi is recognized.

Mr. HENRY of Texas. Mr. Speaker, I desire to offer an amendment to the motion of the gentleman from Mississippi.

The SPEAKER. Oh, but the gentleman from Mississippi demanded the previous question, and that will have to be disposed of first.

Mr. HENRY of Texas. I did not catch it from the gentleman on the floor. I heard the Speaker say it.

Mr. WILLIAMS. That was your fault.

The SPEAKER. The question is on ordering the previous question.

The question was taken; and the previous question was ordered.

The SPEAKER. The question is on recommitting the bill.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

Mr. WANGER. Mr. Speaker, on that question I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 202, nays 26, answered "present" 5, not voting 149, as follows:

YEAS—202.

Acheson	Dovener	Knapp	Robertson, La.
Adams, Wis.	Draper	Knopf	Rodenberg
Adamson	Dunwell	Knowland	Ruppert
Aiken	Dwight	Lacey	Ryan
Allen, Me.	Edwards	Lafean	Samuel
Ames	Ellerbe	Lamar	Scott
Andrus	Fassett	Lamb	Sherman
Barchfeld	Finley	Landis, Frederick	Sibley
Bartholdt	Flood	Lawrence	Sims
Bede	Floyd	Lee	Small
Beidler	Foster, Vt.	Longworth	Smith, Cal.
Bennet, N. Y.	French	Loud	Smith, Ky.
Birdsall	Fulkerson	Lovering	Smith, Md.
Bonynge	Gaines, Tenn.	McCleary, Minn.	Smith, Wm. Alden
Bowers	Gaines, W. Va.	McCreary, Pa.	Smith, Pa.
Bowie	Gardner, Mich.	McGavin	Snapp
Brantley	Gardner, N. J.	McKinley, Ill.	Southall
Broussard	Gilbert, Ind.	McKinney	Southard
Brown	Gilbert, Ky.	McLain	Southwick
Brownlow	Gill	McNary	Spight
Buckman	Glass	Macon	Stanley
Burke, Pa.	Goebel	Mahon	Sterling
Burke, S. Dak.	Goldfogle	Marshall	Stevens, Minn.
Burnett	Goulden	Maynard	Tawney
Burton, Ohio	Graff	Meyer	Taylor, Ala.
Butler, Pa.	Graham	Michalek	Taylor, Ohio
Byrd	Granger	Minor	Thomas, N. C.
Calder	Greene	Moon, Pa.	Thomas, Ohio
Campbell, Ohio	Griggs	Moon, Tenn.	Townsend
Candler	Haie	Mouser	Trimble
Capron	Hamilton	Murdock	Tyndall
Cassel	Hay	Needham	Underwood
Clark, Fla.	Hayes	Norris	Volstead
Clark, Mo.	Heflin	Olcott	Wachter
Cole	Hepburn	Otjen	Waldo
Conner	Higgins	Overstreet	Wallace
Cooper, Pa.	Hinshaw	Padgett	Wanger
Cooper, Wis.	Hoar	Page	Watkins
Cousins	Hogg	Payne	Webb
Currier	Houston	Pearre	Weeks
Curtis	Howell, N. J.	Pou	Welborn
Cushman	Hubbard	Prince	Wharton
Dale	Hull	Pujo	Wiley, Ala.
Dalzell	Jones, Va.	Rainey	Wiley, N. J.
Darragh	Jones, Wash.	Ransdell, La.	Williams
Davey, La.	Keifer	Reeder	Wilson
Davis, Minn.	Kennedy, Nebr.	Richardson, Ala.	Wood, N. J.
Dawson	Kennedy, Ohio	Richardson, Ky.	Young
Dickson, Ill.	Kitchin, Claude	Rives	Zenor
Dixon, Ind.	Kitchin, Wm. W.	Rixey	
Dixon, Mont.	Kline	Roberts	

NAYS—26.

Bartlett	Garner	Humphreys, Miss.	Sheppard
Beall, Tex.	Gillespie	Lester	Slayden
Broocks, Tex.	Gregg	Littlefield	Smith, Tex.
Burgess	Grosvenor	Moore	Stephens, Tex.
Burleson	Hardwick	Randell, Tex.	Woodyard
De Armond	Henry, Tex.	Rucker	
Field	Hill, Miss.	Russell	

ANSWERED "PRESENT"—5.

Gardner, Mass.	Hunt	James	Rhinock
Hopkins			

NOT VOTING—149.

Adams, Pa.	Esch	Le Fevre	Reid
Alexander	Fitzgerald	Legare	Reynolds
Allen, N. J.	Flack	Lever	Rhodes
Babcock	Fletcher	Lewis	Robinson, Ark.
Bankhead	Fordney	Lilley, Conn.	Schneebeli
Bannon	Foss	Lilley, Pa.	Scroggy
Bates	Foster, Ind.	Lindsay	Shackleford
Bell, Ga.	Fowler	Littauer	Shartel
Bennett, Ky.	Fuller	Little	Sherley
Bingham	Garber	Livingston	Slemp
Bishop	Garrett	Lloyd	Smith, Ill.
Blackburn	Gillett, Cal.	Lorimer	Smith, Iowa
Boutell	Gillett, Mass.	Loudenslager	Smith, Samuel W.
Bowersock	Gronna	McCall	Smyser
Bradley	Gudger	McCarthy	Sparkman
Brick	Haskins	McDermott	Sperry
Brooks, Colo.	Haugen	McKinlay, Cal.	Stafford
Brundidge	Hearst	McLachlan	Steenerson
Burleigh	Hedge	McMorran	Sullivan, Mass.
Burton, Del.	Henry, Conn.	Madden	Sullivan, N. Y.
Butler, Tenn.	Hermann	Mann	Sulloway
Calderhead	Hill, Conn.	Martin	Sulzer
Campbell, Kans.	Hitt	Miller	Talbott
Chaney	Holliday	Mondell	Tirrell
Chapman	Howard	Morrell	Towne
Clayton	Howell, Utah	Mudd	Van Duzer
Cockran	Huff	Murphy	Van Winkle
Cocks	Hughes	Nevin	Vreeland
Cromer	Humphrey, Wash.	Olmsted	Wadsworth
Crumpacker	Jenkins	Palmer	Watson
Davidson	Johnson	Parker	Webber
Davis, W. Va.	Kahn	Parsons	Weems
Dawes	Kehler	Patterson, N. C.	Weisse
Deemer	Ketcham	Patterson, S. C.	Williamson
Denby	Kinkaid	Patterson, Tenn.	Wood, Mo.
Dresser	Klepper	Perkins	
Driscoll	Landis, Chas. B.	Pollard	
Ellis	Law	Powers	

So the bill was passed.

The following pairs were announced:
Until further notice:
Mr. DAVIDSON with Mr. SPARKMAN.
Mr. HITT with Mr. LITTLE.
Mr. FOSTER of Indiana with Mr. GARRETT.
Mr. WATSON with Mr. SHERLEY.
Mr. CROMER with Mr. VAN DUZER.
Mr. FULLER with Mr. WEISSE.
Mr. CHAPMAN with Mr. HOPKINS.
Mr. HEDGE with Mr. LEGARE.
Mr. WADSWORTH with Mr. BANKHEAD.
Mr. SMYSER with Mr. MCDERMOTT.
Mr. HOLLIDAY with Mr. BUTLER of Tennessee.
Mr. MUDD with Mr. TALBOTT.
Mr. DAWES with Mr. GARBER.
Mr. MANN with Mr. HOWARD.
Mr. HASKINS with Mr. LEVER.
For this session:
Mr. MORRELL with Mr. SULLIVAN of New York.
For this bill:
Mr. REID (in favor) with Mr. SHACKLEFORD (against).
Until April 6:
Mr. DEEMER with Mr. KLINE.
For this day:
Mr. SAMUEL W. SMITH with Mr. KELIHER.
Mr. TERRILL with Mr. WOOD of Missouri.
Mr. OLMSTED with Mr. LINDSAY.
Mr. MCMORRAN with Mr. LEWIS.
Mr. GILLETT of Massachusetts with Mr. SULLIVAN of Massachusetts.
Mr. KAHN with Mr. JOHNSON.
Mr. BURLEIGH with Mr. HEARST.
Mr. ADAMS of Pennsylvania with Mr. DAVIS of West Virginia.
Mr. BABCOCK with Mr. COCKRAN.
Mr. LE FEVRE with Mr. PATTERSON of South Carolina.
Mr. KETCHAM with Mr. FITZGERALD.
Mr. BURTON of Delaware with Mr. BELL of Georgia.
Mr. SMITH of Iowa with Mr. SULZER.
Mr. ALEXANDER with Mr. RHINOCK.
Mr. MCCALL with Mr. CLAYTON.
Mr. JENKINS with Mr. LLOYD.
Mr. LITTAUER with Mr. LIVINGSTON.
Mr. FOSS with Mr. TOWNE.
Mr. BENNETT of Kentucky with Mr. BRUNDIDGE.
Mr. POWERS with Mr. JAMES.
Mr. POLLARD with Mr. PATTERSON of North Carolina.
Mr. HUFF with Mr. GUDGER.

The result of the vote was then announced, as above recorded.

On motion of Mr. WANGER, a motion to reconsider the vote by which the bill was passed was laid on the table.

LEAVE TO PRINT.

Mr. PRINCE. Mr. Speaker, I ask unanimous consent to have printed 300 copies of the hearing before the Committee on Levees and Improvements of the Mississippi River at the meeting of Friday, March 30.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

ENROLLED BILLS SIGNED.

The SPEAKER announced his signature to enrolled bills of the following titles:

S. 4130. An act to authorize the Capital City Improvement Company, of Helena, Mont., to construct a dam across the Missouri River; and

S. 2872. An act for the relief of the French Trans-Atlantic Cable Company.

SENATE BILLS AND RESOLUTIONS REFERRED.

Under clause 2 of Rule XXIV, Senate bills and resolutions of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 4360. An act granting an increase of pension to John P. Dunn—to the Committee on Invalid Pensions.

S. 3300. An act granting an increase of pension to Lorenzo D. Huntley—to the Committee on Invalid Pensions.

S. 4279. An act granting an increase of pension to Fannie E. Malone—to the Committee on Invalid Pensions.

S. 1975. An act granting an increase of pension to Mary E. Dugger—to the Committee on Invalid Pensions.

S. 4186. An act granting an increase of pension to Samuel G. Roberts—to the Committee on Invalid Pensions.

S. 487. An act granting an increase of pension to William Sprouse—to the Committee on Invalid Pensions.

S. 2700. An act granting an increase of pension to William J. Millet—to the Committee on Invalid Pensions.

S. 3525. An act granting an increase of pension to Robert G. Harrison—to the Committee on Invalid Pensions.

S. 4110. An act granting an increase of pension to Absalom Wilcox—to the Committee on Invalid Pensions.

S. 3985. An act granting an increase of pension to Matilda E. Nattinger—to the Committee on Invalid Pensions.

S. 3984. An act granting an increase of pension to Sarah E. Yockey—to the Committee on Invalid Pensions.

S. 4917. An act granting an increase of pension to Alfred B. Chilcote—to the Committee on Invalid Pensions.

S. 4309. An act granting a pension to Adele Jeanette Hughes—to the Committee on Invalid Pensions.

S. 4622. An act granting an increase of pension to Isaiah McDaniel—to the Committee on Invalid Pensions.

S. 4102. An act granting an increase of pension to John Broadwell—to the Committee on Invalid Pensions.

S. 3024. An act granting an increase of pension to David S. Trumbo—to the Committee on Invalid Pensions.

S. 4088. An act granting an increase of pension to Charles E. Chapman—to the Committee on Invalid Pensions.

S. 4258. An act granting an increase of pension to James F. Hackney—to the Committee on Invalid Pensions.

S. 1407. An act granting a pension to John McCaughn—to the Committee on Invalid Pensions.

S. 4432. An act granting an increase of pension to James Drewry—to the Committee on Invalid Pensions.

S. 2832. An act granting a pension to Susan Pennington—to the Committee on Invalid Pensions.

S. 1406. An act granting an increase of pension to Moses Hill—to the Committee on Invalid Pensions.

S. 3465. An act granting an increase of pension to John T. Vincent—to the Committee on Invalid Pensions.

S. 3493. An act granting an increase of pension to Thomas Reed—to the Committee on Invalid Pensions.

S. 5016. An act granting an increase of pension to Charles G. Polk—to the Committee on Invalid Pensions.

S. 524. An act granting an increase of pension to Lestina M. Gifford—to the Committee on Invalid Pensions.

S. 4548. An act granting a pension to Elizabeth Wilmer, widow of Edwin Wilmer, and to the orphan children of said soldier—to the Committee on Invalid Pensions.

S. 3821. An act granting an increase of pension to Henry Wilhelm—to the Committee on Invalid Pensions.

S. 5121. An act granting an increase of pension to James H. Haman—to the Committee on Invalid Pensions.

S. 2689. An act granting an increase of pension to Alonzo M. Bartlett—to the Committee on Invalid Pensions.

S. 2094. An act granting an increase of pension to Rodney W. Torrey—to the Committee on Invalid Pensions.

S. 4556. An act granting an increase of pension to William Jandro—to the Committee on Invalid Pensions.

S. 920. An act granting an increase of pension to Abraham S. Brown—to the Committee on Invalid Pensions.

S. 3812. An act granting an increase of pension to Truman R. Stinehour—to the Committee on Invalid Pensions.

S. 4683. An act granting an increase of pension to William McCann—to the Committee on Invalid Pensions.

S. 1248. An act granting a pension to Elizabeth B. Bean—to the Committee on Pensions.

S. 558. An act granting an increase of pension to Abijah Chamberlain—to the Committee on Invalid Pensions.

S. 98. An act granting an increase of pension to Doris Florence Clegg—to the Committee on Invalid Pensions.

S. 4440. An act granting an increase of pension to Joseph Kauffman—to the Committee on Invalid Pensions.

S. 4785. An act granting an increase of pension to Nehemiah Brandegee—to the Committee on Invalid Pensions.

S. 4786. An act granting an increase of pension to George W. Coughanour—to the Committee on Invalid Pensions.

S. 4650. An act granting an increase of pension to Thomas McDonald—to the Committee on Invalid Pensions.

S. 2378. An act granting an increase of pension to Maria Leuckhart—to the Committee on Invalid Pensions.

S. 4826. An act granting a pension to Agnes B. Earl—to the Committee on Invalid Pensions.

S. 4675. An act granting an increase of pension to Fannie Parker Norton—to the Committee on Invalid Pensions.

S. 4315. An act granting an increase of pension to Elizabeth A. Vose—to the Committee on Invalid Pensions.

S. 4247. An act granting an increase of pension to Carrick Rutherford—to the Committee on Invalid Pensions.

S. 2287. An act granting an increase of pension to James V. Pope—to the Committee on Invalid Pensions.

S. 4797. An act granting an increase of pension to Jacob Franz—to the Committee on Invalid Pensions.

S. 230. An act granting an increase of pension to Alfred A. Woodin—to the Committee on Invalid Pensions.

S. 1398. An act granting an increase of pension to Edmund Morgan—to the Committee on Invalid Pensions.

S. 450. An act granting an increase of pension to James Flynn—to the Committee on Invalid Pensions.

S. 3843. An act granting an increase of pension to Rollin T. Waller—to the Committee on Invalid Pensions.

S. 1376. An act granting an increase of pension to Adam Werner—to the Committee on Invalid Pensions.

S. 1377. An act granting an increase of pension to John R. Brown—to the Committee on Invalid Pensions.

S. 674. An act granting an increase of pension to Thomas A. Agur—to the Committee on Invalid Pensions.

S. 2795. An act granting an increase of pension to John Albert—to the Committee on Invalid Pensions.

S. 3298. An act granting an increase of pension to John B. Ashelman—to the Committee on Invalid Pensions.

S. 1953. An act granting an increase of pension to Charles M. Benson—to the Committee on Invalid Pensions.

S. 1162. An act granting an increase of pension to Nelson Cook—to the Committee on Invalid Pensions.

S. 657. An act granting an increase of pension to Mary J. Reynolds—to the Committee on Invalid Pensions.

S. 1962. An act granting an increase of pension to Julia Baldwin—to the Committee on Invalid Pensions.

S. 2050. An act granting an increase of pension to J. Tilden Moulton—to the Committee on Invalid Pensions.

S. 2670. An act granting an increase of pension to Marie J. Spicely—to the Committee on Invalid Pensions.

S. 3598. An act granting an increase of pension to Charles D. Brown—to the Committee on Invalid Pensions.

S. 3834. An act granting an increase of pension to Robert McCalvy—to the Committee on Invalid Pensions.

S. 5323. An act granting an increase of pension to Newton G. Cook—to the Committee on Invalid Pensions.

S. 2772. An act granting an increase of pension to Charles H. Niles—to the Committee on Invalid Pensions.

S. 835. An act granting an increase of pension to John W. Scott—to the Committee on Invalid Pensions.

S. 4557. An act granting an increase of pension to John R. McCrillis—to the Committee on Invalid Pensions.

S. 4834. An act granting an increase of pension to Octave Counter—to the Committee on Invalid Pensions.

S. 1352. An act granting an increase of pension to Michael Scannell—to the Committee on Invalid Pensions.

S. 1165. An act granting an increase of pension to James Moss—to the Committee on Invalid Pensions.

S. 914. An act granting an increase of pension to Edwin R. Hardy—to the Committee on Invalid Pensions.

S. 4986. An act granting an increase of pension to Alfred Beham—to the Committee on Invalid Pensions.

S. 3303. An act granting a pension to Harriett Summers—to the Committee on Invalid Pensions.

S. 1884. An act granting an increase of pension to Frederick W. Swift—to the Committee on Invalid Pensions.

S. 518. An act granting an increase of pension to William T. Godwin—to the Committee on Invalid Pensions.

S. 5074. An act granting an increase of pension to James I. Mittler—to the Committee on Invalid Pensions.

S. 5324. An act granting an increase of pension to Peter Sloggy—to the Committee on Invalid Pensions.

S. 5244. An act granting an increase of pension to Horace A. Gregory—to the Committee on Invalid Pensions.

S. 3819. An act granting an increase of pension to William H. Houston—to the Committee on Pensions.

S. 3112. An act granting an increase of pension to James H. Gardner—to the Committee on Pensions.

S. 1733. An act granting an increase of pension to George W. Trice—to the Committee on Pensions.

S. 3996. An act granting an increase of pension to David Morehart—to the Committee on Invalid Pensions.

S. 1308. An act granting an increase of pension to Emilie Wood Reich—to the Committee on Invalid Pensions.

S. 5079. An act granting an increase of pension to Andrew J. Hunter—to the Committee on Invalid Pensions.

S. 3182. An act granting an increase of pension to Walter Lynn—to the Committee on Invalid Pensions.

S. 5287. An act granting an increase of pension to John M. Prentiss—to the Committee on Invalid Pensions.

S. 2952. An act granting an increase of pension to William A. Gipson—to the Committee on Invalid Pensions.

S. 3252. An act granting an increase of pension to David F. Crampton—to the Committee on Invalid Pensions.

S. 5172. An act granting an increase of pension to John M. Du Puy—to the Committee on Invalid Pensions.

S. 4520. An act granting an increase of pension to Albert L. Callaway—to the Committee on Invalid Pensions.

S. 2507. An act granting an increase of pension to William Wheeler—to the Committee on Invalid Pensions.

S. 2549. An act granting an increase of pension to George W. Boyles—to the Committee on Invalid Pensions.

S. 2568. An act granting an increase of pension to Noah C. Fowler—to the Committee on Invalid Pensions.

S. 4250. An act to further enlarge the powers and authority of the Public Health and Marine-Hospital Service and to impose further duties thereon—to the Committee on Interstate and Foreign Commerce.

S. R. 46. Joint resolution to fill a vacancy in the Board of Regents of the Smithsonian Institution—to the Committee on the Library.

Senate concurrent resolution No. 11:

Resolved by the Senate (the House of Representatives concurring), That the Public Printer be, and he is hereby, authorized and directed to print from stereotyped plates 100 copies each of volumes 11 and 12, Decisions of the Department of the Interior Relating to Public Lands, and part 1 of digest of volumes 1 to 30, Land Decisions, and also 100 copies of volume 15, Decisions of the Department of the Interior Relative to Pensions and Bounty Land, and to deliver the same to the Secretary of the Interior for distribution and sale—

to the Committee on Printing.

Senate concurrent resolution No. 21:

Resolved by the Senate (the House of Representatives concurring), That there be printed 1,000 copies of the Topical Index to the Twelve Annual Reports of the Commission to the Five Civilized Tribes to the Secretary of the Interior, 200 copies for the use of the Senate, 400 copies for the use of the House of Representatives, and 400 copies for the use of the Department of the Interior—

to the Committee on Printing.

COINAGE, WEIGHTS, AND MEASURES.

Mr. SOUTHARD. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. SOUTHARD. To make request for unanimous consent.

The SPEAKER. The Chair will hear the resolution.

The Clerk read as follows:

Resolved, That the Committee on Coinage, Weights, and Measures be authorized to sit during the session of the House.

The SPEAKER. Is there objection?

There was no objection.

The resolution was agreed to.

PUBLIC WORKS IN HAWAII.

Mr. HAMILTON. Mr. Speaker, I ask unanimous consent that the minority of the Committee on the Territories may submit their views on the bill (H. R. 14015) to establish a fund for public works in the Territory of Hawaii, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. PAYNE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

Accordingly (at 5 o'clock and 42 minutes p. m.) the House adjourned.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. PARKER, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 16125) granting to the Corinth and Shiloh Electric Railway Company a right of way and authority to construct a track or tracks through the Shiloh National Park, and to operate electric cars thereon, reported the same with amendment, accompanied by a report (No. 2821); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. STEPHENS of Texas, from the Committee on Indian Affairs, to which was referred the bill of the House (H. R. 17507) to open for settlement 505,000 acres of land in the Kiowa, Comanche, and Apache Indian reservations, in Oklahoma Territory, reported the same with amendment, accompanied by a report (No. 2822); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. STEVENS of Minnesota, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the Senate (S. 4925) to amend the act approved March 6, 1896,

relating to the anchorage and movements of vessels in St. Marys River, reported the same with amendment, accompanied by a report (No. 2823); which said bill and report were referred to the House Calendar.

Mr. BENNET of New York, from the Committee on Immigration and Naturalization, to which was referred House joint resolution 121, reported in lieu thereof a joint resolution (H. J. Res. 132) permitting the waiving of the alien immigration law in the case of Fannie Diner, accompanied by a report (No. 2825); which said joint resolution and report were referred to the House Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. JENKINS: A bill (H. R. 17713) for the establishment of a signal station on Devils Island, Lake Superior, Wisconsin—to the Committee on Agriculture.

Also, a bill (H. R. 17714) to authorize the commencement and conduct of legal proceedings under the direction of the Attorney-General—to the Committee on the Judiciary.

By Mr. BINGHAM: A bill (H. R. 17715) appropriating $25,000 to the Franklin Institute, of Philadelphia, and the Purdue University, of Lafayette, Ind., for the purpose of determining the quantity of the so-called "hammer blows," "centrifugal lift, and tangential throw" of locomotive driving wheels in use on American railroads—to the Committee on Appropriations.

By Mr. SMITH of Kentucky: A bill (H. R. 17716) for the relief of certain enlisted men and commissioned officers who served during the war of the rebellion—to the Committee on War Claims.

By Mr. BENNET of New York (by request): A bill (H. R. 17717) to create a duty on imported teas and coffees—to the Committee on Ways and Means.

By Mr. GREENE: A bill (H. R. 17718) for construction of an addition to the United States custom-house in the city of Washington, D. C., and for repairs and alterations to the present building—to the Committee on Public Buildings and Grounds.

By Mr. MURPHY: A bill (H. R. 17719) to prevent the copying, selling, or disposing of any rolls of citizenship of the Five Civilized Tribes of Indians, and providing punishment therefor—to the Committee on Indian Affairs.

By Mr. POU: A bill (H. R. 17720) to prevent the use for political purposes of the moneys or assets of certain corporations without the consent of all the stockholders of the same—to the Committee on Election of President, Vice-President, and Representatives in Congress.

By Mr. HEPBURN: A bill (H. R. 17721) to repeal so much of the act of Congress of March 31, 1902, as authorizes the Secretary of the Treasury to cause a marine hospital to be erected in the city of Pittsburg, Pa., and for other purposes—to the Committee on Interstate and Foreign Commerce.

Also, a bill (H. R. 17722) to repeal so much of the act of Congress approved March 31, 1902, as authorizes the Secretary of the Treasury to cause a marine hospital to be erected in the city of Buffalo, N. Y., and for other purposes—to the Committee on Interstate and Foreign Commerce.

By Mr. TAWNEY: A bill (H. R. 17723) to amend an act entitled "An act to amend an act entitled 'An act for the relief and civilization of the Chippewa Indians, in the State of Minnesota,' approved January 14, 1889," by defining the boundaries of the forest reserve, and for other purposes—to the Committee on Indian Affairs.

By Mr. SPIGHT: A bill (H. R. 17724) to amend the laws relating to American seamen, to prevent undermanning and unskilled manning of American vessels, and to encourage the training of boys in the merchant marine—to the Committee on the Merchant Marine and Fisheries.

By Mr. MOON of Pennsylvania: A bill (H. R. 17725) authorizing the President of the United States to appoint a board of commissioners for the promotion of uniformity of legislation in the United States—to the Committee on Revision of the Laws.

By Mr. BURGESS: A bill (H. R. 17726) for a survey and estimate of cost of deepening the channel through Pass Cavallo, Texas—to the Committee on Rivers and Harbors.

By Mr. COOPER of Pennsylvania: A bill (H. R. 17727) providing for the administration of the operations of the act of Congress approved June 17, 1902, known as the reclamation act—to the Committee on Irrigation of Arid Lands.

By Mr. BENNET of New York: A joint resolution (H. J. Res. 131) permitting the waiving of the alien immigration law in the case of Fannie Diner—to the Committee on Immigration and Naturalization.

By Mr. DAVIDSON: A resolution (H. Res. 389) directing the Ways and Means Committee to consider the necessity of tariff revision—to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. AIKEN: A bill (H. R. 17728) for the relief of the heirs of Joseph T. Fretwell—to the Committee on War Claims.

By Mr. CALDER: A bill (H. R. 17729) granting a discharge to Charles Lester—to the Committee on Military Affairs.

By Mr. CAMPBELL of Ohio: A bill (H. R. 17730) granting an increase of pension to John A. Baughman—to the Committee on Invalid Pensions.

By Mr. CRUMPACKER: A bill (H. R. 17731) granting an increase of pension to Christ Westphal—to the Committee on Invalid Pensions.

By Mr. FULKERSON: A bill (H. R. 17732) granting an increase of pension to Joseph Scott—to the Committee on Pensions.

By Mr. GAINES of Tennessee: A bill (H. R. 17733) for the relief of the estate of William Franklin, deceased—to the Committee on War Claims.

By Mr. GILBERT of Indiana: A bill (H. R. 17734) granting an increase of pension to Gottlieb Kirchner—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17735) granting an increase of pension to Amos Fell—to the Committee on Pensions.

By Mr. GILLETT of Massachusetts: A bill (H. R. 17736) granting an increase of pension to Josephine B. Phelon—to the Committee on Invalid Pensions.

By Mr. GUDGER: A bill (H. R. 17737) granting an increase of pension to Alson E. Reese—to the Committee on Invalid Pensions.

By Mr. HAUGEN: A bill (H. R. 17738) granting an increase of pension to John H. Hale—to the Committee on Invalid Pensions.

By Mr. HENRY of Connecticut: A bill (H. R. 17739) granting an increase of pension to William E. Bailey—to the Committee on Invalid Pensions.

By Mr. HOWELL of Utah: A bill (H. R. 17740) granting an increase of pension to Charles M. Sexton—to the Committee on Invalid Pensions.

By Mr. KAHN: A bill (H. R. 17741) to quiet the title to certain lands in the Klamath Indian Reservation, in Oregon—to the Committee on Indian Affairs.

By Mr. McCREARY of Pennsylvania: A bill (H. R. 17742) granting an increase of pension to Elizabeth A. Foulke—to the Committee on Invalid Pensions.

By Mr. McNARY: A bill (H. R. 17743) granting an increase of pension to Edwin W. Rand—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17744) granting an increase of pension to Charles K. Granville—to the Committee on Invalid Pensions.

By Mr. MURDOCK: A bill (H. R. 17745) granting an increase of pension to Abner A. Hurt—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17746) granting an increase of pension to Daniel Schneeberger—to the Committee on Invalid Pensions.

By Mr. MURPHY: A bill (H. R. 17747) granting an increase of pension to Abraham I. Canary—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17748) to remove the charge of desertion from the military record of George McGirr—to the Committee on Military Affairs.

Also, a bill (H. R. 17749) to remove the charge of desertion from the military record of Erhard Woener—to the Committee on Military Affairs.

By Mr. NORRIS: A bill (H. R. 17750) granting an increase of pension to John Gustus—to the Committee on Invalid Pensions.

By Mr. OLCOTT: A bill (H. R. 17751) for the relief of Patrick McCormick—to the Committee on Military Affairs.

By Mr. WACHTER: A bill (H. R. 17752) granting an increase of pension to Sarah Holley—to the Committee on Pensions.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of bills of the following titles; which were thereupon referred as follows:

A bill (H. R. 2294) granting a pension to John J. Berger—

Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 16253) granting an increase of pension to Margaret A. Hope—Committee on Invalid Pensions discharged, and referred to Committee on Pensions.

A bill (H. R. 11718) for the relief of Robert E. Thomas, administrator de bonis non cum testamento annexo of Edward Thomas, deceased, and James George James—Committee on Claims discharged, and referred to the Committee on War Claims.

A bill (H. R. 17690) granting a pension to Ellen E. Leary—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 17580) for the relief of the Mille Lac band of Chippewa Indians, in the State of Minnesota, and for other purposes—Committee on Claims discharged, and referred to the Committee on Indian Affairs.

A bill (H. R. 15381) for the relief of W. J. Kountz—Committee on War Claims discharged, and referred to the Committee on Claims.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ADAMS of Pennsylvania: Petition of the American Federation of Labor, against bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

By Mr. BARCHFELD: Petition of C. E. Petrie, for bill H. R. 15442, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of Florence Keen, for an appropriation to investigate conditions in the Kongo Free State—to the Committee on Foreign Affairs.

Also, petition of the Great Western Oil Company, for Interstate Commerce Commission control of railway rates—to the Committee on Interstate and Foreign Commerce.

Also, paper to accompany bill for relief of William A. Tyler and Henry M. Serena—to the Committee on Claims.

Also, petition of the American Federation of Labor, against bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

By Mr. BARTHOLDT: Petition of J. Johnson et al., for investigation of affairs in the Kongo Free State—to the Committee on Foreign Affairs.

By Mr. BURKE of Pennsylvania: Petition of the Great Western Oil Company, for the interstate-commerce bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of Florence Keen, for investigation of affairs in the Kongo Free State—to the Committee on Foreign Affairs.

Also, petition of the American Federation of Labor, against bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

By Mr. BURTON of Ohio: Petition of the Cleveland Methodist Ministers' Association, for closing of Jamestown Exposition on Sundays—to the Committee on Industrial Arts and Expositions.

Also, petition of the Cleveland Methodist Ministers' Association, against liquor selling in Soldiers' Homes, State and national—to the Committee on Alcoholic Liquor Traffic.

By Mr. CLARK of Florida: Petition of many citizens of New York and vicinity, for relief for heirs of victims of *General Slocum* disaster—to the Committee on Claims.

By Mr. COOPER of Wisconsin: Petition of Edward E. Busek, of Kenosha, Wis., against bill H. R. 12973—to the Committee on Foreign Affairs.

By Mr. DAWSON: Petition of the executive council of the American Federation of Labor, against bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

Also, petition of citizens of Clinton, Iowa, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of the Iowa Retail Clothiers' Association, against a parcels-post law—to the Committee on the Post-Office and Post-Roads.

By Mr. DIXON of Montana: Papers to accompany bill H. R. 17622, relative to survey of certain lands—to the Committee on the Public Lands.

By Mr. DRAPER: Petition of the American Federation of Labor, against bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

By Mr. ESCH: Petition of the American Federation of Labor, against bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

Also, petition of A. Hershheimer, jr., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. GOLDFOGLE: Petition of many citizens of New York and vicinity, for relief for heirs of victims of *General Slocum* disaster—to the Committee on Claims.

Also, petition of the Marine Association of New York, for an appropriation to deepen Coney Island channel—to the Committee on Rivers and Harbors.

Also, petition of the American Society for the Prevention of Cruelty to Animals, against bill H. R. 221—to the Committee on the District of Columbia.

Also, petition of the New York Chapter of the American Institute of Architects, for art works free of duty—to the Committee on Ways and Means.

Also, petition of the Inter-Municipal Research Committee, for bills H. R. 4462 and S. 2962, relative to labor of women and children in the District of Columbia—to the Committee on the District of Columbia.

By Mr. GRAHAM: Petition of Pride of the West Council, No. 27, Daughters of Liberty, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of citizens of New York and vicinity, for relief for heirs of victims of *General Slocum* disaster—to the Committee on Claims.

Also, petition of the General Federation of Women's Clubs, Mrs. William McCarty, and Kate Cassatt McKnight, for an appropriation to investigate the industrial condition of women in the United States—to the Committee on Appropriations.

Also, petition of Florence Keen, for prompt investigation of affairs in the Kongo Free State—to the Committee on Foreign Affairs.

Also, petition of Florence Keen, for forest reservations in the White Mountains—to the Committee on Agriculture.

Also, petition of the Great Western Oil Company, for the interstate railway bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of the American Federation of Labor, against bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

By Mr. GREENE: Petition of Irving N. Tilden et al., of Mittapore, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. GUDGER: Paper to accompany bill for relief of Alonzo E. Reece—to the Committee on Invalid Pensions.

By Mr. HAY: Petition of citizens of Newmarket, Va., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. HAYES: Petition of citizens of Saratoga, Cal., for relief of Indians of California—to the Committee on Indian Affairs.

Also, petition of the Merchants' Exchange of Oakland, Cal., for bill H. R. 10851—to the Committee on the Library.

Also, petition of the Northern California Indian Association, for relief of landless Indians in California—to the Committee on Indian Affairs.

Also, resolution of San Francisco Labor Council, for investigation of officers of the Western Federation of Miners—to the Committee on the Judiciary.

By Mr. HEFLIN: Paper to accompany bill for relief of Mrs. E. J. Martin, of Mount Olive, Ala.—to the Committee on War Claims.

By Mr. HOWELL of Utah: Petition of many citizens of New York and vicinity, for relief for heirs of victims of *General Slocum* disaster—to the Committee on Claims.

Also, paper to accompany bill for relief of Charles M. Sexton—to the Committee on Invalid Pensions.

By Mr. HUNT: Petition of the American Federation of Labor, against bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

By Mr. KAHN: Petition of the San Francisco Labor Council, against secret extradition of Charles Moyer, W. D. Hayward, and G. A. Pettibone from Colorado to Idaho—to the Committee on the Judiciary.

By Mr. KEIFER: Petition of the Bittendorf Wheel Company and the American Seeding Machine Company, of Ohio, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. KNOWLAND: Petition of the Riverside Chamber of Commerce, for interstate-commerce control by the Commission of lines of interstate transportation—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Merchants' Exchange of Oakland, Cal., for bill H. R. 10851—to the Committee on the Library.

By Mr. LACEY: Petition of Brotherhood of Railway Trainmen, for the anti-injunction bill—to the Committee on the Judiciary.

By Mr. LAFEAN: Petition of Dallastown Council, No. 105,

Daughters of Liberty, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. LINDSAY: Paper to accompany bill for relief of James W. Hager—to the Committee on Invalid Pensions.

Also, petition of the Inter-Municipal Research Committee, favoring bills H. R. 4462 and S. 2962—to the Committee on the District of Columbia.

Also, paper to accompany bill for relief of David Robertson—to the Committee on Military Affairs.

By Mr. LOUDENSLAGER: Petition of the Rio Grande Canning Company, of New Jersey, for the pure-food bill—to the Committee on Interstate and Foreign Commerce.

By Mr. MAYNARD: Petition of Tidewater Council, No. 30, of Berkley, Va., and Mason Council, No. 153, of Portsmouth, Va., for the Penrose bill (S. 4376)—to the Committee on the Judiciary.

Also, petition of citizens of Newport News, Va., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. MOORE: Paper to accompany bill for relief of George W. Heurie—to the Committee on Invalid Pensions.

By Mr. MOUSER: Petition of citizens of Clyde, Ohio, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. NEEDHAM: Petition of Brotherhood of Railway Trainmen, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. OLCOTT: Petition of John B. Drury, editor of the Christian Intelligencer, for relief of landless Indians in California—to the Committee on Indian Affairs.

By Mr. RUPPERT: Petition of the executive council of the American Federation of Labor, against bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

By Mr. RYAN: Petition of the executive council of the American Federation of Labor, against bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

By Mr. SHERMAN: Petition of the New Century Club, of Utica, N. Y., for an appropriation for an investigation into the industrial condition of women in the United States (previously referred to the Committee on the Census)—to the Committee on Appropriations.

By Mr. SMITH of Maryland: Petition of Walter L. Adkins and 29 others, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. SPERRY: Petition of citizens of New Haven, Conn., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of the American Federation of Labor, against bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

By Mr. SULLIVAN of Massachusetts: Petition of many citizens of Massachusetts, for investigation into affairs in the Kongo Free State—to the Committee on Foreign Affairs.

By Mr. VOLSTEAD: Petition of Harris & Lewis, of Vesta, Minn., and J. R. Landy, against the tariff on linotype machines—to the Committee on Ways and Means.

Also, petition of citizens of Minnesota, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. WOOD of New Jersey: Petition of the American Federation of Labor, against bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

By Mr. ZENOR: Petitions of the Hoosier Democrat, the Telephone, the Signal, the Democrat, the Rockport Democrat, the Progress Examiner, the News and Democrat, the Graphic, the Game Bird, and the News, against the tariff on linotype machines—to the Committee on Ways and Means.

Also, petition of the Indiana Travelers' Association, of New Albany, for a reduction of postage to a 1 cent rate—to the Committee on the Post-Office and Post-Roads.

SENATE.

WEDNESDAY, *April 4, 1906.*

Prayer by the Chaplain, Rev. EDWARD E. HALE.

The Journal of yesterday's proceedings was read and approved.

MAIL SERVICE IN PORTO RICO.

The VICE-PRESIDENT. On yesterday the Chair laid before the Senate a communication from the Postmaster-General, suggesting an amendment to the bill (H. R. 11976) for the relief of the Compañia de los Ferrocarriles de Puerto Rico, and it was referred to the Committee on Post-Offices and Post-Roads. That committee will be discharged from the further consideration of the communication, and it will be referred to the Committee on Claims, if there be no objection.

ACCEPTANCE OF DECORATIONS.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of State, requesting that certain officers of the Army be authorized to accept decorations which have been conferred upon each of them by the Emperor of Japan; which was referred to the Committee on Foreign Relations, and ordered to be printed.

FREE TRANSPORTATION ON RAILROADS.

The VICE-PRESIDENT laid before the Senate a communication from the Interstate Commerce Commission, transmitting, in response to a resolution of the 28th ultimo, certain information relative to the transportation of persons in exchange for newspaper advertising and other service, and other matters of similar import; which, on motion of Mr. GALLINGER, was, with the accompanying papers, referred to the Committee on Interstate Commerce, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 8461) to amend chapter 1495, Revised Statutes of the United States, entitled "An act for the survey and allotment of lands now embraced within the limits of the Flathead Indian Reservation, in the State of Montana, and the sale and disposal of all surplus lands after allotment," as amended by section 9 of chapter 1479, Revised Statutes of the United States; asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. SHERMAN, Mr. CURTIS, and Mr. STEPHENS of Texas, managers at the conference on the part of the House.

The message also announced that the House had passed a bill (H. R. 14316) to further protect the public health and make more effective the national quarantine; in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the Vice-President:

S. 2872. An act for the relief of the French Trans-Atlantic Cable Company; and

S. 4130. An act to authorize the Capital City Improvement Company, of Helena, Mont., to construct a dam across the Missouri River.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented a petition of the Kongo Reform Association of Boston, Mass., praying for an investigation into the existing conditions in the Kongo Free State; which was referred to the Committee on Foreign Relations.

Mr. PLATT presented a petition of the congregation of the Methodist Episcopal Church of Pultneyville, N. Y., praying for the enactment of legislation to remove the duty on denaturized alcohol; which was referred to the Committee on Finance.

He also presented sundry petitions of Empire Council, No. 28, Junior Order of United American Mechanics, of Greenport, N. Y., praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

He also presented a memorial of the South Side Citizens' Improvement Association, of Jamaica, N. Y., remonstrating against the enactment of legislation authorizing a discontinuance of the building of ships at the Brooklyn Navy-Yard; which was referred to the Committee on Naval Affairs.

He also presented a petition of the New York Chapter, American Daughters of the Confederacy, of the State of New York, praying for the enactment of legislation to establish a national military park at Petersburg, Va.; which was referred to the Committee on Military Affairs.

Mr. PERKINS presented a petition of the Chamber of Commerce of Sutter County, Cal., praying that an appropriation of $10,000 be made to enable the Department of Agriculture to combat the pear blight; which was referred to the Committee on Agriculture and Forestry.

He also presented a petition of sundry citizens of Pasadena, Cal., praying for the removal of the internal-revenue tax on denaturized alcohol; which was referred to the Committee on Finance.

He also presented a memorial of sundry citizens of California, remonstrating against the repeal of the present Chinese-exclusion law; which was referred to the Committee on Immigration.

He also presented petitions of the Woman's Club of San Jose; the Woman's Club of Santa Clara; the Philomathean Club, of Stockton; the California Club; the Corona Club, of

San Francisco; the Shakespeare Club, of Nevada City; the Ebell Club, of Santa Ana Valley; the Wednesday Afternoon Club of Alhambra; the Saturday Afternoon Club of Ukiah; the California Badger Club, of Los Angeles; the Ebell Club, of Pomona; the California Federation of Women's Clubs, and of the Adelphian Club, of Alameda, all of the General Federation of Women's Clubs, in the State of California, praying for an investigation into the industrial conditions of the women in the United States; which were referred to the Committee on Education and Labor.

He also presented petitions of sundry citizens of the State of California, praying for the enactment of legislation for the relief of the landless Indians of northern California; which were referred to the Committee on Indian Affairs.

Mr. DRYDEN presented a petition of the Woman's Club of Orange, N. J., praying for the enactment of legislation to provide playgrounds in the District of Columbia; which was referred to the Committee on the District of Columbia.

He also presented the petition of Dr. E. S. Corson, of Bridgeton, N. J., praying for the removal of the internal-revenue tax on denaturized alcohol; which was referred to the Committee on Finance.

He also presented petitions of the General Federation of Women's Clubs of New Jersey, praying for an investigation into the industrial condition of the women of the country; which were referred to the Committee on Education and Labor.

He also presented a petition of Local Lodge No. 119, Brotherhood of Railroad Trainmen, of Jersey City, N. J., and sundry petitions of the Daughters of Liberty of New Jersey, praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

He also presened petitions of sundry citizens of Newark, Elizabeth, East Orange, Jersey City, Salem, Somerville, West Orange, Linwood, Englishtown, Summerfield, North Long Branch, Trenton, Weehawken, Roselle, Brookville, South River, Hoboken, Rockaway, Perth Amboy, Boundbrook, Dunellen, Oceanport, Adelphia, Freehold, Mount Holly, Ridgewood, Camden, Chews, Metuchen, Asbury Park, Paterson, Erma, Hopewell, Lindenwold, Washington, Bayonne, Glenridge Coldspring, Seaville, Long Branch, Tuckerton, Milltown, Oakhurst, Readington, Beverly, Pleasantville, Burlington, Perrineville, Frenchtown, Milburn, New Durham, Barnegat, Redbank, Seabright, and Oldbridge, all in the State of New Jersey, praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

He also presented memorials of the R. H. Comey Company, of Camden; of James M. Seymour, jr., of Newark; of E. Copland, of Clarksboro; of L. B. Coddington, of Murray Hill, and of P. S. Wheeler, of Ringoes, all in the State of New Jersey; of Henry A. Dreer, of Philadelphia, Pa., and of Hugh F. Fox, of New York City, N. Y., remonstrating against any further appropriation being made for the annual distribution of free seeds; which were referred to the Committee on Agriculture and Forestry.

Mr. GAMBLE presented a petition of Local Division No. 213, Brotherhood of Locomotive Engineers, of Huron, S. Dak., praying for the passage of the so-called "employers' liability bill," also the anti-injunction bill; which was referred to the Committee on Interstate Commerce.

He also presented a petition of the Woman's Club of Dell Rapids, S. Dak., praying for an investigation into the industrial condition of the women of the country; which was referred to the Committee on Education and Labor.

He also presented a petition of the Woman's Christian Temperance Union of Ipswich, S. Dak., praying for the removal of the internal-revenue tax on denaturized alcohol; which was referred to the Committee on Finance.

He also presented a petition of the National Wholesale Lumber Dealers' Association, praying for the enactment of legislation to repeal the pilotage discriminations against sailing vessels in the coasting trade; which was ordered to lie on the table.

He also presented a petition of the Westchester Woman's Club, of Mount Vernon, N. Y., praying for the enactment of legislation to regulate the employment of child labor in the District of Columbia; which was referred to the Committee on the District of Columbia.

Mr. MARTIN presented petitions of Fries Council, No. 151, of Fries; Cappahosic Council, No. 84, of Cappahosic; Liberty Council, No. 13, of Swansboro; McKinley Council, No. 47, of Gilmerton; Bloxom Council, No. 119, of Bloxom; Dumfries Council, No. 37, of Dumfries; New Hope Council, No. 15, of New Hope; Gilt Edge Council, No. 42, of Mount Sidney; Tidewater Council, No. 30, of Berkley; Mason Council, No. 152, of Portsmouth; Bertha Council, No. 156, of Foster Falls, and of Cyclopean Towers Council, No. 87, of Mount Solon, all of the Junior Order United American Mechanics, in the State of Virginia, praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

Mr. FRYE presented a memorial of the executive council of the American Federation of Labor, remonstrating against the enactment of legislation to abolish compulsory pilotage in certain ports; which was ordered to lie on the table.

Mr. TILLMAN presented a petition of the commercial bodies of Charleston, S. C., praying for the enactment of legislation providing for an increase of the United States Coast Artillery forces by an addition of 4,970 men; which was referred to the Committee on Military Affairs.

REPORTS OF COMMITTEES.

Mr. GEARIN (for Mr. CARMACK), from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 12182) granting a pension to Sallie W. Mason; and

A bill (H. R. 1895) granting a pension to H. Edward Goetz.

Mr. GAMBLE, from the Committee on Indian Affairs, to whom was referred the bill (S. 2993) to ratify an agreement with the Yankton Sioux Indians of South Dakota, and making appropriation to carry the same into effect, reported it without amendment, and submitted a report thereon.

Mr. BURNHAM, from the Committee on Claims, to whom was referred the bill (H. R. 5539) for the relief of the State of Rhode Island, reported it with an amendment.

He also, from the same committee, to whom was referred the bill (S. 190) for the relief of L. K. Scott, reported it without amendment, and submitted a report thereon.

Mr. PILES, from the Committee on Pacific Islands and Porto Rico, to whom the subject was referred, reported a bill (S. 5513) to provide for the disposition of certain property in the Territory of Hawaii; which was read twice by its title.

Mr. KEAN, from the Committee on Claims, to whom was referred the bill (H. R. 2996) to reimburse Capt. Sydney Layland for sums paid by him while master of the U. S. transport *Mobile* in July and August, 1898, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 4842) to reimburse Capt. Sydney Layland for sums paid by him while master of the U. S. transport *Mobile* in July and August, 1898, reported adversely thereon, and the bill was postponed indefinitely.

Mr. CULLOM, from the Committee on Foreign Relations, reported an amendment proposing a full settlement of the claims of Germany, Denmark, and France against the United States for losses incurred in connection with the disturbances in Samoa in 1899, intended to be proposed to the general deficiency appropriation bill, and moved that it be referred to the Committee on Appropriations and printed; which was agreed to.

PUBLIC BUILDING AT YANKTON, S. DAK.

Mr. SCOTT. I am directed by the Committee on Public Buildings and Grounds, to whom was referred the bill (S. 5059) to increase the limit of cost of the post-office at Yankton, S. Dak., to report it favorably without amendment, and I submit a report thereon.

Mr. GAMBLE. I ask unanimous consent for the present consideration of the bill just reported by the Senator from West Virginia.

The VICE-PRESIDENT. The bill will be read for the information of the Senate.

The Secretary read the bill; and, there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It proposes to increase the limit of cost of the United States post-office and weather bureau at Yankton, S. Dak., from $80,000 to $81,500, the increase to be employed for the placing of exterior lamp standards, additional lock boxes, together with sundry other minor items.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. FRYE introduced a bill (S. 5514) to amend section 4472 of the Revised Statutes, relating to the carrying of dangerous articles on passenger steamers; which was read twice by its title, and referred to the Committee on Commerce.

Mr. DRYDEN introduced a bill (S. 5515) granting an increase of pension to Matilda C. Frizelle; which was read twice by its title, and referred to the Committee on Pensions.

Mr. NIXON introduced a bill (S. 5516) granting an increase of pension to Alfred M. Hamlen; which was read twice by its title, and referred to the Committee on Pensions.

Mr. PILES introduced a bill (S. 5517) granting an increase of pension to William H. H. Shaffer; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. MARTIN introduced a bill (S. 5518) for the relief of the vestry of Falls Church, in Falls Church, Va.; which was read twice by its title, and referred to the Committee on Claims.

He also introduced a bill (S. 5519) for the improvement of the national boulevard, at Fredericksburg, Va., owned by the United States; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. LONG introduced a bill (S. 5520) to amend an act entitled "An act granting to the Choctaw, Oklahoma and Gulf Railroad Company the power to sell and convey to the Chicago, Rock Island and Pacific Railway Company all the railway property, rights, franchises, and privileges of the Choctaw, Oklahoma and Gulf Railroad Company, and for other purposes," approved March 3, 1905; which was read twice by its title, and referred to the Committee on Indian Affairs.

He also introduced a bill (S. 5521) to authorize Tyronza Central Railroad Company to construct a bridge across Little River, in the State of Arkansas; which was read twice by its title, and referred to the Committee on Commerce.

Mr. HEYBURN introduced a bill (S. 5522) granting an increase of pension to Charles E. Sischo; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. GAMBLE introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 5523) granting an increase of pension to Thomas J. Pickett; and

A bill (S. 5524) granting an increase of pension to James W. Divelbiss.

Mr. BEVERIDGE introduced a bill (S. 5525) to adopt the weights and measures of the metric system as the standard weights and measures of the Departments of the Government of the United States; which was read twice by its title, and referred to the Select Committee on Standard Weights and Measures.

Mr. PERKINS introduced a bill (S. 5526) authorizing the establishment of a light-vessel off Orford Reef, 5 miles north of Cape Blanco, Oregon; which was read twice by its title, and referred to the Committee on Commerce.

He also introduced a bill (S. 5527) granting a pension to Charles E. Lancaster; which was read twice by its title, and referred to the Committee on Pensions.

Mr. CULLOM introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 5528) granting an increase of pension to Caroline Gunsten; and

A bill (S. 5529) granting an increase of pension to William Markman.

Mr. BURROWS introduced a bill (S. 5530) authorizing the procuring of additional land for the enlargement of the site for the public building at Kalamazoo, Mich.; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Public Buildings and Grounds.

Mr. MONEY introduced a bill (S. 5531) for the relief of Francisco Krebs; which was read twice by its title, and referred to the Committee on Private Land Claims.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. MARTIN submitted an amendment proposing to appropriate $50,000 for the improvement of the national boulevard at Fredericksburg, Va., intended to be proposed by him to the Army appropriation bill; which was referred to the Committee on Military Affairs, and ordered to be printed.

Mr. CLARK of Wyoming submitted an amendment proposing to appropriate $50,000 for the construction of a main sewer from Wisconsin avenue, in Tennallytown, to Rock Creek, in the District of Columbia, intended to be proposed by him to the District of Columbia appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

TIMBER ON PUBLIC LANDS.

Mr. FULTON submitted an amendment intended to be proposed by him to the bill (S. 5327) to provide for the disposal of timber on public lands chiefly valuable for timber, and for other purposes; which was ordered to lie on the table, and be printed.

FOREST RESERVES.

Mr. HEYBURN. I submit a resolution and ask for its present consideration.

The resolution was read, as follows:

Resolved, That the Secretary of Agriculture be, and he is hereby, directed to furnish the Senate with information in detail as to the amount of money that has been collected under the provisions of section 5 of the act entitled "An act providing for the transfer of forest reserves from the Department of the Interior to the Department of Agriculture," approved February 1, 1905, from the sale of timber, from grazing privileges, rights of way, and from canals, railroads, telephone lines, and so forth, and for permits to conduct hotels, stores, and other lines of business upon forest reserves during the last fiscal year; and an approximate estimate of the amount that will probably be collected during the present fiscal year; also for what purposes the money already collected is being expended.

Mr. BEVERIDGE. Let the resolution go over, Mr. President.

The VICE-PRESIDENT. Under objection, the resolution will lie over.

Mr. HEYBURN. I desire to give notice that to-morrow morning I shall call up the resolution.

The VICE-PRESIDENT. The resolution will go over until to-morrow, under objection.

THE SENATE.

Mr. LODGE. I ask to have printed as a document a list of books, articles, etc., treating of the United States Senate, compiled under the direction of A. P. C. Griffin, chief of the division of bibliography, Library of Congress.

The VICE-PRESIDENT. Without objection, it is so ordered.

FLATHEAD INDIAN RESERVATION LANDS.

The VICE-PRESIDENT laid before the Senate the action of the House of Representatives disagreeing to the amendment of the Senate to the bill (H. R. 8461) to amend chapter 1495, Revised Statutes of the United States, entitled "An act for the survey and allotment of lands now embraced within the limits of the Flathead Indian Reservation in the State of Montana, and the sale and disposal of the surplus lands under allotment," as provided by section 9 of chapter 1479, Revised Statutes of the United States, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. CLARK of Montana. I move that the Senate insist upon its amendment, and agree to the conference asked for by the House of Representatives.

The motion was agreed to.

By unanimous consent the Vice-President was authorized to appoint the conferees on the part of the Senate, and Mr. CLARK of Montana, Mr. MCCUMBER, and Mr. GAMBLE were appointed.

HOUSE BILL REFERRED.

H. R. 14316. An act to further protect the public health and make more effective the national quarantine was read twice by its title, and referred to the Committee on Public Health and National Quarantine.

URGENT DEFICIENCY APPROPRIATION BILL.

Mr. HALE. I ask the Senate to proceed to the consideration of the urgent deficiency appropriation bill.

There being no objection the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 17359) making appropriations to supply additional urgent deficiencies in the appropriations for the fiscal year ending June 30, 1906, and for prior years, and for other purposes, which had been reported from the Committee on Appropriations with amendments.

Mr. HALE. I ask that the formal reading of the bill be dispensed with and that the amendments of the committee be considered as they are reached in the reading of the bill.

The VICE-PRESIDENT. Without objection, it is so ordered. The Secretary will read.

The Secretary proceeded to read the bill.

The first amendment of the Committee on Appropriations was, under the head of "Department of State," on page 2, line 6, after the word "dollars," to insert "Said delegates shall be appointed so that, as far as practicable, the different sections of the country shall be represented;" so as to make the clause read:

To meet the actual and necessary expenses of the delegates of the United States to the Third International Conference of American States to be held at the city of Rio de Janeiro, beginning on the 21st day of July, 1906, and of their salaried clerical assistants, to be expended in the discretion of the Secretary of State, and to continue available during the fiscal year 1907, $60,000. Said delegates shall be appointed so that, as far as practicable, the different sections of the country shall be represented.

The amendment was agreed to.

The next amendment was, on page 2, after line 8, to insert:

To enable the Government to participate in the Second International Peace Conference to be convened at The Hague, the Netherlands, and for the payment of the compensation and expenses of a commission thereto on the part of the United States, $50,000, or so much thereof as may be necessary, to be expended under the direction of the Secretary of State, and to be available until used.

The amendment was agreed to.

The next amendment was, on page 2, after line 15, to insert:

To enable the Government to participate in the International Conference for the Revision of the Geneva Convention of August 22, 1864, which is to convene at Geneva, Switzerland, on June 11, 1906, and for the payment of the compensation and expenses of delegates thereto on the part of the United States, of whom one shall be an officer of the Army and one of the Navy, $15,000, or as much thereof as may be necessary, to be expended under the direction of the Secretary of State.

The amendment was agreed to.

The next amendment was, at the top of page 3, to insert:

TREASURY DEPARTMENT.

For transportation of silver coin, including fractional silver coin, by registered mail or otherwise, $15,000; and in expending this sum the Secretary of the Treasury is authorized and directed to transport from the Treasury or subtreasuries, free of charge, silver coin, when requested to do so: *Provided*, That an equal amount in coin or currency shall have been deposited in the Treasury or such subtreasuries by the applicant or applicants. And the Secretary of the Treasury shall report to Congress the cost arising under this appropriation.

The amendment was agreed to.

The next amendment was, under the head of "Interstate Commerce Commission," on page 3, line 13, after the word "to," where it occurs the second time, to strike out "properly carry out the objects" and insert "give effect to the provisions;" so as to read:

To enable the Interstate Commerce Commission to give effect to the provisions of the act to regulate commerce and all acts and amendments supplementary thereto, including the joint resolution "instructing the Interstate Commerce Commission to make examinations into the subject of railroad discriminations and monopolies in coal and oil, and report on the same from time to time," approved March 7, 1906, etc.

The amendment was agreed to.

The next amendment was, under the head of "District of Columbia," on page 4, after line 18, to insert:

For contingent expenses of the government of the District of Columbia, including the same objects specified under this title of appropriation in the District of Columbia appropriation act for the fiscal year 1906, $279.09.

The amendment was agreed to.

The next amendment was, on page 4, after line 23, to insert:

For contingent expenses, horseshoeing, furniture, fixtures, oil, medical and stable supplies, harness, blacksmithing, gas and electric lighting, flags and halyards, and other necessary items, for the fire department, $5,000.

The amendment was agreed to.

The next amendment was, on page 5, line 13, before the word "shall," to strike out "which" and insert "the foregoing amounts to meet deficiencies in the appropriations on account of the District of Columbia;" so as to make the clause read:

For the collection and disposal of garbage and dead animals, miscellaneous refuse and ashes from private residences in the city of Washington and the more densely populated suburbs; for collection and disposal of night soil in the District of Columbia, and for the payment of necessary inspection, livery of horses, and incidental expenses, $46,646.42. One-half of the foregoing amounts to meet deficiencies in the appropriations on account of the District of Columbia shall be paid from the revenues of the District of Columbia and one-half from the Treasury of the United States.

The amendment was agreed to.

The next amendment was, on page 5, after line 16, to insert:

NAVY DEPARTMENT.

For the reclamation of that portion of the naval station at Honolulu, Hawaii, known as the Reef, from material now being dredged from the harbor at Honolulu, and for the necessary dikes or retaining walls, to be expended under the direction of the Secretary of War and the supervision of the Chief of Engineers, such portion thereof as may be agreed upon between the Secretary of War and the Secretary of the Navy as necessary for fortification purposes to be transferred to the War Department, $35,000, or so much thereof as may be necessary.

The amendment was agreed to.

The next amendment was, on page 5, after line 2, to insert:

DEPARTMENT OF THE INTERIOR.

For the completion of the resurveys in San Diego County, Cal., authorized by act of Congress approved July 1, 1902, including the surveying out by metes and bounds of all valid claims of record up to March 31, 1906, $20,000.

The amendment was agreed to.

The reading of the bill was concluded.

Mr. HALE. I offer the following committee amendment.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. On page 5, after line 15, insert:

WAR DEPARTMENT.

For transportation of the Army and its supplies on account of the fiscal year 1903, including all objects mentioned under this head in the Army apropriation act for the fiscal year 1903, $25,500.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The VICE-PRESIDENT. The question is, Shall the bill pass?

Mr. DANIEL. Mr. President, I wish to address the Senate, but I do not desire to interrupt the Senator from Maine. He probably has something to say on the bill.

Mr. HALE. It does not interrupt me. Of course, if the Senator has any proposition to make or any remarks to submit it can be done now.

Mr. DANIEL. Mr. President, I desire to call attention to line 9, on the first page of the bill, and to the provisions thereafter made for the Third International Conference of American States to be held at the city of Rio de Janeiro. I will read that part of the bill and the amendment which I had proposed, and which has been adopted on the suggestion of the Committee on Appropriations:

To meet the actual and necessary expenses of the delegates of the United States to the Third International Conference of American States to be held at the city of Rio de Janeiro, beginning on the 21st day of July, 1906, and of their salaried clerical assistants, to be expended in the discretion of the Secretary of State, and to continue available during the fiscal year 1907, $60,000.

To that clause of the bill or act the committee, on my motion, recommended the adoption of the amendment which is in the following words:

Said delegates shall be appointed so that, as far as practicable, the different sections of the country shall be represented.

As to the form of this appropriation, Mr. President, it occurs to me that we are following the fashion in making it which has become too common—that of being indefinite and vague in our appropriations. I am not going to oppose the proposition in view; indeed, I am in favor of it. The Secretary of State has set forth in the hearing before the House committee the valuable ends to be subserved in the conference of American States. I believe his views are wise and just, and that we should seek in all befitting ways to get in closer trade communion with the sister republics of South and Central America.

But this method of appropriation is an exceedingly loose one. It will be observed that we are appropriating $60,000, in the discretion of the Secretary of State, for this international conference for the purpose of paying the expenses of delegates and their clerical assistants. It will also be observed that no number of delegates is mentioned; that no definition of their duties is attempted; that no term of service is indicated; that they are not made confirmatory by the Senate, and that the appropriation is unbounded by any of the definitions which should usually accompany appropriations.

OBJECT OF THE AMENDMENT NONSECTIONAL AND NONPARTISAN.

The amendment was added that the delegates shall be appointed so that, as far as practicable, the different sections of the country should be represented, for the reason that the committee thought the time had passed when that great section of the Union in the southern part of the Republic should take so little part in the great affairs of this nation. I am heartily in favor of that amendment, which I initiated, and while I neither seek nor suppose that I could at this juncture attain any large practical result, I hope to put in the minds of my colleagues in the Senate a fair view of a situation which ought to be recognized by whatever party is in power.

No partisan feelings actuate me, and I intend to appeal to none on the part of anybody. The facts must speak for themselves; and the fact is, Mr. President, that whatever may be its cause and whatever may be the method of its correction, there are some ten or twelve or more States in the American Union which have not a proper representative relation to this Government through official representatives in the higher spheres of political life.

WHY THE SOUTH IS NOT PROPORTIONATELY REPRESENTED IN THE HIGHER SPHERES OF POLITICAL LIFE.

Of course we all recognize that, in a general way, it is the result of a mighty revolution, a constitutional revolution, a sectional revolution, a social revolution, a revolution that swept away the ancient landmarks and produced new ones for the guidance of the American people. I am not here to complain of that revolution on one side or another. The sides of it have disappeared. They belong to ancient history. A whole generation of mankind has come upon the stage and passed from it since that revolution ended. The population of the United States has nearly trebled since that revolution ended. The youths of to-day who are looking toward the future of this country do not compute that revolution or what happened to produce it or who were in it as factors in their schemes of life.

What can be the impediment to the proper and fair representation of all the southern country in the high missions of political life? Unquestionably, Mr. President, it is in large measure if not altogether one of party relation. I shall discuss that aspect but lightly, for there is something in this question which is far above party relation. The fact could not be

denied, and the man who asserted that there was not good material in all that southern country, intellectual, moral, patriotic, and available for any mission that this Government could bestow, would be looked upon as, and undoubtedly would be, a narrow-minded bigot. Those who belong to a political party that is not in sympathy on many principles with the party in power no doubt realize, and should realize, that the ruling party is under no political or party obligations to them. They can neither seek nor expect what are called "political favors."

But, Mr. President, is it not time that all of us were giving our attention to the fact that the things about which the American people differ make but a very small percentage of the great mass of American affairs, and that if you were to compare their differences to the matters in which they agree it would be as a fraction in contrast with a mighty whole number?

THE REMEDY.

I do not know that I would be capable, even were I to study to do so, to suggest any remedy that would fully reach the trouble. It has got to be found in the hearts and in the minds of men who hold ever in view the fundamental fact that this is the mightiest representative Republic of the world, that it was fabricated with a view of having its geographical parts fairly and fully represented in the Government autonomy and mechanism. As an ideal of human affairs and as a fabric of constructive genius, our Constitution was never surpassed in the cogitations or dreams of men. How, then, can we make the reality the nearer approach this scheme and this noble fancy of what our Government should be? Only by inculcating the spirit to do so, and only by doing so ourselves when we have the opportunity to do it.

CIVIL SERVICE AND THE MINOR POSITIONS ARE IN REPRESENTATIVE RELATIONS.

In that great structure of civil service which has largely taken possession of the administrative and minor portions of our Government the principle for which I contend was put into actuality and has taken representative and proportionate form. I much prefer to praise rather than to criticise, to commend rather than to blame, and many things have been recently transpiring which have so heartily my commendation and recognition that I am justified in referring to them.

In the minor departments of this Government, and under the rule of the party that is now in power, many of the States which do not give them a single electoral vote, and to which they can not at this time look for party ascendancy, are as fully, and sometimes more fully, represented in various bureaus and departments than those who are in accord with the party in power. I consider that to be a most worthy and noble fact in our political history. It is one that should have recognition and high respect from all Americans, whatever may be their political contacts and associations, as an indication of the subsidence of sectionalism.

IN WAR THE SOUTH REPRESENTED, AND SECTIONALISM DISAPPEARED.

There is another fact, Mr. President. Just as soon as the tocsin of war sounded in this land there was no section. If America had been comprehended in a ward or in a township, it could not have been more united with one thought nor more ready to stand up and to fight and to suffer and to die for one principle. Under the flag of the Union in the presence of an enemy all America was as one man.

And, Mr. President, the President of the United States was indeed the chief of a united army and of a whole people. There were no discriminations in the commissions granted. There was no looking over the page of ancient history to inquire what a man was thirty or forty or fifty years ago, unless, Mr. President, with a fine ideal of making it more pleasant to one who might suppose that he was liable to being ignored to accept a mission and discharge the responsibilities which his then situation seemed to suggest and to impose upon him. It was a great scene before the nations of all this earth when the American heart was touched by a great occasion. The electricity of patriotic thought found no nonconductor anywhere throughout the Republic, and geographical lines disappeared.

A STEP FORWARD.

So, then, Mr. President, it makes it unpleasant for me, when I see that so much that is noble and commendable has been done, to hold up any page in which to my own fancy the people south of the Potomac and stretching to the Mississippi and down to the Empire State of Texas have not that recognition in the higher walks of the public service which due representation ought to accord to them.

This matter before us now is comparatively a small one, but it is not a matter to be ignored. One step at a time must be taken in all advancements. We take one small step in this amendment.

THE INTERNATIONAL CONFERENCE TO BE HELD IN JULY AT RIO DE JANEIRO AND THE DELEGATES THERETO.

In July the great South American Republic of Brazil is to entertain at Rio de Janeiro the delegates to an international conference of American States. That Republic has appropriated a half million dollars for that purpose; and when the delegates from the United States arrive there they will be met with the hospitality and generosity of a Republic which has extended open arms, and liberally provided to receive them.

How many delegates will go? The statute does not say. We learn through the hearings that it is in view to appoint five gentlemen. I have no objection to any one of them. No doubt each one of them is in his personality a most fitting selection. Two of them, though, are from the great city of Chicago, in the State of Illinois. One is from Pennsylvania. Another is the late minister to Panama. I believe he hails originally from the trans-Mississippi and now from New York. The other is the Porto Rican Delegate, not a Representative, in the Congress of the United States. Porto Rico is recognized as being in the United States, so far as having a delegate to attend an international convention or conference of American States is concerned. If that delegate can explain to them fully and exactly the status of Porto Rico in connection with the American Union, he will have a mind for jurisprudence and for expression such as our own country has not yet produced. I wish him a safe deliverance when he undertakes the exposition.

PORTO RICO REPRESENTED.

Mr. BACON. With the Senator's permission, I will call his attention to the fact that the Delegate from Porto Rico is not a citizen of the United States under our law. The act, if the Senator will pardon me, which organized the government of Porto Rico expressly excluded Porto Ricans from citizenship of the United States and denominated them citizens of Porto Rico.

Mr. DANIEL. Well, Mr. President, he is an attaché, or some sort of a citizen or subcitizen—brevet citizen, I suppose. He is a highly intelligent gentleman and speaks Spanish, and he would be an appropriate person, no doubt, individuality considered.

NO SOUTHERN OR WESTERN MAN A DELEGATE IN CONTEMPLATION.

I look in vain in this list or suggested list for any representative of that mighty domain that lies west of the Mississippi River; and as to the country bounded by the Gulf of Mexico and the Potomac, stretching to the Rio Grande, an American country, whose people speak English, I look in vain for the suggestion of a delegate.

Mr. President, no matter what anybody may say that is good or ill about the Republican party of this country, that it is a very great party they will not deny. It is a very able party also. It has in its councils and in its leaderships men of very broad and comprehensive minds, and no one knows better than myself, Mr. President, the fact that amongst its representatives are many men of real Americanism and of generous and noble hearts. It is to that class of men that I bring this fact for attention. I yield to none of them in my own American sentiments; and the people to whom I belong, and all those millions of splendid American people south of the Potomac, yield to none of them in ideals of patriotic duty or in readiness to serve this country in any sort of fashion, whether with honors or emoluments or in the heat and burden of service. Most happily for all of us, sir, the spirit of distrust has vanished, and the country knows that as well as we do. Though it took a little time, perhaps not unnaturally, to convince them that it is a fact, many of all sections have helped to produce that fact and can take credit and honor to themselves that such is the case.

Chicago, to which I have no manner of objection, is a city that contains many of the brightest intellects in this country. It is eminently fitting to send a man from Chicago or Illinois to this international conference; but Chicago is far on the very northern border of this country. If you have a strong arm, you can throw a rock from that point into the possessions of His Majesty King Edward VII in Canada. Nobody seems to be thought of as yet who is in all that vast region of territory west of the Mississippi River or south of the line a good deal above the line of the Potomac.

THE MOVEMENT OF THE INTERNATIONAL CONVENTION A WISE ONE.

Mr. President, I am in favor of this movement. It is the third international convention that is to be held of those South American republics. The Secretary of State, a large-minded, learned, and intelligent American, intends to go on a visit at the time of this international conference to those southern American countries, to their capitals, to mingle amongst those people, and through those delegations to attempt to make closer

trade and social relations between them and this North American Republic. We have been seeking in small and tentative ways to do this since 1828; but the time is ripe, in the mighty conflict of nations for trade, for America to stretch forth her far-reaching hands to enlarge her commerce wherever she can; and those of us who are not in the close political association of those gentlemen who are in line with the present powers that be hope that they will take recognition of the fact that these thoughts are going through the people of the southern section as well as through the people of the northern section, and through the West as well as in the South. When the American nations are convened to meet those who represent this Republic it is right and just that all parts of this Republic, at least in broad sectional relations, should be brought in contact with them and have the opportunities of that enlargement of view and that information as to conditions which are so helpful to any community or to any people.

NEVER LESS IMPEDIMENT TO FULL REPRESENTATION OF EVERY PART OF THE COUNTRY.

The people of the South, Mr. President, were for many years, for the most part, and remain largely an agricultural people. They stuck to the fields and the woods and the plantations longer than any other portion of the American people, who are now more diversifying their industries and their pursuits. But the wave, Mr. President, of the new régime is rolling over the South. Cities and towns of my own State, as well as those of other Southern States, if you could have looked at them twenty-five or thirty years ago and were to look at them to-day, you would not recognize the same communities or conditions, and everywhere modern ideas and individual thrift are prevalent. In all of these Southern States the people from all sections are mingling together, attracted by the affinities of occupation and industry which are opening up to them, and there are unfolding boundless resources and opportunities nowhere on earth surpassed. There was never a day in the history of what we sometimes call the Anglo-Saxon people—English-speaking people, and here American people—in which the assimilation of the whole body politic was proceeding either so rapidly or so wholesomely as now. There was never a day in the history of this country when there was less impediment to the full representation of every part of the United States in anything that concerns the nation.

SHALL THE APPROPRIATION BE INCREASED?

I have been meditating, Mr. President, as to whether I would not offer as an amendment to this bill an increase of this appropriation by $10,000. I have no disposition either to suggest to or to interfere with the President or Secretary of State in any plans they may have for the betterment of our commercial relations and for bringing the American Republic and the South American republics into closer relations. On the contrary, I am in sympathy with their efforts.

THE CONSIDERATIONS FOR THE CONFERENCE ADDUCED BY THE SECRETARY OF STATE.

Let me read here some remarks of the Secretary of State, Mr. Root, before the Committee on Appropriations of the House of Representatives and a few extracts of observations made in their hearings. Mr. Root said:

The Brazilian Government has appropriated half a million dollars for the expenses of the proposed conference. A committee of the board is now very actively engaged in the preparation of a programme of subjects for discussion. The committee meet this afternoon. It will include a number of subjects of very great interest to this country and to all other American countries, and I think that the work of the Bureau of American Republics, the existence of the international union, and the holding of these conferences afford altogether the best means of breaking up the comparative isolation of this country from the other countries of America and establishing relations between us and them in place of the relations—the rather exclusive relations—that have existed hitherto between them and Europe.

Our relation with them has been largely a political relation, while, on the other hand, their racial ties of race and language and inherited customs and usage—the relations of which have come from the investment of great amounts of European capital in their country, which have come from the establishment of numerous and convenient lines of communication between them and Europe—have made the whole trend of South American trade and social relations and personal relations subsist with Europe rather than with the United States. So that, while we occupy the political attitude of warning Europe off the premises in Central and South America under the Monroe doctrine, we are comparatively strangers to them, and the Europeans hold direct relations with them.

Now, there is, I think, a strong and genuine desire on the part of the South American statesmen—and they have very many able ones—to promote a greater knowledge on the part of their people of the people of the United States, and on the part of our people a greater knowledge of the southern republics, and to promote greater intercourse. Just at this time, of course, the great increase of capital in the United States is on the threshold of seeking investment abroad. We are about at the close of the period during which all our capital and all our energy were engrossed at home, and I can see in the State Department an enormous increase of business relations between Americans and other countries. They are going into construction work, and they are pushing their way, making banking transactions, and all over Central and South America capital is ready to go. I take it to be the proper function of government to help create situations of friendly relations and good understanding, which will make it possible for capital to go.

Mr. LIVINGSTON. The banking question is one of the most serious drawbacks that I found in South America. Everything, no matter how small the transaction was, had to go around through the bank of England and come to New York—everything.

Secretary ROOT. English and German bankers and commercial establishments, English and German built railroads, and everything is that way. It seemed to me that I could not do any more useful work to the country for the promotion of American trade interests and at the same time for the promotion of these relations which tend to maintain peace and harmony than to foster and advance this tendency, which finds its expression through the Union of American Republics and these successive conferences.

Mr. LIVINGSTON. One thing I find, Mr. Secretary, which you can correct easily, I think. The Germans and English made those people believe that our ulterior purpose was to cover them in, and that under this Monroe doctrine, and that that was all we held it for, to put our fingers on them one of these days and draw them into the net. That idea has got in among the common people. I found it so. Crespo, the President of Venezuela at that time, was very honest about it and told me about it. That was a great trouble. Their trade was with Germany and France. They believed we were under cover their enemy, though openly their friend.

Mr. LITTAUER. Has it not been natural for them to trade with Europe, because they first got their financial capital from Europe, and their means of communication were all in that direction? We had no capital to send to them at that time, and we have had no trade with them sufficient to warrant lines of communication.

Secretary ROOT. Yes. But I think we are just on the threshold of a different state of things.

Mr. LIVINGSTON. I think so, too.

Secretary ROOT. And I think we ought to use all proper means to open the doors. Accordingly we have sent in this recommendation, and, rather assuming that Congress would not reverse its established policy, expressed in statute after statute, and would not retire from the obligations that the United States has entered upon in this union of American Republics, we have gone on, and while there have not been any appointments made, we have designated the people who will be appointed, if you will permit us.

Mr. LITTAUER. What power have these gentlemen so designated? The power to enter into discussion?

Secretary ROOT. The power to enter into discussion; yes.

Mr. LITTAUER. What else—a power to commit us in any way?

Secretary ROOT. No. They will have a right of referendum, but no power to commit us to anything that will not require two further steps before it can commit us—first, the approval of the President, and next, the approval of the Senate.

The Secretary of State recommended an appropriation of $100,000 for the purposes of the conference; and the views he set forth, and which I have quoted, show in brief the considerations and objects that actuate the Administration.

The committee of the House cut down the estimate and the Secretary could get along, he says, with $60,000, but I am meditating whether we had not better increase that reduced sum.

THE ALMOST PARADOXICAL STATUS.

Our present status is almost paradoxical. With one voice we proclaim the American doctrine of Monroe, and we say to foreign nations, "Keep your hands off; do not interfere with these sister republics of ours." Then, Mr. President, our relation to the matter takes a sudden and mighty subsidence. Other nations have closer trade relations with them than we have. They fill the markets of Europe with their productions, and the markets of Europe send them back their productions, while we, who geographically, who politically, who constitutionally and historically have the closest relations with them that we could have to foreign nations, are the least connected by the material actualities of life.

OBJECT IN INCREASE OF APPROPRIATION.

If it would meet with favor of Senators upon the other side, I should move to amend this provision by increasing the appropriation. The increased appropriation would be made for the reason, in so far as I am suggesting it, that the Secretary of State or the President might not be embarrassed as to the selections which have been premeditated and which may, perhaps, though I do not know, have been so mentioned as to make it a matter of trouble or annoyance if different names were brought forward. There were twelve delegates to the last international conference, held in Mexico. We appropriated $25,000, and the amount afterwards had to be doubled out of the contingent fund. I have no idea that the President or the Secretary of State would object to seeing on the board of American delegates men of the West or men of the South, or such a man or men of the West or South as might be appropriately put on this international conference. I do not attribute to either of them any harsh or unpatriotic views upon the subject. While I would not embarrass them or interfere with them, it might be better to enlarge the appropriation to some extent.

It is a great trade that we are going in competition for, to which we intend to reach forth by all the American agencies that we can employ. There are also great international questions to be considered. What is worth doing at all is worth doing well, and ought to be done, not to the satisfaction of a small portion or a sectional portion of the American people, but

to the satisfaction of all of them. This is a time, Mr. President——

Mr. HALE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Virginia yield to the Senator from Maine?

Mr. HALE. I do not wish to interrupt the Senator.

Mr. DANIEL. I am very glad to yield to the Senator for an inquiry.

Mr. HALE. I was going to make a suggestion.

Mr. DANIEL. I will be glad to hear the Senator's suggestion.

Mr. HALE. The appropriation provided for in the bill is $60,000. Appreciating the force of what the Senator says, I am willing that the amount shall be increased to $75,000, which will give opportunity for two more delegates to be appointed. If we can dispose of the matter in that way, after consultation with other members of the committee, I will accept such a suggestion.

INCREASE OF APPROPRIATION PROPOSED AND PASSED.

Mr. DANIEL. I move, then, Mr. President, to strike out the word "sixty" and insert "seventy-five," so that the appropriation will be $75,000 instead of $60,000.

Mr. HALE. In line 6, on page 2, before the word "dollars," strike out "sixty" and insert "seventy-five."

The VICE-PRESIDENT. The bill has been read the third time, but the Chair will regard the vote on ordering the bill to a third reading as reconsidered. The amendment will be stated.

The SECRETARY. On page 2, line 6, before the word "dollars," it is proposed to strike out "sixty" and insert "seventy-five;" so as to read:

To meet the actual and necessary expenses of the delegates of the United States to the Third International Conference of American States, to be held at the city of Rio de Janeiro, beginning on the 21st day of July, 1906, and of their salaried clerical assistants, to be expended in the discretion of the Secretary of State, and to continue available during the fiscal year 1907, $75,000.

The amendment was agreed to.

Mr. HALE. I think that will cover the whole thing.

Mr. DANIEL. I thank the Senator from Maine for his suggestion. I appreciate it and the favor it has met with.

CONCLUSION.

Now, Mr. President, I shall bring my remarks to a speedy close. I was starting a sentence when the agreeable suggestion of the Senator from Maine was made, and I would rather finish it. I was simply going to add to my remarks this observation, that at this time the eyes of this country are turned southward more than ever before in our history. The building of a canal across the Isthmus of Panama is in process. Centuries of contemplation preceded the effort; decades may wait upon its success. That we can not tell. Be it so or not, Galveston, New Orleans, Mobile, Tampa, Savannah, Charleston, Wilmington, Norfolk, Portsmouth, Newport News, Richmond, Petersburg, Atlanta, Vicksburg, Memphis, St. Louis—I name almost at random some of the southern cities along the seaboard or trade lines south of us—have vast communities behind them. They have their faces turned to the Gulf of Mexico, to the canal, and to South America and the future. It is timely, therefore, that while we are looking to the widening of our commercial and social relations and to the cultivation of better political understandings with our neighboring republics, we should also turn our eyes inwardly to the people of our own States and our own homes and have this a Republic in representative unison in all our contemplations.

It was out of that country, on the right bank of the Potomac, that came the author of the Monroe doctrine. The people of that country are just as true to that doctrine as was Adams, of Massachusetts, when he was conferring and advising and, in a measure, guiding the hand that threw the bolt "heard around the world."

Again I thank the Senator from Maine for his gracious suggestion. I am gratified also with the favor the idea has met with, and I will not longer detain the Senate on this subject.

The amendment was ordered to be engrossed and the bill to be read the third time.

The bill was read the third time, and passed.

THE YAZOO RIVER (MISSISSIPPI) BRIDGE.

Mr. MONEY. I ask unanimous consent of the Senate for the present consideration of a short bill, which has passed the House of Representatives and has been reported favorably without amendment by the Senate Committee on Commerce, to build a bridge across the Yazoo River. It will take only a minute. It is House bill 11026.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 11026) to authorize the counties of Holmes and Washington to construct a bridge across Yazoo River, Mississippi.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

REGULATION OF RAILROAD RATES.

Mr. TILLMAN. I move that the Senate proceed to the consideration of the unfinished business.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission.

Mr. NEWLANDS. Mr. President, although I joined in reporting the pending bill from the Committee on Interstate Commerce, I do not regard it as a comprehensive measure. I think that now is the opportune time to secure full and comprehensive action upon the subject of interstate commerce, and that we should not content ourselves with such fragmentary legislation as we have hitherto enacted.

I believe that in legislating upon the subject we should, in the first place, create the great carrying corporations that operate between States. We should then provide against overcapitalization. We should provide for a simple system of taxation by the States that would be mathematically certain in its computation, and we should fix a definite return to the stockholders upon the capital invested. We should also take into consideration the relations of the employees of the railroads to these corporations. We should provide for an insurance fund against accidents and old age, and we should also provide for a conciliation of disputes between carriers and their employees. We should frankly recognize the economic necessity of consolidation and combination and the monopolistic character of the business, and regulate all with a proper regard for the interests of the public served by it, the property rights of the capital employed in it, and the human rights of the labor employed by it.

CONSTITUTIONAL POWER.

There can be no question as to the power of Congress. The power is granted in those sections of the Constitution which provide for the national defense, for the regulation of commerce with foreign nations and between the States, and for the establishment of post-offices and post-roads.

In the exercise of these powers it is absolutely essential that there should be highways. Canals and railroads are highways. The United States, therefore, has the power either to construct such highways or to authorize their construction by agents; and in doing the latter it can create national corporations for that purpose. It is not necessary to cite the authorities, for the power is without question and has been exercised frequently.

Under these powers we are to-day constructing the great Panama Canal and will operate it. Under these powers we have acquired the Panama Railroad and are operating it. Under these powers we incorporated the Pacific railways—the Union Pacific, the Atlantic and Pacific, and the Texas Pacific Railway, the two former running in Territories of the United States, the latter from a point in the State of Texas to a point in the State of California. Under these powers we incorporated the National Maritime Canal Company of Nicaragua. Under these powers we are to-day in the process of incorporating the proposed canal between Lake Erie and the Ohio River, called, I believe, The Erie and Ohio Canal, which is intended to join the Great Lakes with the Ohio River and the Gulf. The bill for that purpose has passed the House almost without opposition and will probably pass here without serious opposition. The Nation, therefore, under the granted powers, has the right and the power either to construct these great highways, or to authorize their construction by corporations created by itself.

SHALL THE MACHINE BE STATE OR NATIONAL?

Now, it is true that the same machine is used for both State commerce and interstate commerce. The same railroad accommodates both. State commerce is under the control of the State. Interstate commerce is under the control of the nation. And obviously it would involve economic error to provide for the State commerce a separate machine from that employed in interstate commerce. The same railroads must be employed for both. But the corporation must be created either by the State or by the National Government. If it is created by the State, then the National Government uses a State agency in the exercise of its power over national commerce. If it is created by the National Government, then the State uses a national agency in the exercise of its control over State commerce.

The reason why these corporations have been created by

the States is that in the first place the commerce contemplated was entirely within the boundaries of a State, from a point in one State to another point in the same State. But these purely State railroads have now grown into great national systems under conditions of great embarrassment and difficulty; and one can but admire the genius of the men, who struggling against inadequate laws, have been able to build up these great systems of national highways, intended for national commerce, and embracing the commerce of numerous States and some of them the commerce of the entire Union.

Thus far the nation has not exercised its full powers as to railroads. For many years it exercised no powers whatever, and it is only within the last twenty years that the constant growth of interstate commerce, as compared with purely local or State commerce, has forced the question upon public consideration. Railroads at first were purely State institutions intended only for transportation within State boundaries, but they have now, through consolidation, merger, lease, or community of interest, grown into great institutions of national scope and character, whose traffic is conducted without regard to State boundaries—whose capital embraces over one-tenth of the wealth of the country, and whose employees number about one-twelfth of its effective labor.

Had such growth been contemplated doubtless a national incorporation act would have been provided, but as it is the growth has been accomplished under inadequate and lax State legislation, under which simplicity of organization and operation is impossible. The weakness of all national legislation thus far has been that it has not at the very start created national machinery for incorporating the artificial beings called upon to exercise the great national function of interstate transportation. It has been content, while permitting State corporations to exercise this function, to regulate its operation. The result has been that State machines are performing national functions, and are inadequate to do so without complexity of organization, baffling to the mind of a regulating Interstate Commerce Commission.

As the result of this experience legislation has been a growth. Had we contemplated in the first instance that national commerce would absolutely dwarf State commerce, and that both State and national commerce would be conducted upon these great machines of transportation, we would doubtless have seen the wisdom of having the greater sovereignty create the machine that is to do the business of both and not have the lesser sovereignty, whose jurisdiction is confined to a contracted area, create that machine. The interstate commerce is three-fourths of the commerce of the entire country. The State commerce is only one-fourth. We were told in the Nebraska case that of all of the commerce of the railroads of that State one-twentieth only was State commerce, and all the balance was interstate. It is clear, therefore, that we ought to have national machinery for the transaction of this commerce, that this is the time for it, and that we will never have a better opportunity for creating it.

The passage of a national incorporation act would require the addition of only fifteen or twenty sections to this bill. The pending bill simply provides for the regulation of rates. We could, right in this bill, furnish the machinery for the incorporation of national corporations, and we could make this legislation either coercive or persuasive. In my judgment, at first it should be made merely persuasive. Later on it might be deemed wise to apply coercive legislation, as we did when the national banks were created, by taxing the State note issues 10 per cent. In using the term "coercive," I do not wish to imply that Congress could force State railroads to come under national charters. What I mean is that we could so cripple them in their operations in interstate commerce as to make them eager to avail themselves of national charters, and even then, of course, the consent of the States to the change would be required—a consent which I believe could be obtained with as little difficulty as that now obtained in the various States by corporations organized under the laws of sister States.

This coercion could be applied in different ways. It could be applied by absolutely preventing State corporations from engaging in interstate commerce, or it could be applied by imposing such a tax upon the commerce carried by such corporations as to be practically prohibitory of their engaging in it. But, in my judgment, the legislation now should be merely persuasive and should offer such obvious advantages to these great systems, whilst at the same time properly protecting the public, as to induce them to incorporate under its provisions.

MUST CONGRESS FIX THE STANDARD FOR RATES?

Mr. President, as to the pending bill, it seems to me it is weak in that it does not provide a rule which is to control the Interstate Commerce Commission in regulating rates, and I have some doubt as to whether we can, under the Constitution, grant this power to a mere administrative commission unless we prescribe the rule, so that their action will be largely one of computation and mere administration, not involving legislative discretion. It is contended that the legislature can delegate this power to a commission by providing a rule or standard for its action, and this contention seems to be upheld by a great many decisions relating to the States.

Now, what rule or standard does this bill provide? It simply declares that the rates shall be just and reasonable, and it is said that is the rule which the Commission is to follow. But Congress could not fix, or confer upon a commission the power to fix, unjust and unreasonable rates. Under the limitations of the Constitution the only power Congress itself has is to fix just and reasonable rates, and when it transfers that power to a commission, does it not transfer to the Commission all the power it has?

It may be that the courts will finally hold that it is so difficult for a legislative body to exercise this power directly that it is warranted in creating an administrative board for the purpose. If that is so, legislation of this kind will be sustained, in my judgment, not upon the ground that it fixes the rule for the Commission's action, but upon the ground that Congress can grant to a commission all the power that it has in fixing the rates for interstate commerce.

VALUATION OF RAILROADS AND RETURN.

It seems to me that in this very bill, outside of the question of national incorporation, we could provide the standard and we could follow the rule laid down in Smyth *v.* Ames, the Nebraska Case (169 U. S., 546), in which the Supreme Court says:

> We hold, however, that the basis of all calculations as to the reasonableness of rates to be charged by a corporation maintaining a highway under legislative sanction must be the fair value of the property being used by it for the convenience of the public. And in order to ascertain that value, the original cost of construction, the amount expended in permanent improvements, the amount and market value of its bonds and stock, the present as compared with the original cost of construction, the probable earning capacity of the property under the particular rates prescribed by statute, and the sum required to meet operating expenses, are all matters for consideration, and are to be given such weight as may be just and right in each case. We do not say that there may not be other matters to be regarded in estimating the value of the property. What the company is entitled to ask is a fair return upon the value of that which it employs for the public convenience. On the other hand, what the public is entitled to demand is that no more be exacted from it for the use of a public highway than the services rendered by it are reasonably worth.

We could provide that the Interstate Commerce Commission should value the property of all these railroads, should make a present valuation, and to that should be added such additional investments as may be made in the future. We would then have the basis of value. We could also provide in this bill that the Interstate Commerce Commission, in exercising the power of fixing rates, should so adjust rates as to yield a return upon such value of not less than a certain percentage—not less than 5 or 6 per cent or not less than 4 per cent or more than 6 per cent.

If the bill provides the machinery by which the value of the railway property can be ascertained and also fixes the return upon that value, we then have a rule established by Congress which involves simply mathematical computation upon the part of the Interstate Commerce Commission. Of course, if we fix the rule for the exercise of the judgment of the Commission the bill would not be so open to constitutional objections as it is now.

Mr. President, I prefer that valuation of the property of these railroad corporations which would be exhibited in a fair capitalization. I should prefer legislation which would provide for the national incorporation of these great railways and the issue of bonds and stock representing their actual value and cash outlay, so that wherever the question of the regulation of rates comes up, either by State commissions or national commission, the factor of value would be omnipresent in the capitalization of the roads in stock and bonds.

But if we are not to have comprehensive legislation of that kind, then the next best thing is to provide in this bill for a valuation of the roads by the Interstate Commerce Commission. A valuation has already been made by the Census Bureau, based simply upon the existing income of the roads, and they have made a valuation of about eleven billion dollars, I believe, approaching within a billion or so of the existing capitalization of the roads, which it is claimed is exaggerated.

Mr. FORAKER. Within 10 per cent.

Mr. NEWLANDS. Within 10 per cent, the Senator from Ohio says. Now that is based upon income, but there can be another kind of valuation, following the principles laid down in Smyth *v.* Ames, by considering first the actual cost of reproduction; second, the cost of the road to the corporation, third, the market value of the stock and bonds, and fourth, the

value as determined by existing income, for the Supreme Court says that all these factors can be taken into consideration.

If the Interstate Commerce Commission, then, should be authorized in this bill to provide for the employment of experts to make a valuation of the roads, we would have the basis for sound action in the regulation of rates; and if we should add to that the legislative will as to the return upon the capital invested, we would have two factors in the problem determined by Congress. We would have the rule established and the rest would be a mere matter of mathematical calculation.

VALUATION THROUGH NATIONAL INCORPORATION.

So far as this bill is concerned, I would suggest that a provision be inserted in it for ascertaining the value of the railroads engaged in interstate commerce and that a provision also be made fixing the return in the shape of interest upon such value.

But I believe that we should also add to this bill provisions for the national incorporation of railways.

In such additional provisions we could declare that no stocks or bonds should be issued, either for construction, extension, or improvement of such railways, or for the purchase of connecting or intersecting lines except for full value in money or property, or without the approval of the Interstate Commerce Commission. In this way we could guard against overcapitalization.

The President in his message has called attention to the evils of overcapitalization in the following words:

> Of these abuses perhaps the chief, although by no means the only one, is overcapitalization—generally itself the result of dishonest promotion—because of the myriad evils it brings in its train; for such capitalization often means an inflation that invites business panic; it always conceals the true relation of the profit earned to the capital actually invested, and it creates a burden of interest payments which is a fertile cause of improper reduction in or limitation of wages; it damages the small investor, discourages thrift, and encourages gambling and speculation; while, perhaps, worst of all is the trickiness and dishonesty which it implies—for harm to morals is worse than any possible harm to material interests, and the debauchery of politics and business by great dishonest corporations is far worse than any actual material evil they do the public.

This measure does not reach this abuse, and it should be amended so as to prevent it.

DUTY OF CONGRESS TO FIX THE RETURN.

We could also limit in this bill the rate of interest to be received by the investors upon such valuation, and thus in the future the great increase of business which is induced by the extension of the railroads and the expansion of commerce will tend automatically either to the betterment of the roads or to a reduction in rates.

It has been said that it is unfair to limit in any way the returns of these corporations; that we do not limit the returns of people generally in business, or of corporations engaged in business. But we must recollect that ordinary occupations and businesses are not of public nature, and the public has no right to regulate or control them. This regulation and control arises from the fact that the highways are public highways, the function a public function, and the Government simply entrusts the conduct of this function to certain agencies, and all the agent is entitled to under the decisions is a fair return upon the amount he has invested. If that is a fact, it is competent for Congress to fix that return and not leave it to chance or accident.

Beyond this, if we are careless regarding the return, and allow a corporation to receive 10, 15 or 20 per cent instead of 5 or 6 per cent interest, the result will be that the stocks will rise in the market, their value being based upon income, and if you should permit the $10,000,000,000 now claimed to be invested in these great highways in this country to receive an interest of 10 per cent instead of an interest of 5 per cent, you would find immediately in the market that these securities would be quoted at $20,000,000,000, and if you allow interest at 15 per cent you would find the market valuation would be $30,000,000,000, and if you allow 20 per cent you would find the market value would be $40,000,000,000.

Now, then, are we to assume that at different stages in the regulation of rates the value of these properties is to vary with the income? If we do there will be no limit to their value, for if there is no restriction on the return there will be no limit to the value. If to-day these railroads are valued at $10,000,000,000, based upon existing income, they must be valued at $20,000,000,000 if the return is doubled. Thus will the value increase proportionally to the income, and if we do not apply a fair restrictive regulation of the rate of interest we will bring about a serious readjustment of values all over the country.

The cry will be raised by investors that the Government has permitted the securities to reach this high value, just as it is claimed to-day that the value of these properties is not necessarily the value actually put into them by experts, but the value based upon income. The return must be fixed therefore either by the Commission or by Congress, and Congress is just as competent to fix it as is the Commission. State legislatures already exercise the power of regulation over the rate of interest. Throughout the United States the legal rate of interest does not exceed 6 per cent.

Those laws are intended to guard against usury. A law of this kind is intended to guard against extortion. Unless the return is fixed by somebody, either by the Commission or by the Congress, we will have varying valuations running through the years.

AUTOMATIC ADJUSTMENT V. COMMISSION ADJUSTMENT.

Mr. President, it seems to me exceedingly important that we should fix this rule of valuation and return, simply because it will work automatically toward a gradual reduction in rates. I believe myself that under the pending bill the Commission will be overwhelmed with work. I have been impressed with the evidence of the traffic managers before our committee, the ceaseless vigilance which they employ in moving the traffic, in providing a market place for the surplus of the country which they serve, and in bringing from the outside the things needed by the communities which they serve.

They have many thousand men in that service—the great traffic managers at the head of each system, the assistant traffic managers, the district traffic managers, and then every agent and every station is a part of this great machinery for the adjustment of rates, not simply as a matter of profit to the corporation, but as a matter of serving the requirements of the communities through which the railroads run. In this adjustment much elasticity of action is required.

I do not believe that any board of seven men can exercise intelligently all the powers that are exercised by these thousands of competent, skilled, trained traffic managers and their assistants, and I believe if the Commission attempts it, it will be overwhelmed, and in the end it will either be inert and inactive, or it will bring the adjustment of rates practically to a mileage basis.

It is true that these rates are to be adjusted only upon complaint; but all the rates can be complained of. An entire schedule can be complained of. We are told that within a single year one hundred and sixty thousand different schedules have been filed in the office of the Interstate Commerce Commission, each one of these schedules involving varying classifications and varying rates. Any one or all of these schedules can be challenged, and if challenged the challenge must receive the consideration of the Interstate Commerce Commission. Will it be possible for it then to consider all the cases? It will be obliged to adopt some rule, and the easiest rule in the end will be the mileage rule, with modifications according to distance.

The advantage of fixing a return of a certain percentage upon a valuation of the property is that it protects the investors in these great public securities, and it forces a limitation of profits, so that automatically, as the receipts of the company increase, the rates will be reduced.

All that the average investor, outside of the speculator, asks is a fair return upon his money. The great banking institutions in New York that negotiate the securities of these great corporations rely upon other people's money for the exercise of their power. We have had illustrations of that in recent investigations. Hundreds of millions of dollars collected from all over the country by the insurance companies, or the savings of the people in savings banks and trust companies, supply the funds which are invested in a large proportion of these securities.

The average investor to whom these securities are presented looks simply to the rate of interest, and if he gets 4 or 5 per cent he is willing to pay par for the securities. All the real investors require is a fair return of from 4 or 5 per cent, and the proposed limitation of profits is absolutely fair to them.

ELIMINATES THE SPECULATIVE ELEMENT.

It is said that if this return is limited there will be no inducement to these great railway promoters to extend the roads; that it is the speculative idea that attracts them into these operations. That may possibly be true as to the great promoters who have made millions and hundreds of millions out of these operations, but it is not true as to the people themselves. All they expect is 4 or 5 per cent, and they are willing to put their money into any investment that will secure that return.

I do not believe, Mr. President, that in order to stimulate enterprise in this country in railroad building it is necessary to hold up before some man or some set of men a prize of from ten million to one hundred million dollars for the operation. I think that if we protect the bondholders and stockholders by fixing a return of this kind, it will lead to the

elimination of the speculative element in railroad operations, but I do not regard that as of consequence, for the speculative element has little to do with material railroad building. You will find that the men who really conduct this business, the men who really build the railroads, the men who really manage them, are men of moderate means, who are content with moderate salaries, and yet do their work faithfully and well.

We find in the Government service to-day—in the scientific branches of the Government, such as the Geological Survey—the highest standard of efficiency and energy, accompanied by a public spirit which seems to elevate their action above that of men not employed in the public service. I have not the slightest doubt but that railroad enterprises will be just as well conducted without retaining the aid of the speculative element.

TAXES SHOULD BE CERTAIN.

In such an incorporation act we could also provide with certainty as to taxes. One of the great difficulties of the existing condition is that although these great systems are really national, embracing in their operations a number of States, they are subject to the varying rules of forty-five different States as to taxation. In some States the assessment is made at the assessed value simply of the tracks and the right of way. In other States the assessment takes into consideration the value of the franchise.

In some States it is contended that the assessment should be the combined market value of the stocks and bonds. In addition to all this the stocks and bonds themselves in the hands of their holders can be separately assessed and taxed, a form of double taxation.

We have in this country about $12,000,000,000 of railroad stocks and bonds. The market value is, say, about $10,000,000,000. If the highest rule obtains, these railroads could be assessed for $10,000,000,000, and they would have to pay an average tax of 1½ per cent upon that value, or $150,000,000.

The railroads to-day are paying $56,000,000 per annum. If this rule, which has been upheld by the Supreme Court of the United States, were to prevail throughout the country the taxes of the railroads would be immediately raised from $56,000,000 to $150,000,000 per annum, an increase of about $100,000,000.

One hundred million dollars is 1 per cent upon the market value of the entire bonds and stocks of the country. That would be immdiately taken out of the returns to the stockholders unless the rates were so increased as to make up the extra tax charge. So if you raise the taxes from $56,000,000 to $150,000,000, the taxes which the public receive, then you must increase the rates to the extent of $100,000,000 so that the corporations can pay these taxes or else you must take the $100,000,000 out of the profits of the stockholders and diminish their return to that extent below the normal rate of interest.

But under the existing system the States could not only tax the railroads themselves $150,000,000 annually, thus trebling their taxes, but they could assess every bond and stock in the hands of the holders, for they are, under the laws, regarded as personal property and subject to taxation. It is true that they generally escape assessment, but if they were assessed at their market value, $10,000,000,000, it would mean that $150,000,000 more in taxes could be secured from them.

If this system were carried out to its logical conclusion, where would there be any security for the stockholders? With $150,000,000 taken from the corporations of which they are stockholders and bondholders and $150,000,000 taken annually from the bondholders and stockholders individually as owners of these securities, it would be utterly impossible for us to get people to invest in railway securities; and yet this wide range of taxation is possible under existing conditions; and it is a fruitful source of evasion, fraud, and political corruption.

WHY RAILROADS ARE IN POLITICS.

The railroads find it utterly impossible to keep out of politics simply because their property is between the upper and nether millstone and can be ground to destruction between the rate-regulating power and the taxing power of the public. In the famous case of Munn *v.* Illinois the doctrine was first asserted in this country by the United States Supreme Court that where a person devotes his property to a public use he grants to the public an interest in that use and must submit to regulation by the public; that if he is dissatisfied with the regulation he can discontinue the use, but so long as he continues the use he must submit to the regulation. In answer to the objection that such legislative power could be abused the court stated that the only remedy for legislative abuses was at the polls. The railroads have been at the polls ever since. Their taxes are a matter of political control. Their rates are a matter of political control. How can we expect $10,000,000,000 to keep out of politics when that $10,000,000,000 is completely subject to political control in every State of the Union?

It is absolutely essential, therefore, for the railroads to be in politics, and they go into politics as they go into everything else, in a systematic and businesslike way. There is no sentiment about it. They go into politics to protect their property, and they seize as swiftly as they can the entire political machinery of a State.

It is easier to do that than it is to try to influence the people at the polls. What chance has a great corporation at the polls in a contest with the people? They are compelled to be in politics, but they can only be influential in politics by indirection. They deem it, therefore, absolutely essential to seize wherever they can the political machinery of both parties.

With their ramifications, with their army of lawyers, traffic managers, and agents in every community, and with their 1,200,000 employees—about one-tenth of the effective labor of this country—they have all the factors of a strong political machine, for it is evident to one who has had experience in these matters that although the men employed by the railroads often have disputes with the railroads regarding their hours and compensation, yet that whatever their disputes may be they always stand in with the railroads when the common fund from which wages and dividends are paid is in danger.

We have had an illustration of that in this legislation. The employees of the railroads throughout the country have petitioned Congress against the regulation of rates upon the ground that it may endanger their compensation; and whenever it is known that the man offering himself for a public office is opposed to a railroad, either upon the matter of taxation or upon the matter of rates, it is not a difficult thing for the railroad to array all of its employees against such a man. So the railroads have been invited to go to the polls, and they are going to the polls in the only effective way, by controlling the political machinery of local conventions and of State conventions, and even the national conventions themselves.

There is not a man who is familiar with national conventions who does not know how large a factor the railroads have been in selecting delegates to them. We will find that to be the case hereafter, when we give this extraordinary and unrestrained power to a commission, giving it the full discretion that Congress itself has, without imposing any rule whatever of protection to the railroads. We will find them showing great activity in national politics and in the election of Presidents, as they have done in the election of mayors, of boards of supervisors, of county commissioners, of governors, of boards of equalization, and of State commissions.

It seems to me that that is an additional reason why we should put in this bill the rule that is to guide the Commission in its work, for it may be that one of these days this Commission will be a controlled commission, just as the State commissions have been in many instances. We can easily imagine a contest in either party where two or three men of equal ability, equal capacity, and of equal popularity are before a national convention as candidates for the Presidency. We can imagine how the railroads, massing their power for one candidate, may secure him the nomination, and we can imagine how the understanding might be that the railroads would be consulted as to the selection of this Interstate Commerce Commission. Of course it would be done in the most delicate way; such things are always done in a delicate way; but when a man receives the support of a great interest in a convention for so high a nomination and accepts it, the chances are that his judgment will be in some degree swayed by that fact.

Then we will assume that the national conventions of both parties have met and selected their candidates, the contest is a close one and the candidates are equally popular before the country. We can imagine how effective the railroad strength would be if turned over to one of those candidates, and we can understand how under such conditions the railroads might not find it difficult to secure assurances, directly or indirectly, as to the composition of the Interstate Commerce Commission.

The character of the men appointed might be above reproach, but it is easy to understand how in the end the appointment of men of a certain inertia, inactivity, indisposition to move or to act, might condemn the Commission to uselessness. On the other hand it is possible that in periods of excitement the Commission might be composed of prejudiced and violent men, who would imperil the interests of investors.

So it seems to me incumbent upon us, in the common interest, to put in this bill fixed rules governing taxation and return on capital, so that the law itself will adjust with certainty the relations of the carriers to the public, protecting the carriers from spoliation and the public from extortion.

Now, Mr. President, in this matter of taxation, to which I was referring, I think that taxation should be absolutely certain, so that the railroads will know what they have to pay, so that the States will know what they are to receive, and in order that the railroads may be protected from the blackmailers and the cranks and the honest reformers throughout the entire country, each of whom is seeking to change the existing system of taxation in every locality and in every State, some men honest and probably right in their views, some of them cranks, some of them joining with the reformers and with the cranks simply for the purpose of blackmailing. We have recently had evidence of the kaleidoscopic character of railroad taxation by the States. A few days ago the Post stated that Governor Dawson of West Virginia was in Washington making inquiries as to the recent census valuation of railroads in West Virginia with a view to tax reform in that State. Similar movements are on foot in many of the States and the Supreme Court has recently handed down a decision affirming a recent statute of Michigan which trebles the existing railroad taxes of that State.

It is too much to demand of human nature to expect the railroads under those conditions to keep out of politics. All of us who have been familiar with politics know of conventions where it was whispered around at the very beginning of the session that the railroads demanded the tax commission, or the railroad commission, or both, and where the party managers knew they had a fight on their hands if they did not accede. We will find these same conditions extending to national politics if we do not take care.

A FAIR AND UNIFORM RULE OF TAXATION.

Now, what is a fair rule of taxation? I think it is generally agreed that the fairest rule is a percentage tax upon gross receipts. A tax of four per cent upon all the gross receipts of all the railroads of the country, which now aggregate about $2,000,000,000, would be $80,000,000. A tax of 5 per cent would yield $100,000,000. The present taxes paid by all the railroads amount to about $56,000,000, or about 3 per cent upon their gross receipts. Here let me say that these railroads, forced into politics to protect themselves against excessive taxation, finally end in evading taxation themselves. Having got the power, having secured the party machinery, having secured control of the officials who control taxes, they naturally seek to diminish their own taxes, and so, though originally going into politics for protection, they remain in politics for profit, and seek to escape their fair proportion of the burdens of government.

As to a gross-receipt tax, a tax of 3, 4, or 5 per cent upon the gross receipts is mathematically ascertainable. The gross receipts are published every year by the Interstate Commerce Commission. There is no way of concealing them. The tax would be a matter of mere computation, and would not involve the exercise of discretion by the taxing officials of the various States, as the present system does.

The National Government can, in incorporating interstate railroads, either exempt them as national instrumentalities from State taxation or it can fix the rule for their taxation by the States.

TAXATION OF NATIONAL INSTRUMENTALITIES—POWER OF CONGRESS TO FIX RULE OF TAXATION BY STATES.

When the Government condemns for public use or constructs a post-road, that moment the post-road is free from State taxation. If the Government buys real estate and builds a post-office, that moment the real estate and building are exempt from State taxation. If the National Government should construct railroads for the purpose of carrying out its granted powers, such railroads would be exempt from State taxation, just as post-offices and custom-houses are, and just as post-roads would be if built. If it intrusts such work to a corporation created by itself, the corporation is the agent for the purpose of carrying out governmental powers, and none of its powers or operations can be taxed by a State. If it selects certain property as the instrumentality or means through which its powers are to be exercised, such property would also be exempt from State taxation, for just as the powers and the operations of the Government agent would be exempt from all local taxation, so also would be the property selected as the chosen instrument for the exercise of those powers. The powers and operations would be exempt without any express declaration to that effect by Congress. A different rule would probably apply to the property selected as the chosen instrument for the exercise of a national power. In that case it would be necessary to show unmistakably that the property was selected as the instrumentality, and that it was the purpose of Congress that it should be taken out of the domain of State taxation.

The proper organization of a system of transportation is just as essential to the welfare of the people as is the creation of a proper financial system. In the early history of the country it was determined to establish a United States bank to promote the fiscal operations of the Government. The State of Maryland sought to impose a tax upon the notes of a United States bank in Maryland. The notes were property just as a railroad is property, and yet the court held that the State of Maryland could not in the exercise of its taxing power tax those notes. It is true that in that case Chief Justice Marshall held that so far as the bank building was concerned the exemption would not apply, but he so held upon the ground that the ownership of the bank building was not essential to the operation of the bank; the bank could be conducted upon leased property, and therefore the bank building could not be regarded as a national instrumentality for the purpose of carrying out the powers conferred by the National Government upon the bank, but all property absolutely essential to the powers conferred upon the bank, such as promissory notes, bills of exchange, etc., were exempt from State taxation.

It should be noted that a railroad is a very different property from a bank building. The ownership of a bank building is not essential to the operation of a banking corporation. The ownership of a railroad is absolutely essential to the operation of a railroad corporation. If Congress, therefore, under the interstate-commerce power, authorizes the construction of a railroad, it makes that railroad the instrumentality for the purpose of carrying out its power—the means of the exercise of the power itself. The operation of the railroad can not be segregated from the right of way, the track, the station buildings, and the general equipment of the road. If they belonged to the Government they would be exempt from State taxation, and if the Government selects as its agent a corporation of its own creation and makes its property the instrumentality for the exercise of governmental powers, and unmistakably shows its intention that this instrumentality shall not be embarrassed by State taxation, clearly the property selected as the instrumentality must be as free from taxation as the powers themselves.

In this connection it is proper to say that my contention as to the right of the United States to exempt a railroad incorporated under a national law for interstate commerce, from State taxation is not urged for the purpose of freeing such roads from sharing the burden of government, but simply for the purpose of securing a uniform rule of taxation by the States, with a view to facilitating the public regulation of railroad corporations in which the fixed charge of taxes is an important consideration.

Under the rule laid down in Van Allen *v.* The Assessors (3 Wall., 573), it would be competent for the Congress of the United States to submit the property of national railroads engaged in interstate commerce to State taxation, first prescribing the rule by which such property should be taxed. In this way Congress could secure uniformity and certainty in the taxes.

THE AUTHORITIES.

In Luxton *v.* North River Bridge Company (153 U. S., 525), it was held that, under the power to regulate commerce among the States, Congress may create a corporation to build a bridge across navigable water between two States, and to take private land for that purpose, making just compensation. And Mr. Justice Gray, delivering the opinion of the court, said:

> The Congress of the United States, being empowered by the Constitution to regulate commerce among the several States, and pass all laws necessary and proper for carrying into execution any of the powers specifically conferred, may make use of any appropriate means for this end. As said by Chief Justice Marshall, "The power of creating a corporation, though appertaining to sovereignty, is not, like the power of making war, or levying taxes, or of regulating commerce, a great substantive and independent power which can not be implied as incidental to other powers or used as a means of executing them. It is never the end for which other powers are exercised, but a means by which other objects are accomplished." Congress, therefore, may create corporations as appropriate means of executing the powers of government, as, for instance, a bank for the purpose of carrying on the fiscal operations of the United States, or a railroad corporation for the purpose of promoting commerce among the States. (McCulloch *v.* Maryland, 4 Wheat., 316, 411, 422; Osborn *v.* Bank of U. S., 9 Wheat., 738, 861–873; Pacific R. R. Removal Cases, 115 U. S., 1, 18; California *v.* Pacific R. R., 127 U. S., 1, 39.) Congress has likewise the power, exercised early in this country by successive acts in the case of the Cumberland or National road from the Potomac across the Alleghenies, to the Ohio, to authorize the construction of a public highway connecting several States. See Indiana *v.* United States, 148 U. S., 148. (153 U. S., 529.)

In California *v.* Pacific Railroad (127 U. S., 1) it was directly adjudged that Congress has authority, in the exercise of its power to regulate commerce among the several States, to authorize corporations to construct railroads across the States, as well as the Territories of the United States; and Mr. Justice Bradley, speaking for the court, and referring to the acts of

Congress establishing corporations to build railroads across the continent, said:

It can not at the present day be doubted that Congress, under the power to regulate commerce among the several States, as well as to provide for postal accommodations and military exigencies, had authority to pass these laws. The power to construct, or to authorize individuals or corporations to construct, national highways and bridges from State to State is essential to the complete control and regulation of interstate commerce. Without authority in Congress to establish and maintain such highways and bridges it would be without authority to regulate one of the most important adjuncts of Congress. This power in former times was exerted to a very limited extent, the Cumberland, or National, road being the most notable instance. Its exertion was but little called for, as commerce was mostly then conducted by water, and many of our statesmen entertained doubts as to the existence of the power to establish ways of communication by land. But since, in consequence of the expansion of the country, the multiplication of its products, and the inventions of railroads and locomotion by steam, land transportation has so vastly increased, a sounder consideration of the subject has prevailed and led to the conclusion that Congress has plenary power over the whole subject. Of course the authority of Congress over the Territories of the United States and its power to grant franchises exercisable therein are, and ever have been, undoubted. But the wider power was very freely exercised, and much to the general satisfaction, in the creation of the vast system of railroads connecting the East with the Pacific, traversing States as well as Territories, and employing the agency of the State as well as Federal corporations. (127 U. S., 39–40.)

McCulloch v. *Maryland* (*4 Wheat., 485*).—This case decided that a stamp tax on the notes issued by a Federal bank was a tax on the operation of a Federal agency and therefore void. The essence of the decision is the impotency of the States to burden the operations of the Federal Government.

As to a tax on property as distinguished from operations, the court said, in conclusion:

The States have no power, by taxation or otherwise, to retard, impede, burden, or in any manner control the operations of the constitutional laws enacted by Congress to carry into execution the powers vested in the General Government. * * *

This opinion * * * does not extend to a tax paid by the real property of the bank, in common with the other real property within the State, nor to a tax imposed on the interest which the citizens of Maryland may hold in this institution, in common with other property of the same description throughout the State.

Thompson v. *Pacific Railroad* (*9 Wall., 579*).—This was a case of taxation by a State of a railroad acting under a Federal charter, as well as a State charter. The court said (p. 590):

We do not think ourselves warranted, therefore, in extending the exemption established by the case of McCulloch *v.* Maryland beyond its terms. We can not apply it to the case of a corporation *deriving its existence from State law, exercising its franchise under State law, and holding its property within State jurisdiction and under State protection.*

In this case the court considered the possibility of what would happen if Congress should do what it had not done, to wit, explicitly exempt its agent from taxation. The court said (p. 588):

We do not doubt, however, that * * * Congress may * * * exempt, in its discretion, the agencies employed in such service from any State taxation which will really prevent or impede the performance of them.

But can the right of this road to exemption from such taxation be maintained in the absence of any legislation by Congress to that effect?

Throughout this case it will be noted that the court is careful to say that the case did not present the feature of any positive attempt on the part of Congress to exempt the property from State taxation, and the inference is clear that in such a case the exemption would have been operative and the State tax invalid.

The case emphasizes the difference between property and the operations of an agent of the Government, as follows (p. 591):

We fully recognize the soundness of the doctrine that no State has a "right to tax the means employed by the Government of the Union for the execution of its powers." But we think there is a clear distinction between the means employed by the Government and the property of agents employed by the Government. Taxation of the agency is taxation of the means; taxation of the property of the agent is not *always, or generally,* taxation of the means.

No one questions that the power to tax all property, business, and persons, within their respective limits, is original in the States and has never been surrendered. It can not be so used, indeed, as to defeat or hinder the operations of the National Government; but it will be safe to conclude, in general, in reference to persons and State corporations employed in Government service, that *when Congress has not interposed* to protect their property from State taxation, such taxation is not obnoxious to that objection.

Again obviously intimating a different opinion had Congress expressly established such exemption.

Railroad Company v. *Peniston* (*18 Wallace, 5*).—The case arose out of the claim on the part of the State of Nebraska of the power to tax roadbed, depots, wood stations, water stations, and other realty, telegraph poles, telegraph wires, bridges, boats, papers, office furniture and fixtures, money and credits, movable property, engines, etc., of the Union Pacific Railroad Company.

The company was created by the act of Congress of July 1, 1862, entitled "An act to aid in the construction of a railroad and telegraph line from the Mississippi River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes." Various amendments were made to the original act at later sessions of Congress, but neither in the original act nor in any amendment was any provision made by Congress respecting the taxation of it or its property by the States through which the road might run.

The tax was resisted by the company on the ground that, having been incorporated by Congress—

The State of Nebraska has no power to subject to taxation for State purposes the roadbed, rolling stock, and other property necessary for the use and operation of the road, such power resting exclusively in the Government of the United States.

It was distinctly stated by Mr. Chief Justice Strong, who delivered the opinion, that—

The States may not levy taxes the direct effect of which shall be to hinder the exercise of any powers which belong to the National Government. The Constitution contemplates that none of those powers may be restrained by State legislation (p. 30).

After referring to the legislation creating the Union Pacific road and adverting to the objects and purposes of that legislation, the justice further said (p. 32):

Admitting, then, fully, as we do, that the company is an agent of the General Government, designed to be employed, and actually employed, in the legitimate service of the Government, both military and postal, does it necessarily follow that its property is exempt from State taxation?

Emphasizing the difference between the operations of an agent and the property thereof, Justice Strong said (p. 33):

It may therefore be considered as settled that no constitutional implications prohibit a State tax upon the property of an agent of the Government merely because it is the property of such an agent.

Then, after consideration of the various cases bearing upon the general question, Justice Strong summed up as follows (p. 36–37):

It is therefore manifest that exemption of Federal agencies from State taxation is dependent, not upon the nature of the agents, or upon the mode of their constitution, or upon the fact that they are agents, but upon the effect of the tax; that is, upon the question whether the tax does in truth deprive them of power to serve the Government as they were intended to serve it, or does hinder the efficient exercise of their power. A tax upon their property has no such necessary effect. It leaves them free to discharge the duties they have undertaken to perform. A tax upon their operations is a direct obstruction to the exercise of Federal powers.

Eight justices heard this case, and the opinion of the court upholding the validity of the tax was concurred in by four of them. A fifth, Justice Swayne, concurred in the judgment, but said:

I see no reason to doubt that it was the intention of Congress not to give the exemption claimed. The exercise of the power may be waived, but I hold that the road is a national instrumentality of such a character that Congress may interpose and protect it from State taxation whenever that body shall deem it proper to do so.

So that Justice Swayne would have decided against the majority of the court had there been exempting legislation. Two other justices flatly dissented, giving an opinion to the effect that such State taxation was invalid, even in the silence of Congress. And the eighth justice merely remarked: "I dissent from the opinion of the court."

Thus all that can be claimed from this decision as to the power of Congress to exempt a corporation from taxation by affirmative legislation is that the court was evenly divided, and even this can not be fairly claimed, for the case of exempting legislation was not before the court, and the opinions of the four justices who upheld the tax do not contain a word which denies the power of Congress to exempt the property which it expressly declares to be its chosen instrumentality.

Mr. Justice Bradley, for himself and Mr. Justice Field, delivered a vigorous dissenting opinion, in the course of which he said (p. 47):

The Union Pacific Railroad Company, therefore, being a United States corporation created for national objects and purposes, and deriving its existence, its powers, its duties, its liabilities from the United States alone; being responsible to the United States, now as formerly, for a whole congeries of duties and observances; being subjected to the forfeiture of its corporate franchises, powers, and property to the United States and not to any individual State; being charged with important duties connected with the very functions of the Government, every consideration adduced in the cases of McCulloch *v.* Maryland and Osborn *v.* The Bank, would seem to require that it should be exempt not only from State taxation, but from State control and interference, except so far as relates to the preservation of the peace and the performance of its obligations and contracts. In reference to these and to the ordinary police regulations imposed for sanitary purposes and the preservation of good order, of course, it is amenable to State and local laws.

As an instrument of national commerce as well as Government operations, it has been regulated by Congress. Can it be further regulated by State legislation? Can the State alter its route, its gauge, its connections, its fares, its franchises, or any part of its charter? Can the State step in between it and the superior power or sovereignty to which is responsible? Such an hypothesis, it seems to me, is inadmissible and repugnant to the necessary relations arising and existing in the case. Such an hypothesis would greatly derogate from and render almost useless and ineffective that *hitherto unexecuted power* of Congress to regulate commerce by land among the several States. If it be declared in advance that no agency of such commerce, which Congress may hereafter establish, *can be freed from local impositions,*

taxation, and tolls, the hopes of future free and unrestricted intercourse between all parts of this great country will be greatly discouraged and repressed.

Again:

But it is contended that the laying of a tax on the roadbed of the company is nothing more than laying a tax on ordinary real estate, which was conceded might be done in the case of the United States Bank in reference to its banking house or other lands taken for claims due in the course of its business. This is a plausible suggestion, but, in my apprehension, not a sound one. In ascertaining what is essential in every case, respect must always be had to the subject-matter. The State of Maryland undertook to tax the circulation of the United States branch bank established in that State by requiring stamps to be affixed thereto; the State of Ohio imposed a general tax of $50,000 upon the branch established therein. These taxes were declared unconstitutional and void. They impeded the operations of the bank as a financial agent. Real estate was not a necessary appurtenant to the exercise of the functions of the bank. It might hire rooms for its office, or it might purchase or erect a building.

But the primary object of a railroad company is commerce and transportation. In its case a railroad track is just as essential to its operations as the use of a currency or the issue or purchase of bills of exchange is to the operations of a bank. To tax the road is to tax the very instrumentality which Congress desired to establish, and to operate which it created the corporation.

Besides, all that a railroad company possesses in reference to its roadbed is the right of way and the right to use that land for the purpose of way. This is a franchise conferred by the Government, and inseparately connected with the other franchises which enable it to perform the duties for the performance of which it was created. Any estate in the land—the soil, the underlying earth—beyond this belongs to the original proprietor, and that proprietor in the present case is the Government itself. So that, look at it what way we will, there is no room for the taxing power of the State. The estate in the soil can not be taxed, for that remains in the United States; the franchise of right of way and materials of track can not be taxed, because they are essentially connected with and form a part of the powers, faculties, and capital by which the national purposes of the organization are accomplished.

If the roadbed may be taxed, it may be seized and sold for nonpayment of taxes—seized and sold in parts and parcels, separated by county or State lines—and thus the whole purpose of Congress in creating the corporation and establishing the line may be subverted and destroyed.

In my judgment, the tax laid in this case was an unconstitutional interference with the instrumentalities created by the National Government in carrying out the objects and powers conferred upon it by the Constitution (pp. 49–50).

In Van Brocklin v. *State of Tennessee* (*117 U. S., 151*), Mr. Justice Gray, speaking for the court said:

The liability of the property of the Pacific railroad companies to State taxation has been upheld on the distinction * * * that, although the railroad corporations were agents of the United States, the property taxed was not the property of the United States, and a State might tax the property of the agents, provided it did not tax the means employed by the National Government.

And he there quoted with approval the following from the dissenting opinion of Mr. Justice Bradley in the Peniston case:

The States can not tax the powers, the operations, or the property of the United States, nor the means which it employs to carry its powers into execution.

In California v. *Central Pacific Railroad Company* (*127 U. S., 1*) the question of taxation by the State of California of the franchise of the Central Pacific Railroad Company came before the Supreme Court in this case, and the court, speaking by Mr. Justice Bradley, unanimously held that such franchise was not subject to taxation by the State. In the opinion the following language is used:

It seems very clear that the State of California can neither take them (the franchises held by the company) away, nor destroy nor abridge them, nor cripple them by onerous burdens. Can it tax them? It may undoubtedly tax outside visible property of the company situated within the State. That is a different thing. But may it tax the franchises which are the grant of the United States? In our judgment it can not. What is a franchise? * * *

Generalized, and divested of the special form which it assumes under a monarchical government based on feudal traditions, a franchise is a right, privilege, or power of public concern, which ought not to be exercised by private individuals at their mere will and pleasure, but should be reserved for public control and administration, either by the government directly or by public agents, acting under such conditions and regulations as the government may impose in the public interest and for the public security. Such rights and powers must exist under every form of society. They are always educed by the laws and customs of the community. Under our system their existence and disposal are under the control of the legislative department of the government, and they can not be assumed or exercised without legislative authority. No private person can establish a public highway, or a public ferry, or a railroad, or charge tolls for the use of the same, without authority from the legislature, direct or derived. These are franchises. * * * No persons can make themselves a body corporate and politic without legislative authority. Corporate capacity is a franchise. * * *

In view of this description of the nature of a franchise, how can it be possible that a franchise granted by Congress can be subject to taxation by a State without the consent of Congress? Taxation is a burden, and may be laid so heavily as to destroy the thing taxed, or render it valueless. As Chief Justice Marshall said in McCulloch *v.* Maryland, "the power to tax involves the power to destroy." Recollecting the fundamental principle that the Constitution, laws, and treaties of the United States are the supreme law of the land, it seems to us almost absurd to contend that a power given to a person or corporation by the United States may be subjected to taxation by a State. The power conferred emanates from, and is a portion of, the power of the government that confers it. To tax it is not only derogatory to the dignity, but subversive of the powers of the government and repugnant to its paramount sovereignty. * * * It may be added that these views are not in conflict with the decisions of this court in Thomson *v.* Pacific Railroad (9 Wall., 579), and Railroad Company *v.* Peniston (18 Wall., 5). As explained in the opinion of the court in the latter case, the tax there was upon the property of the company and not upon its franchises or operations. (127 U. S., 40–41.)

Reagan v. Mercantile Trust Company (*154 U. S., 413*).—While the language in this case is not wholly clear, it seems to indicate a belief that Congress might exempt such a railroad from State taxation. Page 416:

Similarly we think it may be said that, conceding to Congress the power to remove the corporation in all its operations from the control of the State, there is in the act creating this company nothing which indicates an intent on the part of Congress to so remove it. * * * It (Congress) must have known that, in the nature of things, the control of that business would be exercised by the State, and if it deemed that the interests of the nation and the discharge of the duties required on behalf of the nation from this corporation demanded exemption in all things from State control it would unquestionably have expressed such intention in language whose meaning would be clear. Its silence in this respect is satisfactory assurance that, in so far as this corporation should engage in business wholly within the State, it intended that it should be subjected to the ordinary control exercised by the State over such business.

In Central Pacific Railroad Company v. California (*162 U. S., 125*) the court said:

It may be regarded as firmly settled that although corporations may be agents of the United States their property is not the property of the United States, but the property of the agents, and that a State may tax the property of the agents, subject to the limitations pointed out in Railroad Company *v.* Peniston, etc.

Of course, if Congress should think it necessary for the protection of the United States to declare such property exempted, that would present a different question.

Van Allen v. The Assessors (*3 Wall., 70 U. S., p. 573*).—The court in this case considered the act of June 3, 1864, "to provide a national currency," etc., which subjected the shares of bank associations in the hands of shareholders to taxation by the States under certain limitations. It also considered the act of March 9, 1865, of the legislature of New York, which taxed such shares but did not tax them by the same rule as the shares of State banks, and held this statute unwarranted by the act of Congress and void. The court said (p. 591):

That Congress may constitutionally organize or constitute agencies for carrying into effect the national powers granted by the Constitution; that those agencies may be organized by the voluntary association of individuals, sanctioned by Congress; that Congress may give to such agencies so organized corporate unity, permanence, and efficiency; and that such agencies in their *being, capital, franchises, and operations* are not subject to the taxing power of the States, have ever been regarded since those decisions as settled doctrines of this court.

It will be perceived in this case that Congress laid down the rule under which a State tax could be levied upon the capital invested in a national incorporation, and, as the rule laid down by Congress was violated by the State, the tax of the State was held to be invalid.

From the foregoing authorities it seems clear—

First. That Congress, under the power to regulate interstate commerce, can create corporations for the purpose of engaging in such commerce.

Second. That a State can not tax the franchises of such corporations, nor can it interfere with the operations of a corporation chartered by the United States for such purposes, or hinder, impede, or burden such corporations in carrying out such purposes.

Third. That, while the State may tax the tangible property of the corporation within its territorial limits, in the absence of any restriction upon the taxing power of the State contained in the charter of the corporation, nevertheless Congress may, in terms, expressly provide against such State taxation by a declaration that all the property of the corporation necessary for the carrying out of the purposes for which it was incorporated shall not be subject to State taxation, or it can prescribe the rule for State taxation. In other words, Congress itself can declare what shall be regarded as the instrumentalities of government, can define such instrumentalities in the charter itself, and upon such instrumentalities the States can not levy any tax if Congress forbids.

TAXATION ACCORDING TO DENSITY OF TRAFFIC.

In laying down such a rule it may be said that sufficient regard would not be had to the density of traffic; that in some States traffic would be very much more dense than in others; that it would be very unfair to allow to States in which the traffic is less dense the same tax per mile as to States in which the traffic is greater. This objection can be met by providing that each mile of second track should be estimated as one-half mile of main track, and that each mile of third, fourth, or fifth track should be estimated as a quarter mile of main track, and thus the States whose density of traffic is demonstrated by the existence of second, third, and fourth tracks would receive a larger amount proportionately per mile of main track than the States in which the traffic is not so dense and in which such extra trackage does not exist.

A CERTAIN FACTOR IN RATE FIXING.

The advantage of this method of taxation would be also that the Interstate Commerce Commission would have another factor in their determination of rates which would be entirely certain. As it is, assuming that these railroads are entitled to a fair return upon a fair valuation, that return can only be ascertained after computing the gross receipts, then deducting from such receipts the expenses of operation and maintenance, and finally deducting the taxes and fixed charges. The balance would be the income which would be applied as a return upon the value of the property.

It is, therefore, of the highest importance that the taxes themselves should be fixed and certain. If they vary, the whole calculation of the Interstate Commerce Commission must vary, for the rates must be adjusted in such a way as to yield to the corporation operating expenses, maintenance, and taxes, and a fair return upon the valuation.

ACCIDENT AND INSURANCE FUND.

A national incorporation act should also provide for an insurance fund. We all know that in every State in the Union the employees of railroads are pushing legislation fixing the liability of corporations for injuries to employees, even though caused by the negligence of fellow employees. There is constant warfare between the railroads and their employees upon this question, and it is another fruitful source of the activity of railroads in politics. In order to protect themselves, they are omnipresent in all the legislatures of the country upon this subject. It seems to me that we should frankly recognize such liability as a charge upon the transportation of the country. There should be a fund created to aid those employees who are disqualified for active service through accident or old age, by providing that the national corporations should pay into the national Treasury 1 per cent of their gross receipts, which, under the present system, would amount to about $20,000,000 annually.

This fund should be invested by the Interstate Commerce Commission in interest-bearing securities, and the Interstate Commerce Commission should frame rules and regulations with regard to its payment to the disqualified employees. This $20,000,000 would not be taken from the profits of the stockholders, but would be imposed upon the commerce of the country as part of the operating expenses of the companies. In this way we would do much to relieve the present hostility between the corporations and their employees regarding this matter, and we would do much to protect the men who are engaged in this public service of an extra hazardous character.

NATIONAL OWNERSHIP OF RAILROADS.

Mr. President, I have already referred to the fact that this bill is likely to burden the Interstate Commerce Commission to such an extent that it will prove inert and inactive and incapable of accomplishing its purpose. If we establish a rule that will work automatically, tending toward a gradual reduction of rates, there will be no difficulty; but if we do not, I believe there will be a steady and increasing tendency toward nationalization of all the railroads of the country.

The proposition is a very simple one. The existing railroads are now, for the most part, embraced in about ten systems, each of them controlled by a corporation organized under the laws of a single State. These corporations have outstanding about $6,000,000,000 of bonds and $6,000,000,000 of stock. It is unnecessary to consider the bonds, for they can remain as a charge upon the property when the United States Government seeks to acquire the railroads, and it can gradually substitute for the existing bonds, bearing interest at the rate of 4, 4½, or 5 per cent bonds, bearing interest at the rate of 3 per cent, thus making a gradual reduction of about $100,000,000 annually in interest charges. It is not necessary for the Government to condemn the physical property of the corporations. All that it needs is the interest of the shareholders.

This was done recently in the case of the Panama Railroad, when a bill passed the Senate, with the approval, I believe, of all the lawyers, giving the United States power to condemn shares of stock in the Panama Railroad that were outstanding. We could exercise that same power now with our railroads, and all that we would have to provide for would be the market value of all the railroad stocks, whose par value is about $6,000,000,000. Such market value is, I believe, about $5,000,000,000.

NATIONAL OWNERSHIP EASILY FINANCED.

The statement for 1904 shows that the net income of all the railroads of the country, after paying operating expenses, taxes, maintenance, and interest upon debt, amounted to $278,000,000. Assuming that we had to pay $5,000,000,000 for all the stocks outstanding, we could issue national bonds at 3 per cent therefor, and the annual interest charge would not be more than $150,000,000. We would have, according to this statement, an excess of $128,000,000 annually, which could be applied to a sinking fund or to extensions. The nation could also gradually retire the existing mortgage bonds bearing interest at about 4½ per cent with 3 per cent bonds, and thus make a saving in interest of $100,000,000 more, and thus we would in time accomplish an annual saving of $228,000,000, which would construct at least seven or eight thousand miles of railroad annually to keep pace with all the requirements for new construction in the future. Or, if new capital should be applied to that, the $228,000,000 put into a sinking fund would soon retire every dollar of indebtedness created by the purchase of these railroads. Or we could enter upon national ownership in a very limited way.

A NATIONAL TRANSCONTINENTAL LINE.

We could acquire simply one trunk line from the Atlantic to the Pacific by acquiring the Baltimore and Ohio running from New York, Philadelphia, and Baltimore to Chicago and the Atchison system running from Chicago to San Diego, Los Angeles, and San Francisco. We could condemn their stock for about $450,000,000, leaving the roads subject to a bond issue of about $500,000,000. The income of those properties would take care of the interest charges and leave a surplus that could be applied to a sinking fund or to new construction. Branch lines of railway could be built from this great central line or the numerous railroads in the country that are not embraced in the great systems could connect and cooperate with it. I suggest this line because less money would be required in financing it than in any other line.

INCREASE IN INCOME.

That the income of these railroads is bound to increase largely under existing conditions is demonstrated by a comparison of their earnings for 1904 and the earnings for 1897. The gross earnings for 1904 were $1,975,000,000; for 1897 (seven years previous), they were $1,122,000,000, an increase in seven years of about 70 per cent. It is altogether probable that within the next ten years the present gross earnings of the railroads now aggregating about $2,000,000,000 will be increased to $4,000,000,000.

A more favorable showing is made regarding the net income. In 1904 after deducting all interest charges, operating expenses, maintenance, and taxes the net income was $278,000,000, while in 1897 it was only $81,000,000. So their net income has been increased within a period of seven years over 300 per cent.

The nation having acquired the stock of these railroads, their operation could be continued under their present managers, with their present employees. The roads could continue to pay their present taxes to the States, so that no readjustment of revenues would be necessary, and the members of the Interstate Commerce Commission could constitute the directors of these corporations and gradually work out a system of national administration, just as the Panama Commissioners are now acting as the directors of the Panama Railroad Company.

If the United States is ever to enter upon the purchase and nationalization of these roads it could never act at a more favorable time than now, nor with more justice to the stockholders and bondholders of these corporations, for their stocks have within seven years increased from 25 to 100 per cent in value.

NATIONAL CONSTRUCTION OF RAILROADS.

But if the United States should be unwilling to condemn existing properties, which, on the average, are capitalized at about $65,000 per mile, it could easily enter upon the work of national construction without interfering seriously with the operations of any of the existing systems. I imagine it would not be our wish to imperil the investments of the stock or bondholders of existing corporations, and that many would not look with favor upon a policy which would put the Government in the attitude of a competitor with private railroads.

But we must remember that new construction is going on at the rate of about 5,000 miles per annum. There is no reason why the United States should not take up new construction—the construction of the future. The railroads are now engaging in it. The Gould system is now being extended into a transcontinental line. It will be absolutely necessary in the near future to duplicate and perhaps triplicate the tracks of some of the existing roads in order to meet the demands of business. Why, then, should not the United States construct one road from ocean to ocean, and operate it as an experiment in national ownership?

Three thousand miles of railroad would not cost more than $35,000 per mile. One hundred million dollars would construct such a railroad. The Geological Survey, with its great force of topographers and civil, railroad, hydraulic, and construction engineers, now employed in the Reclamation Service, could

easily undertake the work, and thus the nation would have an opportunity of contrasting Government construction and operation with that of private corporations.

The nation could in this way, while leaving the existing railroads in the enjoyment of their present business, simply take up the railroad construction of the future. The capitalization of such roads would be at the rate of $35,000 a mile, instead of the existing capitalization of about $65,000 a mile.

The financial difficulty therefore is not a great one. If we take hold of all the roads or a chain of roads, like the Baltimore and Ohio and the Atchison system, the net income would pay all the interest charges and leave a surplus for a sinking fund or extensions.

COMPLEXITY OF EXISTING CONDITIONS.

I imagine that the country will respond to such an appeal unless we relieve the complexity of the existing conditions. What is that complexity? We have 2,000 railroad corporations in this country, combined, for the most part, into eight or ten great systems. The complexity of the situation is beyond parallel. It is almost impossible to get at the facts regarding these great systems.

Look over the interstate commerce reports and you will find the Pennsylvania Railroad operating a system. Under its name, as subsidiary lines, will be eighty or ninety different roads, and you will find at the side after the name of each road a note to the effect that this line is a subsidiary line, and that line is an operating line; in this line the Pennsylvania Railroad owns all the stock, in that line the Pennsylvania Railroad owns a part of the stock; this road is leased; with another road it has traffic arrangements, etc. Thus you find the utmost complexity as to title and ownership and the holding of these various systems, all arising out of the fact that, while combination is desirable, the laws, whether national or State, have not provided suitable machinery for its accomplishment.

This complexity is, and will continue to be, a fruitful source of corruption and fraud. Then we find that there is some understanding between the New York Central, the Pennsylvania Railroad, the Baltimore and Ohio, the Norfolk and Western, and the Chesapeake and Ohio, all of them trunk lines, all of them occupying the territory of densest traffic, all of them national in their operations, for they embrace not only the traffic of the States through which they operate, but the traffic of the entire Union. The traffic of the Pacific coast, the traffic of the Southern States, the traffic of the Middle States all go over these trunk lines, and yet it is impossible for a national commission to understand what is the relation of these various roads toward each other.

It finds each of them operating numerous subsidiary companies, all bound to the parent company by the most complicated arrangements. Some of these arrangements take the shape of rentals. How can they tell whether a fair rental is made in these cases? Suppose the directors of the New York Central are interested in a railroad which is intended to be taken into the New York Central system, and they do it through the medium of a nine hundred and ninety-nine year lease, I ask whether they are likely to be very rigid with themselves in fixing the terms of that lease? Whether, if it is a question between a rental that will yield 4 per cent and one that will yield 8 per cent, they will not be likely to determine in favor of the latter, and whether in that case the larger rental will not, by the contract of parties interested upon both sides, dealing with each other, be fastened upon the entire commerce of the country?

INTERCORPORATE HOLDINGS.

Then these railroads have their intercorporate holdings. The Baltimore and Ohio owns $30,000,000 of the stock of the Reading Company, a company which owns the stock of the Philadelphia and Reading Company and also owns extensive coal mines. We have also the Lake Shore and Michigan Southern, which is one of the subsidiary roads of the New York Central, owning an equal amount, I believe, about $30,000,000, in the stock of the Reading Company. Then we have the Pennsylvania owning a large amount of Baltimore and Ohio stock, and we find some of the subsidiary roads of the New York Central owning stock in the Chesapeake and Ohio and the Norfolk and Western. So they are all interlinked with each other. These four railroad systems constitute the trunk lines of the country over which almost all the commerce of the country goes, and yet they are organized under the laws of particular States in whose government the people of the nation generally have no share.

I ask whether it is an essential doctrine of State rights that the State of New York is to create the machine that is to do the business for the nation; or that the State of Pennsylvania or the State of New Jersey should create the machine that is to do the nation's business? Would it not be very much wiser to provide for a national incorporation act, under which these great consolidations can be accomplished and under which they can be supervised and controlled. The intercorporate holdings of these railroads to which I have alluded aggregate nearly three billion dollars—nearly two billion in stock and nearly one billion in bonds—and of these intercorporate holdings three hundred millions are holdings in corporations that are not transporting corporations, not railroad companies, but coal companies, steel companies, companies engaged in production.

The States furnish the machinery by which production and transportation can be linked together. I imagine nothing can be more apparent than the fact that if you give certain men control of the transportation of the country and also give them control of the production, through these great trusts and combinations, they will in time absorb all the wealth in the country, and yet this is permitted under State laws, while the Nation, whose commerce is three-fourths of all the commerce in the country, sits idly by and allows the States to frame the charters under which these great masters of transportation and of production can absorb the productive wealth of the country.

ABSORPTION OF STATE RAILROADS BY NATIONAL CORPORATIONS.

Mr. BACON. Will the Senator permit me to make an inquiry of him?

Mr. NEWLANDS. Certainly.

Mr. BACON. The Senator is speaking of a condition now existing. We have in this country some 230,000 miles of railway, I believe, almost all of which is the property of companies which have already been chartered by the States——

Mr. NEWLANDS. Yes.

Mr. BACON. And which to-day exist as corporations by State authority. I should like to know of the Senator, if he could secure the necessary consent of Congress to carry out his scheme, in what way could the charters of these hundreds, and almost thousands, of corporations granted by the States be taken away from them—nullified, in other words—and national charters substituted therefor, except by the consent of the States themselves, unless you are going to work a much more far-reaching revolution in the centralization of power than we have ever had suggested by the most extreme advocate of central power? In what way would the Senator proceed practically to consummate the purpose which he now suggests, and that is to bring under Federal control all of these hundreds, if not thousands, of corporations now existing under State law, with corporate rights secured under State laws, and all these vested interests built up under State law? What would be the practical proceeding which the Senator would recommend to enable him to carry out his purpose, even if he had the consent of Congress to do it?

Mr. NEWLANDS. I will say to the Senator that in the first place I would not attempt to do it without the consent of the States. But I assume that the States would yield their assent just as readily to the operation of railroads incorporated by the Nation as to the operation of railroads incorporated by sister States.

Mr. BACON. I should like to suggest to the Senator——

Mr. NEWLANDS. Take the Southern States, for instance——

Mr. BACON. I should like to suggest to the Senator the very remarkable difference there is between the two. When a corporation is organized by a sister State it does business in another State simply by the comity of that other State and by the consent of that other State.

Mr. NEWLANDS. Yes.

Mr. BACON. Whereas, if the scheme the Senator from Nevada suggests could be inaugurated, it would not be a matter of consent on the part of the State. If we have the power to do what he contends for, it would be a matter of obligation and compulsion on the part of the State, whether it desired it or not. That is a very different thing from the State being willing to consent to a railroad operating under a charter granted by some other State, the exercise of whose corporate powers in that State still continue to be within the control of that State.

Mr. NEWLANDS. I will say to the Senator I have very much modified my proposition since I first asserted it, in order to meet the objections of those who fear that it might involve usurpation of State sovereignty. I have now framed some provisions, which the Senator will find in the appendix to my views upon this bill when reported from the committee, in which I take up the question to which he has referred.

I will state that so far as new construction is concerned, there is no doubt about the power of the National Government to organize national corporations for the purpose of conducting an interstate road. If such a road were constructed, the National Government could lay down the scheme of taxation for that road.

Mr. KEAN. Without the consent of the States?

Mr. NEWLANDS. Without the consent of the State; absolutely.

Mr. KEAN. Take land and do everything necessary?

Mr. NEWLANDS. Certainly; under the power of eminent domain.

Mr. BACON. The Senator will pardon the inquiry, as I ask for information simply. The Senator is contending for a system of national taxation to the exclusion of State taxation. Does the Senator mean now to assert the doctrine that under the power of interstate commerce the Federal Government can charter a railroad through a State and deny to the State the right to tax that railroad, and take to itself the exclusive power to tax that railroad?

Mr. NEWLANDS. I do. I would not deem it wise, however, to exercise that power.

Mr. BACON. I understand the Senator did advocate the exercise of that power, because the great evil that I understand him to be combating is the evil which grows out of State taxation. The Senator wishes to have uniform taxation, which, he says, can be accomplished only by the National Government.

Mr. NEWLANDS. But I would not exercise that power by exempting the property from State taxation. I would exercise it by providing the rule and the method of taxation.

Mr. BACON. By which the State would levy the tax?

Mr. NEWLANDS. By which the State would levy the tax.

Mr. BACON. But that would imply, of course, the power to deny to the State the power to tax it.

Mr. NEWLANDS. Yes; I contend for that.

Mr. BACON. The Senator has given very much more thought to this subject than I have, and I should like to inquire of him whether his statement that in his opinion it is within the power of the National Government to authorize the construction of railroad through a State and to deny to the State the right to tax any of that property is based simply upon his own reflection or upon the statement or ruling of any court?

Mr. NEWLANDS. Upon both, I will say to the Senator. I claim, in the first place, that the National Government can itself construct a railroad—an interstate railroad. It can, if it chooses, construct a railroad from the Atlantic to the Pacific Ocean, just as to-day it is constructing the Panama Canal. I claim, further, that that road—a Government road—after it is constructed, would be exempt from taxation by the State.

Mr. BACON. The Senator is now speaking of the construction of a railroad by the Government and not of the granting of a franchise to a company.

Mr. NEWLANDS. Yes; but I am going to follow it up.

Mr. BACON. The Senator is now speaking of the appropriation by the Government to its own use of property in the way of right of way, etc., and upon that constructing a railway, the title of which shall be in the Government and the ownership of which shall be in the Government.

Mr. NEWLANDS. Yes.

Mr. BACON. That would be very limited in its operation, necessarily, if the Senator is speaking of those things which are practical. As I understand the contention of the Senator it is that there is such great evil growing out of the multiplicity of railroads, with different charters, different powers, different burdens resting upon them, of their own indebtedness, and of differing systems of taxation and rates of taxation, that it is of the highest importance that all this vast system shall be unified in such a way that there shall be uniformity of burden upon the railroad companies, in the way of taxation particularly. When the Senator suggests the construction of a road by the Government, of course he has to engraft that upon a system which already has 230,000 miles of railway.

So in dealing with the question practically, for the purpose of meeting the evil which the Senator contends exists, it seems to me the matter to which our attention should be directed is the question how shall this vast system be unified, and not how it would be practicable to build one railroad. While I do not agree with the Senator on his contention in regard to that proposition, I do not think he meets the question, even if the correctness of his proposition were conceded.

Mr. NEWLANDS. I will say to the Senator that I was simply giving him the process of reasoning by which I arrived at the conclusion that a railroad incorporated by the national Government as an instrumentality for interstate commerce could be exempted by the National Government from taxation, and so I started by assuming that if the National Government, in the exercise of its power over interstate commerce, should conclude to build a road from the Atlantic to the Pacific Ocean, with all its branches, etc., it could exempt that railroad from State taxation.

Then I assume next that if the National Government, instead of building the railroad itself, concludes to put the construction in charge of an agent, a corporation which it has itself created, it can also stamp that road as a national instrumentality and exempt it by express enactment from State taxation; and that if it can do that, it can prescribe the rule by which the State can tax that particular property. My reasoning thus far extends only to the case of a Government-owned railroad or a Government-incorporated railroad. Now let us take up——

Mr. HEYBURN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Nevada yield to the Senator from Idaho?

Mr. NEWLANDS. I should like to get through with my reply to the Senator from Georgia.

CAN CONGRESS RELIEVE THE RAILROADS FROM STATE TAXATION?

Mr. HEYBURN. Before the Senator leaves that question I should like to ask whether, in his judgment, it is competent for Congress to relieve this property from taxation in the States?

Mr. NEWLANDS. I think so.

Mr. HEYBURN. Then, I should like to make this suggestion to the Senator: In some counties in my State the railroads pay from sixty to seventy per cent of the taxes that go to the maintenance of the local government. I suppose there are such instances in Nevada. Would the Senator regard as reasonable any law which would exempt those railroads from contributing to the expenses of the government that affords them protection?

Mr. NEWLANDS. I would not, and I do not propose to exempt them.

Mr. HEYBURN. I think there are counties in the Senator's State where the railroads pay as much as 80 per cent of the expense of maintaining local government. If you are going to exempt the railroads from taxation within the States, where is the substitute to be found for maintaining the local government—schools, roads, etc.?

Mr. NEWLANDS. I will say to the Senator that I do not propose to exempt the railroads from State taxation. On the contrary, I propose to subject them to State taxation.

Mr. HEYBURN. I misunderstood the Senator.

Mr. NEWLANDS. I propose that the National Government shall fix the rule by which the roads shall be taxed, providing they are railroads under national incorporation, created as national instrumentalities for the purpose of carrying out a national power.

Mr. HEYBURN. I should like to ask the Senator whether he thinks Congress can do that?

Mr. NEWLANDS. I think so.

Mr. HEYBURN. Can project a railroad into a State, which railroad enjoys the protection of State laws, and the State be able to tax the railroad only under the rule established by the Government, without any State control over it at all?

Mr. NEWLANDS. I do not propose that the National Government shall tax the railroads at all, but that the National Government shall fix the rule by which the States shall tax them.

Mr. HEYBURN. What is the difference between fixing the rule under which the railroads shall be taxed and taxing them, because if the Government could fix the rule it could limit it without regard to the necessities of the State? It seems to me a difficulty would arise there.

Mr. NEWLANDS. So far as the power is concerned—we have that already illustrated in the action of the National Government with reference to national banks. The National Government fixes the rule by which national banks shall be taxed.

Mr. HEYBURN. I suggest that is in the nature of tangible property——

Mr. NEWLANDS. No.

Mr. HEYBURN. And the other is a class of property that taxes possession of the soil, occupies a part of the territory.

Mr. NEWLANDS. The National Government fixes the rule by which the capital stock of national banks may be taxed in the States.

Mr. HEYBURN. That is tangible property.

Mr. NEWLANDS. It is true it does not relieve the real estate of the banks from taxation, but it does fix the rule that shall apply to the capital stock of the bank.

Mr. HEYBURN. But not to the building.

Mr. NEWLANDS. It does so upon the ground that the national bank is a national instrumentality, and that the State will not be permitted to put a burden upon that national instrumentality which may destroy it.

Mr. HEYBURN. I would ask the Senator——

Mr. NEWLANDS. If the Senator will permit me, in this case the national instrumentality is the road itself—the rails and the equipment and the appurtenances—that is, the property, the

instrumentality by which transportation is conducted and through which interstate commerce is conducted, and the reasoning, therefore, applies to that instrumentality.

M'CULLOCH *v.* MARYLAND.

In the case of McCulloch *v.* Maryland, with which the Senator is familiar, the Supreme Court held that the State of Maryland could not tax the notes of a national bank, and it held it could not upon the ground that the bank was a national instrumentality, and the sovereignty of the Nation could not permit the sovereignty of the State to put a burden upon a national instrumentality which might destroy it. It is true that in that case the court said that the exemption would not apply to the real property upon which the bank was located.

Mr. HEYBURN. I was going to ask that question.

Mr. NEWLANDS. But recollect in that case the property of the bank was not exempted by statute at all—none of it—and the Supreme Court held in that case that by implication the property to which I have referred was exempt from taxation because it was necessary in the exercise of the powers of the National Government. The ownership of the bank building is not. They could conduct their bank in a leased building But, so far as all of the instrumentalities necessary to exercise the power, they are exempt.

In this particular case the railroad is the thing. It is the instrumentality itself—the railroad, its appurtenances, and its equipment—and I urge that if that railroad is in the ownership of the Government the Government can exempt it from taxation, and if it is in the ownership of a corporation created by the Government, it can exempt it. I admit, as to the law of the case, that that matter has not been finally determined by the Supreme Court, but I have already shown that in the Peniston case the court stood four to four upon it, and the only reason why the judgment was rendered against the exemption in that case was that one of the four judges, who held that the power to exempt could apply to the railroad, claimed that the exemption had not been declared in the statute and that unless it was declared in the statute, it was clearly not the intention of Congress that the property should be exempt. So the case stands four to four in that decision.

But upon the reasoning of the case, the logic of the case, if a national railroad, incorporated by the United States Government, was constructed by an agent of the United States Government, and if it is declared to be a national instrumentality, and declared by the national Government to be exempt from taxation, then under the case of McCulloch *v.* Maryland, and by reasoning and analogy, it is clear the exemption will be sustained.

As to the policy of exempting it, that is another thing. All I insist upon is a fair rule of taxation. I do not propose to diminish the existing taxes an iota, but I want to propose a rule which will make these taxes mathematically precise, in order in the future to keep the railroads out of politics upon this question, and to aid in the determination of rates by securing a definite factor in the calculation of fixed charges.

Mr. HEYBURN. I should like to ask the Senator from Nevada a question.

The VICE-PRESIDENT. Does the Senator from Nevada yield to the Senator from Idaho?

Mr. NEWLANDS. Certainly.

Mr. HEYBURN. I should like to ask the Senator whether, in his judgment, if the railroad was the property of the United States, it could be taxed at all by a State? And I will say, in connection with that question, that the strongest argument against Government ownership of railroads is that the States could not tax the property of the Government of the United States, and would therefore be deprived of the support that they naturally should have in the way of taxation.

MERGER.

Mr. NEWLANDS. I know that is urged as a reason. In reply to the Senator from Georgia, who asked me how we would, under a national incorporation act, secure the merger of these State corporations into a national corporation, I will say, in the first place, that I do not propose in my bill that that shall be done without the consent of the States. But if the Senator will look at the legislation of some of the States, particularly the Southern States, he will find that the States have not been loath to allow a foreign corporation to enter their borders and to construct and operate railways. Take the ten Southern States south of Pennsylvania and of Ohio.

Almost the whole of the transportation facilities of those States to-day are under the control of two great systems. One is the Southern Railway system and the other the Atlantic Coast system. Each of these systems operates about 10,000 miles. The Southern Railway Company is incorporated under the laws of Virginia. The Atlantic Coast Railroad Company was originally incorporated under the laws of Virginia, I believe, but its stock has now passed into the hands of the Atlantic Coast Company, which is incorporated under the laws of Connecticut. So we find that one of the systems of railway traversing the entire South is incorporated under the laws of Virginia and the other practically incorporated under the laws of Connecticut.

How is it that those railroad companies operate in those States? With the consent of the States, expressed in legislation. And the Senator will find that in one or more of the States in the South they have laws now upon the statute books which permit merger with any connecting railroad, whether incorporated under the laws of another State or under the laws of the United States. I imagine they will have no more objection to merger with a corporation organized under the laws of the United States than they will have to a merger with a corporation organized under the laws of a State.

Mr. BACON. Mr. President——

Mr. NEWLANDS. Particularly if, as in this case, the law incorporating the national corporation absolutely disclaims any intention of interfering with the police power of the State and provides that it shall only acquire an existing railroad in any State with the consent of that State.

The VICE-PRESIDENT. Does the Senator from Nevada yield to the Senator from Georgia?

DUAL SOVEREIGNTY.

Mr. NEWLANDS. If the Senator will just let me close this thought. Here are two sovereigns, one the great national sovereign, exercising sovereignty under the granted powers over the territory occupied by all the States of the Union, the other sovereign each of the 45 different States. The State has control over State commerce. The nation has control over interstate commerce. The same machine must do the business of both. Now, if the State can create the machine that is to do interstate commerce the nation can create the machine that is to do State commerce.

Mr. BACON. Mr. President——

Mr. NEWLANDS. If the Senator will permit me, the States can not authorize corporations to do interstate commerce without the approval of the nation, and the nation can not authorize corporations to do State commerce without the approval of the States; but I imagine that consent would be forthcoming in both instances. Now I yield to the Senator from Georgia.

Mr. BACON. The reason why I sought to interrupt the Senator was because he was passing away from the point on which I wished to reply to him. I want to say, however, that I have no disposition to unduly interrupt the Senator, and my only purpose in the first interruption was to get his views as to how he proposes practically to accomplish that which he argues so effectively theoretically.

Mr. NEWLANDS. I am very glad to yield to the Senator.

RAILROAD SYSTEMS IN THE SOUTHERN STATES.

Mr. BACON. The Senator, though, in speaking of the question of probably securing the consent of the States mentions the fact that in the Southern States, using them as an illustration, most of the railroads are owned by two or three systems, and that being operated successfully in States making no special objection to that fact they would equally consent that there should be systems operated under Federal charter, the systems now being operated there having as they do charters of other States.

I wish to make a statement to the Senator, and I do not propose to pursue the discussion further or to interrupt him in the regular course of his remarks. There is a vast difference between the two. The purpose of the Senator, if accomplished by Federal incorporation, would be entirely different in its operation from that which is now accomplished by railroads operated as they are under charters from other States.

The purpose of the Senator is to take away from the States the right to assess and collect taxes, and if his scheme could be carried out under national incorporation the large systems of railroads operated under Federal charters would have as their chief characteristic or feature the fact that their taxes were assessed and perhaps levied by the Federal Government; if not levied certainly assessed. In other words, the State would entirely lose the right of assessing taxes and be remitted under the Senator's scheme purely to the work of collection, whereas as it now exists, while it is true that the railroads are chartered in a large measure (it is not altogether so in my State by any means) by States other than those through which they run, nevertheless in all those cases and in all those States the power of assessing and levying taxes is as perfectly preserved by the State as if the road was chartered within that State and operated solely by an authority or franchise received from it.

As I said, I do not desire to break up the Senator's speech with a colloquy, but I really interrupted him for the purpose of getting his view, if the Senator's theory is a correct theory,

and if Congress could be gotten to consent to it and to attempt to put it in execution, in what way would the Senator seek to bring under this general control the 230,000 miles of railroad now being held under charters granted by States and not by the Federal Government. The Senator has already expressed his view as to how that was to be done, and I simply repeat it for the purpose of disclaiming any purpose to enter into any general discussion with him on the subject.

Mr. NEWLANDS. Mr. President, I am glad to have the Senator put me any inquiry that he sees fit, and I am only too glad to answer.

I will state to the Senator that it is not absolutely essential that a national incorporation act should provide for a scheme of taxation. I assume that Congress could not, in framing a national incorporation act, provide a scheme of taxation unless it presented obvious advantages—advantages which the representatives of every State in the Union would see.

ADVANTAGES OF UNIFORM TAXATION.

Now, those advantages are that if we have a fixed tax, mathematically ascertained, it will yield as much and more than the States now get. It also takes the railroads out of politics as to taxation, and I regard that as very desirable. Second, it results in a certain factor for the regulating of commerce, both national and State, because then taxes can be definitely and mathematically ascertained as one of the fixed charges of the company, whereas if they are left in the elastic form to which I have already alluded, ranging possibly all the way from the present tax of $56,000,000 in the aggregate to $150,000,000, and involving possibly in addition a tax of equal amount upon the stockholders and bondholders all certainty regarding taxes as a factor in the regulation of railroad rates will be lost.

I would expect, of course, in the consideration of such legislation that the members from the different States represented in Congress would not permit any provision to go in, regarding taxation, unless they felt it was a beneficial provision—beneficial to the States themselves and beneficial to the entire nation. It is not essential, however, to national incorporation, in fact, it is rather extraneous to it. The main purpose to be accomplished by national incorporation is the control over capital, and also the control over the return upon capital.

COMITY OF THE STATES TO THE NATION.

The Senator seems to doubt that the States would pursue the same rule of comity toward a national corporation that they follow with reference to a corporation organized under the laws of a sister State. I admit that at the start there may be a feeling that here is the great national sovereign proposing to dominate the transportation in a particular State. But then I would expect the people of the State and their representatives to reflect upon the utter inadequacy of existing State law to shape a machine that can do this work properly.

Mr. BACON. If the Senator will pardon me there, I will try not to interrupt him again.

Mr. NEWLANDS. Certainly.

Mr. BACON. I understand that while it would be the Senator's plan to secure the voluntary action and consent of the State, nevertheless he does contend that in the absence of such consent it would be within the power of the Federal Government without that consent to convert all these charters into Federal charters.

Mr. NEWLANDS. No, I do not contend that.

Mr. BACON. Does not the Senator recognize that of all the schemes—and I use the word "scheme" not in any disparaging sense—of all the plans that have been suggested, short possibly of the Government ownership of the 230,000 miles of railroad in this country, there has never been a scheme which would so certainly result in the far-reaching and fast-binding of the centralizing power and authority of the general Government as would this scheme.

Mr. NEWLANDS. I think not. I do not think it would centralize power in the National Government any more than the present system centralizes power in the hands of outside States. We must locate power somewhere, and under the existing system of combination and consolidation the great corporation which controls the transportation of ten or fifteen States, and through them the commerce of all the Union passing over those roads, is centralized in a particular State, like the State of Virginia, or the State of New Jersey, or the State of New York. I imagine that if this transportation system is to be under the control of a foreign corporation, the States affected would rather have the control in the Federal Government, in whose legislation every State has a share, than in a State in which the people of no other State have any share.

In examining the statutes of some of the States I find they expressly provide for the merger of railroads organized under the laws of that State with railroads organized under the laws of other States, or of the United States. So there is the evidence right upon the statute books that there is no objection to accepting the National Government as the creator of the corporation that is to merge these great systems. Let me call the Senator's attention to the loose legislation that has prevailed in States upon this matter.

Mr. BACON. If the Senator will pardon me, before he goes on to that, just as a mere suggestion, I will revert to the fact that not only the State's control over the railroads thus merged, of which he speaks, is in the right of assessing and collecting taxes, but the right to control in every particular—every matter of police, every matter of taxation, every matter of the regulation of rates is still within the power of the State. Under the Senator's system the matter of police and the matter of regulation and the matter of the regulation of rates would be surrendered to the General Government, as well as the matter of assessing taxes.

Mr. NEWLANDS. Let me read to the Senator the section which I have prepared upon that subject. It is headed:

STATE POLICE AND STATE RATES.

SEC. 18. Nothing herein contained shall be construed as interfering with the police laws of any State regarding railroads incorporated under this act and operating in such States, nor shall anything herein contained be construed as affecting the right and power of each State to regulate purely State commerce on railroads organized under this act. But the Interstate Commerce Commission may hold conferences from time to time with the regulating power of any State with a view to such harmonious adjustment and regulation of State commerce and interstate commerce as will protect the public against abuses or extortion, and the railroads against inadequate returns upon their investment, and promote the efficiency of such corporations as common carriers.

Mr. BACON. The Senator must necessarily recognize the fact that the success of his scheme would involve the permanent surrender by the States thereafter to control any of those matters, and while we might pass that statute now, another statute might be passed to-morrow and the right to regulate the rates in a State, even as to the matter of rate or any question of liability for damages of any kind or under a contract of any kind or any other matter of police, taxation, or the regulation of rates, would be forever gone from the State and thereafter permanently vested solely in the United States.

If the Senator thinks that the States would voluntarily for all time surrender such rights as those, the Senator is very much more sanguine than most of us would possibly be under such circumstances. I think that so far from being ready to surrender for all time such rights as those it would create somewhat of a spirit of resistance, if there was an attempt to force it upon them. The Senator, I understand, of course, does not contemplate that, but I simply speak of it as a matter of contrast.

Mr. NEWLANDS. I will state that no surrender whatever of the rights of any State is involved, in my judgment, in this proposed act. The States have absolute control over purely State commerce. The Federal Government has absolute control over interstate commerce. The same instrumentality is used for both State commerce and interstate commerce.

Now, the only question is, which sovereignty shall create that instrument? After the instrument is created nothing will interfere with the powers of the State over State commerce or with the power of the National Government over interstate commerce. The Senator might as well insist that if we permit the instrument that is to do the interstate commerce we thereby absolutely surrender to the State all power over interstate commerce. The Senator will not contend that.

On the contrary, although Congress has permitted the State to create the instrument of interstate commerce, we are regulating that instrument by all the statutes which we have upon that subject. We have regulated the State instrument as to safety appliances, as to rebates and preferences, and we propose now to regulate it as to rates, but only in relation to interstate commerce. So also, if a national corporation were created, that corporation, so far as interstate commerce is concerned, would be subject to the laws of each particular State; and in the absence of any provision exempting the corporation from taxation, or prescribing the rule for taxation, it would be subject to the laws of that State with reference to taxation.

Now, the Senator seems to view with apprehension the possibility that hereafter we might seek to change this law, but recollect this law can only be changed by the Representatives in this body and in the House of Representatives of the various States affected. Everyone of them has a voice here and a voice in the House of Representatives, and I suggest to the Senator whether it is not better, if the instrument is to be created that is to conduct both State and interstate commerce to have that instrument created by a sovereign in whose action the people of every State can participate rather than in the sovereignty represented by a single State like the State of Virginia, or New

York, in which the people of outside States have no representation or voice whatever.

THE INCORPORATION OF THE SOUTHERN SYSTEMS.

Let us see what this present system fastens upon the entire nation as a whole and upon States whose transportation is conducted by corporations organized outside of that State. The two lines to which I have referred—the Atlantic Coast line and the Southern Railway line—each control about 10,000 miles of railways in the South. Each of those lines is composed of many different roads, organized under State laws, and each one of those was probably the result of antecedent consolidations, so that probably each of the present systems represents an aggregate of two or three hundred corporations.

Now, let us look at the law which provided for this. The Southern Railway Company is the successor of the Richmond and Danville. The Richmond and Danville road was a small railroad company operating about 300 miles of railroad in Virginia. It got into difficulty and went into the hands of a receiver. It was purchased by certain parties, and they evidently determined to make it the nucleus of a great national system, for that is what the Southern Railway system is to-day. they applied to the Virginia legislature, and a law was passed which provided that the purchasers of that road could organize a corporation by whatever name they chose, and that the purchasers could make the capital stock of that corporation $350,000,000. There was no limit whatever as to bonds. The stock, however, was limited to $350,000,000. The Senator can look over that law, and he will find that there were no guards whatever attached against excessive capitalization, it being quite possible for that corporation to issue shares for a dollar a share, though the par value is $100; and the act provides that whatever may be paid for the stock, the stock shall be thereafter regarded as full-paid stock.

That act gave the most ample powers without any restriction or restraint or control of any supervising body. I can understand how it was done. The people were anxious to have the railroad system of the South built up, and they were glad to have the cooperation of any body of capitalists who would do it. So this extraordinary charter was given. As I stated, it allows this little 300-mile railroad to issue $350,000,000 of stock. It does not provide that that stock shall be issued only for money paid or for property at its value, but under those provisions watered stock to almost any extent can be given out.

As I have stated, stock could be given for a dollar a share, and yet afterwards it would be regarded as full-paid stock at a hundred dollars a share. Unlimited power is given with reference to bonds, and then it gives the power to "lease, use, operate, consolidate with" * * * "any railroad or transportation company now or hereafter incorporated by the laws of the United States."

The State of Virginia had no objection to consolidating with any corporation organized under the laws of the United States. There is the sanction now, so far as Virginia is concerned, to this very proposition—"or of any of the States thereof, or any one or more of such railroad or transportation companies."

There are liberal provisions of this kind which I shall insert in the RECORD. The power is given to purchase, hold, and own bonds or stocks of other corporations, and also the power to purchase and guarantee "the stocks and bonds, or either, of hotel, lighterage, wharf, elevating, and other such enterprises convenient in connection therewith or as a part thereof." The company may classify its stock as it chooses and give preferences as it chooses, and then comes the following clause:

Such new corporation may borrow money and issue bonds or other evidence of indebtedness therefor, and may secure the same from time to time by mortgage or deed of trust upon any or all of its property and franchises; and such new corporation, from time to time, may issue and sell its bonds and its capital stock at such prices and on such terms as shall be specified in said plan of organization, or as a majority in amount of the stockholders shall approve at any meeting, and may receive in payment therefor property, securities, or shares in any corporation mentioned in this act; and any stock so issued shall be deemed fully paid and free from any liability.

Now, the Atlantic Coast Line was incorporated under a similar law. Contrast that law with the State of Texas, where they will not permit consolidation with any corporation outside of the State, and where in the State itself consolidation is absolutely controlled by the regulating commission. Contrast it also with the laws of Texas, which provide that there shall be no issue of bonds or stocks except for money paid or property delivered at its actual value, and that there shall be no issue of either bonds or stocks without the approval of the railroad commission of that State. Contrast it with the laws of Massachusetts, which equally guard against overcapitalization and provide that bonds shall only be issued for money actually received or for the property delivered at its value and also provide that there shall be no issue of bonds or stocks without the approval of the railroad commission.

In both of those States you have absolute guards against overcapitalization; but these great combinations in seeking the power for combination, seek the States, the laxity of whose laws puts a premium upon consolidation and combination. They turn to States such as New Jersey and New York and Pennsylvania, whose legislation is almost altogether controlled by the railroads.

Mr. BACON. But no single one of the corporate powers given by either of those States can be exercised beyond the limits of the particular State thus granting the franchises, without the consent of the State in which it is to be exercised.

Mr. NEWLANDS. That is true.

Mr. BACON. But by the legislation which the Senator contemplates a railroad would have the right to exercise such franchises regardless of the consent of the States.

Mr. NEWLANDS. So far as interstate commerce is concerned.

Mr. BACON. Well, if they are interstate railroads, if the suggestion of the Senator is a tenable one, they would necessarily be roads which run from one State into another, and through States into other States, and throughout their whole length they would be interstate commerce roads.

Mr. NEWLANDS. So far as interstate commerce is concerned, they ought to be free from the control of the States. They are now free from control of the States.

Mr. BACON. The Senator misunderstands me. I mean so far as the exercise of corporate franchises is concerned. As it now is, no railroad company chartered in one State can exercise corporate franchises in another State without the consent of that State; and under the Senator's scheme, if it is to be operative, of course it would not be a matter of consent on the part of the State.

Mr. NEWLANDS. So far as the acquisition of existing lines is concerned my proposition does not involve acquisition without the consent of the States, and the States may impose any condition they choose upon that consent, just as they would in the case of a corporation organized under the law of a sister State.

There is another section which I have drawn here regarding the acquisition of interstate railroads. It is as follows:

SEC. 19. Such corporation may, with the consent of any State, upon the approval of the Interstate Commerce Commission, acquire the railroad of any corporation now organized under the laws of such State, and may issue for the purchase thereof such amount of bonds and stock as may be authorized by the Interstate Commerce Commission; but such authorization shall only be made after a public hearing, at which the Attorney-General shall appear, either personally or by one of his assistants, and no issue of bonds or stock therefor shall exceed the value of such road as ascertained by said Commission.

With the consent of the State under which any railroad corporation is or may be organized, merger between such corporation and a corporation organized under this act may be accomplished under this act, and bonds and stock may be issued by any corporation organized under this act for such purpose, provided such proposed merger is approved by the Interstate Commerce Commission and the bonds and stock issued in the accomplishment of such merger are also approved by such Commission.

So the rights of the States are protected just as much as where a corporation, organized under the laws of a foreign State, is conducting the transportation of a particular State. The difficulty about the present system is, as I have already stated, that these corporations uniformly resort for their charters to the States whose laws are most lax, and the result is overcapitalization, which is injurious to the entire country.

It may be said that this overcapitalization is not to be considered in the matter of the regulation of rates; and yet, as a matter of fact, it should be. These bonds and stocks are put out upon the country. The railroads make strenuous efforts to secure an income that will pay an interest upon them. They finally get a place and a value in the markets of the country; they fall into the hands of the purchasing public; and there is not a regulating board in the country that will not consider the value that has been built up in this way, and justly so, because society has stood by and allowed these values to accumulate without taking action to prevent it.

Upon this question of capitalization, I should say that even if we do not frame a national incorporation act, we should put a provision in this bill declaring that no corporation engaged in interstate commerce shall hereafter issue bonds and stocks without the approval of the Interstate Commerce Commission.

Mr. KEAN. Does the Senator offer that as an amendment to this bill?

Mr. NEWLANDS. I shall offer it.

Mr. President, I ask permission to incorporate in my remarks some quotations from the laws of various States regarding the control of capitalization and also some authorities.

The VICE-PRESIDENT. Without objection, permission is granted.

Mr. NEWLANDS. I now wish to call attention to the great advance that is being made in the value of these securities, and unless we arrest it by providing for the control of capitalization by the Interstate Commerce Commission and the control of the return on their capital, we will find that this advance will increase in the near future. Thus, for instance, in 1896 the lowest quotation for New York Central was 88; in 1900 it was 125⅜; in 1905 it was 136½. The highest quotation for these years was in 1896, 99⅛; in 1900, 145⅜; in 1905, 167¾.

Mr. GALLINGER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Nevada yield to the Senator from New Hampshire?

Mr. NEWLANDS. I do.

Mr. GALLINGER. Has the Senator the quotations for the years 1893 to 1897?

Mr. NEWLANDS. I have not.

Mr. GALLINGER. I think they would be illuminating.

Mr. NEWLANDS. I imagine the quotations were then lower.

Mr. GALLINGER. Yes; very much lower.

Mr. NEWLANDS. For Pennsylvania, the lowest quotation in these three years was in 1896, when it was 99½; in 1900, 124⅜; in 1905, 131½. The highest quotation in these years was in 1896, 109½; in 1900, 149½; in 1905, 143¾.

In the case of the Northern Pacific, the lowest quotations in these three years were as follows: In 1896, 12½; in 1900, 45¾; in 1905, 165; and for the same years the highest quotations were: In 1896, 14⅜; in 1900, 86½; in 1905, 216½.

In the case of the Great Northern, the lowest quotations were: In 1896, 108½; in 1900, 144½; in 1905, 236. The highest quotations were: In 1896, 122; in 1900, 191½; in 1905, 335.

Let me say here, that the consolidation of the Great Northern and the Northern Pacific was broken up by the Northern Securities decision. There can be no doubt that most of these mergers which have been accomplished are subject to the same legal objections to which that merger was subject; but they have not been tested in the courts. It would be a great misfortune to the country if these consolidations were broken up; I believe that consolidation is beneficial to the country. The burden imposed by consolidations arises from the fact that they are uncontrolled—uncontrolled as to capitalization and uncontrolled as to return on capital. From present indications, from the returns of these various companies, I have not the slightest doubt that after this rate legislation is over, unless national machinery for consolidation with proper guards is provided, these railroads will combine with a capitalization greater than ever has been known in the history of the country.

I shall print in my remarks the pertinent sections of a bill for national incorporation, which I am preparing, and shall close my remarks to-morrow.

The sections referred to are as follows:

Suggestions as to leading provisions of a national incorporation act for railroads.

FORMATION.

SECTION 1. Any number of persons not less than fifteen may, under this act, form a corporation for the purpose of constructing, maintaining, and operating an interstate railroad, or for the purpose of acquiring and operating a railroad or railroads, already constructed and engaged in interstate commerce.

* * * * * * *

CAPITALIZATION.

SEC. 3. Such corporation shall issue only such amount of bonds and stock as may be necessary for the construction, purchase, and equipment of the railroads constructed or acquired. No bonds or stock shall be issued except for money paid or for property acquired at its actual value. The amount of such issue of stock or bonds shall in every case require the approval of the Interstate Commerce Commission, which shall grant public hearing regarding the same, to which all parties interested shall by public notice given by the Commission be invited. The United States shall be represented at such hearing by the Attorney-General or one of his assistants. The Commission shall certify in writing to the incorporators or to the corporation its determination, and shall record the same in its records, and all bonds and stock not issued in compliance with such determination shall be void as against such corporation.

* * * * * * *

REPORTS.

SEC. 14. All corporations formed under this act shall make to the Interstate Commerce Commission such reports as are now by law required to be made to said Commission, and such further reports as the rules of said Commission shall from time to time require.

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TAXATION.

SEC. 17. National corporations duly organized under this act are hereby declared to be military and post roads and instrumentalities for the regulation of interstate commerce. The franchises, stocks, bonds, fixed evidences of indebtedness, operations, and traffic, and the corporation itself, shall be exempt from all taxation by any State or Territory other than as provided in this act, but the property of such corporation, including its right of way, track, real estate, stations, office buildings, and equipment, shall be subject to assessment and at such average percentage of their actual value as shall be customary with reference to other property in such State or Territory. In lieu of such tax any State or Territory may impose a tax not exceeding 4 per cent on such proportion of the gross receipts of such corporation as the number of miles of track in such State or Territory bear to the total miles of track operated by such corporation. In estimating the miles of track, each mile of second track shall be regarded as equal to one-half mile of track, and each mile of third or fourth track or siding shall be estimated as equal to one-third of each mile of main track. For the purpose of computation by each State the Interstate Commerce Commission shall certify to the taxing authorities of each State or Territory the gross receipts for the preceding year of the total mileage, as aforesaid, and the proportion of such total mileage operated in such State or Territory.

STATE POLICE AND STATE RATES.

SEC. 18. Nothing herein contained shall be construed as interfering with the police laws of any State regarding railroads incorporated under this act and operating in such States, nor shall anything herein contained be construed as affecting the right and power of each State to regulate purely State commerce on railroads organized under this act. But the Interstate Commerce Commission may hold conferences from time to time with the regulating power of any State with a view to such harmonious adjustment and regulation of State commerce and interstate commerce as will protect the public against abuses or extortion, and the railroads against inadequate returns upon their investment, and promote the efficiency of such corporations as common carriers.

ACQUISITION OF STATE RAILROADS.

SEC. 19. Such corporation may, with the consent of any State, upon the approval of the Interstate Commerce Commission, acquire the railroad of any corporation now organized under the laws of such State, and may issue for the purchase thereof such amount of bonds and stock as may be authorized by the Interstate Commerce Commission; but such authorization shall only be made after a public hearing, at which the Attorney-General shall appear, either personally or by one of his assistants, and no issue of bonds or stock therefor shall exceed the value of such road as ascertained by said Commission.

With the consent of the State under which any railroad corporation is or may be organized, merger between such corporation and a corporation organized under this act may be accomplished under this act, and bonds and stock may be issued by any corporation organized under this act for such purpose, provided such proposed merger is approved by the Interstate Commerce Commission and the bonds and stocks issued in the accomplishment of such merger are also approved by such Commission.

ACCIDENT AND INSURANCE FUND.

SEC. 20. It shall be a condition of the grant and continuance of any franchise to do business under this act that the corporation holding such franchise shall set aside annually 1 per cent of the gross receipts of said corporation, to be held as a fund in the Treasury of the United States for the payment of pensions to the employees of such corporation who shall have been disqualified for active service either by injury in the service or by age. The amount and time of payments, the investment of the fund, the disbursing of the same, and the entire management thereof, shall be under rules and regulations to be made and from time to time altered by the Interstate Commerce Commission.

BOARD OF CONCILIATION.

SEC. 21. The Interstate Commerce Commission is hereby empowered and directed to act as a board of conciliation between corporations organized under this act and their employees as to any dispute arising between said corporation and its employees in the matter of compensation, hours and conditions of labor, the protection of life and limb of said employees, and such power shall be exercised by such Commission in accordance with rules and regulations to be made, and from time to time altered, by said Commission.

PENALTIES.

SEC. 22. Any officer, director, or agent of such corporation who shall be engaged in promoting or opposing any legislation or governmental action, either national or State, shall from time to time make oath to the Interstate Commerce Commission to a statement of his expenditures made in that behalf. No corporation organized under this act shall make any expenditure whatever for the purpose of aiding or defeating any political party or candidate for office, and for every such offense such corporation shall, on conviction, be subject to a fine of dollars.

Any officer, director, or agent of such corporation who shall willfully and knowingly make, assist in making, cause or direct to be made any false statement, material misrepresentation, or false entry in any book, report, return, account, or certificate required by the act to be kept, made, or filed, shall be, upon conviction, subject to a fine of not more than —— dollars, or to imprisonment for not more than one year, or both, and shall furthermore be liable in a civil action for damages caused to any creditor or stockholder thereby.

Any officer, director, or agent of such corporation who shall willfully refuse or neglect to perform any duty imposed upon him by this act for which refusal or neglect a penalty is not therein otherwise expressly provided, shall be subject, upon conviction, to a fine of not more than —— dollars, or to imprisonment for not more than one year, or both.

All fines under this act shall be paid into the accident and insurance fund aforesaid.

DIVIDENDS.

SEC. 23. No such corporation shall pay or distribute to its stockholders in any form during any one year a dividend or dividends exceeding in total amount 5 per cent upon the entire capital stock. If after the payment by such corporation of its operating expenses, maintenance, improvements, and betterments, its taxes, its interest on bonded or other indebtedness, and its contribution to the accident and insurance fund, there shall be a surplus over and above the amount necessary to pay such dividend of 5 per cent per annum, the surplus shall be apportioned as follows: One-half thereof shall be paid into a guaranty fund in the Treasury of the United States for future dividends in case of a slackening of business, such fund to be controlled and invested by the Interstate Commerce Commission, and one-half thereof shall be paid into the accident and insurance fund provided for by this act.

No reduction of rates as to any given railroad shall be made or ordered by the Interstate Commerce Commission, or by any other governmental agency, which shall make it reasonably probable that such 5 per cent dividends can not be earned upon the total capital stock of the corporation.

JURISDICTION OF SUITS BY AND AGAINST RAILWAY COMPANIES.

SEC. 24. All national railway companies incorporated under the laws of the United States shall, for the purpose of all actions by or against them, whether at law or in equity, be deemed citizens of the States in which they are respectively operating, and in such cases United States circuit and district courts shall not have jurisdiction other than such as they would have in case such corporations were individual citizens of such States, respectively. The provisions of this section shall not be held to affect the jurisdiction of the courts of the United States in cases in which the United States is a party or cases for winding up the affairs of any such corporation.

RULES.

SEC. 25. The Interstate Commerce Commission may make rules necessary for the complete enforcement of the provisions of this act, and from time to time alter, amend, or repeal the same.

AMENDMENT OR REPEAL.

SEC. 26. This act shall be at all times subject to amendment, alteration, or repeal by act of Congress.

Mr. ALLISON. Mr. President, will the Senator from Nevada yield to me?

Mr. NEWLANDS. I yield to the Senator.

Mr. ALLISON. As I understand the Senator can not conclude his remarks this afternoon, I will, with his consent, move that the Senate adjourn.

Mr. NEWLANDS. I have but very little more to add to what I have already said.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed the concurrent resolution of the Senate providing for the printing of 10,000 extra copies of the testimony taken by the Senate Committee on Interstate Commerce in consideration of the so-called "railroad rate bill," with an amendment; in which it requested the concurrence of the Senate.

The message also announced that the House had passed a concurrent resolution providing for the printing of 5,000 copies of the hearings before the subcommittee of the Committee on Naval Affairs of the House of Representatives, Fifty-ninth Congress, at the United States Naval Academy, Annapolis, Md., on the subject of hazing at the Annapolis Naval Academy, etc.; in which it requested the concurrence of the Senate.

PUNISHMENT FOR HAZING AT NAVAL ACADEMY.

The VICE-PRESIDENT laid before the Senate the following concurrent resolution of the House of Representatives; which was read, and referred to the Committee on Printing:

Resolved by the House of Representatives (the Senate concurring), That there be printed 5,000 copies of the hearings before the subcommittee of the Committee on Naval Affairs of the House of Representatives, Fifty-ninth Congress, at the United States Naval Academy, Annapolis, Md., on the subject of hazing at the Naval Academy, with accompanying report, 3,500 copies for the House of Representatives and 1,500 for the Senate.

REGULATION OF RAILROAD RATES.

The VICE-PRESIDENT laid before the Senate the following amendment of the House of Representatives to the concurrent resolution of the Senate relative to the printing of 10,000 extra copies of the testimony taken by the Senate Committee on Interstate Commerce in consideration of the so-called "railroad rates bill;" which was to strike out all after the resolving clause and insert:

That there be printed 10,000 additional copies of the testimony taken by the Senate Committee on Interstate Commerce in the consideration of the so-called "railroad rates bill" and a digest of said testimony prepared under the direction of said committee, 100 copies for the Senate Committee on Interstate Commerce, 100 copies for the House Committee on Interstate and Foreign Commerce, 2,900 copies for the use of the Senate, and 6,900 copies for the use of the House of Representatives.

Mr. TILLMAN. I move that the Senate concur in the amendment of the House of Representatives.

The motion was agreed to.

Mr. ALLISON. I move that the Senate adjourn.

The motion was agreed to; and (at 4 o'clock p. m.) the Senate adjourned until to-morrow, Thursday, April 5, 1906, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *April 4, 1906.*

The House met at 12 o'clock noon.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of the proceedings of yesterday was read and approved.

DENATURED ALCOHOL.

Mr. PAYNE, from the Committee on Ways and Means, reported the bill (H. R. 17453) for the withdrawal from bond, tax free, of domestic alcohol when rendered unfit for beverage or liquid medicinal uses by mixture with suitable denaturing materials; which was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

FANNIE DINER.

Mr. BENNET of New York. Mr. Speaker, I ask unanimous consent for the present consideration of House joint resolution (H. J. Res. 132) permitting the waiving of the alien immigration law in the case of Fannie Diner.

The SPEAKER. The gentleman from New York [Mr. BENNET] asks unanimous consent for the present consideration of a joint resolution which the Clerk will report.

The Clerk read as follows:

Resolved, etc., That the Secretary of Commerce and Labor be, and he hereby is, authorized to waive the provisions of "An act to regulate the immigration of aliens into the United States," approved March 3, 1903, in the case of Fannie Diner, if, after investigation, he deem such waiver proper.

The SPEAKER. Is there objection?

Mr. UNDERWOOD. Reserving the right to object, I should like to ask the gentleman from New York whether this bill provides for more than one person?

Mr. BENNET of New York. One person.

Mr. GOLDFOGLE. I did not hear the reading of the resolution.

The SPEAKER. If there be no objection, the Clerk will again report the joint resolution.

The joint resolution was again read.

Mr. GOLDFOGLE. That only relates to one individual case, I believe.

Mr. BENNET of New York. One person.

Mr. FINLEY. Reserving the right to object, I should like to ask the gentleman what is the necessity for this resolution?

Mr. BENNET of New York. Mr. Speaker, the Diner family is a German family which six or seven years ago consisted of a father and mother, three daughters, and a son. The son immigrated to the United States some time previous, and for more than ten years has been an American citizen. Some time after he left Germany his father, for business reasons, took the family into Russia. Some time after that one of the daughters came here, making the son and daughter residents of America.

Mr. FINLEY. This is simply to permit the balance of the family to join the son and daughter, who are American citizens?

Mr. BENNET of New York. That is it.

Mr. GOLDFOGLE. Mr. Speaker, I will ask the gentleman from New York whether he does not think that the joint resolution ought to cover all cases of that kind. There are many such cases, and I am sure the gentleman from New York will join me in an expression of opinion that these cases ought to be covered generally by resolution, and that we ought not to pick out any one individual case.

Mr. BENNET of New York. I will simply say that that is not the resolution before the House.

The SPEAKER. Is there objection?

There was no objection.

The joint resolution was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

On motion of Mr. BENNET of New York, a motion to reconsider the last vote was laid on the table.

HAZING AT THE NAVAL ACADEMY.

Mr. CHARLES B. LANDIS. Mr. Speaker, I offer the following concurrent resolution, which is privileged.

The SPEAKER. The gentleman from Indiana offers a House concurrent resolution, which the Clerk will report.

The Clerk read as follows:

Concurrent resolution No. 26.

Resolved, That there be printed 5,000 copies of the hearings before the subcommittee of the Committee on Naval Affairs of the House of Representatives, Fifty-ninth Congress, at the United States Naval Academy, Annapolis, Md., on the subject of hazing at the Naval Academy, with accompanying report.

With the following amendment:

After "report," insert "3,500 copies for the House of Representatives, and 1,500 copies for the Senate."

Mr. CLARK of Missouri. I would like to ask the gentleman from Indiana what has become of his scheme for having a piecemeal printing of these things?

Mr. CHARLES B. LANDIS. I will say to the gentleman from Missouri that that scheme will be applied in this instance. We have recommended of this publication 5,000 copies.

Mr. CLARK of Missouri. How many are you going to have actually printed the first crack out of the box?

Mr. CHARLES B. LANDIS. Possibly a thousand or fifteen hundred.

Mr. CLARK of Missouri. I think that will be fully as many as anybody on earth will ever want of them.

Mr. CHARLES B. LANDIS. We shall consult with the super-

intendents of the folding rooms of the House and Senate and agree on a first edition.

The amendment reported by the committee was agreed to.

The concurrent resolution as amended was agreed to.

PRINTING OF TESTIMONY AS TO RAILROAD RATES.

Mr. CHARLES B. LANDIS. Mr. Speaker, I offer the following privileged Senate concurrent resolution, with amendment in the nature of a substitute.

The Clerk read as follows:

Senate concurrent resolution No. 13.

Resolved by the Senate (the House of Representatives concurring), That there be printed 10,000 extra copies of the testimony taken by the Senate Committee on Interstate Commerce in the consideration of the so-called "railroad rates bill," 3,000 for the use of the Senate and 7,000 for the use of the House of Representatives.

With the following substitute amendment, proposed by the Committee on Printing:

Strike out all after the resolving clause and insert in lieu thereof the following:

"That there be printed 10,000 additional copies of the testimony taken by the Senate Committee on Interstate Commerce in the consideration of the so-called "railroad rates bill" and a digest of said testimony prepared under the direction of said committee, 100 copies for the Senate Committee on Interstate Commerce, 100 copies for the House Committee on Interstate and Foreign Commerce, 2,900 copies for the use of the Senate, and 6,900 copies for the use of the House of Representatives."

Mr. TAWNEY. Mr. Speaker, I would like to ask the gentleman how many copies have heretofore been printed?

Mr. CHARLES B. LANDIS. The resolution that came over from the Senate provided for 10,000 copies. This is an amendment, which places 100 copies with each of the two committees.

Mr. TAWNEY. It is a Senate resolution?

Mr. CHARLES B. LANDIS. Yes.

Mr. TAWNEY. Does it not say for printing of so many additional copies?

Mr. CHARLES B. LANDIS. The usual number has been printed. The number allowed the committee was printed.

Mr. TAWNEY. They were not printed by concurrent resolution of the House and Senate?

Mr. CHARLES B. LANDIS. No; they were printed under the authority of the committee of the Senate.

Mr. TAWNEY. And the first edition is entirely exhausted?

Mr. CHARLES B. LANDIS. Those that were printed for the Senate committee are exhausted. I will say, Mr. Speaker, that while this authorizes an edition of 10,000, probably not more than one-third of that number will be printed, the quota being fixed on a basis of 10,000.

The SPEAKER. The gentleman's report, as it seems to the Chair, is a substitute in the nature of an amendment.

Mr. CHARLES B. LANDIS. It is intended as a substitute for Senate resolution 13, and covers the provisions of Senate resolution 12.

The SPEAKER. That is, for the text. The gentleman's motion, as the Chair understands it, substitutes what he reports for the Senate concurrent resolution, striking out all after the word "*Resolved*" in the concurrent resolution as it comes from the Senate, and insert a substitute read by the Clerk.

Mr. CHARLES B. LANDIS. That is right.

The SPEAKER. The question is on agreeing to the amendment.

Mr. PAYNE. Mr. Speaker, I would like to ask the gentleman from Indiana if he has an estimate of the probable cost of this work?

Mr. CHARLES B. LANDIS. The estimated cost for 10,000 copies is $27,122.

Mr. PAYNE. How many copies does the substitute call for?

Mr. CHARLES B. LANDIS. The same number, but I will say that the first edition will probably not exceed 3,000 copies, and under the provisions of the joint resolution recently passed there will be saved in the neighborhood of $16,000.

Mr. PAYNE. I hope there will not be more than 3,000 copies printed.

Mr. TAWNEY. How many volumes of this testimony is included in this report?

Mr. CHARLES B. LANDIS. Six volumes.

Mr. TAWNEY. Bound in paper or in cloth?

Mr. CHARLES B. LANDIS. I think it is contemplated that they shall be bound in paper.

Mr. MURDOCK. Does that include the index?

Mr. CHARLES B. LANDIS. Yes.

Mr. TAWNEY. In view of the large number of volumes, and the fact that a great many have already been distributed, does not the gentleman think that in 3,000 he is providing for more than actually will be needed?

Mr. CHARLES B. LANDIS. I will say that that was simply an estimate.

Mr. TAWNEY. What would a second edition cost?

Mr. CHARLES B. LANDIS. That would depend on the size. The estimated cost of the entire number is $27,122—the entire number of 10,000.

The SPEAKER. The question is on agreeing to the amendment in the nature of a substitute.

The question was taken; and the amendment in the nature of a substitute was agreed to.

The resolution as amended was agreed to.

Mr. CHARLES B. LANDIS. Mr. Speaker, I ask unanimous consent for the present consideration of the following House resolution.

The Clerk read as follows:

Resolution No. 374.

Resolved, That there be printed and bound together in paper covers 1,000 additional copies of House Document No. 326, Fifty-sixth Congress, first session, and House Document No. 235, Fifty-sixth Congress, second session, with accompanying maps and illustrations, for the use of the Committee on Rivers and Harbors.

The SPEAKER. Is there objection?

Mr. FITZGERALD. Mr. Speaker, reserving the right to object, I would like to inquire what are these documents?

Mr. CHARLES B. LANDIS. I will say for the information of the gentleman from New York that this resolution refers to House documents relating to surveys of the Big Sandy River, West Virginia, and they are to be reprinted for the use of the Committee on Rivers and Harbors. The estimated cost is $105.

Mr. FITZGERALD. I would like to suggest to the gentleman from Indiana that he at least put the title of the document in the resolution, not for my information, but for the information of the House.

The resolution was considered, and agreed to.

ENROLLED BILLS SIGNED.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

H. R. 7144. An act for the relief of Aaron Everly;

H. R. 2202. An act granting a pension to Ellen Harriman;

H. R. 3541. An act granting a pension to Dora A. Weathersby;

H. R. 3806. An act granting a pension to Eva L. Martin;

H. R. 4261. An act granting a pension to A. Louisa S. McWhinnie;

H. R. 4593. An granting a pension to William C. Short;

H. R. 5485. An act granting a pension to Horace D. Mann;

H. R. 5486. An act granting a pension to Margarett Carroll;

H. R. 6147. An act granting a pension to Maud O. Worth;

H. R. 7839. An act granting a pension to Ray E. Kline;

H. R. 8339. An act granting a pension to Vienna Ward;

H. R. 9705. An act granting a pension to George W. Robinson;

H. R. 10785. An act granting a pension to Thomas J. Chambers;

H. R. 11214. An act granting a pension to Isaac Baker;

H. R. 11873. An act granting a pension to Joseph B. Fonner, alias John Havens;

H. R. 12403. An act granting a pension to Lydia A. Fielder;

H. R. 12656. An act granting a pension to Louise Ackley;

H. R. 13527. An act granting a pension to Willard V. Shepherd;

H. R. 14092. An act granting a pension to Frances Coyner;

H. R. 14098. An act granting a pension to Mary Winfrey;

H. R. 14642. An act granting a pension to James P. Himes;

H. R. 14768. An act granting a pension to Orlando W. Frazier;

H. R. 15449. An act granting a pension to Rhoda Kennely;

H. R. 15870. An act granting a pension to Mary Palmer;

H. R. 15941. An act granting a pension to Lydia A. Keller;

H. R. 533. An act granting an increase of pension to Sumner F. Hunnewell;

H. R. 552. An act granting an increase of pension to William H. Nortip;

H. R. 1027. An act granting an increase of pension to Charles H. Friend;

H. R. 1241. An act granting an increase of pension to John G. Wallace;

H. R. 1322. An act granting an increase of pension to Katherine F. Wainwright;

H. R. 1468. An act granting an increase of pension to Morris B. Drake;

H. R. 1655. An act granting an increase of pension to Henry A. Wheeler;

H. R. 1897. An act granting an increase of pension to William R. Duncan;

H. R. 1913. An act granting an increase of pension to Charles H. Conley;

H. R. 2082. An act granting an increase of pension to Siotha Bennett;
H. R. 2090. An act granting an increase of pension to Ellen M. Brant;
H. R. 2195. An act granting an increase of pension to Hannah A. Sawyer;
H. R. 2267. An act granting an increase of pension to Joseph Rupert;
H. R. 2341. An act granting an increase of pension to Helen H. Hulbert;
H. R. 2640. An act granting an increase of pension to Decatur Harmon;
H. R. 2396. An act granting an increase of pension to Charles Hull;
H. R. 2697. An act granting an increase of pension to Rufus G. Childress;
H. R. 2765. An act granting an increase of pension to Andrew J. Benson;
H. R. 2780. An act granting an increase of pension to Mary E. Fifield;
H. R. 2984. An act granting an increase of pension to William H. Gildersleeve;
H. R. 3007. An act granting an increase of pension to Thomas Carder;
H. R. 3197. An act granting an increase of pension to Milo G. Gibson;
H. R. 3233. An act granting an increase of pension to Lucius P. Simons;
H. R. 3281. An act granting an increase of pension to Thomas F. Underwood;
H. R. 3344. An act granting an increase of pension to Henry Sanborn;
H. R. 3484. An act granting an increase of pension to Edson J. Harrison;
H. R. 3660. An act granting an increase of pension to James H. Hill;
H. R. 3978. An act granting an increase of pension to Samuel Greenlee;
H. R. 4209. An act granting an increase of pension to Martin Callahan;
H. R. 4352. An act granting an increase of pension to Thomas Wolcott;
H. R. 4691. An act granting an increase of pension to George L. Janney;
H. R. 4717. An act granting an increase of pension to Marshall U. Gage;
H. R. 4766. An act granting an increase of pension to John Deardourff;
H. R. 4809. An act granting an increase of pension to John W. Hatfield;
H. R. 4888. An act granting an increase of pension to William Moore;
H. R. 4946. An act granting an increase of pension to William H. Lewis;
H. R. 5252. An act granting an increase of pension to Thomas Howard;
H. R. 5434. An act granting an increase of pension to Hugh Green;
H. R. 5725. An act granting an increase of pension to John G. Davis;
H. R. 5726. An act granting an increase of pension to Cate E. Cobb;
H. R. 5933. An act granting an increase of pension to Winnie C. Plittenger;
H. R. 6058. An act granting an increase of pension to Emilie Scheidt;
H. R. 6110. An act granting an increase of pension to Abram W. Davenport;
H. R. 6128. An act granting an increase of pension to Thomas Patterson;
H. R. 6142. An act granting an increase of pension to David Davis;
H. R. 6407. An act granting an increase of pension to William Blair;
H. R. 6465. An act granting an increase of pension to Augustus Joyeux;
H. R. 6557. An act granting an increase of pension to Charles H. Jasper;
H. R. 6775. An act granting an increase of pension to William A. Lincoln;
H. R. 6888. An act granting an increase of pension to John W. Hannah;
H. R. 6946. An act granting an increase of pension to Elias Claunch;
H. R. 7225. An act granting an increase of pension to Mary O. Arnold;
H. R. 7331. An act granting an increase of pension to Henry Porter;
H. R. 7515. An act granting an increase of pension to Firman F. Kirk;
H. R. 7585. An act granting an increase of pension to Joseph Girdler;
H. R. 7609. An act granting an increase of pension to Charles W. Henderson;
H. R. 7681. An act granting an increase of pension to James M. Miller;
H. R. 7738. An act granting an increase of pension to Franklin J. Meck;
H. R. 7806. An act granting an increase of pension to Johanna Walgwist;
H. R. 7823. An act granting an increase of pension to Annie E. Peters;
H. R. 7856. An act granting an increase of pension to Norman C. Potter;
H. R. 7951. An act granting an increase of pension to William H. Pitchford;
H. R. 8042. An act granting an increase of pension to Bottol Larsen;
H. R. 8062. An act granting an increase of pension to John K. Miller;
H. R. 8206. An act granting an increase of pension to Carner C. Welch;
H. R. 8315. An act granting an increase of pension to Martin V. Cannedy;
H. R. 8316. An act granting an increase of pension to William Smith;
H. R. 8328. An act granting an increase of pension to Ira Grabill;
H. R. 8333. An act granting an increase of pension to John G. Honeywell;
H. R. 8530. An act granting an increase of pension to Benjamin Q. Ward;
H. R. 8565. An act granting an increase of pension to Andrew La Forge;
H. R. 8578. An act granting an increase of pension to Franklin G. Mattern;
H. R. 8665. An act granting an increase of pension to Hiram Long;
H. R. 8725. An act granting an increase of pension to Moses B. Davis;
H. R. 8823. An act granting an increase of pension to Charles C. Briant;
H. R. 8930. An act granting an increase of pension to Margaret Becker;
H. R. 8942. An act granting an increase of pension to Marquis L. Johnson;
H. R. 9053. An act granting an increase of pension to John M. Jones;
H. R. 9087. An act granting an increase of pension to William Winn;
H. R. 9093. An act granting an increase of pension to Farrie M. Allis;
H. R. 9126. An act granting an increase of pension to Nathan Parish;
H. R. 9296. An act granting an increase of pension to Elizabeth D. Hoppin;
H. R. 9406. An act granting an increase of pension to Francis W. Preston;
H. R. 9617. An act granting an increase of pension to David A. Kirk;
H. R. 9839. An act granting an increase of pension to Jesse Siler;
H. R. 9896. An act granting an increase of pension to William McKenzie;
H. R. 9898. An act granting an increase of pension to Abraham H. Miller;
H. R. 9904. An act granting an increase of pension to Neeta H. Marquis;
H. R. 9995. An act granting an increase of pension to Elias Johnson;
H. R. 10019. An act granting an increase of pension to Jonathan Shook;
H. R. 10230. An act granting an increase of pension to Clark A. Winans;
H. R. 10252. An act granting an increase of pension to Joseph J. Vincent;
H. R. 10293. An act granting an increase of pension to Sarah F. Galbraith;

H. R. 10300. An act granting an increase of pension to George C. Sackett;
H. R. 10326. An act granting an increase of pension to Edmund Chapman;
H. R. 10396. An act granting an increase of pension to John A. Malone;
H. R. 10404. An act granting an increase of pension to John Moules;
H. R. 10448. An act granting an increase of pension to George M. Frazer;
H. R. 10450. An act granting an increase of pension to Silas H. Ballard;
H. R. 10490. An act granting an increase of pension to Lucius A. West;
H. R. 10562. An act granting an increase of pension to Aphenis M. Beall;
H. R. 10594. An act granting an increase of pension to James Martin;
H. R. 10622. An act granting an increase of pension to James H. Ward;
H. R. 10753. An act granting an increase of pension to Jacob Keller;
H. R. 10816. An act granting an increase of pension to August Bauer;
H. R. 10879. An act granting an increase of pension to Thomas E. Meyers;
H. R. 10900. An act granting an increase of pension to Arthur R. Dreppard;
H. R. 10907. An act granting an increase of pension to John N. Boyd;
H. R. 10923. An act granting an increase of pension to Matilda Rockwell;
H. R. 11209. An act granting an increase of pension to Thomas Griffith;
H. R. 11509. An act granting an increase of pension to Josephine Hoornbeck;
H. R. 11638. An act granting an increase of pension to John N. Vivian;
H. R. 11690. An act granting an increase of pension to Lewis Lowry;
H. R. 11691. An act granting an increase of pension to John Clark;
H. R. 11905. An act granting an increase of pension to Elizabeth E. Atkinson;
H. R. 11990. An act granting an increase of pension to Daniel M. Coffman;
H. R. 12014. An act granting an increase of pension to Francis H. Frasier;
H. R. 12393. An act granting an increase of pension to William Hardy;
H. R. 12417. An act granting an increase of pension to Samuel G. Raymond;
H. R. 12443. An act granting an increase of pension to Nathaniel Southard;
H. R. 12455. An act granting an increase of pension to John Jacoby;
H. R. 12540. An act granting an increase of pension to Morris J. James;
H. R. 12541. An act granting an increase of pension to Edward V. Miles;
H. R. 12578. An act granting an increase of pension to John B. Craig;
H. R. 12584. An act granting an increase of pension to William R. Guion;
H. R. 12643. An act granting an increase of pension to William H. Franklin;
H. R. 12760. An act granting an increase of pension to William Ralston;
H. R. 12795. An act granting an increase of pension to Henry Stimon;
H. R. 12825. An act granting an increase of pension to Daniel Bloomer;
H. R. 12834. An act granting an increase of pension to Theodor Schramm;
H. R. 12880. An act granting an increase of pension to Lorenzo D. Mason;
H. R. 12897. An act granting an increase of pension to Robert B. Malone;
H. R. 12900. An act granting an increase of pension to James D. Havens;
H. R. 13005. An act granting an increase of pension to Robert R. Wilson;
H. R. 13028. An act granting an increase of pension to Mary E. Bennett;
H. R. 13034. An act granting an increase of pension to Frederick Hildenbrand;
H. R. 13038. An act granting an increase of pension to Rebecca Ramsey;
H. R. 13081. An act granting an increase of pension to Orren R. Smith;
H. R. 13082. An act granting an increase of pension to Herbert Williams;
H. R. 13083. An act granting an increase of pension to Mordicai B. Barbee;
H. R. 13136. An act granting an increase of pension to William Gaynor;
H. R. 13138. An act granting an increase of pension to Eada Lowry;
H. R. 13148. An act granting an increase of pension to William Davis;
H. R. 13150. An act granting an increase of pension to Cate F. Galbraith;
H. R. 13198. An act granting an increase of pension to Josiah F. Allen;
H. R. 13230. An act granting an increase of pension to Elizabeth Webb;
H. R. 13231. An act granting an increase of pension to Gatsey Mattucks;
H. R. 13238. An act granting an increase of pension to William Strasburg;
H. R. 13310. An act granting an increase of pension to James McKee;
H. R. 13311. An act granting an increase of pension to John Wilkinson;
H. R. 13341. An act granting an increase of pension to Robert C. Pate;
H. R. 13417. An act granting an increase of pension to John W. Bookman;
H. R. 13502. An act granting an increase of pension to John N. Buchanan;
H. R. 13505. An act granting an increase of pension to Martha E. Chambers;
H. R. 13525. An act granting an increase of pension to Martha J. Hensley;
H. R. 13584. An act granting an increase of pension to Anna M. Jefferis;
H. R. 13587. An act granting an increase of pension to August Frahm;
H. R. 13597. An act granting an increase of pension to Abram J. Bozarth;
H. R. 13610. An act granting an increase of pension to James Hann;
H. R. 13627. An act granting an increase of pension to Homer F. Herriman, alias George F. Wilson;
H. R. 13697. An act granting an increase of pension to William Shoemaker;
H. R. 13710. An act granting an increase of pension to Anna M. Wilson;
H. R. 13712. An act granting an increase of pension to Caroline D. Scudder;
H. R. 13761. An act granting an increase of pension to John Cook;
H. R. 13798. An act granting an increase of pension to Alida King;
H. R. 13826. An act granting an increase of pension to Frank S. Pettingill;
H. R. 13872. An act granting an increase of pension to Alvin D. Hopper;
H. R. 13891. An act granting an increase of pension to Hugh G. Wilson;
H. R. 13959. An act granting an increase of pension to Thomas B. Mouser;
H. R. 13988. An act granting an increase of pension to Mary McMahon;
H. R. 13994. An act granting an increase of pension to Francis A. Barkis;
H. R. 14076. An act granting an increase of pension to William Sanders;
H. R. 14077. An act granting an increase of pension to George W. Chesebro;
H. R. 14078. An act granting an increase of pension to Catherine Summers;
H. R. 14086. An act granting an increase of pension to Daniel Pence;
H. R. 14089. An act granting an increase of pension to Martin Harter;
H. R. 14112. An act granting an increase of pension to Andrew J. Baker;

H. R. 14113. An act granting an increase of pension to Isaac N. Perry;
H. R. 14140. An act granting an increase of pension to Josephine M. Cage;
H. R. 14258. An act granting an increase of pension to John S. Miles;
H. R. 14277. An act granting an increase of pension to George S. Scott;
H. R. 14287. An act granting an increase of pension to Martha Brooks;
H. R. 14327. An act granting an increase of pension to Amelia Nichols;
H. R. 14367. An act granting an increase of pension to Lemuel O. Gilman;
H. R. 14369. An act granting an increase of pension to Sumner P. Wyman;
H. R. 14389. An act granting an increase of pension to Amos Hart;
H. R. 14425. An act granting an increase of pension to Robert Henderson Griffin;
H. R. 14426. An act granting an increase of pension to Thomas S. Menefee;
H. R. 14538. An act granting an increase of pension to Eliza L. Norwood;
H. R. 14563. An act granting an increase of pension to Edwin L. Higgins;
H. R. 14639. An act granting an increase of pension to Sarah J. Merrill;
H. R. 14646. An act granting an increase of pension to Ambrose R. Fisher;
H. R. 14653. An act granting an increase of pension to Sophronia Lofton;
H. R. 14655. An act granting an increase of pension to Henry Gilham;
H. R. 14669. An act granting an increase of pension to Anna H. Wagner;
H. R. 14694. An act granting an increase of pension to Samuel R. Dummer;
H. R. 14748. An act granting an increase of pension to William F. Burks;
H. R. 14761. An act granting an increase of pension to John L. Decker;
H. R. 14793. An act granting an increase of pension to William W. Howell;
H. R. 14834. An act granting an increase of pension to Ruth J. McCann;
H. R. 14840. An act granting an increase of pension to Nathaniel H. Rone;
H. R. 14848. An act granting an increase of pension to Samantha E. Herald;
H. R. 14878. An act granting an increase of pension to Charles Rattray;
H. R. 14888. An act granting an increase of pension to Eliza A. Bunker;
H. R. 14890. An act granting an increase of pension to James H. Posey;
H. R. 14937. An act granting an increase of pension to William S. Nagle;
H. R. 14925. An act granting an increase of pension to James Grizzle;
H. R. 14988. An act granting an increase of pension to James B. Cox;
H. R. 15062. An act granting an increase of pension to Thomas Sparrow;
H. R. 15199. An act granting an increase of pension to John T. Cook;
H. R. 15249. An act granting an increase of pension to Isaac N. Seal;
H. R. 15276. An act granting an increase of pension to Wesley Smith; and
H. R. 4598. An act granting an increase of pension to James B. Barry.

SUPERINTENDENT OF REPORTERS' GALLERY.

Mr. CASSEL. Mr. Speaker, I present the following privileged resolution from the Committee on Accounts, which I send to the desk and ask to have read.

The Clerk read as follows:

House resolution No. 373.

Resolved, That Charles H. Mann is hereby appointed superintendent of the reporters' gallery of the House, at a salary of $1,200 per annum, to be paid out of the contingent fund of the House until otherwise provided for; and the Committee on Appropriations is hereby authorized and directed to provide for the salary of said position from and after June 30, 1906, in one of the general appropriation bills: *Provided*, That the position hereby created shall be in lieu of that of the messenger to the reporters' gallery now provided for by law.

The SPEAKER. The question is on agreeing to the resolution.

Mr. CRUMPACKER. Mr. Speaker, I would ask the gentleman from Pennsylvania if this employee is one of the men who has heretofore been carried as messenger to the Doorkeeper?

Mr. CASSEL. He is. I would say that this gentleman has been employed in this position for a long time.

Mr. CRUMPACKER. I understand, Mr. Speaker, that this employee was one of thirteen messengers under the Doorkeeper who have been receiving a salary of $1,200 a year each. There are thirteen other messengers under the Doorkeeper who have received salaries at the rate of $1,000 a year, and in the recent legislative appropriation bill the salaries were made uniform on the basis of $1,100 a year. Now, this resolution takes this particular messenger out of the operation of that amendment to the legislative appropriation bill and puts him back at the salary of $1,200 a year. I think he is entitled to the salary of $1,200 a year, and I think the other messengers were also, but it strikes me that it is hardly a fair deal to take one out of the thirteen and give him $1,200 a year, restore him to his original salary, and leave the balance of them at a salary of $1,100 a year, being a reduction of $100 a year each. That is the only comment I care to make on the resolution.

The SPEAKER. The question is on agreeing to the resolution.

The question was taken; and the resolution was agreed to.

LAW BOOKS FOR COMMITTEE ON REVISION OF THE LAWS.

Mr. CASSEL. Mr. Speaker, I offer the following privileged resolution, which I send to the desk and ask to have read.

The Clerk read as follows:

House resolution No. 347.

Resolved, That the Clerk of the House furnish the Committee on Revision of the Laws with the following works and books, to be paid for from the contingent fund of the House, namely: One set of Federal Cases (30 volumes) and Digest (1 volume); one set of Federal Reporter (139 volumes) and Digest (5 volumes), and Bouvier's Law Dictionary, latest edition (2 volumes).

Mr. PAYNE. Mr. Speaker, I did not hear very well, and I would ask the gentleman from Pennsylvania what committee it is that is to have these?

Mr. CASSEL. The Committee on the Revision of the Laws. The members state that it is absolutely necessary to have these books in order to accomplish their work.

Mr. TAWNEY. Mr. Speaker, is it not a fact that this committee has access at all times to two law libraries here in the House end of the Capitol, one the Supreme Court library and one right over here?

Mr. CASSEL. Mr. Speaker, I will say that I opposed this resolution for quite a while, believing there were sufficient copies of these laws to be had. But a number of the lawyers in the House tell me that they can not do good business unless they have their books in their own office, and consequently we have decided that this is a good investment for this committee.

Mr. SULZER. Mr. Speaker, I think this is a very important and necessary resolution, and it ought to pass. This Committee on the Revision of the Laws is doing a very important work at the present time in codifying the laws, and the House ought to aid the committee in every way it can by giving it the necessary implements wherewith to work, the law books needed for immediate reference. The cost is infinitesimal. I trust there will be no objection.

The SPEAKER. The question is on agreeing to the resolution.

The question was taken; and the resolution was agreed to.

SPECIAL EMPLOYEE IN DOCUMENT ROOM.

Mr. CASSEL. Mr. Speaker, I offer the following privileged resolution, which I send to the desk and ask to have read.

The Clerk read as follows:

House resolution No. 124.

Resolved, That the Clerk of the House is hereby authorized and directed to appoint W. P. Scott as a special employee in the Clerk's document room, at the rate of $2,000 per annum, to be paid from the contingent fund of the House until otherwise provided for by law.

With the following amendment:

In line 3 strike out the words "two thousand" and insert in lieu thereof the words "fifteen hundred."

Mr. CRUMPACKER. Mr. Speaker, I would like to hear from the gentleman about the purpose and effect of this resolution and the necessity for this additional employee. This man is already employed?

Mr. BARTLETT. No; he is not.

Mr. TAWNEY. I would ask if this creates a new place in the document room?

Mr. CASSEL. Mr. Speaker, this creates a new place, not in

the document room, but under the Superintendent of the Capitol. Mr. Wood, in preparing the new office building of the House, needs some one to assist him in laying out the plans for the storage of the documents belonging to the House. This gentleman is the most efficient he could secure for the place, and it has been at his request that we have reported this resolution, so that he may be assisted in preparing the rooms for the storage of documents in the new office building. This has been approved by the building commission of the new building.

Mr. CRUMPACKER. The office, however, will die with the individual. If this is a necessary office, why specify the incumbent? If Mr. Scott is the proper person to appoint, Mr. Wood can select him. Why not provide for an additional place at a salary of $1,500 a year, to run as soon as there is need for it, and giving the power of selection to the Superintendent or any other person who is the proper person?

Mr. CASSEL. I would state that the House has the power at all times to remove any employee appointed by resolution of this kind, and to appoint somebody in his place if he is removed.

Mr. CRUMPACKER. As a rule, Mr. Speaker, I do not like the idea of creating an office and at the same time naming the incumbent, because when he retires the office, of course, becomes extinct and it is necessary to create another office. It does not strike me that that, as a general proposition, is good policy. It may be all right, however, in this case.

The SPEAKER. The question is on agreeing to the amendment.

The question was taken; and the amendment was agreed to.

The SPEAKER. The question now is on agreeing to the resolution as amended.

The question was taken; and the resolution was agreed to.

TO INCORPORATE THE NATIONAL GERMAN-AMERICAN ALLIANCE.

Mr. BARTHOLDT. Mr. Speaker, I ask unanimous consent for the present consideration of the bill H. R. 11273.

The SPEAKER. The Clerk will report the same.

The Clerk read as follows:

A bill (H. R. 11273) to incorporate The National German-American Alliance.

Be it enacted, etc., That C. J. Hexamer, M. D. Learned, Adolph Timm, John Weber, Hans Weniger, H. C. Bloedel, all of the State of Pennsylvania; John Tjarks, of the State of Maryland; C. C. Lienau, of the State of New Jersey; Kurt Voelckner, of the District of Columbia; H. A. C. Anderson, of the State of New York; Gustave Bender, of the State of Texas; Joseph Keller, of the State of Indiana; F. O. Martin, of the State of Idaho; Gustav Halbach, of the State of Ohio; H. J. Nienstedt, of the State of Minnesota, officers and members of the National German-American Alliance of the United States of America, and their successors, be, and they are hereby, incorporated and made a body politic and corporate of the District of Columbia under the name of "The National German-American Alliance of the United States of America." And by that name they and their successors may have and use a common seal, and may alter and change the same at pleasure, and may make by-laws and elect officers and agents, and may take, receive, hold, and convey real and personal estate necessary for the purposes of the society.

SEC. 2. That this corporation shall be perpetual and have all the privileges accorded by existing laws or that may hereafter be enacted by the Congress of the United States.

SEC. 3. That this corporation, composed of the individuals aforesaid and their associates, under the name and style aforesaid, is formed for the purposes as follows: The conservation of the principles of representative government and the protection and maintenance of all civil and political rights; the protection of German immigrants against imposition and deception and to assist in their naturalization; the study of American institutions and the publication of American history; the cultivation of the German language, literature, and drama, and the perpetuation of the memory and deeds of those early German pioneers whose influence has been of incalculable benefit to the intellectual and economic development of this country and whose loyalty in times of stress and strife is a matter of history.

SEC. 4. That said corporation shall have a constitution and shall have power to amend the same at pleasure: *Provided*, That such constitution or amendments thereof do not conflict with the laws of the United States or of any State.

SEC. 5. That said corporation shall have the right to hold its meetings at any place within the United States as may be best suited or most advantageous to the carrying out of the purposes for which this corporation is formed.

SEC. 6. That said corporation shall not engage in any business for gain, the purposes of said corporation being educational and patriotic.

SEC. 7. That Congress may at any time amend, alter, or repeal this act.

The SPEAKER. Is there objection?

Mr. SULZER. Mr. Speaker, reserving the right to object, I would like to have some explanation from the gentleman from Missouri regarding this bill.

Mr. BARTHOLDT. Mr. Speaker, I shall be glad to give my friend from New York such information as I have on this subject. This bill has been reported unanimously by the Committee on the Judiciary. It relates to an organization with branch organizations in thirty-three or thirty-four States of the Union. It has a membership of about a million and a half, consequently it can be justly said that the organization is national in scope. It is also patriotic in character. The purposes of the organization are stated best in the terms of the bill itself, namely:

The conservation of the principles of representative government and the protection and maintenance of all civil and political rights; the protection of German immigrants against imposition and deception and to assist in their naturalization; the study of American institutions and the publication of American history.

Mr. SULZER. Will the gentleman allow me? I have just read over the bill, and I am in favor of the bill; but I observe from reading it that there is only one representative from the great State of New York, which is a very large State, having a large population of German-Americans, and I would suggest to the gentleman that he allow me to suggest an amendment by adding the names of John B. Hasslocher and John P. Schuchman, of New York. Mr. Schuchman is a distinguished citizen and a very prominent lawyer in New York, and Mr. Hasslocher is one of the best-known and most popular business men in this country. I think it will strengthen the bill by adding the names of these distinguished gentlemen from the State of New York.

Mr. BARTHOLDT. I will say to the gentleman that my own city, St. Louis, is not represented.

Mr. SULZER. It should be, in my opinion.

Mr. BARTHOLDT. That is, Missouri is not represented.

Mr. SULZER. But that——

Mr. BARTHOLDT. Allow me to explain this—though we have in Missouri a very strong branch organization. The men mentioned here are presidents of the State organizations which originally organized and constituted this alliance.

Mr. SULZER. Who is the president of the organization in the State of New York?

Mr. BARTHOLDT. It seems that New York came in later. As the States came in the State organizations elected their presidents, and those several presidents are now named in this bill as incorporators.

Mr. SULZER. Have you any objection to my amendment to make Mr. Hasslocher and Mr. Schuchman incorporators?

Mr. BARTHOLDT. I have no authority to accept any additional suggestion of that kind.

Mr. SULZER. Well, if I propose the amendment, will the gentleman object to it?

Mr. BARTHOLDT. Then I would have to move to insert some one from my own State.

Mr. SULZER. I think you ought to do it. I think you ought to put in the name of some distinguished German-American from your own district.

Mr. BARTHOLDT. It is the same as in the case of the thirteen original colonies; you could not very well make them fourteen, because there were only thirteen.

Mr. GOLDFOGLE. But we added to their number and made them States.

Mr. SULZER. Mr. Speaker, I am in favor of this bill, and I hope it will pass unanimously, but I think the gentleman from Missouri makes a mistake when he confines the names of the incorporators to the presidents of the original organizations. I think he ought to widen its scope and extend its usefulness, and I hope the gentleman will accept my amendment for the good of the cause we both have at heart.

Mr. HEPBURN. Mr. Speaker——

Mr. BARTHOLDT. Mr. Speaker, I yield to the gentleman from Iowa.

Mr. HEPBURN. Mr. Speaker, I want to reserve my right to object. I would like to know what is the necessity for creating a national organization along the line of heretofore nationality in this country. But I would like to know what rights of emigrants are invaded that makes it necessary for Congress to organize a national society to protect those rights. I would like to know what defects there are in the naturalization laws of the United States, presided over by the courts, that makes it necessary that Congress should authorize a national society to secure the naturalization of those gentlemen under those national laws. It seems to me, Mr. Speaker, that there is something more in this bill than what appears upon its surface; that this is not a mere social organization, but that it is political in character. I doubt seriously whether it is wise for the Congress of the United States, along national lines, to organize societies of this kind. It looks to me as if it was very questionable policy for us to do so; and that the organization of this society is a reflection upon the legislation of the country and upon the administration of the laws of the country. I would like to have the gentleman explain the necessity before I will give consent.

Mr. BARTHOLDT. Mr. Speaker, I am perfectly willing to explain the bill further, and meet the objections raised by the gentleman from Iowa. This is not an organization along na-

tional lines at all; it is thoroughly and purely an American organization. No man can become a member of it who is not a citizen of the United States. It is constituted for the purpose of aiding German immigrants, for instance, in their process of assimilation, in their process of naturalization, by explaining to them American institutions and American laws; and that purpose, it seems to me, is not only commendable, but should command the support and encouragement of Congress and of every man who is a Member of it.

Mr. GROSVENOR. I would like to ask the gentleman a question.

The SPEAKER. Does the gentleman yield to the gentleman from Ohio?

Mr. BARTHOLDT. I do.

Mr. GROSVENOR. What is the propriety of calling this organization "German-American?" What is the propriety of using the term "German-American?" I have heard it condemned many a time, and I have had a great deal of sympathy with that condemnation. No man, I think, has a greater admiration for the American who comes here from Germany and changes his allegiance to the American nation, but upon what propriety is that hyphenated designation kept up after a man has cast in his fealty with the American people?

Mr. BARTHOLDT. Mr. Speaker, I sympathize, like the gentleman from Ohio, with every effort to eliminate hyphenation of terms in this country, but the term "German-American" is not meant in a political sense, because all these men are thorough Americans. It is meant more in an ethnological sense. They are simply speaking that language which will enable them to be of assistance and aid to the immigrants coming to this country from Germany.

I want to say, Mr. Speaker, that as far as immigration is concerned, I regret very much that immigration from Germany has dwindled to almost nothing. About ten years ago we had from 180,000 to 200,000 Germans coming to this country every year; and I believe the Members of this House will bear me out when I say, modestly, that they are good citizens, and that they have contributed to what is best in the blood of this country. But of recent years this immigration has decreased considerably, until now there are only from 20,000 to 30,000 a year. But we are about to pass a bill changing the naturalization laws. That bill has in it a provision which obliges the applicant to read and write the English language. For the purpose of enabling him to do so; for the purpose of enabling the man who works from morning to night and has no chance to acquire knowledge of this kind, this organization proposes to establish night schools open to all and enabling all to become proficient in a knowledge of the English language, so that everything that appeals to us from the standpoint of good American citizenship is in favor of this bill. It intends to make Americans out of German immigrants, and to assimilate them with us quicker and more thoroughly.

The SPEAKER. Is there objection?

Mr. HEPBURN. I object.

The SPEAKER. The gentleman from Iowa objects.

FLATHEAD INDIAN RESERVATION.

The SPEAKER laid before the House the bill (H. R. 8461) to amend chapter 1495 of the Revised Statutes of the United States, entitled "An act for the survey and allotment of lands now embraced within the limits of the Flathead Indian Reservation, in the State of Montana, and the sale and disposal of all surplus lands after allotment," as amended by section 9 of chapter 1479 of the Revised Statutes of the United States, with a Senate amendment, which was read.

Mr. SHERMAN. Mr. Speaker, I move to nonconcur in the Senate amendment and ask for a conference.

The motion was agreed to.

The SPEAKER announced the following conferees: Mr. SHERMAN, Mr. CURTIS, and Mr. STEPHENS of Texas.

CHAMBERLAIN LAND DISTRICT, SOUTH DAKOTA.

Mr. BURKE of South Dakota. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 15328) to approve certain final proofs in the Chamberlain land district, South Dakota.

The SPEAKER. The gentleman from South Dakota asks unanimous consent for the present consideration of a bill, which will be reported by the Clerk.

The bill was read, as follows:

Be it enacted, etc., That all homestead final proofs for lands in the Chamberlain land district in South Dakota, made before the judge or clerk of the court of Stanley County, or any United States court commissioner at Fort Pierre, S. Dak., prior to July 1, 1905, shall be accepted and patented the same as if such proofs were made within the said Chamberlain land district: *Provided*, That this act shall not affect any final proof except only in respect to the place where same was made.

With the following amendment:

In lines 6 and 7, after the word "to," strike out "July 1, 1905" and insert "the passage of this act."

The SPEAKER. Is there objection?

There was no objection.

The amendment recommended by the committee was agreed to.

The bill as amended was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

On motion of Mr. BURKE of South Dakota, a motion to reconsider the last vote was laid on the table.

TOWN SITES ON IRRIGATION LANDS.

Mr. FRENCH. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (S. 87) providing for the withdrawal from public entry of lands needed for town-site purposes in connection with irrigation projects under the reclamation act of June 17, 1902, and for other purposes, which has already been read, together with its amendments.

The SPEAKER. The gentleman from Idaho asks unanimous consent for the present consideration of a bill which has already been reported, the title of which will be reported by the Clerk.

The Clerk read the title of the bill.

The SPEAKER. Is there objection?

There was no objection.

The amendments recommended by the committee were agreed to.

The bill as amended was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

On motion of Mr. FRENCH, a motion to reconsider the last vote was laid on the table.

FORT CRITTENDEN MILITARY RESERVATION, UTAH.

Mr. HOWELL of Utah. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 12323) to permit the State of Utah to select lands in any abandoned military reservation in Utah.

The SPEAKER. The gentleman from Utah asks unanimous consent for the present consideration of a bill which will be reported by the Clerk.

The Clerk read as follows:

Be it enacted, etc., That the State of Utah shall have the right to select school indemnity or other lands granted to the State by the enabling act providing for the admission of said State into the Union from within the limits of any abandoned military reservation in Utah, and said lands are hereby made subject to such selection.

SEC. 2. That the general laws for the disposal of the public lands of the United States are hereby extended and made applicable to the lands comprised within the limits of said abandoned Fort Crittenden Military Reservation in said State.

With the following committee amendments:

Strike out all of section 1 and substitute section 2 as section 1.

Amend by striking out the word "said" at the beginning of line 12, page 1, of the bill as printed, and insert the word "the."

Strike out the word "said" at the end of line 12 and insert the word "the."

Strike out the period after the word "State" at the end of the bill and add the words "of Utah," and insert a period after the last word.

The SPEAKER. Is there objection?

Mr. PAYNE. Mr. Speaker, reserving the right to object, I should like to understand what this bill does. The bill itself is pretty broad. I do not know what changes are made by the amendment.

Mr. HOWELL of Utah. The bill merely extends the general land laws of the country to the Fort Crittenden Military Reservation, in Utah. This reservation comprises about 173,000 acres. The land has never been used for military purposes and never will be. The purpose of the bill is simply to make the land within that reservation subject to the general land laws of the country, and to permit State selections of same in satisfaction of grants to the State or for indemnity lands as provided by law. This vast tract of public lands was arbitrarily set aside as a military reservation nearly half a century ago. It is an arid country and poorly adapted for homestead settlement. The Commissioner, to whom the bill was submitted, and thereafter amended at his suggestion, reported as follows:

While the right to grant to the State the privilege of selection of these lands is exclusively with Congress, I am of the opinion that the established policy in relation to abandoned military reservations should not be generally disturbed, though instances may arise where such a policy, being too restrictive, should be changed, and such a case is found in the abandoned Fort Crittenden Reservation. This reservation, with an area of 173,644.68 acres, was relinquished July 22, 1884. For ten years the land was subjected to entry under act of 1884, and since the passage of the act of August 23, 1894, has been subject to settlement and entry under that act, and during the entire period of twenty-two years it is estimated that less than 13,000 acres have been disposed of.

In view, therefore, of the extraordinary large area within this reserve, and the apparent fact that settlement claims can not be made advantageously under the restrictions of the act of 1894, I recommend that the general laws for the disposal of the public lands of the United States be extended and made applicable to the lands comprised within the limits of the abandoned Fort Crittenden Reservation in Utha.

Should this be done the State would then acquire the right to make selections of lands therein.

The bill has been unanimously reported with amendments by the Committee on the Public Lands, and ought to become a law.

The SPEAKER. Is there objection?

There was no objection.

The amendments recommended by the committee were agreed to.

The bill as amended was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

On motion of Mr. HOWELL of Utah, a motion to reconsider the last vote was laid on the table.

By unanimous consent, the title of the bill was amended so as to read: "A bill to extend the public-land laws of the United States to the lands comprised within the limits of the abandoned Fort Crittenden Military Reservation, in the State of Utah."

KIOWA, COMANCHE, AND APACHE INDIAN RESERVATIONS, OKLA.

Mr. STEPHENS of Texas. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 17507) to open for settlement 505,000 acres of land in the Kiowa, Comanche, and Apache Indian reservations, in Oklahoma Territory.

The SPEAKER. The gentleman from Texas asks unanimous consent for the present consideration of the bill which will be reported by the Clerk.

The bill was read, as follows:

Be it enacted, etc., That all of that part of article 3 of section 6 of the act of Congress of date June 6, 1900, entitled "An act to ratify and confirm an agreement with the Indians of the Fort Hall Indian Reservation, in Idaho," and making appropriations to carry the same into effect, which reads as follows, to wit: "That in addition to the allotment of lands to said Indians as provided for in this agreement the Secretary of the Interior shall set aside for the use in common for said Indian tribes 480,000 acres of grazing land to be selected by the Secretary of the Interior either in one or more tracts, as will best subserve the interests of said Indians," be, and the same is hereby, repealed.

SEC. 2. That the 480,000 acres of land set apart in the Kiowa, Comanche, and Apache Indian reservations, in Oklahoma Territory, by the Secretary of the Interior, referred to and mentioned in section 1 of this act, and the 25,000 acres of land set apart as a wood reservation in the Kiowa, Comanche, and Apache Indian reservations, in Oklahoma Territory, by the Secretary of the Interior, shall be opened to settlement by proclamation of the President of the United States within three months from the passage of this act and be disposed of upon sealed bids or at public auction, at the discretion of the Secretary of the Interior, to the highest bidder, under the provisions of the homestead laws of the United States and under the rules and regulations adopted by the Secretary of the Interior, and such purchaser must be duly qualified to make entry under the general homestead laws: *And provided further*, That the money arising from the sale of said lands shall be paid into the Treasury of the United States and placed to the credit of said tribes of Indians, and said deposit of money shall draw 4 per cent interest per annum; and the principal and interest of said deposit shall be expended for the benefit of said Indians in such manner as Congress may direct. And it is also provided that such sales shall be subject to any leases made for agricultural purposes prior to this act, the rentals accruing after such sale to belong to the purchasers under this act.

SEC. 3. That said lands shall be sold for not less than $5 per acre, and shall be sold upon the following terms: One-fifth of the price bid therefor to be paid at the time the bid is made and the balance of the purchase price of said land to be paid in four equal annual installments; and in case any purchaser fails to make such annual payment when due all rights in and to the land covered by his or her purchase shall at once cease and any payments theretofore made shall be forfeited and his or her entry shall be canceled. And no title to said land shall inure to the purchaser, nor any patent of the United States issue to the purchaser, until the purchaser shall have in all respects complied with the terms and provisions of the homestead laws of the United States.

SEC. 4. That the Secretary of the Interior is hereby vested with full power and authority to make such rules and regulations as to the time of notice, manner of sale, and other matters incident to the carrying out of the provisions of this act as he may deem necessary.

SEC. 5. That all lands remaining undisposed of at the expiration of five years from the taking effect of this act shall be disposed of for cash, under rules and regulations to be prescribed by the Secretary of the Interior.

SEC. 6. That the Secretary of the Interior shall allot 160 acres of land to each child of Indian parentage born since June 6, 1900, whose father or mother was a duly enrolled member of either the Kiowa, Comanche, or Apache tribes of Indians and entitled to an allotment of land under the act of June 6, 1900, opening said Kiowa, Comanche, or Apache reservations to settlement, said allotments to be made out of the lands known as the pasture reserves in said reservations.

With the following committee amendments:

On page 2, line 10, strike out the word "three" and insert in lieu thereof the word "six;" in line 16, same page, strike out the word "And;" in line 17, same page, strike out the word "further;" in line 23, same page, strike out the words "And it is also;" and in the same line, after the word "provided," add the word "further."

On page 3, in line 25, section 6, add after the word "that" the words "prior to the said proclamation."

The SPEAKER. Is there objection?

Mr. PAYNE. I reserve the right to object.

Mr. SULZER. Mr. Speaker, reserving the right to object, I wish to ask if this bill has been unanimously reported by the Committee on Indian Affairs?

Mr. STEPHENS of Texas. Yes; three times, and it passed the House once this session, and also the Senate.

Mr. SULZER. Is it approved by the Commissioner of Indian Affairs?

Mr. STEPHENS of Texas. It is in its present form. The Commissioner raised two objections to it in the form that it passed the House and Senate, and that is the reason that the bill was returned by the President to the House. One of his objections was that he wanted the Indian children born since 1900 to be enrolled and to receive an allotment of lands in these pasture reserves. The other objection was that the minimum price of $1.50 per acre was too low, and he desired it raised to $5 per acre. We have reconciled all of these objections in this bill, and it meets with no objection in its present form from any source known to me.

Mr. SULZER. Are the Indians themselves in favor of the bill?

Mr. STEPHENS of Texas. In 1892 the Indians agreed by treaty to the sale of all of these lands. In 1900 three and one-half million acres out of the entire reservation was opened for sale and settlement by act of Congress. This act, however, reserved 480,000 acres of pasture lands in the reservation for the Indians' use. In the meantime the country settled up and the old reservation has been divided up into three counties, these counties being among the best counties in Oklahoma. These pasture lands now being opened by this bill comprise the rest of the reservation, and were included in the original treaty with these Indians, and there is no objection to the bill. It has passed this House twice, once in last Congress and the House and Senate this Congress, and in its present form it has passed the Indian Committee of the House, and it has been reported from that committee at least three times. Objection was raised to the other bill, No. 431, in the Interior Department on the two points I have explained, and those objections have been obviated by this bill, so that now there is no objection to it.

Mr. SULZER. Do I understand the gentleman from Texas to say that the Indians of this reservation held a council and voted for this treaty?

Mr. STEPHENS of Texas. They did, in 1892, in the usual way.

Mr. SULZER. And subsequently the Indians have never attempted in any way to rescind that treaty?

Mr. STEPHENS of Texas. That treaty is still in force. It is satisfactory to the Indians and to the Interior Department, and there is no objection to the bill from any quarter that I know of now.

Mr. SULZER. Mr. Speaker, upon that explanation I withdraw my objection.

Mr. PAYNE. Mr. Speaker, still reserving the right to object, I yield to my colleague from New York [Mr. FITZGERALD], who desires to ask a question.

Mr. FITZGERALD. Mr. Speaker, before the bill is acted upon I wish to get about five minutes to say something.

The SPEAKER. Does the gentleman from Texas yield to the gentleman from New York?

Mr. STEPHENS of Texas. Which one?

The SPEAKER. To the gentleman from New York, Mr. PAYNE.

Mr. STEPHENS of Texas. I do.

Mr. PAYNE. Has any assent been received from the Indians since 1892 in reference to this bill?

Mr. STEPHENS of Texas. I understand that they are now satisfied with the bill.

Mr. PAYNE. The Indians are satisfied with this disposition of the land?

Mr. STEPHENS of Texas. They are—and my information comes through the Indian agent and through the Indian Office here—if the bill passes in its present form, as I have already fully explained.

Mr. FITZGERALD. Mr. Speaker, reserving the right to object, I want to ask the gentleman from Texas to yield five minutes to me.

The SPEAKER. That can be done when the House has consideration of the bill. Is there objection to the present consideration of the bill? [After a pause.] The Chair hears none.

Mr. STEPHENS of Texas. Now, Mr. Speaker, I will yield five minutes to the gentleman from New York [Mr. FITZGERALD].

Mr. FITZGERALD. Mr. Speaker, I have no objection to this bill, but I wish to call attention of the House to the extraordinary circumstances under which it now comes before the

House. This bill passed Congress, was sent to the President under the provisions of the Constitution. It was his duty, if he approved the bill, to sign it, and if he did not approve it to return it to the House, in which it originated, with his objections. Instead of doing that, in some mysterious manner information was conveyed to gentlemen interested in the bill that unless the Congress passed a concurrent resolution recalling the bill from the President that he would veto it.

The President has certain rights and prerogatives under the Constitution, and so has the Congress. If the President does not approve of a bill, he should perform his duty and either permit it to become a law or veto it. Then Congress could exercise its right and determine whether it would pass the bill over his veto, or by having the bill reintroduced in a different form, pass it in the form in which it would then be.

I call attention at this time to this fact because this is the second time such an occurrence has happened during this session of Congress. In the last Congress the Indian appropriation bill went to the President. Instead of approving it, or returning it with his objections, or permitting it to become a law without action on his part, as it was his duty, he compelled Congress to pass three separate joint resolutions amending the bill that was then before him awaiting his action.

Mr. Speaker, there seems to be an innovation in the methods of legislation. The first section of the Constitution provides that "all legislative powers * * * shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives." Under this new dispensation all legislative power seems to be vested in a Congress consisting of three branches: The Senate, the House of Representatives, and the White House. And that this is not farfetched I call the attention of the House to the fact that in this very session there was submitted to the Committee on Appropriations a request that the term "Executive Mansion," where it occurred in the legislative bill, be changed to "White House."

There is another provision in the Constitution—section 3 of Article II—which directs the President "from time to time to give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient." But the present Executive has departed from that requirement of the Constitution. Within the last few weeks the Executive, in personal letters addressed to the heads of two great committees of Congress, the chairman of the Naval Committee of the Senate and the chairman of the Naval Committee of the House of Representatives, recommended certain legislation and commended to those gentlemen the propriety of enacting the legislation that was recommended in those letters.

The other day the Executive wrote a personal letter to a gentleman who happened to be the chairman of a subcommittee of the House, congratulating him upon the efficient manner in which the chairman and the subcommittee had investigated the hazing conditions at the Naval Academy. Mr. Speaker, this is not Russia; the President is not a czar. The czar originates, legislates, and executes the laws. The President does not; he is not the source of all power in our Government. Under our Constitution the Executive has certain duties to perform, which are specifically enumerated and carefully defined. He should not attempt to increase or extend these powers. He should be jealous of his rights, and so should the Congress be keen to protect the powers lodged by the Constitution in Congress. At this time I shall be content with the statement that if the Executive follows a similar procedure in the future and has bills brought back here for amendment that, under a proper construction of the Constitution, he should either approve or disapprove or permit to become law without action, so far as I am concerned, those bills will not be considered in this House by unanimous consent.

Mr. STEPHENS of Texas. Mr. Speaker, I yield five minutes to the gentleman from Iowa [Mr. LACEY].

Mr. LACEY. Mr. Speaker, my friend from New York [Mr. FITZGERALD] perhaps has forgotten that the last Democratic President sent a letter to "My dear Catchings," in relation to a tariff bill, expressing his views about it.

Mr. FITZGERALD. Mr. Speaker, I should like to state that if I had been fortunate enough to be in Congress at that time I would have taken the opportunity to express the same view of the impropriety of that action that I have of the present procedure.

Mr. LACEY. Mr. Speaker, it was very unfortunate that the gentleman was not in Congress at that time. Possibly that bill might not have been passed in its objectionable form if he had been there. This legislation is in relation to certain tribes of Indians. The Executive has under his management the Secretary of the Interior Department and the Indian Bureau, and both of those Departments have special light and knowledge as to details that Congress is entitled to have. Unfortunately the Committee on Indian Affairs in preparing the legislation as to this bill were not informed of the fact that there were about fifty little Indians who had not received allotments who had been born since 1900, and that we were disposing of this property without taking care of their rights by giving each of them a farm. What could be more proper than for the Executive and the Indian Bureau to call the attention of the Members of Congress to this omission and to have it corrected? What could be more proper than for the House when it found an omission of this kind to respectfully ask the President to return the bill in order that it might make suitable provision, as was done in this case—not at all an unusual case.

Mr. STEPHENS of Texas. And there was also one other objection—as to the price.

Mr. LACEY. And there was still another objection, as to the question of price; but I never regarded that as material, as the land will be sold at auction or under sealed bids and will bring all it is worth.

Mr. FITZGERALD. Mr. Speaker, I wish to make this suggestion, that if the President had pointed out those omissions in his veto it; but the word "veto" is an offensive one. It is a right manner. The objection I have is that it comes in this underground back-door manner, so that only one or two Members have knowledge of it.

Mr. LACEY. Mr. Speaker, it is true that the President could veto it; but the word "veto" is an offensive one. It is a right of the Executive that ought seldom to be exercised when legislation like this, quasi private in its character, affecting the property rights of individuals, is being prepared. The Executive and the Indian Bureau are just as much interested as either House of Congress in protecting the rights of the individuals in relation to whom we legislate. We are the guardians of those Indians and this oversight occurred. It is now being corrected—corrected by a new bill. There is nothing at all unusual in it. Such a resolution as this has occurred in almost every Congress, and perhaps more than once in every Congress in which I have had the honor to serve.

Mr. PAYNE. Mr. Speaker, will the gentleman yield to me for two or three minutes?

Mr. STEPHENS of Texas. Mr. Speaker, I agreed to yield first to the gentleman from Missouri [Mr. DE ARMOND], to whom I now yield five minutes.

Mr. DE ARMOND. Mr. Speaker, I wish only to draw attention to one or two of the peculiarities of this procedure. It seems a bill much like this bill was passed a short time ago, providing, among other things, a minimum price of $1.50 per acre for a large body of land, worth much more. It seems also that it passed without knowledge of the existence of a lot of young Indians deeply interested, whose presence was made known later by an investigation at the Interior Department. It appears also that gentlemen interested in the legislation, conferring with the President, learned that he probably would veto the bill on account of the low minimum price, and on account of no provision having been made for the young Indians. Then a resolution was adopted calling the bill back from the President to the House. Later a request was made for unanimous consent to amend the bill and send it again to the President, without the formality of any more legislation, except in that very informal and very summary way. Now, in view of these facts, the question naturally arises how it is that the Indian Committee knew so little about the matter when the subject dealt with is so large, a disposition, I believe, of half a million acres of valuable land. It was stated by the gentleman from Texas [Mr. STEPHENS], when the matter was up the other day, that these lands would sell for at least $5 an acre; yet the minimum price of $1.50 an acre was fixed.

Mr. STEPHENS of Texas. Is the gentleman aware that this land was to be sold to the highest bidder?

Mr. DE ARMOND. Yes.

Mr. STEPHENS of Texas. And that it might bring $100 an acre so far as that is concerned?

Mr. DE ARMOND. I am aware of that, but I am also aware of the fact that land the poorest acre of which, according to the latest information from the gentleman, would bring at least $5 an acre might be sold for $1.50 an acre, under the bill brought back from the White House by resolution. I merely call attention to this by way of suggesting how loosely some matters of important legislation are handled, and how little consideration, apparently, or how much consideration, possibly, is given to some matters the fruits of which do not clearly appear in the legislation itself.

If $5 an acre is a proper minimum price, $1.50 an acre is a very improper minimum price. If there are fifty or sixty

young Indians, more or less, who ought to be taken care of, it is gross carelessness or inexcusable ignorance that left them out of account in the first legislation. While I did not make objection to the unanimous consent for doctoring up the other bill in a summary way, to hasten it to the President, and if it meets with his approval make it a law in this extraordinary manner, I have no doubt the objection is one that ought to have been made, and such legislative methods ought not to be adopted.

Mr. STEPHENS of Texas. Is the gentleman aware of the fact, if the gentleman will excuse me, that about fifteen reservations have been opened in the last eight years since I have been a Member of Congress in exactly the same way, and it seems to me the gentleman is late in finding it out.

Mr. DE ARMOND. Well, I am not finding out about the right to legislate, but I am saying that when $5 is a proper minimum price there is need for some explanation why the minimum price of a dollar and a half is fixed. Now, if the gentleman or anybody else doubts that proposition, I shall be very glad to yield to him.

As to the matter criticised by my friend from New York, I take it that the fact about it probably is this: That gentlemen interested in the legislation and maybe doubting whether the Presidential veto or Presidential approval would follow the passage of the measure, busied themselves in finding out the Executive mind, and used what influence they may have had to secure approval. In the course of discussion, anybody would naturally learn it if the Executive did not take the same view as the advocates of a measure, and would ascertain what the objections of the Executive were. Then again it seems to me the action to be criticised is that of the House and Senate, in not leaving the bill to be disposed of, to be vetoed or approved, but calling it back and endeavoring to doctor it up.

As to this measure, it is taking the regular course, the old $1.50 bill being abandoned. It is a bill called up in the regular way, and it is likely to go through by the very bad process of "unanimous consent," and that is a very usual way of doing things here, and a statement of that fact carries no reproach to the gentleman who asks unanimous consent for this bill; but it does show that important matters are disposed of with the slightest of consideration. What extraordinary blunders of ignorance or carelessness or something else may frequently creep into legislation! That is all I care to say about it.

Mr. STEPHENS of Texas. Mr. Speaker, I yield five minutes to the gentleman from Ohio.

Mr. GROSVENOR. Mr. Speaker, I do not think the criticism of the gentleman from New York [Mr. FITZGERALD] is well taken. The Constitution of the United States does not prescribe the mode and manner by which the President of the United States shall inform Congress of his views upon public questions, and it has grown up in this country, whether in strict conformity to the Constitution or otherwise, that the President is to all intents and purposes a branch of or a portion of or a factor in the legislative department of the Government. The Constitution provides in little more specific terms than the memory of the gentleman from New York furnished the exact prerogatives of the President in this behalf. "He shall from time to time give to the Congress information of the state of the Union; to recommend to their consideration such measures as he shall judge necessary and expedient." There is no limitation upon the mode and manner, the time, or any other circumstances when he is to communicate to Congress; he may not necessarily send it to either body, and I want to point out to the gentleman that he has lived under a condition much more unsatisfactory to him, no doubt, than the one we are laboring under now in the very worst aspect of it, and of which my friend complains. I remember that Mr. Cleveland was elected President in 1884. He entered public life in a national way at the same time that I did. He had the honor to make his appearance as President at the same time I had the honor to make my appearance in this House. There had been a question in regard to the free and unlimited coinage of silver discussed in the country. My friend from New York may have heard of that question; doubtless he is trying to forget it now. Mr. Cleveland wrote a letter during the winter following his election and while he was not President in any proper sense of the term. He wrote a letter to Hon. A. J. Warner, of Ohio, a Congressman, and who had been reelected, and notified the Democratic party of the country he was irrevocably and eternally and always opposed to the free and unlimited coinage of silver and all other schemes to debase the currency or injure or impair the credit of the Government. It was one of the brave and manly and patriotic acts of Mr. Cleveland for which the Democratic party nominated him four years later for President, and nominated him four years still later for a third time, and after that he wrote the famous letter "My dear Catchings," in which he told the Democrats of the country and the Democrats of the House of Representatives and of the Senate in an unofficial way that the product of their long winter struggle was a measure of "perfidy and dishonor." I do not remember the exact words, but I will try to find them and put them into the RECORD. That it was a bill of "perfidy and dishonor." So it will be seen that we have had growing up a system by which the Executive, in advance possibly, later on possibly, pending the legislation possibly, has always undertaken to inform Congress what his opinion was.

I do not believe that the veto power of the Constitution was ever intended to be used as a club in the hands of the President, to be used by him as a lobbyist, but I do believe that it was intended always that the President of the United States might communicate his views directly or in the various ways which I have suggested, not alone to Congress by his message, but as well in such manner as he may see fit. I know nothing about this question on this particular bill. It ought to be corrected, certainly, beyond all doubt, and I am willing to trust the gentlemen who have the matter in charge. But what I rose to say was that it is hardly worth while to try to teach the American people just now that it is necessary for the President, in order to express his views, to send a formidable statement, possibly in the way of a formidable document in the shape of a message to Congress.

Mr. STEPHENS of Texas. I yield to the gentleman from New York.

Mr. PAYNE. Mr. Speaker, the President is an American citizen while he is President, and has a right to write letters to anybody he chooses. Mr. Cleveland had and Mr. Roosevelt has; but that is not very applicable to this particular case after hearing the remarks of my colleague from New York. What are the facts? This bill went to the President. Some gentleman in the House interested in the bill heard that the President was inclined to veto it. They went to see the President, and found out what his views were about the bill. The President did not communicate to the House. He did talk with the gentlemen who went to see him. Then a motion was made here in the House to recall the bill. Now, the House did all that—not the President. If there was anything wrong in it, it was up to any Member of the House to object to having that bill recalled. The bill was recalled. It came back here without a word from the President. While an endeavor was made to fix up the bill by resolution, to amend it most materially in the engrossment of the bill, have it reengrossed and sent to the Senate, and then to the President, I objected to that motion myself. My colleague did not object then.

Mr. FITZGERALD. I did not have the time; the gentleman from New York was too quick for me.

Mr. PAYNE. I am glad to be ahead of you possibly once in a while. [Laughter.]

Mr. FITZGERALD. I want to call the gentleman's attention to the fact that he did not object to the previous bill amended in that way.

Mr. PAYNE. And it turned out when the statement was made of what the President has done that he did not communicate with the House. It turns out that as the bill was first introduced in the House there were great hardships imposed. Now, they come in here with an original bill, securing at least $5 an acre to these Indians for these lands. That has all resulted in better legislation, by proper methods, and the initiation was entirely in the House, and the President, either under the Constitution or outside of it, has not made any communication to the House whatever, and my colleague should have withheld his comments and his criticism in regard to this.

The SPEAKER. Is there objection?

Mr. STEPHENS of Texas. I yield five minutes to the gentleman from New York.

Mr. FITZGERALD. Mr. Speaker, some things are overlooked by gentlemen on the other side of the House. This bill in its original form was reported from the Committee on Indian Affairs in several sessions of Congress. Before it was reported from the Committee on Indian Affairs it had been referred to the Indian Office and had been reported on by the Commissioner of Indian Affairs and the details of the bill approved before the Committee on Indian Affairs unanimously reported it. After the bill went to the President, this same office, which had several times approved of the details of the bill, found, not that Congress, but that the Executive department of the Government had been derelict in its duty. When this was ascertained, the President did not perform his constitutional duty. The Constitution provides in the second clause of section 7, Article I:

Every bill which shall have passed the House of Representatives and the Senate shall, before it becomes a law, be presented to the President of the United States; if he approve, he shall sign it; but if not,

he shall return it with his objections to that House in which it shall have originated, who shall enter the objections at large on their Journal and proceed to reconsider it. If after such reconsideration, two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered; and if approved by two-thirds of that House, it shall become a law. But in all such cases the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the Journal of each House, respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.

Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

In some mysterious way, in some way not expressed in the Constitution, some Members became aware of the fact that the President would do what was eminently proper under the conditions disclosed, veto this bill as originally presented to him, and state in a respectful manner his reasons for so doing. Had that been done the Congress would have had an opportunity to exercise its constitutional powers and determine whether, in spite of the President's objections, the bill should be enacted into law by the concurrence of two-thirds of the members of the Senate and House of Representatives. The Congress has been in this instance, and in other instances, deprived of this constitutional right by resort to the extraordinary procedure already mentioned.

Now, the gentleman from Ohio, with his ability to excuse and defend, goes back to the last Democratic Administration. It has been my observation that where no better excuse can be given for the action of the Republican party in this Congress, appeal is made to the record made by the Democratic party. If necessary they condemn it; if essential to their purpose, they approve it; but for everything good, bad, or indifferent that is proposed in Congress to-day, authority seems to be found in the last Democratic Administration.

Mr. GROSVENOR. Mr. Speaker, will the gentleman allow me to ask him a question?

Mr. FITZGERALD. Yes.

Mr. GROSVENOR. I said nothing about the Democratic party in what I had the honor to submit. I spoke about Mr. Cleveland. Do you recognize him as the Democratic party?

Mr. FITZGERALD. Oh, yes; he was a part of the Democratic party, and he was elected as a Democrat.

Mr. GROSVENOR. He acted in his individual capacity as President.

Mr. FITZGERALD. In all of his communications to Members of Congress, when he was President, in my judgment, he acted as President, not as a private individual; and my criticism of the practice that has not only grown up but is being accentuated, is the important part the Executive is taking in the legislative business of the Government.

Why, Mr. Speaker, it was only the day before yesterday that an amendment to a bill pending in the Senate was prepared and framed in the White House, and sent into the Senate to be incorporated into the bill.

Mr. GREENE. Will the gentleman yield for a question?

Mr. FITZGERALD. Yes.

Mr. GREENE. Did you not notice in the debate that was had in the Senate yesterday that the Senator from Kansas [Mr. LONG] denied that it was prepared in the White House?

Mr. FITZGERALD. Well, if it be proper to refer to what occurred in the Senate, the Senator from Kansas stated with great particularity that it had not been prepared, "prepared," in the White House; just like many bills that come into this House that are not prepared by Members, but they are submitted here for consideration. But while a bill is pending in the legislative branch of the Government, amendments are prepared, debated, and perfected, not in the legislative branch of the Government, but in the executive branch of the Government. It would be better for orderly and proper procedure if the Constitution were amended, and the Congress made to consist of three houses instead of two as now provided. As a matter of fact, to-day much important legislation originates, is discussed and perfected in a branch of the legislature unknown to the law—that is, in the White House.

Some may say that these objections are trivial. The history of all nations, which contained parliamentary bodies, discloses that all encroachments on the rights of the parliamentary bodies by the sovereign or the executive are trivial in the beginning. The failure to resent such encroachments has encouraged great and more important grasps for power, with the inevitable resentment and strife.

Mr. STEPHENS of Texas. I yield five minutes to the gentleman from South Dakota [Mr. BURKE].

Mr. BURKE of South Dakota. Mr. Speaker, I have not heard all of the debate on this bill, but came into the House as the gentleman from Missouri was criticising the committee for having reported it as it was reported formerly and as it passed the House. I want to say that the bill which passed the House some time ago was very carefully considered by the Committee on Indian Affairs, and in passing I may say that the Committee on Indian Affairs does not report any of these bills until they have had the most full and careful consideration. There is nothing remarkable about the fact that this bill passed the House without containing the two provisions that caused objection to be made to it, as I understand it, in the Department, or at the White House. The bill limited the price that the lands might be sold for—that is, the minimum price—at not less than $1.50 per acre; but there is a provision that they shall be sold at public auction, or upon sealed bids, at the discretion of the Secretary of the Interior, to the highest bidder, under rules and regulations to be prescribed by him, and it does not matter whether there is a minimum price fixed or not. It is presumed that the Secretary of the Interior would not permit the lands to be sold at less than what they are worth. One of the reasons for not fixing a higher minimum price was because some of these lands may be very poor and possibly could not be sold for $5 an acre, or $4 an acre, or $3 an acre, and it might require additional legislation at some time in the future to clean up this transaction and dispose of all the lands that this bill proposes shall be disposed of.

Mr. STEPHENS of Texas. The fifth section of this bill states that after the expiration of five years all land remaining undisposed of shall be sold without reference to the price.

Mr. BURKE of South Dakota. I believe there is some such provision in the bill, but it does not say "without reference to the price." Now, as to the question of allotment to the children born since June 6, 1900, the lands belonging to the Kiowa, Comanche, and Apache Indians were disposed of some years ago under a treaty, and the Government paid for them, but reserved for pasturage purposes what it is now proposed to sell by this bill, namely, 480,000 acres, and in addition 25,000 acres set aside as a wood reservation. Allotments had been made to all of the Indians and the committee did not consider that those born in the last two years were entitled to allotments, but concluded that all the land ought to be sold and that the money received therefor should go into the Treasury for the benefit of all the Indians.

I simply make these observations to resent the imputation that this bill was carelessly or negligently considered by the Committee on Indian Affairs and reported to this House. A similar bill was reported in the last Congress. This bill passed this House and no objection was offered from any source to its passage. It also passed the Senate, and after it had gone to the White House I understand that the Indian Department, that had not passed on the bill, or made any report thereon, raised certain objections which came to the notice of the gentleman from Texas [Mr. STEPHENS], and that he initiated the proceedings by which the resolution was adopted by the House and Senate asking the President to return the bill. I say there was nothing unusual or remarkable about the procedure.

The SPEAKER. The question is on agreeing to the amendments.

The question was taken; and the amendments were agreed to.

The bill was ordered to be engrossed and read a third time; was read the third time, and passed.

On motion of Mr. STEPHENS of Texas, a motion to reconsider the last vote was laid on the table.

ORDER OF BUSINESS.

Mr. OVERSTREET. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the post-office appropriation bill.

Mr. UNDERWOOD. Mr. Speaker, I ask the gentleman if he will not yield for a matter on the Speaker's table.

Mr. OVERSTREET. I think I have been pretty patient this morning. How long will it take?

Mr. UNDERWOOD. Not very long. The reason I did not call the attention of the Chair to it was that I understood that the Chair wanted to take up some matters for unanimous consent first.

Mr. OVERSTREET. I will yield.

TERMS OF CIRCUIT AND DISTRICT COURTS IN ALABAMA.

The SPEAKER. The Chair lays before the House the following Senate bill, a similar House bill being on the Calendar.

The Clerk read as follows:

The bill (S. 5215) to fix the regular terms of the circuit and district courts of the United States for the southern division of the northern district of Alabama, and for other purposes.

Be it enacted, etc., That the regular terms of the circuit and district courts of the United States for the southern division of the northern district of Alabama shall be held at the city of Birmingham, in the county of Jefferson, twice in each year, on the first Mondays in March and September, and that said courts shall remain in open session for the transaction of business at least six months in each calendar year.

SEC. 2. That whenever the judge for the northern district of Alabama deems it advisable, on account of disability or absence, or of the accumulation of business therein, or for any other cause, that said court should be held by the justice of some other district or circuit court, he shall, in writing, request the presiding justice for the fifth judicial circuit of the United States to assign a judge to hold the term or terms of said court.

Mr. WILEY of Alabama. Mr. Speaker, is this bill submitted for unanimous consent?

The SPEAKER. No; it is a Senate bill, a similar House bill having been reported and on the Calendar.

Mr. WILEY of Alabama. Mr. Speaker, I regret exceedingly to be obliged to antagonize any bill introduced by the gentleman from Alabama.

Mr. UNDERWOOD. Mr. Speaker, I believe I have the floor.

The SPEAKER. Does the gentleman from Alabama yield to his colleague?

Mr. UNDERWOOD. How much time does the gentleman desire?

Mr. WILEY of Alabama. Only a few minutes.

Mr. UNDERWOOD. I will yield to the gentleman five minutes.

Mr. WILEY of Alabama. Mr. Speaker, permit me to say to the House and to my colleague from Alabama [Mr. UNDERWOOD], who knows that I entertain for him sentiments of the warmest personal esteem, that it gives me no small embarrassment to be put in the attitude of opposing any measure of legislation in which he feels an interest, but this bill is one that vitally affects the Federal judicial district in which I reside. The judge opposes it as unfair to him. Members of the bar all over the district are importunate in their demands that I do not consent to its passage. Let me state the case briefly. There are three judicial districts in Alabama, over which two judges preside. The southern district is composed, according to my recollection, of thirteen counties, over which Judge Toulmin presides. He lives at Mobile. The middle and northern districts, altogether consisting of some fifty-odd counties, constitute the balance of the State, and are presided over by Judge Thomas G. Jones, whose domicile is in the city of Montgomery—my home town. In these two districts—the middle and northern—there are five places at which Federal courts are held, to wit: Montgomery, Tuscaloosa, Anniston, Birmingham, and Huntsville. The bill under consideration proposes that the judge of these two districts shall hold court at Birmingham six months out of every year, leaving for the other four places, including the capital, in the aggregate as the time for holding court the remaining six months, and, of course, affording the judge no recess or recreation. The bill makes it mandatory that six months out of every twelve shall be devoted to Birmingham, regardless of the rights and interests of litigants in the other towns I have named, and irrespective of the convenience of the public in other communities of our State. This manifestly is unfair. For these reasons, strong opposition has developed, and I am urged to resist the bill now under consideration.

Certainly it will operate most unjustly to the people of the district I have the honor to represent and in which I reside, if the bill becomes a law. There has been no consultation on the part of the Alabama delegation as to its merits. I knew nothing of it until after it had received a favorable report from the Judiciary Committee. My colleague [Mr. CLAYTON], who also resides in the middle judicial district, is absent, nor was he here when the bill was so reported; and, so far as I know, he has never been consulted on this proposition. Certain it is, that my wishes were never sought to be known nor have been respected.

Now, under the circumstances, I ask my colleague to give us, the Alabama delegation, an opportunity to come together, to ascertain, if possible, whether we can not agree on something reasonable, just, and fair. That is all I have to say. I repeat, I regret exceedingly to be put, even remotely, in the position of opposing anything that my friend from Alabama asks at the hands of this House. I have done.

Mr. RICHARDSON of Alabama. Mr. Speaker——

Mr. UNDERWOOD. Mr. Speaker, I want to yield to the gentleman from New York [Mr. ALEXANDER], the chairman of the subcommittee who reported the bill.

Mr. RICHARDSON of Alabama. I should be glad to ask my colleague some questions.

Mr. UNDERWOOD. After I have yielded to the gentleman from New York I will answer the gentleman's questions.

Mr. ALEXANDER. Mr. Speaker, this bill was carefully considered and unanimously reported by the Judiciary Committee, because it will, we hope, obviate the necessity of appointing an additional United States judge in the northern district of Alabama. The court is now held at Birmingham at different times for three months in each year. The bill pending simply requires that it be continued three months longer, or six months in all, provided business keeps it employed for that length of time. It will not, in my opinion, interfere with terms of court at other places where they are fixed, but it will relieve the congestion of business at Birmingham, which is great and which needs relief. There were 780 criminal and civil cases pending in the northern and middle districts of Alabama on July 1, 1905, and the larger part of them, I am informed, originated at Birmingham and vicinity. This bill is the result of the best thought of the Judiciary Committee as a means of giving the needed relief. Business at other places is not congested, and the giving of Birmingham a court for six months will, in our opinion, leave sufficient time to dispose of business at other places where courts are now held under the law.

Mr. UNDERWOOD. Mr. Speaker, I understand that my colleague the gentleman from Alabama [Mr. RICHARDSON] desires to ask some questions.

Mr. RICHARDSON of Alabama. Mr. Speaker, I desire to ask this question: Do the terms of the bill under consideration interfere with the length of the terms of the court allowed, for instance, at Huntsville, Ala.?

Mr. UNDERWOOD. The terms of this bill do not interfere with any court except the court at Birmingham. It says nothing about any court. It merely provides that if Judge Jones can not hold our court he shall call on the circuit judges and ask them to send somebody else to hold the court.

Mr. RICHARDSON of Alabama. Can not he do that under the present statute?

Mr. UNDERWOOD. Yes; but this makes it mandatory that he shall do it. Now, I will say to the House that the whole effect of this bill is simply this: We have one judge who presides over the northern and middle districts of Alabama. The middle district of Alabama is in the southeast corner of the State. The northern district embraces the entire north half of the State, and the southern district is in the southwest corner of the State. We have a judge of the southern district and a judge of the middle district, both in southern Alabama. We tried to get a judge for the northern district of Alabama, where the great bulk of the business is. The Judiciary Committee said that two judges were enough in Alabama. The bill for a new judge was referred to the Attorney-General, and he said that the business was not properly divided, that the judge for the northern and middle districts had more work than he ought to do and could do, but that if the business was properly divided two judges could attend to all there was in Alabama. Now, we tried then when we could not get another judge to redistrict the State, and it was impossible in our delegation from Alabama in the committee or among the judges to agree on a bill for the redistricting of this State, both judges living in southern part of Alabama and neither of them being willing to move away from his home. The judge of the northern district says it would take him seventeen months a year to hold terms of court in this district and give the attention that is needed. It is conceded that 65 per cent of the business in these two districts, in the middle district and the northern district, is in Birmingham. That composes 65 per cent of the business of the two districts.

Well, the situation in this: A large number of railroads center in Birmingham. The court has become congested. Every railroad case that is brought in this district is removed from the State courts and landed in the United States courts, because every railroad is a nonresident corporation. Every other big nonresident corporation against which a suit is brought and which it does not want to try is landed in the United States courts by being removed from State courts, and the result is that there is an absolute denial of justice. As stated by the gentleman from New York [Mr. ALEXANDER], the facts show that there is no court in the United States, except the southern district of New York, where there is a greater congestion of business. That being the case, the question is how to relieve the situation and let the people get a trial of their cases. There is only one way. The Committee on the Judiciary says that we can not have another judge. It is impossible to redistrict the State, because both judges live down in south Alabama, and the only proposition that we now fall back on is this legislation, that we shall have three months more court at Birmingham to attempt to relieve this congestion of the business and provide

that when the judge who presides over that district is unable to go there and hold the court himself he shall certify that fact to the circuit judges of the fifth judicial circuit, and if they can get a man they shall assign him to go to Birmingham and try the cases. It does not cost the Government a nickel. It does not create a new office. It merely provides that it shall be the mandatory duty of the judge if he can not hold this court himself within the time designated by the law to notify the circuit judges, and they shall assign another judge, if they can get one to go and hold that court.

Mr. WILEY of Alabama. Mr. Speaker, will the gentleman from Alabama pardon an interruption?

Mr. UNDERWOOD. Yes.

Mr. WILEY of Alabama. The gentleman states that it will not cost the Government a nickel to hold these courts. Does the gentleman not know that under the law if any other judge besides Judge Jones holds a court at Birmingham the expenses to himself and his secretary, the expenses not to exceed $10 a day, will be charged against the Government?

Mr. UNDERWOOD. Certainly; but that is the law now.

Mr. WILEY of Alabama. But the gentleman says it will not cost the Government a nickel.

Mr. UNDERWOOD. I say this bill will not cost the Government a nickel. That is the law now. The law is now when a judge is sent out of his district that his expenses are paid.

Mr. WILEY of Alabama. If Judge Jones holds court in Birmingham nothing is allowed to him.

Mr. UNDERWOOD. Certainly not; but if he can not hold the court there we are entitled to, and all we are asking is that somebody else be sent to hold that court, and, of course, he would get his expenses, as the general law provides.

I will append, as a part of my remarks, the report of the Committee on the Judiciary, as follows:

The Committee on the Judiciary, to whom was referred the bill (H. R. 16802) to fix the regular terms of the circuit and district courts of the United States for the southern division of the northern district of Alabama, and for other purposes, have had the same under consideration and report it back to the House without amendment, with the recommendation that it pass.

The object of the bill is to extend the time for holding the United States courts at the city of Birmingham, Ala., where it is shown that the dockets are overcrowded and that it is impossible to dispose of the business in the terms now prescribed by law.

The State of Alabama is divided into three districts, which are called the southern, middle, and northern districts of Alabama. There are sixty-six counties in Alabama. The southern district includes the counties of Mobile, Washington, Baldwin, Sumter, Clark, Marengo, Dallas, Green, Perry, Pickens, Wilcox, Monroe, and Conecuh—13 in all.

The middle district includes the counties of Montgomery, Autauga, Coosa, Tallapoosa, Chambers, Talladega, Randolph, Macon, Russell, Barbour, Pike, Henry, Dale, Coffee, Covington, Lowndes, and Butler—17 in all.

The northern district includes the remaining counties in the State—36 in all.

There are two district judges appointed for Alabama; one presides over the southern district and resides at Mobile, and the other presides over the northern and middle districts and resides at Montgomery. There is only one court held in the middle district and that is at Montgomery, while in the northern district the law provides for holding court at Huntsville, Anniston, Tuscaloosa, and Birmingham.

The business pending in the courts of the northern and middle districts of Alabama is as follows:

MIDDLE DISTRICT.

District court:	Cases.
Law	2
Equity	3
Criminal	309
Circuit court:	
Law	55
Equity	27
Criminal	2
Petitions in bankruptcy filed year ending October, 1905	183

United States circuit and district courts for the northern district of Alabama.

SOUTHERN DIVISION (BIRMINGHAM).

Criminal cases:	
January 1, 1903, to January 1, 1906	249
Then pending	219
Now pending	130
Law cases:	
January 1, 1903, to January 1, 1906	433
Then pending	184
Now pending	261
Equity cases:	
January 1, 1903, to January 1, 1906	31
Then pending	17
Now pending	37
Bankruptcy cases filed January 1, 1903, to January 1, 1906	2,829

WESTERN DIVISION (TUSCALOOSA).

Law cases	12
Equity cases	1
Bankruptcy cases	14

NORTHERN DIVISION (HUNTSVILLE).

Criminal cases:	
January 1, 1903, to January 1, 1906	236
Then pending	125
Now pending	42
Law cases:	
January 1, 1903, to January 1, 1906	43
Then pending	27
Now pending	26
Equity cases:	
January 1, 1903, to January 1, 1906	12
Then pending	27
Now pending	18
Bankruptcy cases filed	512

EASTERN DIVISION (ANNISTON).

Criminal cases:	
January 1, 1903, to January 1, 1906	103
Then pending	25
Now pending	47
Law cases:	
January 1, 1903, to January 1, 1906	26
Now pending	2
Equity cases:	
January 1, 1903, to January 1, 1906	3
Now pending	1
Bankruptcy cases filed	103

RECAPITULATION.

Criminal cases:	
From January 1, 1903, to January 1, 1906	588
Then pending	369
Now pending	219
Law cases:	
From January 1, 1903, to January 1, 1906	514
Then pending	211
Now pending	301
Equity cases:	
From January 1, 1903, to January 1, 1906	47
Then pending	44
Now pending	57
Bankruptcy cases filed	3,458

From the foregoing statement it is readily seen that more than half of the business of all the courts in the northern and middle districts of Alabama is now pending on the dockets of the courts for the southern division of the northern district of Alabama at Birmingham.

The testimony before the Judiciary Committee shows that Birmingham is in the center of the mining and manufacturing district of Alabama, and is the largest railroad center in the State; that there is a vast amount of litigation at this point, and the dockets of the United States courts are overcrowded; that under present conditions it takes four or five years after it is filed to reach a civil case for trial, which amounts to almost a denial of justice; most of the time is occupied in trying the criminal cases.

The report of the Attorney-General for the United States for last year shows that the business in the courts of the northern and middle districts of Alabama is greater in amount than that on the dockets of any district or districts in the United States over which a single judge is called upon to preside, except that of the southern district of New York.

There is no doubt that to accomplish the ends of justice some form of relief is needed at Birmingham, and it is believed that this bill, by providing for six months of court, will relieve the situation without great cost to the Government.

There are a number of precedents for fixing the length of the terms of court, one of the most recent being that of the western district of New York, where it is expressly provided that court shall be held in the city of Buffalo at least two weeks in each month of the year except August. (Act of May 12, 1900, 31 Stat., 176.)

Now, Mr. Speaker, I move the previous question.

Mr. WILEY of Alabama. One moment.

Mr. UNDERWOOD. I yield for a question to my colleague.

Mr. WILEY of Alabama. Mr. Speaker, before my colleague moves the previous question I ask permission to have the Clerk read a statement from Judge Jones, printed in a recent issue of the Montgomery Advertiser, for the information and benefit of the House, and as part of my remarks. It states fully and accurately the reasons why the bill should not pass.

The SPEAKER. The gentleman asks unanimous consent to extend his remarks. Is there objection? [After a pause.] The Chair hears none.

Mr. WILEY of Alabama. Mr. Speaker, you misapprehend my request. I stated I wished that this newspaper article, or interview, may be read for the information and benefit of the House. That was my request.

The SPEAKER. Does the gentleman from Alabama yield?

Mr. UNDERWOOD. I yielded to my colleague once, but——

Mr. OVERSTREET. Is unanimous consent required for the reading of that newspaper article?

The SPEAKER. Well, if the gentleman yields he can yield in his own time.

Mr. OVERSTREET. I yielded on the understanding the gentleman would require about five minutes.

Mr. UNDERWOOD. If the gentleman insists upon his understanding, I will move the previous question.

Mr. WILEY of Alabama. One moment, Mr. Speaker; my colleague from Alabama consented that this should be done. It simply puts Judge Jones's views before the House, and I ask unanimous consent that the article may be read. It is only fair to him. The bill has come up unexpectedly, and as the statement is from a judge who is interested in this matter it is but fair the House should hear what he has to say.

The SPEAKER. What does the gentleman from Alabama do?

Mr. UNDERWOOD. Mr. Speaker, I yield to let the gentleman put in the article.

Mr. WILEY of Alabama. It is not only for the information and benefit of the House, but for the information and benefit of the people I have the honor to represent in this Chamber—my constituents at home.

Mr. OVERSTREET. What is this about?

Mr. WILEY of Alabama. It is a letter from Judge Jones, who is affected by this bill.

Mr. OVERSTREET. Is it about this bill?

Mr. UNDERWOOD. It is, and I yielded for the purpose of having it read.

Mr. OVERSTREET. Well, I will not insist upon the point.

The Clerk read as follows:

OPPOSED TO BILL—JUDGE JONES TALKS OF UNDERWOOD MEASURE—MONTGOMERY LAWYERS WILL MEET TO-MORROW TO EXPRESS DISAPPROVAL OF THE PROPOSED FEDERAL COURT ACT.

Strong opposition has developed among the members of the local bar and other members of the legal profession in different parts of Alabama over the United States court bill recently introduced in Congress by Representative UNDERWOOD.

This bill provides for the fixing of regular terms of the circuit and district courts of the United States in the southern division of the northern district of Alabama, in Birmingham, and also for the power of the judge for the northern district to request the assignment of another judge to hold court in that district when, for any reason, he deems it necessary.

Owing to the widespread dissatisfaction that has been evinced in regard to this matter, an interview was obtained by the Advertiser from United States Judge Thomas G. Jones on this bill yesterday.

"Judge Jones," said a representative of the Advertiser, "the bar here, it is understood, will meet Monday to oppose the United States court bill recently offered by Representative UNDERWOOD. It is said that both you and Judge Toulmin are opposed to it. It is a matter of much public interest in both the districts. Do you mind stating your views?"

"I couldn't discuss criticisms of a judicial decision with propriety, but in a matter of this sort I am glad to give my views, especially as I had no opportunity to do so before the Judiciary Committee of the House," replied Judge Jones. He then furnished a copy of the bill, which is as follows:

"To fix the regular terms of the circuit and district courts of the United States for the southern division of the northern district of Alabama, and for other purposes.

"*Be it enacted, etc.*, That the regular terms of the circuit and district courts of the United States for the southern division of the northern district of Alabama shall be held at the city of Birmingham, in the county of Jefferson, twice in each year, on the first Mondays in March and September, and that said courts shall remain in open session for the transaction of business at least six months in each calendar year.

"SEC. 2. That whenever the judge for the northern district of Alabama deems it advisable, on account of disability or absence, or of the accumulation of business therein, or for any other cause, that said court should be held by the justice of some other district or circuit court, he shall, in writing, request the presiding justice for the fifth judicial circuit of the United States to assign a judge to hold the term or terms of said court."

"This bill," Judge Jones continued, "does not give any more judicial force than now, and it does not promote in any way whatever a more certain supply of outside judges than we already have under the existing law. The law now provides explicitly that whenever there is an 'accumulation of business' in any district the circuit judge shall designate some judge of another district to aid.

"The law has already been availed of. Judge Toulmin has already been designated, generally, to hold courts in the northern district, and has held courts at Anniston and Birmingham, as I have at the latter place, twice a year. Judge Toulmin is now holding court at Birmingham, under that designation. Judge Boarman has also been designated and agreed to hold the April term at Huntsville. Judge Shelby has held a term there. I am holding court here, where the common-law docket needs attention, with the equity and some important criminal cases left untried. From here I go to Tuscaloosa, and thence, about May 1, to hold a long term of the civil docket at Birmingham. What more can be done than is being done for Birmingham or the northern district unless Congress should give us another permanent judge, as the lawyers asked, either for the middle and northern districts or a separate judge for the northern district? I have certainly done all the asking for aid under the old law that I could under the new law. Judge Toulmin or no other judge could do any more under a designation under the new law than he could or would under the old. The only other judges I know of who are not crowded in their home districts are Judges Boarman and Swayne. Judge Swayne could not come to Birmingham because of his health, and Judge Boarman, I believe, has calls for all of his spare time. I would be glad if the supporters of this bill would help Judge Shelby or me find some other judges than those named who can be designated to help in the northern district. We have not been able to find such judges. How can we do it under a new law which differs in this particular not one particle from the old law?

"The injustice of the bill is contained in the only real change it makes in existing law, to wit, that the courts at Birmingham 'shall remain in open session for the transaction of business six months in each calendar year.' This means that a judge shall be on the bench in that court six months each year. The court, under the existing law, is already always 'open' for most orders in equity and bankruptcy. How will this provision work in practice? How is it meant to work?

"Look at the situation a little. The one judge of the northern and middle district—that is, Judge Jones—under the law, not in anywise changed by the bill, is required to hold court twice a year at Montgomery, Anniston, Birmingham, Tuscaloosa, and Huntsville. It requires about seven months' work on the bench to keep up with the business of the twenty-four counties in the middle district at Montgomery. Sessions of court are required for at least a month at Tuscaloosa, for about a month and a half at Anniston, and at least two months at Huntsville each year. This is a very conservative estimate of the time required. It will in all probability require more. This gives the judge, not counting time lost in going to and returning from court, eleven and a half months on the bench each year, leaving Birmingham out of the calculation. With six months of court there 'kept in open session' this will put upon one judge seventeen and a half months of judicial labor each year!

"Of course it will be said, 'Nobody expects you to do all that work. It is impossible—you must get help by calling others in.' If I should succeed in getting six months' help from outside judges in the northern district, and thus keep in 'open session' the court at Birmingham, there would still remain to me eleven and a half months on the bench in other places in the two districts, or there and in Birmingham, each year. No human being can stand the strain of holding court eleven and a half months in the year. It could leave no time for any vacation, however short, and practically none for study and investigation and necessary correspondence. The Alabama bar and people, and certainly the American Congress, will not wish a judge of one of the courts treated as a mere beast of burden, to be driven until he falls.

"Suppose, however, the judge of the two district courts does not get as much as six months' outside help, what is he to do? That has happened in the past, and it will in the future. Then the judge must take six months of 'open court' for Birmingham from the time requisite for the other places—Montgomery, Anniston, Huntsville, and Tuscaloosa. I will not elaborate. Everybody can see the workings of the bill, which is new in this one feature only.

"Every lawyer, and certainly every Federal judge in Alabama, sees the need for more judicial force in these two districts and for more time at Birmingham. The number of criminal, common-law, and equity cases in the two districts is 975 cases a year, besides about 1,000 bankruptcy cases a year, with the volume of litigation therefrom which presses on the judge. Everybody, especially every lawyer, who thinks a moment as to the days of judicial labor required to transact all this business, knows the pressing necessity for more judicial force.

"I certainly will do anything in reason to help the Birmingham court. I brought the matter to the attention of the State Bar Association, and it recommended an additional judge for both districts. I told the bar there that it was a matter of personal indifference to me whether there was an additional judge for both districts or a separate judge for the northern district. I went to Washington to appear before the Judiciary Committee in support of that bill, but was prevented from appearing that day by a threatened attack of pneumonia. I think everybody knows that the Alabama delegation united had sufficient influence, with the case we had, to have gotten the permanent additional aid the bar and people asked for. The reasons why they were not united it may not be proper for me to discuss. I am speaking of it now only as a thing of the past, not criticising it.

"As we could not get the relief so urgently needed, we ought not to try, without any increase of judicial force, to supply a remedy for the benefit of one place only in the two districts, which works hardly on other localities and bars, and upon judges who have earnestly and laboriously tried to do everything that mortal man could do to dispatch the business of the two districts. It is known to most lawyers in the two districts that I have never lost a day from sickness or taken a vacation from the bench in nearly five years. They all know that my office is often overwhelmed with correspondence; that I am often in my office by 6 in the morning, and frequently as late as 1 at night, and that for the accommodation of lawyers and litigants. I have heard in the last few years hundreds of cases at night, and frequently even at my home. I feel that I can say, therefore, without a tinge of undue thought of self, that the present bill is unjust."

Mr UNDERWOOD. Mr. Speaker, I think that letter fairly demonstrates the necessity of relief in this matter, as the committee, in its wisdom, has determined we can not have another judge, and I now move the previous question.

The question was taken; and the previous question was ordered.

The SPEAKER pro tempore (Mr. HOAR). The question is on the third reading of the bill.

The question was taken; and the bill was ordered to be read a third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Chair announced that the ayes seemed to have it.

On a division (demanded by Mr. WILEY of Alabama) there were—ayes 47, noes 18.

Mr. WILEY of Alabama. I make the point of no quorum, Mr. Speaker.

Mr. UNDERWOOD. Mr. Speaker, I will ask, so as not to interfere with the business of the House to-day, if I can get unanimous consent, that this may go over as unfinished business, to be taken up after the reading of the Journal to-morrow morning, the previous question having been ordered to-day.

The SPEAKER pro tempore. Does the gentleman from Alabama withdraw his point of order?

Mr. WILEY of Alabama. I withdraw the point of order and will let it go over.

The SPEAKER pro tempore. Without objection, the matter will go over as unfinished business.

Mr. UNDERWOOD. The understanding is it goes over to come up the first thing after the reading of the Journal.

The SPEAKER pro tempore. The Chair so understands.

NEW JUDICIAL DIVISION IN IOWA.

Mr. HEPBURN. Mr. Speaker, I ask unanimous consent for the present consideration of the bill H. R. 16014, which I send to the Clerk's desk.

The SPEAKER pro tempore. The Clerk will report the bill.

The Clerk read as follows:

A bill (H. R. 16014) to amend an act entitled "An act to create the southern division of the southern district of Iowa for judicial purposes, and to fix the time and place for holding court therein," approved June 1, 1900, and all acts amendatory thereof.

Be it enacted, etc., That section 1 of an act entitled "An act to create the southern division of the southern district of Iowa for judicial purposes, and to fix the time and place for holding court therein," approved June 1, 1900, and all acts amendatory thereof, be amended to

read as follows: "That the counties of Lucas, Clarke, Union, Adair, Adams, Fremont, Page, Taylor, Ringgold, Decatur, and Wayne shall constitute the southern division of the southern judicial district of Iowa; and a term of a circuit and district court for said district shall be held in said division hereby created at Creston, in Union County, on the fourth Tuesday in March and first Tuesday in November of each and every year."

SEC. 2. That all causes now pending in the southern division of the southern judicial district from Appanoose County shall be transferred to the eastern division of the southern judicial district of Iowa, at Keokuk, in Lee County.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

POST-OFFICE APPROPRIATION BILL.

Mr. OVERSTREET. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the post-office appropriation bill, and, pending that motion, I ask unanimous consent that the time for general debate be equally divided, one-half to be controlled by myself and one-half by the gentleman from Tennessee [Mr. MOON]. I shall not seek at this time to limit the time of general debate.

The SPEAKER pro tempore. The gentleman from Indiana moves that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 16953, and pending that motion the gentleman asks unanimous consent that the time be equally divided—one-half to be controlled by him and one-half by the gentleman from Tennessee. Is there objection? [After a pause.] The Chair hears none. The question is now on the motion of the gentleman from Indiana.

The motion was agreed to; and accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 16953—the post-office appropriation bill—Mr. SHERMAN in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the consideration of an appropriation bill to be reported by its title.

The Clerk read as follows:

A bill (H. R. 16953) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1907, and for other purposes.

Mr. OVERSTREET. Mr. Chairman, I ask unanimous consent that the first reading of the bill be dispensed with.

The CHAIRMAN. The gentleman from Indiana asks unanimous consent to dispense with the first reading of the bill. Is there objection? [After a pause.] The Chair hears none.

Mr. OVERSTREET. Mr. Chairman, the rapid growth of the postal service makes necessary very heavy appropriations to maintain that service. What may appear to be extraordinarily large figures for appropriations for the service are not extraordinarily large when analyzed and found to be required to pay for the proper and efficient maintenance of this system. The decade just closing, perhaps, reflects more nearly than any other decade in our nation's history the growth of commercial enterprise in this country. No feature of our Government or business of the nation demonstrates more clearly than the postal service the growth of the business of the country; and when it is found that the expenditures for this great service, as well as the receipts from it, have practically doubled within the last ten years, it can easily be seen how rapidly the business of the country has developed.

The bill which is now before the committee carries $191,373,848.75, an increase over the amount carried by the law for the present fiscal year equal to $10,351,755. This increase of over $10,000,000 is not any evidence of extravagance or looseness in the management of postal affairs, but rather demonstrates the increase in the business of the country reflected in the postal system, reaching practically every family among our 80,000,000 people.

The committee on framing this bill has sought with great care and patience to carefully analyze and correct where it might the various estimates made by the Department covering the general features of the postal system. The regular estimate of the Department, which came in the ordinary way through the Secretary of the Treasury, aggregated $193,210,070. Modified estimates, made subsequently to the first estimate of the Department, reduced this amount, so that the total estimate by the Department in the last amount submitted was $192,287,070. The amount recommended by the Post-Office Committee in this bill is less than the first estimate by $1,836,221.25 and less than the modified estimate of the Department by $913,221.25.

While the committee, Mr. Chairman, has reduced in its recommendations the estimates of the Department by practically $1,000,000 this year, we have made proper and full provision for the efficiency of the service so far as possibly can be made and prevent any extravagance or unwise expenditure. While this bill necessarily covers every State and Territory of the Union and the possessions of the United States except the Philippines, reaching, as it does, every family, it necessarily contains a great many items of appropriation. Nevertheless seven item of the bill carry 87.8 per cent of the entire appropriation, leaving to all of the other items for the service 12.2 per cent of the total provided for in the bill. The deficit for the fiscal year 1905, or the difference between the receipts and the expenditures for the service, amounted to $14,572,584.13. Yet, while the deficit for the last fiscal year, ending the 30th of last June, was more than fourteen and a half millions of dollars, nevertheless the receipts for the fiscal year 1905 exceeded the expenditures of the preceding fiscal year by $464,468.40. It would seem, therefore, that notwithstanding the tremendous growth of the business of the country, necessitating a corresponding tremendous increase in appropriations for this postal service, the receipts of the service are increasing almost as rapidly as the expenses. Notwithstanding these expenses necessitate increases for additional facilities, including the heavy appropriations for rural service, yet the receipts for the year 1905 were greater than the expenditures for the year 1904 by $464,468.40.

I suggested a moment ago that while the total carried by the bill aggregated in excess of $191,000,000, seven of the items of the bill accounted for 87.8 per cent of the entire total. These seven items are the following: Transportation by railroad companies, including postal cars; letter carriers of the rural free-delivery service; compensation to postmasters; clerks of the first and second class offices; letter carriers in the city delivery service; clerks in the Railway Mail Service, and the transportation by star routes.

Mr. SAMUEL W. SMITH. Will the gentleman allow me to ask him a question right there?

Mr. OVERSTREET. Certainly.

Mr. SAMUEL W. SMITH. What is the increase for the railroad mail over last year?

Mr. OVERSTREET. The total increase for railroad transportation over the fiscal year 1906 is $2,100,000, or 5.13 per cent.

Mr. SAMUEL W. SMITH. And what is the increase in the railroad postal cars for the same period?

Mr. OVERSTREET. We make no increase in the appropriation for postal cars. It is the same appropriation as last year.

Mr. Chairman, it is interesting to learn that within a short time so many of these same items which I have just enumerated have increased by practically a hundred per cent, and notwithstanding so heavy an increase the expenditures are absolutely necessary for the proper and efficient maintenance of the service. Counting the period that is represented by the bill under consideration, and assuming that the appropriations for these seven items should be made into law and expended, it shows that the expenditures for railway mail transportation have doubled since the year 1892, the expenditures for rural delivery service have doubled since the year 1904, that the compensation to postmasters has doubled since the year 1887, that the compensation to clerks in first and second class offices has doubled since the year 1899, that the compensation to letter carriers in city delivery service has doubled since 1894, and the compensation for the Railway Mail Service has doubled since the year 1896. The star service has not shown that increase, because there have been many changes incident to the extension of rural delivery, and the amount for star service has only increased about $2,000,000 since 1882. The method pursued by the committee on arriving at the sums necessary for the maintenance of the service is to examine the statute law, which is the basis for the service, and make the estimates in accordance with the necessities, as shown by the best proof which it can secure.

Mr. SIBLEY. I think the gentleman misspoke, possibly, or was misunderstood here by some, when he stated that the railway-mail pay has doubled since 1894. In 1894 it was $38,000,000.

Mr. OVERSTREET. I may be in error on that. These figures were copied this morning by a typewriter, and it may be possible that there is a mistake. I will examine carefully, and if I am in error I will correct it. I think I said since 1892.

Taking at the start the amount necessary for railroad transportation, the statute to-day is the same statute which has been in force since 1873, as modified by amendment by two statutes since that date. Under the law the rate of railway mail pay is fixed, and the method of ascertaining the weight, which is the basis of the rate, is also fixed by statute. For the purpose of convenience of administration the country is divided into four territorial divisions. Each of those divisions is administered

separate from the other three, and the mail within each of those divisions is weighed once in four years, and that weight, under the law, becomes the basis for the calculation of the total pay. It is apparent, therefore, that the statute fixes practically the amount of pay for railroad transportation based upon the quantity of mail carried in each of these four several divisions, and that all the committee is called upon to do is to make the proper calculations and to recommend to the House such appropriation as those calculations shall carry out. The amount for railway mail pay of these four several divisions on the 30th day of last June was $39,833,070. In other words, that was the annual rate for the four divisions on the 30th of June last; but each year a weighing period occurs in one of the four divisions. This year this division is what is known as the "fourth division," west of the Missouri River excepting two States. The weighing is in progress there at this time. It is estimated by the Department, basing those estimates purely upon experience, that there will probably be an increase in the fourth division of 15 per cent, although it is more likely to approach 17 per cent. Therefore, the only calculation made in order to estimate the amount necessary to make payment for railway mail transportation during the next fiscal year is to take the amount fixed already in three of the divisions, and then add 15 per cent to the amount fixed in the fourth division, and thereby we arrive at the amount which we recommend in the bill.

In the rural delivery service the calculation is made upon the total number of carriers already in the service, at the salaries which they are now paid, plus the estimate of the number of routes which will probably be installed during the next fiscal year. The pay of rural carriers as to rate per year is fixed by the statute, so far as the maximum pay is concerned, and that amount can be absolutely and accurately calculated by the Department. There were in the service on the 1st day of March, 1906, 35,031 rural carriers. The amounts of pay, therefore, during the fiscal year ending June 30, 1907, for those carriers can be estimated accurately. There were pending on the same date, March 1, 1906, 3,130 petitions undetermined. Estimating the usual number of petitions which are rejected, or, rather, the usual per cent of rejection, and calculating the number of petitions which may probably, in view of past experience, be filed during the remainder of the current fiscal year, and also during the next fiscal year, we arrive at approximately the amount necessary for new service for rural delivery. Therefore we add these two estimates together and reach the amount which we put in the bill, which this year calls for $28,200,000.

Mr. Chairman, not only will this $28,200,000 care for every rural carrier now in the service, but will include the amount necessary for new service during the fiscal year 1907, or a little more than was carried for the current fiscal year. Instead, therefore, of our having cut the appropriation for rural service, we have recommended for the next fiscal year a few hundred dollars more than we appropriated for the current fiscal year for new service. In that way we have made ample provision for the rural service.

I wish to call the attention of the committee to the progress which has thus far been made in this branch of the postal service.

The appropriations for rural service for 1904 exceeded the appropriations for 1903 by 71.42 per cent. The increase for the year 1905 over the year 1904 was 68.16 per cent. The increase for the year 1906 over the year 1905 was 24.47 per cent. The increase recommended by this bill for the fiscal year 1907 over the fiscal year 1906 is 12.26 per cent.

Mr. WM. ALDEN SMITH. Will it interrupt the gentleman if I ask him a question now?

Mr. OVERSTREET. Certainly not.

Mr. WM. ALDEN SMITH. I would like to ask whether that represents the growth that is anticipated for the future, or does it show that we have come pretty nearly up to meeting the requirements of the country?

Mr. OVERSTREET. The figures unquestionably show that we have been making rapid progress in extensions, and have come fairly well up to the requirements of the country. In other words, a large portion of the populous sections of the country have already been provided with this service, and the fact that we are appropriating now more money than the Department has recommended for this service indicates that we are going to be able to make ample provision for all the sections that really appreciate the service and where it can be of any importance.

Mr. WM. ALDEN SMITH. That branch of the service is being run without a deficit?

Mr. OVERSTREET. Not without a deficit as compared with the receipts from the service, with the expenditure for the service.

Mr. WM. ALDEN SMITH. The service has not expended money beyond that appropriated for it?

Mr. OVERSTREET. Money has been turned back into the Treasury. During the present year more than a half million dollars will be turned back into the Treasury, and in the fiscal year 1907 there will be unexpended much more. My guess is, based on my judgment, that this service is already being extended wherever there is a genuine appreciation for it, and that of the appropriations carried in this bill certainly a million dollars will be covered back into the Treasury at the end of the fiscal year 1907.

I have no hesitancy in joining my colleagues on this committee in this recommendation, for the reason that this sum is not set apart out of the funds in the Treasury; it is only authorized, and if it is not used no harm will follow.

Mr. WM. ALDEN SMITH. On that subject, if it will not interrupt the gentleman, I want to ask if there has been any consideration given by the Post-Office Committee to the suggestions that have been made from time to time that the rural carriers and the vehicles of carriers be so equipped with signal flags as to give the weather reports to the rural communities as they pass through.

Mr. OVERSTREET. No consideration by the Committee on Post-Offices and Post-Roads has been given to it. It was not called to our attention. Without having taken the time to look into it, I should say that there was nothing to violate the powers of the two Departments, the Agricultural and the Post-Office Departments, by putting such a practice as that into operation without legislation.

Mr. WM. ALDEN SMITH. I simply wish to suggest it as advisable. There is a very general demand through the country traversed by the rural carriers for the service of the Weather Bureau—to have the flags and signs put upon these wagons, which would have the effect of enlightening the people of the territory traversed. Notice of approaching changes might have the effect of saving entire crops from destruction.

Mr. SAMUEL W. SMITH. I would like to ask the gentleman if there was any consideration by the committee as to increasing the pay of the city carriers in the cities where the population is between 10,000 and 20,000, and increasing the pay of the rural carriers?

Mr. OVERSTREET. There was no consideration given by the committee with reference to either one of those subjects. When I say no consideration, I mean no special effort to go into that subject at all. The subject of increase of salaries, either for the rural carriers or the city carriers or for the clerks or the railway mail clerks is one that involves such heavy expenditure that the committee has felt, without making any permanent decision upon it, that this is not an opportune time to take up either one of those matters. Therefore we make no recommendation in this bill, but have not foreclosed against any of these propositions, or any increase of salaries at all. We have, however, recommended some increase of salaries of the lower grades of post-office clerks.

I think myself, in view of the question put by the gentleman from Michigan, that it might be well to say at this point that on account of the necessities of the service requiring such heavy expenditure, and the fact that we can not see our way clear, certainly within a number of years in the future, to avoid heavy deficits, that we must certainly for a time avoid increasing generally the salaries of carriers, either rural or city, and clerks and railway mail clerks.

Mr. SAMUEL W. SMITH. Does not the gentleman think the carriers are as much entitled to an increase as the railways for carrying the mail?

Mr. OVERSTREET. We have not increased the pay of the railroads by a single penny; we must increase the amount as the quantity of mail is increased upon them. You take the city carrier, for example, and the amount of mail which he carries on each of his trips varies very little from time to time, except at the emergency periods and the holidays.

It is no proper comparison, and I think the gentleman would himself admit it, to make that kind of an inquiry, because neither one of them can be compared with the other. The city letter carriers are paid a straight salary for a fixed line of work, and the amount of work which they do does not vary from day to day excepting in holiday seasons. We have provided for a large number of city letter carriers, rural carriers, post-office clerks, and railway mail clerks, because of the increase of the postal business, but we provide for the pay of railroads in accordance with the amount of weight which they carry. The two can not be compared.

Mr. FINLEY. Mr. Chairman, it is a fact that the committee has provided for an increase in the salaries of clerks in first

and second class post-offices—that is, in those grades from $600 up to and including $1,100, is it not?

Mr. OVERSTREET. Yes.

Mr. FINLEY. By giving them each $100 increase. Now, in reference to the question of the gentleman from Michigan [Mr. WM. ALDEN SMITH] as to the weather reports, does the gentleman understand that that would require any legislation? I do not.

Mr. OVERSTREET. I stated to the gentleman from Michigan that in my judgment, without having gone into the subject carefully, it would not require legislation. I think it is a matter of administration which could be provided for between the Department of Agriculture and the Post-Office Department.

Mr. WM. ALDEN SMITH. Mr. Chairman, it is very clear to me that it does not require legislation if the Post-Office Department will take cognizance of its merit and desirability, but sometimes it is a good thing to prompt them by legislation.

Mr. FINLEY. Oh, Mr. Chairman, I am of opinion that the insistence of Members of Congress would bring that about when certainly legislation is not needed.

Mr. HENRY of Connecticut. Mr. Chairman, if the gentleman from Indiana will permit——

Mr. OVERSTREET. I yield.

Mr. HENRY of Connecticut. I can say that the Chief of the Weather Bureau and the Secretary of Agriculture are both willing to extend this service, and if the Post-Office Department is willing to unite with them in doing that work, it can be done without legislation.

Mr. WM. ALDEN SMITH. Mr. Chairman, if the gentleman will permit me, I would like to interrogate the gentleman from Connecticut a moment.

The CHAIRMAN. Does the gentleman yield?

Mr. OVERSTREET. Yes.

Mr. WM. ALDEN SMITH. The willingness of the Agricultural Bureau to comply with a request of this character indicates that they have had the matter up.

Mr. HENRY of Connecticut. In the hearings we have had, Mr. Moore, Chief of the Weather Bureau, has referred to it and is willing to do that work.

Mr. WM. ALDEN SMITH. These are the hearings before the Agricultural Committee?

Mr. HENRY of Connecticut. Yes.

Mr. STAFFORD. Mr. Chairman, I would like to ask the gentleman from Michigan a question, if he will permit, and the gentleman from Indiana will yield.

Mr. OVERSTREET. I yield to the gentleman from Wisconsin to ask a question of the gentleman from Michigan.

Mr. WM. ALDEN SMITH. Do not make the question too technical on this subject.

Mr. STAFFORD. I would like to ask the gentleman whether he would also urge the rural carriers having on their wagons the quotations of the markets?

Mr. WM. ALDEN SMITH. No; I do not think that would be a desirable experiment. I do not want to treat the suggestion of the gentleman from Wisconsin factiously, but the difference between the proposition I have advanced and the suggestion he makes is this: One is a scientific report that the Government takes charge of and distributes; the other is a purely speculative proposition, which fluctuates with the dispositions of men, and I do not think they belong in the same category at all.

Mr. STAFFORD. The information, so far as the Weather Bureau is concerned, is contained also in the daily papers, which the gentleman says the farmers have access to in ascertaining the quotations of market products.

Mr. WM. ALDEN SMITH. That is true.

Mr. STAFFORD. Why is not the same service extended by the daily press, rather than by labeling the rural mail wagons with posters of weather predictions?

Mr. WM. ALDEN SMITH. Men do not make the weather, although the present Chief of the Weather Bureau comes nearer accomplishing this impossible task than any man has ever done before him.

Mr. STAFFORD. No; not even the Weather Bureau does that.

Mr. WM. ALDEN SMITH. I have seen Weather Bureau predictions that have not been realized at all, but the basis upon which the weather reports are gathered and made are extremely creditable to the Government, and mark with considerable accuracy advance information regarding the changes in temperature. Signals can be displayed and easily seen on the top of a mail wagon going through the country. It is proper information. It may appropriately be given. But market reports are usually fluctuating figures of chance.

Mr. OVERSTREET. That is an administrative matter. I yield to the gentleman from New York.

Mr. OLCOTT. Mr. Chairman, I understood the gentleman from Indiana to say a little while ago there had been considerable increase in the amount of appropriation for the pay of carriers and clerks. That was occasioned by the increase in the number of carriers and clerks and not an increase in individual clerks.

Mr. OVERSTREET. Entirely so, and I expect to call the attention of the committee to an increase for promotion purposes of the lower-grade clerks, but for carriers and all clerks except low grades the increase is entirely due to the increased number required by the increased volume of business.

Mr. OLCOTT. Thank you.

Mr. OVERSTREET. I yield to the gentleman from Iowa.

Mr. HAUGEN. Mr. Chairman, I would like to ask the gentleman from Michigan if he has any idea as to the cost of this service?

Mr. OVERSTREET. Mr. Chairman, I hope the gentleman will appreciate that this matter is entirely an administrative matter. It is not provided for in the bill, and if the gentleman from Michigan can answer the question without a speech I will yield to him.

Mr. WM. ALDEN SMITH. I should much prefer to answer it in my own way.

Mr. OVERSTREET. Well, if it requires a speech——

Mr. WM. ALDEN SMITH. I think it requires a few figures and an explanation.

Mr. HAUGEN. I suggest there are about 68,000 post-offices, and these reports would have to be telegraphed to the postmasters and necessarily would incur a large expense.

Mr. WM. ALDEN SMITH. They are now mailed from the various service stations to all post-offices, and, in my judgment, would involve no expense.

Mr. HAUGEN. The expense of the Weather Bureau is about a million and a half.

Mr. OVERSTREET. Now, Mr. Chairman, to return to "thirdly," upon which I was addressing the committee. In my desire to acquaint the committee with the larger items of this bill, which involves practically 88 per cent of the entire amount of the bill, I desire to suggest briefly that the amount for compensation to postmasters, $24,000,000, is based entirely upon the computation of the salaries of those postmasters for which the law provides. These officers ripen from one class to a higher class from year to year, requiring an increase in the amount to be appropriated; but the salaries are fixed by the statute, based upon the cancellations, which in themselves reflect the general growth of the service. There ripened from the fourth to the third class post-offices last year 469 offices; from the third to the second, 81, and from the second to the first, 16. That, of course, will be followed by about the same proportion of increases during the current fiscal year. Taking that as a basis of our computation, we reason that the amount necessary for the fiscal year 1907 will be the amount carried in the bill. In calculating the amount necessary for clerks in the first and second class offices, we started with the total number of clerks in the service at the close of the last fiscal year. Provision was made in the current law for an increase due entirely to the increase in the business of the country, with a limited sum for the promotion of the lower grade of clerks. The committee has followed that practice in the present bill. In other words, it makes no appropriation at all for increases of salary of clerks in post-offices above the grade of $1,100. We appreciate, however, that if the Government would hope to maintain the efficiency of this line of employees, it can not keep efficient men at salaries of $600, $700, and $800 without any hope of promotion. I yield to the gentleman from Illinois.

Mr. McGAVIN. Mr. Chairman, I would like to ask the gentleman from Indiana how many additional clerks does this bill provide?

Mr. OVERSTREET. The total number of new clerks provided for, I think, is about 1,200.

Mr. McGAVIN. And you leave it to the administrative department to determine just where they go?

Mr. OVERSTREET. Oh, they will be apportioned in accordance with the demands of the service. In addition to the provisions for approximately 1,200 additional clerks between the grades of $600 and $1,200, because we make no increase above the $1,200 grade—in addition, I say, to that provision, the committee has made provision for promotion purposes of clerks of the lower grades, in the hope that it will stimulate ambition, and at least allay the disposition of efficient clerks receiving low salaries not to leave the service. In some of the larger cities of the Union it has been clearly pointed out that first-class clerks, men of efficiency, men of intelligence who have been employed in

the postal service leave the service to take occupation in more lucrative positions than the Government offers, and that as a result the poorer grade of clerks are left in the service, and the efficiency of the service is thereby impaired. Therefore for the purpose of stimulating this hope and ambition, and for proper treatment, I will say, based upon justice, the committee has recommended an increase of a hundred dollars each to 50 per cent of the clerks now drawing $600, 40 per cent of those drawing $700, 20 per cent of those drawing $800, 5 per cent each of the $900, $1,000, and $1,100 grade. In this way we have made some provision for promotion purposes, but with that exception, and for these reasons we feel that the committee will approve the action of the House committee. In providing for the city carrier service we have made provision solely on the basis of an increased volume of business. We have not made any provision for increases of salary, but we think we have made ample provision to meet the growing demands of the service wherever free service in cities shall obtain.

The same is true of the Railway Mail Service. The amount carried in this bill is $15,000,000, and with the exception of some officers of the railway mail department the entire sum is for compensation to railway postal clerks. We have not made provisions for any increased number of railway postal cars, and therefore have made no provision for an additional number of railway mail clerks for the purpose of new full railway postal car service. In the development of the service, when a new route is inaugurated or an old route is enlarged by reason of increased volume of traffic, it becomes necessary to enlarge the crews who handle the mail. Under the organization of the Department, these crews have a regular systematic method of transacting their business. They include a chief clerk, an assistant, and a first clerk, and a helper, and so on. A route, therefore which during the current year perhaps may have three clerks to operate it may next year have five. As the number is enlarged, the enlargement being made necessary by the increased volume of business, the system is enlarged, and with the five clerks comprising the crew there is a different method of pay. The responsibility upon the first clerk is heavier, and so forth. Hence it becomes necessary in appropriating for the Railway Mail Service to appropriate for crews in accordance with the system organized for the transaction of the Railway Mail Service on full railway postal cars, and for the apartment-car service. It therefore results in some promotion to a clerk who has been simply a first-class clerk who is advanced by the enlargement of the number of the crew to a chief clerk, and his salary becomes a little higher. But the Department does not call that a promotion, though it does result in an increase of pay, but that increase of pay carries with it an increase of responsibility. He does not get his promotion without any change of responsibility. With that explanation, I think Members will appreciate that we can well say that we have made no direct arrangement here purely for an increase in the salaries of the postal clerks without a change of responsibility.

I mentioned a moment ago that in the star-route service, that being a contract service, there has been a little change in the amount carried. We do not carry quite as much as we do in the current law, and we carried less for the current year than in the preceding fiscal year. By reason of the increase in the star service we have increased the expense. The trips are more frequent, and we now require the carriers to collect the mail and distribute it en route. We have forbidden, practically, contracts going to foreign contractors, and thereby have very largely limited these contracts to residents along the line of the service. This has resulted in increased pay. That we can well do, because, in my judgment, we get better service, and we pay more because we get more service. Therefore, notwithstanding the large extension of the rural service, resulting in some changes in the star-route service, still the total amount carried for this particular service is not greatly increased. The committee, however, believes that the Department does not discontinue the star service in as many places as it should on account of the extension of rural service, and it therefore makes a recommendation for a proviso in connection with this particular service, which it hopes will be adopted by the House. That proviso is that—

> The Postmaster-General may, in his discretion, direct the discontinuance of any star-route service whenever such service shall be duplicated by rural delivery service.

I do not believe it is the policy of the Government to give star service, or rural service, more than one delivery a day. In the commercial centers more frequent service is necessary; but in the sparsely settled sections of the country, particularly the rural districts, when they have received one delivery, including the daily paper and social mail, more frequent service, in my judgment, and I believe in the judgment of Congress, is not strongly demanded. Therefore it is our belief, and we recommend it to the House for action, that this proviso should be enacted into law, in order that when rural service shall be extended, and the patronage of the star service has become served with rural service, the star service shall give way and not be continued.

Mr. Chairman, I think I will not seek to make a detailed explanation of the 12.2 per cent of the items of the bill, having covered, as I have briefly, 87.8 per cent of the appropriation. But before concluding I wish to call the attention of the committee to two or three items which we recommend, which we hope the House will approve.

While there has been some agitation relative to the expenditure for railway mail service, no commission and no committee of Congress which has yet sought to solve that problem has seen fit to recommend any change of the existing rates of railway mail pay. But, Mr. Chairman, a practice has grown up whereby, in the judgment of the Committee on the Post-Office and Post-Roads of this House, much that is now being carried in the mails can be eliminated from them without any impairment of the service, and by virtue of such elimination the weight of the mails will be greatly reduced and the amount paid will correspondingly be lessened. Therefore we recommend to the House that provision be made that as the four weighing periods shall approach in the four arbitrary geographical divisions of the country the Postmaster-General shall withdraw from the mail all of the surplus empty mail bags, and thereafter those supplies of that character shall be transmitted by freight. If you use constantly the full railway post-office cars and fast mail trains for the purpose not only of carrying first-class mail and newspapers, but supplies of the Departments as well, you not only add to the weight for which you pay the same rate, but you also take up the space and thereby require more full railway post-office cars, which require additional pay.

But, Mr. Chairman, if we should provide now for the arbitrary withdrawal from the mail in all of the sections of the country of these empty mail bags and other supplies, such action on our part would increase the cost to the Government in those divisions where the weight has already been fixed and payment established under the law. Hence by the provision we recommend that you make the elimination gradually, and thereby save the Government the difference in what the added weight of those supplies requires in pay and what it would cost in freight to transmit the same thing. And in our item for railway mail bags we provide an additional $100,000 for the manufacture of mail bags to establish a proper surplus, in order that we may not be forced by necessity to carry these empty bags by fast mail. Under present conditions it frequently happens that one section of the country is sadly in need of empty mail bags in which to transport the mail which is accumulating, while in another section of the country they have a surplus of those empty bags, but by reason of the limited number in the entire country it is necessary to dispatch those empty mail bags by fast mail, in many instances in full railway post-office cars. But if we have an ample surplus, with the prohibition to carry these empty mail bags as fast mail and the provision that they shall be carried by freight, supply can then be made wherever the demand arises, without obliging the Government to pay at the same rate for such supplies that it now pays for first-class mail.

In connection with this same provision the committee recommend another provision, which is:

> That hereafter no article, package, or other matter shall be admitted to the mail under a penalty privilege, unless such article, package, or other matter would be entitled to admission to the mails under laws requiring payment of postage.

The penalty privilege applies exclusively to the various Departments of the Government, and to-day many of the supplies of the Government, from the empty mail bags and canceling machines of the Post-Office Department to the revenue stamps of the Treasury, and to the supplies of the War, Navy, and Agricultural Departments, are carried under this privilege. We believe that the penalty privilege should simply be the equivalent of or the substitute for postage, and that no article should be admitted to the mail, to become a burden upon the mail by its weight, which is the basis of the pay, unless that same article, if presented as mail by a citizen required to pay postage, would be accepted upon the payment of postage.

Mr. CRUMPACKER. Will the gentleman allow a question right there?

Mr. OVERSTREET. I will.

Mr. CRUMPACKER. I suppose that prohibition is intended to keep the cows out of the mails.

Mr. OVERSTREET. No; I think the gentleman ought not, even in a facetious way, to add to the yellow journalism of the

country, as to what is carried in the mails. My friend is so little given to humor that I am afraid he would be misunderstood.

Mr. CRUMPACKER. The rebuke of my colleague is worthily bestowed. [Laughter.] It is, perhaps, too serious a matter in the minds of some gentlemen to refer to even facetiously. But what I want to know is, what is the maximum weight of articles that are admissible to the mails?

Mr. OVERSTREET. Four pounds is now the maximum weight upon which postage is required.

Mr. CRUMPACKER. A book or a document that weighs over 4 pounds is not admissible.

Mr. OVERSTREET. A single book is admissible.

Mr. CRUMPACKER. A single volume, without regard to weight?

Mr. OVERSTREET. Yes.

Mr. CRUMPACKER. Then a box or a mail sack of garden seed would not be mailable?

Mr. OVERSTREET. It would be mailable if the separate packages were addressed, even though they were put in one box or a bag.

Mr. CRUMPACKER. A Member of Congress can not send to the Department of Agriculture to have the residue of his garden seeds addressed at home, but he would have to send the labels and have them pasted on the packages before they could be sent home.

Mr. OVERSTREET. In my judgment, it would be a great saving to the Government even if so necessary an article as garden seeds should be sent by freight and paid for, and not sent by mail and paid for at the same rate that special-delivery letters are paid for.

Mr. CRUMPACKER. I hope that we will dispense with the garden-seed question in this Congress.

Mr. HENRY of Connecticut. I was about to say to the gentleman from Indiana that he will have an opportunity to vote upon the elimination of the garden-seed proposition.

Mr. SCOTT. Mr. Chairman, following along the line suggested by the gentleman from Indiana, I want to ask if, under the new provision, if it is enacted into law, the privilege which Members of the House and Senate have hitherto enjoyed of sending documents in packing cases through the mails will not be longer admissible?

Mr. OVERSTREET. The provision to which I have called the attention of the committee relates to the penalty privilege; that is, the privilege of the Department. The franking privilege which Members of Congress enjoy is under a different statute. The only privilege which Members have now of franking the entire bag of mail in what is known as "Congressional boxes" is under the construction of the statute relative to the transmission of public documents.

Mr. SCOTT. That would not be changed?

Mr. OVERSTREET. No; because the presumption is that Members of Congress put nothing into the boxes except public documents. It is solely a matter of honor with the Member. If he puts in anything other than public documents, it would be in violation of the present statute. This particular recommendation does not affect it.

Mr. DICKSON of Illinois. I understood the gentleman from Indiana in reply to his colleague from Indiana [Mr. CRUMPACKER] to say that a book or document weighing more than 4 pounds was frankable by a Member providing each book had on it a frank and an address.

Mr. OVERSTREET. I referred to his suggestion as to the box of garden seeds.

Mr. DICKSON of Illinois. Let me ask this question in order that I may be right on this, as a number of gentlemen around me do not understand it. Suppose I give an order to the document room for the RECORDS of the Fifty-eighth Congress and these books come in a mail bag addressed to me at my city residence, and I desire to send them to my home address. Will the label on the bag properly franked send the whole number of volumes—weighing 50 pounds or more—or will the secretary be required to address each one of the volumes separately before they can be sent through the mail?

Mr. OVERSTREET. The gentleman from Illinois, in common with some others in the House, does not seem to appreciate that this particular recommendation relates exclusively to the penalty privileges of the Department, and does not affect the franking privilege of Members.

Mr. DICKSON of Illinois. I thank the gentleman; that answers my question.

Mr. OVERSTREET. The franking privilege is under a statute which authorizes the free transmission of letter mail on official business, and public documents. The public documents may be put in a box or a bag; there may be one or a hundred; but the penalty privilege of the Department is not only under a different statute, but that particular statute is so broad in its terms that it reads "package, article, or other matter relating to the Government service." There is no such language as that with respect to the franking privilege, and Members are restricted to "official letter mail and public documents." The Departments, however, are privileged to put into the mail "articles, packages, or other matter relating to the Government service," and under the construction of that law all of the supplies of the Department have been sent through the mails, as I said a moment ago, from canceling machines for the Post-Office Department to bulky furniture in a change of headquarters of the War Department or an Army post. If we provide that no article shall be accepted to the mail under the penalty privilege, except the same article would be accepted by payment of postage, then the laws relative to the weight of the mail—4 pounds limit—would apply to the canceling machines for the Post-Office Department, or 500 pounds of revenue stamps from the Treasury Department, or a safe from the War Department on the change of headquarters of an Army post, and they would have to go by freight.

But, Mr. Chairman, instead of taking money out of one pocket and putting it into another, as has been said, it means to take out of one pocket the amount necessary for the freight and leave in the pocket of the Government the difference between the freight and the price paid for carrying by fast mail or first-class letter mail. I do not believe that it will impair the service one particle. If the Treasury Department is interested in the distribution of revenue stamps and they go in large packages, it merely means a little more prompt attention to the delivery of these stamps by freight in order that they may reach their destination by a slower method. If the articles are forwarded systematically and with proper regard to the time required by freight, no difficulty would result. Delivery by fast mail of the ordinary supplies of the Departments is certainly not essential to good administration. If the supplies can be delivered by freight at much less expense, it certainly is wise administration. Equally efficient service will be rendered, and the Government will save the difference between the cost of handling by fast mail and by ordinary freight.

If the Post-Office Department desires to distribute its canceling machines and other bulky matter in the nature of supplies, including, if you please, stamps and stamped envelopes, they can be forwarded by freight.

The CHAIRMAN. The time of the gentleman has expired.

Mr. OVERSTREET. Then, Mr. Chairman, I will yield myself a few more minutes. [Laughter.]

The CHAIRMAN. Without objection, the gentleman will proceed.

Mr. OVERSTREET. It simply means that this distribution of supplies of these various Departments will be made by a slower method and at less cost. In all probability, by a little rearrangement, depots will be established which will keep in stock certain character of supplies which can be drawn upon by individual officers. These matters which I have just referred to will result, in the judgment of the committee, in the elimination, in time, of such a bulk from the mails that will lessen the amount paid without any change of rate.

Mr. HAUGEN. Mr. Chairman, will the gentleman yield for a question.

Mr. OVERSTREET. I yield.

Mr. HAUGEN. Has the committee made any estimate as to the probable savings in the cutting off of the carrying of these supplies?

Mr. OVERSTREET. It is almost impossible to make anything like an accurate estimate.

Mr. HAUGEN. Has the committee made any estimate as to the cost of handling the garden seeds?

Mr. OVERSTREET. The committee has not, but the Postmaster-General has recently made an estimate.

Mr. HAUGEN. Has the gentleman any estimate as to the cost to the Government of free matter? I see a great deal in the newspapers about the abuse of the franking privilege by Members of Congress and the various Departments.

Mr. OVERSTREET. The expressions "abuse of the franking privilege" and "abuse of the penalty privilege" have been unfortunately used in the public press, but they have been improperly used. It is no abuse for the Post-Office Department under its penalty privilege to-day to transport a canceling machine by mail; nor is it any abuse for any other Department to transmit a safe or any other supply which is an article relating to the affairs and administration of that Department. It is not an abuse for Members of Congress to send under their frank these things in bulk. The law to-day authorizes all of these things. We are not seeking by this recommendation to relieve or elim-

inate any "abuse." We are seeking to remedy a situation here so as to carry the same articles in a different way at a saving of much money to the Treasury. Now, to answer the gentleman's question with reference to the garden seeds, we have not done a thing in this bill with reference to garden seeds, and that fetich which so many Members are constantly setting up to be examined, and about which they desire thrown the protecting arm of the Government, has not been in any manner affected in this bill. I hope my friend from Iowa [Mr. HAUGEN] will join me in eliminating that from his Committee on Agriculture.

Mr. HAUGEN. Mr. Chairman, I would state that I was one of those who voted to eliminate that, but I wish to say that I ask this question simply to disabuse the minds of some who I fear are laboring under a misconception. Now, I refer to the weighing of mails from the 3d of October to the 6th of November in 1899. I find that all the Government free mail matter is only about 96,000,000 pounds, or a little over 6 per cent of all the mail matter handled. If this mail matter was handled at 1 cent a pound, the same as second-class mail matter is, it would yield only about $1,000,000 in revenue to the Government. Our deficit is fourteen and a half million dollars. So even with the abuse as we have it the loss to the Government, if it was to be carried at the same rate as second-class matter, would be only $1,000,000. I do not think it is fair to assume that the deficit in the Department is due to the Government free matter.

Mr. OVERSTREET. Mr. Chairman, I can not agree with the gentleman from Iowa in either one of the two suggestions he makes. In the first place, this does cost much more than second-class mail matter. It costs whatever it costs to carry mail upon railroad routes, and the Government does not collect from the second-class mail an amount equal to the cost of carrying it. I do not agree with the gentleman as to the cost.

Mr. HAUGEN. Oh, Mr. Chairman, I did not make any statement as to the cost to the Government. The statement I made was that if the public documents are to be carried at the same rate as second-class matter—my contention is that the average cost of handling all mail matter is 17 cents a pound.

Mr. OVERSTREET. What does the gentleman mean—that it would cost 17 cents a pound to carry what?

Mr. HAUGEN. To carry all mail matter.

Mr. OVERSTREET. What is included in the cost?

Mr. HAUGEN. The handling.

Mr. OVERSTREET. All of the cost, including salaries and everything.

Mr. HAUGEN. Yes. My contention is this: If the Government will handle the Government documents at the same price as they handle second-class mail matter, at 1 cent a pound, the cost will only be $1,000,000. Of course it would cost the Government a great deal more to handle it.

Mr. OVERSTREET. Yes; it costs a great deal more to handle second-class matter than we get for it.

Mr. MURDOCK. Mr. Chairman, I think it ought to be said that even if the garden-seed appropriation goes out this year, their weight will not be eliminated from the mail entirely for four years.

Mr. OVERSTREET. That is correct.

Mr. WM. ALDEN SMITH. Why is that?

Mr. MURDOCK. Because we weigh in four geographical sections.

Mr. OVERSTREET. One other recommendation the committee has made, Mr. Chairman, is for the keeping of a record of the weights of the various elements which enter into what is known as "second-class mail matter."

We recommend a proviso that the Postmaster-General shall keep a record for six months, beginning on the 1st of next July and ending the 31st of December, not only of the second-class mail, but of the different things which enter into and make up the total of the second-class mail. Before any article can now be admitted to the second-class mail at a penny a pound it must be weighed at the office where it is presented for acceptance. That weight is taken and a registry made of it now, so that at the end of the year we know accurately the total weight of the second-class mail upon which the cent-a-pound rate is imposed.

We propose in this bill, however, that the Postmaster-General for a period of six months, which will cover a proper portion of the year and give us accurate information, shall keep a record at the various offices where second-class mail shall be presented of the different kinds of second-class mail, the daily newspapers, the weekly newspapers, and other than daily papers, magazines, and educational papers, religious papers, scientific papers, etc., so that at the end of six months we will not only have the total weight of second-class mail, but we will know what the total weight was of daily newspapers, what the total weight was of monthly magazines, what the total weight was of educational, scientific, religious papers, etc. Now, the purpose of that record is simply this: The second-class mail comprises in weight more than two-thirds of the total weight of the mail. We receive upon this second-class mail but 1 cent a pound for postage. It costs to carry that mail by railroad much more; the estimates vary from 5 to 8 cents a pound. If, however, we knew accurately what proportion of the total weight of the second-class mail was comprised by any specific kind of second-class mail it would give us a basis for some kind of recommendation either as to an increased rate upon part of it or a different method of handling. I fear that much criticism has been made by the press against any kind of investigation of the second-class mail privilege for fear there may be an effort to increase the postage rate upon newspapers and other second-class mail. In my judgment—possibly I may be in error—much of the criticism of the press against extravagance in the postal expenditures, against certain expenditures, including the railway-mail pay, is made for the purpose of diverting public attention from the loss the Government sustains in its handling of second-class mail.

But, Mr. Chairman, your committee seeks by this recommendation to ascertain, if possible, a fair basis of inquiry. There is no purpose here to do violence to any kind of publication; but, in our judgment, the Government ought not to expedite a monthly magazine in the same way and at the same rate of cost that it expedites a letter. That the Government should not pay for the handling of bulky matter, although of a printed character, at the same rate for handling that it does for the mail of the daily press, if you please. Therefore if it should be found after this record has been properly taken, after we have found that of more than two-thirds in weight of all the mail matter a small per cent in weight is of the daily papers, and a small per cent in weight is of weekly newspapers, and a larger per cent in weight is of monthly periodicals, and a much heavier per cent in weight is of magazines, it would give us a basis for suggestion at least, either of an increased postage rate upon that article which does not require or merit expedition of service and comprises the bulk of the weight, or to change the method of handling that bulky character of second-class mail.

Mr. STEENERSON rose.

Mr. WM. ALDEN SMITH. Now, can that be provided for under the regulations?

Mr. OVERSTREET. I yield to my colleague from Minnesota.

Mr. STEENERSON. Is the gentleman sure that the elimination of second-class mail would reduce materially the amount paid for railway transportation of mail?

Mr. OVERSTREET. Well, it would follow, Mr. Chairman, that if the total weight of second-class mail comprises in extent two-thirds of the total weight of all of the mail, and if a considerable part of the bulky character of the second-class mail were eliminated, it would necessarily follow that the Government would pay for that much less weight of mail.

Mr. STEENERSON. I beg the gentleman's pardon. Is it not true that if the tonnage of the railway mail pay is 200 pounds that the Government pays at the rate of $1.71 per ton per mile, and if the tonnage is 150 tons, or 300,000 pounds, the lowest railway mail pay under the weighings that have been so far known where traffic is the most dense is 6.73 cents per ton per mile?

Mr. OVERSTREET. Five and something.

Mr. STEENERSON. That is the absolute rate. At its lowest limit yet reached, we will pay 6 cents per ton per mile instead of $1.71 per ton per mile. Now, if you take out the second-class matter, you will have to pay a very much higher railway rate upon the other classes of mail; and instead of getting letters carried for 6 cents per ton per mile you may have to pay $1.71 per ton per mile. So that the policy of decreasing the weight of mails or reducing the density of the traffic does not result proportionately in a decrease of the cost of railway transportation in proportion to total revenue from all the mail.

Mr. OVERSTREET. The argument of the gentleman from Minnesota would be sound on the assumption that all of this mail which might be eliminated was carried upon the routes where the lowest rate is now paid. But it is carried everywhere, and therefore, in my judgment, it would result in a very material saving.

Mr. Chairman, all we seek in this provision now is to secure a proper basis of inquiry. I have no doubt that there may be some merit in the gentleman's contention. But that is a matter to be examined into after we have obtained this record. It will cost but little money, because the machinery for taking the record is already established and paid for, and when that record is obtained it will give us an accurate statement of the facts, and the facts are what we need in order to make a proper

recommendation relative to the heaviest class of mail affecting postal expenditures.

There is, Mr. Chairman, but one remaining recommendation of the committee to which I wish to invite the attention of this committee, and that is the recommendation prohibiting in the future the lending of the frank by an officer of the Government now enjoying the privilege of the frank. I discussed a moment ago, briefly, the suggestion we have recommended concerning the penalty-envelope privilege now enjoyed by the Departments. We recommend, in addition to that suggestion, that—

Hereafter it shall be unlawful for any person entitled under the law to the use of a frank to lend said frank or permit its use by any committee, organization, or association, or permit its use by any person for the benefit or use of any committee, organization, or association.

Mr. SMALL. May I interrupt the gentleman there?

Mr. OVERSTREET. I yield to the gentleman.

Mr. SMALL. This provision which you have read, I understand, was to prevent political organizations in a campaign from using the frank of any Representative or Senator.

Mr. OVERSTREET. If the gentleman will put it in a better form. Political committees do not now have the use of a frank, and it would practically prevent a Member lending it to a political committee. It is now lawful, Mr. Chairman, for a Member of Congress to extend the use of his frank to anybody or any committee or association; but this use is still limited to the privilege under the law, which authorizes that frank to carry free through the mails public documents, or what we call "RECORD matter"—matter from the CONGRESSIONAL RECORD. But, Mr. Chairman, while there is no abuse of it, because it is lawful, in the judgment of the committee the time is approaching when it is wise legislation to prevent its use by committees or organizations.

Our Government is always developing. Shrewd, far-seeing individuals take advantages of their opportunities and seek privileges which they themselves do not enjoy through the courtesy of friendship. Organizations for the prevention of cruelty to animals may get some person who is in sympathy with their movement to introduce into Congress and have printed in the RECORD an article touching upon that subject, and afterwards obtain the courtesy of the Member's frank to distribute it throughout the country. Similar organizations—for the suppression of polygamy, for the encouragement of some industry, or for the reformation of the world, or a political organization for a political partisan advantage—may obtain the same privilege in the same way.

In our judgment, Mr. Chairman, we can not be consistent and seek to prohibit a civil organization, whose purpose is to disseminate its own views free through the mail, by the use of a Member's frank, and continue the practice of the use of our frank by a political organization. We had better remove the mote from our own eye before seeking to take the beam from that of our neighbor.

Mr. CRUMPACKER. I notice that while the law prohibits the lending of a frank, it carries with it no penalty. How will it be prevented? By a fraud order by the Postmaster-General against the man who owns the frank, or how will it be prevented?

Mr. OVERSTREET. There is now no penalty for the unlawful use of a frank by a Member of Congress. I have always felt that those who framed that original law, and passed it, rested upon the the good faith of the Members of Congress in not abusing the privilege. Although there has been much criticism, and although there have been many charges of the unlawful use of a frank, either by a Member of Congress or under his courtesy, I do not believe there are any instances of it, but that that good faith and honor which was expected to be the basis of the use of that privilege was not misplaced. Therefore the committee has felt that simply the declaration that it shall be unlawful will be a sufficient safeguard, without imposing any particular penalty for its misuse.

I doubt very much whether, if this provision shall be enacted into law, and a Member of Congress violates it, he can be stopped from so doing, or that he can be punished for it, or that he can be prevented from doing it, and I think that the better course is to place this kind of a provision into the keeping of those now enjoying the courtesy of the frank upon their honor, and not upon the claim that they are violating a law which should be followed by a penalty.

Mr. GRAFF. I should like to ask the gentleman, if the post-office officials ascertained that a large number of documents were being sent out contrary to this provision through the mails, whether they would not, under those circumstances, deny the use of the mail to those individuals or associations?

Mr. OVERSTREET. I think the gentleman from Illinois is quite right. The operation of it would be not against the Member who has loaned it, but against the committee, organization, or association that was using it unlawfully.

Mr. WM. ALDEN SMITH. If it will not interrupt the gentleman——

Mr. OVERSTREET. Not at all.

Mr. WM. ALDEN SMITH. I should like to suggest that, if we can carry out the suggestion of the gentleman from Indiana, it puts it up to the administrative officers of the Government, especially in the postal service, to say when it is abused. I suggest that it is far better to leave the law just where it is, and where, according to your argument, it will remain.

Mr. OVERSTREET. The gentleman misunderstands me. We do not leave it where it is now. We do not disturb the individual Member's use of that frank as an individual, but we prevent him from lending it to a committee, organization, or association.

Mr. WM. ALDEN SMITH. Even for the distribution of public documents and information which our constituents are entitled to have. The proposed amendment is an abridgment upon our rights which we are not called upon to make.

Mr. OVERSTREET. The committee feels that it is not an abridgment of the privilege of any Member. The franking privilege, in my judgment, was extended to the individual, and not to an outside committee or association, and the committee believe that this House will do itself credit by stamping with its disapproval the further extension of that privilege so as to permit the use of a frank by committees and organizations.

Mr. WM. ALDEN SMITH. If it will not disturb the gentleman, I should like to give him an instance. At the close of the Fifty-fourth Congress there was very little information in the country upon the silver question. Suddenly the political issue turned upon that question, and I want to say to the gentleman from Indiana that in my opinion the speech delivered by Mr. MCCLEARY of Minnesota, then as now an honored Member of this House, upon the gold standard and distributed generally by Members of Congress throughout the country, did more to meet and overcome the theories of Mr. Harvey than anything else that was done in that campaign. You put a limitation upon the distribution of that kind of a document, and it amounts to an abridgment that I do not think is called for at all.

Mr. OVERSTREET. Mr. Chairman, the gentleman works himself into a frenzy over something that does not exist.

Mr. WM. ALDEN SMITH. The gentleman was in a frenzy at that time. He may not be now.

Mr. OVERSTREET. There was nothing that would have prevented the distribution of that same speech, and I did distribute them.

Mr. WM. ALDEN SMITH. Yes.

Mr. OVERSTREET. I distributed hundreds of thousands of them.

Mr. WM. ALDEN SMITH. Yes; and with good effect. No one now questions your wisdom in so doing.

Mr. OVERSTREET. Certainly, but I would have done it just the same if I had not done it free, at the expense of the Government.

Mr. WM. ALDEN SMITH. If you will permit me, under the language of the proposed section, the Postmaster-General, if he disagrees with your party, might issue a fraud order against the circulation of such a speech, under your amendment.

Mr. OVERSTREET. Not at all. The committee simply seeks by this proposition to stop the lending of a Member's frank to an outside committee. Great heavens! an outside committee can pay postage on it. Shall it be, Mr. Chairman, that by our opposition to this kind of a provision we shall lend encouragement to the placing of a burden upon the Treasury of the United States for the dissemination of political documents?

Mr. WM. ALDEN SMITH. That is a new doctrine.

Mr. OVERSTREET. That is not new. Our friends in favor of free silver at that time might criticise the gentleman's position, because they might say that, but for the Government paying for this, they would not have been overturned in their argument.

Mr. WM. ALDEN SMITH. Let me understand the gentleman. The speech of Mr. MCCLEARY was in answer to the speech of Mr. TOWNE, and millions of copies of Mr. TOWNE'S speech were sent out under his frank.

Mr. OVERSTREET. Exactly.

Mr. WM. ALDEN SMITH. And why hasn't Mr. MCCLEARY the right to send out his speech under his frank as well as Mr. TOWNE?

Mr. OVERSTREET. Mr. TOWNE'S would not be privileged unless his opponent's was. If the gentleman from Michigan will be quiet and remember that he is an individual, just an individual——

Mr. WM. ALDEN SMITH. No; I am a Representative. [Laughter.]

Mr. OVERSTREET. Yes; but it is also true that he is an individual.

Mr. WM. ALDEN SMITH. I am a Representative in this matter.

Mr. OVERSTREET. Well, I believe I can prove that the gentleman is still an individual.

Mr. WM. ALDEN SMITH. Yes; I hope I haven't lost my individuality. [Laughter.]

Mr. OVERSTREET. By no means; the gentleman is asserting his individuality; but as to this provision, there is absolutely nothing in the gentleman's proposition. The Government, by transporting free all political documents, wherever the political organization is——

Mr. WM. ALDEN SMITH. I think it is far better, Mr. Chairman, for the American people to get this public information that is the result of the deliberations of Congress free under the frank of Members than in any other way.

Mr. OVERSTREET. There is not an item in this proposition which interferes with that right.

Mr. WM. ALDEN SMITH. But you abridge it.

Mr. OVERSTREET. We do not abridge it.

Mr. WM. ALDEN SMITH. Then leave it out. Members are put upon their honor now and will be under the amendment proposed.

Mr. OVERSTREET. But we stand between the Treasury and the individual who seeks to relieve himself of the duty and turn it over to a political organization. The individual Member still has a right to send any speech—that is, a RECORD speech—with or without this proposition. I put it up to the gentleman again, that while it permits, even with this proposition, an individual Member to send any and all speeches under his frank, if they have been part of the CONGRESSIONAL RECORD, it will not permit the Government to take them free, and thereby relieve the Treasury of a political organization.

Mr. GROSVENOR. Will the gentleman from Indiana yield to me?

Mr. OVERSTREET. I will yield to the gentleman from Ohio.

Mr. GROSVENOR. I want to know—I suppose I could have found out by reading the bill, but I would like to have a statement from the gentleman—suppose the bill is law on the 1st of June and I desire to send the gentleman's speech that he is now making under my frank, can I do that?

Mr. OVERSTREET. Absolutely.

Mr. GROSVENOR. That is as much as I want; and the gentleman can send mine?

Mr. OVERSTREET. Yes; and we can both send the speeches of the gentleman from Michigan.

Mr. WM. ALDEN SMITH. I wish both gentlemen would do it. [Laughter.]

Mr. GROSVENOR. What a man does by another he does by himself. If my clerk, recognized by law as my clerk, under my direction can send my speech, that is all I want.

Mr. OVERSTREET. He can, absolutely. This is a limit to the lending of a frank to a committee, organization, or association. We can not prevent outside organizations, committees, or associations who get into the RECORD, by way of courtesy of individual Members of the House, articles prepared for distribution in support of their individual views and still continue to extend to our political committees the same privilege. We merely seek, Mr. Chairman, to prevent outside organizations from taking over and using the same privilege which the law grants to individual Members of the House. It in no wise interferes with the personal privilege of individual Members of the House.

Mr. NORRIS. Will the gentleman yield to me?

Mr. OVERSTREET. Certainly.

Mr. NORRIS. I would like to ask the gentleman if, in his judgment, this provision which the committee proposes will be at all effective? To illustrate, take the case that the gentleman from Ohio [Mr. GROSVENOR] put to him. Wouldn't the same committee he refers to, political or otherwise, if they were prevented from using the frank, make arrangements with some individual who might be the agent or clerk of the Member to use his frank? Couldn't they accomplish the same thing that is now accomplished without the provision?

Mr. OVERSTREET. No; because this provides that they shall not lend it to any committee or to any person for the benefit of any committee, organization, or association.

Mr. NORRIS. Well, then, take the political committee.

Mr. WM. ALDEN SMITH. Take the Congressional committee.

Mr. NORRIS. Yes; take the Congressional committee, on either side of this House. It will be composed of Members who are entitled to the use of their own franks. How could you, under that provision, prohibit that committee from sending out the public documents just the same as they do now?

Mr. OVERSTREET. Not from sending them out. We only prevent the Member from loaning the frank for the purpose of sending those documents free through the mails. By no means do we seek to prevent any committee or anybody from sending all of them that they please at their own expense.

Mr. NORRIS. But, as a matter of fact, the gentleman would not be able to determine who defrayed the expenses. Suppose the gentleman himself were the chairman of a political committee. He could, under his frank, send out any speech that was made here.

Mr. OVERSTREET. Not for the benefit of the committee.

Mr. NORRIS. But couldn't you say it was for your own benefit?

Mr. OVERSTREET. I might say so, but I think I would be violating the truth.

Mr. NORRIS. Is it not a method by which anybody who would want to be a little bit unscrupulous could violate the real intent of the gentleman's provision?

Mr. OVERSTREET. If the gentleman thinks that, I hope he will select somebody else to illustrate by than myself.

Mr. NORRIS. Oh, I only use the gentleman as an illustration. He makes a very good one.

Mr. OVERSTREET. But the gentleman speaks of the illustration of some person who might be a little bit unscrupulous.

Mr. NORRIS. The gentleman is going to provide that the frank can not be loaned, but here we have several different committees in the next campaign coming on and one of those committees can not use a frank, but a Member of this House may use a frank. Does the gentleman suppose there will be any political committee of any of the political parties now in existence where they can not easily find a Member of the House of their political faith who would send out all the public documents himself, or by his clerks, as was suggested by the gentleman from Ohio [Mr. GROSVENOR]?

Mr. OVERSTREET. Well, I commend that argument to my friend from Michigan [Mr. WM. ALDEN SMITH], because that will suit him.

Mr. WM. ALDEN SMITH. Well, I don't know about that. [Laughter.]

Mr. OVERSTREET. That permits him to disseminate the information.

Mr. WM. ALDEN SMITH. No; that is not the point, if the gentleman will permit me. What I desire to reserve is this. Let us take the case as it exists in each Congressional district. Suppose the gentleman from Indiana [Mr. OVERSTREET] makes one of his thoughtful speeches, as he did during the gold-silver controversy, and I desire to place a thousand of those speeches at the disposal of my Congressional committee over my frank. Could I do so, if this provision were upon the statute books?

Mr. OVERSTREET. The gentleman certainly could.

Mr. WM. ALDEN SMITH. That is all I want to know.

Mr. NORRIS. I would like to ask the gentleman what he could not do? I would like to ask him what effect it could possibly have?

Mr. OVERSTREET. He could not do this, and I ask my friend from Nebraska [Mr. NORRIS] to give close attention, because I think this is the eleventh time that I have tried to explain it. He could not loan that frank to the Congressional organization known as the "Congressional committee" for the purpose of sending out all of their documents free of postage.

Mr. NORRIS. That is the object of the law that the gentleman proposes, to prevent this committee from borrowing this frank; but the gentleman could accomplish the same thing——

Mr. WM. ALDEN SMITH. Oh, the gentleman from Nebraska does not understand it.

Mr. NORRIS. By sending it out himself.

Mr. OVERSTREET. I submit to my friend from Nebraska [Mr. NORRIS] that when he finds that the gentleman from Michigan [Mr. WM. ALDEN SMITH] and myself are in accord upon this, can he not trust himself to it now? [Laughter.]

Mr. WM. ALDEN SMITH. But we are not in accord. I am frank to say that I see the point of the gentleman from Indiana [Mr. OVERSTREET] very clearly. The Congressional committee may borrow the gentleman's speech, but not his frank.

Mr. OVERSTREET. I thought the gentleman said he wanted to send it out.

Mr. WM. ALDEN SMITH. Yes; but if I send it out over my frank, you might just as well leave this provision out of the law.

Mr. OVERSTREET. Why, no; you have a perfect right to send it out.

Mr. WM. ALDEN SMITH. But the gentleman attempts to construct an artificial standard of morality which no one will observe.

Mr. NORRIS. Nor ever will.

Mr. OVERSTREET. Well, I will leave that to the constituencies of the gentlemen.

Mr. WM. ALDEN SMITH. That is a pretty bad place to leave an artificial moral standard. [Laughter.] My constituents would see through it at a glance, as would every other intelligent district.

Mr. CRUMPACKER. Mr. Chairman, here is a suggestion I think will relieve the dilemma. Let us take the Republican Congressional committee, made up of Congressmen. The secretary may send out all kinds of public documents with his own frank. He is not borrowing anybody's frank. He can mail these documents to the gentleman's district, any public speech or document, and the chairman of the committee can do so with his frank. I understand that is not loaning a frank to the committee.

Mr. OVERSTREET. Mr. Chairman, it is my opinion that those who are in trouble over this item will agree with the committee that we ought to prevent the loaning of a frank to a purely civil outside organization.

Mr. WM. ALDEN SMITH. Oh, all right, I agree to that. At last we are in perfect accord, as I always love to be with the distinguished gentleman from Indiana.

Mr. OVERSTREET. We ought not to permit any individual Member to extend the courtesy which Congress has given him to an independent organization, for the purpose of reducing its item of postage in sending through the mail free articles put into the RECORD for its use. If, therefore, we desire to prevent the lending of a frank to an outside organization, why should we retain the privilege of lending it to an inside organization? Now I yield to the gentleman.

Mr. TOWNSEND. Do I understand the gentleman to say it is now against the law to lend a frank for the purpose which he condemns?

Mr. OVERSTREET. No, sir; it is not against the law.

Mr. TOWNSEND. Do you think it is the intent of the law that it could be used for such a purpose?

Mr. OVERSTREET. I think not. I said a moment ago I felt those who framed this original franking law had no thought it would be extended beyond the individual Member. But by reason of the development of committees and organizations seeking to disseminate information in which they are particularly interested, the practice has grown of having articles placed in the RECORD through the courtesy of friends in the House or Senate, and the same articles transported free through the mails under the courtesy of the frank of some Member or Senator. Now, we seek to make that unlawful.

Mr. TOWNSEND. But you do not impose any penalty.

Mr. OVERSTREET. Because there is no penalty imposed now upon the misuse of a frank.

Mr. TOWNSEND. But what does the gentleman expect to accomplish, then, by such a provision?

Mr. OVERSTREET. Why, I have said I do not believe any Member of Congress has used his frank unlawfully, and that Congress was wise to repose the confidence Congress has in his honor by not imposing a penalty, and what we hope to do is this: That when once we say that it shall be unlawful for a Member to lend a frank that the Member will not lend the frank, and that it is a higher credit to the Member to leave it in that way than if we provide a jail sentence of thirty days. Now, Mr. Chairman, I have taken——

Mr. SAMUEL W. SMITH. Mr. Chairman, before the gentleman takes his seat——

Mr. OVERSTREET. I yield to the gentleman.

Mr. SAMUEL W. SMITH. I notice that the gentleman from New York [Mr. HEARST] has introduced a bill providing for a Government postal telegraph, which was referred to the Committee on the Post-Office and Post-Roads. I would like to know if the committee has given any consideration to that bill?

Mr. OVERSTREET. None whatever.

Mr. SAMUEL W. SMITH. Why not?

Mr. OVERSTREET. Well, for two reasons. One is, we have not had time. I may be excused for claiming that the Committee on Post-Offices and Post-Roads is a pretty busy committee and has been busy in the preparation of this bill, carrying as it does almost $200,000,000, which has taken a great deal of time. The second is that many other matters have pressed for consideration and they have not reached any definite determination as to what shall be taken up; and in the third place, nobody has asked for the consideration of it. Now, Mr. Chairman, I have taken up more time that I had intended. I sought to briefly explain the more important features of this bill and to acquaint the House with the propositions of legislation which the committee considers wise.

Mr. RYAN. May I ask the gentleman this question? Suppose a man was in the Fifty-third or Fifty-fourth or Fifty-fifth Congress and then discontinued his membership or his constituents left him at home, and say he runs for the Sixtieth Congress. Are there any means by which he could send out speeches made in those Congresses of which he was a Member under some frank and by some means?

Mr. OVERSTREET. You mean if this provision was enacted into law?

Mr. RYAN. Yes, or as it now exists; and what effect would it have on a case of that kind?

Mr. OVERSTREET. The way it would operate now would be, he would obtain the favor from some Representative who is now a Member and enjoys the privilege. If this provision should be enacted into law that courtesy could be extended to the individual just the same, because all this proposition seeks to do is to prevent the lending of a frank to an organization or a committee, not to an individual. The point is simply to put Congress on the same footing with civil organizations in preventing the free use of the frank by a Member of the House. We are not restricting the individual use of it at all. Now, Mr. Chairman, I think, in the absence of other inquiries, that I will make no further observations upon this bill. The committee has presented a bill sufficient for the service.

Mr. RUCKER. Will the gentleman yield for a question?

Mr. OVERSTREET. I yield.

Mr. RUCKER. In order that I may understand the gentleman's position I ask this question: Suppose I send a package of 500 speeches delivered by a Member on this floor, which I desire to distribute, and cause my frank to be stamped upon the envelope containing those speeches, and mail them in bulk to the chairman of the State committee in my State, or in your State, with authority to address them to whom he pleases throughout the State; would I violate this provision of your bill?

Mr. OVERSTREET. It would be prohibited by this provision, in my judgment.

Mr. RUCKER. If I wanted to send out 500 speeches delivered by a Member but addressed by myself, could I send them under my frank without violating the franking privilege?

Mr. OVERSTREET. I think you could.

Mr. RUCKER. I ask the gentleman if that, in his opinion, would be a violation of the law?

Mr. OVERSTREET. I am inclined to think that would not be a violation of the law.

Mr. RUCKER. Then I understand the gentleman to say that if a Member of Congress who has had his speech printed in pamphlet form and desires to distribute the same writes to the chairman of his Congressional or State committee at home and receives a hundred or a thousand names and addresses, that he would violate the law in sending his speech to those people whose names are thus furnished? Am I correct in this?

Mr. OVERSTREET. Well, the purpose of this proposition is simply to put Congress upon a par with civil organizations. The committee believes that it is wise legislation to prevent the further privilege of lending the frank to an outside organization; and I doubt if there is a Member in the House who would not agree to that. We can not in fairness, I think—certainly not and be consistent—prohibit the lending of a frank to an outside organization and then lend a frank to a political organization for our own personal benefit.

Mr. RUCKER. But where I put the franks on myself, or cause it to be done; suppose I authorize a representative in Missouri to address out frankable matter bearing my frank? Can't I do this?

Mr. OVERSTREET. Certainly, you can. It is only when the agent is himself a part of the outside organization that he comes into conflict with this provision. So long as he maintains his individuality, and for his individual purpose, he does not violate the provision of law recommended.

Mr. RUCKER. But if I saw fit to secure the assistance of some one other than myself or my secretary to address the envelopes——

Mr. OVERSTREET. If it is not for the benefit of the committee, then it does not violate this provision.

Mr. RUCKER. It is for the benefit of people who want to be advised about what is going on here that parts of Congressional proceedings, including speeches, are sent out.

Mr. OVERSTREET. That is a matter of construction. What I say is, that if it is not for the benefit of the committee or organization, then that would not violate the provision.

Mr. RUCKER. I want to say that I am in favor of proper

limitations of the use of the Congressional frank, but I am not in favor of throttling a Member of Congress, tying his hands, so as to prevent the free distribution of every speech delivered on either side of this House as well as the entire proceedings of Congress.

Mr. OVERSTREET. And this will in no wise infringe upon that privilege, unless you turn it over to some committee.

Mr. RUCKER. But, as I understand the gentleman, it does infringe upon it unless the Member himself has in his mind the names of the thousands of people composing his constituents, all the people of his district, to whom he may desire to send Government publications of any kind.

Mr. OVERSTREET. It does not affect that.

Mr. RUCKER. As I understood you, it did.

Mr. OVERSTREET. Not when he gives it for his own purpose; but when he turns it over to a committee for the benefit of the committee.

Mr. RUCKER. The committee has no use for it and can not be benefited except to the extent of circulating public documents for the information of the people.

Mr. GOLDFOGLE rose.

Mr. OVERSTREET. Mr. Chairman, just a moment and then I will yield. In answer to the gentleman from Missouri, I will say that the committee feels that if we shall seek to make any restriction on lending a frank to an outside organization, we ought to make the same restriction as to a political organization. This is a matter that is subject to amendment. I think it would be unwise to extend the privilege to ourselves and limit it to outside organizations, so long as RECORD matter" is distributed; but if the House thinks differently, they can retain the privilege. I certainly hope it will be restricted as to outside organizations. The judgment of the committee is that we would be more consistent by limiting it not only to outside organizations, but also as to political organizations.

Mr. GOLDFOGLE. Assuming this case: A Member of this House desires, no matter what his purpose or motive may be, to send out his speech or the speech of another Member under his frank. I understand the chairman of the committee to say that in that case the frank may be used; that the proposed provision will not conflict with the Member's right to send out such a speech or the speech of another Member.

Mr. OVERSTREET. It does not conflict with this proposition unless the act is for the benefit of a committee.

Mr. GOLDFOGLE. Well, will this provision put it in the power of the Postmaster-General or one of his subordinates in the Post-Office Department to determine whether or no the provision in this bill is violated, whether or no the speeches have been sent out for the benefit of this committee, or whether or no within the meaning of the provision now proposed there is a lending of the frank?

Mr. OVERSTREET. That is a matter of construction that I believe we had better debate when the item is reached in the bill.

Mr. GOLDFOGLE. In other words, what I mean to ask of the chairman of the committee and the Members of this House is, if this provision will enable the Postmaster-General or his subordinate of the Department to exercise authority over Members of this House, making such restrictions as the Postmaster-General or a subordinate shall see fit to make, and place Members of this House at the mercy of the Post-Office Department?

Mr. OVERSTREET. Oh, no; by no means, Mr. Chairman. I desire to say that this proposition makes no limitation whatever of the privilege to the individual Member of Congress in the exercise of the use of the frank.

Mr. GOLDFOGLE. Then what is the purpose of the provision?

Mr. OVERSTREET. The purpose is to seek to restrict it to individual purposes.

Mr. GOLDFOGLE. Who shall determine whether the frank is loaned or not?

Mr. OVERSTREET. We hope that the Members of this House will cease the lending of franks.

Mr. GOLDFOGLE. In other words, you seek to set up a standard of morality for the Members of this House, and your committee has seen fit to set up a standard that you wish the Members of this House to observe.

Mr. OVERSTREET. Not at all. This is merely to call back the Members of this House to what the committee believe was the original construction of the law relative to franks.

Mr. GOLDFOGLE. Why did not the committee, then, say what they intend? Why did they not put it in such plain and unmistakable language that there could be no danger from the construction of the Postmaster-General or a subordinate of the Department differing from the construction that the chairman of the committee has just put upon it?

Mr. OVERSTREET. I would be glad to consult with the gentleman as to the construction. I am not specially interested in the language. The committee simply seeks to secure a limitation upon the exercise of a privilege which is extended to outside people. I think the gentleman, upon reflection, will see that if this language is not properly drawn, it can be drawn to meet that kind of a situation. We are in no wise restricting the use by the individual Member of his frank for his own purposes.

Mr. GOLDFOGLE. You certainly restrict the Member if you provide that he shall not lend it to a committee, and if at the same time you concede upon the floor that the Member may use it unreservedly; that he may send out the speech of another Member, though it be for the benefit of the committee.

Mr. OVERSTREET. Oh, no; I do not say that. I said that he could not do it for the benefit of the committee.

Mr. GOLDFOGLE. Who shall determine whether he does it for the benefit of the committee? If the Postmaster-General or his subordinates may determine it, no Member of this House is safe in sending out his speeches or the speeches of any other Member under his frank. No man is safe against a construction that may be placed upon his act or upon his motive or upon his purpose by the Postmaster-General or by his subordinates. In other words, we ought to be the masters of the Departments, and we ought not to be subjected to the action and the construction and the regulation and the direction of the officers of the Departments.

Mr. RUCKER. What does the gentleman mean by the language "lending a frank for the benefit of the committee?"

Mr. OVERSTREET. Well, we mean to avoid the practice of indirectly doing what we seek to prevent doing directly—that is to say, instead of lending it directly to a committee for its use, that the committee may select some individual to do all of the things which it itself proposed to do. But by lending it to the individual it would escape the violation of the law; hence we provide that it shall not be loaned to a person for the benefit of the committee.

Now, Mr. Chairman, I think I owe the committee an apology already for taking up so much time, but I justify it on the ground that I have been obliged to yield frequently to answer questions.

I had hoped to be able to make enough progress with the bill to enable the gentleman from Tennessee [Mr. MOON], the leader of the minority on the committee, to present his views this afternoon; but the hour has grown so late that I will ask the gentleman to wait until to-morrow, if agreeable to him, and will now close my observations in explanation of the bill.

Mr. Chairman, I move that the committee do now rise.

Mr. MOON of Tennessee. Mr. Chairman——

Mr. OVERSTREET. Mr. Chairman, I suggest to the gentleman from Tennessee that he take the floor when the House next goes into Committee of the Whole.

Mr. MOON of Tennessee. Does the gentleman want to adjourn until 11 o'clock or until 12 o'clock?

Mr. OVERSTREET. Until 12 o'clock to-morrow.

Mr. MOON of Tennessee. You want to adjourn for the caucus?

Mr. OVERSTREET. Yes. I move that the committee rise.

The CHAIRMAN. The gentleman from Indiana has consumed one hour and fifty-five minutes.

The motion of Mr. OVERSTREET was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. SHERMAN, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 16953—the post-office appropriation bill—and had come to no resolution thereon.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had passed with amendments bill of the following title; in which the concurrence of the House of Representatives was requested:

H. R. 17359. An act making appropriations to supply additional urgent deficiencies in the appropriations for the fiscal year ending June 30, 1906, and prior years, and for other purposes.

The message also announced that the Senate had passed without amendment bill of the following title:

H. R. 11026. An act to authorize the counties of Holmes and Washington to construct a bridge across Yazoo River, Mississippi.

CHANGE OF REFERENCE.

By unanimous consent, reference of the bill (H. R. 17666) for the construction of a sewer from Wisconsin avenue to Rock

Creek was changed from the Committee on the District of Columbia to the Committee on Appropriations.

PRINT OF REPORT ON FREE ALCOHOL.

Mr. PAYNE. Mr. Speaker, I am informed by the document room that there is a great demand for the bill and report on free alcohol, and that they think 10,000 copies will be necessary. I ask unanimous consent for a print of 5,000 copies of the bill and report.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

ADJOURNMENT.

Mr. OVERSTREET. Mr. Speaker, I move that the House adjourn.

The motion was agreed to.

Accordingly (at 4 o'clock and 15 minutes p. m.) the House adjourned until to-morrow, at 12 o'clock noon.

EXECUTIVE COMMUNICATION.

Under clause 2 of Rule XXIV, the following executive communication was taken from the Speaker's table and referred as follows:

A letter from the Secretary of State, requesting that certain officers of the Army be permitted to accept decorations from the Emperor of Japan—to the Committee on Foreign Affairs, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. LACEY, from the Committee on the Public Lands, to which was referred the bill of the House (H. R. 10106) providing for the setting aside for governmental purposes of certain ground in Hilo, Hawaii, reported the same with amendment, accompanied by a report (No. 2889); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. YOUNG, from the Committee on Military Affairs, to which was referred the bill of the Senate (S. 1539) to increase the efficiency of the Medical Department of the United States Army, reported the same with amendment, accompanied by a report (No. 2890); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. FRENCH, from the Committee on the Public Lands, to which was referred the bill of the Senate (S. 3414) providing for a public highway on the east side of the Fort Sherman abandoned military reservation, Idaho, reported the same without amendment, accompanied by a report (No. 2891); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. POWERS, from the Committee on the Territories, to which was referred the bill of the Senate (S. 1916) to provide for filling in that portion of the naval station at Honolulu, Hawaii, known as the Reef, reported the same with amendment, accompanied by a report (No. 2897); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. VOLSTEAD, from the Committee on the Public Lands, to which was referred the bill of the Senate (S. 4976) to grant certain land to the State of Minnesota to be used as a site for the construction of a sanitarium for the treatment of consumptives, reported the same with amendment, accompanied by a report (No. 2899); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. MARTIN, from the Committee on the Public Lands, to which was referred the bill of the House (H. R. 17576) to provide for the entry of agricultural lands within forest reserves, reported the same with amendment, accompanied by a report (No. 2900); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. GILLETT of California, from the Committee on the Judiciary, to which was referred the bill of the House (H. R. 17714) to authorize the commencement and conduct of legal proceedings under the direction of the Attorney-General, reported the same without amendment, accompanied by a report (No. 2901); which said bill and report were referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17430) granting an increase of pension to John A. Mather, reported the same with amendment, accompanied by a report (No. 2826); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15418) granting an increase of pension to Samuel P. Sargent, reported the same without amendment, accompanied by a report (No. 2827); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17422) granting an increase of pension to Orlando Hand, reported the same with amendment, accompanied by a report (No. 2828); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17344) granting an increase of pension to John L. Fuhrman, reported the same with amendment, accompanied by a report (No. 2829); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17303) granting a pension to William H. Hester, reported the same with amendment, accompanied by a report (No. 2830); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17235) granting an increase of pension to Martha Howard, reported the same with amendment, accompanied by a report (No. 2831); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17165) granting an increase of pension to Sophie Pohlers, reported the same with amendment, accompanied by a report (No. 2832); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17120) granting a pension to Rhoda Munsil, reported the same with amendment, accompanied by a report (No. 2833); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17069) granting an increase of pension to William L. Wilcher, reported the same with amendment, accompanied by a report (No. 2834); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17004) granting an increase of pension to Willard F. Sessions, reported the same without amendment, accompanied by a report (No. 2835); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17003) granting an increase of pension to Eleazer C. Harmon, reported the same with amendment, accompanied by a report (No. 2836); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16602) granting an increase of pension to Christopher C. Reeves, reported the same without amendment, accompanied by a report (No. 2837); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16516) granting an increase of pension to James B. Fairchild, reported the same without amendment, accompanied by a report (No. 2838); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16454) granting an increase of pension to Samuel E. Carlton, reported the same with amendment, accompanied by a report (No. 2839); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 16445) granting an increase of pension to Henry H. Sibley, reported the same with amendment, accom-

panied by a report (No. 2840); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16174) granting an increase of pension to John Williamson, reported the same with amendment, accompanied by a report (No. 2841); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15807) granting a pension to Catherine Arnold, reported the same with amendment, accompanied by a report (No. 2842); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15566) granting an increase of pension to Andrew F. Kreger, reported the same with amendment, accompanied by a report (No. 2843); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15499) granting an increase of pension to Elias Andrews, reported the same with amendment, accompanied by a report (No. 2844); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15149) granting an increase of pension to W. W. Ferguson, reported the same with amendment, accompanied by a report (No. 2845); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 14539) granting an increase of pension to Louis C. Robinson, reported the same with amendment, accompanied by a report (No. 2846); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 14470) granting an increase of pension to William B. Brazelton, reported the same with amendment, accompanied by a report (No. 2847); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 13881) granting an increase of pension to Amos Dyke, reported the same without amendment, accompanied by a report (No. 2848); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 13577) granting an increase of pension to Mrs. George B. Van Brunt, reported the same with amendment, accompanied by a report (No. 2849); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 13535) granting an increase of pension to William Kelly, reported the same without amendment, accompanied by a report (No. 2850); which said bill and report were referred to the Private Calendar.

Mr. HOPKINS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 13506) granting a pension to Julia A. Bachus, reported the same with amendment, accompanied by a report (No. 2851); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 13493) granting an increase of pension to Elizabeth J. Meek, reported the same with amendment, accompanied by a report (No. 2852); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 13326) granting an increase of pension to Augustus McDaniel, reported the same with amendment, accompanied by a report (No. 2853); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 13111) granting an increase of pension to Lewis S. Perkins, reported the same with amendment, accompanied by a report (No. 2854); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 13030) granting an increase of pension to John C. Heney, reported the same with amendment, accompanied by a report (No. 2855); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 12734) granting an increase of pension to Abram Van Riper, reported the same with amendment, accompanied by a report (No. 2856); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 12521) granting an increase of pension to Alice Eddy Potter, reported the same with amendment, accompanied by a report (No. 2857); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 12180) granting an increase of pension to Charles H. Dunning, reported the same without amendment, accompanied by a report (No. 2858); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 11593) granting an increase of pension to Evans Blake, reported the same with amendment, accompanied by a report (No. 2859); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 11565) granting a pension to Sarah A. Brinker, reported the same with amendment, accompanied by a report (No. 2860); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 11374) granting an increase of pension to Fanny L. Conine, reported the same with amendment, accompanied by a report (No. 2861); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 11306) granting an increase of pension to John C. Parkinson, reported the same with amendment, accompanied by a report (No. 2862); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 10173) granting a pension to John H. Lockhart, reported the same with amendment, accompanied by a report (No. 2863); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 10161) granting an increase of pension to Benjamin R. South, reported the same with amendment, accompanied by a report (No. 2864); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 9833) granting an increase of pension to James C. Miller, reported the same without amendment, accompanied by a report (No. 2865); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 9627) granting an increase of pension to Daniel Craig, reported the same with amendment, accompanied by a report (No. 2866); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 9606) granting a pension to Martha Jewell, reported the same with amendment, accompanied by a report (No. 2867); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 8948) granting an increase of pension to John W. Hammond, reported the same with amendment, accompanied by a report (No. 2868); which said bill and report were referred to the Private Calendar.

Mr. HOPKINS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 8778) granting an increase of pension to George Henderson, reported the same with amendment, accompanied by a report (No. 2869); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 8050) granting an increase of pension to Sewell F. Graves, reported the same with amendment, accompanied by a report (No. 2870); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 8157) granting an increase of pension to Milton H. Wayne, reported the same with amendment, accompanied by a report (No. 2871); which said bill and report were referred to the Private Calendar.

Mr. HOPKINS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 7968) granting

an increase of pension to Palmetto Dodson, reported the same with amendment, accompanied by a report (No. 2872); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 7837) granting a pension to Mary Jane McKim, reported the same with amendment, accompanied by a report (No. 2873); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 7821) granting an increase of pension to Mathias Brady, reported the same with amendment, accompanied by a report (No. 2874); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 7745) granting an increase of pension to Wheeler Lindenbower, reported the same with amendment, accompanied by a report (No. 2875); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 7720) granting an increase of pension to Stephen M. Sexton, reported the same with amendment, accompanied by a report (No. 2876); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 7970) granting an increase of pension to Walter Lynn, reported the same without amendment, accompanied by a report (No. 2877); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 6776) granting an increase of pension to Stephen C. Smith, reported the same with amendment, accompanied by a report (No. 2878); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 4294) granting an increase of pension to Annie R. E. Nesbitt, reported the same with amendment, accompanied by a report (No. 2879); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 2801) granting an increase of pension to Alexander M. Lowry, reported the same with amendment, accompanied by a report (No. 2880); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 2778) granting an increase of pension to Patrick Mahoney, reported the same with amendment, accompanied by a report (No. 2881); which said bill and report were referred to the Private Calendar.

Mr SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 2721) granting an increase of pension to A. R. Matheny, reported the same with amendment, accompanied by a report (No. 2882); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 2102) granting an increase of pension to Eugenia Tilburn, reported the same with amendment, accompanied by a report (No. 2883); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 1734) granting an increase of pension to William H. Lee, reported the same with amendment, accompanied by a report (No. 2884); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 1375) granting an increase of pension to Silas Mosher, reported the same with amendment, accompanied by a report (No. 2885); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 601) granting an increase of pension to Israel E. Munger, reported the same without amendment, accompanied by a report (No. 2886); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15233) granting an increase of pension to William G. Westover, reported the same with amendment, accompanied by a report (No. 2887); which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. CLARK of Florida: A bill (H. R. 17753) granting permission to E. L. Potter and others to construct and maintain a bridge across the St. Johns River, in the State of Florida—to the Committee on Interstate and Foreign Commerce.

Also, a bill (H. R. 17754) granting permission to E. L. Potter and others to construct and maintain a bridge across the Halifax River, in the State of Florida—to the Committee on Interstate and Foreign Commerce.

By Mr. WM. ALDEN SMITH (by request): A bill (H. R. 17755) for the construction of a sewer from Wisconsin avenue to Rock Creek—to the Committee on Appropriations.

By Mr. MARTIN: A bill (H. R. 17756) to provide for the entry of agricultural lands within the Black Hills Forest Reserve—to the Committee on the Public Lands.

By Mr. JONES of Washington: A bill (H. R. 17757) extending to the subport of Spokane, in the State of Washington, the privileges of the seventh section of the act approved June 10, 1880, governing the immediate transportation of dutiable merchandise without appraisement—to the Committee on Ways and Means.

By Mr. BUCKMAN: A bill (H. R. 17758) permitting the building of a dam across the Mississippi River in the county of Morrison, State of Minnesota—to the Committee on Interstate and Foreign Commerce.

By Mr. LACEY: A bill (H. R. 17759) to authorize the Secretary of the Interior to lease certain lands for grazing purposes—to the Committee on the Public Lands.

By Mr. AMES: A bill (H. R. 17760) to regulate the business of insurance within the District of Columbia—to the Committee on the Judiciary.

By Mr. SHERMAN: A memorial from the New York legislature, favoring prohibition of polygamy—to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. AIKEN: A bill (H. R. 17761) granting an increase of pension to Thomas J. Mackey—to the Committee on Pensions.

By Mr. BONYNGE: A bill (H. R. 17762) granting an increase of pension to Henry B. Cooper—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17763) granting an increase of pension to B. J. Hardin—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17764) for the relief of Lewis B. Brasher—to the Committee on War Claims.

By Mr. DE ARMOND: A bill (H. R. 17765) granting an increase of pension to John T. Haney—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17766) granting a pension to Nancy J. Perrin—to the Committee on Invalid Pensions.

By Mr. GOULDEN: A bill (H. R. 17767) granting an increase of pension to Anna C. Bingham—to the Committee on Invalid Pensions.

By Mr. GUDGER: A bill (H. R. 17768) granting an increase of pension to John Clark—to the Committee on Invalid Pensions.

By Mr. HALE: A bill (H. R. 17769) granting an increase of pension to Thomas G. Pardue—to the Committee on Invalid Pensions.

By Mr. HIGGINS: A bill (H. R. 17770) granting an increase of pension to Julia P. Grant—to the Committee on Invalid Pensions.

By Mr. HOWELL of Utah: A bill (H. R. 17771) granting an increase of pension to Deloss Williams—to the Committee on Invalid Pensions.

By Mr. LACEY: A bill (H. R. 17772) granting a pension to John W. Henry—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17773) granting a pension to Carel Lane—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17774) granting a pension to Sabra L. Swisher—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17775) granting an increase of pension to Richard Courtney—to the Committee on Invalid Pensions.

By Mr. LOUD: A bill (H. R. 17776) to provide a suitable medal for Charles P. Bragg—to the Committee on Military Affairs.

By Mr. McCALL: A bill (H. R. 17777) for the relief of Herbert H. Russell—to the Committee on Claims.

Also, a bill (H. R. 17778) granting a pension to Louisa J. Arey—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17779) granting an increase of pension to John W. Fletcher—to the Committee on Invalid Pensions.

By Mr. MOUSER: A bill (H. R. 17780) granting a pension to Caroline E. Perry—to the Committee on Pensions.

By Mr. OLCOTT: A bill (H. R. 17781) granting an increase of pension to Frank M. Parker—to the Committee on Invalid Pensions.

By Mr. PAYNE: A bill (H. R. 17782) granting an increase of pension to Aaron K. Clark—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17783) granting an increase of pension to James West—to the Committee on Invalid Pensions.

By Mr. PEARRE: A bill (H. R. 17784) for the relief of G. W. Delawder—to the Committee on War Claims.

By Mr. REID: A bill (H. R. 17785) granting a pension to John Garrison—to the Committee on Invalid Pensions.

By Mr. RICHARDSON of Alabama: A bill (H. R. 17786) granting an increase of pension to William W. Cameron—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17787) for the relief of Leroy P. Walker, sole heir at law of Eliza D. Walker and L. P. Walker, her husband—to the Committee on War Claims.

Mr. SHERMAN: A bill (H. R. 17788) granting a pension to Charles E. Benson—to the Committee on Pensions.

By Mr. TYNDALL: A bill (H. R. 17789) granting an honorable discharge to Edward W. Livingston—to the Committee on Military Affairs.

By Mr. WATSON: A bill (H. R. 17790) granting an increase of pension to John Davis—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17791) granting an increase of pension to Albert E. Bonsall—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17792) to grant an honorable discharge to John Davis—to the Committee on Military Affairs.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ADAMSON: Petition of the American Federation of Labor, against bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the Georgia Historical Society, for the preservation of the frigate *Constitution*—to the Committee on Naval Affairs.

By Mr. AIKEN: Paper to accompany bill for relief of heirs of Alexander Campbell—to the Committee on War Claims.

By Mr. BARCHFELD: Petition of the Keystone Watch Case Company, for bill H. R. 14604—to the Committee on Interstate and Foreign Commerce.

Also, petition of Howard B. Arvison, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of George F. Craig & Co., of Philadelphia, for bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

By Mr. BATES: Paper to accompany bill for relief of Jacob R. Dickards—to the Committee on Invalid Pensions.

Also, petition of the National Lumber Dealers' Association, of New York, for bills S. 30 and H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the Woman's Club of Erie, Pa., for an appropriation to investigate the industrial condition of women of the United States—to the Committee on Appropriations.

Also, petition of the American Federation of Labor, of Washington, D. C., against bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

Also, petition of V. G. Curtis, of Corry, Pa., for removal of the duty on art works—to the Committee on Ways and Means.

Also, petition of the Erie (Pa.) Bureau of Charities, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. BURKE of Pennsylvania: Paper to accompany bill for relief of C. Chancy—to the Committee on Invalid Pensions.

Also, petition of Oakland Circle, No. 111, Protective Home Circle, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of the Daughters of Liberty of Allegheny, Pa., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of Howard B. Arvison, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of George F. Craig & Co., for bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the Keystone Watch Case Company, for bill H. R. 14604—to the Committee on Interstate and Foreign Commerce.

By Mr. BURKE of South Dakota: Petition of the General Federation of Women's Clubs, for an appropriation to investigate the industrial condition of women in the United States—to the Committee on Appropriation.

By Mr. BURLEIGH: Petition of Silver Harvest Grange, No. 66, of Waldo, Me., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. CLARK of Florida: Petition of many citizens of New York and vicinity, for relief for heirs of victims of *General Slocum* disaster—to the Committee on Claims.

By Mr. DAVIDSON: Petition of the Chronicle Company, of Oskosh, Wis., against the tariff on linotype machines—to the Committee on Ways and Means.

Also, petition of the American Federation of Labor, against bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the Milwaukee Credit Men's Association, against repeal of the bankruptcy act—to the Committee on the Judiciary.

Also, petition of the Ancient Order of Hibernians of Milwaukee, for a statue of John Barry—to the Committee on the Library.

Also, petition of W. G. Randall et al., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of the faculty of the State Normal School, of Stevens Point, Wis., for the metric system—to the Committee on Coinage, Weights, and Measures.

By Mr. DAWSON: Petition of Division No. 312, Amalgamated Association of Street Railway Employees, of Davenport, Iowa, against bill H. R. 12973—to the Committee on Immigration and Naturalization.

By Mr. DE ARMOND: Paper to accompany bill for relief of John T. Haney—to the Committee on Invalid Pensions.

By Mr. FLETCHER: Petition of citizens of Minneapolis, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. FLOYD: Paper to accompany bill for relief of Joseph C. Zillah—to the Committee on War Claims.

Also, petition of the Carroll Progress, against the tariff on linotype machines—to the Committee on Ways and Means.

By Mr. FOSTER of Vermont: Petition of citizens of Vermont, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. GILLETT of Massachusetts: Petition of Millers River Grange, of Orange, Mass., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. GRAHAM: Petition of the Keystone Watch Case Company, of Philadelphia, Pa., for bill H. R. 14604—to the Committee on Interstate and Foreign Commerce.

Also, petition of Harvard B. Anvison, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of George F. Craig & Co., for bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

By Mr. GUDGER: Paper to accompany bill for relief of John Clark—to the Committee on Invalid Pensions.

By Mr. HAMILTON: Petition of citizens of Bangor, Mich., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. HINSHAW: Petition of the Jefferson County Medical Society, for the pure food and drug law—to the Committee on Interstate and Foreign Commerce.

By Mr. HOPKINS: Paper to accompany bill for relief of Martin Lunsford—to the Committee on Military Affairs.

By Mr. HOWELL of New Jersey: Petition of Independent Council, Daughters of Liberty, of Seabright, N. J., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of the American Federation of Labor, against bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the Rio Grande Canning Company, for the modified pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Cumberland Gear Manufacturing Company, against the pure-food bill—to the Committee on Interstate and Foreign Commerce.

By Mr. HOWELL of Utah: Paper to accompany bill for relief of Deloss Williams—to the Committee on Invalid Pensions.

By Mr. KAHN: Petition of the Manufacturers and Producers' Association of California, for a bill for the construction of a new Federal building in San Francisco—to the Committee on Public Buildings and Grounds.

Also, petition of the Board of State Harbor Commissioners of the State of California, for an appropriation to remove rocks

in San Francisco Harbor—to the Committee on Rivers and Harbors.

By Mr. KNAPP: Petition of E. B. Steel Post, Grand Army of the Republic, of Carthage, N. Y., for bill H. R. 238—to the Committee on Invalid Pensions.

By Mr. KNOWLAND: Petition of the San Francisco Labor Council, against method of extradition of Charles Moyer, W. D. Hayward, and G. A. Pettibone—to the Committee on the Judiciary.

By Mr. LINDSAY: Petition of the American Federation of Labor, against bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the Brooklyn Daily Times, for admission of wood pulp and news print paper free of duty—to the Committee on Ways and Means.

Also, petition of J. H. Burton & Co., the John S. Loomis Company, the Atlantic Coast Lumber Corporation, and the J. Masson Company, for bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

By Mr. NEEDHAM: Petition of the State harbor commissioners of California, for an appropriation to remove rocks in San Francisco Harbor—to the Committee on Rivers and Harbors.

By Mr. OLCOTT: Paper to accompany bill for relief of Frank M. Parker—to the Committee on Invalid Pensions.

By Mr. ROBERTS: Petitions of citizens of Lynn and Stoneham, Mass., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. RUPPERT: Petition of citizens of Farrington, N. Y., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. SAMUEL: Petition of Christ's Evangelical Lutheran congregation, of Milton, Pa., against bill S. 3413—to the Committee on Interstate and Foreign Commerce.

By Mr. STEVENS of Minnesota: Petition of citizens of Minnesota, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of citizens of Minnesota, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. SULLOWAY: Petition of Nutfield Grange, of Derry, N. H., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. THOMAS of Ohio: Petition of Division No. 379, of Niles, and Division No. 325, of Conneaut, Ohio, Amalgamated Association of Street and Electric Railway Employees of America, against bill H. R. 12973—to the Committee on Foreign Affairs.

Also, petition of the American Federation of Labor, against bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

By Mr. VAN WINKLE: Petition of the Rio Grande (N. J.) Canning Company, favoring the modified pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Dodge & Bliss Company, against bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

Also, petition of citizens of the ninth district of New Jersey, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. WEBB: Paper to accompany bill for relief of William Cody—to the Committee on Invalid Pensions.

Also, petition of Daughters of Liberty of Davidson, N. C., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

SENATE.

THURSDAY, *April 5, 1906.*

Prayer by the Chaplain, Rev. EDWARD E. HALE.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. CULBERSON, and by unanimous consent, the further reading was dispensed with.

SANTEE SIOUX AND PONCA INDIANS IN NEBRASKA.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Interior, transmitting a letter from the Commissioner of Indian Affairs relative to the share of the Santee Sioux and Ponca Indians, in Nebraska, in the principal permanent fund now in the Treasury to the credit of the Sioux Nation of Indians appropriated under section 17 of the Sioux agreement of March 2, 1889; which, with the accompanying paper, was referred to the Committee on Indian Affairs, and ordered to be printed.

LIFE-SAVING SERVICE.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, transmitting a letter from the General Superintendent of the Life-Saving Service calling attention to section 6 of the legislative appropriation bill, and recommending that if this section is to remain in the bill some provision should be made to retain the existing authority of law for detailing two officers of the Revenue-Cutter Service for duty in the office of the Life-Saving Service; which, with the accompanying paper, was referred to the Committee on Appropriations, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its chief clerk, announced that the House had passed the bill (S. 5215) to fix the regular terms of the circuit and district courts of the United States for the southern division of the northern district of Alabama, and for other purposes.

The message also announced that the House had passed the bill (S. 87) providing for the withdrawal from public entry of lands needed for town-site purposes in connection with irrigation projects under the reclamation act of June 17, 1902, and for other purposes, with amendments in which it requested the concurrence of the Senate.

The message further announced that the House had passed the following bills and joint resolution; in which it requested the concurrence of the Senate:

H. R. 12323. An act to extend the public-land laws of the United States to the lands comprised within the limits of the abandoned Fort Crittenden Military Reservation, in the State of Utah;

H. R. 15328. An act to approve certain final proofs in the Chamberlain land district, South Dakota;

H. R. 16014. An act to amend an act entitled "An act to create the southern division of the southern district of Iowa for judicial purposes, and to fix the time and place for holding court therein," approved June 1, 1900, and all acts amendatory thereof;

H. R. 17507. An act to open for settlement 505,000 acres of land in the Kiowa, Comanche, and Apache Indian reservations, in Oklahoma Territory; and

H. J. Res. 132. Joint resolution permitting the waiving of the alien immigration law in the case of Fannie Diner.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the Vice-President:

S. 4825. An act to provide for the construction of a bridge across Rainy River, in the State of Minnesota;

H. R. 533. An act granting an increase of pension to Sumner F. Hunnewell;

H. R. 552. An act granting an increase of pension to William H. Nortrip;

H. R. 1027. An act granting an increase of pension to Charles H. Friend;

H. R. 1241. An act granting an increase of pension to John G. Wallace;

H. R. 1322. An act granting an increase of pension to Katherine F. Wainwright;

H. R. 1468. An act granting an increase of pension to Morris B. Drake;

H. R. 1655. An act granting an increase of pension to Henry A. Wheeler;

H. R. 1897. An act granting an increase of pension to William R. Duncan;

H. R. 1913. An act granting an increase of pension to Charles H. Conley;

H. R. 2082. An act granting an increase of pension to Siotha Bennett;

H. R. 2090. An act granting an increase of pension to Ellen M. Brant;

H. R. 2195. An act granting an increase of pension to Hannah A. Sawyer;

H. R. 2202. An act granting a pension to Ellen Harriman;

H. R. 2267. An act granting an increase of pension to Joseph Rupert;

H. R. 2341. An act granting an increase of pension to Helen H. Hulbert;

H. R. 2396. An act granting an increase of pension to Charles Hull;

H. R. 2640. An act granting an increase of pension to Decatur Harmon;

H. R. 2697. An act granting an increase of pension to Rufus G. Childress;
H. R. 2765. An act granting an increase of pension to Andrew J. Benson;
H. R. 2780. An act granting an increase of pension to Mary E. Fifield;
H. R. 2984. An act granting an increase of pension to William H. Gildersleeve;
H. R. 3007. An act granting an increase of pension to Thomas Carder;
H. R. 3197. An act granting an increase of pension to Milo G. Gibson;
H. R. 3233. An act granting an increase of pension to Lucius R. Simons;
H. R. 3281. An act granting an increase of pension to Thomas F. Underwood;
H. R. 3344. An act granting an increase of pension to Henry Sanborn;
H. R. 3484. An act granting an increase of pension to Edson J. Harrison;
H. R. 3541. An act granting an increase of pension to Dora A. Weathersby;
H. R. 3660. An act granting an increase of pension to James H. Hill;
H. R. 3806. An act granting a pension to Eva L. Martin;
H. R. 3978. An act granting an increase of pension to Samuel Greenlee;
H. R. 4209. An act granting an increase of pension to Martin Callahan;
H. R. 4261. An act granting a pension to A. Louisa S. McWhinnie;
H. R. 4352. An act granting an increase of pension to Thomas Wolcott;
H. R. 4593. An act granting a pension to William C. Short;
H. R. 4598. An act granting an increase of pension to James B. Barry;
H. R. 4691. An act granting an increase of pension to George L. Janney;
H. R. 4717. An act granting an increase of pension to Marshall U. Gage;
H. R. 4766. An act granting an increase of pension to John Deardourff;
H. R. 4809. An act granting an increase of pension to John W. Hatfield;
H. R. 4888. An act granting an increase of pension to William Moore;
H. R. 4946. An act granting an increase of pension to William H. Lewis;
H. R. 5252. An act granting an increase of pension to Thomas Howard;
H. R. 5434. An act granting an increase of pension to Hugh Green;
H. R. 5485. An act granting a pension to Horace D. Mann;
H. R. 5486. An act granting a pension to Margarett Carroll;
H. R. 5725. An act granting an increase of pension to John G. Davis;
H. R. 5726. An act granting an increase of pension to Cate E. Cobb;
H. R. 5933. An act granting an increase of pension to Winnie Pittenger;
H. R. 6058. An act granting an increase of pension to Emilie Scheldt;
H. R. 6110. An act granting an increase of pension to Abram W. Davenport;
H. R. 6128. An act granting an increase of pension to Thomas Patterson;
H. R. 6142. An act granting an increase of pension to David Davis;
H. R. 6147. An act granting a pension to Maud O. Worth;
H. R. 6407. An act granting an increase of pension to William Blair;
H. R. 6465. An act granting an increase of pension to Augustus Joyeux;
H. R. 6557. An act granting an increase of pension to Charles H. Jasper;
H. R. 6775. An act granting an increase of pension to William A. Lincoln;
H. R. 6888. An act granting an increase of pension to John W. Hannah;
H. R. 6946. An act granting an increase of pension to Elias Claunch;
H. R. 7144. An act for the relief of Aaron Everly;
H. R. 7225. An act granting an increase of pension to Mary O. Arnold;
H. R. 7331. An act granting an increase of pension to Henry Porter;
H. R. 7515. An act granting an increase of pension to Firman F. Kirk;
H. R. 7585. An act granting an increase of pension to Joseph Girdler;
H. R. 7609. An act granting an increase of pension to Charles W. Henderson;
H. R. 7681. An act granting an increase of pension to James M. Miller;
H. R. 7738. An act granting an increase of pension to Franklin J. Keck;
H. R. 7806. An act granting an increase of pension to Johanna Walgwist;
H. R. 7823. An act granting an increase of pension to Annie E. Peters;
H. R. 7839. An act granting a pension to Ray E. Kline;
H. R. 7856. An act granting an increase of pension to Norman C. Potter;
H. R. 7951. An act granting an increase of pension to William H. Pitchford;
H. R. 8042. An act granting an increase of pension to Bottol Larsen;
H. R. 8062. An act granting an increase of pension to John K. Miller;
H. R. 8206. An act granting an increase of pension to Carner C. Welch;
H. R. 8315. An act granting an increase of pension to Martin V. Cannedy;
H. R. 8316. An act granting an increase of pension to William Smith;
H. R. 8328. An act granting an increase of pension to Ira Grabill;
H. R. 8333. An act granting an increase of pension to John G. Honeywell;
H. R. 8339. An act granting a pension to Vienna Ward;
H. R. 8530. An act granting an increase of pension to Benjamin Q. Ward;
H. R. 8565. An act granting an increase of pension to Andrew La Forge;
H. R. 8578. An act granting an increase of pension to Franklin G. Mattern;
H. R. 8665. An act granting an increase of pension to Hiram Long;
H. R. 8725. An act granting an increase of pension to Moses B. Davis;
H. R. 8823. An act granting an increase of pension to Charles C. Briant;
H. R. 8930. An act granting an increase of pension to Margaret Becker;
H. R. 8942. An act granting an increase of pension to Marquis L. Johnson;
H. R. 9053. An act granting an increase of pension to John M. Jones;
H. R. 9087. An act granting an increase of pension to William Winn;
H. R. 9093. An act granting an increase of pension to Farrie M. Allis;
H. R. 9126. An act granting an increase of pension to Nathan Parish;
H. R. 9296. An act granting an increase of pension to Elizabeth D. Hoppin;
H. R. 9406. An act granting an increase of pension to Francis W. Preston;
H. R. 9617. An act granting an increase of pension to David A. Kirk;
H. R. 9705. An act granting a pension to George W. Robinson;
H. R. 9839. An act granting an increase of pension to Jesse Siler;
H. R. 9896. An act granting an increase of pension to William McKenzie;
H. R. 9898. An act granting an increase of pension to Abraham H. Miller;
H. R. 9904. An act granting an increase of pension to Neeta H. Marquis;
H. R. 9995. An act granting an increase of pension to Elias Johnson;
H. R. 10019. An act granting an increase of pension to Jonathan Shook;
H. R. 10230. An act granting an increase of pension to Clark A. Winans;
H. R. 10252. An act granting an increase of pension to Joseph J. Vincent;
H. R. 10293. An act granting an increase of pension to Sarah F. Galbraith;
H. R. 10300. An act granting an increase of pension to George C. Sackett;

H. R. 10326. An act granting an increase of pension to Edmund Chapman;
H. R. 10396. An act granting an increase of pension to John A. Malone;
H. R. 10404. An act granting an increase of pension to John Moules;
H. R. 10448. An act granting an increase of pension to George M. Frazer;
H. R. 10450. An act granting an increase of pension to Silas H. Ballard;
H. R. 10490. An act granting an increase of pension to Lucius A. West;
H. R. 10562. An act granting an increase of pension to Alphenis M. Beall;
H. R. 10594. An act granting an increase of pension to James Martin;
H. R. 10622. An act granting an increase of pension to James H. Ward;
H. R. 10753. An act granting an increase of pension to Jacob Keller;
H. R. 10785. An act granting a pension to Thomas J. Chambers;
H. R. 10816. An act granting an increase of pension to August Bauer;
H. R. 10879. An act granting an increase of pension to Thomas E. Myers;
H. R. 10900. An act granting an increase of pension to Arthur R. Dreppard;
H. R. 10907. An act granting an increase of pension to John N. Boyd;
H. R. 10923. An act granting an increase of pension to Matilda Rockwell;
H. R. 11209. An act granting an increase of pension to Thomas Griffith;
H. R. 11214. An act granting a pension to Isaac Baker;
H. R. 11509. An act granting an increase of pension to Josephine Hoornbeck;
H. R. 11638. An act granting an increase of pension to John N. Vivian;
H. R. 11690. An act granting an increase of pension to Lewis Lowry;
H. R. 11691. An act granting an increase of pension to John Clark;
H. R. 11873. An act granting an increase of pension to Joseph B. Fonner, alias John Havens;
H. R. 11905. An act granting an increase of pension to Elizabeth E. Atkinson;
H. R. 11990. An act granting an increase of pension to Daniel M. Coffman;
H. R. 12014. An act granting an increase of pension to Francis H. Frasier;
H. R. 12393. An act granting an increase of pension to William Hardy;
H. R. 12403. An act granting a pension to Lydia A. Fiedler;
H. R. 12417. An act granting an increase of pension to Samuel G. Raymond;
H. R. 12443. An act granting an increase of pension to Nathaniel Southard;
H. R. 12455. An act granting an increase of pension to John Jacoby;
H. R. 12540. An act granting an increase of pension to Morris J. James;
H. R. 12541. An act granting an increase of pension to Edward V. Miles;
H. R. 12578. An act granting an increase of pension to John B. Craig;
H. R. 12584. An act granting an increase of pension to William R. Guion;
H. R. 12643. An act granting an increase of pension to William H. Franklin;
H. R. 12656. An act granting a pension to Louise Ackley;
H. R. 12760. An act granting an increase of pension to William Ralston;
H. R. 12795. An act granting an increase of pension to Henry Stimon;
H. R. 12825. An act granting an increase of pension to Daniel Bleomer;
H. R. 12834. An act granting an incerase of pension to Theodor Schramm;
H. R. 12880. An act granting an increase of pension to Lorenzo D. Massey;
H. R. 12897. An act granting an increase of pension to Robert B. Malone;
H. R. 12900. An act granting an increase of pension to James D. Havens;
H. R. 13005. An act granting an increase of pension to Robert R. Wilson;
H. R. 13028. An act granting an increase of pension to Mary E. Bennett;
H. R. 13034. An act granting an increase of pension to Frederick Hildenbrand;
H. R. 13038. An act granting an increase of pension to Rebecca Ramsey;
H. R. 13081. An act granting an increase of pension to Orren R. Smith;
H. R. 13082. An act granting an increase of pension to Herbert Williams;
H. R. 13083. An act granting an increase of pension to Mordicai B. Barbee;
H. R. 13136. An act granting an increase of pension to William Gaynor;
H. R. 13138. An act granting an increase of pension to Eada Lowry;
H. R. 13148. An act granting an increase of pension to William Davis;
H. R. 13150. An act granting an increase of pension to Cate F. Galbraith;
H. R. 13198. An act granting an increase of pension to Josiah F. Allen;
H. R. 13230. An act granting an increase of pension to Elizabeth Webb;
H. R. 13231. In act granting an increase of pension to Gatsey Mattucks;
H. R. 13238. An act granting an increase of pension to William Strasburg;
H. R. 13310. An act granting an increase of pension to James McKee;
H. R. 13311. An act granting an increase of pension to John Wilkinson;
H. R. 13341. An act granting an increase of pension to Robert C. Pate;
H. R. 13417. An act granting an increase of pension to John W. Bookman;
H. R. 13502. An act granting an increase of pension to John N. Buchanan;
H. R. 13505. An act granting an increase of pension to Martha E. Chambers;
H. R. 13525. An act granting an increase of pension to Martha J. Hensley;
H. R. 13527. An act granting a pension to Willard V. Shepherd;
H. R. 13584. An act granting an increase of pension to Anna M. Jefferis;
H. R. 13587. An act granting an increase of pension to August Frahm;
H. R. 13597. An act granting an increase of pension to Abram J. Bozarth;
H. R. 13610. An act granting an increase of pension to James Hann;
H. R. 13627. An act granting an increase of pension to Homer F. Herriman, alias George F. Wilson;
H. R. 13697. An act granting an increase of pension to William Shoemaker;
H. R. 13710. An act granting an increase of pension to Anna M. Wilson;
H. R. 13712. An act granting an increase of pension to Caroline D. Scudder;
H. R. 13761. An act granting an increase of pension to John Cook;
H. R. 13798. An act granting an increase of pension to Alida King;
H. R. 13826. An act granting an increase of pension to Frank S. Pettingill;
H. R. 13872. An act granting an increase of pension to Alvin D. Hopper;
H. R. 13891. An act granting an increase of pension to Hugh G. Wilson;
H. R. 13959. An act granting an increase of pension to Thomas B. Mouser;
H. R. 13988. An act granting an increase of pension to Mary McMahon;
H. R. 13994. An act granting an increase of pension to Francis A. Barkis;
H. R. 14076. An act granting an increase of pension to William Sanders;
H. R. 14077. An act granting an increase of pension to George W. Chesebro;

H. R. 14078. An act granting an increase of pension to Catherine Summers;
H. R. 14086. An act granting an increase of pension to Daniel Pence;
H. R. 14089. An act granting an increase of pension to Martin Harter;
H. R. 14092. An act granting a pension to Frances Coyner;
H. R. 14098. An act granting a pension to Mary Winfrey;
H. R. 14112. An act granting an increase of pension to Andrew J. Baker;
H. R. 14113. An act granting an increase of pension to Isaac N. Perry;
H. R. 14140. An act granting an increase of pension to Josephine M. Cage;
H. R. 14258. An act granting an increase of pension to John S. Miles;
H. R. 14277. An act granting an increase of pension to George S. Scott;
H. R. 14287. An act granting an increase of pension to Martha Brooks;
H. R. 14327. An act granting an increase of pension to Amelia Nichols;
H. R. 14367. An act granting an increase of pension to Lemuel O. Gilman;
H. R. 14369. An act granting an increase of pension to Sumner P. Wyman;
H. R. 14389. An act granting an increase of pension to Amos Hart;
H. R. 14425. An act granting an increase of pension to Robert Henderson Griffin;
H. R. 14426. An act granting an increase of pension to Thomas S. Menefee;
H. R. 14538. An act granting an increase of pension to Eliza L. Norwood;
H. R. 14563. An act granting an increase of pension to Edwin L. Higgins;
H. R. 14639. An act granting an increase of pension to Sarah J. Merrill;
H. R. 14642. An act granting a pension to James P. Himes;
H. R. 14646. An act granting an increase of pension to Ambrose R. Fisher;
H. R. 14653. An act granting an increase of pension to Sophronia Lofton;
H. R. 14655. An act granting an increase of pension to Henry Gilham;
H. R. 14669. An act granting an increase of pension to Anna H. Wagner;
H. R. 14694. An act granting an increase of pension to Samuel R. Dummer;
H. R. 14748. An act granting an increase of pension to William F. Burks;
H. R. 14761. An act granting an increase of pension to John L. Decker;
H. R. 14768. An act granting a pension to Orlando W. Frazier;
H. R. 14793. An act granting an increase of pension to William W. Howell;
H. R. 14834. An act granting an increase of pension to Ruth J. McCann;
H. R. 14840. An act granting an increase of pension to Nathaniel H. Rome;
H. R. 14848. An act granting an increase of pension to Samantha E. Herald;
H. R. 14878. An act granting an increase of pension to Charles Rattray;
H. R. 14888. An act granting an increase of pension to Eliza A. Bunker;
H. R. 14890. An act granting an increase of pension to James H. Posey;
H. R. 14925. An act granting an increase of pension to James Grizzle;
H. R. 14937. An act granting an increase of pension to William S. Nagle;
H. R. 14988. An act granting an increase of pension to James B. Cox;
H. R. 15062. An act granting an increase of pension to Thomas Sparrow;
H. R. 15199. An act granting an increase of pension to John T. Cook;
H. R. 15249. An act granting an increase of pension to Isaac N. Seal;
H. R. 15276. An act granting an increase of pension to Wesley Smith;
H. R. 15449. An act granting a pension to Rhoda Kennedy;
H. R. 15870. An act granting a pension to Mary Palmer; and
H. R. 15941. An act granting a pension to Lydia A. Keller.

REGULATION OF RAILROAD RATES.

Mr. ELKINS. Mr. President, I desire to give notice to the Senate that to-morrow I wish to submit some remarks on the pending rate-regulation bill, to begin about 2 o'clock.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented sundry petitions of Gregorio Aglipay, of Manila, Philippine Islands, and of the presidents and councilors of the district of Dinalupijan, province of Batan, Philippine Islands, praying for an investigation of the property conditions in those islands; which were referred to the Committee on the Philippines.

He also presented a memorial of Post M, Travelers' Protective Association, of Crawfordsville, Ind., remonstrating against the passage of the so-called "parcels-post bill;" which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of the Preachers' Meeting of the Methodist Episcopal Church of New York City, N. Y., praying for the enactment of legislation providing for the closing on Sunday of the Jamestown Exposition; which was referred to the Select Committee on Industrial Expositions.

He also presented the petition of Ella Rawls Reader, president of an American corporation engaged in business in Peru, of New York City, N. Y., praying that she be granted protection and justice as an American citizen; which was referred to the Committee on Foreign Relations.

Mr. PLATT presented a petition of the board of managers of the Historical Society of Rochester, N. Y., praying that an appropriation of $100,000 be made for the restoration of the frigate *Constitution;* which was referred to the Committee on Naval Affairs.

He also presented sundry petitions of Empire Council, No. 28, Junior Order of United American Mechanics, of Greenport, N. Y., praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

Mr. STONE presented a petition of sundry citizens of Jasper, Mo., praying for the enactment of legislation to increase the pensions of survivors of the war with Mexico; which was ordered to lie on the table.

He also presented a petition of sundry citizens of Green Ridge, Mo., and a petition of sundry citizens of Maryville, Mo., praying for the enactment of legislation to remove the duty on denaturized alcohol; which were referred to the Committee on Finance.

He also presented petitions of the Culture Club of Chillicothe, of the Woman's Club of Boonville, and of the Woman's Club of Bowling Green, all in the State of Missouri, praying that an appropriation be made for a scientific investigation into the industrial conditions of women in the United States; which were referred to the Committee on Education and Labor.

He also presented a petition of the executive board of the Civic Improvement League, of St. Louis, Mo., praying for the enactment of legislation providing for the purchase and maintenance of a public playground in the District of Columbia; which was referred to the Committee on the District of Columbia.

He also presented a petition of Golden Rule Circle, No. 4, Daughters of Liberty, of Kansas City, Mo., praying for the enactment of legislation to restrict immigration; which was referred to the Committee on Immigration.

He presented a memorial of Local Division No. 326, Amalgamated Association of Street and Electric Railway Employees of America, of St. Joseph, Mo., remonstrating against the repeal of the present Chinese-exclusion law; which was referred to the Committee on Immigration.

He also presented a memorial of sundry citizens of Marceline, Mo., remonstrating against the passage of the so-called "parcels-post bill;" which was referred to the Committee on Post-Offices and Post-Roads.

He also presented memorials of sundry citizens of Carroll County, Willow Springs, Platte City, Livingston County, Marionville, Belt County, Clinton County, and Pike County; of the Putnam County Supply Company, of Mendota, and of the Kansas Implement, Vehicle, and Hardware Club, of Kansas City, all in the State of Missouri, remonstrating against the enactment of legislation of consolidate third and fourth class mail matter; which were referred to the Committee on Post-Offices and Post-Roads.

Mr. GALLINGER presented a petition of the Colonial Club, of Littleton, N. H., praying that an appropriation be made for a scientific investigation into the industrial conditions of women in the United States; which was referred to the Committee on Education and Labor.

He also presented a petition of the Columbia Heights Citizens' Association, of Washington, D. C., praying for the enact-

ment of legislation to reorganize the fire department of the District of Columbia; which was referred to the Committee on the District of Columbia.

He also presented a petition of the Columbia Heights Citizens' Association, of Washington, D. C., praying for the enactment of legislation to reorganize the police force of the District of Columbia; which was referred to the Committee on the District of Columbia.

He also presented a petition of sundry citizens of Washington, D. C., praying for the enactment of legislation providing for the acquisition of additional land for the Zoological Park; which was referred to the Committee on the District of Columbia.

He also presented a memorial of the Executive Council of the American Federation of Labor, of Washington, D. C., remonstrating against the enactment of legislation to abolish compulsory pilotage on certain vessels engaged in the coastwise trade; which was ordered to lie on the table.

Mr. CULLOM presented petitions of the Woman's Club of Ridge Forest, of the Woman's Club of Chicago, of the Woman's Club of Home Economics of Chicago, of the Fortnightly Club of Monmouth, of the Woman's Club of Springfield, of the Fortnightly Club of Geneva, of the Woman's Club of Pekin, of the Woman's Club of Moline, and of the Woman's Club of Streator, all in the State of Illinois, praying that an appropriation be made for a scientific investigation into the industrial conditions of women in the United States; which were referred to the Committee on Education and Labor.

He also presented a petition of the Retail Grocers and Seed Merchants' Association of Belleville, Ill., praying for the enactment of legislation providing for the distribution only of new and valuable varieties of seeds and plants; which was referred to the Committee on Agriculture and Forestry.

He also presented a petition of the Woodlawn Woman's Club, of Chicago, Ill., praying for the enactment of legislation providing for the establishment of a children's bureau in the Department of Commerce and Labor; which was referred to the Committee on Education and Labor.

He also presented a petition of Local Division No. 260, Amalgamated Association of Street and Electric Railway Employees of America, of Chicago, Ill., praying for the enactment of legislation providing for the modification of the present Chinese-exclusion law; which was referred to the Committee on Immigration.

Mr. DRYDEN presented a petition of Pride of Trenton Council, No. 4, Daughters of Liberty, of Trenton, N. J., and a petition of Pride of Elberon Council, No. 50, Daughters of Liberty, of Oakhurst, N. J., praying for an investigation into the industrial condition of the women of the country; which were referred to the Committee on Education and Labor.

He also presented a memorial of the executive council of the American Federation of Labor, remonstrating against the enactment of legislation to abolish compulsory pilotage on sailing vessels of the coastwise trade; which was ordered to lie on the table.

He also presented petitions of sundry citizens of Hoboken, Jersey City, Mercerville, Town of Union, Long Branch, Somerville, Paterson, Orange, West Orange, Union Hills, Newark, Bayonne, Hopewell, Freehold, South Amboy, and Hope, all in the State of New Jersey, praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

Mr. GAMBLE presented a petition of the Improved Live Stock and Poultry Breeders' Association, of South Dakota, praying for the enactment of legislation to remove the duty on denaturized alcohol; which was referred to the Committee on Finance.

He also presented a petition of the Improved Live Stock and Poultry Breeders' Association, of South Dakota, praying for the ratification of international reciprocity treaties affecting meat and meat products; which was referred to the Committee on Finance.

He also presented a memorial of the executive council of the American Federation of Labor, of Washington, D. C., remonstrating against the enactment of legislation to abolish compulsory pilotage of sailing vessels engaged in the coastwise trade; which was ordered to lie on the table.

He also presented a petition of the Tuesday Club of Blunt, S. Dak., praying that an appropriation be made for a scientific investigation into the industrial condition of women in the United States; which was referred to the Committee on Education and Labor.

He also presented a resolution adopted by the Improved Live Stock and Poultry Breeders' Association of South Dakota, extending thanks to Congress and the Bureau of Animal Industry for their endeavors to stamp out the disease known as "scabies" among live stock; which was referred to the Committee on Agriculture and Forestry.

He also presented a petition of the Improved Live Stock and Poultry Breeders' Association of South Dakota, praying that an appropriation of $60,000 be made for experimental work in what has been known as "the semiarid belt" in North and South Dakota; which was referred to the Committee on Agriculture and Forestry.

Mr. KITTREDGE presented a petition of the South Dakota Live Stock and Poultry Breeders' Association, praying for the removal of the internal-revenue tax on denaturized alcohol; which was referred to the Committee on Finance.

Mr. PENROSE presented a petition of 300 citizens of Sharon, Pa., praying for the enactment of legislation to protect no-license places, cities, or States against the original-package liquor traffic; which was referred to the Committee on the Judiciary.

He also presented petitions of the Presbyterian Church of Limestone, Pa., and of the First Presbyterian Church of Marienville, Pa., praying for the adoption of an amendment to the Constitution to prohibit polygamy; which were referred to the Committee on the Judiciary.

He also presented petitions of the Century Club of Pottstown, of the Reading Circle of Newcastle, and of 16,000 members of the State Federation of Women, all in the State of Pennsylvania, praying that an investigation be made into the industrial condition of women in the United States; which were referred to the Committee on Education and Labor.

He also presented a petition of 300 citizens of Sharon, Pa., praying for the enactment of legislation to prohibit the sale of intoxicating liquors in Oklahoma and Indian Territory when admitted to statehood; which was ordered to lie on the table.

He also presented a petition of the Woman's Christian Temperance Union of Conneautville, Pa., praying for the enactment of legislation to prohibit the sale of intoxicating liquors in the Indian Territory when admitted to statehood; which was ordered to lie on the table.

He also presented a petition of George G. Meade Post, No. 1, Grand Army of the Republic, of Philadelphia, Pa., and a petition of Naval Post, No. 400, Grand Army of the Republic, of Philadelphia, Pa., praying for the enactment of legislation for the relief of acting volunteer officers of the United States Navy who served in the civil war; which was referred to the Committee on Naval Affairs.

He also presented a memorial of the First United Evangelical Church of Milton, Pa., remonstrating against the enactment of legislation extending the time for the interstate transportation of cattle; which was referred to the Committee on Interstate Commerce.

He also presented a memorial of George A. McCall Post, No. 31, Grand Army of the Republic, of West Chester, Pa., remonstrating against the enactment of legislation to reduce the salaries of those employed in the Government service over 65 years of age unless amended so as to except soldiers, sailors, and marines of the civil war; which was referred to the Committee on Appropriations.

He also presented petitions of Champion Council, No. 8, Daughters of Liberty, of Philadelphia; of Washington Camp, No. 693, Patriotic Order Sons of America, of Van Dyke; of Irwin Council, No. 44, Junior Order United American Mechanics, of Irwin; of Pittston Council, No. 43, Daughters of Liberty, of Pittston, and Lydia Darrah Council, No. 110, Daughters of Liberty, of Manayunk, all in the State of Pennsylvania, praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

He also presented a memorial of the International Brotherhood of Teamsters of Shamokin, Pa., remonstrating against the repeal of the present Chinese-exclusion law; which was referred to the Committee on Immigration.

He also presented a petition of the Board of Trade of Scranton, Pa., praying for the enactment of legislation to provide for the classification of the salaries of clerks employed in post-offices of the first and second class; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of the National Wholesale Lumber Dealers' Association of New York City, N. Y., praying for the enactment of legislation to repeal pilotage discriminations against sailing vessels in the coasting trade; which was ordered to lie on the table.

REPORTS OF COMMITTEES.

Mr. GEARIN, from the Committee on Claims, to whom was referred the bill (S. 2578) for the relief of Alice M. Stafford, administratrix of the estate of Capt. Stephen R. Stafford, reported it without amendment, and submitted a report thereon.

Mr. FOSTER, from the Committee on Commerce, to whom

was referred the bill (S. 5352) for the relief of William H. Osenburg, reported it without amendment, and submitted a report thereon.

Mr. McCUMBER, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 9888) granting a pension to Abigail Townsend; and

A bill (H. R. 523) granting an increase of pension to Franklin G. Hawkins.

Mr. PERKINS, from the Committee on Commerce, to whom was referred the bill (S. 5526) authorizing the establishment of a light vessel off Orford Reef, 5 miles north of Cape Blanco, Oregon, reported it with amendments, and submitted a report thereon.

Mr. PILES, from the Committee on Commerce, to whom was referred the bill (S. 5372) to prevent dangers to navigation from rafts of logs or timbers on coast waters of the United States, reported it without amendment, and submitted a report thereon.

Mr. HEYBURN, from the Committee on Public Buildings and Grounds, to whom was referred the bill (S. 4427) to increase the limit of cost of the public building at Reno, Nev., reported it without amendment, and submitted a report thereon.

Mr. FLINT, from the Committee on the Geological Survey, to whom was referred the letter from the Secretary of the Interior transmitting a communication from the United States Geological Survey, requesting the approval of the accompanying recommendation to Congress, in regard to the credit of moneys received from the sale of maps, etc., to the appropriation for engraving and printing for the United States Geological Survey, reported favorably thereon, with a recommendation that it be referred to the Committee on Appropriations; which was agreed to.

LIGHT AND FOG SIGNAL IN NEW YORK BAY.

Mr. HOPKINS. I am directed by the Committee on Commerce, to whom was referred the bill (S. 5438) to establish a light and fog signal in New York Bay at the entrance of the dredged channel at Greenville, N. J., to report it favorably without amendment, and I submit a report thereon. As it is a matter of urgency, I ask for the present consideration of the bill.

There being no objection, the bill was considered as in Committee of the Whole. It proposes to establish a light and fog signal in New York Bay at the entrance to the dredged channel at Greenville, city of Bayonne, Hudson County, N. J., at a cost not to exceed $75,000.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

LITTLE RIVER BRIDGE IN ARKANSAS.

Mr. PILES. I am directed by the Committee on Commerce, to whom was referred the bill (S. 5521) to authorize the Tyronza Central Railroad Company to construct a bridge across Little River, in the State of Arkansas, to report it favorably without amendment, and I submit a report thereon. On behalf of the Senator from Kansas [Mr. LONG], I ask for the present consideration of the bill.

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. BEVERIDGE introduced a bill (S. 5532) granting an increase of pension to Simon A. Snyder; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. PLATT introduced a bill (S. 5533) to appoint an additional judge for the southern district of New York; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. McLAURIN introduced a bill (S. 5534) for the relief of the estate of John F. Bryan, deceased; which was read twice by its title, and referred to the Committee on Claims.

He also introduced a bill (S. 5535) for the relief of estate of Reuben Millsaps; which was read twice by its title, and referred to the Committee on Claims.

Mr. PERKINS introduced a bill (S. 5536) granting a pension to William O. Clark; which was read twice by its title, and referred to the Committee on Pensions.

Mr. NELSON introduced a bill (S. 5537) authorizing the Secretary of the Interior to allot homesteads to the natives of Alaska; which was read twice by its title, and referred to the Committee on Public Lands.

He also introduced a bill (S. 5538) relating to the education and care of the Indians and Eskimos of Alaska; which was read twice by its title, and referred to the Committee on Territories.

Mr. NELSON introduced a bill (S. 5539) granting an increase of pension to Hermann Muehlberg; which was read twice by its title, and referred to the Committee on Pensions.

Mr. HALE introduced a bill (S. 5540) for the relief of Albert C. Currier; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. PENROSE introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 5541) granting a pension to Ernest W. Hilliard (with an accompanying paper);

A bill (S. 5542) granting an increase of pension to Elizabeth S. Reess;

A bill (S. 5543) granting an increase of pension to William A. Humrich (with accompanying papers);

A bill (S. 5544) granting an increase of pension to John N. Bovee;

A bill (S. 5545) granting an increase of pension to Margaret Brennon;

A bill (S. 5546) granting an increase of pension to James A. McVicker;

A bill (S. 5547) granting an increase of pension to Hillary Beyer (with an accompanying paper);

A bill (S. 5548) granting an increase of pension to Anthony McNally;

A bill (S. 5549) granting an increase of pension to James H. Wilson; and

A bill (S. 5550) granting a pension to Emma C. Preston (with an accompanying paper).

Mr. PENROSE introduced a bill (S. 5551) for the relief of Paul G. Morgan; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Naval Affairs.

Mr. PETTUS introduced a bill (S. 5552) for the relief of John Stewart; which was read twice by its title, and referred to the Committee on Claims.

Mr. BACON introduced a bill (S. 5553) granting a pension to Josephine Virginia Sparks; which was read twice by its title, and referred to the Committee on Pensions.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. HEYBURN submitted an amendment proposing to appropriate $2,000 for the salary of a chief clerk of the Bureau of Manufactures, Department of Commerce and Labor, and also to provide for additional clerks for that Bureau, intended to be proposed by him to the legislative, executive, and judicial appropriation bill; which was referred to the Committee on Manufactures, and ordered to be printed.

Mr. FLINT submitted an amendment proposing to fix the compensation of the United States district attorney for the southern district of California at $4,500 per annum, intended to be proposed by him to the sundry civil appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

He also submitted an amendment proposing to fix the compensation of the United States marshal for the southern district of California at $4,000 per annum, intended to be proposed by him to the sundry civil appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. GALLINGER submitted an amendment proposing to appropriate $10,500 for grading Upton street east of Connecticut avenue, District of Columbia, intended to be proposed by him to the District of Columbia appropriation bill; which was referred to the Committee on the District of Columbia, and ordered to be printed.

He also submitted an amendment proposing to appropriate $5,000 for the erection of tablets to mark historical places in the District of Columbia, intended to be proposed by him to the District of Columbia appropriation bill; which was referred to the Committee on the District of Columbia, and ordered to be printed.

Mr. KITTREDGE submitted an amendment authorizing the issuance of fee simple patents to Charles Henry Bonnin and Mercy Conger, Yankton Indian allottees, for lands heretofore alloted to them, intended to be proposed by him to the Indian appropriation bill; which was referred to the Committee on Indian Affairs, and ordered to be printed.

Mr. NELSON submitted an amendment providing for the establishment of a roll in the United States Army to be known as the "Volunteer retired list," intended to be proposed by him to the Army appropriation bill; which was referred to the Committee on Military Affairs, and ordered to be printed.

Mr. CARTER submitted an amendment proposing to fix the compensation of the attorney in charge of pardons, Department of Justice, at $3,000 per annum, intended to be proposed by him to the legislative appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

REGULATION OF IMMIGRATION.

Mr. HEYBURN submitted an amendment intended to be proposed by him to the bill (S. 4403) to amend an act entitled "An act to regulate the immigration of aliens in the United States," approved March 3, 1903; which was ordered to lie on the table, and be printed.

REGULATION OF RAILROAD RATES.

Mr. McCUMBER submitted five amendments intended to be proposed by him to the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission; which were ordered to lie on the table, and be printed.

ASSISTANT CLERK TO COMMITTEE ON INTEROCEANIC CANALS.

Mr. MORGAN submitted the following resolution, which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the salary of the assistant clerk to the Committee on Interoceanic Canals, authorized by resolution of February 26, 1903, at $1,400 per annum, be, and it is hereby, increased to $2,000 per annum, to take effect April 1, 1906.

FOREST RESERVES.

Mr. HEYBURN. I ask unanimous consent for the present consideration of the resolution which I introduced yesterday and then went over under the rule.

Mr. FRYE. It is entitled to consideration.

The VICE-PRESIDENT. The Chair lays before the Senate a resolution which has come over from yesterday.

The Secretary read the resolution submitted yesterday by Mr. HEYBURN, as follows:

Resolved, That the Secretary of Agriculture be, and he is hereby, directed to furnish the Senate with information in detail as to the amount of money that has been collected under the provisions of section 5 of the act entitled "An act providing for the transfer of forest reserves from the Department of the Interior to the Department of Agriculture," approved February 1, 1905, from the sale of timber, from grazing privileges, rights of way, and from canals, railroads, telephone lines, etc., and for permits to conduct hotels, stores, and other lines of business upon forest reserves during the last fiscal year, and an approximate estimate of the amount that will probably be collected during the present fiscal year; also for what purposes the money already collected is being expended.

The VICE-PRESIDENT. The question is on agreeing to the resolution just read.

Mr. HEYBURN. Mr. President, just a word of explanation may be sufficient. The resolution only calls for such information as it will be desirable and necessary to have in the consideration of legislation coming before the Senate.

I understand informally that about $700,000 has been collected under section 5 of the act referred to in the resolution. This is a fund that is authorized to be expended without any direct appropriation authorizing its expenditure. Therefore, it is one about which the Senate will naturally want to have some information.

Mr. GALLINGER. It relates to the Forestry Service?

Mr. HEYBURN. It relates to moneys collected under section 5 of the act transferring the Forestry Service from one Department to the other. It is rather a large fund to be expended without some detailed information as to what is being done with it and from what sources it comes.

Mr. HALE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Idaho yield to the Senator from Maine?

Mr. HEYBURN. Certainly.

Mr. HALE. I am very glad to get this information. From listening to the resolution one could not very well determine what it did cover—not that it was not drawn carefully—and I think an explanation was needed. Does the Senator know whether any of this large fund that is in the control of the Department without being specifically appropriated for has been spent?

Mr. HEYBURN. It is the object of the resolution in part to know whether it has been expended, and if so, for what purposes, as well as to know from what source it is being collected, giving us an idea as to what proportion of the fund is coming from this or that source, and also as to how much of it is being expended for one branch of the Department or for another. In other words, it is information that we will need here.

Mr. HALE. I agree with the Senator. I think we ought to have it.

The VICE-PRESIDENT. The question is on agreeing to the resolution.

The resolution was agreed to.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. B. F. BARNES, one of his secretaries, announced that the President had approved and signed the following acts:

On March 30:

S. 4198. An act granting permission to Prof. Simon Newcomb, United States Navy, retired, to accept the decoration of the order "Pour le Mérite, für Wissenschaften und Kunste."

On March 31:

S. 4628. An act providing that the State of Wyoming be permitted to relinquish to the United States certain lands heretofore selected and to select other lands from the public domain in lieu thereof; and

S. 4833. An act to amend an act entitled "An act permitting the Washington Market Company to lay a conduit and pipes across Seventh street west," approved February 23, 1905.

On April 2:

S. 5204. An act to authorize the construction of a bridge across the Yellowstone River in Montana;

S. 5211. An act to authorize the construction of a bridge across the Snake River at or near Lewiston, Idaho; and

S. 5184. An act to authorize the construction of a bridge across the Missouri River between Walworth and Dewey counties, in the State of South Dakota.

HOUSE BILLS REFERRED.

H. R. 12323. An act to extend the public-land laws of the United States to the lands comprised within the limits of the abandoned Fort Crittenden Military Reservation, in the State of Utah, was read twice by its title, and referred to the Committee on Public Lands.

H. R. 16014. An act to amend an act entitled "An act to create the southern division of the southern district of Iowa for judicial purposes, and to fix the time and place for holding court therein," approved June 1, 1900, and all acts amendatory thereof, was read twice by its title, and referred to the Committee on the Judiciary.

H. R. 17507. An act to open for settlement 505,000 acres of land in the Kiowa, Comanche, and Apache Indian reservations, in Oklahoma Territory, was read twice by its title, and referred to the Committee on Indian Affairs.

REGULATION OF RAILROAD RATES.

Mr. TILLMAN. I ask that the unfinished business be laid before the Senate and proceeded with.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission.

Mr. NEWLANDS. Mr. President, in my remarks of yesterday I briefly answered the inquiries made by the Senator from Idaho [Mr. HEYBURN] and the Senator from Georgia [Mr. BACON], both of whom had some misapprehension regarding the purpose of my proposed amendment providing for the national incorporation of railways.

The Senator from Idaho seemed to be under the impression that it was proposed to exempt these national corporations altogether from State taxation. I wish to say that that was not my purposes. My purpose was simply to provide a method of taxation which would be uniform throughout all the States in the Union and would result in a tax which would be mathematically exact, thus relieving the railroads of the necessity of interfering in politics, as they do in every State in the Union, upon the subject of taxation, and also making the tax a fixed and certain factor in the calculation of rates.

MERGER—HOW ACCOMPLISHED.

Then, as to the inquiry of the Senator from Georgia, who asked how I proposed to have the merging of State corporations with national corporations accomplished, I have to say that I propose that merger shall be accomplished in the same way that the merger of the corporations organized in different States is now accomplished.

As it is, Mr. President, we find that the 2,000 or more railroads of this country are already practically merged into ten or twelve systems, and that each one of these systems is incorporated under the laws of a particular State. Now, how is it that this merger has already been accomplished? It has been accomplished under laws passed in the different States permitting such merger. These laws vary in their character and in their expression, but they all have a common purpose, which is to permit the consolidation of existing lines, the con-

solidation of State roads with roads organized under the laws of other States. Some of these laws simply permit consolidation with corporations created under State laws. Others also permit consolidation with corporations created under United States laws.

As to the bonds, the process is easy. Each railway system would organize a national corporation under the national law and would transfer all its property to such corporation subject to the existing bonded indebtedness. As the existing bonds matured they would be retired by an issue of the bonds of the new company, and thus in the end the bonds of the new national corporation would be substituted for the bonds of the constituent State corporations. As to the stock, the process would be no more difficult than that frequently gone through with in existing consolidations of State corporations. The stock of the old companies would be surrendered and the stock of the new company substituted. Of course, the stock issue of the new company must be subject to the approval of some tribunal, such as the Interstate Commerce Commission, in order to avoid overcapitalization. But I take it that a fair method of valuation of the stock of the existing road could be secured. Individually I should favor a very liberal adjustment. I should recognize the market value of existing stocks, whether watered or not. The watering of stock in the past has had many causes, among them the difficulty of promoting such enterprises without giving investors some speculative chance. The railroads have been obliged to work out their own salvation, unaided by wise laws, and while possibly some of these exaggerated stock issues have been the creation simply of stock speculators many of them have been necessitated by financial exigencies. At all events, the stocks are now in the hands of the investing public and have largely gone out of the hands of those who originally issued them. If we can only guard the stock and bond issues of the future and prevent overcapitalization—all of which is provided for by my proposition—we can easily afford to validate much of the overcapitalization of the past.

The amount of stock which should be issued in new national corporations to the stockholders of the old constituent companies could be determined by the Interstate Commerce Commission.

The merger is accomplished by various methods. The stock is often interchanged. The company which desires to accomplish the merger of a railway in another State provides for the issue of stock, which is issued to the stockholders of the merged railroad in exchange for their existing stock.

Merger can be accomplished through a national corporation as well as through a foreign State corporation. The method is perfectly simple. It is a method which has been worked out in years of financiering. If the railroads wish to come under this national system, there will be no difficulty about their securing the consent of the States in which they at present operate, and there will be no difficulty about their financing the operation.

The advantage of a national incorporation act is that instead of allowing the capitalization to be, as at present, unrestricted, subject only to the judgment or caprice of those financially interested, the Government of the United States, through its Interstate Commerce Commission, will sit in judgment upon the capitalization and determine it justly and fairly.

The Senator from Georgia seems to assume that the States will be unwilling to give their consent. Do they not at present give their consent to unrestrained and unrestricted consolidation? Have not the States in the South, ten or twelve in number, permitted the merger of their two or three or four or five hundred railroads, as they existed originally, into two great corporations, each of them foreign, one organized under the laws of Virginia and the other organized under the laws of Connecticut? Has there been any difficulty there in obtaining consent? If you go to the statutes of these States, you will find consent expressly given; and in all of the laws of Virginia you will find consent given not only to merger with corporations organized under the laws of the State, but consent given to merger with corporations organized under the laws of the United States.

Now, are the people of the United States in earnest in demanding that capitalization shall be restricted? Does the Senator from Georgia doubt that? Does he doubt that the people of the United States insist that there should be some restriction of the capitalization of these great systems, or does he think that the people are content to allow these great promoters to juggle with the matter, unrestrained and uncontrolled?

I take it the people of the United States are in earnest upon this question; I take it that the people of the Southern States are in earnest upon this question; and if a method is pointed out through national incorporation by which capitalization can be restrained (and under the existing system of State corporations overcapitalization is not restrained) I submit that as a choice between two foreign corporations, one the corporation organized under the laws of a sister State in whose legislation they have no share, and the other organized under the laws of the United States in whose legislation they all share, they will seek the shelter of the latter.

TAXATION BY STATES.

The Senator also objects upon the ground that this system involves the surrender of the power of taxation by the States. Mr. President, it is not essential to this plan of national incorporation that we should include in it a scheme of taxation of railroads. It is not at all essential. It is desirable, but it may be left out if it is the judgment of the Senate and the House that it should be.

I point out its desirability simply because of the great powers of discretion now given to local assessing and taxing bodies, powers of discretion which involve the assessment of these properties at from $10,000 a mile—the mere cost of their rails and the right of way—up to $75,000 and $100,000 a mile, including their franchises and valuations based upon the market value of their stock and bonds.

The scheme of taxation also involves the possibility of double taxation, for the bonds and stocks in the hands of individual holders may also under existing conditions be assessed and taxed.

It is this very uncertainty that keeps these railroads in politics. They are obliged to be in politics, because they have a property value of $10,000,000,000 subject to the discretion of these various taxing bodies, subject to the passion and the caprice of different localities, and subject to the legislation of reformers and cranks and blackmailers. Can we expect them under such conditions to keep out of politics? I want to keep them out of politics by providing a fair and uniform system of taxation that will be absolutely certain in its mathematical calculation, that will leave nothing to the discretion of the taxing officers.

When we do that we accomplish two purposes. We keep the railroads out of politics on the subject of taxation, and we also secure an additional factor of certainty in the determination of rates, which involves the ascertainment of the gross receipts, the operating expenses, and the taxes, and a fair return upon capital. The taxes, therefore, are a factor in the determination. We now have varying taxes, which may be this year one-third of what they will be next year, as in the case of Michigan, for recently by a new system of taxation the taxes of the railroads in that State have been trebled in amount. So all over the United States we may have this varying taxation, which tends to uncertainty in the determination of rates.

Mr. President, I have already stated that it is not necessary to put in this bill a scheme of taxation, for the main purpose of national incorporation would be to control capitalization and interest return as factors in rate fixing, but it is desirable; and I believe on an appeal to the common sense of the American people upon this proposition Congress can declare that these railroads, incorporated under a national incorporation act are national instrumentalities in the exercise of the great national powers of the common defense, of the establishment of post-offices and post-roads, and of the regulation of interstate commerce, and when it declares them to be instrumentalities of the National Government it can, if it chooses, absolutely exempt them from taxation. I do not propose it shall do that, but if it can do the greater thing it can do the less. It can then prescribe the method of taxation and the rule of taxation by the various States.

Under the method which I suggest, a tax of a certain percentage upon the gross receipts of national railroads, to be levied by the States according to mileage, we have a tax that may be mathematically fixed, that will be just to the railroads, that will be just to the States, and will retain for them the revenues which they now have and possibly secure them greater revenues than they now have, and at the same time secure a certain factor in the regulation of rates which will be of incalculable benefit both to the State boards and to the national board.

RATE MAKING A GUESS.

At present rate fixing is a guess. Ask any member of the Interstate Commerce Commission that question and he will say it is a guess. It is true that the Supreme Court has endeavored to reduce it to something of a science by saying that the Commission must have regard to value, to cost of construction, to the original cost, to the market value of the stocks and bonds, and to a fair return upon the valuation after considering all these factors. But these factors should be as certain as possible.

We must have a valuation. First, I prefer to see a valuation represented in the stocks and bonds fairly and not in an exaggerated form, and so I urge national incorporation as a means to that end.

But at all events it seems to me that the Congress of the United States in parting with its legislative discretion on this subject and turning over the regulation of rates to the Interstate Commerce Commission is bound to fix a rule by which that Commission shall proceed; it is bound to provide for valuation, and it is bound to provide for a fixed return in the shape of interest upon that valuation. Then it will leave to the Commission only the mathematical process of working out the calculation and distributing the burdens of transportation within the rule established by Congress upon all the various industries and commerce of the country.

Mr. HEYBURN. I should like to ask the Senator a question.

The VICE-PRESIDENT. Does the Senator from Nevada yield to the Senator from Idaho?

Mr. NEWLANDS. Certainly.

Mr. HEYBURN. Do I understand the Senator to say that we are bound to fix a rate of return upon the valuation in fixing rates?

Mr. NEWLANDS. Yes; we ought as a matter of duty to do so. What I meant to say was that we are now turning over to the Interstate Commerce Commission the power to fix just and reasonable rates; that that is all the power that Congress has. It could not give to the Commission the power to fix unjust and unreasonable rates. Under the limitations of the Constitution all that Congress can do is to fix just and reasonable rates, and when we turn over that power to the Commission we turn over all the power we have.

Mr. HEYBURN. Right there I should like to ask the Senator a question.

Mr. NEWLANDS. If the Senator will permit me further, I think in order to fix the constitutionality of this legislation beyond a doubt we ought in this very act to fix the rule, the standard, by which this Commission should act.

Mr. HEYBURN. The measure?

Mr. NEWLANDS. The measure.

Mr. HEYBURN. The measure of what constitutes a just and fair return?

Mr. NEWLANDS. Yes.

Mr. HEYBURN. Would the Senator think we could go so far as to say it should not be more than a certain per cent upon the value?

Mr. NEWLANDS. I do. Not more and not less than a certain per cent.

Mr. HEYBURN. Then I will renew the question I submitted the other day. Would that not be for the Government to guarantee a given income upon the investment of any transportation company?

Mr. NEWLANDS. Not at all.

Mr. HEYBURN. If we say that they shall be entitled to earn 6 per cent, does that not give them the right to charge such tolls as will result in producing 6 per cent on their investment?

Mr. NEWLANDS. Of course it does and it ought, if that is the return fixed by Congress as a reasonable return.

Mr. HEYBURN. Would it not result, then, in this, that the Government, by legislation as directly as the Government can act, guarantees a given fixed rate of income upon the investment represented by the stock and bonds of every transportation company in the land? Does it not amount to that?

Mr. NEWLANDS. Not a legal guaranty, Mr. President. It simply involves nonreduction by the Commission of the rates of a corporation as long as they produce only the return fixed by law.

Mr. HEYBURN. If we say that a reasonable rate shall be fixed and that 6 per cent shall constitute a reasonable rate of return to the company, why is not that true? And if it is true, do we want to do that?

Mr. NEWLANDS. I will say, in reply to that, that the fixing of a limit or percentage which these railroads shall receive upon a valuation fairly ascertained is not a guaranty of that percentage, and it never has been so regarded in the legislation of this country.

Mr. HEYBURN. Is that an authorization? I should like to substitute the word "authorization" to the company to fix its tolls so that they would insure a return of that percentage.

Mr. FULTON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Nevada yield to the Senator from Oregon?

Mr. NEWLANDS. Certainly.

Mr. FULTON. I should like to ask the Senator from Idaho [Mr. HEYBURN], a question, with the permission of the Senator from Nevada [Mr. NEWLANDS].

Mr. NEWLANDS. Certainly.

Mr. FULTON. Suppose Congress should enact a law providing that no corporation created pursuant to an act of Congress, incorporated by virtue of a national incorporation act or law of Congress, should be permitted to realize over 4 or 5 or 6 per cent, would that be a guaranty that they should realize that amount?

Mr. HEYBURN. Not unless it was coupled with the other suggestion that I understood the Senator from Nevada [Mr. NEWLANDS] to make, that we were authorized to say what should constitute a fair and reasonable return, and that having determined that the corporation was entitled to earn it, of course it naturally follows that it would be entitled to adjust its tariff rates in such a way as to produce a result of that kind, taking the two propositions together.

Mr. NEWLANDS. In reference to that I would say, of course a corporation has a right to adjust its rates so as to produce the return fixed by Congress, and the Interstate Commerce Commission, in exercising its supervisory power over rates, would be compelled to have in view the return fixed by Congress; and it is only fair that the corporation should have that return, if it is possible for the corporation to get it out of its business.

Mr. HEYBURN. If I do not annoy the Senator by an interruption, I should like to inquire if there is any other department of the business world where the Government undertakes to insure to the investor any return whatever? Why not as well the manufacturer demand the same rights as the transportation company? What difference is there in the relation which they bear to the economic system of our Government?

Mr. NEWLANDS. The shortest answer to that is that the Government does not insure. The Senator might as well insist when we pass usury laws in the States of the Union providing that the lawful rate of interest shall not exceed, say, 6 per cent, that we guarantee every investor that he will receive 6 per cent upon his money. This limitation of return is no new thing in legislation. The United States Government has done it in previous legislation. When Congress incorporated the Union Pacific Railroad or the Texas Pacific—I forget which—it provided that the rates should not yield a return of more than 10 per cent upon the investment.

Ten per cent was then the going rate of interest, just as 4 or 5 per cent is the going rate of interest now. The Government gave that corporation the power to fix rates that would yield it 10 per cent, and provided that the regulating power of Congress should be only applied in case the return exceeded 10 per cent. That is a case in the history of our legislation where the return was absolutely fixed by the act of Congress.

In the State of Massachusetts I understand the returns to all the electric railroad companies are fixed by law. No corporation of that character there can declare any dividend of over 6 per cent. All profits over that amount are divided, one half going to the State and the other half going to the corporation.

The result is that none of these companies ever return more than 6 per cent. They keep down their rates. They expend their income in new investments, in extensions of their lines, and in the betterment of their roads.

I repeat, this is not at all a new thing in legislation. I call the attention of Senators to one thing, which is that the Supreme Court has said that fixing rates is not to be a matter of guesswork; that the railroads are entitled to a fair return upon a fair valuation. If that is so, it seems to me that it is the duty of Congress to provide for the valuation. It is an essential. The railway commissioners of all the States have been in session recently in Washington, and you will find in the morning's paper that they have adopted a resolution calling upon Congress to provide for the valuation of railroads, their appurtenances, and their equipment in every State of the Union. That is to be done not by the local commissions, but by the national commission.

These men, experienced in the business of regulating railroads, know how adrift they are under present conditions; they know that they can not regard simply the capitalization of these roads. In some cases such roads are undercapitalized, and in many other cases they are overcapitalized. Nor can they always take into consideration the market value of the securities in determining the value of their property, because these securities are up and down. I read some quotations yesterday to show that the stock of certain roads had increased in value from 300 to 600 per cent in ten years. So this association of State railway commissioners has asked Congress to provide for the valuation of these properties, and it seems to me their recommendation is entitled to some consideration here.

What valuation would a national corporation act provide for?

It would provide for an initial valuation at the very time when the company was organized. When the company was organized and presented its scheme of consolidation to the Interstate Commerce Commission, it then would have to state to that Commission the amount of bonds and stocks that were to be issued. The Commission then would make an inquiry as to the value of the property, in order to determine upon the amount of its capitalization, either approving the amount submitted or reducing it if the circumstances warranted it, and that corporation would then be allowed to issue only the amount of stocks and bonds so approved. From that time on we should have a permanent valuation of the property of that corporation. To that may be added from year to year the amount expended in improvements and betterments, less the depreciation that takes place. Thus throughout the years we should have a constant valuation of these properties accomplished by the aid of the legislation which I suggest, and the value would be represented in the capital, in the stocks, and bonds.

This system would make these railroad securities the best securities in the country, and railway bonds could be negotiated at 3 per cent under such a system. As to the stocks, instead of being variable, as they are now, they would be fixed and certain in value and go into the hands of the investing public, instead of being controlled and manipulated, as they are now, by the stock speculators.

Mr. HEYBURN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Nevada yield to the Senator from Idaho?

Mr. NEWLANDS. Certainly.

Mr. HEYBURN. If the Senator will permit me, before leaving that subject I will ask may not this investigation and sifting down of the values of corporate property for the purpose of arriving at a basis upon which to estimate what would constitute a fair return be as well accomplished without the national incorporation feature suggested by the Senator?

Mr. NEWLANDS. As I suggested in my remarks yesterday, if we do not conclude to provide for national incorporation in this bill we should at least provide for a valuation of these railroads engaged in interstate commerce.

Mr. HEYBURN. I will say to the Senator that I am in hearty accord with him in regard to that matter. I have endeavored to cover it by a bill already introduced and before the committee, providing for just as stringent an investigation as is suggested by the Senator, to be had not through the means of national incorporation, but allowing the corporations to exist under the statutes as we find them, and doing it through a board of interstate-commerce commissioners, and arriving at this information annually, for the purpose of having a correct basis of value upon which to estimate what would constitute a fair return.

I do not believe that the Senator will meet with any opposition in this body or elsewhere if he confine his amendment to that proposition by providing a method of determining real values, because it is essential that we should have a method of determining them. It is obvious, I think, to every Senator that before you can determine what would constitute a fair and just return you must know upon what that return is to be based.

OPPORTUNITY FOR AMENDMENT.

Mr. NEWLANDS. I am very glad to know that the Senator from Idaho has introduced such a bill; but let me make a suggestion to the Senator from Idaho, and that is that he put his bill in the shape of an amendment to this bill, for experience shows that legislation upon the subject of interstate commerce is very rare and infrequent. We have now reached a crucial point in that legislation: we have a bill before us to which any amendment in the line of reform can be attached, and I suggest to the Senator that he frame an amendment to this bill, for otherwise I should very much fear that the valuation which he calls for will be indefinitely postponed.

Mr. HEYBURN. Mr. President, I would say, in reply to that suggestion of the Senator, that it has not occurred to me that we have reached a point in the consideration of this bill where it is necessary to formulate every suggestion that may occur to the minds of Senators in the shape of amendments. I think we are from day to day gathering new light upon the scope and effect of this legislation. I have in my desk, with a view to considering the propriety of introducing it as an amendment, a provision along the line suggested in the remarks that I have made; but I do not feel that the time is ripe yet or that the necessity has arisen for introducing it. I am not at all apprehensive that a vote will be reached upon this bill with such unexpected haste as to make it dangerous to defer the consideration of these measures until we are quite sure that our minds are clear as to exactly what we want to do.

Mr. NEWLANDS. If the Senator will review the history of legislation upon the subject of interstate commerce, he will find that Congress has not very often awakened from a condition of apathy and inertia and indifference upon the subject. Interstate commerce was given over without let or hindrance to the railroads of the country until 1887. Then it was only after a very severe struggle, in which the Senator from Illinois [Mr. CULLOM] took so prominent a part, that the people were successful in securing the passage of legislation that brought them only some degree of regulation and control.

Mr. HEYBURN. Yes; but I will suggest, if I may, that it took eight years to reach any conclusion on the question of interstate commerce.

I remember—that is, if my memory serves me correctly, and I think it does—hearing a Member of the House of Representatives from Texas at that time, Mr. Reagan, introduce the original interstate commerce bill in that body. I listened to its discussion through several winters from the gallery, looking down upon it, and I followed it through the public press through all the years while it dragged along; and it took, I believe, about eight or nine years to arrive at any conclusion whatever on the subject. Then, after an interval of about that many more years, Congress attempted to resume the consideration of it. So, I repeat that I have no fear of such a hasty determination of the conclusion of this question in this body as to make it dangerous to postpone the introduction of amendments.

Mr. NEWLANDS. Of course, if the Senator thinks that ten or twelve years is a mere trifle in the consideration of the question of this reform, my appeal to him will have no weight; but, I repeat, if the Senator will review the history of legislation upon this subject, he will find that it has been very difficult to wake Congress from indifference and apathy. It was not until 1887, after eight years of agitation, that the meager bill which was passed upon this subject found a place in the statute book. Years and years were involved in the discussion of rebates and preferences, but it was not until the great trunk lines of the country, headed by the Pennsylvania Railroad Company three years ago, came to the conclusion that it would be an advisable thing to have legislation upon the subject that legislation was enacted.

Since then Congress has rested upon its oars, and Congress will probably rest for five or ten years more upon its oars after this bill is enacted. I warn every friend of reform upon this question, every man who views with apprehension the growing power of these railroads, who views with apprehension their increasing capitalization, who views with apprehension their activity in politics—I warn them that if they wish legislation looking to reform upon this subject put upon the statute book now is the time and this bill is the place.

POLICE POWERS OF THE STATES.

Mr. President, I wish to state that my suggestion involves no interference with the police powers of the various States. This idea of national incorporation fully comprehends the fact that there are two sovereigns that are dealing with the question of commerce—the great national sovereign and the lesser State sovereign, each supreme within the limits of its jurisdiction; the National Government, absolutely supreme upon every inch of American soil, regardless of State lines, within the powers granted to it by the Constitution, and the States, absolutely supreme in all the powers relating to sovereignty outside of the powers granted to the nation. Here we have machines called "railroad corporations" running railroads on American soil through American States, used for State commerce and for national commerce—State commerce under the control of the States, and national commerce under the control of the United States.

It is simply a question of judgment between us as to whether we shall leave such machines to be created by the State sovereignty under its powers as to State commerce or whether we shall permit them to be created by the national sovereignty under its powers as to interstate commerce. These railroads have grown from mere local systems into great national systems. I believe it will be a proper thing for the great national sovereignty to create the charters for these railroads. I do not propose to force them into a national incorporation. I hope it will be so just and so fair, and relieve them of so many complications, political and otherwise, that they will gladly seek the shelter of national incorporation. At the same time, I do not propose to interfere with the police or taxing powers of the States, except so far as is necessary to establish a uniform rule of taxation, which will operate to the advantage of every State in the Union.

Mr. SPOONER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Nevada yield to the Senator from Wisconsin?

Mr. NEWLANDS. Certainly.

Mr. SPOONER. If the Senator's theory of Federal incorporation were adopted, and every railroad corporation in the United States engaged in interstate commerce and also in State commerce were a Federal corporation, does the Senator contend that that would oust the regulatory power of the State?

Mr. NEWLANDS. Not at all.

Mr. SPOONER. Then what would be gained? Although railroads are State corporations, so far as interstate commerce is concerned Congress now has the power to control them. The States can not control them. The States control intrastate commerce. How would that change the situation essentially?

Mr. NEWLANDS. I will say that when I said "not at all" I meant that the bill which I have submitted does not affect the regulatory power of the States over intrastate commerce. As to whether a law could be so framed as to affect that, I will not discuss at present. I have been inclined to think that if the National Government should create a national corporation for interstate commerce it might possibly be regarded that any attempt by the State to regulate the State commerce carried upon that road would be regarded as burthening a national instrumentality and as such involving possibly the power to destroy it. The courts might possibly uphold a provision in a national law which forbade the State to regulate State commerce on a national railroad.

Mr. SPOONER. The question, Mr. President, which the Senator makes as to the power to destroy would obviously arise only as to the exercise by the State of its power of taxation, but——

Mr. NEWLANDS. The decisions thus far relate entirely to taxation.

Mr. SPOONER. Yes; to taxation; but it is undeniable that to-day Congress has the power to create Federal corporations for conducting interstate commerce. In the Senator's idea, which is a very large and far-reaching one, there is much of merit; but my question really goes to this, whether, without an amendment of the Constitution, what the Senator has in mind could be effectively, in any large degree, carried into operation. It is utterly impossible, I take it, under the existing Constitution, for Congress to create a railroad corporation to engage in interstate commerce, which it may do, which could oust the States of their regulatory power of purely intrastate commerce. So that we would still have what the Senator deplores, Federal regulation of interstate commerce and the State regulation of purely domestic or State commerce. That would be far away from what the Senator wants to accomplish.

Then, as to the power of taxation, is the Senator certain at all that the States in taxing private property—for a railroad chartered by the Federal Government would be private property within the boundaries of a State—can be made to enforce a rule of taxation which is created by Congress? The States exercise their taxing power under their own constitutions. Is it competent for Congress, under the existing Constitution, to take away from a State in any degree the power to tax property within its own limits, its own boundaries?

The Senator's plan is one entitled to great respect and consideration. There are large views in support of it, but what has troubled me about it is the constitutional power to really efficiently carry it into effect by any bill which we can enact.

Mr. NEWLANDS. Mr. President, I will endeavor to answer both propositions to which the Senator has referred, namely——

Mr. SPOONER. They are questions, not propositions.

Mr. NEWLANDS. As to whether we can legislate in such a way as to deprive the State of its regulatory power over intrastate commerce, and, second, as to whether we can legislate in any way as to affect the State's power of taxation over railroad property within the State.

As to the first proposition, I will say that there is no effort made in the measure which I propose to affect the power of the State over purely State commerce. That would remain; but I call the Senator's attention to the fact that, whilst it is, of course, inconvenient to have forty-five State commissions acting at the same time with one national commission upon the subject of these rates, and whilst it would be very much better, in my judgment, to have one national commission that would regulate the rates of both State and interstate commerce, when that commerce is conducted by the same road, yet as to rates the ultimate control is in the United States Supreme Court. If the rates are fixed by a State commission unfairly and unjustly and in such a way as to deprive the corporation of a fair revenue, the corporation can take that case into the United States courts and to the Supreme Court and they will be adjudged invalid. So that, in the end, the power of the United States is exerted in one form or the other, either through the legislature or the courts upon commerce, both State and national.

As to the power of taxation, I admit that it is an open question, not yet fully determined by the courts; but I submit that all the decisions indicate clearly that if the United States incorporates a railroad as a national instrumentality and declares it exempt from State taxation, the court will enforce the exemption. There is a case in which the question of the exemption from State taxation of a railroad organized under a national charter has been considered, and that is the case of Railroad Company *v.* Peniston (18 Wall., 5), where the Union Pacific Company, a national corporation, operating under a national charter, but without any exemption asserted in the statute from its liability to State taxation, claimed that because it was a national corporation and a national instrumentality its property was by implication exempt. There were eight judges who sat in that case. Three of the judges declared that without any express exemption in the statute the entire property of the railroad company as a national instrumentality was exempt from State taxation. As to the other five judges, four declared that the exemption would apply only to the powers and operations of the national instrumentality and not to the property used by the agent in charge of it. But the three judges who held the other way declared that the railroad itself was the instrumentality for carrying out the power, and that therefore it was exempt. The fifth judge was between the two. He held that such property could be exempted by Congress from taxation, but that it was clearly the intention of the statute not to exempt it. So he held in that case that the property was subject to taxation. If the statute in that case had expressly declared that the railroad property should be exempt from State taxation, the court would have stood four to four upon that proposition. In the decisions since that time the Supreme Court has expressly reserved that question as an open question for the future.

Mr. TELLER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Nevada yield to the Senator from Colorado?

Mr. NEWLANDS. Certainly.

Mr. TELLER. I would ask the Senator if he thinks there is no distinction between that case and a case where the Government chartered a road running through a State or attempted to do so? The line to which the Senator has referred, as he must know, was chartered to run through the Territories of the United States and not through the States. It commenced in a Territory, ended in a Territory, and ran only through Territories.

Mr. NEWLANDS. That is true, Mr. President. There was only one of the Pacific railroads, I believe, which ran from a point in one State to a point in another, and that was the Texas Pacific Railroad. But the court does not take that into consideration at all, as the Senator will see.

Mr. SPOONER. The Senator is mistaken about that. The Northern Pacific is another.

Mr. NEWLANDS. I was not aware of that. I thought it was entirely constructed through Territories.

Mr. SPOONER. No; not at all.

Mr. TELLER. I want to call the attention of the Senator——

Mr. NEWLANDS. I will read the language——

Mr. TELLER. I want to call the attention of the Senator to the fact that in the litigation of which he speaks—the Union Pacific litigation—the parties claimed that in the act the road was exempted from taxation. It was in the power of Congress to have exempted that property from taxation, if it saw fit. Why? Because it was to run through a territory absolutely under the control of the General Government. While the power to exempt it in a Territory exists, it might not exist, and I do not think it does exist, in a State.

Mr. NEWLANDS. The Senator is mistaken in his assumption that the counsel claimed in that case that the statute itself exempted the property from taxation. It was admitted on both sides that it did not.

Mr. TELLER. No; I did not mean to say it exempted it in words, but in principle, because it was performing a duty for the General Government and had a charter from the General Government.

Mr. NEWLANDS. But the question as to its being a Territory was not considered, for it must be recollected that the Territories had given way to States, and they were complaining then of State taxation. I will read from the opinion of Judge Bradley, who wrote the dissenting opinion, and who states the case also for Mr. Justice Field:

> The Union Pacific Railroad Company, therefore, being a United States corporation, created for national objects and purposes, and deriving its existence, its powers, its duties, its liabilities, from the United States alone; being responsible to the United States, now as

formerly, for a whole congeries of duties and observances; being subjected to the forfeiture of its corporate franchises, powers, and property to the United States and not to any individual State; being charged with important duties connected with the very functions of the Government, every consideration adduced in the cases of McCulloch *v.* Maryland and Osborn *v.* The Bank would seem to require that it should be exempt not only from State taxation, but from State control and interference, except so far as relates to the preservation of the peace and the performance of its obligations and contracts. In reference to these and to the ordinary police regulations imposed for sanitary purposes and the preservation of good order, of course, it is amenable to State and local laws.

As an instrument of national commerce as well as Government operations, it has been regulated by Congress. Can it be further regulated by State legislation? Can the State alter its route, its gauge, its connections, its fares, its franchises, or any part of its charter? Can the State step in between it and the superior power or sovereignty to which it is responsible? Such an hypothesis, it seems to me, is inadmissible and repugnant to the necessary relations arising and existing in the case. Such an hypothesis would greatly derogate from and render almost useless and ineffective, that hitherto unexecuted power of Congress to regulate commerce by land among the several States. If it be declared in advance that no agency of such commerce, which Congress may hereafter establish, can be freed from local impositions, taxation, and tolls, the hopes of future free and unrestricted intercourse between all parts of this great country will be greatly discouraged and repressed.

Again:

But it is contended that the laying of a tax on the roadbed of the company is nothing more than laying a tax on ordinary real estate, which was conceded might be done in the case of the United States Bank, in reference to its banking house or other lands taken for claims due in the course of its business. This is a plausible suggestion, but, in my apprehension, not a sound one. In ascertaining what is essential in every case, respect must always be had to the subject-matter. The State of Maryland undertook to tax the circulation of the United States bank established in that State, etc.

Mr. Justice Bradley goes on to state the case with reference to the United States bank, and then continues:

But the primary object of a railroad company is commerce and transportation. In its case a railroad track is just as essential to its operations as the use of a currency or the issue or purchase of bills of exchange is to the operations of a bank. To tax the road is to tax the very instrumentality which Congress desired to establish, and to operate which it created the corporation.

Such is the opinion of three of the eight justices who sat in that case.

The opinion of four of the justices was delivered by Mr. Justice Strong, who, after referring to the object and purpose of the legislation creating the Union Pacific Railroad, said (p. 32):

Admitting, then, fully, as we do, that the company is an agent of the General Government, designed to be employed and actually employed in the legitimate service of the Government, both military and postal, does it necessarily follow that its property is exempt from State taxation?

Emphasizing the difference between the operations of an agent and the property thereof, Justice Strong said (p. 33):

It may therefore be considered as settled that no constitutional implications prohibit a State tax upon the property of an agent of the Government merely because it is the property of such an agent.

Then, after consideration of the various cases bearing upon the general question, Justice Strong summed up as follows (pp. 36–37):

It is, therefore, manifest that exemption of Federal agencies from State taxation is dependent not upon the nature of the agents, or upon the mode of their constitution, or upon the fact that they are agents, but upon the effect of the tax; that is, upon the question whether the tax does in truth deprive them of power to serve the Government as they were intended to serve it, or does hinder the efficient exercise of their power. A tax upon their property has no such necessary effect. It leaves them free to discharge the duties they have undertaken to perform. A tax upon their operations is a direct obstruction to the exercise of Federal powers.

Eight justices heard this case, and the opinion of the court upholding the validity of the tax was concurred in by four of them. A fifth, Judge Swayne, concurred in the judgment, but said:

I see no reason to doubt that it was the intention of Congress not to give the exemption claimed. The exercise of the power may be waived, but I hold that the road is a national instrumentality of such a character that Congress may interpose and protect it from State taxation whenever that body shall deem it proper to do so.

So that Judge Swayne would have decided against the majority of the court had there been exempting legislation. Two other justices flatly dissented, giving an opinion to the effect that such State taxation was invalid, even in the silence of Congress. And the eighth justice merely remarked: "I dissent from the opinion of the court."

All that can be claimed from this decision as to the power of Congress to exempt a corporation from taxation by affirmative legislation is that the court was evenly divided, and even this can not be fairly claimed, for the case of exempting legislation was not before the court, and the opinion of the four justices who upheld the tax does not contain a word which denies the power of Congress to exempt the property which it expressly declares to be its chosen instrumentality.

So out of eight justices four expressly declared that Congress could exempt the property of a national instrumentality in the hands of a national agent from State taxation, and the question therefore is an open one to be determined in the future.

Mr. TELLER. In that case the court did not hold what the Senator says it did. It simply held that in that particular case, where the company had been chartered by the general authority of the Government in a Territory, it was within the power of Congress. That is all it did hold. I am very familiar with that case.

Mr. NEWLANDS. Of course the decision was with reference to that particular case.

Mr. TELLER. I do not want to discuss it with the Senator, but I will say to him that the court was dealing with the particular case of the railroad which was brought before them, and they took that charter and were simply saying what Congress might have done, but what Congress did not do. That case is pretty well understood, and the Senator can find in it no support for his contention. Of course, if the Senator depends upon the law of the minority, he can find a good deal of law that is not recognized as the law. A man may sometimes think it is pretty good sense, but the law is what the majority holds.

Mr. NEWLANDS. Undoubtedly the law is what the majority holds, namely, that where a statute does not exempt property employed by a national corporation in the exercise of its powers, that property is not impliedly exempt from State taxation. But four of the judges expressly held that where the statute does exempt, the property would be exempt from State taxation.

Mr. TELLER. In that particular case.

Mr. NEWLANDS. And hence I submit I am justified in the statement that the question is an open one. I think the logic and the reasoning are entirely with the four judges who declared that the National Government, creating a corporate agent for the purpose of carrying out a national power, stamping the property of that agent as an instrumentality for the exercise of that power, can protect it from destruction by another sovereignty upon whose soil it has a right to operate. There can be no question of the power of a national corporation to enter any State without the consent of that State, and to build a railroad and to exercise the power of eminent domain and to take part in interstate commerce. The National Government itself can do it, and if the National Government can construct a railroad, would it be held for a moment that that railroad would be subject to State taxation?

The National Government, under the power to establish post-offices and post-roads, builds post-offices in the States. Do we have to ask the State to exempt them from taxation? No. Years ago it was thought necessary to obtain a special State statute exempting such buildings from State taxation. Now it is the universally recognized doctrine that the public buildings put up by the National Government in a State in the exercise of its governmental functions can not be taxed.

Mr. SPOONER. Will the Senator allow me to ask him a question?

Mr. NEWLANDS. Certainly.

Mr. SPOONER. Aside from the question of law, aside from the question whether Congress has power to exempt such property in the States, does the Senator think the States would ever for a moment submit that railroad property within their borders should not be subject in any degree to local taxation?

Mr. NEWLANDS. No; I do not think they would. It is impossible to get through such a bill, and I would not ask to have it passed. All that I wish to accomplish is to have a uniform rule of taxation that will make the taxes of railroads a certainty, so that they will keep out of politics upon this subject, and so that we will have a definite factor in the determination of rates.

Mr. SPOONER. Do not the railroads get into politics more on the question of regulating rates than on the question of taxation?

Mr. NEWLANDS. No; I think they are in politics upon both; and they have to be.

Mr. SPOONER. The Senator would leave them in politics as to the one?

Mr. NEWLANDS. Because I can not help it. But still as to that the Senator must recollect that they have the protection of the national courts, which are bound to see to it that no State regulation deprives the company of a fair return upon its property. The courts have modified very much the doctrine asserted in the case of Munn *v.* Illinois, where it was declared that the power to regulate was a legislative power; that it was no objection to the power to say that it would lead to legislative abuse; that the only remedy for legislative abuse was a resort to the polls. That was a poor remedy given to the corporations by that decision, for we know how ill any corporation would fare at the polls in seeking a redress of injuries. But we do know that since that time that doctrine has been

seriously modified, and the courts have now taken the property of these corporations within their protection and have given them ample protection. They do not simply protect them against confiscation, but they protect them in a fair and reasonable return upon their property and in a fair and just compensation for the services which they perform.

Mr. President, I have, at the risk of being tedious, gone quite fully into the principles which should, in my judgment, govern the regulation of rates. I believe that it is our duty to provide for a valuation of railroads engaged in interstate commerce and to fix the returns which the corporations are to receive on such valuation. If these two factors are established the whole system will tend automatically toward a reduction in rates as the business of the railroads increases.

AUTOMATIC ADJUSTMENT.

A system of national railway corporations strictly controlled as to capitalization, limited as to their returns to a certain percentage, with taxes mathematically certain, with a proper allowance for an insurance and pension fund, with proper provisions for conciliation of disputes between employees and the railroads, would result in an automatic adjustment that would do away gradually with excessive rates and all the abuses arising from preferences and discriminations as to individuals or localities. The tendency would be to equality and reasonableness of service. If we enter upon a system of proper capitalization of these roads, involving a fair and fixed return in the shape of dividends, the Interstate Commerce Commission will hardly ever have cause to act, and, automatically, the entire administration of these roads will tend toward impartiality in place of partiality, and reasonable rates instead of unreasonable rates, to the betterment of the roads instead of exhausting the roads with a view to paying dividends on watered capital.

NATIONAL OWNERSHIP.

The people will look for simplicity in whatever plan of relief is proposed, and unless we unify and simplify the control of transportation in a few thoroughly regulated great national corporations, whose finances and operations can be easily understood, and whose functions will be entirely taken out of politics, they will drift into national ownership as the easiest solution.

The argument in favor of national ownership is an attractive one. Outside of the United States three-fifths of the world's trackage is in national ownership, and not a single nation that has entered upon national ownership is inclined to withdraw from it. Japan, only recently coming out of the stress and strain of a great war, has passed an act for the purchase of all private railroads in Japan, at a cost of $250,000,000.

The plan of acquiring national ownership would not be difficult. It would not involve the entire readjustment of the present system. It would be easy to authorize the Interstate Commerce Commission to institute suit and condemn the shares of stock of all the railroads in the country engaged in interstate commerce, leaving the bonds outstanding as a lien upon the property. Thus the interests of the stockholders would be purchased by the nation and the Interstate Commerce Commission could step into the position of director of the various corporations, with their present organization of officials and employees, and could gradually work out a method of national administration.

The present gross revenue of all the railroads would be amply sufficient to pay all the fixed charges of the companies and the low rate of interest upon the Government bonds issued for the purchase of stock and produce a surplus which would make ample provision for betterments and extensions, and also provide a sinking fund which would extinguish the debt before many years.

Or, should the country determine to take hold simply of the new construction of the future, leaving the existing railroads in the hands of their present owners, the Government could easily build a railroad of 3,000 miles across the continent from the Atlantic to the Pacific, which would become the spinal column of a great governmental system.

Government ownership presents no difficulties, either constitutional or practical, and the country will certainly drift to it unless the existing abuses of uncontrolled monopoly, of overcapitalization, of accomplished union between the producing and transportation interests of the country, of political control, and of unjust preferences and discriminations are done away with. Even assuming that the government management may not be economical, the time may come when the people will regard equality of service as of more importance than economy of service. But the plan of national incorporation would give the country the benefits of government ownership with none of its dangers. It would abolish the evils which have arisen from unrestricted monopoly, automatically bring about a reduction in rates, put the railroads out of politics, and retain the management of the able men whose genius created our present efficient system of transportation. No complaint can be made as to this efficiency; no complaint can be made as to consolidation properly controlled in its capitalization. No attempt should be made to raid the property of railroad investors. No attempt should be made to destroy or impair the existing values of their securities. Unity of control, simplicity of organization, certainty in valuation of railroad property and in return upon such valuation to the stockholders, certainty in taxes, fair recognition of the dangerous character of the service of the employees, proper provision for insurance against accidents and old age, conciliation of disputes between the carriers and their employees, are parts of the full and comprehensive legislation which this subject requires and which would differentiate our legislation from the incomplete and fragmentary legislation in which Congress has thus far indulged regarding interstate transportation.

Mr. STONE. Mr. President, much time has been expended and learning exploited in discussing the Federal judiciary. In some respects this discussion has been more academic than practical, although interesting and instructive. It is remarkable that in this day and generation, after more than a century and a quarter of national life, there should be such a disputation in the Senate of the United States as that we have been listening to at intervals during the last three weeks. I had not supposed the Federal judiciary could have been made the subject of such controversies as have engaged the attention of the Senate. While my principal purpose in arising, Mr. President, is to submit some observations on one or two of the more practical features of the proposed legislation, since it seems to be the fashion, I will, with the indulgence of the Senate, first pay my respects to the courts also.

DUTY TO ORGANIZE COURTS.

Some new and interesting questions have been raised, or, rather, some old and interesting questions have been revived. It has been said that the Congress was not obliged to establish inferior courts. Mr. President, I believe it was the imperative constitutional duty of the Congress to create the Supreme Court and to establish inferior courts. It was as much the duty of the Congress to establish inferior courts as it was to create the Supreme Court. The Constitution did not create the Supreme Court nor any other tribunal. It simply declared that "the judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish." Upon that short and simple declaration the Federal courts are founded. The judicial power was vested, but no court, not even the Supreme Court, was created. The Constitution did provide that there should be a Supreme Court, but it did not provide for the number or qualifications of the judges who were to constitute the court nor make any provision for its organization. That was left to the Congress, just as the establishing of inferior courts was left to the Congress. It has been said that the duty of Congress to create and organize the Supreme Court was mandatory, but not so as to the inferior courts. As to those courts it has been said that it was left to the discretion of Congress to establish them or not. To that view I can not give my assent. The Congressional duty was as imperative in the one case as in the other. The inferior courts are as essential to an adequate judicial system, such as the Constitution contemplated, as the Supreme Court. The judicial department was established by the Constitution as a coordinate and independent department, and its functions were as well defined as those of any other department. It is as necessary to the orderly conduct of public affairs and as necessary to national life under our governmental system as either the legislative or executive departments. Without a Federal judiciary there would be no courts in which controversies to which the United States was a party, or in cases arising under the admiralty and maritime jurisdiction of the United States, and other causes, could be heard and determined. Without a Federal judiciary there would be no courts in which numerous crimes against the United States, committed both on land and sea, could be punished. The Congress might enact laws and the Executive might stand ready to execute them, but without courts the law would be a dead letter and the executive arm would be powerless. The Supreme Court alone would not suffice, for the Constitution expressly limits its original jurisdiction to two classes of cases—those against ambassadors, other public ministers, and consuls, and those in which a State is a party. In all other cases the Constitution declares that the Supreme Court shall have appellate jurisdiction only. Except as to the two classes of cases specified, all controversies which are beyond the reach of the State judiciary would be without a forum for their settlement if there were no inferior courts of the United States. Even if the Congress could clothe the courts of

the States with the judicial power devolved by the Constitution upon Federal courts, which Judge Story denies, it would manifestly and inevitably lead to conflict and confusion. The Government could not be successfully maintained and administered on the plan laid down by the Constitution without the inferior courts. They are just as necessary to the public safety, to the protection of private rights, and to orderly government as the Supreme Court itself. It does not seem to me that this can be intelligently controverted. The eighth section of Article I of the Constitution conferred upon Congress power "to constitute tribunals inferior to the Supreme Court." Did not the bestowal of the power to do this necessarily carry with it an obligation to do it? The same section of the same article conferred upon Congress the power—

To lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States.

To regulate commerce with foreign nations and among the several States.

To establish a uniform rule of naturalization.

To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures.

To provide for the punishment of counterfeiting the securities and current coin of the United States.

To establish post-offices and post-roads.

To define and punish piracies and felonies committed on the high seas and offenses against the law of nations.

To raise and support armies.

And to enact other laws for purposes specifically enumerated and necessary to the orderly administration of the Government. The language of the Constitution is: "The Congress shall have power" to enact laws for all such purposes. The Constitution did not say that the Congress shall enact such laws, but shall have the power to do so. Could the Congress have refused to exercise that power? I think not. When the power was conferred, by necessary implication the duty to exercise it attached. The grant was equivalent to a mandate. Necessarily, discretion was given to Congress to adopt such forms of legislation and to establish such agencies as they might deem essential to accomplish the purposes contemplated by the Constitution, but they could not refuse to act at all. If the Congress had refused to do the things they were given power to do, among others to establish such courts as were necessary to the proper administration of the law, they would have been recreant to duty and to their oaths.

But it is said that the Congress could not have been compelled to establish inferior courts. If by that it is meant that there was no official power which could have exercised that compulsion, the statement of course is correct. The Constitution and public opinion are the only things that can compel Congress to perform any duty. Beyond these there was no power to compel Congress to create the Supreme Court. Therefore it may be said that Congress could have obliterated the whole judiciary by refusing, in the beginning, to provide for any tribunals, high or low, supreme or subordinate, which could exercise the judicial powers written into the Constitution; or, in other words, that the Congress could in that way have wiped out that much of the Constitution. Mr. President, it requires some patience to seriously consider a suggestion of that kind. The faintest intimation that it was ever possible for Congress not to provide, and fully provide, for a complete Federal judicial establishment is too puerile for consideration even as a test of the legislative power. Such an intimation belongs to the distempered domain of dreams and hallucinations. It presupposes that Senators and Representatives in Congress would ignore their oaths and deride the Constitution, and it presupposes that the men who made the Constitution were bent on destroying, in the very hour of its birth, the governmental fabric they had created. Further still, it presupposes that the men of the Revolution, the people themselves, whom the Congress represented and to whom they were amenable, also desired to immolate the fruits of their victory on the altar of chaos. Mr. President, that is to suppose a situation that is not supposable. The Congress were compelled to provide for the organization of the Supreme Court and to establish such inferior courts as the Constitution contemplated, or be guilty of moral and legal treason.

CAN NOT DESTROY.

Mr. President, those who hold that the power imposed upon the Congress to establish inferior courts was merely permissive, or in other words, those who contend that Congress was not bound by the mandate of the Constitution to establish them, also contend that since they have been established Congress may now destroy them. It is said that since Congress created them Congress may abolish them; that what the Congress has established it may disestablish; that what it has done it may undo. I deny that also. Congress can not constitutionally do any such thing, and therefore can not do it at all. These courts were established as a public necessity and in pursuance of a public policy outlined in the Constitution. Their existence is essential to national vitality, and they exist in obedience to a constitutional direction. The Congress had power to create, but has no power to destroy. Congress can not destroy the judiciary any more than the judiciary can destroy Congress. Of course, if the people themselves want to destroy the Federal judiciary it can be done. It might be done by a constitutional amendment, and even without that, if the people wanted it done, Congress might, in the execution of a revolutionary propaganda, devise expedients for wiping out the courts, from the supreme tribunal down. But in the same way Congress could destroy any other political division of the Government. If Congress should refuse from year to year to provide for the support of the executive department; if it should refuse to provide for the support of the Army and Navy; if it should refuse to make provision for the public debt—in other words, if the Congress should refuse, with popular approval, to perform its functions, of course the Republic could not survive. But none of these things could be done except with the approval and by the direction of the American people. Mr. President, all talk of that kind is idle, fantastic, chimerical, impossible. The people could destroy the judiciary, but it is not within the power of Congress alone to do it. If to-day the Congress should pass an act abolishing all the circuit and district courts of the United States without substituting other tribunals in their stead, can there be any doubt that the Supreme Court would declare the act to be unconstitutional and void? If it did not, it would be unworthy to occupy the high place it holds in the respect of the American people. I do not mean to say that Congress can make no change in the Federal judiciary. I do not mean to say that Congress might not reorganize the judiciary and abolish, if you will, the circuit and district courts as they now exist, provided that other courts, no matter by what names designated, with substantially similar jurisdiction, should be established to take their place. I think that would be within the province of Congress, but that is a very different thing from the wiping out of the judiciary altogether. An act absolutely destroying the inferior courts of the United States would be unconstitutional, in my opinion, and if so, Congress, of course, would have no right to pass it.

MAY DEFINE JURISDICTION.

But, Mr. President, while it was the constitutional duty of the Congress to ordain and establish courts, and while the Congress has no constitutional power to destroy them, it does not follow that they can not, within the limits of the Constitution, enlarge or restrict their jurisdiction and regulate their practice. That is something the Congress may do. The Supreme Court has decided that the judicial power of the United States, although it has its origin in the Constitution, is, except in enumerated instances, applicable exclusively to the Supreme Court, dependent for its distribution and organization and for the modes of its exercise upon the action of Congress, and has decided that Congress may invest the courts it creates with jurisdiction either limited, concurrent, or exclusive, or withhold jurisdiction from them to whatever extent Congress may deem proper for the public good; and the Constitution expressly provides that the Congress may regulate appeals to the Supreme Court. That Congress is clothed with power, except in a few specified instances, to define the jurisdiction of the Federal Courts has been so often decided that it may be considered as settled law. And this is as it should be.

Mr. President, I have a profound reverence for the opinion of Thomas Jefferson. He was sometimes suspicious of the courts. Once he even went so far as to say:

The judiciary of the United States is the subtle corps of sappers and miners constantly working underground to undermine the foundations of our confederated fabric. They are construing our Constitution from a coordination of a general and special government to a general and supreme one alone. * * * Having found from experience that impeachment is an impracticable thing, a mere scarecrow, they consider themselves secure for life. They skulk from responsibility to public opinion, the only remaining hold on them, under a practice first introduced into England by Lord Mansfield. An opinion is huddled up in conclave, perhaps by a majority of one, delivered as if unanimous, and with the silent acquiescence of lazy or timid associates, by a crafty chief judge, who sophisticates the law to his mind by the turn of his own reasoning. * * * A judiciary independent of a king or executive alone is a good thing, but independence of the will of the nation is a solecism, at least in a republican government.

With all due respect for this greatest of American statesmen, I fear that this utterance was prompted more by his antagonism to the great Chief Justice of that day than by his deliberate judgment. Moreover, while I believe it to be true that the sovereign rights of the States and the people have been often encroached upon by judicial interpretation, still, taken as a whole, the record of the judiciary is a proud one, and the courts have frequently stood as the solitary and impregnable refuge of the Constitution.

Mr. Jefferson spoke with greater dignity and sagacity and more like the statesman he was when he said:

> The dignity and stability of government in all its branches, the morals of the people, and every blessing of society depend so much upon an upright and skillful administration of justice that the judicial power ought to be distinct from both the legislative and executive, and independent of both, so that it may be a check upon both, as both should be a check upon that.

In each instance Mr. Jefferson was addressing himself to the Federal judiciary. Although, as I have said, he spoke not without prejudice and resentment in the first quotation I have read, there was, nevertheless, enough of truth in his malediction to show that the founders were wise in delegating to the legislative department the power of defining the jurisdiction of the courts.

It has been asked, "What is meant when it is said that Congress may define the jurisdiction of the courts?" The question can be answered only in general terms, and that is sufficient. It is enough to say, in general terms, that the Congress may determine the forum in which controversies may be judicially heard; that they may put limitations upon the jurisdiction of those forums whenever and wherever jurisdiction is conferred by them; and they may prescribe the mode of procedure to be observed from the initiation of an action to its close. But, while this is primarily true, it is not within its limitations. While it is true that Congress is clothed with power to define the jurisdiction and regulate the practice of the courts, they can not constitutionally so restrict that jurisdiction as to paralyze their arms and make them utterly incapable of affording relief. That can not be done, for the effect of that would be to destroy the courts. If it was the constitutional duty of Congress to establish courts, then equally was it their duty to invest them with every adequate power necessary to the proper and effective exercise of their functions. It was as much their imperative duty to do the one as the other. The two things are inseparable and of equal importance. The legislative duty is the same in both. And in neither case is it a purely optional duty, or a mere matter of legislative discretion, but in both it is a high, commanding constitutional duty. The last clause of the eighth section of Article I of the Constitution provides that Congress shall have power—

> To make all laws which shall be necessary and proper for carrying into execution * * * all powers vested by this Constitution in the Government of the United States, or any department or officer thereof.

The Supreme Court and the inferior courts established by Congress constitute the judicial department. The Constitution declared that there should be one Supreme Court, and left it to the Congress to provide for its organization. The Constitution did not establish the inferior courts, but they are founded in it. They were not created by the Constitution, but created by Congress in obedience to the constitutional mandate. The judicial power of the United States was vested in these courts; and the Congress was given power to enact all laws necessary to enable the courts to exercise their legitimate functions. When this power was granted to Congress the duty of utilizing it was imposed. A constitutional obligation, express or implied, can not be ignored without offense to the fundamental law. No, Mr. President, the power that Congress may exercise over the courts is not absolute, plenary, unbridled. The Constitution by necessary intendment and implication has put limitations upon that power. Congress may say what courts shall have jurisdiction of criminal causes, but it can not deny jurisdiction to all courts to punish crime. That would leave the Government and the people at the mercy of the lawless. Congress may determine what courts shall have jurisdiction of civil causes, but they can not absolutely deny to all courts the power to hear and determine controversies which may arise within the judicial jurisdiction prescribed by the Constitution. That would be to deny justice altogether; to deny a remedy for all wrongs, public or private; and it would lead inevitably to universal chaos. The Congress may regulate the practice of the courts, but they can not deny to the courts the right to issue any process whatever, and thereby render nugatory the powers with which they are invested. The Congress may regulate the forms and the manner of executing all processes, but they can not deny them altogether. They may put limitations upon the issue and service of process, but not to the extent of denying process altogether, nor of so circumscribing it as to make the judicial power a sham and a farce. The legislative power may change the formalities of judicial procedure, but not so as to make the enforcement of rights impossible. It was well said by the supreme court of Michigan, in the case quoted by the junior Senator from Pennsylvania (75 Mich., 283), that—

> When they [the legislature] vest judicial power they do so in accordance with all of its essentials, and when they vest it in any court, they vest it as efficient for the protection of rights, and not subject to be distorted or made inadequate.

My learned and eloquent friend the Senator from Texas [Mr. BAILEY] has called our attention to the case of Fink *v.* O'Neil (106 U. S.). The justice who delivered the opinion in that case did say that the Federal courts had no authority to render judgments or to issue executions or other process, except when authority to do so had been conferred by the legislative department. He did say that those courts have no inherent authority of that kind. But, Mr. President, that statement was unnecessary and inapplicable to the case before the court. It was obiter dictum. The point at issue in that case concerned the sale of a homestead, which, under the laws of Wisconsin, was exempt from seizure and sale under execution. Under the laws of Congress the Federal courts are required to conform their practice to the laws of the States, respectively, in which they are held in so far, at least, as these laws are applicable. It was contended that the exemption law could not be plead against the sovereign—that is, the Government—as it might have been plead against a private suitor. The point at issue concerned not the power of issuing an execution, but the power of enforcing it. The power to issue the execution unquestionably existed, and the execution had, in fact, been issued and placed in the hands of the marshal. The question was whether a certain property, exempt from execution under the laws of the State, was subject to sale at the suit of the Government as a sovereign. The same question would have arisen even if it had been admitted that the courts had inherent powers, for still the protection of the exemption laws, enacted to promote a wise public policy, might have been invoked. The justice who made the declaration referred to went beyond the record, and therefore what he said in that behalf is not entitled to the weight of a judicial deliverance.

POWER OF SELF-PROTECTION.

Mr. President, I do not contend that the Federal courts are invested with all the inherent powers that appertain to courts existing at common law and by proscription. Such a contention is unnecessary, and I would not sanction it if it were made. At the same time, I am unwilling to admit that the courts are so utterly dependent, so devoid of power—inherent power, if you please—as to be incapable of moving a hand to protect themselves against annihilation.

Mr. BAILEY. Mr. President——

The PRESIDING OFFICER (Mr. BULKELEY in the chair). Does the Senator from Missouri yield to the Senator from Texas?

Mr. STONE. Certainly.

Mr. BAILEY. I wish to hear the Senator from Missouri express himself directly on the question as to whether Congress has even the power to prevent an inferior court from issuing a preliminary injunction to suspend the rate established by this railroad commission.

Mr. STONE. If the Senator will pardon me at present, I will treat very fully upon that in a few moments, but I would rather not just at this time.

It is to be presumed, must be presumed, that the courts will themselves obey the Constitution and keep within its limitations. It must be presumed that the courts, as well as the Congress, will respect and obey the Constitution. It must be presumed that the courts will uphold the laws of Congress unless they clearly contravene the fundamental law. They have often declared it to be their duty to sustain legislative enactments and to reconcile them to the Constitution whenever it can be done. That is the uniform judicial policy of all American courts, both State and Federal. It is curious to note that those who fear the power of the courts and live in dread apprehension of judicial usurpation are constantly quoting the Supreme Court itself to prove that the judiciary is dependent upon the legislative pleasure. No, Mr. President, I believe the highest public good requires that the courts should be left undisturbed in the possession of all their constitutional powers. I think these powers are ample for self-protection. Congress could not destroy the courts if they would, and should not if they could. The Constitution embodies the wisest thought of the wonderful men who made the Republic. It is the most perfect work of its kind ever devised by the wit of man. It is inconceivable that a great department, like the judicial department, should have been established and then made wholly subservient to the legislative will and helpless in its presence. The three great departments established by the Constitution are coordinate and coequal. Neither towers above the other—supreme, absolute, imperial—but the same Constitution is over them all. Within their respective spheres each is supreme. But above all is the power of the people. The harmony and symmetry of this superb creation should not be marred. It should be left as the fathers made it.

COURT REVIEW.

Mr. President, I come now to consider briefly and to express my view upon the particular question which has given rise to all this discussion about the courts. The question is, Shall jurisdiction be expressly conferred upon the circuit courts to review the orders which may be made by the Interstate Commerce Commission prescribing rates to be charged and regulations to be observed by railroads as common carriers? And if so, then with what limitations, if any, shall that jurisdiction be hedged about? The bill provides that, after certain findings and formalities, the Commission shall have power to prescribe what shall be a just and reasonable and fairly remunerative rate to be thereafter charged as the maximum rate, and to prescribe what regulation or practice in respect to a given transportation is just, fair, and reasonable to be thereafter followed. There is no express provision in the bill authorizing a judicial review of orders that might be predicated upon these provisions. The question is, Shall an express provision of that import be inserted in the bill? That appears to be the question; but, Mr. President, it seems to me that to consider this question in that form is to proceed in the inverse order and upon a false premise. It is to proceed on the assumption that the bill as it stands in some way denies the right of judicial review. But that is not true. The bill as it passed the House, and as it stands to-day, does not deny the right of judicial review, nor even attempt to limit it. On the contrary, sections 15 and 16 of the bill, as reported, expressly recognize that right. Those sections provide that the orders of the Commission shall take effect at the end of thirty days after notice, unless such orders shall have been suspended or modified by the Commission itself, "or set aside by the order or decree of a court of competent jurisdiction."

If the bill should be enacted in its present form, and the Commission should prescribe a rate which was confiscatory or noncompensatory, could there be any doubt that the carrier affected would have the right, under existing law, to apply to a circuit court for relief, or that the court would have power to grant whatever relief the nature of the case might warrant? If the bill should pass in its present form, could there be any doubt that the same jurisdiction would attach if a rate established should not be fairly remunerative? Under the powers now possessed and exercised by the circuit courts can there be any doubt that they would take jurisdiction of any cause, involving a sufficient sum, which concerned a rate alleged to be confiscatory or noncompensatory? If that be true, then the power of judicial review exists already, and there is nothing in this bill which seeks or pretends to divest the courts of that power or to limit them in its exercise. There is, therefore, no need of a special provision to confer a jurisdictional right of review. The real question is not whether this power of review shall be conferred upon the courts, but whether it shall be enlarged upon the one hand, or withdrawn or limited upon the other. This bill proposes to enlarge it. It proposes to authorize the courts to determine not only whether a rate is confiscatory, but whether it is fairly remunerative. Whether this jurisdiction should be enlarged is a question of such doubtful wisdom that I hesitate to approve it. I doubt whether the jurisdiction now exercised by the courts can be wholly withdrawn, and I am confident it ought not to be. Railroads are sometimes guilty of flagrant abuses, but for that reason, no matter how outrageous their offending, they should not be shut out of the courts and put wholly at the mercy of an administrative board. Because they offend, because they do wrong to others, is no reason why the Congress should deny them access to the courts of justice. That they should be curbed, restrained, regulated, is manifest and imperative; but that they should be outlawed is absurd. When their rights are in jeopardy they are entitled to a hearing. Undoubtedly, in my opinion, the Commission should be given authority to prescribe rates to be charged and regulations to be observed by the carriers; but the rates and regulations should at least be just and reasonable—actually so. If any rate so prescribed should be unjust, or should not be compensatory, it should not stand; and if any regulation prescribed should be unjust or unreasonable, it should be set aside. I do not think any fair-minded man in or out of Congress will controvert that. It follows, then, that if the Commission should adhere to an order which a carrier might deem to be unjust and unreasonable, the controversy must be settled in the courts. It must be settled in the courts because there could be no other forum for settling it. I can hardly believe that any Senator would deny jurisdiction to the courts to hear and determine controversies of that character, even though he believed that Congress had power to deny it. If that be true, Mr. President, as I am sure it is, then it is useless to discuss the question as to whether Congress could, by affirmative enactment, place the orders of the Commission above and beyond the reach of the courts. There is no use talking about something nobody wants to do, and which many think can not be done. We had better discuss things which some of us, at least, think ought to be done, and some of us think we have power to do.

Mr. President, this whole subject is narrowed to two propositions: The first involves an enlargement of the judicial power, and the other a limitation upon its exercise. Paradoxically, the two things are not necessarily in conflict. Both may be done without inconsistency. Under the law as it is to-day, the courts have jurisdiction to hear and determine whether a prescribed rate is so high as to be extortionate, or so low as to be confiscatory. Between these two extremes it seems to be conceded in the arguments I have heard, the courts can not go. It is said that if a rate is not so high as to be extortionate, nor so low as to be confiscatory, the courts can not interfere. They can not intervene, so it is said, between the two extremes to say whether a rate fixed by the Commission is fairly remunerative. The courts have said that if a rate is not compensatory it is confiscatory. A line has been drawn here between what is justly compensatory and what is fairly remunerative. But the line is a narrow one—so narrow as to be scarcely distinguishable. The line between "compensatory," simply, and "fairly remunerative" is more distinct; but the line between "justly compensatory" and "fairly remunerative" is difficult of discernment. It is a little hard for me to differentiate between the two; and it is a little hard for me to understand why a court has power to determine whether a rate is justly compensatory, or even compensatory, and yet is without power to determine whether a rate is fairly remunerative. On the other hand, it is evident that between the extremes of extortion and confiscation, as those terms are understood, the Commission should have some discretionary power in establishing rates. What latitude should be given to that discretion is problematical. But, Mr. President, as the courts now have power to intervene to set aside a rate which is extortionate or confiscatory—that is, a rate which oppresses the shipper or which does not bring a fair return to the carrier upon the capital invested and labor expended—I am inclined to think it would be wiser, at least in the experimental stage of this new administrative authority, not to invest the courts with any powers not already possessed. If the courts have not the power already to determine whether a rate made by the Commission is fairly remunerative, I doubt if it should be conferred upon them. For the present, at least, we had better leave that question where it is. But to do that the bill should be amended. As it now stands it seems to me that that power would be, by the very terms of the bill, conferred upon the courts. If the bill should be amended so as to authorize the Commission to prescribe just and reasonable rates—using those words, "just and reasonable"—and by striking out the clauses which provide that the orders of the Commission shall stand unless set aside by a court of competent jurisdiction, that would leave the matter, so far as the jurisdiction of the courts is concerned, where it is already. Moreover, it seems to me that the power to fix just and reasonable rates would answer all the purposes of this legislation. Under that phraseology it would be the duty of the Commission to establish rates that were "fairly remunerative," and something should be conceded to the administrative integrity of the Commission.

But, secondly, Mr. President, even if the jurisdiction of the courts should be affirmatively extended so as to authorize them to determine whether a given rate was fairly remunerative, the courts might still be limited in the method of granting relief. That they should be limited in this behalf, particularly with respect to injunctive relief, I am certain. The reasons for this are founded in a sound public policy, and they are of the highest importance. If the railroads could take up every order made by the Commission for a judicial review, and on an ex parte and prima facie showing obtain a temporary injunction suspending the operation of the order during the interval of litigation, often greatly prolonged, the efficacy of the law would be greatly impaired, if, indeed, its effectiveness would not be practically destroyed. At all events, if that should be permitted it would render the administration of the law difficult, tedious, exasperating, and expensive. A law of this kind to be effective, and orders of this kind by a commission of this kind to be of value, must be promptly enforced. The courts should be open to every suitor, but the privilege of resorting to them should not be turned into an abuse. While guarding the right of everyone to seek a judicial remedy for private wrong, the exercise of the right should be so regulated as to prevent it eventuating in a public wrong.

Mr. President, I would not deny the substantial right of injunctive relief to the carrier. Some able lawyers have said that that can not be done, and it may be that they are right.

But I would provide in this bill that injunctions suspending or setting aside the orders of the Commission should be applied for only upon notice and granted only after a hearing. I believe the Supreme Court would uphold a provision of that nature as being within the purview of the legislative power. The Congress has power to regulate the practice of the courts and to place such limitations upon the employment of their processes as may be, in their judgment, necessary to the public good, provided, as I have said, the limitation does not go so far as to vitiate judicial administration. The fact that such a restriction would apply to all railroad corporations as a class, and the fact that railroads are quasi-public highways, and that railroad corporations are quasi-public bodies, clothed with extraordinary powers and privileges, would answer the objection that such a restriction was vicious because it was special. If such a restrictive provision should be inserted, and if all cases involving a review of the Commission's orders should be given a preference on the dockets of all the courts, the controversies would be speedily determined and the possible damage would not be great. If it be said that the damage, whatever the amount, suffered by the carrier under that practice would be irreparable, it might be answered that the damage to the public under a contrary rule would be even greater and more irreparable; and I assume that the courts, while regardful of private rights, would not be oblivious to the public interests.

Besides, Mr. President, it should not be forgotten that a proceeding against the Commission to prevent a damage resulting from their orders would not stand upon the same ground as a proceeding to prevent waste or other injury by a private person. The Commission are a public body, charged with the performance of public duties, and under obligation to deal impartially with all interests, and their orders are made under the obligation of an oath and by direct authority of the law. They should not be put upon a level with the trespasser, nor should their orders be treated as if made in a spirit of wrongdoing, hostility, or unfairness, or with any intention to oppress. Their orders are entitled to that consideration which should always be accorded to the deliberate action of every official body. If they act within the limits of their authority, it should be presumed that they have acted properly, and their orders should not be suspended upon the mere ipse dixit of an individual complainant. They should not be set aside, even provisionally, without a hearing. The public interest and public policy alike forbid it.

Mr. President, my conclusion is that if some such provisions as those I have indicated should be inserted in the bill they would solve the problem. So far as limiting the jurisdiction of the courts is concerned, the amendment proposed by the Senator from Texas [Mr. BAILEY] embodies substantially what I have in mind, and while not committing myself to the exact phraseology of his amendment, I am in harmony with what he seeks to accomplish.

THE PRESIDENT'S AMENDMENT.

Mr. President, on Monday the Senator from Kansas [Mr. LONG] offered an amendment. This is understood to be an amendment proposed through the Senator from Kansas by the President of the United States. The confession made here last Tuesday in the open Senate by the Senator from Kansas confirms that understanding. On Sunday morning last the papers contained an account of a meeting at the White House of several Republican Senators of the select Presidential set for consultation with the President and the Attorney-General. It is reported that for some hours they sat in solemn conclave on the rate bill, and in due course the amendment proposed by the Senator from Kansas was hatched. By this amendment it is proposed to strike out the clauses now in the bill which provide that the orders of the Commission shall take effect after thirty days, unless they shall be suspended or modified by the Commission itself, or be suspended or set aside by the order or decree of a court of competent jurisdiction, and in lieu thereof to provide that the orders of the Commission shall take effect within such reasonable time as the Commission shall prescribe, and remain in force not exceeding two years—

unless suspended or set aside in a suit brought against the Commission in the circuit court of the United States, sitting as a court of equity, for the district wherein any carrier plaintiff in said suit has its principal operating office, and jurisdiction is hereby conferred on the circuit courts of the United States to hear and determine any such suit whether the order complained of was beyond the authority of the Commission or in violation of the rights of the carrier secured by the Constitution.

Mr. President, that ought to be satisfactory to the railroads. There is no need for making any additions to it. There may be, and in a sense there is, a technical distinction between rights specifically secured by the Constitution and rights that are founded purely in statutory provisions or in the general principles of the common law. But as applied to cases ordinarily arising out of the orders of the Interstate Commerce Commission a distinction of that kind would be a distinction without a practical difference; and if this amendment should be adopted there would be no occasion to apply it. Under this bill the only action a carrier would ordinarily institute against the Commission would be to have the court determine whether a rate prescribed by that body was a just, reasonable, and fairly remunerative rate, or whether a regulation prescribed was a just, fair, and reasonable regulation. This amendment provides that the court may determine "whether the order complained of was beyond the authority of the Commission or in violation of the rights secured by the Constitution."

No express prohibition is put upon the jurisdiction of the court against extending its inquiry to any limit. If the amendment is to be considered as intended to restrict the jurisdiction of the court, it can have that effect only by inference, on the theory that if a particular jurisdiction be expressly conferred by statute, the statute shall be so construed as to exclude any further or additional jurisdiction. But, Mr. President, so far as this amendment is concerned there is no need of wrestling with refinements of that character. It is broad enough to meet every requirement of the railroads. If a carrier complainant can show to the court that a rate prescribed by the Commission was confiscatory or not even compensatory; if it could show that the returns under the rate prescribed did not afford a fairly remunerative return for the capital invested and for the time and labor expended, would it not be depriving the carrier of its property, under the pretense of public authority, "without due process of law" or "just compensation?" The forms of law can not be used to wantonly destroy the property of citizens or the fruits of their labor. If the Constitution is not competent to protect the citizen against a wrong so monstrous, it should be amended without delay.

But aside from the Constitution, how would the statute operate if this bill, with the amendment proposed by the Senator from Kansas, should be enacted? It would provide that the Commission should have authority, after certain preliminary findings, to prescribe what would "in its judgment be the just and reasonable and fairly remunerative rate" to be charged, and to prescribe what should be a "just, fair, and reasonable" regulation to be followed. If the Commission should prescribe a rate which was confiscatory or noncompensatory or not fairly remunerative, or prescribe a practice which was unjust, unfair, and unreasonable, would they not exceed the authority conferred upon them? True, the bill says they may prescribe a rate which "in their judgment" is just, reasonable, etc., and from this it may be argued that the law would vest a discretion in the board which the courts could not disturb, no matter how unwisely that discretion might be exercised. But I do not believe that a mere executive discretion could be so exercised as to defeat not only the manifest spirit of the law, but its very letter. The Congress themselves could not directly establish a confiscatory rate, and if the Congress could not themselves directly destroy the property of a carrier, they can not do so indirectly by investing an administrative body with a discretionary power to do it.

Justice Miller once said, in one of his great opinions, that the forms of law could not be used to rob the citizen under the pretense of levying taxes; neither can they be used to rob him under any pretense. And so I repeat that the amendment of the Senator from Kansas does not restrict the jurisdiction of the courts to a degree that should make it obnoxious to the railroads.

Mr. President, if this were not a matter of serious import, this performance would be diverting. If this amendment is to be adopted and incorporated in the bill, what is all this hullabaloo which has vexed us so long about? While the bill was still pending before the Interstate Commerce Committee, the papers contained daily accounts of the bold and implacable opposition the junior Senators from Iowa and Minnesota were making to the insertion of any provision whatever for a judicial review of the orders of the Commission. And the papers told us, also, of the pathetic, albeit defiant, dispatches sent by the revered and venerable Senator from Illinois [Mr. CULLOM] from a health resort down somewhere among the magnolias and orange blossoms of the far Southland to the Senators from Iowa and Minnesota to stand pat for the bill as it came from the House. The papers told us, also, of a stirring scene which occurred in the committee when the Senator from Iowa bearded the committee in its den and moved to report the House bill to the Senate without amendment. It is a pity that that scene can not be reproduced on canvas. It was historical and inspiring, or might have been. I doubt if it can be made so now. After events have robbed it of its glamour.

The motion of the Senator from Iowa was adopted by the committee by the votes of all the Democrats and the three Re-

publicans I have named. Thereupon, according to newspaper accounts, the accuracy of which no one has disputed, the Senator from Rhode Island [Mr. ALDRICH] said that as this was a Democratic measure, not a Republican measure, and as it had been carried through the committee by Democratic votes, he would move that it be reported to the Senate by the senior Democratic member of the committee [Mr. TILLMAN], and that motion prevailed. Then a war cry, not quite so resonant as of old, but still defiant, issued from the White House. The President, as he is accustomed to do on great occasions, forthwith summoned the newspaper correspondents to his august presence, and through them informed the country that he would stand resolutely and unshaken for the House bill and against any amendment authorizing a court review of the orders of the Commission; and this he would do though the heavens fell. As the press pictured him he stood before the country as grim and immovable as old Horatius at the bridge. Since then, however, whisperings have come of caucuses, concessions, and compromises. Those of little faith took on a prophetic aspect and smiled, while those of great faith still avowed their confidence in the unyielding firmness of the iron man at the White House. But those of little faith were the wiser. The President's abject surrender has justified their prophecies. If this amendment proposed by the President, through the Senator from Kansas, contains anything the railroads do not want, it will require the superfine acumen of a lawyer as versatile and obliging as the present Attorney-General, who has O. K.'ed the amendment, to point it out. Although not quite all they want, the very proposal of that amendment was a triumph for the senior Senators from Rhode Island and Ohio [Mr. ALDRICH and Mr. FORAKER] and their party coadjutors. But it affords a sad and sorrowful example of a Presidential fiasco. However, it is only another instance of our mighty man of destiny and duty backing away after one of his spectacular grand-stand performances. We may all be sorry, but we have no reason to be surprised.

DEMOCRATIC POSITION.

In saying this I may be accused of injecting partisanship into this discussion, thereby disturbing that sweet spirit of harmony which has been so often invoked during the course of this debate. The Senate has been repeatedly warned that this is a purely economic and not a party measure, and that all party considerations should be eschewed. Mr. President, despite this warning I feel obliged to say that this measure has party aspects as well as economic aspects which can not be ignored. The tariff question, the money question, and other questions of like import are as much economic questions as the one before the Senate; nevertheless these questions have not only divided parties, but they have given rise to some of the most terrific political combats in our history. The Democratic party in national convention twice declared specifically in favor of Congress enacting legislation for the regulation of railroad transportation, but never has the Republican party spoken on the subject. During the last two or three great party struggles for national supremacy the candidates of the Democratic party, giving voice to their party platforms, spoke in favor of this character of legislation; but the Republican candidates, although voluble upon other subjects, were silent as to this. The senior Senator from Rhode Island, who is in the foremost rank of Republican leaders, denounced this measure before the Interstate Commerce Commission as a Democratic measure, and because it was so considered by a majority of the Republican members of that committee, its management on the floor of the Senate was committed to a Democratic Senator; and that there might be no mistake about it, it was committed to the capable hands of that soft-spoken and gentle-tempered Senator from South Carolina [Mr. TILLMAN], who is everywhere known as the especial bête noire of the President. [Laughter.] The President took up this Democratic measure in the belief that he could carry it through, and thus add to his prestige and popularity; but the pressure upon him has been greater than his power of resistance, and so his commendable attempt to appropriate a Democratic policy has proved abortive. Into the ear of the trusting people he breathed the promise of relief, but he has broken it to their hope. Everyone now knows, what many knew at the inception of this crusade, that if effective legislation of this character is really desired the Republican party can not be depended upon to enact it.

PENALTIES.

Mr. President, one other thing, and I am done. Prior to the act of February 19, 1903, known as the "Elkins Act," punishment for the violation of the interstate-commerce law was provided not only for railroad corporations themselves, but the law also provided for the punishment, by both fine and imprisonment, of the officers and agents of such corporations who should knowingly and willingly do or cause to be done, or suffer or permit to be done, any act or thing prohibited by the law. The Elkins Act repealed so much of the penal clauses of the existing law as authorized imprisonment as a punishment.

Mr. President, until those clauses are restored, and the danger of a prison cell is set before the eyes of offending officers, I doubt if many of the great corporations will be much alarmed by the remaining penalties. If the fine for a violation of the law is less than the profit realized out of the criminal transaction, it stands to reason that risks will be taken. But the gloom, the odor, and the shame of a prison is a more serious thing, and there can be no doubt as to its deterrent effect. A corporation can act only through its officers and agents. The insensate, incorporeal thing called a "corporation" is itself incapable of criminality. The real criminal is the man who acts for it and violates the law. A fine imposed on him, we may be sure, is in some way, directly or indirectly, ultimately paid out of the corporation treasury. Such a punishment, therefore, has in it nothing of terror and little of restraint. But fear of the jailer appalls the criminal and tempers his courage with discretion. The battle the beef-trust magnates fought at Chicago the other day was not to save their corporations from a fine, but their persons from a cell. When they succeeded in unloading their personal delinquencies on their corporation treasuries they congratulated themselves and each other on their victory. I know it has been said that the imprisonment clauses of the penal sections of the law are difficult of enforcement. That may be true, but they are not incapable of enforcement unless the courts are either impotent or too complaisant.

Mr. President, if the majority here desire to enact an effective rate regulation law, the penal clauses of the old law as they existed prior to the passage of the Elkins Act should be restored. Every honest, conscientious railroad official who wants to obey the law would approve that action. Only those who would treat the law and public authority with contempt would protest.

Finally, Mr. President, I desire to say that the pending measure is essentially a business measure, with far-reaching effects on the commercial interests of the country. It should be disposed of with great deliberation and without passion or prejudice. The rights and interests of all concerned should be guarded with equal care. But if we pass any bill at all—and undoubtedly one should be passed—it should be sufficiently comprehensive, and at the same time sufficiently restrictive and drastic, to accomplish the purposes intended. Unless we succeed in accomplishing what we attempt, we had better not have made the attempt at all.

Mr. DOLLIVER obtained the floor.

Mr. BAILEY. Mr. President——

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from Texas?

Mr. DOLLIVER. Certainly.

Mr. BAILEY. Mr. President, I desire at the first convenient time to reply to the Senator from Wisconsin [Mr. SPOONER] and the Senator from Pennsylvania [Mr. KNOX], but the notices of intention to speak show that the time will be occupied, as I am now advised, until Tuesday. In order that no other notices may displace or delay the answer which I desire to make to those Senators, with the permission of the Senate, I give notice that next Tuesday, which is the first available day, I will endeavor to reply to the arguments of those Senators.

The VICE-PRESIDENT. Notice will be entered.

ESTATE OF JAMES STALEY, DECEASED.

Mr. STONE. Will the Senator from Iowa yield to me for a moment?

Mr. DOLLIVER. Certainly.

Mr. STONE. As the Senator from Iowa desires to occupy some little time, I ask him to yield to me for a moment, as I should like to go away.

Mr. DOLLIVER. With pleasure.

Mr. STONE. I wish to ask the unanimous consent of the Senate to consider the bill (H. R. 12286) granting relief to the estate of James Staley, deceased. The bill has been reported from the Committee on Claims, and involves four hundred and some odd dollars. I should like to have it considered and passed now. A similar bill has been reported several times by committees of the two Houses. The need of passing it now is this: A settlement has been made by the Auditor of the Treasury Department, and he is holding it in suspense until this matter can be adjusted. If perchance it should be wound up and the books balanced, the passage of the bill would be of no value.

The VICE-PRESIDENT. The Senator from Missouri asks unanimous consent for the present consideration of a bill, which will be read for the information of the Senate.

The Secretary read the bill; and the Senate, as in Committee

of the Whole, proceeded to its consideration. It directs the Secretary of the Treasury to allow Bertha D. Staley, administratrix of the estate of James Staley, deceased, credit in the sum of $475.63, in the settlement of his accounts while superintendent Indian training school, Yankton Agency, S. Dak., and special disbursing agent.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

TOWN SITES IN CONNECTION WITH IRRIGATION PROJECTS.

The VICE-PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 87) providing for the withdrawal from public entry of lands needed for town-site purposes in connection with irrigation projects, under the reclamation act of June 17, 1902, and for other purposes, which were, on page 1, line 10, after "be," to insert: "Appraised under the direction of the Secretary of the Interior and;" on the same page, line 10, after "sold," to insert: "under his direction;" on page 2, line 12, to strike out "the" and insert "public;" on the same page, line 13, after "purposes," to strike out "for which they were reserved;" and to strike out all of section 4 and insert:

SEC. 4. That the Secretary of the Interior shall, in accordance with the provisions of the reclamation act, provide for water rights in amount he may deem necessary for the towns established as herein provided, and may enter into contract with the proper authorities of such towns, and other towns or cities on or in the immediate vicinity of irrigation projects, which shall have a water right from the same source as that of said project for the delivery of such water supply to some convenient point, and for the payment into the reclamation fund of charges for the same to be paid by such towns or cities, which charges shall not be less nor upon terms more favorable than those fixed by the Secretary of the Interior for the irrigation project from which the water is taken.

To strike out all of section 5 and insert:

SEC. 5. That whenever a development of power is necessary for the irrigation of lands under any project undertaken under the said reclamation act, or an opportunity is offered for the development of power under any such project, the Secretary of the Interior is authorized to lease for a period not exceeding ten years, giving preference to municipal purposes, any surplus power or power privilege, and the moneys derived from such leases shall be covered into the reclamation fund and be placed to the credit of the project from which such power is derived: *Provided*, That no lease shall be made of such surplus power or power privilege as will impair the efficiency of the irrigation project.

Mr. CARTER. I move that the Senate concur in the amendments of the House of Representatives.

The motion was agreed to.

REGULATION OF RAILROAD RATES.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission.

Mr. DOLLIVER. Mr. President, I have listened with very great attention and pleasure to the speech of the honorable Senator from Missouri [Mr. STONE], and I do not rise now for the purpose of replying to it, for the reason that in the main the Senator's researches have brought him to the same conclusions that have influenced my own opinions. I am inclined to think that while in the main the analysis of the Senator from Missouri of the jurisdiction of the courts under the House bill and under the amendment which has been offered to that bill by the Senator from Kansas [Mr. LONG] is correct, a slight element of misunderstanding enters into his statement.

I have held from the beginning that the House bill is so framed that the courts have under it exactly the jurisdiction which the Constitution gives them. I have considered the fixing of a railroad rate through the Commission as an act of Congress. I can find no authority in the Constitution for the exercise of the power to regulate interstate commerce except that power which is conferred upon the Congress; and I have been driven by long meditation to the conclusion that whatever else this order of the Commission is, it is an act of Congress; for Congress has the only power conferred by the Constitution to regulate commerce between the States.

Now, if that is so, the relation of the courts to that order is a fixed relation; exactly the relation which the courts have to every other act of Congress; namely, the jurisdiction, when the validity of the act is attacked in a proper proceeding, to pass upon the question whether it is within the constitutional power of Congress.

There is no limitation whatever in the Constitution of the United States upon the power of Congress to regulate Congress, except the limitation of the Constitution itself. I hold, therefore, that my honorable friend the Senator from Kansas [Mr. LONG] in offering an amendment conferring affirmatively upon the circuit courts of the United States the jurisdiction which that amendment confers, does not enlarge or abridge in any way the jurisdiction which the circuit courts would have under the House bill without any amendment at all. While that is my conviction, I agree entirely with the distinguished Senator from Minnesota [Mr. NELSON] who, finding good lawyers putting these views in controversy, says: "I am perfectly willing to state affirmatively in the bill what I have maintained from the beginning it was the intention of the bill to include or at least not to exclude."

I have risen for a different purpose. Much has been said—some of it with marked solemnity and seriousness and some with evident appreciation of the humor which is supposed to be involved in it—about the interference of the President of the United States in the work of the Senate. Nobody denies that the President has a certain relation to the legislative business of the Government of the United States. At any rate, if there ever was an excuse given to the President of the United States to publicly explain his views and opinions, it has been given by the course of this debate.

On last Saturday my distinguished friend the Senator from Ohio [Mr. FORAKER], responding to a request, or a suggestion, I suppose, of the legislature of that State calling upon him to support the President, wrote a letter that he was supporting the President, and proved it by quoting from the President's message that he desired the proceedings of the Commission to be subject to judicial review. And only this morning a famous newspaper printed an extract from the President's message, and denounced the amendment of my honorable friend the Senator from Kansas on the ground that it was in violation of the President's views and attitude upon this question.

I am not one of those who have been irritated by the interest which the President of the United States has taken in this controversy. His interest has been upon the broadest and highest national ground. He has stated his views and convictions to the American people in every section of the country, and not one line can be attributed to him having in it the trace of a partisan outlook upon this great national question. Therefore whatever interest he has taken in it can certainly not be attributed to a partisan design of any kind or character.

I have been familiar for a good many years with the attitude of the executive department of the Government toward the work of Congress. There is a member of the Senate now who, if he were disposed to give his experience, would be able to verify what I say, that it has been for many years the no uncommon practice for the Congress of the United States to take counsel with the Executive Departments in perfecting great acts of national legislation. There are at least five acts of legislation, all of them referring to this and similar questions, that were put through both Houses of Congress in the last five years practically without change, as they came from the office of the Attorney-General of the United States.

In the present controversy the Attorney-General has certainly had the invitation of the legislative branch of the Government to take an interest in this matter. Among the very first things the Committee on Interstate Commerce did was to invite him to give his opinion in writing to the committee explaining to us our powers and making what suggestions he thought desirable in relation to this legislation. It is a difficult, a complex, an almost impenetrable subject with which we have been called upon to deal, and I do not propose to be disparaged or to allow anybody else to be disparaged by a sneering suggestion that we have consulted the Attorney-General or even the President of the United States. I count it just as respectable and just as perfectly in line with my public duty to take council with the President of the United States on these questions as for my colleagues and for others to hold sweet counsel with the presidents of railroad corporations.

Mr. President, I do not propose to submit, without at least a word of protest, to the suggestion that the President of the United States is delivering over this bill to the tender mercies of its enemies. It is a nonpartisan proposition. It has friends on both sides of this Chamber, good friends on both sides of this Chamber. It has possibly enough to perfect the legislation and put it through in an effective and satisfactory form. But whether or not it has that number of members of the Senate in favor of it, its friends do not propose to surrender any principle that is involved in it. They have had a long and arduous fight, and they are ready for a good many years of fighting yet. I undertake to say here that if the Senate of the United States does not conform this measure to the petition of those who have supported it by the million throughout the United States we do not settle this question. Unless the effective legislation which is demanded by the American people is given by the Congress of the United States, instead of settling this issue we merely create the largest national issue with which this generation will have to deal.

Mr. President, there is not a line in the public or private writings of the President of the United States to warrant the suggestion that any man is supporting him or supporting the ideas to which he has given expression during the last two years by so amending this bill as to transfer this power of Congress to the courts of the United States. The newspaper to which I alluded a moment ago printed an extract from one of the President's speeches, and followed it with a denunciation of the amendment which my friend the Senator from Kansas introduced yesterday, leaving the impression upon the public mind, with a curious mixture of sincerity and satire, that the President of the United States had either changed his position or had never occupied any such position as he would be put in by the amendment of the Senator from Kansas.

Fortunately in connection with the President's messages we have some outside knowledge of what his notions and his ideas have been in respect to these matters, because with a freedom which has been characteristic of his public career, and I think a very admirable part of his idea of public duty, he has taken the American people into his confidence in every section of the United States. It is true that in his message he suggested that the orders of the Commission were to be subject to the review of the courts, and if I have correctly interpreted the purpose of the honorable Senator from Kansas in introducing his amendment, it was for the purpose of defining before the American people exactly what sort of a review the friends of this legislation desire to have.

Not one of them desires to leave this railroad property without redress against a violation of constitutional rights. Not one of them desires an act of oppression or injustice against these carriers, whether committed in malice or through error, to go without a proper redress in the courts of the United States.

The President of the United States in his annual message asked that these orders be made "subject to review in the courts." But for months before that he had been explaining to the American people exactly what jurisdiction he thought the courts should occupy in the matter, and I desire to take the opportunity of putting into the RECORD an extract from a speech made by the President before a Democratic club in the city of Chicago—the Iroquois Club—some time before the last message to Congress was sent, which, in my humble judgment, shows that the President occupies now exactly the position he occupied then, and exactly the position which he explained in his brief recommendation to Congress last December upon this subject. He said:

> Personally, I believe that the Federal Government must take an increasing control over corporations. It is better that that control should increase by degrees than that it should be assumed all at once. But there should be, and I trust will be, no halt in the steady progress of assuming such national control. The first step toward it should be the adoption of a law conferring upon some executive body the power of increased supervision and regulation of the great corporations engaged primarily in interstate commerce of the railroads. My views on that subject could not have been better expressed than they were expressed yesterday by Secretary Taft in Washington, and as they were expressed by the Attorney-General in his communication to the Senate committee a couple of weeks ago: "I believe that the representatives of the nation—that is, the representatives of all the people—should lodge in some executive body the power to establish a maximum rate, the power to have that rate go into effect practically immediately, and the power to see that the provisions of the law apply in full to companies owning private cars and private tracks just as much as the railroads themselves. The courts will retain, and should retain, no matter what the Legislature does, the power to interfere and upset any action that is confiscatory in its nature."

Again, in his speech delivered before the Chamber of Commerce of Denver only a few months before the sending of the President's last message to Congress, he used these words:

> But with that statement as a preliminary, I wish to urge with all the earnestness I possess, not only upon the public, but upon those interested in the great railway corporations, the absolute need of acquiescence in the enactment of such law. As has been well set forth by the Attorney-General, Mr. Moody, in his recent masterly argument presented to the committee of the Senate which is investigating the matter, the legislators have the right, and, as I believe, the duty, to confer these powers upon some executive body. It can not confer them upon any court, nor can it take away the court's power to interfere if the law is administered in a way that amounts to confiscation of property.

So, from the beginning the President has been clear and straight in his interpretation of his situation, and I doubt very much whether it would have been necessary for him to address these speeches to the country or to take the slightest interest, with those who have been trying, amid a good many difficulties, to perfect legislation, if it were not for the fact that persistently the argument for a review of the orders of the Commission and a trial of the case de novo in the courts, from the beginning of this debate, has taken refuge behind six words in the President's message, to wit, that the order of the Commission should be subject to review in the courts.

I submit in all fairness that it is hardly proper for men who know exactly what the President of the United States has stood for, exactly what he is trying to do, whether they indorse it or not—it is hardly proper to deal with the American people with the idea that they are supporting the President, when in point of fact they are urging a proposition that is not only not contained in anything the President has ever said, but reduces the President's recommendation to a practical and legal absurdity before the whole country.

I have spoken in this way, Mr. President, not for the purpose of irritating anybody's feelings. I know that much is said here in the Senate about Executive interference, but I close by suggesting that the institutions and legislation of the American people are much more liable to be damaged here in the Senate of the United States by interference from other quarters than by the friendly and patient suggestions of the President of the United States.

Mr. BAILEY. Mr. President, I belong to that very small class of Senators and Representatives who do not believe that it is proper for them to be influenced in the performance of their legislative duties by the views of the executive department; and it has never been my practice since I had the honor to occupy a seat in Congress to confer with any President, either of my own or of the opposition party, in respect to any legislation.

The only exception I ever made—and that more apparent than real—was in the case of the lamented and martyred McKinley, whose invitation I accepted to confer with him in the hope that we might find a way to avert the war with Spain. Upon a question like that, which was not legislative, I felt that any Member of Congress might properly confer with the Executive of the Republic. But, sir, I have so often seen—and this applies not only to the present President of the United States, but to his predecessors in that great office—I have so often seen the judgment of Congress overruled or controlled by Executive influence that early in my service in the other House I resolved that it should never prevail with me.

I remember when a mere school boy reading of a great Virginia Democrat being invited to the White House by a President, of his own party and chosen from his own State, to confer upon an important question pending in the Congress, and I remember how my youthful blood was made to run faster when I read how that great Virginia Democrat said: "Mr. President, the Constitution of the United States has separated the executive and the legislative departments of this Government, and, by the help of God, I intend to keep them separate." I adopted that as my creed and I have lived up to it from that day to this.

But I must say if ever a President was justified in conferring with his friends in Congress, this measure and these circumstances furnish that justification. Earnestly and, as I believe, sincerely striving to put upon the statute book a useful measure, he finds himself confronted with the opposition of his own party. I am safely within the truth when I say that less than one-third of the President's party friends in this Chamber sympathize with this effort to secure the enactment of this legislation.

Mr. ALDRICH. Mr. President——

Mr. BAILEY. I hope the Senator from Rhode Island is going to include himself in that one-third who help the President.

Mr. ALDRICH. So far as I know, there is no Senator sitting upon this side who does not sympathize fully with the Senator from Texas and the President of the United States in a desire to secure effective and proper legislation with reference to the regulation of railroad rates. That a large part of the Senators on this side do not sympathize either with the President or with the junior Senator from Iowa in an attempt and purpose to so limit and circumscribe the rights of the people of the United States that they can not be effectively secured through the courts of the country I will frankly admit.

Mr. BAILEY. Mr. President, the Senator from Rhode Island always knows exactly what he wants, but he sometimes makes the mistake of supposing that other people do not also know what he wants. I know that a large number of Republican Senators honestly believe that this legislation is unnecessary, and another per cent of gentlemen on that side honestly believe that it will be hurtful. I have no quarrel with them, if that is their honest opinion; and I am one of the men who believe and who dare to say, in spite of all the slanders that fill the air, that a large majority of the men in this body want to do what they think is right. I accord to others the same honesty of purpose and motive that I claim for myself, but it is no impeachment of their patriotism to say that they differ with the President, and their differences with him, I repeat, make it permissible, if it can ever be permissible, for the Executive to seek conferences with the members of the legislative department.

Now, Mr. President, one expression by the Senator from Iowa [Mr. DOLLIVER] gives me even more concern than the open ad-

mission that the President has been striving by conference and suggestion to shape the legislation of Congress on this subject. The Senator from Iowa says that those who have conferred with the President have rendered the country a better service than others who have been conferring with the presidents of railroads. I cordially agree to that statement. But, Mr. President, the Senate is entitled to know who it is here who has been conferring with the presidents of the railroads. If any Senator here has been conferring with the railroads or the presidents of the railroads, with a view to defeating legislation in the public interest, the Senate is entitled to know it, and the country is entitled to know it.

The Senator from Iowa is not given to intemperate or incautious speech, and when he suggests that Senators who are striving to accomplish the defeat of this bill are consulting with the presidents of railroads with a view to that end, just as he and others who are striving to pass it are consulting with the President of the United States with a view to that end, he utters a serious reflection upon some Senators—not upon the Senate, because no man believes that such conferences as that include the Senate. But if they include any Senator or any Senators, the country and the Senate are entitled to know who these Senators are.

Mr. FORAKER. Mr. President, the Senator from Texas [Mr. BAILEY] has only anticipated what I wanted to say. As the Senator from Texas has well said, the charge—for it is not anything short of that—that Senators who are in opposition to the bill he is supporting are in conference here from time to time with presidents of railroads——

Mr. ALDRICH. With a view of defeating the bill.

Mr. FORAKER. With a view of defeating the bill is a most serious one, and the Senators referred to should be named. I respectfully demand of the Senator from Iowa that he name the Senators, so that if there is a member of this body engaged in such conferences we may know who it is.

Mr. DOLLIVER. I shall take the liberty of not pursuing that controversy.

Mr. FORAKER. Well, Mr. President, it seems to me the Senate has a right to know. I do not imagine the Senator refers to me, but I do know, as every other Senator must know, that the suggestion of the Senator was broad enough to include every member of this body.

Mr. DOLLIVER. I have never dreamed that there was any impropriety in consulting with presidents of railroads. I presume hardly a man here but has sought the counsel and suggestion of those who were practically familiar with railway business. In connection with my honorable friend from Ohio, I spent three months last spring hearing the views of as distinguished a group of railroad managers as ever assembled anywhere in the world, and I have never thought that a man could not talk with railroad presidents without being charged with some form of impropriety. I have no notion that a man can be guilty of the offense of consulting with the Chief Magistrate of the American people without being made the subject of ridicule and misconstruction of his motive.

Mr. FORAKER. I have never complained of anyone who has seen fit to confer with the Chief Magistrate of the nation. I do so whenever I see fit to and he will permit it. I am always glad to do it. I never think of anyone conferring with the President having any improper motive in view.

So far as conferences with railroad presidents are concerned, I do not know of any on the part of any member of this body. It is true that when the Senate Committee on Interstate Commerce had hearings, covering five or six weeks last spring, a number of railroad officials appeared before that committee and gave their testimony, just the same as any other witnesses; but I do not know of any member of the committee conferring with those railroad officials at that time. I do not know of any member of that committee or any member of this body conferring at any time or place with any railroad official concerning this proposed legislation.

Now, Mr. President, it will not do for the Senator to say he had no thought or purpose of insinuating that there was anything improper in such conferences, for the Senator said in so many words that Senators had been conferring with railroad presidents in order that they might better know how to defeat this legislation. Only one inference could be drawn from that, and that was that men who do not agree with the Senator from Iowa in his support of this measure were representing in some such way as has been charged railroad interests or railroad officials. I know of no railroad officials having anything whatever to do with this legislation, except only to express their views when they came before the committee. No railroad official, so far as I can recall, has ever talked with me at any time or any place, and I do not believe that any railroad official has ever talked in any improper way with anybody else who is in opposition to this proposed legislation.

Mr. TILLMAN. If the Senator will pardon me, I saw in the newspapers a day or two ago a statement that President Mellen, of one of the New England roads—I have forgotten which—had been to the White House for lunch, conferring with the President about this matter, and rumor had it that he went there to demand that certain features of the Hepburn bill should be stricken out—that part of the bill which relates to requiring the railroads to keep a certain kind of books and no other kind.

While I am on my feet, if the Senator will pardon me, I should like, as one witness, to give some little testimony in this interesting controversy among the brethren on that side as to what took place at the hearings before the Interstate Commerce Committee. I can not recall the date, but I recollect very distinctly that a gentleman came into the committee room and, after shaking hands with a few of his friends, passed on to the inner sanctuary, and I did not see him any more; but I was afterwards informed that he was Mr. A. J. Cassatt, of the Pennsylvania road. Now, what his business was or with whom he conferred I do not pretend to say. I merely state that as a fact.

Mr. FORAKER. Mr. President, I do not know anything about the occasion to which the Senator refers. I never met Mr. Cassatt but once in my life, and I met him at the White House then. He was there calling upon the President.

Mr. President, let me call attention to the fact in this connection, now that Mr. Cassatt has been named in the way he has, that he is one of the railroad presidents of the country who has been favoring this proposed rate making on the part of the Government for the railroads of the country, and Mr. Mellen, who was referred to, is another. They have been advocates of this kind of legislation all the while. There are railroads on both sides of the question. At least, such is the report as to Mr. Cassatt and Mr. Mellen.

I have very frequently seen notices of their presence in the city, but never having seen Mr. Cassatt but the one time, of course I do not know what he was here for, except only as the newspapers may have advised. I never met Mr. Mellen; I do not know him at all; but I have noticed that he has been here frequently and that at such times he was usually in conference with the President, and always about railway rate legislation.

I can understand, Mr. President, why Mr. Cassatt, representing the Pennsylvania Railroad, might favor this kind of legislation. He represents a railroad that covers the heart of the country; a railroad so situated and so powerful, having so many advantages, that it could grow inordinately rich on what might destroy other railroad properties. I do not know of anybody else equally fortunately situated. If anybody else is so equally fortunately situated, it is Mr. Mellen and his road; and they are both in favor of this kind of legislation.

But, Mr. President, I do not imagine that either of these gentlemen, or that any other railroad official, has been in Washington to see the President or to see any Senator in regard to railway rate legislation with any improper motive in view. I do not know why they should not come here when their great properties are being legislated about and give us the benefit of their special knowledge. I know I was very glad to hear them when they came before the Interstate Commerce Committee. They were able men, intelligent men, and they gave us information that it was necessary for us to have to enable us to intelligently legislate; and I have no doubt they have been able to give the President a great deal of information that has been appreciated by him.

What I object to is that the Senator from Iowa or any other Senator should stand up here in this body and refer to a circumstance of that kind in such a way as that people might rightfully deduce from his statement that it was intended by him to charge that improper influences were being exerted, and that Senators were yielding to such improper influences. That is an attack on the whole Senate, and should not be made unless based on facts. That is all I care to say about that.

Mr. President, the Senator alluded to something entirely personal to myself. He said that on last Saturday I sent to the legislature of Ohio a letter, in which I undertook to claim that I was supporting the President in contending here for an adequate court review. I do not suppose that what I said to the Ohio legislature on that occasion is a matter of much importance to Senators, but I should like, not troubling Senators to stop and listen to it, to have what I did say inserted in the RECORD, so that along with that statement of the Senator from Iowa those who may see fit to read the RECORD can read and see what I did say. Therefore I send to the Secretary's desk a copy of that letter as it was published in the Cincinnati Commercial

Tribune, and ask that it may be printed in the RECORD, without reading, unless Senators desire that it shall be read, but I do not suppose that the Senate does so desire.

The VICE-PRESIDENT. Without objection, the paper referred to by the Senator from Ohio will be printed in the RECORD without reading.

The paper referred to is as follows:

[Special dispatch to Commercial Tribune.]

"YOU CONFIRM MY OPINION," FORAKER WRITES ASSEMBLY—SAYS HIS COURSE ON RATE REGULATION IS IN ACCORD WITH LEGISLATURE'S EXPRESSED WISHES AND MEASURES—QUOTES TAFT'S AKRON AND COLUMBUS WORDS—SHOWS HOW ADMINISTRATION HAS STOOD FOR COURT REVIEW.

COMMERCIAL TRIBUNE BUREAU, OUTLOOK BUILDING,
Columbus, Ohio, March 31, 1906.

In a letter answering the request of the general assembly that he support the position of President Roosevelt on the railroad rate question Senator FORAKER exhaustively explains his own position.

The letter was drawn out by the O'Roard resolution.

Senator FORAKER'S colleague, Senator DICK, wrote to the Ohio assembly, indorsing the sentiment of the O'Roard resolution.

SENATOR FORAKER'S LETTER.

Senator Foraker's letter is as follows:

The General Assembly of Ohio:

GENTLEMEN: I received by due course of mail your house joint resolution No. 8, passed February 23, 1906, of which the following is a copy:

"House joint resolution No. 8, relative to railroad rates.

"*Be it resolved by the general assembly of Ohio,* That the members of the general assembly of Ohio believe that President Roosevelt was right when he recommended to Congress that a law be passed 'conferring upon some competent administrative body the power to decide, upon the case being brought before it, whether a given rate prescribed by a railroad is reasonable and just, and if it is found unreasonable and unjust, then, after full investigation of the complaint, to prescribe the limit of rate beyond which it shall not be lawful to go, the "maximum reasonable rate," as it is commonly called, this decision to go into effect within a reasonable time, and to obtain from thence onward, subject to review by the courts.'"

"SEC. 2. That we commend the wisdom of such legislation by the Congress of the United States, and request the Senators and Members of the House of Representatives from Ohio, in Congress, to vote for the passage of a law containing such provisions.

"SEC. 3. That copies of this resolution be sent to the Senators and Representatives of Ohio, in Congress, by the secretary of state.

"C. A. THOMPSON,
"*Speaker of the House of Representatives.*
"JAMES M. WILLIAMS,
"*President pro tempore of the Senate.*

"Adopted February 23, 1906."

WHY HE DELAYED ANSWER.

I have delayed answering until now, because I observed that you had under consideration a bill creating a railroad commission and empowering it to fix railway rates and prescribe railway regulations for Ohio.

It occurred to me that in the consideration of that measure you would find it necessary to consider and act upon some of the questions that have been discussed in the two Houses of Congress, and that it might be easier, after such action, to make answer to your request.

I now learn that the bill, with some amendments, has passed both houses, and that it will, no doubt, receive the approval of the governor and become a law.

CONTAINS AMENDMENT.

I have a copy of it as it passed the house, and find, upon examination, as I anticipated when I concluded to await your action, that it contains an amended provision, to which I shall call attention, that has been accepted by the senate without change, as I am informed.

But before pointing this out, allow me to say again, as I have repeatedly said heretofore in public utterances and in public print, that there is no difference of opinion upon the point that there are abuses practiced by the railroads that should be prohibited and remedied, nor is there any difference of opinion as to the necessity for some kind of additional legislation to accomplish this purpose.

The sole difference is as to what that legislation shall be.

TWO PROPOSITIONS ADVANCED.

Generally speaking, two propositions have been advanced: One to confer the rate-making power, as recommended by the President, on the Interstate Commerce Commission; the other to broaden and strengthen the jurisdiction and power of the courts under existing laws.

Many bills have been introduced embodying the former idea; a less number the second.

The first class of bills was intended by their respective authors to carry out the President's recommendation, and were supposed to be in full compliance with the requirements thereof; the second class aimed to accomplish the same purpose, but by different methods.

Out of all these many propositions finally came the so-called "Hepburn bill," which, according to the announcements in the newspapers, had the special approval of the President and his Attorney-General, and was to be supported as an Administration measure.

It passed the House without amendment, although there was much dissatisfaction expressed therewith by the Members of that body; was considered in the Senate Interstate Commerce Committee, and, although there was much objection and discussion, all amendments were finally rejected and it was reported to the Senate, and is now under consideration as it came from the House.

It is earnestly and vociferously insisted that it shall now be passed by the Senate and become a law just as it passed the House.

Before commenting on this proposition, I call attention to the fact that the President, in his message of December 6, 1904, recommended that—

"The Commission (Interstate Commerce) should be vested with the power, where a given rate has been challenged and after full hearing found to be unreasonable, to decide, subject to judicial review, what shall be a reasonable rate to take its place, the ruling of the Commission to take effect immediately and to obtain unless and until it is reversed by the court of review."

HOW TAFT INTERPRETED.

Secretary Taft, in his speech as temporary chairman of the Ohio Republican State convention of May 24, 1905, interpreted this recommendation of the President and the Esch-Townsend bill, which had then passed the House of Representatives, as meaning that the orders of the Interstate Commerce Commission fixing rates and regulations, when made, shall be effective until set aside by judicial hearing.

In his speech at Akron, October 21, 1905, Secretary Taft further said:

"The President's proposition is that the power of the Commission shall be to hear a complaint that a particular rate is unreasonable, to declare it to be unreasonable, and to fix the rate which should be reasonable, and embody this finding in an order, which should stand until set aside by a court, either upon preliminary or final hearing."

WITH ROOSEVELT'S APPROVAL.

It is believed, upon what is thought to be good authority, that both these speeches of Secretary Taft were made with the knowledge and approval of the President as correctly setting forth his views.

In the Esch-Townsend bill, and in the interstate-commerce bill, framed by the Interstate Commerce Commissioners by them presented to the Interstate Commerce Committee of the Senate in November, 1905, and which was at the time supposed to be the most intelligent and authoritative presentation of the President's views, in the form of a bill, that could be framed, as well as in nineteen other bills that have since been introduced in the Senate and the House at this session of Congress, all, as their respective authors understood and believed, in substantial conformity in this respect with the President's recommendation, it was carefully provided in one form or another that the orders of the Commission fixing rates and prescribing regulations should be subject to review by the courts in proceedings instituted therefor by either the carrier, the shipper, or any other party interested, as to whether or not they were lawfully made in accordance with the terms and conditions of the proposed statute that they should be just and reasonable.

PROVIDED IN SIXTEEN STATES.

In every one of the sixteen States of the Union where railroad commissions or other officials have been authorized and empowered to fix rates and prescribe regulations, suitable provisions have been made for a review by the courts of all such orders.

Such was the previous discussion, and such the character of legislation on the subject in the different States, and such the character of all the bills that had been introduced when the Hepburn bill made its appearance.

Like all the other bills, it conferred the rate-making power, as recommended by the President, on the Interstate Commerce Commission, but unlike every similar statute enacted in the various States and unlike every other similar bill introduced in Congress, and in direct conflict with the utterances of the President and every other person who had spoken for him, it not only fails to provide for a review by the courts, but it is intentionally so drawn, as some of its leading advocates acknowledge, as to prohibit such a review, not only upon the petition of the carrier, but also upon the petition of the shipper or any other person or community interested or affected by the orders of the Commission.

ALL ELSE OVERSHADOWED.

This feature of the bill was so unexpected, so unprecedented, so un-American, and so in conflict with that rule of American life and American institutions that every man is entitled to his day in court, that every other question raised by the proposed legislation has been overshadowed and almost lost sight of in the debate that is now in progress.

Notwithstanding the acute character of this particular question, in some remarks I made to the Senate on the 28th of February I took occasion to discuss the general subject at length, pointing out as well as I could a number of the provisions of the bill that are, in my judgment, unconstitutional, and giving reasons why, in my opinion, the bill, if it should be enacted and be upheld by the courts, will prove a sore disappointment to all who are interested in securing such legislation, because of its manifest deficiencies as a remedy for any trouble of a serious character of which complaint has been made.

SENDS COPY OF SPEECH.

In view of your request, I have taken the liberty of sending a copy of these remarks to each member of your body, in order that all may know in full, if they so desire, the views I entertain, and the reasons for them, with respect to this measure, and with that purpose in mind I ask that those remarks may be considered by reference as a part of this communication.

It is unnecessary for present purposes to review those remarks further than to call attention to the fact that I have undertaken to show that if we enact the Hepburn bill as it passed the House we must encounter a number of the most serious constitutional and legal questions, on account of which the measure will probably perish in the courts, and that, if it should stand that test, the law will not prevent or in any manner remedy the practice of giving secret rebates, making discriminations among individual shippers, the lack of uniformity in classification, or the evil to communities of unjust and discriminatory relative rates.

HOUSE COMMITTEE ADMITS IT.

The House committee in its report admits and concedes all this, and acknowledges that it does not attempt to deal with these evils.

In those remarks I undertake not only to show these defects of the Hepburn bill, but also to point out, upon facts and testimony of an indisputable character, that by a simple amendment of the present law, which I have already introduced in the Senate, the existing remedial provisions of the statute can be so broadened and strengthened as to reach and effectively prevent all these abuses.

This amendment involves but one hearing, and that in the courts, in a proceeding in the name of the United States without trouble to the shipper, under a requirement that the courts shall proceed summarily to hear the complaint, postponing all other business, in so far as may be necessary to enable it to do so, thus avoiding all delays.

WILL BE MORE EXPEDITIOUS.

On this account this proceeding will be far more expeditious than the proceeding provided by the Hepburn bill.

It goes further and relieves the shipper of all expense of the litigation on account of which he has been heretofore so burdened and hampered, that, in many cases, he has preferred to suffer the wrongs to which he has been subjected rather than undertake, single handed and alone, to fight a railroad before the Commission or in the courts.

In addition to these advantages, which would be of incalculable value to the aggrieved shipper, the proceeding would be under a statute that

has already been upheld by the Supreme Court of the United States and under which more has been done to correct railroad evils than under any act of legislation that has yet been enacted by any of the States or the Federal Government.

NOTHING EXPERIMENTAL.

No constitutional or legal questions can arise, for all have been discussed and passed upon by the court of last resort. There would be, therefore, in such a proceeding nothing experimental.

I have been hoping that in some form or other this kind of legislation, which could not prove otherwise than effective, may be enacted; but assuming that the Hepburn bill in some form will be passed and become a law, I shall consider it my duty to do all in my power to make it a constitutional, workable, and effective measure.

My oath of office requires that, and I would not only violate that but also my duty to my constituents and the whole country if I were to do otherwise than follow its requirements.

CONFIRMS HIS OPINION.

With respect to this duty you have relieved me of all embarrassment by the action you have taken in adopting the amended provision above referred to as a part of the measure you have just passed, to provide for a full and complete review in the courts of the orders of the Commission you have created, for now, in view of your action, I feel confirmed in the opinion that it is my duty to insist upon such amendments to the Hepburn bill as a condition precedent to the support of it as will secure to carriers, shippers, communities, and all others who may be parties in interest affected by the orders of the Commission a right to appeal to the courts for a judicial determination of any questions that may arise involving or affecting their interests, for if such a provision is important in a State statute it requires no argument to show it is much more important in a statute that applies to the whole country.

THE PROPER INTERPRETATION.

I so conclude because this is necessarily and properly the interpretation you have placed upon the recommendation of the President, which you have quoted in your resolution.

Your action was, of course, taken intelligently, deliberately, and officially, but aside from the fact that it was taken in this intelligent and deliberate way is doubtless the further fact that, because of the equity and justice involved, you would not change your action even though the President might, for some reason sufficient for himself, see fit to change his own views with respect to such a provision, as it has been claimed, erroneously, I hope, he has done.

CONGRATULATES ASSEMBLY.

But however that may be, upon your action in adopting this amended provision I most heartily congratulate you and the people of Ohio, for by it you have, at an opportune time, fittingly rebuked the sentiment that would, if possible, excite distrust of the courts, destroy their usefulness, and debar them from their appropriate participation in the settlement of the great and far-reaching questions which legislation of this character must precipitate.

At the same time you have put Ohio in harmony with all her sister States and with the spirit of fair play that underlies and characterizes our Constitution and all our institutions of government.

With felicitations upon the near approach of the conclusion of your labors and upon the very creditable record you have made, I remain, with sentiments of highest esteem,

Very truly, yours, etc., J. B. FORAKER.

Mr. DOLLIVER. Mr. President, I think I ought not to allow this controversy to subside without disclaiming any intention in anything I have said to impute an improper motive to my good friend the Senator from Ohio [Mr. FORAKER], or to any other member of this body. If I had thought to make such an imputation, I have had by far too much experience in this world to undertake to explode a proposition like that under these surroundings.

I have had no notion that a man might not properly consult with those familiar with the practical operations of the railway systems of the United States, here or anywhere. I have, with great industry, sought from original sources to get at the practical problems which are involved in the building and operation of our railway systems. That has been a part of every man's duty who has sought even to approach a clear understanding of the questions with which he has to deal.

So that instead of making an imputation upon a man's character because he is found consulting with persons more familiar than he himself was with these problems, I have felt from the beginning that it was my duty to do so. Otherwise I would not have stayed, in the midst of sickness and misfortune, for three months and far into the month of July here in this city, while others of my colleagues were peacefully resting at the summer resorts of Europe and America. I felt that to be my duty.

I have more than once expressed the opinion that the railway managers of the United States, these great and masterful men who have builded our railway systems, ought to deal at first hand with the Congress of the United States. I have been disappointed that the Government of the United States has been practically without the assistance of our great railway managers in the efforts which we have been making to perfect a practical scheme of railway regulation. I think it would have been of immense value to Congress if, instead of organizing a literary protest, running over a year in the United States and costing, as I am informed, nearly two millions of money, to befog the issues of this controversy, the great men who are interested in the management of our railway systems had personally given their attention to the problem with which Congress had to deal and coorpeated with the Government of the United States in the work which we have had in hand. The whole success of our legislation lies in the cooperation of the railway world with the act of Congress prescribing their duties and regulating their conduct.

The railway system of the United States is not an enemy of the American people. It is the household servant of American business. Its prosperity depends upon the prosperity of the American market place, and a lamentable tragedy in connection with this great matter has been the fact that, instead of aiding the Government of the United States, the men most interested in these great properties have at least acquiesced while a spirit of hostility and malice has grown up, in the midst of which we have been trying, under many disadvantages, to secure an act of effective legislation.

I desire, therefore, to disclaim any imputation upon the character of the honorable Senator from Ohio or of anybody else. I have not——

Mr. FORAKER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from Ohio?

Mr. DOLLIVER. Certainly.

Mr. FORAKER. I did not take the Senator's remark as having any application to myself, and I so stated. I took exception to his remark because it affected the Senate as a body. Every member in it was included in the imputation, if I rightly understood the language employed by the Senator, and it was on behalf of the Senate itself as a whole that I took exception. I had no idea the Senator had any reference to myself. I know he did not refer to me, and am glad to learn that he did not refer to anybody else.

Mr. DOLLIVER. Certainly not; and I would not have been disturbed in my mind in making even such a remark as I did if I had not found myself here on Tuesday in an atmosphere in which a friendly and earnest conference with the President of the United States in relation to a great practical question pending before the Congress of the United States, had not been made the subject of jest and sneer and satire, as if it were unbecoming and a reproach in some form to our institutions.

Mr. ALDRICH. Mr. President, I wish once more to enter a protest, which I desire to make as emphatic as language can make it, against the assumption that any Senator here, or any person outside of this Chamber, is to be considered as the special friend and the only friend of railway rate legislation. I know of no right of monopoly by which anybody can assume that certain Senators here have a right to speak as friends of this legislation and certain other Senators are to be classified as its opponents. I mean to include in this Senators on both sides of this Chamber.

I know of no person who is here with an object to defeat legislation with reference to this matter. I trust we are all here to do our duty as Senators, having in view the importance of the subject and the traditions and the character of this great body, and that we are not to be classified arbitrarily as the friends or the opponents of any proposed legislation. I assume as has been so frequently stated, that this is an economic question and not a partisan question, about which there can be honest differences of opinion without reflections as to motives.

Mr. FORAKER. Mr. President, I want to add just one other word in answer to what the Senator from Iowa [Mr. DOLLIVER] last said about the character of the discussion that was engaged in on the floor of the Senate the day before yesterday when this conference was referred to. The talk about sneering satire and unkind remarks of one kind and another having been then indulged in, I do not remember anything of that kind. I remember there was a little good-natured raillery at the expense, if I may use that term without being misunderstood, in a certain sense, as we thought at the time, of the senior Senator from Iowa [Mr. ALLISON].

Mr. ALLISON. Mr. President——

Mr. FORAKER. It is so seldom that we get an opportunity to say anything to him or about him of a criticising character that we must be allowed to enjoy it when we do have such an opportunity. [Laughter.]

Mr. ALLISON. Now, Mr. President——

Mr. FORAKER. It was not the fact that there was a conference that lent interest to that colloquy, but that the Senator from Iowa was at the conference and admitted he was there without any qualification. [Laughter.]

Mr. ALLISON. Mr. President, I do not wish to interfere with the Senator further than to say a word.

Mr. FORAKER. Certainly.

Mr. ALLISON. It seems to be necessary that somebody should have the last word in this controversy. I thought all the time in that good-natured colloquy—if that discussion be-

tween two or three Senators could be considered a colloquy—that it was at the expense of the Senator from Texas [Mr. BAILEY] and the Senator from Ohio [Mr. FORAKER]. [Laughter.] Now they proclaim that it was at my expense. I supposed I was absolutely triumphant in that controversy [laughter], and that I went out of it with flying colors. But now the Senator from Ohio [Mr. FORAKER] insists that I was worsted in that controversy. I am perfectly willing now, being in a forgiving mood, to admit that that colloquy and that little intervention was at my expense. [Laughter.]

Mr. FORAKER. Mr. President, I am glad the Senator takes it so good naturedly. It is not important whether it was at the expense of the Senator or at the expense of somebody else. I think everyone here was impressed more with the idea of the humor involved in the colloquy than in any criticism anybody may have been disposed to indulge in of the President or of anybody engaged in the conference with the President.

I have differed from the President about this rate-making proposition from the beginning. I have discussed it before the public and here in the Senate on numerous occasions; but I am sure the Senator will search in vain for one single word that I have ever uttered in regard to the President's attitude, except only it be a word of compliment and of regret that I could not be in accord with him in the views I entertain.

I have no question about the sincerity of the President. I think he is one of the most outspoken and aggressive men I have ever known, and I have never failed to so testify; but I think with respect to the President, as with respect to any other human being, he may possibly now and then be in error. I think he is in error in his recommendation in this respect, and I have felt it to be my duty to state wherein I was not able to agree with him. I am in full accord with him as to the necessity for some kind of legislation to break up and destroy and prevent for the future the abuses at the hands of the railroads that the people are now suffering from, but it does not necessarily follow that the right way to prevent those abuses is that pointed out by this Hepburn bill.

I have undertaken to show that it is an ineffective measure; that it is an unconstitutional measure; that it is not a workable measure; that is would be impracticable so far as results are concerned, and that if enacted there will be disappointments, and that for these reasons I do not think it wise legislation. Surely it is my right and my privilege to do that, and surely when a conference has been held, and it is made the subject of discussion in this body, I have a right to refer to that fact, no matter who was present, without being called to account for it, and without being charged, by innuendo or otherwise, with having committed the heinous offense of indulging in sneers or satire or with having been guilty of talking at some time with some railroad president or other official.

Now, Mr. President, I shall not on this occassion deal with the difference between the Senator from Iowa and myself as to the kind of legislation that should be enacted, but at an early day I hope to have an opportunity to do that, and I hope to have an opportunity to satisfy every Member of this body, whether I satisfy anybody else or not, that I have offered an intelligent scheme of legislation which, if enacted, will efficiently remedy all the evils that are complained of, and which will save us from encountering all the serious constitutional and other difficulties that have been pointed out in the course of this debate as to the bill before the Senate.

CHAMBERLAIN, S. DAK., LAND DISTRICT.

The VICE-PRESIDENT laid before the Senate the bill from the House of Representatives (H. R. 15328) to approve certain final proofs in the Chamberlain land district, South Dakota; which was read twice by its title.

Mr. KITTREDGE. I move that the House bill be placed on the Calendar in lieu of Calendar No. 2261, being the bill (S. 4635) to approve certain final proofs in the Chamberlain land district, South Dakota, as they are identical, and that the Senate bill be indefinitely postponed.

The VICE-PRESIDENT. Without objection, House bill 15328 will be placed on the Calendar in lieu of Senate bill 4635, and the Senate bill will be indefinitely postponed.

EXECUTIVE SESSION.

Mr. GALLINGER. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After ten minutes spent in executive session, the doors were reopened; and (at 4 o'clock and 10 minutes p. m.) the Senate adjourned until to-morrow, Friday, April 6, 1906, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate April 5, 1906.

DISTRICT ATTORNEY.

John Embry, of Oklahoma, to be United States attorney for the district of Oklahoma, vice Horace Speed, removed.

PROMOTION IN THE ARMY.

Col. Charles R. Suter, Corps of Engineers, to be placed on the retired list of the Army with the rank of brigadier-general from the date on which he shall be retired from active service.

POSTMASTERS.

CALIFORNIA.

George P. Snell to be postmaster at Del Monte, in the county of Monterey and State of California. Office became Presidential April 1, 1906.

Frederick W. Turner to be postmaster at Loomis, in the county of Placer and State of California. Office became Presidential April 1, 1906.

COLORADO.

John Trathen to be postmaster at Idaho Springs, in the county of Clear Creek and State of Colorado, in place of Stephen A. Noyes. Incumbent's commission expires May 8, 1906.

James Wolfe to be postmaster at Eaton, in the county of Weld and State of Colorado, in place of James Wolfe. Incumbent's commission expired January 20, 1906.

GEORGIA.

William Fleming to be postmaster at Athens, in the county of Clarke and State of Georgia, in place of William Fleming. Incumbent's commission expired February 6, 1906.

James J. Gordy to be postmaster at Richland, in the county of Stewart and State of Georgia. Office became Presidential April 1, 1906.

Kate W. Kirkpatrick to be postmaster at Decatur, in the county of Dekalb and State of Georgia, in place of Kate W. Kirkpatrick. Incumbent's commission expires April 17, 1906.

Albert S. J. McRae to be postmaster at McRae, in the county of Telfair and State of Georgia, in place of Albert S. J. McRae. Incumbent's commission expired March 14, 1906.

Robert K. Turner to be postmaster at Nashville, in the county of Berrien and State of Georgia. Office became Presidential April 1, 1906.

James O. Varnedoe to be postmaster at Valdosta, in the county of Lowndes and State of Georgia, in place of Thomas M. Ray. Incumbent's commission expired January 20, 1906.

IDAHO.

William W. Dunn to be postmaster at Twin Falls, in the county of Cassia and State of Idaho. Office became Presidential April 1, 1906.

Daniel W. Price to be postmaster at Kellogg, in the county of Shoshone and State of Idaho. Office became Presidential April 1, 1906.

ILLINOIS.

William S. Chittenden to be postmaster at Park Ridge, in the county of Cook and State of Illinois. Office became Presidential April 1, 1906.

INDIAN TERRITORY.

James R. Young to be postmaster at Ada, in district 16, Indian Territory, in place of James R. Young. Incumbent's commission expires April 10, 1906.

MAINE.

Winthrop C. Fogg to be postmaster at Freeport, in the county of Cumberland and State of Maine, in place of Winthrop C. Fogg. Incumbent's commission expires May 21, 1906.

William Stackpole to be postmaster at Saco, in the county of York and State of Maine, in place of William Stackpole. Incumbent's commission expires May 21, 1906.

MICHIGAN.

Lewis Gifford to be postmaster at Davison, in the county of Genesee and State of Michigan, in place of Lewis Gifford. Incumbent's commission expired January 21, 1906.

Louisa Woessner to be postmaster at Stephenson, in the county of Menominee and State of Michigan. Office became Presidential April 1, 1906.

MINNESOTA.

G. R. Hall to be postmaster at Plainview, in the county of Wabasha and State of Minnesota, in place of John P. Waste. Incumbent's commission expired February 10, 1906.

MISSOURI.

David R. Walker to be postmaster at Ozark, in the county of Christian and State of Missouri. Office became Presidential April 1, 1906.

NEW HAMPSHIRE.

Horace French to be postmaster at West Lebanon, in the county of Grafton and State of New Hampshire, in place of Horace French. Incumbent's commission expires May 9, 1906.

NEW YORK.

Volney I. Cook to be postmaster at Belfast, in the county of Allegany and State of New York, in place of Volney I. Cook. Incumbent's commission expired February 10, 1906.

Owen E. Hayes to be postmaster at Camillus, in the county of Onondaga and State of New York. Office became Presidential April 1, 1906.

George Realy to be postmaster at Hancock, in the county of Delaware and State of New York, in place of William A. Hall. Incumbent's commission expires April 30, 1906.

NORTH DAKOTA.

Floyd C. White to be postmaster at Donnybrook, in the county of Ward and State of North Dakota. Office became Presidential January 1, 1906.

OHIO.

W. Sherman Hissem to be postmaster at Loudonville, in the county of Ashland and State of Ohio, in place of W. Sherman Hissem. Incumbent's commission expired February 13, 1906.

Mary Sivalls to be postmaster at Woodville, in the county of Sandusky and State of Ohio. Office became Presidential April 1, 1906.

Enoch S. Thomas to be postmaster at Jackson, in the county of Jackson and State of Ohio, in place of Mark Sternberger, resigned.

PENNSYLVANIA.

Edwin G. McGregor to be postmaster at Burgettstown, in the county of Washington and State of Pennsylvania, in place of Edwin G. McGregor. Incumbent's commission expires May 2, 1906.

Bernard Wendell to be postmaster at Lyndora, in the county of Butler and State of Pennsylvania. Office became Presidential April 1, 1906.

VIRGINIA.

Charles P. Nair to be postmaster at Clifton Forge, in the county of Alleghany and State of Virginia, in place of Charles P. Nair. Incumbent's commission expired March 15, 1906.

WISCONSIN.

Henry Kloeden to be postmaster at Mayville, in the county of Dodge and State of Wisconsin, in place of Charles R. Henderson. Incumbent's commission expired March 5, 1906.

CONFIRMATIONS.

Executive nominations confirmed by the Senate April 5, 1906.

DISTRICT COMMISSIONER.

Henry B. F. Macfarland, of the District of Columbia, to be a Commissioner of the District of Columbia for the term of three years from May 5, 1906.

COLLECTORS OF CUSTOMS.

Benjamin B. Brown, of Pennsylvania, to be collector of customs for the district of Erie, in the State of Pennsylvania.

John A. Merritt, of New York, to be collector of customs for the district of Niagara, in the State of New York.

POSTMASTERS.

COLORADO.

Frank M. Reardon to be postmaster at Victor, in the county of Teller and State of Colorado.

FLORIDA.

William F. Barrett to be postmaster at Dunnellon, in the county of Marion and State of Florida.

GEORGIA.

William F. Boone to be postmaster at Baxley, in the county of Appling and State of Georgia.

De Witt C. Cole to be postmaster at Marietta, in the county of Cobb and State of Georgia.

Henry B. Sutton to be postmaster at Ocilla, in the county of Irwin and State of Georgia.

ILLINOIS.

Harrison P. Nichols to be postmaster at Maywood, in the county of Cook and State of Illinois.

Zachary Taylor to be postmaster at Colfax, in the county of McLean and State of Illinois.

IOWA.

James T. Ellis to be postmaster at Panora, in the county of Guthrie and State of Iowa.

Roman C. White to be postmaster at Glenwood, in the county of Mills and State of Iowa.

MICHIGAN.

Samuel Adams to be postmaster at Bellaire, in the county of Antrim and State of Michigan.

Clayton L. Bailey to be postmaster at Mancelona, in the county of Antrim and State of Michigan.

Thaddeus B. Bailey to be postmaster at Manchester, in the county of Washtenaw and State of Michigan.

J. Mark Harvey, jr., to be postmaster at Constantine, in the county of St. Joseph and State of Michigan.

Richard M. Johnson to be postmaster at Middleville, in the county of Barry and State of Michigan.

Jay C. Newbrough to be postmaster at Greenville, in the county of Montcalm and State of Michigan.

MONTANA.

George W. Huffaker to be postmaster at Helena, in the county of Lewis and Clark and State of Montana.

NEBRASKA.

Frank M. Kimmell to be postmaster at McCook, in the county of Red Willow and State of Nebraska.

NEW HAMPSHIRE.

Frank B. Williams to be postmaster at Enfield, in the county of Grafton and State of New Hampshire.

SOUTH CAROLINA.

B. J. Hammet to be postmaster at Blackville, in the county of Barnwell and State of South Carolina.

WISCONSIN.

Nels Nelson to be postmaster at Washburn, in the county of Bayfield and State of Wisconsin.

WYOMING.

Elmer T. Beltz to be postmaster at Laramie, in the county of Albany and State of Wyoming.

ISLE OF PINES.

The injunction of secrecy was removed April 5, 1906, from Executive Document No. 2, Fifty-ninth Congress, first session, being a letter relating to the Isle of Pines.

HOUSE OF REPRESENTATIVES.

THURSDAY, *April 5, 1906.*

The House met at 12 o'clock noon.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of the proceedings of yesterday was read and approved.

CELEBRATION OF BIRTH OF BENJAMIN FRANKLIN.

The SPEAKER. The Chair lays before the House, without objection, the following invitation.

The Clerk read as follows:

The American Philosophical Society has the honor to invite the House of Representatives to be represented at the celebration of the two hundredth anniversary of the birth of its founder, Benjamin Franklin, to be held in Philadelphia, on April 17, 18, 19, and 20, 1906.

INDEPENDENCE SQUARE, *November, 1905.*

The SPEAKER. Without objection it will be laid upon the table. By authority of the concurrent resolution of the House and Senate, the Chair appoints the following committee.

The Clerk read as follows:

Mr. OLMSTED of Pennsylvania (chairman), Mr. STEVENS of Minnesota, Mr. COUSINS of Iowa, Mr. WATSON of Indiana, Mr. FASSETT of New York, Mr. HOAR of Massachusetts, Mr. SMITH of Maryland, Mr. POU of North Carolina, Mr. RYAN of New York, and Mr. WATKINS of Louisiana.

EULOGIES ON THE LATE REPRESENTATIVE CASTOR AND REPRESENTATIVE PATTERSON OF PENNSYLVANIA.

Mr. ADAMS of Pennsylvania. Mr. Speaker, I ask unanimous consent for the present consideration of the following order, which I send to the Clerk's desk.

The Clerk read as follows:

Ordered, That the order made in the House March 7, 1906, be amended so as to read: That a session of the House be held on Sunday, April 22, 1906, and that the day be set apart for addresses on the lives, characters, and public services of Hon. GEORGE A. CASTOR and Hon. GEORGE R. PATTERSON, late Representatives from the State of Pennsylvania.

The SPEAKER. Is there objection?

There was no objection.

The order was agreed to.

TERMS OF CIRCUIT AND DISTRICT COURT IN ALABAMA.

Mr. UNDERWOOD. Mr. Speaker, I understand under the order of the House in the debate yesterday there was a bill before the House upon which the previous question was ordered. I think the only question before the House is the question of the division on that proposition.

The SPEAKER. That is unfinished business. The Chair wishes to state that he received this morning a telegram apparently signed by the two Alabama judges, Judge Jones and Judge Toulmin, which the Chair desires to deliver to the gentleman from Alabama [Mr. WILEY].

Mr. WILEY of Alabama. Mr. Speaker, I received a similar telegram, and I rise to ask, the previous question having been ordered, if it would be in order to ask, as a courtesy to myself and to these gentlemen, the two judges in Alabama, that the telegram may be read to the House. I ask unanimous consent that the telegram be read.

The SPEAKER. The gentleman from Alabama asks unanimous consent that the telegram signed by the two Alabama judges, addressed to the Speaker of the House, may be read at this time.

Mr. UNDERWOOD. Mr. Speaker, reserving the right to object, I wish to say this: Yesterday the question was debated before the House. Many Members of the House do not understand it now. I would not object, of course, to the telegram being read by my colleague providing I have an opportunity to state my side of the case.

Mr. WILEY of Alabama. I have no objection to that.

Mr. UNDERWOOD. Mr. Speaker, in lieu of that I will ask unanimous consent that there may now be twenty minutes' debate, ten minutes on each side, and the gentleman from Alabama, my colleague [Mr. WILEY], can read the telegram.

The SPEAKER. The gentleman from Alabama asks unanimous consent for twenty minutes' debate, ten minutes on each side. Is there objection? [After a pause.] The Chair hears none.

Mr. WILEY of Alabama. Mr. Speaker, I ask that the telegram from the two Alabama judges be now read.

The SPEAKER. The gentleman asks that the telegram be read in his time?

Mr. WILEY of Alabama. Yes, sir.

The SPEAKER. The Clerk will read.

The Clerk read as follows:

MONTGOMERY, ALA., *April 5, 1906.*

Hon. JOSEPH G. CANNON,
Speaker of the House of Representatives, Washington, D. C.:

The undersigned, the regular judge and the judge permanently designated under section 591 of the Revised Statutes, on account of the accumulation of business in the northern district of Alabama, beg leave to make the following statement to the House of Representatives: Both of us realize the needs of the southern division of the northern district and have done all in our power to take care of it. The real question is not so much what it needs, but whether, with the present available force of judges, any arbitrary time should be fixed for transacting the business there. Without more aid than available at present, one of us being judge of the middle district and the other judge of the southern district, it is impossible to apportion absolutely six months of open court to Birmingham, in the northern district, without putting it out of our power to properly adjust and attend to the business at Montgomery, Tuscaloosa, Selma, Anniston, Huntsville, and Mobile.

We are advised that the Senate bill, substituted for House bill 16802, will be put upon its passage to-morrow. We did not know that the Senate bill would be taken up in the Senate when it was, and the House bill before the Judiciary Committee of the House was reported to the House before there was opportunity to present objections to its practical operation. As neither bill is now before the Judiciary Committee, and both bills are in the possession of the House, we trust it is proper to address this communication to you as Speaker, and respectfully request that you bring it to the attention of the House before it acts upon the bill to-morrow.

The House and Senate bills, we understand, are identical. Neither bill gives greater power than the existing law for the designation of outside judges, or to force the attendance of the designated judges. The proposed bill substitutes the circuit justice for the circuit judge as the authority to make designations, which can be better done by the latter than the former, since the circuit judge is more conversant with local conditions. It selects the month of September for the beginning of one of the terms. The court formerly met in September and Congress changed the date at the instance of bench and bar, because of the unpleasant weather there at that period.

Within the past twelve months fourteen weeks of court have been held at Birmingham, the designated judge having just finished a month's term there yesterday, and the regular judge now holding court at Montgomery, going thence to Tuscaloosa. Some time since he ordered the setting of the docket at Birmingham, commencing in May, for more than two months' term of court there, which will give Birmingham six months' open court within the past twelve months. During the same period much equity and bankrupt business arising in Birmingham has been transacted in the middle district at Montgomery. Such results are all that can possibly be accomplished under the present bill. Nothing can be accomplished under it which can not better be effected without it, while an arbitrary provision as to a fixed time absolutely for one place will deprive us of much needed discretion and unnecessarily hamper the administration of justice in other localities. That bill will give no practical or permanent relief. We have done and will continue to do all that two judges can, under existing conditions at seven different places, for holding court. We respectfully submit, under these circumstances, that the pending bill ought not to pass.

With great respect, your obedient servants.

THOS. G. JONES.
HARRY T. TOULMIN.

Mr. WILEY of Alabama. Mr. Speaker, I do not care to trespass upon the time, patience, or indulgence of the House with any extended remarks. The telegram just read states fully and accurately. I do not think the House fully understands the character, scope, or meaning of the pending bill, which, upon its face and in its title, is apparently a mild-mannered measure.

Mr. PAYNE. Mr. Speaker, will the gentleman from Alabama [Mr. WILEY] allow me a question right there?

The SPEAKER. Does the gentleman yield?

Mr. WILEY of Alabama. Yes.

Mr. PAYNE. If I understand this bill, it requires that a court be held for six months in the year at Birmingham, and requires the judge to keep the court open whether the business is sufficient to warrant it or not?

Mr. WILEY of Alabama. Yes, sir; that is the proposition, precisely stated.

Mr. PAYNE. There is no amendment or change, nothing that meets that situation except an absolute requirement, whether the other places of the district demand any court or not. Is that true?

Mr. WILEY of Alabama. Yes.

Mr. SHERMAN. Is that all there is of the bill?

Mr. PAYNE. That is all, with the exception that it repeats in another clause the requirement that the judges shall assign a judge to hold court there under certain conditions. Those two things are in the bill. That last, of course, is a reenactment.

Mr. WILEY of Alabama. Now, Mr. Speaker, permit me to repeat that there are three Federal judicial districts in Alabama. The southern district is composed of about thirteen counties, over which Judge Toulmin presides, and who resides in the city of Mobile. Then there are the middle and northern judicial districts, together composed of some fifty-odd counties, presided over by Judge Thomas G. Jones, who resides in the city of Montgomery. In the middle and northern districts of Alabama there are five places designated by law for the holding of the district and circuit courts of the United States, to wit: Montgomery, in the middle district, and Anniston, Tuscaloosa, Birmingham, and Huntsville, in the northern judicial district.

The bill now under consideration makes it mandatory that the judge of the middle and northern districts shall hold court, or provide for the holding of court, for six calendar months, at Birmingham, in each year, whether or not there shall be business enough to justify the holding of such court; and it makes no provision for the holding of the circuit or district courts, for any designated period of time, at the four other places just named in the middle and northern districts, where court, under the law, is expected to be held—that is to say, at Montgomery, Anniston, Tuscaloosa, and Huntsville—the balance of the year, six months only being all the time remaining for holding court at said other places. It leaves the judge no time for recess, for rest, research, or recreation or health. It is an arbitrary fixing of time for one place. Now, it is provided that if the district judge can not hold court at Birmingham the supreme court judge for the fifth circuit shall assign an outside judge to hold court at Birmingham. There is no provision in the bill for such assignment of help anywhere else in these two districts. It goes without saying, therefore, that it is unjust to the other places in the middle and northern districts. Both of the judges of the Federal courts in Alabama protest against the passage of this bill. The Alabama delegation have never been in conference, and, so far as I know, have never been consulted as to its merits or demerits. My colleague [Mr. CLAYTON], who lives in the middle judicial district of Alabama, is not here. He is a member of the House Judiciary Committee. In his necessary absence the bill was rushed through the committee, and no notice given to the other Members of this body from Alabama of the pendency of the bill, or any opportunity afforded any one of us to make known our objections thereto or to amend the same in any particular. From all over my district protests and petitions come pouring in upon us against the enactment of this Senate bill into a law. Here is a telegram that my colleague from Alabama [Mr. TAYLOR] has just handed me to read:

OPELIKA, ALA., *April 5, 1906.*

Hon. WASH. TAYLOR,
Washington, D. C.:

If possible, prevent passage of UNDERWOOD'S United States court bill.

GEORGE P. HARRISON,
President Alabama Bar Association.

Here is another telegram which he has just placed in my possession, which I will read:

BIRMINGHAM, ALA., *April 5, 1906.*

Hon. G. W. TAYLOR,
Washington, D. C.:

Yours 29th received. Oppose bill. Reasons stated in letter.

HARRY T. TOULMIN.

Judge Toulmin, sender of this last telegram, is judge of the southern judicial district of Alabama. Now, Mr. Speaker, I wish to state that this bill came from the Senate, was brought in from the other end of the Capitol without any warning or notice or intimation to any Member from Alabama, so far as I

know, except the gentleman who represents the Birmingham district [Mr. UNDERWOOD]. It is rank and palpable injustice to these two hard-working and honorable judges, and I myself feel constrained earnestly to protest against the passage of the bill.

The proposition, boiled down, is simply this and nothing more, to wit: That it is made imperative, mandatory, that Judge Jones shall hold or require to be held, court at Birmingham six calendar months in every year, regardless of the fact that there may not be a sufficient volume of business to justify such holding, and regardless, further, of any inconvenience or denial of the right of trial—of due process of law—to the people for whom the law has sought to make provision for the adjudication of their rights of life, liberty, and property at the four other places above mentioned in said middle and northern districts, viz, Montgomery, Anniston, Tuscaloosa, and Huntsville. So long as the law requires court to be held twice a year under one judge, it becomes manifestly a matter of profoundest concern to litigants and lawyers in all these other places outside of Birmingham as to how long a period of time court shall be kept open in these communities for the transaction of the public business—for the trial of causes. At Montgomery, my home town, the docket is burdened with business. Is it fair, equitable, considerate, reasonable, or just that Birmingham shall have the "lion's share" of the time—one-half of each year—which can possibly be devoted to all these five places, leaving only six calendar months to Montgomery, Anniston, Tuscaloosa, and Huntsville, even were it physically possible for a judge to hold court every day in a given year, Sundays excepted? The proposition is selfish, arbitrary, and unfair. It results necessarily that the other four places in these two districts will receive but little, if any, judicial attention. In this connection I beg leave to read the following from the resolutions recently adopted by the Montgomery, Ala., bar:

> A fixed provision as to the length of time court shall be held in any one of these places would put it out of the power of the regular judge, and such designated judges as can be had, to equitably apportion and regulate their services according to the needs of the several places in proportion to the litigation demanding attention there. We know that the Hon. Thomas G. Jones, the present judge of the two districts, has not spared himself, and has labored unceasingly, intelligently, ably, and impartially to meet, so far as is in the power of one man, the needs of the several places in the two districts, and fortunately has never been absent from sickness. As long as our Senators and Representatives can not procure the passage of a bill for a regular additional judge, our conviction is that it is far better not to attempt to remedy our trouble by insisting upon an absolute fixed period at any place, during which court shall be kept open there. Each place has the same right to insist upon a fixed time for keeping court open there corresponding to its needs, and any absolute period in which courts must be kept open at any one place ignores the others and would, in our opinion, be unwise and unjust.

I read, by permission, an extract from a letter just to hand from Judge Toulmin touching the bill under consideration, as follows:

> A bill to require, by an arbitrary arrangement, court to be held at Birmingham six months in one year is unwise, unnecessary, and unjust. It will not accomplish the objects sought to be attained—that is to say, any permanent and effectual relief on account of the accumulation of business—and will not, in fact, effect any more than is already being done under existing law. Moreover, an arbitrary arrangement of that sort is unjust to the judge or judges who hold court at Birmingham. It leaves no discretion in them, and serves only as a reflection, or to be construed as a reflection, on such judges.

And now, in conclusion, I send to the Clerk's desk and ask to have read, as part of my remarks, the following resolutions just received from the Montgomery and Opelika bars:

MONTGOMERY, ALA., *April 2, 1906.*

The bar of Montgomery passed the following resolutions:

"*Resolved*, That we are opposed to the passage of House bill No. 16802, which fixes a six months' open session of court for the southern division of the northern district of Alabama.

"*Resolved further*, That our Senators and Representatives are hereby respectfully requested to oppose said bill.

"*Resolved further*, That the Representatives in Congress from the counties which compose this judicial district are hereby respectfully requested, if said bill be put upon its passage, to have inserted therein a similar provision as to the time for keeping courts open in the middle district.

"*Resolved further*, That our Senators and Representatives in Congress are earnestly requested to make another effort to procure the passage of the bill recommended by the State Bar Association and by nearly all the local bars of the State for the appointment of an additional judge for these two districts, as we believe it is an absolute necessity and the only feasible or just remedy for the overcrowded state of the dockets, the business of which is constantly increasing.

"*Resolved further*, That a copy of these resolutions be forwarded to the Judiciary Committee of the House of Representatives, the Department of Justice, and to each of our Senators and Representatives in Congress.

"*Resolved further*, That the committee heretofore appointed by this bar to cooperate with other bars for the passage of the bill for an additional judge for the two districts be continued and directed to cooperate with other committees having a like purpose in view."

W. L. MARTIN, *Chairman.*
G. F. MERTINS, *Secretary.*

In accordance with the resolution, copies will be sent immediately to the members of the Judiciary Committee and to the members of the Senate and the House of Representatives.

The bar of Opelika yesterday also passed strong resolutions in opposition to the Underwood bill. They were as follows:

To the Judiciary Committee of the Fifty-ninth Congress:

We, the undersigned, members of the bar at Opelika, in Lee County, Ala., desiring to express our opposition to the bill recently introduced in Congress by Hon. OSCAR W. UNDERWOOD in regard to the time of holding court in the southern division of the northern district of Alabama, do hereby petition Congress and your honorable committee not to pass said bill, as it would be unfair and unjust to the litigants in the other courts of the northern district of Alabama and to the litigants in the middle district of Alabama.

THOMAS D. SAMFORD.
HOUSTON & POWER.
LUM DUKE.
R. B. BARNES.
E. A. BURKE.
H. M. WILSON.
R. C. SMITH.
B. T. PHILLIPS.
T. L. KENNEDY.
C. A. L. SAMFORD.

The three members of the bar who did not sign were absent from the city.

Mr. UNDERWOOD. Mr. Speaker, I want to say to the House before I go to the merits of this bill that yesterday afternoon, after the House adjourned, I heard a rumor that some of the Members believe that this bill was introduced for the purpose of attacking Judge Jones because he had decided certain peonage cases in Alabama. I want to repudiate that statement here. There is no truth in it. I have no unkindly feelings toward Judge Jones. Neither has my district. Those peonage cases did not occur in north Alabama; they were not in my district; none of them were my constituents; we had nothing to do with it; it absolutely was no concern of ours, and we are simply favoring this bill because it is the last resort we have got to get relief for our courts. Now, the situation is this: There are three districts in Alabama, one the southern district—a very small district—presided over by Judge Toulmin, who has comparatively little to do. Then there is the middle district, again in south Alabama, misnamed because it is in southeast and not middle Alabama, presided over by Judge Jones, who lives in Montgomery, in the southern part of the State. Then there is the northern district, with four courts, at Huntsville, Anniston, Tuscaloosa, and Birmingham, being composed of more than half the counties in the State, the great bulk of the business of the State being there; and Judge Jones presides over this district as well as the middle district. If the House has listened to the reading of Judge Jones's telegram it will have noted that he said he could not attend to the business of all these courts in two districts. He said so in his telegram to the Speaker; he says so in the statement that the gentleman from Alabama [Mr. WILEY] filed for him yesterday. Judge Jones says that he needs an additional judge, and he does not want anything done in this matter until he gets an additional judge. Well, I want an additional judge myself; I would be glad to have one. I asked for an additional judge, and the matter was referred to the Attorney-General of the United States, who replied that we had two judges in Alabama and that they were all we needed; that if the business was properly assigned to those two judges they could attend to it, and the Committee on the Judiciary thereupon refused to give us another judge to hold our courts in Alabama.

But they said to me, "If you can redistrict the State or reassign the judges we will do what we can to so rearrange your courts as to enable you to get your business disposed of." We tried to agree on a bill redistricting the State, but as the two judges live in south Alabama, and we did not want to make the lawyers come down a long parallelogram of 300 miles on each side of the State to get to south Alabama, we could not agree on a bill redistricting the State. Then the only other proposition we could make was to provide for the assignment of a judge to the court at Birmingham, where the congested condition of business is. Now, Judge Jones lives in the district of my colleague [Mr. WILEY]. He is there and attends to their business, and there is no congestion there. They can get their cases tried. Birmingham is a large railroad center, with many great corporations. There are many nonresident corporations, and whenever a suit is brought against one of those corporations, if it is a bad case the lawyers often take it to the United States court. The business of the court is congested. You can not get a trial in years, and it is a denial of justice to my people in that they can not get their cases tried. Now, what is this bill? What effect does this bill have? It does not do Judge Jones any harm. It does not make Judge Jones do one particle of work that he does not want to do. It merely provides at Birmingham, where there is more congested business than in any district in the United States, except the courts in the southern district of New York, that there shall be six months of court each year. We have about three months of court now, and this

only provides for three months more of court. If Judge Jones can not hold the court—and I concede he can not hold court the additional three months—he shall certify the fact to the circuit judges, and they, under the general law as it exists to-day, shall assign some judge to come to Birmingham and hold court the other three months. Now, Judge Toulmin's time is not all taken up. He has time to spare. He can be assigned for this purpose, and that is what we expect. We can not divide the State. It is merely a proposition to make it mandatory that the circuit judges shall assign another judge to come to Birmingham and try the business before our courts. Now, that is all there is in the proposition.

Mr. WM. ALDEN SMITH. I would like to inquire of the gentleman from Alabama whether there is indisposition on the part of the Federal judges to do the work or an inability to do the work?

Mr. UNDERWOOD. I admit Judge Jones can not do it. He says himself it would take him seventeen months to do the business in his district. He has got five courts and 65 per cent of the business of those five courts is in the court at Birmingham. But we are not trying to make Judge Jones do this business. We do not force him in the matter; we simply provide by this law—here is the language of the bill—

That whenever the judge for the northern district of Alabama deems it advisable, on account of disability or absence, or of the accumulation of business therein, or for any other cause, that said court should be held by the justice of some other district or circuit court, he shall, in writing, request the presiding justice for the fifth judicial circuit of the United States to assign a judge to hold the term or terms of said court.

Now, we are not making it mandatory on Judge Jones to hold this court. If Judge Jones wants to he can go there and hold the terms of court. I do not think he can. I do not think Judge Jones could attend to his business in the balance of the courts of these districts and go to Birmingham for six months, and this law does not contemplate that. We recognize he can not go there, but we want to have Judge Toulmin or some other judge assigned to go there and hold our court. Now, the stress of business is this: It is difficult to get a trial in that court, and you have got to send somebody else there to preside over these courts. If a suit is brought against one of the railroad companies in my district and they do not want to try it they can take it into the Federal court, and there it must lie indefinitely or the man who brings the suit must compromise it.

Mr. GAINES of West Virginia. Mr. Speaker——

The SPEAKER. Does the gentleman from Alabama yield to the gentleman from West Virginia?

Mr. UNDERWOOD. I do.

Mr. GAINES of West Virginia. I would like to ask the gentleman from Alabama what the line of argument was that the Department of Justice used in determining adversely against the establishment of a court when this condition exists?

Mr. UNDERWOOD. I state that Judge Toulmin has a very small district, with comparatively little work to do. Judge Jones has two large districts and a great deal of work to do. Now, the Department recognized that Judge Jones needed relief, but they said two judges were enough for Alabama; instead of giving another judge, that we ought to have a reapportionment of this business so that the two judges in Alabama could do it; and the Judiciary Committee unanimously reported this bill, and so did the Judiciary Committee of the Senate. It is along the line as advised by the Attorney-General.

The SPEAKER. The time of the gentleman has expired.

Mr. KEIFER. Why is it that the circuit judges can not be relied on to assign a judge?

Mr. UNDERWOOD. Well, they go to other places. They are assigned to other courts. Judge Toulmin often goes to New Orleans and sits as circuit judge.

Mr. KEIFER. Presumedly the circuit judges do their duty in assigning the judges.

Mr. UNDERWOOD. Yes; but they are assigned somewhere else and go somewhere else, but here is where the pressure is; here is where relief is needed. And this is in line with the recommendation of the Attorney-General of the United States.

The SPEAKER. The time has expired. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the Chair was in doubt.

The House divided; and there were—ayes 88, noes 45.

Mr. WILEY of Alabama. Mr. Speaker, I call for the yeas and nays.

The SPEAKER (after counting). Fourteen gentlemen have arisen; not a sufficient number. The yeas and nays are refused. The ayes have it, and the bill is passed.

On motion of Mr. UNDERWOOD, a motion to reconsider the vote by which the bill was passed was laid on the table.

BEEF-TRUST CASES.

Mr. GAINES of West Virginia. Mr. Speaker, I ask unanimous consent to insert in the RECORD the opinion of Judge Humphrey in the case of the United States *v.* Armour & Co. and others, and the oral argument of the Attorney-General in that case, and the statutes upon which the opinion was rendered.

Mr. WILLIAMS. Reserving the right to object, what is the decision the gentleman wants to insert in the RECORD?

Mr. GAINES of West Virginia. I will state, Mr. Speaker, to the gentleman from Mississippi that the purpose of making this request, or the reason for making this request is——

Mr. WILLIAMS. I am informed that this is the Chicago Packers' case. I have no objection.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The opinion and other papers are as follows:

Oral argument of the Attorney-General in the district court of the United States for the northern district of Illinois. The United States *v.* Armour & Co. et al., before Judge Humphrey and a jury.

Mr. MOODY. May it please your honor, I may as well, perhaps, now, as at any time in the course of my argument, address myself to the question which my learned friend has this moment been discussing—the question whether under this immunity act immunity can be conferred upon a corporation as well as an individual.

I shall say little upon that question, because I care less. The Government of the United States, your honor, is too much in earnest in this prosecution to be diverted to the pursuit of a nerveless, senseless, soulless creation of the law. If wrong has been committed, we are seeking the punishment of the men who committed the wrong—the living, breathing human beings. The Government of the United States, and the people of the United States, will be satisfied with no less than that. (Hale *v.* Henkel, 200 U. S., —.)

In the Hale case, last Monday, the Supreme Court decided two questions: First, that a corporation, which could not testify, or, as a witness, produce papers, is not within the terms of the immunity act of 1903, which, in the words of the court, is in almost the exact language of the immunity act now before your honor for interpretation; and second, that a corporation engaged in interstate commerce is not entitled to withhold its books and papers from the scrutiny of the properly authorized officers of the Federal Government; and that the fifth amendment of the Constitution does not grant to such a corporation the right which an individual would have to withhold the same evidence upon the ground that it might tend to incriminate him. Those two propositions distinctly held by that court are conclusive of the contention which my friend has just now submitted to you.

I trust, your honor, that by no one will my presence here be misconstrued. I sincerely trust it may not be taken to show a belief on my part that those who have safeguarded the interests of the Government heretofore need reenforcement, far less a belief on my part that if reenforcement were needed I could bring it. I realize full well the learning, the skill, the ingenuity which the distinguished gentlemen who are representing these defendants have brought to the trial of this cause, but I think I say no more than is his due when I say that the representative of the United States, the district attorney, in his powerful and conclusive argument of last week has shown his capacity to meet them upon equal terms, and when I say that I say what is a compliment to any man. He has done his work well, and let him not forget that the people of this country who are looking to your honor and to this court room, as they have never looked to a court room before in the history of the Government, have realized the manner in which he has performed his duty, and if he has no other reward in this case, he has the reward of the approval of his own conscience and the commendation of all his countrymen.

I need not apologize, I think, to your honor for my appearance at the bar of this court, unusual and almost unprecedented as it is. The law gives me the right to appear, and after great deliberation I believed it to be my duty to appear. The justification for my appearance is found not only in the importance of this case alike to the defendants and to the Government, but in the effect which the sustaining of the defendants' contention would have upon much of the important litigation of the United States. If immunity be conferred upon these defendants upon the ground on which it is here claimed, it would overthrow the executive interpretation of the Cullom Act (act to regulate commerce, approved February 4, 1887, 24 Stat., 379; 1 Supp. R. S., 529), acquiesced in by all for nearly twenty years, and fatally cripple the Government in its attempt to enforce the laws of the land. I realize quite well that the executive department of this Government can not interpret the laws for the court; the judges of the courts are and ought to be independent of the executive officers of this Government. But it is no light thing to overthrow a contemporaneous and long-continued construction of an act by those whose duty it is to administer it, and courts, realizing the gravity of doing that, have always regarded with respect a long-continued and contemporaneous executive interpretation of an act. During the nearly twenty years in which the Cullom Act has been upon the statute book, that no immunity could be conferred upon anyone except upon him who gave sworn testimony or sworn evidence has not been doubted by any of the law officers of the Government, by any of the Attorneys-General—and there have been many names in that time with which I may well shrink from bringing my own into comparison—that has not been doubted by any member of the Interstate Commerce Commission, and upon the roll of that body has been found the names of many distinguished lawyers—none more distinguished, none so distinguished, as the name of Judge Cooley, who was its first Chairman.

No member of the Interstate Commerce Commission has ever doubted for one moment, from the enactment of that law until this day, that immunity was conferred only upon the witness who under oath gave testimony or produced evidence. The Cullom Act itself, your honor, in a section to which I shall refer more at large later in my argument, created a long list of offenses punishable by fine and imprisonment—offenses which may be generally described as discriminations between persons or between localities. The Cullom Act also provided that it should be the duty of the Interstate Commerce Commission to require, not upon oath, but to require information from common carriers that would be vitally material in every one of the prosecutions which might be undertaken under the act, and the common carriers, whether cor-

porations or persons, have complied from the beginning with that requirement of the Commission. If the contention of our friends is true, Congress was guilty of the absurdity of enacting in one section of a law a provision creating and punishing crimes, and enacting in another section of the same law a provision requiring statements from those who would commit the crimes which would necessarily give them immunity. Congress never contemplated such absurdity as that.

Let me illustrate, if your honor please, for I speak under a deep sense of personal and official responsibility for these prosecutions all over the country—let me illustrate my meaning by a case now pending before the grand jury in the southern district of New York. Not long ago the enterprise of the proprietor of one of the New York papers discovered much information which tended to show that all the great trunk lines running out of New York City had been practicing discrimination in the form of rebates to the American Sugar Refining Company. With what I believe was rare self-denial and a high sense of public duty that evidence was offered to the Department of Justice. Out of it charges have grown against the railroads and against the sugar company, and they are now under consideration by the grand jury. I express no opinion whether the charges are true or false; there are ways of deciding that question when the time shall come. These rebates, amounting in the aggregate to hundreds of thousands of dollars, have been often given to the sugar company to aid it in its fight with the farmers who are conducting the struggling industry of producing sugar from beets. When the sugar company wanted to overcome the competition of the farmer, wanted to lay such stress upon him that he would give up the contest in despair and dispose of his property to the monopoly, it went to the railroads and borrowed a club by which it clubbed the farmer to death. And if my friend's contention is true, the men managing those railroads, who helped the sugar trust in its fight with the farmers, by reason of the fact that they made their returns in obedience to the requirements of the Interstate Commerce Commission, showing their tariffs, showing their lawful and published rates, are immune from prosecution.

Those are the considerations which have led me here to-day to implore your honor to weigh this question well; that following that epoch-making decision of the Supreme Court only a week ago, you will not mutilate and destroy the weapon which that decision has put into the hands of the people.

Somewhat more than a year ago the Supreme Court decided the case of Swift *v.* United States (196 U. S., 375), which, as your honor well remembers, was a petition under the Sherman Act against, in the main, the same individuals and these same corporations for an injunction against the continuance of what the Government claimed to be a combination under the Sherman Act. Once that case had been decided, there came pouring into the Government at Washington, to the Bureau of Corporations, and above all to the Department of Justice, complaints from all parts of the land that the injunction was not being observed and that the offense set forth in that bill continued. It seemed to me proper that those complaints should be laid before the representatives of the people, sitting in the grand inquest, for this district of the United States, and they were so submitted, and a long and a careful, and I hope and trust a fair, investigation was made by that body. In the meantime Mr. Garfield had begun and almost completed his investigations of the concerns of these defendants, these corporations. That investigation apparently was for a period ending on July 1, 1904. Although the investigation itself lasted longer than that date, the scrutiny of Mr. Garfield and his subordinates was directed, apparently, solely upon the period ending July 1, 1904.

In the meantime, this indictment on the 1st day of July, 1905, was returned into this court. It is not of primary importance; it is not conclusive of this case, but it has the same significance that the twenty years' absence of a claim of this kind has had in all the other cases prosecuted throughout the United States—that these defendants then made no suggestion of immunity. They had been advised at every stage of this proceeding by counsel as able as the land could afford; they knew the facts and were advised of their counseis' views of the law. When the suggestions against this prosecution, numerous and entirely legitimate, came to the Department of Justice from any quarter, the thought of immunity was absent from them. When your honor was requested by the defendants' counsel to instruct the grand jury at the beginning of their deliberations, not a word was said about immunity. When the grand jury returned the indictment, pleas to the organization of that body and to the jurisdiction of the court were filed and overruled; demurrers to the indictment later were disposed of in this court. The claim that the Government by earlier proceedings on the civil side of the court had conclusively elected to pursue the civil to the exclusion of the criminal remedy, was advanced, and apparently has been abandoned. It is said by my friends that this plea of immunity which was filed some four months after the indictment was returned into court was filed as early as it could be filed; that they wished, first, to exhaust their dilatory pleas before they interposed their plea in bar to this prosecution. I do not know but what that is the true rule of law, but when upon the very day of the indictment they moved to dismiss McRoberts, and secured his dismissal in this court, they then knew the place and the time where immunity should be claimed.

Mr. ROSENTHAL. That is not the fact. It was the first day of this trial.

Mr. MOODY. The first day of the present trial?

Mr. ROSENTHAL. Yes.

Mr. MOODY. Then that argument, of course, disappears entirely. I understood it to be the other way. The fact is that these defendants appear to have a strange aversion to the hearing of any evidence upon the question of their guilt. Whenever Garfield, in his investigation, came near a tender spot—the National Packing Company, for instance—he was led away. Whenever he got "warm," as we used to say in childhood days, he was taken to another part of the room. And when we filed our petition under the Sherman Act the only answer they had to it was to admit by demurrer the facts stated in the petition, facts which after twenty days' deliberation the Supreme Court of the United States, without a dissenting voice, pronounced to be a violation of the law of the land. The defendants have pleaded that they are not guilty of this indictment. They do not say here that they are not guilty, but they say that, whether they are guilty or not, each of them, each of the twenty-two corporations and individuals, has received a pardon.

The Garfield investigation and report, which they joyfully welcomed with open arms, seized upon as persuasive evidence that the profit which they had made in the conduct of their business indicated that they were rather engaged in the business through philanthropic motives than for purposes of gain, and circulated as a fit rebuke to those who had charged them with any wrongdoing—that report, they say, the result of that investigation, was not only a tract for the conversion of the unregenerate people, but a fountain of saving grace in which every one of them who bathed might be washed free of his sins. If that be the law we must submit to it. It is claimed for each one of these defendants, separately, that the effect of that investigation was to give him a pardon, and upon each one, separately, rests the burden of proof. They can not claim their immunity comes to them as a class. They can not dump all this evidence before your honor and all the names of these defendants into the same basket and say that out of that mixture comes immunity for everyone. Sometimes as I have listened to the arguments of my friends on the other side it would seem as if they thought that if anyone had testified about anything relating to an offense committed by anybody that everybody was immune. Now, each one of these defendants must claim and show that under the act of 1893 immunity came to him separately, for the reason that he, in the Garfield investigation, was compelled to furnish evidence against himself, and that therefore he is entitled to the benefits of the immunity act, which supplants the Constitution, which otherwise would have protected him from the disclosure of such evidence.

Of course your honor will quite understand that my contention will be that there is that absence of legal process here which brings all these defendants upon the same plane, but, for the moment adopting without conceding the claim of my friends upon the other side, these cases, although they are tried together, raise separate issues, and upon the trial one of the defendants may be immune; another may not be immune. Each one must show that he was compelled by Mr. Garfield to give evidence against himself with regard to the offense charged against him in this indictment. The Hale case, your honor, shows clearly what the burden is upon each one of these defendants separately. It is not true, as one of my learned friends said this afternoon, that the Supreme Court decided that Hale was entitled to immunity. The Supreme Court decided that Hale could not refuse to answer, because, if his answers related to any offense charged against him he would have immunity from prosecution for that offense. Let me read a word or two from the opinion of the court. The court was then, at this point, considering the contention that this statute was not a sufficient safeguard to Hale, because there was no way in which he could distinctly prove the character of the testimony which he had been compelled to give, and therefore it would be difficult and impracticable for him to obtain the immunity which the act of 1903 afforded him. With regard to that the court said this:

"The suggestion that a person who has testified compulsorily before a grand jury may not be able, if subsequently indicted for some matter concerning which he testified, to procure the evidence necessary to maintain his plea is more fanciful than real"—not more fanciful than real, because it is not necessary for him to procure such evidence but for the reasons which the court goes on to state: "He would have not only his own oath in support of the immunity, but the notes often, though not always, taken of the testimony before the grand jury, as well as the testimony of the prosecuting officer and of every member of the jury present. It is scarcely possible that all of them would have forgotten the general nature of his incriminating testimony or that any serious conflict would arise therefrom."

I quote this, not for the purpose of dwelling on the word "incriminatory," as your honor will see later in my argument. I quote this for the purpose of showing that in each individual one of these cases it must be proved by that defendant that he himself gave some testimony or produced some evidence which related to some offense charged against him.

I may as well stop a moment right here and discuss that question, because it has been recently discussed. We have been so unfortunate—I will not say unfortunate—we have not been clear enough to make our position in that respect understood by the other side. I have no doubt whatever that the fault is ours. I understand that the privilege of the witness and the immunity of the witness is personal to himself. He is protected from producing any evidence or giving any testimony which might incriminate him. He can take advantage of the privilege of no other person, whether that privilege be of an individual or a corporation. It is not a question of whose property the incriminating evidence may be, if it is evidence consisting of books or papers or documents. For instance, I have in my possession the diary of my friend Morrison. I have stolen it from him, if you please; it does not belong to me at all. It contains entries which incriminate him. I am summoned before a grand jury to produce that. I am bound to give it up. I can not plead his privilege. A telegraph operator is brought before your honor as a witness. He has a copy of a telegram which I wrote and sent and it incriminates me. He can not decline to produce it before the grand jury on account of any privilege that I might have. Again, I have the diary of my friend Morrison. It contains in it an entry, verified, perhaps, by my initials, criminating me. All the powers of the Government can not take it from my possession, because it is my personal right under the Constitution not to be compelled to give evidence against myself.

Mr. MILLER. They could compel you to give it up if they didn't put you under oath, couldn't they?

Mr. MOODY. Compel me to give it up?

Mr. MILLER. Yes; if they didn't put you under oath.

Mr. MOODY. Of course they can't, because I wouldn't give it up. I don't require a constitution or an immunity statute if I have got it; I hold on to it until I am brought by process of law into court, and then I no longer rely upon myself. I rely upon the protection of the Constitution, and I have a right to rely upon the protection of the Constitution.

Mr. MILLER. Before you have been put under oath?

Mr. MOODY. No; when I become a witness. That is clear, and will appear by and by, and I didn't think that was disputed in this case. Now, apply that to some of the evidence in this case—or, rather, I withdraw the word "apply." I will not attempt to apply it to the evidence in this case, because I do not accurately know the evidence in this case. But I will illustrate by the evidence in this case for the purpose of making the rule apply as I understand it, and we will suppose for clearness of the illustration that the investigation is before a grand jury. If Mr. Armour, or Mr. Morris, or any one of these defendants were subpœnaed to appear before that grand jury and to produce those books, the answer they probably would make, the answer that they ought to make, is that they were not in their possession. But we will assume that they were in their possession; we will assume that the witness had in his custody and control all the books. He could not withhold those books, or if he produced them he could not obtain the immunity which supplants the right to withhold them unless the books which he brought in contained evidence which criminated him, or, to be more accurate, which contained evidence relating to some offense with which he might be charged. It is not important that the books tended to show that some one else was guilty or tended to show that the corporation had committed an offense. It is essential

that the books should show that the witness had committed some offense, or, rather, to be accurate again, should contain evidence relating to an offense with which the witness might be charged, and if the witness under oath——

The COURT. To your last statement there is no dispute between you and counsel.

Mr. HYNES. No.

Mr. MOODY. No; there is no dispute; I shall make that clear later on. I will say in passing that I do not concede for one moment that the direction of the president or of a director of a corporation to the subordinate, accountant, or chief of accountants, the man who has the custody and control of the books, to allow them to be inspected by the Government officer who has the right to inspect them, is a production of evidence within the ordinary sense in which language can be used. Moreover, each one of these defendants, separately, must show to your honor that he has been compelled to testify or produce evidence relating to the offense charged in this indictment and in every count of this indictment. I do not know that there would be any distinction at all, either the one way or the other about that, between the counts; but every one of the counts of that indictment must be treated as if it were a separate indictment. Moreover, I understand it to be the truth, and your honor will of course correct me if it is not so, that this investigation, as appears by the report, was for a period ending on July 1, 1904, a year before the finding of this indictment. The investigation itself continued much longer than that period, but the period investigated, according to all reports of the evidence and according to the fair interpretation of this report, ended July 1, 1904. Now, this indictment, and every count of it, could be sustained by proof of a conspiracy formed later than that period. The allegation in the indictment, it is true, is that a conspiracy was formed upon the first day of the first boundary line of the statute of limitations, three years before.

The COURT. But, General Moody, hasn't the Government the right to prove any fact occurring during the period covered by the statute?

Mr. MOODY. I don't know; that question would arise later.

The COURT. I say, as the Government would have that right, if any such fact was furnished by the witness, by the parties pleading here, wouldn't that fact be of and concerning a matter covered by the indictment, if it were such a fact as the Government would have the right to prove on the trial? And of course the Government would have the right to prove any fact for any date three years prior to the time fixed in the indictment.

Mr. MOODY. It is possible your honor is right. My only suggestion was that this bar must be a complete bar to the indictment, and a complete bar to every one of the counts, but it is a matter that is so collateral I will not stop to insist upon it. I think it is very likely you may be right in that statement, and that I may be wrong in my illustration.

Mr. MILLER. The plea avers that this investigation that was made was concerning the matters alleged in the indictment. The replication does not take any issue with that fact, but only with the matter of the compulsory character, or the later averments of the plea. The evidence shows the investigation did not end until after the grand jury was in session.

Mr. MOODY. I quite agree that that is so, and have said so several times. I have spoken as I have concerning the evidence in the case, and expressed my views as to its applicability and as to the rules which should govern your honor in the determination of every question arising under it, solely for the purpose of saying that the difficulty and the complexity of the inquiry which must be made under such rules at once challenges attention to the question whether Congress ever intended that immunity could be obtained in this way and that it could depend upon the oral testimony and the fallible recollection of human witnesses.

I have not discussed the facts of this case, both because I have not the capacity to discuss them from lack of understanding them, and from the further fact that in each one of these separate cases, in which each one of these defendants claims his immunity, there is a common factor; there is a total absence of the subpœna, of the oath, or any vestige of the compulsory process of the law. I regard this absence, which is undisputed, as decisive of the case as a matter of law, and I shall submit the reasons for that belief.

When the common law, or any court sitting under the common law, is engaged in an inquiry as to the truth of a fact, it does not, as do the courts under the rules of other systems of law, proceed solely by the rules of free logic. We have the great exclusionary rules. If anyone of us as a private citizen should inquire whether a given fact were true or not, it would be of great importance to us that an honest man told us that another man whom we believed to be honest had said that the thing was true or false. The law, the English common law, the American common law, the law of this land, excludes us from the use of testimony of that kind. So, if outside the court room we wish to know whether any person has committed a given offense, whether one of our own children has been guilty of any crime, we should go and ask him; we should expect him to answer. But the law, for wise reasons, which it is not necessary for us to consider in this case, excludes that, shuts up that avenue to the truth, and we have the exclusionary rule, not expressed as a rule of law, but crystallized into the Constitution. It says: "Nor shall any person be compelled in any criminal case to be a witness against himself."

I do not much believe in reading text-books or in reading cases in an oral argument, but in one or two instances I propose to depart from my usual practice. I propose to read from Wigmore. Any stranger coming in here and not knowing much about this case would think that the real persons on trial were Garfield and Wigmore, with Morrison under strong suspicion; but your honor has been a prosecuting officer, as we all have in our time, and you know that it is the universal testimony of all the counsel who defend people accused of crime that the only really guilty persons are those who are seeking to enforce the law.

Mr. HYNES. You don't include Garfield in that description?

Mr. MOODY. In what description?

Mr. HYNES. Those who are prosecuting.

Mr. MOODY. No; I don't. You did, but I don't. I know your honor is familiar with this treatise, but we should get into the spirit of the privilege before we attempt to construe it, and for my own sake I should like to reread this page. It is contained in one of the sections quoted with approval by the Supreme Court last week, cited in the McAllister case, as stating the history of the origin of the constitutional privilege and its limitations, and it is for the purpose of showing some of its limitations that I read this extract:

"In preserving the privilege, however," says this learned author, "we must resolve not to give it more than its due significance. We are to respect it rationally for its merits, not worship it blindly as a fetish. We are not merely to emphasize its benefits, but also to concede its shortcomings and guard against its abuses. Indirectly and ultimately it works for good—for the good of the innocent accused and of the community at large. But directly and concretely it works for ill—for the protection of the guilty and the consequent derangement of civic order. The current judicial habit is to ignore its latter aspect, and to laud it undiscriminatingly with false cant. A stranger from another legal sphere might imagine, in the perusal of our precedents, that the guilty criminal was the fond object of the court's doting tenderness, guiding him at every step in the path of unrectitude, and lifting up his feet lest he fall into pits digged for him by justice and by his own offenses.

"The judicial practice, now too common, of treating with warm and fostering respect every appeal to this privilege, and of amiably feigning each guilty invocator to be an unsullied victim hounded by the persecutions of a tyrant, is a mark of traditional sentimentality. It involves a confusion between the abstract privilege—which is indeed a bulwark of justice—and the individual entitled to it, who may be a monster of crime. There is no reason why judges should lend themselves to confirming the insidious impression that crime in itself is worthy of protection. The privilege can not be enforced without protecting crime; but that is a necessary evil, inseparable from it, and not a reason for its existence. We should regret the evil, not magnify it by approval. No honest and intelligent accused (in the language of the Commissioners above quoted) has anything to fear from a criminal prosecution fairly conducted. To every such person the appeal to the privilege is a repugnant and humiliating expedient. The spirit of every manly nature, unfortunate enough to be unjustly accused, must always be that of the brave and bluff Mr. George, who, when falsely charged with murder and urged by his friends to seek the services of a lawyer, stanchly refused:

"'Say I am innocent and I get a lawyer; what would he do, whether or not? Act as if I was guilty—shut my mouth up, tell me not to commit myself, keep circumstances back, chop the evidence small, quibble, and get me off perhaps. But, Miss Summerson, do I care for getting off in that way? * * * I don't intend to say,' looking round upon us, with his powerful arms akimbo and his dark eyebrows raised, 'that I am more partial to being hanged than another man. What I say is, I must come off clear and full, or not at all. Therefore, when I hear stated against me what is true, I say it's true; and when they tell me, "Whatever you say will be used," I tell them I don't mind that—I mean it to be used. If they can't make me innocent out of the whole truth, they are not likely to do it out of anything less or anything else.'"

That closes the quotation, and the author goes on to say:

"There ought to be an end of judicial cant toward crime. We have already too much of what a wit has called 'justice tampered with mercy.' A due respect for the privilege is perfectly consistent with a strict contempt for the guilty offender, and does not require or condone his protection as an end good in itself or good under any circumstances. It is enough for justice and for the Commonwealth that the privilege exists, immovably fixed in the Constitution. The good which it aims at consists in that general fact and system, and not in the individual application of it to a given claimant. That effects mostly harm—a particular harm which we suffer for the larger good.

"The privilege therefore should be kept within limits the strictest possible. So much of it lies in the interpretation that its scope will be greatly affected by the spirit in which that interpretation is approached."

Approaching, then, the interpretation of the constitutional privilege in that spirit, in the spirit of the language just read, and a week ago approved by the Supreme Court as stating the proper limitations of the privilege, approaching it without either attempting to exaggerate its benefits or diminish them, let us see what the privilege is. Surely we have abundant material from which we can ascertain with accuracy what the constitutional privilege of the witness was, because the common law, the Constitution of the United States, and the constitutions of all of the forty-five States of the Union are all the same. Expressed in slightly differing words, they all mean the same thing, and they all mean just what the fifth amendment to the Constitution of the United States says, "No person shall be compelled in any criminal case to be a witness against himself." The privilege of the citizen is that he shall not be compelled to be a witness against himself, not that he shall not be induced or persuaded to be a witness against himself, not that he shall not even be deceived or defrauded into being a witness against himself, but that he shall not be "compelled" to be a witness against himself. This constitutional safeguard is not the privilege of the citizen until he becomes a witness. It is the privilege of the citizen when he becomes a witness, and when he becomes a witness, wherever he may be, whether in an open court, whether in the secrecy of the grand jury room, whether before a committee of the legislature or before any other official authorized to administer an oath, the privilege attaches to him there. To violate this privilege is to compel the person who appeals to it to be a witness against himself. "The interdiction of the fifth amendment," said the Supreme Court last Monday, "operates only where a witness is asked to incriminate himself—in other words, to give testimony which may possibly expose him to a criminal charge"—where a witness is asked to give testimony which may possibly expose him to a criminal charge. It operates only where a witness is asked to give testimony. Those words are measured. Garfield can not waive those words, although I should not be surprised that an extension of the same doctrine that an administrative officer could waive a statute of the United States might be later found to mean that some one could waive the language of the Supreme Court of the United States. This is expressed again in Wigmore, and it is the last time I shall refer to it; in just a word, on page 3123; just a sentence, and I will limit my quotation. This is speaking of the constitutional privilege, too:

"In other words, it is not merely compulsion that is the kernel of the privilege, in history and in the constitutional definitions, but testimonial compulsion. The one idea is as essential as the other."

Testimonial compulsion. The witness must be compelled; he must be compelled to testify. Again, the quotation I just laid before your honor:

"The interdiction of the fifth amendment operates only where a witness is asked to incriminate himself—in other words, to give testimony which may possibly expose him to a criminal charge." "The general principle, therefore," continues Wigmore, "in regard to the form of the protected disclosure, may be said to be this: The privilege protects a person from any disclosure sought by any legal process against him as a witness."

The Supreme Court and the distinguished author each measures the words with care. The idea contained in this language of the court, with which I have compared this language of the author, is the same—

that the constitutional privilege is an exemption against compulsion upon the citizen when he becomes a witness. Only then, and at no other time; only there and nowhere else. Accordingly, in the development of that principle the courts have held, with substantial uniformity, that the privilege is the privilege of the witness himself and that it can not be claimed by anyone except himself, neither by the party in whose cause he is testifying or by the counsel for the witness himself; and the courts have further held that in order to avail himself of this privilege he must assert it at the time when the incriminating question is put to him. The Bell case, in which it was held that in that case the claim of exemption need not be made, did not turn upon the constitutional amendment. It was the case of an ignorant negro, born under the shadow of the lash, with his whole mental habit under the domination of the white man in authority, and it was held—excluding it as evidence of an admission; it was held, rather, to withdraw that—that upon an attempt to indict him for falsity in an affidavit thus procured, that affidavit was not admissible in evidence. It may be an extreme case. I don't care whether it is or whether it is not, because the constitutional privilege of a witness must be distinguished from the right of an accused to the exclusion of his own confession which has been obtained from him by improper means.

We do not advance unless we think clearly, unless we put the principles of the law side by side, each apart from the other, and not try to mingle them together. Confessions have been always excluded where they have been obtained through the influence of the hope of favor or the fear of harm, where some one in a position of authority over the accused has held out to him the hope of favor if he would confess or has held over him the fear of harm if he would not confess. The law has said with regard to all such cases, not seeking to measure the amount of the influence, that if the influence in any degree was operative upon the mind of the accused when he made the confession, it was unsafe to admit testimony of the confession against the person upon his trial. Now, I wish to say a word about the Bram case. (Bram *v.* United States, 168 U. S., 532.) I should not be in fashion if I did not say something about the Bram case. In that case the Supreme Court held that the trial court had erroneously admitted a confession obtained from a prisoner while he was under arrest.

There are some superficial differences between the condition of Bram and the condition of Mr. Armour at the Chicago Club. Bram was the navigating officer of the ship in which the murder had been committed. He was the only man aboard the ship who could navigate it. They allowed him to navigate the ship until they got within sight of the harbor of Halifax; then after consultation the crew mustered together, rushed upon him, seized and overpowered him, and put him in irons. He was taken to the presence of the chief of police of Halifax, or the chief of detectives of Halifax, I don't know which. He was stripped of his clothing, and then he was interrogated, told that he was guilty, and, what the court held to be an inducement held out to him, that it would be a benefit to him if he would make a confession. Then he made what the Government regarded as a sufficient confession to urge it in evidence in the court below, and what the Supreme Court regarded as a sufficient confession to be brought within the rules of confession, and the evidence of it was excluded. It has been criticised as an extreme application of the rule. It is not important whether it is extreme or not to me here. The importance of that case here is in the language of the distinguished judge who wrote the opinion of the court, who said upon one page that the confession rule was "controlled" by the fifth amendment, although he went on to exclude the confession under a rule of law in distinction from that of the Constitution, which he cited, and sustained by the citation of cases. He said, further along, that the fifth amendment was a crystallization of the doctrine of confession. It is upon those two observations of that distinguished judge that our friends build up the greater part of their case.

Mr. ROSENTHAL. There is no dissent upon that proposition.

Mr. MOODY. No dissent on that proposition at all?

Mr. MILLER. It has been referred to approvingly in the same court.

Mr. ROSENTHAL. Although there was a dissent in the case by Mr. Justice Brewer, it was not upon that proposition.

Mr. MOODY. The proposition was not involved in the decision; it was an expression of opinion. I think that learned judge would be surprised at the use that is being made of his language in this case and would regret that he ever used language in that way if he thought it could be put to the use to which my friends on the other side have sought to put it to-day. That the fifth amendment is the crystallization of the doctrine of confession in the sense that it grows out of the same purpose I do not deny; but that confessions are excluded by virtue of any right conferred upon the citizen by the fifth amendment I do deny; and I say that there is nothing in the words, I would almost say inadvertently used, in the words of Mr. Justice White which justified the belief that he thought that the right to have a confession improperly obtained excluded did grow out of the fifth amendment, although it was influenced by the fifth amendment. If that case has been followed upon that point or upon that passing suggestion, upon that use of words, hardly rising to the dignity of a dictum, I have not heard a case cited in which the approval has been expressed. I do go back again to the Hale case, because I believe the words of the court in that case were measured with reference to the criticism that has been made upon the Bram case. "The interdiction of the fifth amendment operates only where a witness is asked to incriminate himself—in other words, to give testimony which may possibly expose him to a criminal charge." It operates only upon a witness when he is compelled to give testimony as a witness. I cite the decision of the Supreme Court, not yet ten days old, against a dictum of one of its most distinguished judges, and leave that question here.

Mr. HUGHES. Is that sentence read from the opinion or is it interpolated by you?

Mr. MOODY. It is read from the words of the opinion. If Mr. Garfield, of course, by any promise of an immunity that he could not give, by the holding out of hope of immunity, or by exercising the influence of fear upon any one of these defendants, influenced them to make any statements to him, the same rule of law protects every one of these defendants as protected Bram, and when the time of their trial comes, evidence obtained in any such way can not be admitted against them.

Having in view, then, the exact extent of the constitutional privilege, with its exemption from compulsory testimony, let us consider the nature of the substitute by which it is possible to supplant the privilege itself.

Whereupon an adjournment was taken until 10 o'clock Tuesday, March 20, 1906.

MARCH 20, 1906—10 a. m.

Court met pursuant to adjournment.

Mr. MOODY. Your honor, at the adjournment of court yesterday afternoon I had concluded my discussion of the nature and limitations of the privilege conferred by the fifth amendment to the Constitution. I had thought it unnecessary to bring again to your honor's attention the various authorities that were relevant to that discussion, because I conceived that the nature and limitations of that constitutional privilege were clear, even if they were not entirely agreed upon between the opposing counsel in this case. I had concluded that the privilege secured by the fifth amendment to the Constitution is that a person can not be compelled, as a witness, before any tribunal to give incriminating testimony or evidence against himself over his claim of exemption. Let me for a moment analyze that statement. A person can not be compelled as a witness before any tribunal. In order to be entitled to the privilege he must be a witness before some tribunal under the compulsion of the law to give incriminating testimony or evidence against himself. The nature of the question from which he is excused from answering is a question which elicits testimony not only which relates to an offense, but incriminates the person giving the testimony. The compulsion must be exercised over his claim of exemption. I believe that my statement of the law in this regard is an accurate one. Having, then, clearly in view the nature and the exact limitations of the constitutional privilege, let us consider what would be necessary in order to supplant it.

The substitute by which the constitutional privilege may be supplanted must be coextensive with the privilege itself. It need not be more. It must be coextensive with the privilege. It need not be more. If, then, immunity from prosecution on account of the crime concerning which incriminating testimony may be given is enough, as it is adjudicated to be enough, then that immunity need only be given where the witness is compelled to give incriminating testimony against himself over his claim of exemption, under his oath, upon the stand, as a witness, by the compulsory process of the law. If the substitute does that, it is coextensive with the privilege and therefore is sufficient. We all ought to agree, I think, up to that point.

But the immunity, though it can not be narrower than the constitutional privilege, may be broader. The lawmaking body, so only that it furnishes an immunity coextensive with the privilege which is taken away, may give an immunity as much broader than that privilege as it chooses to give. It might give, as my friends here contend that it has given, immunity to everyone who, in any way, should furnish information concerning the offense which may be charged against the person giving the information.

I say it may be broader than the constitutional privilege. Whether it is, in point of fact, in any jurisdiction broader than the constitutional privilege must depend not upon our individual ideas of what would be desirable or equitable, but upon a scrutiny of the terms of the law by which the immunity is conferred.

Tested by that consideration, tested by a fair interpretation of the act creating immunity, it is my belief that the immunity given under that act is broader than the constitutional privilege which it supplants, and broader in two respects, and in two respects only.

The constitutional privilege conferred upon the witness the right to withhold only testimony which tended to criminate himself.

I believe that under this statute the immunity is given where the testimony "relates" to the offense for which immunity is sought, and I think that conclusion fairly follows from the wording of the act itself, because the immunity is given on account of any offense "concerning" which the witness may testify. Congress might in that respect—and still have given the full constitutional privilege and have provided a sufficient substitute for it—it might have said that the immunity should be given for any offense concerning which the witness gave testimony incriminating himself. But the absence of that limitation upon the testimony, that characterization of the testimony, leads my mind irrestibly to the conclusion that in that respect the immunity conferred by this law is broader than the constitutional privilege.

Now, in considering whether testimony is testimony "concerning" the offense, I agree that the same broad rule of relevancy should be adopted which was adopted at the common law or under the constitutional privilege in determining whether incriminating testimony was relevant to the offense. But, if your honor please, there must be some limit to relevancy established. However broad the field of relevancy may be, we must all concede that there must be a limitation to it. That limitation, though not easy to apply to the facts of any given case, is, I believe, easy of statement. It must be testimony which in some way is relevant to the guilty transaction in this case, the alleged conspiracy, the alleged unlawful agreement between the defendants, and anything which is not relevant to that in the broad manner in which I have stated—to that alleged guilty agreement—is not testimony "concerning" the offense.

I think, further, that the statutory immunity is broader than the constitutional privilege in another respect. It is well settled that the privilege arises only in the case that the person entitled to it makes his claim of the privilege upon his oath as a witness upon the stand. The statute might have insisted upon that condition as the condition of immunity, and if it had insisted upon that condition as a condition of immunity it would have still been broad enough to have in that respect, at least, supplanted the constitutional privilege. But here again the statute did not impose any such condition. It was silent. And from the absence of that provision in the act of immunity I conclude, with all due deference to those who may differ from me, that there is no need of a claim of immunity by the witness in order to set it up in bar of any prosecution against him. And in addition, I am somewhat influenced by the authority of the dictum in the Quarles case (13 Ark., 307), and of the decision in the Sharp case (People *v.* Sharp, 107 N. Y., 427), and of what I conceive to be the whole tendency of the opinion in the Hale case. Let me dwell upon those three authorities, or at least upon two of those authorities, for a moment.

The Quarles case, which is an Arkansas case, was this: The defendants were indicted for betting at a game of poker.

The witness was called and was asked if he had seen defendants betting at that time and he declined to answer on account of his privilege, and the constitutional privilege in Arkansas is, I may say in passing, although in different words, in substance the privilege in the Constitution of the United States. The immunity statute in the case was that the testimony which he should give in no instance could be used against him in any prosecution for the same offense. The court ruled that the witness could not be compelled to answer. Now it is very obvious that the ruling of the trial court was in accordance with the law, as finally settled in the Counselman case. From that ruling of the trial court an appeal was taken to the supreme court of that State and that ruling was reversed—the defendants in the meantime having been acquitted and the Government apparently having the right to appeal.

In the course of the discussion of the case, the court said that under this statute, which gave immunity by providing that the testimony should not be used against the witness who had given it upon the stand, it was not necessary for the witness to claim his privilege.

The Sharp case was a decision in accordance with the dictum in the Quarles case. The Sharp case was, as your honor of course recalls, the case of a person who was called as a witness before a legislative body in the State of New York to testify upon the subject of bribery, in which he was concerned. He gave testimony which tended to criminate him. He subsequently was indicted for the bribery concerning which he had testified, and the testimony which he gave before this committee was, over his objection, admitted upon the trial. The statute concerned in that case was substantially like the statute in Arkansas and substantially like the statute condemned in the Counselman case. There was another immunity statute, but it had no relevancy to the decision in this particular case.

The court held that the witness was entitled to the right not to have the testimony which he had given under those conditions used against him on trial, although he had not asserted his claim of privilege at the time he gave it.

In the Sharp case the witness had been subpœnaed; he had been subpœnaed before a tribunal which was a court with all the powers of a court—a tribunal which had a right to hear testimony and had a right to punish for contempt any witness before it.

Mr. MILLER. No.

Mr. MOODY. Yes; and it was so held in the jurisdiction of New York, in a case cited, in the very opinion, in the Sharp case.

Mr. ROSENTHAL. Without reporting back to the Senate?

Mr. MOODY. I did not mean to go so far as that. I mean that the tribunal itself—of which a committee was, in the expression so frequently used in legislative bodies, of which the committee was the eyes and ears—had the power of punishing for contempt. A committee has no legal existence in and of itself. It is—and no better expression can be found than the frequent expression used in legislative bodies—it is the eyes by which the legislative body sees and the ears by which the legislative body hears. And this witness was then before a tribunal, in the sense in which I use the term, which had the power to punish for contempt.

Mr. HYNES. The committee had power to punish?

Mr. MOODY. No. I am not going over that explanation again. My idea, I think, is sufficiently clear.

Mr. HYNES. Power to report, as Garfield had?

Mr. MOODY. Yes; I understand that. In giving the opinion the court points out one or two surrounding circumstances which are of great importance:

"It was conceded," says Mr. Justice Danforth, "that at the time he testified the defendant was before that committee under the operation and compulsion of a subpœna duly issued by the committee, and that the testimony he gave was in response to questions propounded in their behalf."

Again: "It appears by the concession there made and already quoted, that upon objection being made to the introduction of Sharp's testimony, on the ground that his statements before the committee were privileged, made under compulsion of a subpœna and the constraint of an oath duly administered by the committee."

So that we have here a case where the witness was acting under compulsory legal process.

Moreover, although these cases may be distinguished on account of the nature of the immunity provided under the two laws then under consideration, from the nature of the immunity furnished by the act at the bar of this court, still in my judgment the distinction is without legal consequences.

I think the whole tendency of the opinion of the Supreme Court in the Hale case is, that if the witness had actually testified under the constraint of a subpœna and of an oath and actually given testimony which concerned the offense with which he might be charged, that testimony given under those circumstances, without any claim of immunity on his part, would have given him immunity against any prosecution on account of that offense.

Now, therefore, I have stated it to be my opinion that the immunity under the act before your honor is broader than the common-law privilege in the two respects that I have named: First, that the testimony need not be incriminating; it need only be relevant to the offense for which it is set up as a bar. Second, that in order to obtain immunity, if the provisions of the act are otherwise complied with, it is not essential that the witness should assert his privilege.

But it is my contention that in every other respect the privilege and the immunity are coextensive. The conditions of the privilege are made the conditions of the immunity. Subpœna, testify, evidence, produce, perjury, all show it. The use of those words all show it. That the claimant, to have immunity, must be a witness testifying or producing evidence under oath breathes from every pore of this act.

On the other hand, our friends claim that immunity comes under this act from any information, using the word in its broader sense, which may be furnished by the person claiming the immunity to the person officially making the investigation, and that claim is based upon the proposition that immunity is given in such case because the information is furnished under the compulsion of the law. There is no longer any pretense that there was any compulsion in fact exercised by Mr. Garfield, apart from the powers which the law had vested in him. If it were dealt with as a question of actual compulsion by what happened between the parties as they met, it would not come within gunshot of the most extreme case under which confessions have been excluded, and they are excluded where the influence of hope or of fear is of the slightest character. And so the claim is made that the information furnished to a Government officer entitled to have it is information furnished under compulsion of the law, and that by the act of 1893 such information confers immunity upon the person giving it. There is the issue between the parties, stated, I believe, accurately, if your honor please, and stated briefly.

This question is singularly free from authority. I intend to be within bounds when I say that our friends upon the other side have not only furnished no authority in the shape of a decision by any court to sustain their contention, but they have not furnished a single line or word of dictum from any judge or any text writer in existence. I think I am absolutely accurate in making that statement.

On the other hand, we have authority, not of course conclusive, not authority in the sense in which a decision of a court is authority. We have the authority of the executive interpretation of this act, contemporaneous and long continued and acquiesced in up to this time by all interested in its proper interpretation. Moreover, we have one adjudicated case, which I submit to your honor is in principle precisely in point. That is the case of Warner against The State (Warner *v.* State, 81 Tenn., 13 Lea, 52), already before your honor, in the 13th Lea, Tennessee. In that case a person was brought before a grand jury by the subpœna of the attorney-general of the State of Tennessee—or rather, in Tennessee all the county attorneys are called attorneys-general—by the attorney-general for the county of which the grand jury was representative. The attorney-general had no right to issue a subpœna, that right being vested in the grand jury alone. The witness was not sworn, and in that condition declined to answer questions propounded to him by the grand jury, and asserted his right under the Constitution thus to decline. Thus we have the case of a witness under a void subpœna—a person under a void subpœna who had not become a witness by the administration of an oath to him. Under those circumstances the judge of the court in which the grand jury was sitting held the witness for contempt, saying to him in substance that the immunity statute of Tennessee, which provides that "no witness shall be indicted for any offense in relation to which he has testified before the grand jury," took away his right of silence. The witness continued contumacious, and the punishment for contempt was imposed upon him by the trial judge, and he appealed to the supreme court of the State, and that court held that he could not be punished for contempt because the subpœna was absent and its place could not be supplied by a void subpœna; and especially because the oath had not been administered to him, and not testifying under oath he did not become a witness so that he would be entitled to the immunity provided by the law of Tennessee.

Just a few words from the opinion of the court:

"If, as Judge McKinney says, and as all must agree, the term 'witness' must be understood in a legal sense, and can only be applied to one brought before a grand jury by compulsion, a fatal objection to this proceeding is that the witness was not sworn to testify. It is for the failure to testify that he may be committed for contempt, if at all; and he could not testify at all until sworn—until sworn to speak the truth, etc., he was not a witness in any sense subjecting him to punishment for contempt for refusing to answer questions, as one of the essential elements of compulsion. The oath, and the only one the law regards as binding the conscience of a witness, was absent. If Warner had spoken in reply to the questions, ever so falsely, he would not have been guilty of perjury or other offense punishable by law. It necessarily follows that if Warner had answered questions criminating himself and others, he would have done so voluntarily and not as one under compulsion to attend and testify; and if indicted for the offense, as to which he had furnished evidence against others, he could not have successfully pleaded a statutory pardon in bar of the prosecution against him."

Let us pause a moment. The statute of Tennessee is singularly, in all essentials, like the immunity act now before your honor. It is not a statute providing that the testimony of the witness shall not be used. It is a statute providing, as the act of 1893 provides, that if the witness testifies he shall have immunity from prosecution. In every essential respect the two acts are alike. No witness shall be indicted for any offense in relation to which he has testified, says the Tennessee law. No person, the act of 1893 in substance says, shall be prosecuted for any offense concerning which—in relation to which, adopting the same words—in relation to which he has testified. Now, here is a precise decision of the highest tribunal of the State of Tennessee interpreting that statute as requiring the witness to testify under oath before he can obtain the immunity conferred upon him by the law. There, then, are all the authorities upon the precise and vital proposition which is in dispute between the parties. Upon the one side nothing; upon the other side a practice of twenty years and the decision of one of the highest tribunals of the courts of the States.

Mr. MILLER. Would I be interrupting the Attorney-General if I should ask how that executive practice is shown which is appealed to here?

Mr. MOODY. It is stated as other law is stated to the court.

Mr. MILLER. I mean——

Mr. MOODY. It will appear a little more clearly by and by, I think, when I come to a discussion of some of the statutes in the bill.

Mr. MILLER. I mean the executive construction.

Mr. MOODY. Yes; I know what you mean.

Mr. MILLER. The executive construction which prevails is what I mean.

Mr. MOODY. I understand what you mean.

Mr. MILLER. Yes.

Mr. MOODY. This leads me up to a consideration of the legislation itself. I have said that the immunity given by the law depends not upon our idea of what would be desirable and equitable as an immunity, but depends upon the interpretation of the statute law under which the immunity is claimed. Before I discuss the law in detail, I deem it wise and desirable to state my claim with precision to your honor. It is this:

Exactly as by the Constitution a citizen is protected from self-incrimination as a witness under the compulsion of legal process, so under the laws of immunity a citizen is given immunity only when as a witness under the compulsion of legal process he gives testimony or produces written evidence relating to an offense. The law gives immunity that is coextensive, with the exceptions named, with the constitutional privilege; just that and nothing more. And no officer of the Government, from the President down, no jury and no judge of any court, has a right to award immunity in any other case. This, with all the power that I have, I shall maintain before your honor.

I agree with Mr. Rosenthal that it conduces to clearness and accuracy of conclusions first to discuss the immunity as it grows out of the Cullom Act and the amendment or supplement to it contained in the act of 1893, and then proceed later to discuss how, if at all, the conclusions derived from those two acts are affected by the creation of the Bureau of Corporations and the description of its powers which are contained in section 6 of the act creating it.

Section 12 of the Cullom Act may be stated in the first place very generally. It gave to the Interstate Commerce Commission the power to inquire and to obtain information in the broadest sense. The only limit upon that information was that it should be material to the performance of the duties of the Commission. Later the same section gave the power to the Commissioners to require by subpœna, testimony, and documentary evidence. In that connection it provided for the substitution for the constitutional privilege of the statutory immunity, and that statutory immunity was that the testimony or evidence given by the witness should not be used against him in any subsequent prosecution.

Then came the Counselman case (Counselman *v.* Hitchcock, 142 U. S., 547), in which a like provision contained in section 860 of the Revised Statutes was declared to be insufficient as a substitute for the constitutional privilege. It was declared to be insufficient upon grounds that may be as clearly indicated by an illustration as by anything else. You best illustrate from the simpler case generally. Suppose there were a general statute of immunity, as I have no doubt as time goes on there will be, and a witness was called before a grand jury and asked if he had taken part in a burglary. He said: "Yes; I took part in the breaking into that house in the nighttime. I had two confederates

with me—Jones and Brown. We took the plunder away and the next morning I disposed of a part of it at a pawnbroker's on such a street, and I carried the rest of it out into the country and buried it. When I was there a little girl on her way to school spoke to me and I talked with her." Obviously it would be no protection to that witness to say that that testimony should not be used against him upon a prosecution for the offense of burglary, because through that testimony it would be very simple to trace the three housebreakers, in company together, just prior to the breaking; it would be very simple to identify the defendant by the testimony of the pawnbroker; it would be very simple to identify him by the testimony of the little girl on her way to school, and therefore the court has wisely decided that the immunity which simply made the testimony useless did not protect the citizen to the extent that the privilege of silence given by the fifth amendment to the Constitution protected him.

So the act of 1893 was passed—I don't care whether you call it an amendment or a supplement. In a broad way it was intended to take the place of that part of the Cullom Act which had been declared unconstitutional by the Supreme Court. That act, instead of providing that the testimony should be useless against a person giving it, provided that if the person gave testimony under the conditions named he should be absolutely immune from any prosecution on account of the offense concerning which he had testified. That statute came before the Supreme Court in the case of Brown *v.* Walker (161 U. S., 591), and was sustained by a majority of the court and is now the law of the land. It follows therefore that if immunity is given in strict accordance with the law an equivalent to the privilege is afforded.

Coming now to a closer analysis of those two laws taken together, I venture to submit to your honor that this is not a case for the application of a strict rule of interpretation or the application of a liberal rule of interpretation. It is simply a case where the act should be interpreted according to its plain meaning. Seeking, then, to interpret the act in that way, I now return to section 12. I confess my indebtedness to my Brother Rosenthal for his most admirable analyses of this act—of these acts. Of course I do not agree with the conclusion, but I agree in the main with the analyses that he proposed to your honor. In the first place, under section 12, the Commission is given authority to inquire into the management of the business of all common carriers and the right to obtain from such common carriers full and complete information necessary to enable the Commission to perform the duties and carry out the object for which it was created. That is the power to inquire and to obtain information in its broadest sense. No limit to the word "information." No limit is put upon the information by the act.

The COURT. And no specific mode of procedure?

Mr. MOODY. And no specific mode of procedure. It is open to the Commission to obtain that information in any manner which it chooses to use. There are, however, two specific ways in which knowledge can come to the Commission by following out the pathway laid out by the statute, and those I shall now refer to.

The first of those ways is to acquire knowledge through this power which is given to the Commission. "The Commission shall have the power to require, by subpœna, the attendance and testimony of witnesses and the production of * * * documents."

The COURT. Is it your idea that the law contemplates that the Commission shall begin by subpœnaing?

Mr. MOODY. I think it is entirely in the hands of the Commission.

The COURT. Very well.

Mr. MOODY. I think it is entirely in the hands of the Commission as to whether they shall begin by subpœna or not.

The COURT. Very well.

Mr. MOODY. This power to acquire knowledge is a power "to require by subpœna" the testimony and the evidence of witnesses.

It is further provided that in case of contumacy, which of course can refer only to the conduct of a person who is a witness or of refusal to obey a subpœna, the aid of a court may be invoked. And it is further provided, as a part of the same provision which authorized the Commission to obtain information through the requirement of a subpœna for the attendance, testimony, and evidence, a substitute for the constitutional exemption of the witness from incriminating himself. The law takes away the excuse that the testimony might incriminate the witness, and furnishes him the immunity provided, first in the act itself and later in the act of 1893. And I beg to call your honor's attention to the fact that that immunity is given in connection—and that is all that I say here now—that the immunity is given in connection with the testimony and the evidence that follows, which comes to the Commission from its power to require by a subpœna testimony and evidence, and that this deprivation of the constitutional privilege and substitution of the statutory immunity is not in any way connected with any other part of the act. And the claim is taken away—the claim of privilege is taken away and the immunity is conferred in its place, not for "information" which the witness may have furnished, but for "testimony" or "evidence" which he may have furnished.

Mr. MILLER. Might I ask the Attorney-General whether he means by evidence anything more than the production of the books, tariffs, papers, contracts, agreements, and documents referred to in the act?

Mr. MOODY. Yes.

Mr. MILLER. Something——

Mr. MOODY. I do, yes; and I shall make that plain.

Mr. MILLER. Not the concrete thing?

Mr. MOODY. I simply desire to say here—perhaps it is not necessary—that when I use the word "evidence" I give to it the same meaning that I give to the word "testimony"—that it is the evidence and the testimony of a sworn witness——

The COURT. Well, now, going to the liability of the defendant to answer, is there any duty upon him to answer before he is subpœnaed?

Mr. MOODY. None whatever until there comes a duty, which I shall allude to, imposed upon him by the twentieth section, which has not yet been brought before your honor, but there is no duty——

The COURT. What do you make of the words "legal requirements?"

Mr. MOODY. I am going to argue that very fully to your honor, if you will permit me.

The COURT. Very well; take your own course.

Mr. MOODY. And I think, if your honor please, I venture to predict that I shall leave no doubt in your honor's mind, or in the mind of any fair-minded person, as to what Congress meant when it used the words "lawful requirements." I think I can predict that with safety.

Now, to show a little more clearly that the evidence which is referred to at the very threshhold of the provision for immunity means not merely books and papers and documents, but books and papers and documents that have been produced by a witness, verified by a witness, who seeks by that means to obtain his immunity under the law, I ask your honor's attention to a provision contained a little later in this section of the act referring to testimony taken by deposition. There is a provision in the next clause to that of immunity by which it is prescribed that the testimony of any witness may be taken by deposition. There follows that provision a prescription of the methods which must be taken by the Commission in order to obtain the deposition of the witness, and it concludes with this significant language: "Any person may be compelled to appear and depose, and to produce documentary evidence, in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the Commission." The use of the word "witnesses" illustrates what the author of this act had in mind upon the preceding page when he said that the Commission shall have power to require, by subpœna, the attendance and testimony of witnesses and the production of books and papers and agreements and documents. It is a declaration by the author of the act that he meant the production of books, papers, and documents by a witness.

Let me, for the purpose of making my argument clear, undertake to make Congress a person for the moment. I say to Congress: "When you said that the Commission should have the power of requiring by subpœna the attendance and testimony of witnesses and the production of documents and papers, did you mean that language to be understood as saying that these documents should be produced as evidence by a witness?" "Yes," says Congress. "Well," I reply, "so it seems to me. But my brother Miller, one of the most distinguished lawyers of the West, says you did not mean that; says you meant by the production of all books, papers, tariffs, and contracts only that they should be brought into court. Now, I have got to meet it. How shall I answer?" Congress says: "Well, I meant to use that language in the sense of evidence given by a witness, and I think it ought so to be construed in and of and by itself." "But," reflecting a moment, Congress says to me: "I not only meant it, but I said that I meant it upon the very next page of this law, because when I undertook to describe the effect of that language I said, in speaking of the production of evidence by a deposition, that it might be compelled 'in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the Commission, as hereinbefore provided." "That," says Congress, "is a distinct affirmation, not only in the same law, but in the same section and upon the next page, that when I spoke about the production of books and papers and tariffs and contracts I meant the production of these papers and documents by a witness." And it closes debate upon that proposition.

So I say that the first proposition which I make to your honor is this, that as you enter upon the threshold of the door that opens into immunity you find the provision that the Commission shall have power to require, by subpœna, the testimony and evidence given or produced by a witness.

Mr. MILLER. Now, might I ask whether if a person subpœnaed to produce his books comes in with his books under his arm and passes them over to the tribunal, is any evidence necessary, any testimony by him or anybody else necessary, as against him, that those are his books; and when they are produced, the record showing that the defendant or persons charged produced them as his books, don't they become the very evidence that that or any other law provides for as against that person, without his oath? Don't they become evidence within the law?

Mr. MOODY. No; it is because you are keeping your mind off the real question in this case—purposely and intentionally. My friends have argued all around this case. Our claim is that the statute has provided an immunity coextensive, and more than coextensive, with the constitutional privilege and exactly coextensive in the respect that the immunity grows out of the testimony, the evidence spoken or produced under the oath provided for by the law. And it is not of any importance whether or not between parties who are not concerned at all primarily with pardon, it is necessary to verify evidence and verify documents that are produced and offered in open court.

The COURT. Now, without seeking to disturb the course of your argument, and you may answer now or later as may be more convenient to your programme, if you concede that the Commission in carrying out the provisions of this act may begin with a private inquiry not based upon any subpœna, is there any duty upon the citizen to answer the inquiry until the subpœna comes?

Mr. MOODY. None whatever.

The COURT. Then what goes of the concession you have already made, that there is no duty upon the citizen to claim his immunity under the act?

Mr. MOODY. I confess I do not——

The COURT. I believe you stated that.

Mr. MOODY. Yes; I have stated——

The COURT. The immunity flows from the law, that in order to get it you must demand a subpœna, and is not the effect of that to claim immunity?

Mr. MOODY. Oh, yes; yes. I am very much gratified that your honor suggested that thought to me, because I think it suggests why we all have been a little troubled about the necessity of the claim on the part of the person who is seeking immunity, that he shall have his immunity. Proceeding upon the defendants' view, that immunity can be conferred by the giving of information, in the broadest terms, of course a proper condition to conferring immunity upon such considerations would be that the person who seeks it should claim it, and in some way indicate to the governmental officer that he refused, or desired not to be interrogated upon this subject; so that he might, by that refusal, indicate to the governmental officer that he was unwilling to proceed, and that he must be compelled to proceed in order to have a substitute for the compulsion of legal process. So that I agree that if you are going into an immunity as broad as our friends upon the other side claim, then, as your honor has suggested, it might well be that the person claiming the immunity should make the claim of his privilege, the claim of his right under the law, so that there might be something to indicate that there was compulsion exerted, that there was an unwillingness to be overcome.

Mr. HYNES. Has he any privilege to claim?

Mr. MOODY. I think he has not, because I absolutely and utterly repudiate the theory upon which these defendants are trying this case and upon which they claim immunity. I say that they obtain immunity only in the case that is described and carefully limited by the law itself.

The COURT. Do you think Congress contemplated giving the officers power to make an inquiry which the citizen was not liable to answer?

Mr. MOODY. Oh, yes. I think there is no doubt about that. Suppose the jurisdiction were either in the Interstate Commission or in the Bureau of Corporations, as in the case of private cars, information there could be obtained from any source——

The COURT. I do not speak of the question of jurisdiction.

Mr. MOODY. We might take Mr. Armour's most interesting and able articles upon private cars.

The COURT. Take the question where the jurisdiction is not questioned.

Mr. MOODY. Suppose the jurisdiction in a field unquestioned, for instance, in the Bureau of Corporations a question of overcapitalization; of course the Commissioner can go to Massachusetts, and there under the corporation law in force obtain all the statistics with regard to the capitalization of corporations formed under the law of Massachusetts. He may, if he chooses, take the works of a standard writer. He may talk with an economist. He may talk with a man who is familiar with any one great corporation, and get his advice and his information. What Congress has done in the first part of the act is to impose the duty upon the Commission of obtaining in any way, by the broadest inquiry, any sort of information which would be useful to it in the performance of its duty. Then Congress proceeded further, and recognizing that the time might come when it would be desirable for the Commission to call witnesses, Congress conferred upon it the power of requiring by subpœna the attendance of witnesses and the production of books. In that connection, and in that connection alone, was there a necessity for giving immunity, and I submit that in that connection, and in that connection alone, was immunity in point of fact given by the law enacted by Congress.

There is still another matter in which the Commission can get knowledge under the provisions of the Cullom Act. Let me invite your honor's attention to the substance of section 15. That is a section which provides that the Commission may make an investigation as to whether a common carrier has done a wrong to any other citizen, taking the broadest terms; whether the common carrier has violated any of the laws and rules of the Cullom Act to the detriment of a citizen. It is provided that the Commission shall hear and determine in that case, and then if it feels that a case is made out shall give notice to the carrier to cease and desist from the violation of law which is found to obtain and to make reparation for the injury. It is under that section that the great work of the Interstate Commerce Commission is done. In effect, that is an order by the Interstate Commerce Commission, although it is not clothed in the form of an order.

Now, let me go, if your honor please, to section 20. Let me invite your attention to the provisions of that section. Your honor asked of me my view of the meaning of the words "lawful requirement." The answer to that is found in this section. In section 12 the Commission had been given power to require, by subpœna, testimony and evidence. In section 20 the Commission is given power to require information without subpœna. Let me read it: The "Commission is hereby authorized to require annual reports from all common carriers subject to the provisions of this act, to fix the time and prescribe the manner in which such reports shall be made, and to require from such carriers specific answers to all questions upon which the Commission may need information." Let me stop there. I have been through this act from its first to its last letter, and it is the only case in which the Commission is given power to "require" anything, save only the provision in section 12, where the Commission is given power to require testimony and evidence by subpœna. The law itself makes the distinction. The evidence and the testimony is required by subpœna. Information sought for under the provisions of section 20 is required by the Commission without a subpœna. It is a lawful requirement.

The COURT. Is there a duty to answer?

Mr. MOODY. Yes.

The COURT. Without a subpœna?

Mr. MOODY. Yes; it is a lawful requirement, but it is not a requirement by subpœna.

The COURT. Well, then, is the immunity as broad as the liability?

Mr. MOODY. Not at all. If human language can do it, if the will of the legislature can be heard and obeyed, your honor, I think I shall demonstrate that there is no immunity given, either for the information which is obtained or for the returns or information furnished in obedience to the lawful requirements, but that the immunity is given solely for the evidence and testimony furnished in obedience to the power of the Commission to require such evidence and testimony by a subpœna.

The COURT. Although the citizen may be punished for refusing?

Mr. MOODY. If it is lawful requirement; yes. I will come to that.

The COURT. He may be punished for refusing to answer the lawful requirements?

Mr. MOODY. Yes.

The COURT. And the Commission may not subpœna?

Mr. MOODY. Yes.

The COURT. Go ahead and punish him?

Mr. MOODY. Yes; if it is lawful. I am not afraid of my logic. Of course it is not lawful; he can not be condemned for failing to answer a question under their requirement which has any tendency to incriminate him, because he is not bound to do that. He can not be compelled to do that anywhere. He need not claim his privilege in the sense of a witness; but suppose he shows to the court that he declined to obey this lawful requirement because it would have a tendency to compel him to produce evidence against himself, he would be acquitted precisely upon the principle that Boyd (116 U. S., 616) was acquitted by the Supreme Court of the United States. In that case Congress had enacted a law which in effect compelled the citizen to produce evidence which would tend to incriminate.

Mr. ROSENTHAL. The requirement——

Mr. MOODY. Please let me finish my thought. And the Supreme Court held that that was not a lawful obligation put upon him by the law and that the act which sought to do it was unconstitutional.

Now, let me go to section 20, a little further, and see what section 20 is. The question which we have just been discussing is apart from the discussion of this section, because this section authorizes the Commission to require only reports from all common carriers. No; I withdraw that. The discussion we have just had is in point, because a common carrier need not be a corporation, of course. The Commission is authorized to require annual reports from all common carriers and to require from such carriers specific answers to all questions upon which the Commission may need information. Now, let us see what the annual reports are.

"Such annual report shall show in detail the amount of capital stock issued, the amounts paid therefor, and the manner of payment for the same; the dividends paid, the surplus fund, if any, and the number of stockholders; the funded and floating debts and the interest paid thereon; the cost and value of the carrier's property, franchises, and equipments; the number of employees and the salaries paid each class; the amounts expended for improvements each year, how expended, and the character of such improvements; the earnings and receipts," and so on; the operating and other expenses, balance to profit and loss, and a complete exhibit of the financial operations of the carrier. "Such reports shall also contain such information in relation to rates or regulations concerning fares or freights, or agreements, arrangements, or contracts with other common carriers, as the commission may require." That is, these reports, which are made obligatory upon the carrier, subject of course to his constitutional rights, and which the Commission is authorized to obtain, must contain information as to the rates or regulations concerning fare or freight; that is, information upon every subject relevant to prosecutions for rebates or discriminations, and also agreements, arrangements, and contracts with other common carriers, and therefore information that is relevant upon every combination made by a common carrier in violation of the Sherman Act. Now, in that connection in no way is immunity given.

The COURT. Isn't it possible, under your contention, to use the citizen without putting him in position to get the benefit of the immunity?

Mr. MOODY. No; I think it is not. I think it is not, sir.

The COURT. Either that or else he has got to claim it.

Mr. MOODY. Well, certainly, if you proceed upon the theory that information can be given—can grant immunity outside testimony and evidence under oath—if you proceed upon the defendants' theory of course he has got to claim immunity. Of course it is preposterous to suppose that a governmental officer going around and investigating what are presumed to be the lawful operations of individuals and corporations in the conduct of their business should suddenly find himself entrapped into conferring an immunity which he never intended to confer, nobody thought that he ever was conferring, unless somebody had put him on his guard by making a claim that he had entered upon a field out of which immunity would grow.

The COURT. General Moody, take the converse. Congress legislates for the mass of citizenship, the ignorant as well as the skillful and the alert.

Mr. MOODY. Yes.

The COURT. Isn't there much more danger that your rule would entrap an ignorant citizen than that any officer should be entrapped by the citizen?

Mr. MOODY. No; I think not.

The COURT. Would not the citizen have to be a skillful citizen to meet your rule?

Mr. MOODY. No; I think not.

The COURT. Wouldn't he have to have legal advice?

Mr. MOODY. Well——

The COURT. I simply throw it out for your consideration.

Mr. MOODY. No; I think not, because he would ordinarily be called as a witness, and there, according to my concession, he would be in a position where the immunity would grow out of the testimony itself, without any necessity on his part of claiming it.

If your honor please, there is no hardship in asking people who have violated the law to claim the privilege which the Constitution gives to them. The law was not passed for the encouragement of crime, and it ought not to be administered for the encouragement of crime. If these people are innocent they have nothing to fear.

The COURT. I would like to have you, before you conclude, address yourself to the purposes of the act—the broad purposes of the act.

Mr. MOODY. Yes; I shall most certainly do that, your honor.

The COURT. Do you care to take the five minutes' recess?

Mr. MOODY. Yes, sir.

(Recess for five minutes.)

Mr. MOODY. If a statute should in terms provide that any governmental body might acquire information from any citizen and then say that no citizen should be excused from answering any question on the ground that it might incriminate him, and stop there, the statute would be obviously unconstitutional, and the same chances of entrapping people into answers would exist in that case as would exist in the illustration which your honor presented to me. To show clearly how Congress distinguished between the requirement by subpœna and the requirement of reports and information under section 20, I now proceed to show to your honor the different methods of enforcing those two powers of the Commission, which were provided distinctly by the act.

Your honor already knows that under section 12 the power to enforce obedience to a subpœna to testify or to produce evidence is vested in a court, to which application may be made in case of contumacy or refusal to obey the subpœna, and the court is authorized and empowered to issue an order compelling the witness to obey the subpœna.

The power to compel obedience to the requirements to furnish a report or information is contained in another section altogether—section 16. Section 16 says this: "Whenever any common carrier, as defined in and subject to the provisions of this act, shall violate, or refuse or neglect to obey or perform any lawful order or requirement"—the order is such as is contained in section 15 and the requirement is such as is contained in section 20—"to obey or perform any lawful order or requirement of the Commission created by this act, not founded upon a controversy requiring a trial by jury," the Commission or the person interested in the performance, obedience to such order, or the obedience to such requirement, may apply in a summary way by petition to the circuit court of the United States sitting in equity in the judicial district in which the common carrier complained of has its principal office. And then there follows in the act provisions for the trial of that controversy.

The act carefully goes on and recognizes that some such order or requirement might, according to the course of the common law, demand a trial by jury. So it says further in the next clause of the same section, "If the matters involved in any such order or requirement of said Commission are founded upon a controversy requiring a trial by jury," then it shall be lawful for the Commission or the person interested to apply by petition to the circuit court of the United States sitting as a court of law, and the procedure consequent upon that application is prescribed in detail in the statute.

Let me, then, for the purpose of showing how clearly Congress intended to distinguish between sworn testimony and evidence and the unsworn answers to requirements—lawful requirements—again emphasize the fact that the power to compel compliance with the subpœna is provided for in section 12 of the act, and the court is there authorized to make an order, while the power to compel a compliance with a lawful requirement is contained in section 16 of the act, a distinction being made between a controversy requiring a trial by jury and one not. In the one case the court sits as a court of law and in the other case it sits as a court of equity. Could anything more clearly indicate that Congress at least had in view a different subject-matter, with different consequences, to which the claim of privilege and the claim of immunity growing out of the privilege did not apply at all when it made it incumbent upon the citizen to obey the "requirement" of the Commission?

There are, therefore, three sources of information or three sources of knowledge open to the Commission: First, the information provided for in the first part of section 12, which is knowledge in its broadest form; second, the reports and answers to inquiries which the Commission may require, as provided by section 20, and, third, the

sworn testimony or evidence of a witness, which is provided for in the latter part of section 12, and from which the excuse of incrimination is taken away and the immunity from prosecution is substituted in its stead. And it is the Government's contention that the immunity under this act is offered only under the third of these general sources of knowledge to the Commission, because it is only there demanded as an equivalent to the constitutional privilege, and it is only there, therefore, given. If there is anything unconstitutional in the other part of the act, your honor will not proceed at a trial at nisi prius upon any theory of unconstitutionality.

I have said that the defendants have contended that all the information and the reports give immunity, because they are given under the compulsion of the law. They can stand upon no narrower ground, because, as I have said, compulsion in fact was not exercised by Garfield. The only compulsion consisted in the fact that he was the visible presence and embodiment of the compulsion of the law. It is not that he compelled, but that his power compelled. It is his power to act, and not any action which he took, which is claimed to be compulsion in this case. Let us see where that contention leads. Mr. Rosenthal, in his most admirable argument, was not afraid of his logic. He carried it to its extreme. At the close of his first day's argument I asked him this question:

"The Interstate Commerce Commission has pursued the practice since its origin in the exercise of these broad powers, which I think you have accurately described, of obtaining from common carriers a great amount of information relating to the conduct of their business. That information much nearer touches the question of unlawful discrimination and much nearer touches the question of unlawful combination with other roads than the evidence in this case, as I understand it, touches the allegation of combination. Now, would it be your contention that the information obtained by the Interstate Commerce Commission in that way has given these railroads, or the officers furnishing information, immunity from prosecution under the law?"

Mr. ROSENTHAL. "I can answer that at once. The question as put is incomplete, because it fails to indicate how the information was obtained."

Mr. MOODY. "In the exercise of their authority as a commission."

Mr. ROSENTHAL. "Yes; I know; but how in the exercise of their authority? Broadly speaking, I should say that if the information is obtained from any individual in the exercise of the granted authority, the authority granted under section 12, immunity would follow."

Mr. MOODY. "My question includes that assumption that the information is obtained in the exercise of the authority contained in this grant of power."

Mr. ROSENTHAL. "Yes."

Mr. MOODY. "I am very glad to get your answer."

Mr. Brown in his eloquent appeal for his client made the claim that anybody who performed a duty imposed upon him by law could not be said to act voluntarily. He said, "he only consents who has the right to refuse." That is to say, the man who keeps his contracts, the man who pays his debts, the man who refrains from stealing his neighbor's purse or debauching his neighbor's wife is acting under the compulsion of the law and can not be said to be a voluntary agent. It is an abuse of words. Is there no such thing as a voluntary obedience to the law? Action in obedience to the law is only involuntary when the law in addition to delivering its commands exercises the strong arm of compulsion to enforce them. The power to compel is quite different from the compulsion itself, which is the exercise of that power.

Mr. Miller claimed that where the law prescribes the duty of testifying, if one voluntarily, without invitation, comes forward with any statement concerning any offense in which he may have participated, he may be regarded as making that statement under the compulsion of the law and that where immunity is provided by the law he is entitled to that immunity. I took his exact words and they were these: "That which is done in pursuance of a legal duty or obligation obviously is done under legal compulsion."

Mr. MILLER. It was somewhere along there stated to be where the law required a specific——

Mr. MOODY. Yes; I understood that to be so; that you did not take so broad a ground as Judge Brown took. That where the law required some specific conduct on the part of a citizen——

Mr. MILLER. Specific act.

Mr. MOODY. Specific act. If he voluntarily and without invitation complied with the law he may be said to be acting under compulsion.

Mr. MILLER. I think that is too broad.

Mr. MOODY. No; I think it is not. I do not wonder that my learned friend shrinks from the consequences of his statement, because I will show in a moment that his claim is based upon no authority and no reason. It is utterly at variance with the constitutional privilege, and utterly at variance with the terms of the immunity act itself. He gave an illustration in order to make his meaning clear. He said if there were an immunity act with reference to offenses committed in the postal service, and an employee of the post-office here had committed a crime, and came to the proper person without any invitation whatever, apparently voluntarily in every respect, except that he was obeying the law, and made a statement of his offense, that from that statement alone he would obtain immunity. That was the illustration given. It is a most extraordinary——

Mr. MILLER. It was added to that if the law——

Mr. MOODY. If the law gave immunity.

Mr. MILLER. If the law compelled him to do that specific act.

Mr. MOODY. If the law compelled him to do it.

Mr. MILLER. That specific act, and he went in obedience to the law and did it.

Mr. MOODY. The contention here is that this information in its broadest terms was furnished in obedience to the compulsion of the law to do that specific act. Let us see where that most extraordinary claim leads to. What would be the consequences? We might suppose that the confessions and statements in obedience to the law might be made at Washington, made possibly to the Interstate Commerce Commission, possibly to the Commissioner of Corporations, possibly to the Attorney-General. This is a great discovery of my learned friend, for which uncounted generations of captains of industry will thank him. Washington will become the Alsatia to which they can resort for immunity for their offenses. It will be much easier, much better, instead of running away from a subpœna to run toward the governmental agent and serve a confession upon him.

Anybody in this land who is now seeking to avoid the service of a subpœna will thank my learned friend for giving him a very much shorter road to travel if he need only travel to the representative of the Government whose laws he has violated and obtain his immunity. Washington would become a great resort, not only in winter, but in summer. All the people who are violating the laws of the land may go there at intervals and obtain their immunity. All they have to do is to go there in obedience to the compulsion of this law. All the officers of a corporation have to do is to go there in obedience to the compulsion of this law and serve upon the Commissioner of Corporations a statement with regard to their conduct and obtain immunity. They can do it at intervals. The law is a license to commit crime. Now, I can fancy those gentlemen gathering together there. I can fancy Mr. Swift and Mr. Armour, and their journey to Washington, and their meeting with some other great magnate who has been there, and who has washed, in what I may call the "Miller's bath," because they will go there, as to Carlsbad and the French Lick Springs, in order to cleanse themselves of misdoing. I can imagine them meeting and saying, "Good morning; good morning, Brother Rockefeller, have you had your immunity bath this morning?" Look at the absurdity of it. [Laughter.]

The COURT. The bailiff will preserve order. If there is any further demonstration in the court room the court room will be cleared.

Mr. MOODY. Look at the absurd consequences, which I am not overstating at all, if anyone has a right, in obedience to this law, voluntarily to make a statement and thereby claim immunity from it. And yet it is absolutely essential that our friends should resort to that ground in order to maintain their case.

Now, I find further confirmation of the view that immunity arises out of the sworn testimony, and the sworn testimony alone, of a witness, in the words of the act of 1893. Let me consider that act generally in the first place. It speaks of "witnesses." It speaks of "testifying." It speaks of "producing evidence." It speaks of "subpœna." It speaks of "perjury." All these are terms of art, having a well-known meaning. Why should they be warped from the natural significance which attaches to them, especially, when the giving to them their natural significance is in harmony, as I have sought to show, with the whole scheme of the law?

What does the word "testimony," for instance, mean when it is used in describing the statements of a witness before a tribunal authorized to administer an oath? How false a construction of the word it is to give it another meaning than the natural meaning which the law attaches to it. If it had been intended by the statute to give immunity for information, it would have been the simplest thing in the world to have added that word. I am not going to give definitions of "testimony" and "evidence," and the "production of evidence" and "witness" and "subpœna." They are all well known to your honor. They have but one meaning, and that is the meaning which the Government attaches to them. We are to consider that we are not reading a novel or an essay. We are reading a statute. And there is nowhere in the wide world where words are employed after a greater or more careful scrutiny of real meaning than they are in a statute, because that statute must be compact. And the rule established by all courts from the beginning of reports of the decisions of the courts is that words should be taken in their natural meaning, and that words having a legal significance should in all cases be interpreted as having their legal meaning. Suppose anyone had suggested in the act of 1893, after "testimony," to have inserted "under oath." The body in which that amendment was proposed would have said that it was surplusage; would have said there is no need of qualifying "testimony" by the words "under oath," because testimony is of necessity under oath. What is the reason, what is the underlying reason, why a corporation can not get immunity, as the court decided last Monday it could not? It could furnish all sorts of information. It can furnish returns, but it can not give testimony, because it can not be sworn as a witness. A corporation is a person for very many purposes, as is already apparent to your honor, not only from the citation of authorities here, but from your honor's own investigations; but it can not be conceded to be within the word "person" where it is used in such a manner as to indicate a person who can hold up his right hand and take the oath.

It is our misfortune that we have not been able to make ourselves clear upon our position as to the effect of the proviso in the act of 1893. This proviso: "*Provided*, That no person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying." I do not claim that this proviso creates the offense of perjury or that one indicted for perjury in his testimony before the Interstate Commerce Commission would be punished by virtue of that provision of the law. It simply recognizes the existence of perjury. Let us see the immunity clause: "But no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify, or produce evidence, documentary or otherwise, before said Commission, or in obedience to its subpœna," etc.: "*Provided*, That no person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying."

The exact effect of that provision is to indicate clearly that the testimony out of which the immunity must grow is testimony out of which a prosecution for perjury may grow. "So testifying." Testifying before the Commission and producing evidence before the Commission. Providing that a person "so testifying" may be punished for perjury. It is a clear indication of the intent of Congress that the testimony out of which the immunity grows is testimony upon which, if false, a prosecution for perjury may be based.

I am not claiming of necessity that the subpœna which the Commission is authorized to issue to compel testimony and evidence is an indispensable prerequisite to the giving of such testimony and evidence out of which immunity may grow any more than I am contending that this provision with regard to perjury is a provision by the terms of which a prosecution for perjury may be instituted. I am contending that both of those provisions are of significance in demonstrating to your honor the meaning of the words "testimony" and "evidence," which lie between them. We have at the entrance of the field of immunity a gateway marked "subpœna." We have at its exit a gateway marked "perjury." Should we not expect to find in the field itself the words we do find—"testimony" and "evidence?" Should we not expect to find that the kind of information obtained by subpœna, the kind of information which is capable of being punished by perjury, is testimonial in its nature?

Let us see. Let me give a simple illustration of what I mean. Here is a field of information, there [indicating]. Nothing about testimony. Nothing about evidence. Nothing about any compulsory process. Here is a field of information and reports [indicating], made in obedience to lawful requirements. Nothing about evidence. Nothing about testimony. Nothing about subpœna. Nothing about perjury. And in connection with either of those fields the word "immunity" is not used at all. Here [indicating] is the great field in which the plant "immunity" grows, and it is marked "evidence;" it is marked "testimony;" and it is bounded on the one side by a fence called "subpœna" and on the other side by a fence called "perjury." Can anyone doubt the nature of the territory that lies between those two boundaries?

I find still further confirmation of my interpretation in the penal section of the act of 1893. Let me first deliberately read the whole of it. [Reading:]

"Any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce books, papers, tariffs, contracts, agreements, and documents, if in his power to do so, in obedience to the subpœna or lawful requirement of the Commission, shall be guilty of an offense, and upon conviction thereof by a court of competent jurisdiction shall be punished," etc.

I have shown that the Cullom Act contemplates two distinct methods of obtaining knowledge or informtaion from books and documents. The first method is that pursued when the Commission, in conformity with its powers, requires, by a subpœna to a witness, the production of books, documents, etc. And second, where the carrier itself is, in obedience to the lawful requirement of the Commission, without subpœna, directed to furnish it with the substance of those books and documents or to answer inquiries with respect to them.

I have argued that to the first of those powers mentioned—namely, the power to require by subpœna the production of papers and the testimony of witnesses—there was attached the privilege of immunity in exchange for the constitutional privilege which was taken away. I have shown that in connection with the production—the answer to the lawful requirement, by reports or otherwise—no immunity is given. And I have argued the matter of the separation in the law, a separation clearly followed through the whole scheme of the law, which enforces the power of the Commission in one case in one way by one section, and enforces the power of the Commission in the other case in another way by another section. I say I have argued, from the separation of those two functions of the Commission, and from the attachment of the privilege to one of the functions, and its exclusion from the other function, that immunity is given in the one case and withheld in the other.

Now, if your honor please, if I can show that that separation that was made in the original Cullom Act is recognized and brought forward and carried into the very act of 1893 itself, the very act in which immunity is given, and that in the one case immunity is given, and in the other it is withheld, I have completed my demonstration. I proceed to do that now. The penal clause makes it an offense to do four things: First, to neglect or refuse to attend and testify; second, to answer any lawful inquiry; third, to produce books, papers, tariffs, contracts, agreements, and documents in obedience to the subpœna of the Commission; fourth, to produce books, papers, tariffs, contracts, agreements, and documents in obedience to the lawful requirements of the Commission.

The COURT. What is the difference between three and four?

Mr. MOODY. The third is to refuse to produce books and documents in obedience to the subpœna of the Commission——

The COURT. Yes.

Mr. MOODY. And the fourth is that it is an offense to refuse to produce books and documents in obedience to the lawful requirement of the Commission.

Now, then, I have brought into the very act of 1893 the distinction which was created by the Cullom Act and carried all through the scheme of the act. The refusal to produce documents in obedience to a subpœna and the refusal to produce documents in obedience to a lawful requirement are both punishable by the law. If a person refuses to produce documents or books or papers in obedience to the subpœna of the Commission he is indicted in one form of indictment. The indictment would allege that he had been duly subpœnaed by the Commission to produce certain books and papers and that he had neglected and refused to do so. If he had refused to produce books and papers in obedience to the lawful requirement the indictment would allege that the Commission had lawfully required him to produce those papers and he had failed to do so. The offenses are absolutely distinct, and an entirely different consideration would arise on the trial of an indictment under those two forms. So I say again, and I ask your honor to follow me there, that in the very act of 1893 the distinction which I have demonstrated to exist under the original Cullom Act between the requirement of the subpœna and the lawful requirement of the Commission, is recognized, maintained, brought forward, and put into the very law of immunity itself. In the penal section the two methods of producing documents and books are distinguished and separately stated, and each one is made an offense. Let us go back, however, to the immunity section, three or four lines down, and we shall find that while immunity is given where a witness produces documents in obedience to the subpœna, it is withheld where he produces documents in obedience to the lawful requirement. Because the language is that he shall have immunity where he produces documentary evidence "before said Commission, or in obedience to its subpœna, or the subpœna of either of them." The first word "or" must be used in the sense of "either," or it could have no possible meaning. The section would then read "either in obedience to its subpœna or the subpœna of either of them." The immunity is given where the documents are produced in obedience to the subpœna of the Commission or either of the Commissioners; but it is not given where the documents are produced in obedience to the lawful requirement of the Commission.

Mr. MILLER. Under that law——

Mr. MOODY. Wait a minute. And if it is said that this is a fine distinction, it is the distinction the law itself makes.

Mr. MILLER. Learned counsel did not read all of it.

Mr. MOODY. I read every word that is material, and I would like you to say what there is material that I did not.

Mr. MILLER. You did not read all of the alternatives.

Mr. ROSENTHAL. There are two others.

Mr. MOODY. Oh, "in any such case or proceeding." "In any such case or proceeding." Brother Rosenthal disposed of that the other day.

He showed that prior to the act of 1893, this act under consideration, the privilege was taken away and the substitute of immunity given in its place only where testimony or evidence was produced before the Interstate Commerce Commission. The act of 1893 does the same thing in any cause under the interstate-commerce law in any court.

Those words mean—"in any cause or proceeding"—that the immunity is in a jurisdiction broader than that of the Interstate Commerce Commission, but they have nothing to do with the character and the nature of the limitations of the immunity itself. It grows out of the testimony or evidence given in obedience to the subpœna of the Commission, or in obedience to the subpœna of either one of the Commissioners, or given in any cause in any court. The omission of the immunity growing out of documents produced in obedience to the "lawful requirement" is not only significant, but it is absolutely conclusive, because the distinction between the production of books under those two circumstances is brought forward, maintained, and expressed in the clearest words in the act itself.

Mr. MILLER. Isn't the proceeding in section 16, to which counsel has referred, one of the proceedings referred to in the act of February 11?

Mr. MOODY. Not at all. Not at all. We are not engaged in any such proceeding as that here at all.

Mr. MILLER. You are engaged in a proceeding to mutilate the act?

Mr. MOODY. I am engaged in interpreting the act and in asserting the meaning, the plain meaning, of words never before in any court in the land disputed until this case. I think, may it please your honor, that if words can do it, if the application of right principles to the interpretation of statutes can do it, I have demonstrated that the immunity conferred by the act of 1893 can only grow out of some sworn testimony or evidence under the provisions of the interstate-commerce law——

Mr. COWIN. Will the Attorney-General permit me——

Mr. MOODY. Just a moment. Later I shall claim, that being so, neither Mr. Garfield nor his subordinates, nor any other person, can amend that act or extend its benefits to any man who is not within its terms.

Mr. COWIN. May I ask just a question before you leave that?

Mr. MOODY. Yes, sir.

Mr. COWIN. Suppose Mr. Garfield went to A and said, "I am prepared to investigate your packing business. There is certain information you will have to give me as I am not able to get it elsewhere. I have the power to compel you to give me this information, and, if necessary, I will use that power, so you can see you will have to comply with my demands." He says, "I know you are required to get this information, and that I must give it; that you can and will compel me, and for that reason I comply with your demand."

He has been informed that probably he ought to have a subpœna and be sworn, and he says, "Will you please hand me a subpœna?" And a subpœna is handed to him. "Will you please swear me?" And he is sworn. He gave the information fully and truthfully. They then went to B and made the same requirement. B made the same answers. B did not know—just as truthfully, and just as fully—B did not know anything about a subpœna or an oath, and he didn't say anything about it. Now, is there any difference between the two parties on the question of immunity?

Mr. MOODY. Of course there is a difference; just as there is between two persons, one of whom stands upon his right to remain silent, who makes no confession, makes no answer to the officer, and the other of whom does not remain silent, does testify, and does make a confession, and does make incriminating statements. Now, it is no answer to an application of the rules of law to the man who was not silent that the man was ignorant of the provisions of the law of the land and didn't know them as well as my learned friends know them here. As I said, the act—the laws are not passed for the encouragement of crime or the protection of offenders.

Mr. MILLER. Nor to entrap them.

Mr. MOODY. No; nor to entrap them. I want to consider that these defendants are innocent until they are proven guilty. They have the right under the law so to be considered. I am willing to give them every presumption that belongs to them. If they are innocent, they have nothing to fear from any inquiry. If they are guilty, it is no burden or hardship upon them to ask them to comply with the conditions and burdens of immunity which Congress has enacted.

There is just another confirmation which I think comes to my contention from the absurdity of the consequences which would follow from the adoption of the rule contended for by the defendants. I invite your honor's attention to section 10 of the act, which creates offenses.

Mr. ROSENTHAL. Section 10?

Mr. MOODY. Yes; section 10. The act in various preceding sections had made it unlawful to practice any unjust discrimination, or give undue or unreasonable preference, or fail to give proper facilities for the interchange of traffic, or to discriminate between connecting lines, or to violate the long and short haul provision, or to pool their earnings, or to divide their traffic, or to fail to print schedules or rates, or to reduce or advance rates without certain prescribed preliminary notice, or to file all public rates and fares and charges, or to enter into and contract to prevent the shipment of freight from being continuous.

Section 10 makes the disobedience of those provisions of the law an offense; misdemeanors. Any common carrier subject to the provisions of this act, or any director, officer, receiver, or trustee, or the lessee or agent, or person acting for a corporation who is a common carrier, who shall willfully do, or cause to be done, or shall willingly suffer or permit to be done, any matter, act, or thing in this act prohibited or declared to be unlawful, or shall aid or abet it, shall be guilty of a misdemeanor, which shall be punishable by certain penalties prescribed in the law. And any common carrier who shall be guilty of false billing, false classification, false using, or false report, or who by any device or means shall practice discrimination, shall be guilty of a misdemeanor, and shall be punished in the manner prescribed by law.

Those offenses are largely those of discrimination. The first foundation to every prosecution under section 10 would be the information furnished to the Commission under section 20 of the act, because section 20 authorizes the Commission to require from the carrier information in relation to rates, or regulations concerning fares and freights, or arrangements or contracts with other common carriers. There have been many prosecutions—and this is, perhaps, an answer to my learned friend's question this morning as to the practice—there have been many prosecutions under section 10 and many convictions under section 10. Your honor is familiar, perhaps, with many of them; and no one ever thought that he was immune from prosecution because, being an officer of a railroad, under section 20 of the interstate-commerce act, he had furnished information which was material upon the question of that prosecution—not only material, but vitally material, on the question of that prosecution.

The interpretation of the act which my distinguished friends laid before your honor leads to the conclusion that Congress in one section of the act created offenses and prescribed their punishment and in another section of the act gave the Commission authority to require from the carriers, and the officers of the carriers, the very information which would be relevant upon the indictment, and that by doing that had rendered every prosecution under the penal section of the code utterly impossible.

I wonder what the distinguished author of that act, the venerable Senator from this State, whose name is inseparably connected with it, and to whom it brings one of his greatest titles to fame, would say to that interpretation; would say to an interpretation which accused him of drawing and fostering and permitting and enacting legislation which was contradictory and absurd.

I am not proposing to urge upon your honor the contention that was so ably argued by my friend the district attorney, that immunity can not be obtained except after an order of court. That is one possible aspect of this case. I am willing to concede, for the purposes of the argument, and I am willing to say that on the whole it is my opinion, from a study of this act, that immunity may be obtained short of the compulsory order of the court. I am willing to concede that the subpœna of the Commission and the imposition of the oath upon the witness by the Commission creates an obligation on his part to testify to which he may yield, although the law, for his protection, gives him the right to appeal to the court. If he does yield to the constraint of subpœna and the oath, and does give the testimony relating to an offense with which he may be subsequently charged, I am ready to concede that he would get the immunity growing out of such testimony. I think this may be inferred from the Brimson case (Interstate Commerce Commission v. Brimson, 154 U. S., 447), a case which I believe has not received the attention from counsel which its importance deserves. It is a case which deals with this whole procedure, and deals with it under a challenge by a party who had been summoned under the provisions of the Cullom Act. In that case the Commission was engaged in examining whether rebates were given or discriminations practiced in favor of the Illinois Steel Company by the railroads running out of Chicago in various directions; the claim being that discrimination was brought about under the device of switching railroads, which were attached to the plant of the Illinois Steel Company.

Those switching railroads were incorporated—five of them were incorporated—some, I think, under the laws of this State, and Brimson was the president of all five of the switching railroads, and the question was asked of him with respect to the interest of the Illinois Steel Company in these switching railroads. He declined to answer, basing his declination on the claim that the whole provision was unconstitutional. The circuit court for this circuit sustained, as your honor well remembers, the claim of Brimson and his associates; and the case then went for final adjudication to the Supreme Court of the United States. The question there was, whether these powers, given to the court to aid the Interstate Commerce Commission to obtain testimony of witnesses who had been subpœnaed by them, were judicial powers; it being contended, on the one hand, that they were judicial powers and could properly, in case of dispute, be exercised by the judicial department of the Government of the United States. It was claimed, on the other hand, that this legislation under the Cullom Act made the courts mere assistants of an executive and administrative body, and that no such power as that within the Constitution could be conferred on the courts.

The majority of the court held that where the Commission had issued its subpœna and brought its witness before it and imposed the oath upon the witness and the witness then disputed, for any reason, the right of the Commission to interrogate him and obtain testimony from him, the Interstate Commerce Commission insisting it had that right, that the dispute between the two created a case or controversy within the meaning of the Constitution of the United States, and that the settlement of that case or controversy was an appropriate exercise of the judicial functions. That is what the case decided. I ask your honor's attention to a little of the reasoning of the case. I ask your honor's indulgence, for I believe this is the last book of any kind to which I shall refer. On page 476 Mr. Justice Harlan, giving the opinion of the court, said:

"Upon everyone, therefore, who owes allegiance to the United States, or who is within its jurisdiction, enjoying the protection that its Government affords, rests an obligation to respect the national will as thus expressed in conformity with the Constitution. As every citizen is bound to obey the law and to yield obedience to the constituted authorities acting within the law, this power conferred upon the Commission imposes upon anyone summoned by that body to appear and testify, the duty of appearing and testifying, and upon anyone required to produce such books, papers, tariffs, contracts, agreements, and documents, the duty of producing them, if the testimony is sought, and the books, papers, etc., called for relate to the matter under investigation, if such matter is one which the Commission is legally entitled to investigate, and if the witness is not excused, on some personal grounds, from doing what the Commission requires at his hands.

It is from that language that I have reached the conclusion which I stated to your honor, that the issuance of the subpœna to a person to become a witness and produce documents, or give testimony, imposes upon him a sufficient legal compulsion, to which, if he yileds, there being no dispute about it, he is entitled to the immunity given to him by the express terms of the act; that the provision authorizing him safely to dispute the authority of the Commission is given to him for his sake, and because the Commission is not a judicial body empowered to pass upon the rights of the people of the United States. And this consideration appears very fully from the language of Mr. Justice Harlan.

The COURT. Perhaps this is as good a time as any to adjourn.

Mr. MOODY. I have every reason, if your honor please, to believe that I can conclude this afternoon, but I want to be sure about it, and if your honor will give me fifteen minutes more now, and shorten the recess to that extent, I am sure I can.

The COURT. Very well; proceed.

Mr. MOODY. If your honor will call my attention to it at the expiration of that time.

Now, in describing the powers of the Interstate Commerce Commission, Mr. Justice Harlan uses this language, page 485:

"The inquiry whether a witness before the Commission is bound to answer a particular question propounded to him, or to produce books, papers, etc., in his possession and called for by that body, is one that can not be committed to a subordinate administrative or a subordinate executive tribunal for final determination. Such a body could not, under our system of Government and consistently with due process of law, be invested with authority to compel obedience to its orders by a judgment of fine or imprisonment."

And again, on page 489:

"If there is any legal reason why appellees should not be required to answer the questions put to them, or to produce the books, papers, etc., demanded of them, their rights can be recognized and enforced by the court below when it enters upon the consideration of the merits of the questions presented by the petition."

So, then, we have a clear characterization of the Interstate Commerce Commission, as a body not acting judicially and not capable of passing on the rights of the people of the United States. I have contended that the only ground under the Cullom Act and its supplemental act upon which a person could obtain immunity is that he should have been subjected to testimonial compulsion. I have emphasized both ideas. I have claimed that from the field of the constitutional privilege Congress in the immunity act has brought forward the two fundamental ideas of compulsion—compulsion to testify as a witness.

I come now to a consideration of the act which creates the Bureau of Corporations. It is agreed upon all hands that every limitation which surrounds the granting of immunity under the Cullom Act and under the act of 1893 is applicable to the immunity which may grow out of any action by the Commissioner of Corporations. It is the contention of the Government, however, that there is one other important limitation rendered necessary by the difference between the constitution and functions of the two bodies, and that important difference is contained in the last sentence of the clause of section 6, in which immunity is provided.

This seems to be a very convenient place for me to stop, your honor, at this point. Perhaps it would be better to stop here.

The COURT. Very well.

Whereupon a recess was taken until 2 o'clock p. m. of the same day.

MARCH 20, 1906—2 p. m.

Whereupon court convened pursuant to recess.

Mr. MOODY. At the adjournment of court this noon I had concluded my discussion of the immunity which is conferred by the action of the Interstate Commission under the Cullom law. I had endeavored to prove that that immunity was coextensive with the constitutional privilege, and as that privilege attached only to a witness under oath the statutory substitute of immunity attached only to a witness under oath. I have endeavored to show that both by a careful study of that part of the act which expressly relates to immunity and by a development of the whole scheme of the act. I had concluded that the Cullom Act was not a delusion or a mockery or a snare set for the unwary feet either of the citizen or of the Government, but a coherent act, effective in its dealings with the great problems to which it relates, protecting alike the operations of the Government through all governmental agency and every just right that every citizen may claim. I have regarded that discussion as conclusive of this case as a matter of law.

I pointed out that it was in agreement between all the counsel that every limitation which surrounded the immunity which grew out of the Cullom Act would surround any immunity which might grow out of the act creating the Bureau of Corporations, and I have advanced for your honor's consideration the claim that there was another limitation, another restriction of immunity in the act creating the Bureau of Corporations, and that that limitation existed in the last sentence of the clause by which the immunity is conferred, and was created alike in the interest of the citizen and in the interest of the Government. I have said to your honor that that restriction—the discussion of which I shall soon approach—was born out of the differences in the constitution of the two governmental bodies. Let me allude to those differences briefly.

The Interstate Commerce Commission is the organ through which the Federal Government exercises the undoubted governmental power of the regulation of common carriers engaged in business between the States. It conducts hearings; it arrives at decisions; it gives orders; it makes requirements, all under the superficial similarity to the action of a court of justice. I say superficial similarity because, as appears very well from the Brimson case, the judicial department of the Government is essentially different from any body, administrative or executive in its nature, such as is the Interstate Commission. It acquires its knowledge through information or through returns or through testimony, and that knowledge is acquired for the purpose of aiding that body in the performance of its own duties.

On the other hand, the Bureau of Corporations has a totally different purposes, which has been frequently pointed out by your honor's observations from the bench. In a word, it was constituted for the purpose of making a governmental study of the economical conditions which have arisen out of the lawful operations of corporations. The existence in great number of corporations, sometimes of great power, has been, on the one hand, of inestimable benefit in the development of the country, and, upon the other hand, has brought to the people of the country questions of great moment for their consideration and solution. The purposes of this governmental study were to acquire the broadest knowledge of existing conditions, under the laws as they stand to-day, in order that that knowledge could be communicated to the President and through him to Congress and through Congress to the country so that the conditions which this information disclosed might be studied by the Congress and by the people whom they represent, to the end that, where need may be, remedial legislation could be furnished. The functions of this Bureau were expressly confined to the study of corporations. They had nothing to do with individuals, except so far as individuals must of necessity govern, control, and direct the operations of corporations. Let us for a moment, for the purposes of illustration, consider some of the important questions that the Bureau was constituted to study. The question of overcapitalization, one of the great problems of our time; the question of the propriety of the ownership by one corporation of stock in another; lawful in some of the States and unlawful in some of the other States, one of the most important of pending questions; the operation of private car lines by any other corporation than one which is under the duty and obligation and subject to the restrictions of common carriers; and the desirability of enforced publicity in the proper sense of the word, for in the proper sense of the word the act creating the Bureau of Corporations does not give publicity.

When that act was passed your honor may well remember that between the two Houses there was a dispute upon that subject. The bill as it passed the House of Representatives provided for publicity in the true sense—the acquisition by way of return, or in any other way that might be specified, of information from corporations for publication—so that the people could resort to that for their information. On the other hand, the Senate was unwilling to go as far as that, and confined the use of the information obtained through the study of the Bureau to delivery to the President and allowed him to determine what degree of publicity should be given to it. The important question of the desirability of a Federal license for corporations doing an interstate business, and the incorporation by one State of a corporation authorized to do business in other States, one of the great questions raised by the economic conditions created by the existence of corporations (because, as your honor well knows, some States have gone so far as to create a corporation with powers and duties so broad that they have been unwilling to authorize the exercise of the franchise of that corporation in the State in which it was created, and have confined its powers and their exercise to the other States of the Union), were appropriate questions for study by the Bureau. I might go on, but these questions to which I have alluded are sufficient to indicate the general

nature of the study which was undertaken by the creation of this Bureau. The Bureau was not designed to deal with the unlawful acts of corporations. That was left, as before, with the Department of Justice. If that Department needed strengthening, it could be strengthened as it was strengthened under the act of 1903, which in another connection has been brought to your honor's attention, where money was put at the disposal of the Department of Justice, and that Department was authorized in the cases described therein to employ special counsel and special agents.

Now, having in view that great fundamental and controlling purpose of Congress in the creation of that Bureau, let us see by what steps in the act itself the Bureau was built up. All the law relating to it is contained in section 6. In the first clause there is created a Commissioner of Corporations and one Deputy Commissioner, and one only, and in passing I may say that that distinguishes the case from that brought to your honor's attention by Brother Rosenthal the other day, where the act of Congress had authorized the collectors throughout the country to appoint as many deputy collectors as they saw fit. Congress appointed one Commissioner and one Deputy Commissioner, who, I submit, alone has the power to exercise the authority of the Commissioner of Corporations.

And it further provided for the employment of special agents and other employees of different grades. And then, of course, it provided that the information and data—"such information and data," quoting from the act, as should be gathered by the diligent investigation into the organization, conduct, and management of the corporations which are described by that act—should be reported to the President so that he might be enabled to make recommendations to Congress, and that he might make public so much of such information as he should decide it wise to make public.

By the next clause the Commissioner was given powers of investigation. He was given, so far as they were applicable to his situation, the same broad powers which had been, by the Cullom Act, conferred for different purposes upon the Interstate Commerce Commission, and I need not refer to them.

He was especially given the right to subpœna and compel the attendance of witnesses. Congress doubtless judged that so great a power as that—the power to summon witnesses and put them under oath—could not, or at least ought not to, be conferred by anything except express language, conferring such powers.

Let us see for a moment the reason for that. In the study of the operations of corporations the Commissioner was given authority first to gather information and data, words in no way appropriate for a description of testimony to be obtained from any person. He might obtain that information from articles in a magazine. He might obtain the data from statistics published by the Government of the nation, or of the various States or of cities and towns. He might obtain the information and data from the returns of corporations made to the various States or cities and towns in which they conduct their business. He might obtain the information or data from any source. It, however, might happen that he would wish to obtain information and data, in the broad sense, from some persons who were engaged in the management of corporations, and so he was given the power to subpœna those persons and put them upon their oath. Mark it, if your honor please, that his study was the study of the lawful operations of corporations. It might be, however—though his purpose would not carry him to the investigation of any offenses against the law—that in conducting this inquiry he might reach some person who had been concerned in the guilty transactions, the unlawful transaction of corporations, and the power was given him then, under the conditions named in the act, to obtain their testimony and evidence at the price of the immunity which the Constitution requires as a substitute for its own safeguards. This was foreseen, and therefore the last sentence of that clause of section 6 to which I am now referring was added. It is in these words:

"All the requirements, obligations, liabilities, and immunities imposed or conferred by said 'Act to regulate commerce' and by 'An act in relation to testimony before the Interstate Commerce Commission,' etc., approved February 11, 1893, supplemental to said 'Act to regulate commerce,' shall also apply to all persons who may be subpœnaed to testify as witnesses or to produce documentary evidence in pursuance of the authority conferred by this section."

Why was this last section added? Have we received an explanation or elucidation of it from our distinguished friends upon the other side of this cause? I have listened carefully and waited patiently for such an explanation. It had some purpose. It is a cardinal principle of interpretation that no part of the law should be disregarded to which a court can attach a meaning. No court has the right to say that that enactment of Congress is without meaning or without force, and I submit that no one has a right to interpret that act to mean anything different from what it says. I say to your honor that its purpose and effect was this: To create a restriction upon the capacity of the Bureau of Corporations to impose requirements, obligations, or liabilities upon the citizen, on the one hand, or to confer upon the citizen, on the other hand, any immunity, unless a great significant act had been performed by the Commissioner, selecting out of the body of the citizenship those persons upon whom obligations and requirements and liabilities might be imposed, or to whom, on the other hand, immunity might be granted.

There is no cause for me to find a reason for this enactment. It is enough that it is there, that it is the law, that it is plain, that it is binding upon us all. As the lawmaking body, Congress has a right to make laws that shall be binding upon us all. But it was added for a purpose. It was added, as I have said, for the protection alike of the citizen and of the Government, and the reason is not far to see. It lies right in the difference in the constitution of the two bodies whose powers and functions I have attempted to lay before your honor. The Interstate Commerce Commission is limited in number. No one pretends that any one of the Commissioners can delegate any one of his powers, or that the Commission all together can delegate any of its powers. It sits under the superficial appearance of a court and decides questions. Witnesses are called before it in an orderly manner, and they testify in the face of the world. On the other hand, the Bureau of Corporations has no semblance of a court. It decides nothing, it orders nothing. It contemplates, it gathers information, it studies that information in behalf of the Government, and it submits the result to the President of the United States, and none of these things does it do under the ordinary forms of judicial procedure.

Mr. Miller's rather extraordinary claim the other day shows the reason of this provision and shows how wise Congress was, foreseeing the condition which would necessarily arise, in providing against it. Mr. Miller said the other day he was not quite willing to claim that the Commissioner of Corporations could multiply himself indefinitely, but he said that wherever the Commissioner of Corporations put any man in charge of a particular part of the operations of his Bureau, that person had the power to do all that Garfield himself could do. When I saw the full force of that contention I exclaimed that it was intolerable that an unlimited number of men could go about the country and by their mere asking of questions of the citizen put him under an obligation to answer, for the refusal of which he could be indicted and punished according to law. It is equally intolerable that an unlimited number of men could go about the country with the authority of the Commissioner of Corporations, scattering acts of grace in their pathway. Congress, foreseeing that the Commissioner would have to exercise his functions by the employment of many subordinate agents, provided against any such results as those that I have described by the enactment of this provision.

Let us take it first from the point of view of the citizen. This sentence says, among other things, that all the liabilities imposed by the act of February, 1893, shall be imposed upon persons who may be subpœnaed to testify. Can that word "subpœna" be read out of the act as useless and meaningless and unnecessary? Suppose Mr. Robertson had asked of some person a question relevant to the investigation, and that person declined to answer. Suppose that person had been presented to a grand jury under the act of 1893—because the liability to indictment under that act is the only liability which my friend Rosenthal the other day said was imposed by this sentence of the clause in question. Suppose, for instance, that Mr. Robertson had, upon the letter of authority from Mr. Garfield, asked Mr. Cudahy to answer some questions that were relevant to the investigation and he had declined, and he was presented by a grand jury. What would become of an indictment which omitted the allegation that the person who had refused to answer had been subpœnaed? Suppose we had such an indictment here. Suppose Mr. Cudahy were here and had demurred to the indictment, which failed to allege that he had been subpœnaed, but merely alleged that Robertson being duly authorized by the Commissioner of Corporations had asked him a relevant question, and that he had refused to answer it. Suppose my friend Rosenthal were here arguing that demurrer, what would he say? He would say that by the act which created this Bureau and gave it the right to acquire information in any way it was provided in express terms that the liability to indictment was imposed only upon those persons who were subpœnaed to give testimony.

Can anyone answer that argument of my Brother Rosenthal? Is there a lawyer great enough living to-day or has there ever been a lawyer skilled enough in the criminal law to answer that argument and induce your honor to overrule that demurrer and put that citizen upon his trial? No. He is not liable to indictment, because the law expressly says that he shall not be liable to indictment until he has been subpœnaed.

Now, if it be true that the issuing of a subpœna is an indispensable prerequisite to the imposition of the liability to indictment of a citizen upon the ground that that liability by the very words of the act is imposed upon him only when he is subpœnaed, by what process of reasoning can it be denied that the immunity, the word which immediately follows liability, is conferred only upon those persons who are subpœnaed in pursuance of the law? My friend, seeing the force of that contention the other day, said that this act might be considered in one way for one purpose and in another way for another purpose. Not so, your honor. I challenge him or any other man to bring any case here, where a court has taken up the same identical statute and construed it in one way for one purpose and in another way for another purpose. The controlling reason why it should be construed in the manner which I present to your honor is, that if it should be construed in any other way it would be an invasion of the liberty of the citizen and a disregard of his rights, such as has never been shown by any legislative body from the beginning of the Government to this day.

So therefore while I have stated in the discussion of the Cullom Act that the subpœna there may not be an indispensable prerequisite to the obtaining of immunity, provided only the witness testifies in accordance with the provisions of that act, I say here that the subpœna provided for in section 6 is an indispensable prerequisite, an indispensable condition, either to the imposing of the liability to indictment or the conferring of the opportunity for immunity. I say that there is no other possible interpretation of that clause of the act. I say that it was a reasonable clause to put in there in view of the character of the Bureau of Corporations and the necessity of conducting its investigations through numerous agents and not, as before the Interstate Commerce Commission, under the semblance of judicial forms, and that if Congress had omitted that provision it would have been regardless of the first rights of the citizen.

An argument was made the other day that that claim of the construction of that part of section 6 led to the absurd consequence that a person gained immunity merely because he was subpœnaed. Oh, no; oh, no. You might as well say that that construction—which is the construction that your honor would have to adopt in case of an indictment—included the propostion that a man was indicted as soon as he has been subpœnaed. The fair meaning of that sentence is that if he is subpœnaed and then refuses to answer a relevant question he is liable to be indicted. If he is subpœnaed and answers a relevant question to an offense which he has committed or which he may have committed, he is entitled to the immunity. If he is subpœnaed there is the chance of an indictment or the chance of an immunity, according to the way in which he shall determine his conduct. I have no words at my command which will make any more clear to your honor my opinion of the reason of that provision in the law and the effect of that provision.

The claim that it is material to consider whether Mr. Garfield delivered any of the information to the Department of Justice I do not understand to have been referred to to any great extent. I can not understand that claim.

The COURT. Some reference was made to it in one or two arguments.

Mr. MOODY. Yes.

The COURT. On this line?

Mr. MOODY. Yes.

The COURT. That not only the act of commerce and labor and the Cullom Act were involved here, but also the appropriation act of 1903, and that the immunity clause under each should have consideration because the investigation Garfield was making was under the Sherman Act and the appropriation act referred to the Sherman Act—no, because the indictment was under the Sherman Act, and that Garfield, from his investigation, furnished facts for the indictment.

Mr. MOODY. Yes.

The COURT. I believe that I have stated it correctly, as gleaned from the arguments.

Mr. MOODY. I will then discuss it from that point of view, your honor.

Mr. HYNES. And for the prosecution.

Mr. MOODY. I will then discuss it from that point of view.

Mr. ROSENTHAL. We did not limit our argument with reference to the act of 1903 on that sole proposition.

The COURT. No.

Mr. ROSENTHAL. Not at all.

The COURT. Mr. Rosenthal took the ground that the immunity clause of the appropriation act was an independent clause; that it was an independent act for any purpose to which it was applied.

Mr. MOODY. In that I will agree with him.

The COURT. Very well.

Mr. MOODY. I will say now that I think that is true, and I will discuss it upon that assumption. In the first place, very briefly let me consider the claim that the delivery of any evidence to the Department of Justice is in any way material in this case upon grounds independent of the act of 1893. Of course the immunity was conferred or not conferred when this information was obtained. If it was obtained under such circumstances as gave to these defendants immunity under the law, certainly that immunity could not be taken away from them because the information was not delivered to the Department of Justice, as that, under the guise of a ruling of law, would reverse the opinion of the Supreme Court in the Counselman case.

On the other hand, if it was obtained in such manner as not to confer immunity at the time it was obtained, obviously no subsequent use of it could be retroactive and have the effect of giving it——

The COURT. I think we are all perhaps at one point on that.

Mr. MOODY. That is all I intend to say, because I think——

Mr. HYNES. The supreme court of Maryland, your honor, has decided that evidence given for one purpose, even with the consent of the party, if directed to another purpose afterwards may be availed of by the party, and the objection, the constitutional objection, may be accurate at that time.

The COURT. When that was first urged I understood it to be urged—I think perhaps it was urged—on the ground that that would be necessary in order to entitle the defendants to immunity given in the appropriation act?

Mr. MOODY. Yes.

The COURT. It is now agreed by counsel on both sides that whatever that act says it says independently of any particular act.

Mr. MOODY. It is the general law.

The COURT. It is the general law.

Mr. MOODY. And I will come to that any moment.

The COURT. Yes.

Mr. MOODY. So I think I may safely leave the proposition of the materiality of the delivery of any evidence to the Department of Justice to what I have already said about it.

The COURT. Anyway, General Moody, upon what argument do you base your statement that the duty of the Commissioner of Corporations looked only to the study of the lawful operations of the law? Might not Congress have intended and does not this act show that Congress did intend to discover through this Department evasions of the law, violations of the law, whether a creature of the law was living above the law, outside of the law, and if that be so might Congress not have had in mind the notion of punishing anybody who was not entitled to immunity by reason of the investigation?

Mr. MOODY. I will answer your honor's question as I understand it. I base my conclusion that the purpose of the creation of the Bureau of Corporations was the study of the lawful operations of corporations, and that any investigation of unlawful conditions would be incidental, upon a study of the act creating that Bureau and a comparison of its provisions with the law relating to the Department of Justice, which was passed, I believe, thirteen or fourteen days afterwards, and was being considered by Congress at the same time. Of course there can be no demonstration about it. Congress has not limited the Bureau of Corporations to a study of the lawful operations of corporations; it has not limited the Department of Justice to the study of unlawful operations of corporations, but——

The COURT. Well, doesn't the decision of the Hale case, if it be accepted that the corporation is not immune, can not be immune—if that is the effect of the Hale case, did not Congress have the double purpose?

Mr. MOODY. It is possible that they might have had the double purpose in view of that decision, but I think the primary purpose—I think it appears fairly from this act that the primary purpose was the study of the lawful operations of corporations, with the view of solving, among other questions, those which I presented to your honor as appropriate for the study of that Bureau. Now, I can say very briefly all that I have to say upon that, and that is this: The Commissioner is directed to make "diligent investigation into the organization, conduct, and management of the business of any corporation, joint stock company, or corporate combination engaged in 'foreign or interstate commerce,' and to gather such information and data as will enable the President of the United States to make recommendations to Congress for legislation for the regulation of such commerce."

The purpose was to investigate the organization, conduct, and management of the corporations in order to furnish information and data to the President so that he could recommend remedial legislation to Congress.

The COURT. That is clearly the primary purpose.

Mr. MOODY. Yes; that is clearly the primary purpose.

The COURT. Yes.

Mr. MOODY. And that is perhaps all I would say. That there might be incidentally criminal conduct developed in the study of corporations I would not for a moment deny. But now, a few days afterwards, Congress had, as a primary purpose, the study of the unlawful operations of corporations. So in the act passed February 23, 1903, two things were done. First—or, rather, three things were done. First, the very unusual step was taken of appropriating $500,000 to be expended in the absolute discretion of the Attorney-General. It authorized the Attorney-General to employ special counsel and agents of the Department of Justice to conduct suits, proceedings, or prosecutions under the so-called "Sherman Act" and the so-called "Wilson Act," and for the purpose of showing that those prosecutions were intended to be earnest, for the first time, power to compel testimony was given. Up to that time, as Mr. Rosenthal pointed out very well, it was the Interstate Commerce Commission alone that had the power to compel testimony. So I say, and perhaps it is all that can be said, and your honor has expressed it, that the primary purpose of the Bureau of Corporations was to study the lawful operations of corporations, and only incidentally did that Bureau come to study any unlawful operations.

Mr. MILLER. How about the Martin resolution?

Mr. MOODY. The Martin resolution was broader than that. The Martin resolution, passed by one House of Congress, did specifically direct the Bureau of Corporations to inquire, in the words of that resolution—I don't remember them now—whether a combination existed which had affected prices.

The COURT. That made its duty imperative.

Mr. MOODY. I think it did. I think I must concede that it did. But I am studying now a proper construction of the statute from its own terms, and having no light upon it from any investigation that was ordered years afterwards.

The COURT. Yes.

Mr. MOODY. It is, however, said that the delivery of such evidence as has been obtained to the Department of Justice brought the transaction within the terms of the act of February 25, 1903, to which I have just referred. There are two or three answers to this. Each one of them, I submit, is conclusive.

First, the testimony taken by Garfield, or, to be more accurate, the information taken by Garfield was not and could not have been taken under the act of 1903, because that act extends the immunity only to a proceeding, suit, or prosecution under certain acts, of which the Sherman Act is one. Clearly, by any use of the words "prosecution" or "suit," Garfield's investigation did not come within those two terms.

The COURT. No; but what about this indictment?

Mr. MOODY. This indictment?

The COURT. This indictment is under the Sherman Act?

Mr. MOODY. Oh, yes; this is a prosecution under the Sherman Act—undoubtedly a prosecution under the Sherman Act; but the investigation proceeded. The investigation had nothing whatever to do with the prosecution; and it is not urged that Garfield had anything to do with the prosecution, and the other day in discussing this my friend Rosenthal said that he could not for a moment claim that Garfield had acted in a suit or a prosecution, but what he did claim was that Garfield's investigation was a proceeding, and therefore it might be under the act of 1903.

Mr. MILLER. Well, if Garfield, with the approval of the President, assisted the Department of Justice in getting evidence for use before a grand jury, or in the prosecution of the indictment, then I should contend, and I think that counsel for all the defendants contend, that that became a production of evidence within the act of February 25, 1903.

The COURT. It has been contended here that one of the objects of Garfield's investigation, as shown by the evidence, was to bring on the indictment.

Mr. MOODY. Yes.

The COURT. As it did.

Mr. MOODY. Yes.

The COURT. As it came on.

Mr. MOODY. Yes.

The COURT. That Garfield made the investigation for the purpose of helping the Department of Justice to so present the matter to the grand jury as to indict the defendants, and that that actually happened.

Mr. MOODY. Now, in the first place, I invite contradiction if I am mistaken in saying that Mr. Rosenthal the other day said that clearly Garfield's proceedings could not be considered as a suit or prosecution, but rested upon the broader word "proceeding."

Mr. ROSENTHAL. I think I rested it upon a proceeding. I don't think I argued the other at all.

Mr. MOODY. I thought you made a concession about it.

Mr. ROSENTHAL. No.

Mr. MOODY. It perhaps does not make very much difference whether you call Garfield's investigation a proceeding or a suit or a prosecution, because if this was a proceeding under the Sherman Act, if the investigation was a proceeding under the Sherman Act, it is not necessary for us to consider whether it is a suit or a prosecution.

The COURT. Oh, no.

Mr. MOODY. Because proceeding, which is a much broader word, is enough, and I will only say, with respect to that, that I have found nowhere any definition or use of the word "proceeding" which did not include the idea that it was a step taken in some judicial process. A very exhaustive brief has been presented to me upon that question, with which I will not trouble your honor, because I think very clearly that a proceeding is a step in a judicial process, and that only in the loose use of language can Garfield's investigation be said to be a proceeding.

Mr. MILLER. But a grand jury investigation is?

Mr. MOODY. A grand jury investigation is.

The COURT. I think it might be said here now, as well as at any time, that within my judgment the facts do not show that in the beginning of this investigation Garfield was helping anybody or intended to help anybody. What effect had the giving of the information to the Department of Justice, when he was directed to do so by his superiors, is the only question in this case.

Mr. MOODY. I shall come to that in a moment.

The COURT. Yes.

Mr. MOODY. The next answer to this position is this: That the immunity act of 1903 is the same immunity act as that contained in the law of 1893. No one has pointed out any difference between the two acts.

The COURT. Just how does it read?

Mr. MOODY. In this way:

"*Provided*, That no person shall be prosecuted or be subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify or produce evidence, documentary or otherwise, in any proceeding, suit, or prosecution under said acts."

Now, if anybody can point out to me now any material difference between the act of 1893 and the act of 1903 I would be very glad if he would do it. I can not see that there is a difference in a word, and the Supreme Court has said that the two laws were in almost exactly the same words.

Mr. MILLER. It says nothing about subpœna.

Mr. MOODY. No.

The COURT. Neither does the act of 1893.

Mr. MOODY. Neither does the other act say anything about subpœna.

The COURT. Neither does the act of 1893.

Mr. MOODY. Neither one.

Mr. MILLER. And there is nothing about an oath; it says nothing about an oath.

Mr. MOODY. Neither does the act of 1893.

The COURT. None of the three of them say anything about it.

Mr. MOODY. No; none of the three of them say anything about it. They are all alike in that respect, but of course in a suit, proceeding, or prosecution information which is given is always testimony, it is always evidence, and the courts which are conducting suits and proceedings and prosecutions have the power to subpœna without its being expressly conferred upon them in any law. The only significance in the provision for subpœna in the Cullom Act was that it conferred upon

the Commission the power which it would not have inherently, as the court has, to require by subpœna the attendance and testimony of witnesses and the production of documents; and its great importance there consists in the fact that it is at the very threshold of the immunity, at the exit of which lies the idea of prosecution for perjury, and that it characterizes the kind of information and statement out of which alone immunity can grow.

Mr. MILLER. In response to the Attorney-General's question about differences in the acts, I would like to suggest that under this act of February 25, 1903, it is very obvious—it being according to the entire terms of the act—that if a person should put into the hands of the United States attorney evidence which concerned the transaction, the criminal transaction, or one of these attorneys that are provided for there, special attorneys, to carry on those proceedings, that that would be the production of evidence within the immunity provision of that act.

The COURT. I understood you to argue that the use made of the information furnished in the Garfield report alone brought the case under that.

Mr. MILLER. Yes; I think so; but we did not rest our case on that by any means.

The COURT. No; but the Garfield report was used before the grand jury, and that the defendants furnished the parts of it which were used before the grand jury.

Mr. MILLER. Yes.

The COURT. Furnished it to Garfield?

Mr. MOODY. Yes.

The COURT. And that Garfield furnished it to the Department of Justice.

Mr. MOODY. The whole case of the defendants is based upon the theory that they acted in obedience to the compulsion which was conferred upon Garfield by the act creating his office. Their whole case depends upon the theory that he was investigating by virtue of the provisions of his act, and not by virtue of the provisions of any other act. If he obtained this information under the provisions of his own act it is governed by the rules of law which surround and restrict that act. It can have no other effect, because subsequently it may have been diverted from its proper uses and devoted to the consideration of the grand jury. I do not care the snap of my finger whether it be considered that this testimony was taken under the act creating the Bureau of Corporations, or whether it be considered that any part of it was taken under the act of 1903, because in either case it was taken by Garfield and the investigation was made by Garfield, and every condition and restriction which bounded his powers must be considered to be operative, whether he acted under the one act or the other act.

Mr. HYNES. And that he was acting as an agent of the Department of Justice also.

Mr. MOODY. That he was acting as an agent of the Department of Justice also?

Mr. HYNES. Yes.

Mr. MOODY. Garfield has been put to a good many uses in this case, but the theory that he was an agent of the Department of Justice appears a little late. I hardly think that I will argue it. If one thing is clear in this case above all others, it is that what Garfield did, he did not as a private citizen employed by the Department of Justice, but as Chief of the Bureau of Corporations, under the powers the law creating that Bureau conferred upon him. I care not whether he acted under the law of 1903 or the law of his own creation, because the provisions for immunity in the law of 1893 are exactly the same—they are exactly the provisions of the immunity laws of 1903, and whether he acted under the one law or whether he acted under the other law he is subject to the further restriction that he could impose no liability, he could confer no immunity unless upon those persons who were subpœnaed by him.

It is precisely, if your honor please, as if Congress recognizing the great extent of the investigation by Garfield and the numerous agents that he might employ, and the danger that he could impose liabilities upon citizens or offer them immunities—impose liabilities all over the country and scatter immunities all over the country—it is precisely as if foreseeing that condition, instead of saying that that could be done only in the case of persons subpœnaed, had said he shall not impose the liability to indictment upon any citizen, he shall not confer the immunity which the law confers upon any citizen, until he first files his name with the Secretary of Commerce and Labor. Some way had got to be found to restrict both the liabilities which might be imposed by Garfield and his subordinates and the immunities which might be conferred by them, and the way actually selected was the natural way—to say that those obligations and requirements and liabilities should be imposed only upon, and those immunities should be conferred only upon, such citizens as he should select and serve with the process of subpœna. Your honor will therefore observe that the subpœna in the Bureau of Corporations act has a very different purpose and function from the subpœna which the Interstate Commerce Commission is entitled to issue.

I do not know what evidence it is claimed that Mr. Garfield did deliver to the Department of Justice. I only know what I have heard here. I have heard it said—and it is clearly true, of course—that Mr. Garfield handed to Mr. Pagin some tables showing, I think, the proportion of slaughtering between the different packing houses, and showing that those proportions had continued constant, and the claim might fairly be made that that could not come about by accident, that it must have been the result of design, that it must have been the result of the design that the business of the country should be unlawfully divided between these different concerns. I understand that that information was obtained from two sources, each confirmatory of the other. One was the books of these packers and the other was the records of the Bureau of Animal Industry. Whether it is claimed that any other evidence was delivered to the Department of Justice, I do not know. I suppose it to be true that the Garfield report, which was a public document and which was circulated all over the country, was available for the use of the district attorney. Whether he used it or not, I do not know.

It is said here in this case that the President wrote a letter which has some bearing upon this question. I would be the last man who would restrict counsel in the performance of their duty to their clients. If they felt it their duty to introduce that letter, written upon another subject, against the man in the White House, who is as helpless to come here and explain it as if he were a child who had not learned the letters of the alphabet—if they felt it to be their duty to make that attack upon a man who is powerless to meet it, then I have nothing to say. In a sense it was true that there was some assistance. Just as there poured in the complaints from the suffering people of this country to the Attorney-General they poured in, according to this evidence, upon the Chief of the Bureau of Corporations, and he has told your honor that by direction of the President he turned those names over to the Department of Justice for investigation. We take the responsibility for it and bear all the consequences that come from it.

Mr. MILLER. In justice, perhaps, to ourselves I should like to have the distinguished Attorney-General state how the introduction or the putting in evidence of the letter of the President, which was itself a public document, made so by the Attorney-General, constitute any attack upon the President of the United States?

Mr. MOODY. I leave what I have said without a word of qualification. It is claimed here, if your honor please, that Mr. Garfield waived the oath. It is not seriously claimed that this statute by its fair interpretation had regard to anything except sworn testimony and sworn evidence, but it is claimed that in some manner Garfield had waived the production of the oath, and therefore that which was not testimony could be regarded as such. I do not understand this claim. Garfield could waive nothing. The principle of waiver is as foreign to this discussion as the rule in Shelley's case or any other equally irrelevant principle of law. Garfield had the widest discretion, as my brother Miller has said here, as to the number of agents that he should employ, the number of persons from whom he should obtain information, the number of books which he should examine. But he could not by any act of his determine what persons should have the immunity granted to them by the terms of a statute. The statute gives immunity only in the case of testimonial compulsion by legal process to a witness who makes oath to his statement. Garfield has no right to vary that law by a hair's breadth. Suppose Congress had said, "be it enacted that if any witness is called and testifies upon oath, or gives sworn evidence relative to any offense with which he is charged, or may be charged, he shall have immunity." Would my friends contend that Mr. Garfield could waive the provisions of that act and say and do anything whatever that would bring a person within the immunity who by the terms of the law was outside of it? And yet, that act is in substance and effect what this immunity act is, and there is nobody in this argument who has disputed it. Mr. Garfield could no more extend the benefits of immunity, could no more admit a citizen to the benefits of immunity which was confined within clearly defined limits by Congress itself, than his chief, the Secretary of the Department of Commerce and Labor, could admit to this country an alien who is excluded by its laws. He could no more extend the benefits of immunity beyond the terms of the laws than the Postmaster-General could allow me or any other citizen to transport in the mails mail matter at any other than the compensation prescribed by law.

The question is not what Mr. Garfield did, but what these persons who are claiming immunity did. If they did the things which by the law they were bound to do in order to get immunity, then they have it. If they failed to do those things, then they have failed at their own peril, as the common-law witness who testified without making his claim of privilege testified at his own peril.

The authority, may it please your honor, of Government officials is confined rigidly within the law which creates their offices. They can no more travel out of the course marked out for them by the law-making body than a planet can escape from its orbit. They are unlike private agents, who may sometimes bind the principals, where their authority is not broad enough to do that thing. There have been presented to your honor very many cases showing the difference between Government officials and private agents. I shall not refer to them. I say that Mr. Garfield had no power to vary the extent of that law one hair's breadth or to bring any man within its benefits who was not brought within its benefits by the will of Congress itself. I dismiss almost with a word the claim that Mr. Garfield promised immunity. Whether there is any evidence of such a promise or not I do not know and I do not care.

Mr. MILLER. There is no claim of it.

Mr. MOODY. Then I was mistaken, and I will not even say that word.

Mr. HYNES. Except the statement that they were protected by the act.

Mr. MOODY. And that is a statement of his opinion of the law, and we have been arguing something over a week as to what the law means; so I do not think I will undertake to refute it.

The Supreme Court has held, if your honor please, in the Hale case, first, that corporations are not within the immunity act; and, second, which is the only thing I desire to dwell upon, that they are not entitled to the protection of the fifth amendment to the Constitution, which that statute supplants. It follows that Mr. Garfield had a right to the inspection of all these books and documents which are said to have conferred immunity on these defendants.

The COURT. Now, that leads me to the question I would like you to consider. Do you regard it as one of the purposes of this act, conceding that the primary purpose was the legislative purpose, do you regard it as a secondary purpose of the act to get evidence of violations and evasions of the law to be used against the corporation; and if so, how far can the department, over which he presided, use the individuals who are connected with the corporations to furnish information against the corporation without giving immunity.

Mr. MOODY. Just as far, if your honor please, as those individuals chose to go. Just as at common law, the Government had a right to obtain any information which a person chose to disclose. If he chose to claim his privilege, he was exempt from the disclosure of anything that tended to incriminate him. If he should avail himself of the substitute for his privilege under the Constitution by following the pathway accurately marked out for him by the statute of immunity, he gets his immunity. If he does not choose to do that, he does not get his immunity, and he ought not to get his immunity.

The presumption is that men are honest. What do I care about the fifth amendment to the Constitution of the United States, and what does your honor care? Neither of us have anything that we wish to conceal. If we abandoned the path of rectitude, if we strayed beyond it, and began to violate the laws of the land, and we wished to get immunity from punishment for that violation, it is no hardship upon us that we should follow the pathway marked out by the statute; a pathway no more narrow, no more difficult to travel than the pathway marked out for the same evildoer by the Constitution of the United States.

I agree that if Mr. Garfield, in the manner provided by the law giving immunity, had obtained from any one of these defendants the books of the corporation, and those books contained anything relevant in the broadest sense to the offense with which they were charged, that would give them the immunity. I do not agree that the officers of these corporations, allowing him to do the thing which the law of the land gave him the right to do—to inspect their books—have obtained any special favor or immunity because they have allowed it. If they had warned the Government that they were misdoers, if they had

warned the Government that it was traveling upon ground which they were privileged to hold sacred, then they would be entitled to all the privileges coming from the Constitution and to every immunity flowing from the immunity act which supplants the constitutional privilege. But they did none of these things.

Mr. HYNES. General, will you allow me——

Mr. MOODY. There has been nothing obtained from these defendants which, under the law of the land, to-morrow, without incriminating one of them, the authorities representing the Government of the United States could not obtain.

Mr. HYNES. May I ask this question, General? Does the learned Attorney-General forget that the very question that was put to them by Mr. Garfield was whether they were engaged in an unlawful combination or conspiracy, and that he announced to them that is what he was trying to find out?

Mr. MOODY. I do not forget it. I do not care. He put them on their guard. They were not entrapped into anything. There is no question of a net being set for them. I welcome the suggestion which my learned friend has given me. It takes out of this case any lack of general equity. Because they were given warning, on the very threshold of the investigation, that it might extend into the criminal field. Had the Government not done its duty? Was it not their duty, then, to see, if they claimed immunity, that they took steps to get it? Why, my friend has reminded me that the Government did more than it was required to do to supplant the common-law privilege. The common-law witness who was put upon the stand was asked the question which might incriminate him. No warning was given. Ignorant or learned, advised or unadvised, he was bound to claim his privilege at his peril. The Government did more than that. It acted as if it had said to the witness on the stand, "You are about to be asked questions which may relate to an offense with which you are charged." You have been advised by counsel better than whom the land can not afford. Hasn't the Government done its duty? If the defendants then did not seek the shelter of immunity, if they did not then seek the shelter that no honest, law-abiding citizen ever requires, the fault is their own, the peril is their own, and the consequences may fall upon their own heads.

Now, if your honor please, I have discussed this case in a manner such as my feeble powers would permit me. I have spoken with deep earnestness. I have spoken under a sense of profound responsibility to your honor, as well as to the people of this country. My judgment of the law, my opinion, is not important to your honor. It is important to me that I should say to your honr that I have given it, in all parts of this case, as it lies in my own mind. It is our claim that by the common law, crystallized into the fifth amendment of the Constitution of the United States, the citizen, when he became a witness, was privileged not to answer any question which might incriminate him. He was protected against testimonial compulsion, compulsion to testify as a witness.

The Congress has supplanted that constitutional privilege by a substitute, and it is our claim that, though in some respects that substitute is broader than the privilege, in the vital respect that it pertains to the citizen when he becomes a witness upon the stand and under his oath, it is the same. And that no one under the laws of this land can obtain immunity unless he brings himself within the provisions of that statute. My distinguished friends can bring no decision and no dictum and no practice anywhere, from one end of this land to the other, in support of their contention. In support of ours we bring the decision of the highest court of one of our States.

And we claim, further, that these defendants who gave this information were not only under the restrictions in obtaining the immunity that were written in the act of 1893—immunity limited to the testimonial field alone, bounded, as I said this morning, upon one side by the fence of subpœna and upon the other side by the fence of perjury—but also, owing to the peculiar constitution of the Bureau of Corporations, under the further limitation that immunity can be conferred, and the liabilities can be imposed only upon persons who have been served with the subpœna of the Commissioner of Corporations.

If I am right in either of these contentions, the Government is entitled to a verdict as a matter of law. I can not conceive how your honor can be in doubt upon these questions. Yet, if there should exist anywhere, upon any part of this case, the faintest shadow of a doubt in your honor's mind, I implore your honor to remember that an erroneous decision or ruling against any of these defendants may be corrected. Their rights can not be taken away from them except by the judgment of that exalted tribunal at Washington, in whose keeping the people believe that the rights of the Government and of the individual alike are safe. There this question can receive that long deliberation, that comparison of differing views, which is denied to this or any other court sitting as this court does for the trial of a case at bar. On the other hand, an erroneous decision upon this case against the Government is irretrievable. It is an irreparable misfortune. It disposes not only of this great case, but it will dispose of others as great. It was the consideration to which I now allude which persuaded the great judge who sat here in the Counselman case, against his own inclinations and tendencies, to rule upon that case so as to best promote its transmission to the Supreme Court of the United States. Think of the benefits that have flowed from that decision. That began this great social and economic movement which is in the mind and the hearts of the people to-day.

If, upon this case, resting fundamentally as it does upon the propositions that "subpœna" does not mean subpœna, that "witness" does not mean witness, that "testimony" does not mean testimony, that "evidence" does not mean evidence, or that in some mysterious way, by some occult power never before recognized by the law of the land, some one has warped or distorted those words from the meaning which belongs to them; if, I say, upon this case, resting upon those propositions, these defendants escape the inquiry into the truth of the charges made against them, it will be a calamity to the Government, to the people, to the laws, to the administration of the laws, and, above all, to these defendants themselves. Above all, to these defendants themselves. In season and out of season, publicly and privately, I have claimed for them and urged for them the presumption of innocence which is their right. I recognize as well as any man the great and enduring service which the genius they and their forbears brought to the organization of this great business has done to the people of this country; benefits that can not be exaggerated, that ought not to be forgotten. No one is more ready to concede those things than I am. But they are charged with a violation of the laws of the land; and if they escape the inquiry into the truth of that charge the calamity to them will be greater than it is to any other living men. It is better not only that they should be tried and acquitted, but that they should be tried, convicted, and suffer the penalties of the law than that they should escape; than that they should be dismissed and go hence without day, upon pretenses so flimsey as those by which they seek deliverance at your honor's hands.

It is a question of law, your honor. According as you rule, one way or the other, this case must go. You, alone of all the judges of the land, of all the 80,000,000 of our people, have the solution of this question; and I leave it, with confidence, in your honor's hands.

The constitutional provision and the principal parts of the statutes relating to immunity under discussion in this case.

THE FIFTH AMENDMENT TO THE CONSTITUTION.

No person * * * shall be compelled in any criminal case to be a witness against himself.

PART OF SECTION 12 OF THE INTERSTATE-COMMERCE ACT.

SEC. 12. (As amended March 2, 1889, and February 10, 1891.) That the Commission hereby created shall have authority to inquire into the management of the business of all common carriers subject to the provisions of this act, and shall keep itself informed as to the manner and method in which the same is conducted, and shall have the right to obtain from such common carriers full and complete information necessary to enable the Commission to perform the duties and carry out the objects for which it was created; and the Commission is hereby authorized and required to execute and enforce the provisions of this act; and, upon the request of the Commission, it shall be the duty of any district attorney of the United States to whom the Commission may apply to institute in the proper court and to prosecute under the direction of the Attorney-General of the United States all necessary proceedings for the enforcement of the provisions of this act and for the punishment of all violations thereof, and the costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States; and for the purposes of this act the Commission shall have power to require, by subpœna, the attendance and testimony of witnesses and the production of all books, papers, tariffs, contracts, agreements, and documents relating to any matter under investigation.

Such attendance of witnesses, and the production of such documentary evidence, may be required from any place in the United States, at any designated place of hearing. And in case of disobedience to a subpœna the Commission, or any party to a proceeding before the Commission, may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of books, papers, and documents under the provisions of this section.

And any of the circuit courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpœna issued to any common carrier subject to the provisions of this act, or other person, issue an order requiring such common carrier or other person to appear before said Commission (and produce books and papers if so ordered) and give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. The claim that any such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such witness from testifying; but such evidence or testimony shall not be used against such person on the trial of any criminal proceeding.

The testimony of any witness may be taken, at the instance of a party in any proceeding or investigation depending before the Commission, by deposition, at any time after a cause or proceeding is at issue on petition and answer. The Commission may also order testimony to be taken by deposition in any proceeding or investigation pending before it at any stage of such proceeding or investigation. Such depositions may be taken before any judge of any court of the United States, or any commissioner of a circuit, or any clerk of a district or circuit court, or any chancellor, justice, or judge of a supreme or superior court, mayor or chief magistrate of a city, judge of a county court or court of common pleas of any of the United States, or any notary public, not being of counsel or attorney to either of the parties, nor interested in the event of the proceeding or investigation. Reasonable notice must first be given in writing by the party, or his attorney, proposing to take such deposition to the opposite party, or his attorney of record, as either may be nearest, which notice shall state the name of the witness and the time and place of the taking of his deposition. Any person may be compelled to appear and depose, and to produce documentary evidence, in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the Commission as hereinbefore provided.

ACT OF FEBRUARY 11, 1893.

An act in relation to testimony before the Interstate Commerce Commission and in cases or proceedings under or connected with an act entitled "An act to regulate commerce," approved February 4, 1887, and amendments thereto.

Be it enacted, etc., That no person shall be excused from attending and testifying or from producing books, papers, tariffs, contracts, agreements, and documents before the Interstate Commerce Commission, or in obedience to the subpœna of the Commission, whether such subpœna be signed or issued by one or more Commissioners, or in any cause or proceeding, criminal or otherwise, based upon or growing out of any alleged violation of the act of Congress entitled "An act to regulate commerce," approved February 4, 1887, or of any amendment thereof on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to criminate him or subject him to a penalty or forfeiture. But no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify or produce evidence, documentary or otherwise, before said Commission, or in obedience to its subpœna, or the subpœna of either of them, or in any such case or proceeding: *Provided*, That no person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

Any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce books, papers, tariffs, contracts, agreements, and documents, if in his power to do so, in obedience to the subpœna or lawful requirement of the Commission shall be guilty of an offense and upon conviction thereof by a court of competent jurisdiction shall be punished by fine not less than $100 nor more than $5,000, or by imprisonment for not more than one year, or by both such fine and imprisonment.

Public No. 54, approved February 11, 1893.

SECTION 6 OF THE ACT ESTABLISHING THE DEPARTMENT OF COMMERCE AND LABOR.

[32 Stat., 825, 827.]

An act to establish the Department of Commerce and Labor.

* * * * * * *

SEC. 6. That there shall be in the Department of Commerce and Labor a bureau to be called the Bureau of Corporations, and a Commissioner of Corporations who shall be the head of said Bureau, to be appointed by the President, who shall receive a salary of $5,000 per annum. There shall also be in said Bureau a Deputy Commissioner, who shall receive a salary of $3,500 per annum, and who shall in the absence of the Commissioner act as, and perform the duties of, the Commissioner of Corporations, and who shall also perform such other duties as may be assigned to him by the Secretary of Commerce and Labor or by the said Commissioner. There shall also be in the said Bureau a chief clerk and such special agents, clerks, and other employees as may be authorized by law.

The said Commissioner shall have power and authority to make, under the direction and control of the Secretary of Commerce and Labor, diligent investigation into the organization, conduct, and management of the business of any corporation, joint stock company, or corporate combination engaged in commerce among the several States and with foreign nations excepting common carriers subject to "An act to regulate commerce," approved February 4, 1887, and to gather such information and data as will enable the President of the United States to make recommendations to Congress for legislation for the regulation of such commerce, and to report such data to the President from time to time as he shall require; and the information so obtained, or so much thereof as the President may direct, shall be made public.

In order to accomplish the purposes declared in the foregoing part of this section, the said Commissioner shall have and exercise the same power and authority in respect to corporations, joint stock companies, and combinations subject to the provisions hereof as is conferred on the Interstate Commerce Commission in said "Act to regulate commerce" and the amendments thereto in respect to common carriers so far as the same may be applicable, including the right to subpœna and compel the attendance and testimony of witnesses and the production of documentary evidence and to administer oaths. All the requirements, obligations, liabilities, and immunities imposed or conferred by said "Act to regulate commerce" and by "An act in relation to testimony before the Interstate Commerce Commission," and so forth, approved February 11, 1893, supplemental to said "Act to regulate commerce," shall also apply to all persons who may be subpœnaed to testify as witnesses or to produce documentary evidence in pursuance of the authority conferred by this section.

ACT OF FEBRUARY 25, 1903.

[32 Stat., 854, 903.]

An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1904, and for other purposes.

* * * * * * *

That for the enforcement of the provisions of the act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof or supplemental thereto, and of the act entitled "An act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890, and all acts amendatory thereof or supplemental thereto, and sections 73, 74, 75, and 76 of the act entitled "An act to reduce taxation, to provide revenue for the Government, and for other purposes," approved August 27, 1894, the sum of $500,000, to be immediately available, is hereby appropriated, out of any money in the Treasury not heretofore appropriated, to be expended under the direction of the Attorney-General in the employment of special counsel and agents of the Department of Justice to conduct proceedings, suits, and prosecutions under said acts in the courts of the United States: *Provided*, That no person shall be prosecuted or be subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify or produce evidence, documentary or otherwise, in any proceeding, suit, or prosecution under said acts: *Provided further*, That no person so testifying shall be exempt from prosecution or punishment for perjury committed in so testifying.

* * * * * * *

Approved, February 14, 1903.

Opinion by Judge Humphrey, March 21, 1906.

Judge Humphrey said:

"Gentlemen, unless I should take the time to write out my views on these motions I am as well prepared to give them now orally as I will be later, and I do not feel like causing the delay necessary to a written opinion.

"A number of acts of Congress are involved and have been discussed upon the arguments on the motion and cross motion to direct a verdict: The Cullom Act, the original interstate-commerce act, passed in 1887, and the acts with regard to testimony, supplemental thereto, in 1893; the act of February, 1893, establishing the Department of Commerce and Labor, and by its terms adopting certain portions of the first two named acts; the Sherman Act of 1890, and the appropriation act of February 25, 1903.

"The discussion has been so elaborate, and has been conducted with such ability and research, and so leisurely, I may say, in its presentation, that the court has been able practically to keep up each day with the review of such authorities quoted as the court regarded of such importance as to require a review. And I want to thank counsel, and I can do them no higher compliment than to say that so far as my research has gone the profession has furnished nothing in addition to what counsel have presented.

"The defendants are indicted under the Sherman Act, the antitrust act, charged with a conspiracy in restraint of trade. They have pleaded that as to them that act is suspended and inoperative and does not exist, because they were compelled to furnish evidence of and concerning matters contained in the indictment, and that under the law such furnishing of evidence gives them immunity.

"There is a provision in the commerce and labor act providing for immunity, and refers for the immunity to the Cullom Act and the act supplemental thereto.

"The commerce and labor act reads:

"'That all the requirements, obligations, liabilities, and immunities imposed or conferred by said' Cullom Act—I read in instead of a long description of the act—'and by said supplemental act shall also apply to all persons who may be subpœnaed to testify as witnesses or to produce documentary evidence in pursuance of the authority conferred by this section.'

"The act supplemental to the Cullom Act contains an immunity clause in the following words:

"'But no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify or produce evidence, documentary or otherwise, before said Commission or in obedience to its subpœna or the subpœna of either of them, or in any such case or proceeding.'

"And the act of February 25, 1903, contains an immunity clause slightly more liberal than either of these.

"The law under consideration, for the construction of which the court is called upon here is the commerce and labor act, adopting as it does certain portions of the other two.

"It is necessary to look into the purposes of Congress in passing that act in order that the court may determine what construction will best carry out the legislative intent, because it is the duty of the court in construing an act of Congress to give it such construction as will carry out the legislative purpose expressed in the act itself. It is clear to my mind that the primary purpose of the commerce and labor act was to enable Congress, through the channels of the officers charged with the execution of that law, to pass remedial legislation. It may have had a secondary purpose. I regard this as the primary purpose, the chief purpose, the legislative purpose. It is clear from the act itself that if there be a secondary purpose, the primary purpose, the legislative purpose was vastly more important in the mind of Congress than any other. Congress wanted to know how the laws were operating, laws with regard to corporations, how they were being evaded, how to strengthen them in case they needed strengthening, and what further legislation was necessary. In my judgment the purpose of every one of these laws, the high aim of Congress in passing each one of these laws, was a determined purpose that the creature of the law should not be allowed to grow beyond the law.

"This last effort, this commerce and labor act, is the repeated attempt of Congress to bring to its aid such information as would enable it to do whatever might be necessary for the control of artificial bodies created by law.

"Perhaps a secondary purpose was the punishment of offenders. It is perfectly clear to my mind that that was not the main purpose, because there were abundant laws already on the statute books for that, and a great department skilled in the work of punishing offenders. And still I am not able to say but what a primary purpose of the commerce and labor act might have been the punishment of offenders. I say this because it is not inconsistent with the act or with the other purpose that that should be so, so far as the corporation itself is concerned, as is made pretty clear to my mind by the late decision in the Hale case.

"If the statute is to be so construed as to carry out the legislative purpose, the legislative intent, how can that best be done? The statute itself surrounds the Commissioner with no forms, puts no legislative limits upon his methods, gives him unusual latitude as to methods. It does not require public hearings. I am of opinion that the act contemplated that he should proceed by private hearings, because it provides in express terms that the President shall decide how much of his investigation shall become public. If the Commissioner should have public hearings, the President would never have a chance to do the part, to perform the work, which the act assigns to him. I therefore conclude that the legislative mind intended that the Commissioner should proceed by private hearings.

"The act is a substitute for one of the most cherished rights of the American citizen, the right to remain silent when questioned upon any subject when the answer would incriminate him. It is conceded in argument that the privilege given by this amendment could not be taken from the citizen without giving him something equally broad and equally valuable. Congress had had the experience of having tried that. It had passed an act intended to take away the privilege and substitute an equivalent, and the Supreme Court had decided that the substituted thing was not an equivalent. I say it is conceded that in furnishing a substitute for this great right of the citizen Congress must give something as broad. It might be broader, but it could not be narrower. In my judgment the immunity law is broader than the privilege given by the fifth amendment, for which the act was intended as a substitute. The privilege of the amendment permits a refusal to answer. The act wipes out the offense about which the witness might have refused to answer. The privilege permits a refusal only as to incriminating evidence. The act gives immunity for evidence of or concerning the matter covered by the indictment, and the evidence need not be self-incriminating. The privilege must be personally claimed by the witness at the time. The immunity flows to the witness by action of law and without any claim on his part.

"I am of opinion that under this act when the Commissioner of Corporations, who has power to compel, makes his demand, it is the duty of the witness to obey. The act calls upon the citizen to answer any legal requirement of the Commissioner. The citizen may be punished for a refusal to answer such legal requirement.

"Contention has been made here that in order to get immunity the citizen should wait until the compulsion becomes irresistible. That is the effect of it. I am not able to bring my mind to accept that doctrine. If I am right in saying that immunity flows from the law without any claim on the part of the defendant, and at different times that has been conceded here in argument, then no act of any kind on his part which amounts to setting up the claim of immunity is demanded by the law. The law never puts a premium on contumacy. A person does not become a favored citizen by resistance to a legal requirement. On the contrary, the policy of the law favors the willing giving of evidence whenever an officer entitled to make a demand makes it upon a citizen who has no right to refuse. And it would be absurd and un-American to favor the citizen who resists and places obstacles in the way of the Government, as against the citizen who, with a full knowledge of the law, obeys without resistance the demand of an officer who has a legal right to make the demand for something which the citizen has no legal right to refuse.

"That brings us to this proposition, perhaps, that when an officer who has a legal right to make a demand makes such demand upon a citizen who has no legal right to refuse, and that citizen answers under such conditions, he answers under compulsion of the law.

"Is that the situation here? Was there compulsion in this case or were the defendants volunteers? There is so little dispute here about the facts that perhaps it is not necessary to discuss them at all. I am of opinion that the conference between Mr. Garfield, Mr. Krauthoff, Mr. McRoberts, and Mr. Dawes is the important event which fixes the character—the condition under which this evidence was given. There is some little dispute. It may be said that Mr. Garfield is an interested witness, as a representative of the Government. It may be

said that Mr. McRoberts and Mr. Krauthoff, then being in the employ of the Armour Company and one of them being now a defendant, are interested witnesses; but there is little if any dispute, perhaps only on one subject, between Garfield and Dawes. It is only as to the fact that an oath was discussed. I believe they agree on every other proposition. Garfield says there was no discussion of the oath. Mr. Dawes agrees with Krauthoff and McRoberts that there was.

"I am not able to look at the evidence which was furnished in the case as being the voluntary production of these defendants.

"The character of such parts of it as I deem the most important is such that it absolutely dispels any thought of that kind from my mind. Reasoning naturally, reasoning upon the natural course which men in like condition would have taken, I am led to the conclusion that the defendants would have withheld that information if they could.

"It is contended that they were volunteers because they higgled with Garfield at times, debated, resisted, gave less than he asked, withheld some. The record does show that, but the fact remains that every approach was made by the Government. In no instance did the defendants go to Garfield offering anything. Garfield made his demands explicit, made them definite, and it does not, to my mind, destroy the character of compulsion under which they acted that the defendants, after having considered the law and after having made up their minds that they had no legal right to resist, still debated with the Commissioner in the hope of inducing him to minimize his demands and take something less than he had originally demanded. That in some instances was done.

"Garfield came to them; they did not go to him. He demanded in writing and through his accredited representatives, and I would not regard it as proper to hold him for any action of his representatives, the result of which did not flow straight to him through them from the defendants; but so far as such results did flow straight to him in answer to his demands, they were negotiations between him and the defendants on his legal demands, which they had no right to dispute or refuse to answer.

"He came to the defendants and presented them with the law. He held up before them his power as Commissioner. The defendants knew the law. They had been fully advised. They took further time after his first interview, and were advised further. They saw that the Martin resolution under the eighth section of the law made Garfield's duty imperative. After the passage of that resolution the defendants saw that Garfield was compelled to act, compelled to demand, and they were compelled to answer.

"I regard Garfield as having been under the strictest legal compulsion by the terms of the Martin resolution. Oh, but it may be said, he could have gone somewhere else and gotten his information. The record shows that he himself said that he could not; that he could not make the investigation imposed upon him as a legal duty by the Martin resolution and the eighth section of the law without getting it from these people. And the investigation does disclose that they are the authors of nearly one-half of all the business in their line in the whole country. So that, I think, he was compelled to demand from them as well as they were compelled to answer under this statute.

"Now, if the defendants volunteered nothing, but gave only what was demanded by an officer, who had the right to make the demand, and gave in good faith, under a sense of legal compulsion, I am of opinion that they were entitled to immunity under the act.

"But it is insisted by the Government that they did not give under compulsion because they did not give what is known in law as under testamentary compulsion—that they did not give under what is known in law as testamentary compulsion, and it is argued that testamentary compulsion means compulsion furnished by the subpœna and oath.

"I can add nothing to what has been adduced by way of argument here on those subjects. I am clearly of opinion that the best judgment to be had from all the authorities is that the subpœna is a useless and superficial thing after the parties are together.

"And I am also of opinion that under any one of these three acts in question—these three immunity laws in question—the production of books and papers would be legal evidence without the oath of any person where they are adduced as showing admissions against interest and against the party producing them.

"Upon authority in the Bramm and Boyd cases the oath is not essential, and upon reason this must be so. Books and documents prove themselves when produced for the purpose of showing admissions against interest. They are receivable as evidence in all courts against the parties producing them. The purpose of the oath was to secure the truth; that is always the purpose of the oath; that is the only purpose of the oath; and to be certain that we get the truth the court always starts out by putting the witness under oath. But the Garfield act, the act under which Garfield was clothed with power, did not require him to put anybody under oath. It required him to make investigation. He might make it according to legal forms or not. He might use any kind of evidence that he chose if it was suitable to his purpose. The evidence that he procured from these defendants, so far as it consisted of books and documents, was, however, legal evidence, and would be considered legal evidence in a court of law, and under any one of these acts the production of the books and papers was a complete compliance with the law providing for the production of evidence, documentary or otherwise.

"It is not strange that Garfield was satisfied not to swear the defendants, although he started out with that intention. He distinctly told them so, and his forms show that fact. He expected to put them on oath if he regarded it as necessary, if he had any doubt about the truthfulness of the evidence. He had access to the books of original entry. He was satisfied of that fact; his agents were satisfied of that fact. The record shows that over and over again by repeated answers, and there was not the slightest reason for putting anybody under oath so far as those books and documents were concerned, and the oath of no one would have made that evidence any stronger or any better than it is now without the oath.

"Now, gentlemen, I don't know that I can add anything to this brief discussion of this case that I have made thus orally. You may bring the jury, Mr. Bailiff.

"I ought to say, what I have omitted to say, and which you gentlemen may think I have passed over without considering it, that I regard the Hale case as settling the question of the liability of the corporation."

(The jury was here returned to jury box.)

The COURT. Gentlemen of the jury, under the law of this case the pleas, the immunity pleas, filed by the defendants will be sustained as to the individual defendants, the natural persons, and denied as to the corporations, the artificial persons, and your verdict will be in favor of the defendants as to the individuals and in favor of the Government as to the corporations.

The clerk will put the verdict in form, gentlemen. And before discharging you I wish to say that your services are none the less appreciated because of the fact that the case has gone off wholly upon questions of law. Perhaps it is no surprise to you, as you heard early in the consideration of the matter many discussions of that fact, from long delays taken by the court for the purpose of allowing counsel to make their pleadings in such a way as to have no occasion for the use of the jury.

I have further to thank you gentlemen for your patience, continued endurance of the necessary embarrassments which must come to a juror caught up and kept up for so long a time as you gentlemen have been during this trial. It is one of the burdens which comes to every citizen in any way clothed with public duties. He has to suffer some personal embarrassments.

I wish for your safe journeys to your homes and pleasant meetings with your families. You will now be discharged from further service in the case.

Mr. MORRISON. Before they are discharged perhaps we should make our exceptions.

The COURT. Before they are discharged?

Mr. MORRISON. I presume so.

Mr. ROSENTHAL. Is it the form to have one juror sign the verdict?

The COURT. Oh, that is not at all necessary.

Mr. MORRISON. The Government excepts to that portion of the instruction directing a verdict on the issues as to the individual defendants, and requests the court to instruct the jury that the individual defendants are not entitled to immunity.

Mr. HYNES. And we for each and every of the defendant corporations——

The COURT. And the court, having considered the exception of counsel for the Government, overrules and denies the same, and declines to instruct the jury further.

Mr. MORRISON. Exception.

The COURT. And exception.

(To which ruling of the court, in so overruling and denying the motion of counsel for the Government, the Government then and there by its counsel duly excepted.)

The COURT. Now?

Mr. HYNES. And we, for each and every of the defendant corporations, your honor, move that the court instruct the jury to find the issues in favor of each and every of the defendant corporations.

Mr. BROWN. And we save an exception to the court overruling it.

Mr. HYNES. Yes; and we ask for that instruction now, your honor.

The COURT. And the court considers the exception taken on behalf of counsel for each and every of the defendant corporations, and overrules the same, and declines to instruct the jury further.

Mr. HYNES. Exception.

The COURT. Yes.

(Exception by counsel for the defendant corporations.)

The COURT. Gentlemen, you will be discharged from further service in the case.

Mr. MORRISON. Now, I assume that we make motions for appeal?

The COURT. Yes.

Mr. MORRISON. I assume we may take the necessary steps for appeal?

The COURT. Oh, certainly.

Mr. MORRISON. If we are entitled to it.

The COURT. I hope you will have, because it is a mighty important matter. I don't think I would have any right to find any other way, in view of my absolute settled judgment and decision, simply for the purpose of appeal.

POST-OFFICE APPROPRIATION BILL.

Mr. OVERSTREET. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the Post-Office appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole House on the state of the Union.

The SPEAKER. The gentleman from Kansas [Mr. MURDOCK] will take the chair temporarily, until the gentleman from New York [Mr. SHERMAN] comes into the Hall.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 16953, the post-office appropriation bill.

Mr. MOON of Tennessee. Mr. Chairman, it is only for a short time that I desire the attention of the House on the pending bill, carrying over $191,000,000 for the postal service. It has been very thoroughly and ably discussed in its details by the chairman of the committee [Mr. OVERSTREET]. It is not necessary for those who disagree with the majority of the committee on many of the questions involved in this bill to discuss any portion of the measure except the disagreeing items. It is impossible for the House of Representatives on an appropriation bill to give that relief by way of legislation to the country to which it is entitled owing to the existence of a rule of the House that prohibits legislation of a new character upon an appropriation bill. There are many questions that ought to be discussed fully and completely. It is impossible for them to be presented in debate to this House, except upon a general appropriation bill, although it may not be competent under the rules to legislate upon the identical question involved in debate, for the reason that separate bills upon those questions have not had or may not have a hearing before the committee as now organized.

One of the most important questions, in my judgment, for the consideration of this House is the question of railway mail pay. From year to year there is an increase in the pay demanded by the railroad companies of the United States for the transportation of mails. Gradually there is an increase in appropriations. It must be conceded that the growing busi-

ness of the country and the population of the country contribute largely to this demand and its accession on the part of Congress to the railroad companies of the United States. But this committee has never had the information; it has not now the information; the Government of the United States has not the information, and no man within the sound of my voice has information upon which to act intelligently and pass an opinion as to what the proper and just pay ought to be to the railroad companies for the transportation of mails. I venture the assertion that there is not a member of the Committee on the Post-Office and Post-Roads of the House or in the Senate who can come within $10,000,000 to-day from any proper basis of calculation as to what legitimately ought to be paid to the railroad companies of the United States for this service. Whatever information we get comes from the Department that supervises the execution of the statutory contract and whose official conduct is ever under review. It is, at best, a source of information that ought not to be entirely relied upon; but it is the only means, the only source of information, that we have, practically, except as we may draw legitimate inferences from those facts that are conceded.

Therefore this committee, instead of being able to present to the people of the United States an intelligent reason for the appropriation of $43,000,000 of money for the transportation of mails, are forced to present themselves to the House and to the country in the simple attitude of clerks recording the decree and the judgment of the Post-Office Department.

This question has been investigated, partially at least, by a commission, but no satisfactory conclusion was reached. The weight of the mail is ascertained quadrennially. The United States is divided into four sections, and the mail is weighed in each section once in four years, the weighing period covering about three months. An estimate for the whole period is made on this basis of calculation; the money is then paid at the rate fixed by the statute. That this is an unwise, inaccurate, unsatisfactory method all must concede. That it is open to fraud all must know.

I desire to present the views of the railroad companies upon this question and the views of those who oppose the continued payment of the large sums of money to the railroad companies for the transportation of the mails. We must consider and give just consideration to all conflicting statements of the interested parties and circumstances to determine the question, if we can, because we have no direct or positive disinterested evidence upon which we can legitimately and honestly reach a conclusion.

No direct contract is made by the Government of the United States with the railway companies. The work is performed under the statute, for the compensation that I have indicated.

Several presidents of the railway companies, in their examination before the Commission, stated that they received less pay for carrying the mails than they receive from the express companies, which pay them wheelage over the lines in the United States, and that the Government has a better contract, under the statute, with them than other persons for whom they carry similar matter or small articles of any character. On the other hand, it is contended that, although the express companies pay a large sum of money to the railway companies for wheelage, they can really carry the mails of the United States at less money than the railroads charge the Government of the United States and make a profit after paying the wheelage. If that is true, there is something wrong in the compensation.

It is said again that the railroad companies practice a fraud in obtaining the weights. I know nothing of that. We can not determine that question except from the meager testimony before us. It does appear in evidence before this committee that articles that were never intended for the mails, such as large tables, desks, safes, and articles of furniture, were carried in the mails of the United States. Whether the railroad companies weighed those articles or not it does not appear.

Mr. SIBLEY. Will my colleague yield?

Mr. MOON of Tennessee. Certainly.

Mr. SIBLEY. I should like to ask if it is not true that the railroads weigh nothing under the law, that a representative of the railroad company is not even permitted to be present to check the weighing, it being done solely and alone by the representatives of the Government, without a representative of the railway being allowed to be present—that they are denied the right, even, to check the weighing?

Mr. MOON of Tennessee. I am glad my friend made the suggestion. When I said the railway companies weighed it I did not mean that they furnished the force to do the weighing. We all understand that the United States Government furnishes the force that weighs the mail; but if these articles are there to be carried as mail matter, they are subject to be weighed, and ought to be weighed, and I assume that they are weighed. If they are not weighed, it is very clear that the Government of the United States is practicing a fraud upon the railroad companies which ought not to be tolerated. If this matter is weighed, it is equally clear that the railroad company is practicing a fraud upon the Government, and that ought not to be tolerated.

Now, Mr. Chairman, as I observed in the first place, the direct testimony is such that no intelligent body can form a proper judgment of what ought to be done. In the absence of satisfactory facts we must assume as truthful the deductions from facts that appear both for and against the railroad company in the consideration of the question. Then with an effort and a desire to give to the railroad companies and to the people exact and equal justice, if the circumstances and conditions surrounding railway mail transportation justify it, may we not insist on a trial test in the diminution of the rate of compensation?

Mr. HEPBURN. Mr. Chairman——

The CHAIRMAN. Does the gentleman from Tennessee yield to the gentleman from Iowa?

Mr. MOON of Tennessee. Certainly.

Mr. HEPBURN. The gentleman a moment ago spoke of safes and tables and cases that were sent through the mails.

Mr. MOON of Tennessee. Yes.

Mr. HEPBURN. Will the gentleman inform the House who sent those, and how they got into the mails?

Mr. MOON of Tennessee. Those that I speak of, as shown in the hearing, appear to have been sent by the Treasury Department and the War Department of the United States Government.

Mr. HEPBURN. I did not know but it might be under the franks of Members of Congress.

Mr. MOON of Tennessee. No; I think Members of Congress are entirely free from that conduct.

Mr. LIVINGSTON. Let me suggest to the gentleman that the railroad companies under contract with the Government are compelled to take whatever is sent to them to be hauled or carried. They have no discretion about it. If the Government or the War Department, by order of the Secretary of War, sends anything to the railroad company they have got to take it, if it is in the ordinary mail coming from the Post-Office Department.

Mr. MOON of Tennessee. I doubt that very much, and for this reason: The law provides what matter is mailable. If a Department sends matter to the Post-Office Department that is not mailable, they ought not to accept it, but perhaps as a matter of courtesy between the Departments the law is overruled.

Mr. LIVINGSTON. Take this as an illustration: Two years ago there were thousands of books sent out of here by a minister of the Gospel, a Mr. Crafts, under a certain frank, and it is understood that they did kick on that, but they had to take it. The contract between the Government and the railroad companies is made on the part of the Postmaster-General. If the gentleman will read that contract—and of course he has read many of them—he will agree that the railroads can not help themselves, that they must take what is sent to them by the Post-Office Department.

Mr. MOON of Tennessee. The statute of the United States makes the contract, not the Department. It simply engages the railroad to perform it.

Mr. STEENERSON. Mr. Chairman, I would like to ask the gentleman from Tennessee a question.

Mr. MOON of Tennessee. I will yield to the gentleman.

Mr. STEENERSON. If the shipment of these extraordinary articles, like safes, were made between the weighing periods, would it not result that the railroad companies were carrying them for nothing?

Mr. MOON of Tennessee. Certainly; and would be an act of injustice on the railroad company.

Mr. STEENERSON. And they would be getting too much if they were shipped during the weighing periods?

Mr. MOON of Tennessee. Yes.

Mr. GOULDEN. I would like to ask the gentleman a question.

Mr. MOON of Tennessee. Very well.

Mr. GOULDEN. What provision is being made to guard against a like abuse in reference to the shipping of these heavy articles?

Mr. MOON of Tennessee. There is a proposed section in this bill that is intended to prevent that.

Mr. GOULDEN. Page 28, line 6, says:

That hereafter no article, package, or other matter shall be admitted to the mails under a penalty privilege unless such article, package, or other matter would be entitled to admission to the mails under laws requiring payment of postage.

Is that the clause that the gentleman refers to?

Mr. MOON of Tennessee. Yes. In my opinion the articles

referred to as having been carried through the mail were not entitled to the privileges of the mail and are not now entitled to it; but this declaration on the part of Congress may, reasserted, protect the Department from that abuse.

Mr. SIMS. I would like to ask the gentleman a question in connection with what the gentleman from Georgia said. I understood him to say that a large number of books were shipped or mailed out of here by a man by the name of Crafts and that there was a kick about it. Who kicked—the Post-Office Department or the railroad company?

Mr. LIVINGSTON. The Post-Office Department.

Mr. SIMS. The railroad company didn't kick.

Mr. LIVINGSTON. No, they had to take it.

Mr. MOON of Tennessee. Mr. Chairman, it is clear, as I was about to observe when I was interrupted, that the Government of the United States through its Congress ought to take some active steps to remedy this matter. It has been over a quarter of a century since the law that provides for the compensation for carrying the mail was passed. The situation of things has changed materially. Transportation has gone down, it is said, in all lines, except United States mail. The Government ought not to permit itself to be imposed upon. Congress ought not longer to maintain on the statute book a law that will bring about this discrimination against the people. Make an amendment in line with the universal transportation reduction demanded by the public.

I refer to this, as I said in the beginning, not because we can legislate upon this bill at this time, but because it is a matter that arises in the consideration of the question before us and because, Mr. Chairman, of the existence of a rule in this House, the modification of which I think ought to be made promptly and about which I propose to speak for a moment later in this discussion.

Passing from this question of general railway mail pay of more than $43,000,000 proposed in the present bill as against $38,500,000 in the last one, I desire to call the attention of the House to the policy that has been invoked on the part of this House and sought to be continued as to certain items in the bill—the policy that in my judgment, or one of the policies embraced within the provisions of this act, is a very vicious one: It is granting the additional pay or compensation not provided in the general statute for railway mail pay; it is the granting of a gratuity or a subsidy, if gentlemen be not offended at that word, for alleged special facilities which in fact I believe do not materially exist.

Gentlemen rise on the floor in this House and demand special compensation to the railway company for that which they allege to be a special facility, resting their claim on the alleged benefits to a particular portion of a community in making the demand against the Federal Treasury. As a matter of principle it is wrong for the Government of the United States to permit its Treasury to be invaded to pay for a special privilege to particular individuals or sections. Surely this must be true if no general benefit can result to the whole people even indirectly.

Why should the particular railway company running from Kansas City, Mo., to Newton, Kans., and the railway company from the city of Washington to the city of New Orleans have privileges that no other railway companies in the United States have? Can any man give a legitimate reason for preferring these two roads—one a very short and insignificant one, and the other a long one, traversing a large portion of the country—as to why they should have certain privileges under this bill that the balance of the railway companies in the United States have not?

Mr. SIBLEY. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Tennessee yield to the gentleman from Pennsylvania?

Mr. MOON of Tennessee. Certainly.

Mr. SIBLEY. Inasmuch as the gentleman asks if anyone will say—I think that through the northern sections of the country the railways traverse thickly settled populations, where the other business incident to the traffic compensates them for carrying the mails expeditiously. Through the South the railway that carries these fast mails traverses a sparsely settled district. It increases the time into New Orleans about fifteen hours, and into the State of Texas and the West about a day. It has been said by the gentleman's colleague from Georgia [Mr. LIVINGSTON] that six locomotives wait at Atlanta, Ga., for the arrival of this train, and in this way the South is given an expedited service. A road like the Southern could not carry under similar conditions with a road like the Lake Shore or the Pennsylvania.

Mr. MOON of Tennessee. Mr. Chairman, I am glad that my distinguished friend from Pennsylvania has presented to the House a reason for his position upon this question. If the facts, as stated by him, were true, while his reason would not be a logical one, it might be a philanthropical one; but he is in utter ignorance of the facts, and therefore I excuse him for his untenable position. [Laughter.] The fact is that this railroad company does not make any better time than railway companies through the North, East, and West. It does not make as good time as a great many others. The fact that can not be disputed is that it runs through a section of the country that is as populous as the sections of the country traversed by nearly all of the roads in the other portions of the South and the West that do not receive a subsidy and through a more populous country than many of the northern roads traverse. My friend is mistaken in his facts.

Mr. RICHARDSON of Alabama. Mr. Chairman, will the gentleman allow me an interruption?

Mr. MOON of Tennessee. I yield.

Mr. RICHARDSON of Alabama. Is it not a fact, and does not the gentleman admit it to be true, that if this Southern train that carries this fast mail was taken off there would be a delay in the mails from Chattanooga on to New Orleans of from twelve to fourteen hours?

Mr. MOON of Tennessee. No; I admit that the fact is now that there is a delay in three hundred and forty-eight days in the year of from fifteen minutes to fifteen hours on every one of these lines. That is the report to the Department.

Mr. RICHARDSON of Alabama. But if you took off the train now?

Mr. MOON of Tennessee. Take it off and there would not be a particle of difference, and I will demonstrate that fact later. Mr. Chairman, these subsidized roads do no more for the sections through which they run than do vast numbers of other roads that are not subsidized. They pass through a country that is as populous as that passed through by many of the roads that are not subsidized. They have to-day a practical monopoly, as far as possible for the Department to give, of the mails along those lines. This Southern Railway receives, not including its connecting lines, under the general contract with the Government of the United States, for carrying mails from Washington to New Orleans, $1,340,000. This would seem to be enough.

Mr. FINLEY. Mr. Chairman, will the gentleman yield?

Mr. MOON of Tennesssee. I yield.

Mr. FINLEY. Mr. Chairman, I think the gentleman from Tennessee is in error. It receives $1,340,000 for the line direct from Washington to New Orleans, without taking into account any branch lines.

Mr. MOON of Tennessee. That is what I said.

Mr. FINLEY. I understood the gentleman to say including the branch lines.

Mr. MOON of Tennessee. No; I was proceeding to say, when the gentleman interrupted me, that this is aside from the pay of all its collateral lines. Let us look to the facts a moment before we get to the legal question that is involved in this proposition. The alleged reason, to begin with, was to have a close connection between New Orleans and New York, so that the morning train leaving New York could carry the mail to the South.

That was the argument of these gentlemen, to begin with, for the subsidy, but it so happens that the Pennsylvania division of this road from the city of Washington to the city of New York four or five years ago declined to ask for this subsidy any longer. I do not know the reason why it declined it. I have heard it stated, upon authority that I regarded as correct, that the road felt that its general pay for the carrying of mails was all the compensation to which it was entitled and did not demand it longer. If the prime cause for this subsidy demand was a fast mail from New York to New Orleans and the link in the line from New York to Washington is made ineffectual, not being under Government schedule, and trains are often delayed here at Washington, as is the case, on what ground, now, do they present their claim? They say, "We have put on an extra train—two cars for express and three for mail to New Orleans." That is true. That has been done, but this extra train when it reaches the city of Atlanta becomes a passenger train. Four passenger coaches are attached to it. But still this does not answer the question. The line between Washington and New York is not now subsidized and is not under United States control, and if its connections with the South are broken at Washington, how is New York mail especially expedited by the subsidy from Washington to New Orleans?

The gentleman from Pennsylvania suggested a while ago that by reason of the want of business it was necessary to give extra subsidy to this line. Let me remind him that the business has grown immensely along this line and that the railroad company has, since the line was subsidized, placed on another train absolutely necessary to carry its passenger traffic. I do not believe that this road could afford or would for a moment decline to retain its present service if this subsidy was stricken out, but,

gentlemen, I have been discussing merely collateral questions affecting the main issue. I do that because my distinguished friends from the South, my Democratic brethren who live along the line of this railroad company, are urging reasons of this sort. I do not like sectional Democracy or sectional Republicanism. I believe that this ought to be a National House of Representatives in its full significance.

Mr. GOULDEN. Mr. Chairman, will the gentleman yield?

Mr. MOON of Tennessee. I yield to the gentleman.

Mr. GOULDEN. I am one of those who voted against this subsidy in the last Congress.

Mr. MOON of Tennessee. I congratulate the gentleman from New York.

Mr. GOULDEN. But I am rather favorably inclined toward it now, for the proviso you inserted, I think, in the last session of the last Congress, says "that no part of this appropriation shall be expended unless the Postmaster-General shall deem such expenditure necessary in order to promote the interests of the postal service."

Mr. MOON of Tennessee. I will explain that——

Mr. GOULDEN. With that proviso I should think that I would be rather justified in supporting it. I would like to know——

Mr. MOON of Tennessee. I said we ought to be national in our demands. What does the national Democratic party demand upon this question? It repudiates, it denounces, it condemns every character of subsidy. The Republican platform does likewise. Can you be heard to say to the people of the United States, standing upon your platform of opposition to a ship subsidy, that you are ready, because of a little paltry benefit to your immediate section, to violate the pledges of your party and the great tenets that it has held for a century? [Applause on the Democratic side.]

I believe, Mr. Chairman, that the southern Democrats ought to appeal to their people and not appeal to this railroad company, and they will find virtue, at least, in the support of the great people of the South, as it is found elsewhere. [Applause.] Let me revert to the question of the gentleman from New York. He speaks of this as a "directory section," giving power to the Postmaster-General to expend it in his discretion. That has been a provision of this bill from the beginning. The Postmaster-General has said to you, as he says here in this report upon which I lay my hand now, and in the testimony of the Second Assistant before the committee, that he did not estimate for this subsidy as he estimated for the expenses of the Government. He says:

> We have not asked Congress to give it. We pay it out simply because when we have not asked for it, when there is no demand on the part of the Department for it, you still insist and pass the law. We regard your action under such circumstances mandatory and imperative upon us to obey and pay the subsidy.

Mr. GOULDEN. I want to ask if it is included in the estimate of the Post-Office Department?

Mr. MOON of Tennessee. It is not included in the estimate of the Post-Office Department.

Mr. PAGE. May I interrupt my friend? On the contrary, is it not in the estimates of the Postmaster-General of these things that that will be saved from the former appropriation in his present recommendations to this Congress?

Mr. MOON of Tennessee. So I understand. Let me read to the House just for a moment. After various questions to the Second Assistant Postmaster-General upon this question, I asked General Shallenberger this question:

> Mr. MOON. Then, General, let me come down to the very bottom question of administration: Do you want this money or not?
> General SHALLENBERGER. We are not asking it, nor expressing an opinion in reference to it.
> Mr. MOON. What is the reason that you all are silent on that question?
> General SHALLENBERGER. We are not silent.
> Mr. MOON. You say you do not ask it?
> General SHALLENBERGER. We do not estimate for it.
> Mr. MOON. And what is the reason you do not ask it?
> General SHALLENBERGER. Because we think that the effect upon the service at large is better if we do not select any particular route in any particular section for special favors.
> Mr. MOON. Then you do not select it because you think that it is a bad example, and that it affects the railway mail service elsewhere to give this subsidy?
> General SHALLENBERGER. That is the situation.
> Mr. MOON. That is the situation. So you think that for the good of the service the thing ought not to be done, taking the country at large?
> General SHALLENBERGER. Why, I think that for the good of the service at large it is better that no special favors be given to any one particular road or system.

Mr. RICHARDSON of Alabama. Does the gentleman from Tennessee find anything in that condemning this service when Congress authorizes it?

Mr. MOON of Tennessee. I find the policy on the part of the Government condemning it. I find that the Department recognizes it as a special favor, a special facility to a special road in a special section, that operates specially to the detriment of the rest of the United States. That ought to be enough for any Democrat to know.

Mr. RICHARDSON of Alabama. Does the gentleman from Tennessee think that when the Government makes a contract for this service to be rendered, and then if the service was rendered, that it is a subsidy?

Mr. MOON of Tennessee. Yes. It was a subsidy contract. The gentleman simply, with all due respect for him, does not know what he is talking about. The Government of the United States has made a contract under statute with this very railroad company and the transportation of this identical mail, for which you are giving additional compensation to the extent of $196,000 a year upon a contract. I defy any intelligent lawyer upon this floor to deny the legal conclusion. When the Government of the United States by this solemn statute enacted that certain pay should be given for the transportation of certain mail it carried with it, by necessary implication in the contract and as a part of the law of the land entering into the contract, the obligation that the mail should be carried with reasonable haste and expedition.

If that be not so, you could carry the mail, under the statute, at any rate of speed. It is senseless to talk about the Government of the United States making a contract to carry slow mail. The law entering into every mail contract requires that reasonable haste and expedition be made; all necessary means and facilities for that haste and expedition constitute part of the contract. Additional compensation to induce the proper performance of a valid contract is not merely a subsidy, it is an iniquity.

Mr. RICHARDSON of Alabama. Well, the gentleman from Tennessee says I do not know what I am talking about. That is all very well.

Mr. MOON of Tennessee. If that offends my friend, I will take it back, and I will state that he knows what he is talking about, but that I have not been able to explain to him what I mean.

Mr. RICHARDSON of Alabama. And you never have been able to explain it. This matter has been up for years, and I have been uniformly in favor of it and you have uniformly opposed it, and I do understand what I am doing and what I am talking about, notwithstanding you say I do not.

Mr. MOON of Tennessee. I will agree with you on that proposition.

Mr. RICHARDSON of Alabama. That is what you did say.

Mr. MOON of Tennessee. I said it; and if the gentleman will oblige me to do so, I will say it again.

Mr. RICHARDSON of Alabama. I am not taking any offense at it, because the gentleman has never been able to convince me yet that I was not right.

Mr. MOON of Tennessee. I never have been able, and do not expect to be able, to convince you, because——

Mr. RICHARDSON of Alabama. I do differ with the gentleman on the general meaning of subsidy. I know I differ with you. I think it is just as much an obligation devolving upon the Government when this proposition is made to give so many thousand dollars to a railroad for this service when it comes up to the requirements and renders it—I believe in carrying out the contract in full, and the spirit and letter of the obligation is to pay that amount. Do you know how much money the railroad loses or will be taken from them annually for failing to make connection?

Mr. MOON of Tennessee. My objection is to making the subsidy contract. I know the service which you demand. You say it is a benefit to the country. I say it is not, simply for this reason—I am returning to the original proposition of benefits—for the simple reason if it made the connections from Washington to New Orleans every day on the main line, and then on the lateral lines which it owns fails to make connections so as to carry the mails into the interior of Tennessee and Texas, it would be utterly worthless, and the report of service says it is.

Mr. RICHARDSON of Alabama. I believe I am right in stating that the Tennessee legislature indorsed what the gentleman says is a subsidy.

Mr. MOON of Tennessee. I will say to the gentleman from Alabama——

Mr. RICHARDSON of Alabama. I just asked you that question.

Mr. MOON of Tennessee (continuing). That the Tennessee legislature did indorse this proposition some years ago, that many of the circuit judges and chancellors of the State indorsed it, that members of the county courts, lawyers, and members of the executive committee indorsed it; but they did so without knowledge of the truth. I knew that the power behind was the corporation that attempts to plunder the public Treasury [loud

applause], and I disobeyed that instruction. [Renewed applause.] My constituents have sustained me.

Mr. RICHARDSON of Alabama. I am perfectly surprised at the charge the gentleman makes against the Tennessee general assembly.

Mr. MOON of Tennessee. The gentleman does not understand me to make a charge against the members of the general assembly of Tennessee; but the members of that assembly, like the members of the general assembly of Alabama, are often ignorant of the facts, and most generally of law. [Great laughter.]

Mr. Chairman, I oppose, therefore, this provision, because of the detrimental effect it has upon the public service, because their compensation, the amount given, is specified by operation of law, and if it were not, I would object, because it is demoralizing to the Department of the United States Post-Office, and last, but not least, utterly demoralizing to the Democrats of some of the Southern States. [Laughter and applause.]

Mr. WILLIAM W. KITCHIN. If the gentleman from Tennessee will permit me right there, I understood the gentleman from Alabama to say that the Department makes no recommendation against this item.

Mr. RICHARDSON of Alabama. I did not say that. I asked the gentleman from Tennessee if he could find anything there in what he read condemning it.

Mr. WILLIAM W. KITCHIN. With the permission of the gentleman from Tennessee, I will read from the last report of the Postmaster-General, on page 9, in which he uses this language, which is a direct recommendation against it:

Curtailment has been recommended wherever possible, and many decreases are shown, of which the following are examples: Railway transportation, special facilities, $167,728.75.

Mr. RICHARDSON of Alabama. That simply says that railroad expenses have been decreased.

Mr. WILLIAM W. KITCHIN. Exactly the item which the gentleman from Tennessee [Mr. MOON] is now discussing.

Mr. RICHARDSON of Alabama. I do not read that in that way.

Mr. MOON of Tennessee. Mr. Chairman, the gentleman from Alabama does not read anything in any way except subsidy for the Southern Railway fast mail.

Mr. RICHARDSON of Alabama. That is not just. You ought not to say that, because I believe, just as the gentleman from Pennsylvania says——

Mr. MOON of Tennessee. If you will just take your seat for a moment, I will put you right.

Mr. RICHARDSON of Alabama. You put that reflection on me. I am not going to get offended. There is not the slightest danger of that; but I think the gentleman from Pennsylvania has stated the situation clearly when he says the dense population of the Northern and Eastern States does not require this special service while the situation in the South is very different.

Mr. MOON of Tennessee. But the facts do not sustain either the gentleman from Pennsylvania or the gentleman from Alabama on that proposition.

Now, Mr. Chairman, I concede to my distinguished friend and neighbor from Alabama, of course, honesty of purpose and good intention in this matter, as I do to all my other friends over here who differ with me about that. If I did not do that, I would do it as a matter of parliamentary courtesy if nothing else; but I do feel that these gentlemen really think they are getting special benefits, and that they are justified in it. I think it is wrong to take these benefits in this way from the Federal Treasury. There is the cardinal difference between us. They feel that they ought to vote for it because it is a benefit to them. I feel that I ought to vote against it, because I know that it is plundering the Treasury of my country. [Applause.]

But this is an unpleasant question for me to discuss with my neighbors, Mr. Chairman. Frequently it has occurred on the floor, and for two or three days they have not seemed as happy in my presence as before. [Laughter.] Therefore I will pass from the consideration of this question and present briefly one or two other questions.

Mr. JOHNSON. Before the gentleman leaves that question I should like to ask him a question.

Mr. MOON of Tennessee. Very well.

Mr. JOHNSON. Has the gentleman from Tennessee examined the report of the Second Assistant Postmaster-General when these special privileges were first afforded, in 1885 to 1891?

Mr. MOON of Tennessee. Not recently. I should be glad to have the gentleman call my attention to anything.

Mr. JOHNSON. I wish to call attention to the fact that in the report of the Second Assistant Postmaster-General submitted to Congress in December, 1890, he said that if these special appropriations for special facilities were provided for two or three years, the increase in the mail would be so great that the regular pay would equal both the subsidy and regular pay before, and then the subsidy could be withdrawn. That was in 1890; and I call the attention of the gentleman from Tennessee to the fact that the regular pay of the Southern Railroad from 1893 to 1896, from Washington to New Orleans, increased $499,700.73.

Mr. MOON of Tennessee. These are details of a discussion which I have not cared to go into at this time. I am obliged to my friend for reminding me of those special facts and presenting them to the House; but this question will be discussed in all of its features by other gentlemen, who will go into all the details. I just intended to touch the high places for a moment and pass on.

Mr. Chairman, there is another question that deserves the consideration of this House. It is a question affecting the whole country as perhaps no other question connected with the postal service does. It is a conceded fact that the deficit in the postal receipts is unquestionably produced, to a great extent if not wholly, by the transportation of second-class mail matter. It is estimated that it costs the Government 8 cents per pound to transport this matter for which it gets 1 cent per pound, a loss of 7 cents. It would seem as a matter of good business administration, as a matter of economy, that something ought to be done to remedy this condition; but when we take up the consideration of this question we are met at the very threshold with a policy adopted by the Government in its early history which prevents any radical increase in the rate of postage on this matter if that policy shall be maintained. The Government early adopted the wise policy of fixing a low rate of postage on second-class matter. Looking after the general welfare and interest of the United States, we can not repudiate this early policy of the Government at this time and attempt to make this character of mail matter self-sustaining.

The purpose was to give the literature of the country to the people; the purpose and intention of the Government in fixing that low rate was to encourage learning and letters and let the people be informed of the affairs of the Government; to let the people understand all that a great people ought to know that could come through those channels, to educate them to the high standard of citizenship. There has been perhaps no benefit that has ever accrued to the people of any Government on earth as great as that benefit that has been immediately and directly derived from the concession of the Government in carrying newspapers and magazines and matter of general literature and information. That this privilege under the statute has been abused there can be no question; that the Government might recoup its revenues by an increase in the compensation of postage on second-class matter there can be no question. I believe that the time has come, though, Mr. Chairman, in the United States, with the vast increase of the sources of information, the vast number of papers and magazines and books that we have, that we can now, without doing detriment to the policy pursued in the first place on the part of the Government, raise a little the postage on second-class matter.

If it were an increase of just 1 or 2 cents, saving and reserving from the operation of the law the newspapers to a certain extent of circulation, the revenue might be better and perhaps the literature might be better.

These are questions worthy of the consideration of this committee. Passing from this question I desire for a moment only to detain the House with another suggestion. There is too much discretionary power lodged by law to-day in this Department. There is too much discretionary power lodged in all the Departments. The Congress of the United States, the immediate representatives of the people, ought to assume the responsibility and give their mandates to those servants of the Congress and the people, the Departments and the Government.

There is, perhaps, no better illustration of that fact than may be found in conditions existing to-day. I know nothing of the merits of the controversy between the parties who have been excluded by fraud orders from the mail Department. I assume, in view of the controversy, that there are two sides to the question. It is clear to my mind that if the power is lodged in the Post-Office Department to exclude without the right of appeal or review magazines or any class of literature from the mails, that it is a most oppressive, dangerous, and tyrannous exercise of power.

The Congress has a right to vest not only semijudicial, but semilegislative functions in an administrative body, so far as the question of jurisdiction is concerned. But in its vestment, if the provision is not made for an appeal from that judgment; if the law provides no method of procedure for appeal or re-

view, the power of the Department is absolute, arbitrary, and tyrannical, and any citizen may be deprived of his right to-day without a hearing either in the Departments or in the courts of justice.

Mr. BARTLETT. Will the gentleman yield for an interruption?

Mr. MOON of Tennessee. I will.

Mr. BARTLETT. Will my friend tell me what remedy he suggests? The bill could not, unless a point of order was not made——

Mr. MOON of Tennessee. I will reach that question in a few moments. It is a dangerous thing always to vest an executive or an administrative officer with either quasi legislative or quasi judicial power. It is a prolific source of oppression to the citizen. It ought never to be done. This body ought not to shift the responsibility that rests upon it, or properly on judicial officers, and clothe these officers with powers they ought never to possess, if the welfare and interest of the people is to be maintained.

Mr. Chairman, it is useless for us to discuss, as I said, these questions unless there be some remedy for the evils of which we complain. They can not be remedied on an appropriation bill under the rules of the House as they exist to-day. I have no objection to drastic rules in a body of this size. It is unwieldy, and we need the power of the rule even to force legislation, but we do need rules that will operate justly and equally upon every Member and every party in this House. It is unwise for us, in view of the needs of this Government, to tie the Representatives of the people upon this floor. The present rules of the House of Representatives, in my judgment, are dangerous to the welfare of the people; and yet, take them altogether, leaving a few rules out of consideration, it is perhaps as good a code as we could obtain for a body of this size.

The power, though, which the Speaker has, or exercises if he chooses, under the construction of the rule, to turn from a Member and decline to recognize him for the purpose for which he rises, after once recognizing, is a most dangerous power in any parliamentary body. That power which you have given him, and which he exercises as your servant, is a power that ought never to be invoked against the interests of the people in the consideration of legislation. It denies equal opportunities to the membership of the House. It degrades the Representative.

Another rule to which I have referred is this: You prevent upon the consideration of an appropriation bill new legislation. Don't you think it would be wise to modify that rule to the extent that legislation which is germane to a particular subject of consideration may be presented? That is a wise rule to prevent riders being placed on an appropriation bill, riders foreign to the subject of consideration; but right here, right under this bill, at this hour if that rule were modified this House could consider the question of railway-mail pay; it could consider the question of changing the rate of second-class matter; it could consider the question of a usurpation of power under the statute in the Post-Office Department. But you are powerless under the rule which shackles you by your own will to do so. What further remedy have you? Can you appeal to the committee for consideration of these questions by separate bills? You have found those things vain and futile. If you clothe the Speaker with the power to name the committee instead of letting the House of Representatives select its own committeemen as the Senate does, you place it within his power to so organize the committees of this House as to forever defeat legislation coming before the committee, and then you put it beyond your power in this House by the rule to which I have referred of resuming the sovereign power to which you are entitled yourself. You have yielded away your power, you can not help yourselves. The result of this, Mr. Chairman, is that when gentlemen on the floor of this House find that it is impossible to be heard in the interest of their constituents, they yield. When a question arises in this body upon which they ought to have independent judgment——

The CHAIRMAN. The time of the gentleman has expired.

Mr. MOON of Tennessee. Mr. Chairman, the gentleman called down, having control of all the time on this side, will consume a little more of it.

The CHAIRMAN. Without objection, the gentleman will proceed beyond the hour.

Mr. MOON of Tennessee. Just for a little while, Mr. Chairman. We ought to go back to the consideration of these questions as they were considered in the days that are passed. We ought to break the chains of this House on the question of legislation. We ought not to place an autocrat in the Speaker's chair, but the humble servant of the representatives of the people, to do their behest. You put it in his power to destroy legislation. You put yourselves in his power as he forces legislation upon you. The majority party is responsible for this. You yield your rights, and, yielding them, you part with self-respect and become cowards, and when you become cowards you become slaves, and when you become slaves to a coterie of parliamentary despots you become the unfit representatives of a great and a free people. [Applause.]

Mr. SIMS. Mr. Chairman, I thoroughly agree with what the gentleman has been saying about this rule of not being permitted to legislate on an appropriation bill; but is it not a fact that it does not prevent that new legislation, provided that in the Senate they put on the same amendment that we rejected here in the House? It comes back then, and under the rules, and it is not out of order to consider that which has been once solemnly ruled out of order.

Mr. MOON of Tennessee. Of course, we agree on that question. It can legislate, while this House can not, under the rule.

Mr. SIMS. But the Senate forces us to do it.

Mr. MOON of Tennessee. The Senate, of course, forces us to do it. The Senate forces us to do nearly all we do. The Republican majority is not to blame alone for this.

Mr. SIMS. Mr. Chairman, I think the gentleman is right about that.

Mr. MOON of Tennessee. The Republican majority in this House has surrendered beyond all question freely and voluntarily all of the reserved rights of a Representative, save one or two, to the Speaker of the House. Now, if anybody has to exercise that power on the Republican side, I would as soon have the present Speaker do it as anybody in the world. It is not a question of the Speaker individually. I believe everybody in this House is personally fond of him. It is a question of the abrogation of the power of the Representatives so as to prevent legislation that is wholesome and just.

I have now demonstrated to the House, I trust, legislation that is needed upon this bill. I defy anyone to get one particle of it. You can not put it on here. You are tied by your rules; you can not put it through your committee, for the Speaker has tied your committee. What are you to do? Gentlemen, there are reserved rights, but only one or two to the House of Representatives.

If without the spirit of revenge or anger, if in obedience to the high dictates of duty, if in recognition of those representative rights which you all possess, you will say to the House of Representatives, "Be bound by the chains you have forged; no business shall be done in this House save by and in accordance technically with every rule that this House has adopted for the transaction of business," and you do that for a few weeks, then this majority and the Speaker will find themselves utterly powerless to move one inch in legislation. They will break the chains themselves, and they will tell the Speaker that he is no longer a master, but a servant of the House of Representatives. How was it in the days that are past? Was this a body in which the will and decree of a political coterie was registered? This was the great forum in which the battles of the people were fought. Here every great battle for American liberty and American citizenship has been fought out in behalf of the people, and to-day, like craven cowards, you have surrendered every right you have, given to the Speaker of the House of Representatives and the Committee on Rules, and without the slightest deliberation you pass for consideration to the other end of the Capitol every bill nearly that is before you.

Without naming any particular bill, but to show the evil effect of that and of ill-considered legislation, a bill is to-day pending, upon which this House has acted, affecting a great Territory proposed to be made a State, greater than the State of Missouri, where this House actually failed to extend, so far as some necessary provisions were concerned, the benefit of the law proposed to be enacted to a part of the Territory—unintentionally, of course. No consideration in committee, no consideration anywhere, until the Senate of the United States pointed out, to the shame of the House of Representatives, the patent defect. You gentlemen can not go back to the country and accuse the Republican party of all the wrongs that the people suffer at the hands of this once great but now degenerate body. The Democracy of the House of Representatives must exercise the reserved power of refusing and forbidding anything to be done, save in obedience to the law that the House has made for its government, and then the people will see where the chains are and who forged them, and they will put an end, I trust, to the wrongs and injustices that exist here.

Mr. SIMS. We witnessed the spectacle a few days ago of two Representatives on this floor, one a member of the Republican party and one a member of the Democratic party, who undertook to have one bill passed according to the general rules of this House, and the Committee on Rules got together and

decided that the general rules were the worst thing possible to apply to that appropriation bill; and they brought in a special rule, repealing the general rules and making in order everything that had gone out on points of order as well as all that remained. Is not that a fact?

Mr. MOON of Tennessee. Yes.

Mr. SIMS. Can not they do that with every single bill, as long as the majority is subservient to the Committee on Rules?

Mr. MOON of Tennessee. Of course, that may be so; there is no question about that, and the gentleman simply amplifies the suggestion I made.

Mr. SIMS. What are you going to do about it? Let us get down to something practical.

Mr. MOON of Tennessee. I was just suggesting to you a practical solution of it. Suppose when a gentleman gets on the floor of the House of Representatives and asks unanimous consent and the Speaker recognized the gentleman for unanimous consent; suppose you have no objection to the bill, but have objection to the exercise of that power emanating from one source alone, a power that practically controls the operations of the House, you have the reserved right as a Representative to say, "I object." That places the gentleman who made the motion in his seat. How is he going to get his bill up?

Mr. SIMS. I can answer that if the gentleman asks me.

Mr. MOON of Tennessee. He can not do it except upon call of committees on the day when it is reached, and the chances are only one in a hundred he can reach it then. He can not go to the Union Calendar and take a bill off that Calendar. There are three-fourths of the important bills of the House upon that Calendar, and that Calendar, by virtue of the power of the Speaker, has not been called for general consideration in ten long years in the House of Representatives. You can consider on it those things he favors only without unanimous consent or a special rule, and he controls recognition and is chairman of the Committee on Rules.

Mr. SIMS. Let me ask the gentleman——

Mr. MOON of Tennessee. The gentleman will excuse me just a moment.

Mr. SIMS. Then go ahead.

Mr. MOON of Tennessee. No; I will yield to the gentleman.

Mr. SIMS. Then what is to hinder the Committee on Rules from selecting out these very bills to which objection has been made and bringing in a special rule that they shall be considered without any reference to unanimous consent?

Mr. MOON of Tennessee. Well, what hinders the House of Representatives from exercising its power to overturn the Committee on Rules?

Mr. SIMS. Well, I thought the gentleman answered a while ago that we had about lost all self-respect and courage and everything else.

Mr. MOON of Tennessee. Oh, I think not; I did not mean to say and did not say that, Mr. Chairman. I meant to say that we had lost the power of resistance.

Mr. RICHARDSON of Alabama. Mr. Chairman——

The CHAIRMAN. Does the gentleman from Tennessee yield to the gentleman from Alabama?

Mr. MOON of Tennessee. I yield to the gentleman from Alabama.

Mr. RICHARDSON of Alabama. I heard you say something in your remarks relative to the degeneracy of the Democracy on this side of the House. I ask the gentleman the question—inasmuch as you called us degenerate—if when we were in power and Mr. Crisp, of Georgia, was Speaker the same rules were not substantially adopted then as are adopted now?

Mr. MOON of Tennessee. Yes; and they were just as infamous then as they are now. [Applause on the Democratic side.]

Mr. SIMS. I am not contending against what the gentleman says. I only wanted to find some way to do what he wants done.

Mr. MOON of Tennessee. I am not excusing—I can not excuse the present membership of this House from refusing to exercise its power in behalf of the people because some Democratic Congress did the same thing. I am a Democrat in every essential principle that the party has ever advocated, but I fear not to say that some of the greatest wrongs ever done to mankind were in the name of the Democratic party. [Applause.]

Mr. Chairman, I have already extended these impromptu suggestions far beyond what I intended. Now, I desire to yield twenty minutes to Mr. TOWNE, the gentleman from New York. [Loud applause.]

Mr. TOWNE. Mr. Chairman, I desire to subscribe very cordially to some of the remarks—indeed, practically to all of them—of the distinguished gentleman from Tennessee who has just resumed his seat, addressed to the subject of the rules of this House; but I wish to enter one important qualification in respect to the criticisms that are passed upon the Speaker. The Speaker is, in my judgment, almost as much sinned against as sinning. The fact that under both Republican and Democratic régimes very largely the same complaint has been made in respect to the exercise of quasi autocratic power by the Chair is itself a recognition to a considerable degree that the necessity for exercising that kind of power inheres in the duties of the office itself as it has evolved in our system.

Now, sir, I am not prepared at this moment to enter upon a careful discussion of certain matters that I wish merely to indicate for the sober consideration, in this connection, of the men who, as I hope, are to participate in the framing of the rules for the Sixtieth Congress. [Applause.] I mean the Democrats of this body. [Renewed applause.]

The Speakership of this House, sir, in its origin was not a political office. It is interesting to contrast it with the history of the speakership of the English House of Commons, whence we borrow very largely the model upon which this House is constructed. In the House of Commons the speaker is a mere moderator, who presides over a parliamentary body for the purpose of enforcing ordinary parliamentary rules. The office has no political significance. That fact is illustrated by the recent reelection of Mr. Lowther, the Conservative speaker, by the new enormous Liberal majority in the House of Commons.

If a speaker is a competent parliamentarian, a fair man, and a man of ability, no majority in the English Parliament cares to which party he belongs. But originally the English speaker was a political officer. His name signifies it. He spoke for the Commons with the King, and to a considerable degree was able to direct the deliberations of the House and to select the subjects upon which it should deliberate. In process of time there developed the English ministry, the responsible element in the control of the legislative in the British system. The ministry determines all the initiative in legislation, marks out the programme for the Commons, determines what propositions of legislation shall come before that body; and the opposition—I may interpolate at this point—has always the right to propose and discuss amendments. That function is ever the great factor in that general system of government to which the English Commons and this body belong, a system that the great commentator Bagehot has called a government by discussion; and if at any time this House shall ever have its ancient dignity and power restored and shall again appeal to the imagination and respect of the people of America, it will be when it shall have vindicated for itself the right to discuss all public measures proposed here. [Loud applause.] But in America we have never evolved anything that answers to the British cabinet or ministerial system. There must, however, in every majority temporarily controlling the deliberations of this House, be somewhere an initiative, the power of determining the policy according to which the majority shall choose to proceed, and how it shall exercise that power. It is interesting to note how this function has become an asset of our Speakership, an evolution in that office having occurred directly opposite from that which marked the English speakership. Speaker Muhlenberg, the first Speaker of the House of Representatives, nearly one hundred and twenty years ago, was a mere presiding officer, but in the course of time the officer who commenced as a mere moderator has developed into the most powerful political functionary in our Government.

I do not propose at this moment, and without preparation, to undertake a discussion of the philosophy implied in the fact I have cited. I shall merely suggest whether in this proposed and desirable reform of the rules of the House we are not face to face with more than a mere question of convenience, a deep question of government indeed, complicated with the evolution of our system itself. But there are some things that those who propose to reform these rules can entertain little difference about. One of them was suggested very ably by the gentleman from Tennessee in answer to a question. We can change the rules of the House. We can if we will. We will not if we submit ourselves to the dictation of a few men on grounds of alleged party interest and refuse to stand in favor of the inherent legislative rights of the House. The majority party can, if it will, make a few simple changes in the rules that will go a great way to restore the ancient capacities and prestige of the House.

For instance, now, if a man on the floor of this House desires to challenge the attention of the Chair he must arise in his place and address the Speaker; and, as I think the language of the rule is—although I have not seen it lately—"upon being recognized, he shall proceed in order." If he is not recognized he can not proceed, and we witness this anomalous and insulting thing—although the Speaker is not in a personal sense to blame for it, let me say, it is inherent in the rules—that a man representing a great American constituency, with something to speak about and to think about and to propose to this great body on his

individual and political responsibility, arises in his place here and the Speaker says to him, "For what purpose does the gentleman rise?" And if the purpose does not suit the Speaker the Member has not, to any effectual purpose, arisen at all, but has to take his seat.

Now, sir, when two or more men are contemporaneously challenging the attention of the Chair, it is a mere necessity that he shall choose which one to recognize. No rule can ever obviate that; but it has happened time and again—it happened in my own case in the Fifty-fourth Congress—that but one Member is asking recognition from the Chair, and that he can not get the floor. Now, I undertake to say that any Representative of a great constituency of the American people upon this floor has a right, or ought to have the right, to ask the attention of the Chair and the House to anything he wishes to bring to the attention of this assembly when nobody else is claiming the floor at the same time. [Applause.]

Now, sir, this by way of unsystematic and scarcely tangible connection with an extraneous matter to which I desire, under the latitudinous necessity of these same rules [laughter], very briefly to invoke the attention of the House.

The right of labor to organize is nowhere now seriously questioned. That, on the whole, the exercise of that right has been greatly beneficial to the vast body of wage-earners, and, hence, of benefit to the country, whose welfare is so intimately dependent upon theirs, is likewise generally admitted. To say this is not to deny that here and there ambition and self-interest have committed wrongs in the name of labor and, using the instruments of its organization for private purposes, have put in peril the credit of the cause itself; it is not even to deny that trades-unions and labor federations, in the clash of interests that has attended the phenomenal industrial changes of recent times, may occasionally have exceeded the limit prescribed by a just subordination of class concern to the general welfare of society. But it is right to remember that the organization of labor did not precede, but followed, the organization of capital; that its very origin was in defense, not in aggression.

But these considerations only enforce the necessity of a clearer understanding between organized labor on one hand and the manifold interests of society on the other, to the end that public sentiment shall both recognize the just claims of labor and insist in turn that it shall respect necessary and salutary limitations in its organized effort to secure them.

Under our representative institutions it is inevitable that citizens should seek to influence the enactment and enforcement of laws deemed by them likely to improve their social and industrial conditions. Wage-earners can not be expected to be oblivious of this privilege. Indeed, it has always been one of the chief arguments of the party in power in favor of its continued supremacy that its policies were largely shaped to achieve the welfare of the laboring man. Accordingly, it is not surprising that these policies should be subjected to close scrutiny by the men whom the competition of leadership has brought to the front in labor councils, men like Samuel Gompers, president of the American Federation of Labor, John Mitchell, president of the Coal Miners' Union, Andrew Furuseth, president of the International Seamen's Union, and many others of similar ability and influence.

One consequence of this scrutiny has been the formulation by the executive council of the American Federation of Labor of a petition for redress of grievances, addressed, and on Wednesday, March 21, formally presented, to the President of the United States, the President pro tempore of the Senate, and the Speaker of the House of Representatives.

This petition, sir, which is quite the most significant utterance of the sort in recent economic history, contains a recital of the principal complaints which organized labor conceives itself to have against the powers now and for some time past responsible for the legislative and administrative policies of the country. These complaints may be thus conveniently summarized:

First. They complain that the eight-hour law is grievously and frequently violated; that since 1894 they have vainly sought to secure legislation remedying the defects of that law and extending its provisions to all work done on behalf of the Government; that recently, without a hearing to the advocates of eight-hour legislation, a law was passed by Congress and signed by the President, as a rider on an appropriation bill, "nullifying the eight-hour law and principle in its application to the greatest public work ever undertaken by our Government—the construction of the Panama Canal."

Second. They complain that no heed has been paid to labor's request for legislation safeguarding it against the competition of convicts.

Third. They complain that no result has followed their demand for relief against the evils of "induced and undesirable immigration;" that the Chinese-exclusion law is being "flagrantly violated," and that it is now "seriously proposed to invalidate that law" and reverse our policy.

Fourth. They complain that equal rights are denied to seamen; that even the partial relief afforded them by the laws of 1895 and 1898 have been threatened at each succeeding Congress; that petitions in behalf of the seamen have been denied "and a disposition shown to extend to other workmen the system of compulsory labor," and that, "under the guise of a bill to subsidize the shipping industry, a provision is incorporated, and has already passed the Senate, providing for a form of conscription which would make compulsory naval service a condition precedent to employment on privately owned vessels."

Fifth. They complain that undermanning and unskilled manning of vessels are largely responsible for disasters like the burning of the *Slocum* in New York Harbor and the wreck of the *Rio de Janeiro* at San Francisco, with their terrible and unnecessary loss of human life, and that measures presented by them more in the interest of the public than of themselves, calculated to prevent such calamities, have not been adopted.

Sixth. They complain that they have vainly sought the passage of a law prescribing that barges towed at sea shall be properly manned and equipped so as to avoid the loss of life now frequently involved in cutting them loose during storms and leaving the crews to perish.

Seventh. They complain that the "antitrust and interstate-commerce laws enacted to protect the people against monopoly in the products of labor, and against discrimination in the transportation thereof, have been perverted, so far as the laborers are concerned, so as to invade and violate their personal liberty as guaranteed by the Constitution," and that their repeated efforts to obtain redress from Congress have been in vain.

Eighth. They complain of the abuse of the "beneficent writ of injunction" in labor disputes, claiming that it has been perverted from the protection of property rights to the destruction of personal freedom, and that there is a threat of "statutory authority for existing judicial usurpation."

Ninth. They complain that the committees of this House having jurisdiction of matters particularly of interest to labor have been constituted inimically to it, and that requests to the Speaker to remedy this condition as apparent in the last two Congresses have been followed in the present Congress by even an accentuation of the condition.

Tenth. They complain that the constitutional right of petition has been invaded by the Executive order recently issued "forbidding any and all Government employees, upon pain of instant dismissal from the Government service, to petition Congress for any redress of grievances or for any improvement in their condition."

In view of the interest and importance of this document, Mr. Chairman, I ask consent to print it as a part of my remarks.

The CHAIRMAN. The request of the gentleman from New York will be granted, unless there be objection.

There was no objection.

The document is as follows:

WASHINGTON, D. C., *March 21, 1906.*

Hon. THEODORE ROOSEVELT,
President of the United States;
Hon. WM. P. FRYE,
President pro tempore, United States Senate;
Hon. JOSEPH G. CANNON,
Speaker House of Representatives, United States.

GENTLEMEN: The undersigned executive council of the American Federation of Labor, and those accompanying us in the presentation of this document, submit to you the subject-matters of the grievances which the workmen of our country feel by reason of the indifferent position which the Congress of the United States has manifested toward the just, reasonable, and necessary measures which have been before it these past several years, and which particularly affect the interests of the working people, as well as by reason of the administrative acts of the executive branches of this Government and the legislation of the Congress relating to these interests. For convenience the matters of which we complain are briefly stated, and are as follows:

The law commonly known as the "eight-hour law" has been found ineffective and insufficient to accomplish the purpose of its designers and framers. Labor has, since 1894, urged the passage of a law so as to remedy the defects, and for its extension to all work done for or on behalf of the Government. Our efforts have been in vain.

Without hearing of any kind granted to those who are the advocates of the eight-hour law and principle, Congress passed and the President signed an appropriation bill containing a rider nullifying the eight-hour law and principle in its application to the greatest public work ever undertaken by our Government, the construction of the Panama Canal.

The eight-hour law in terms provides that those intrusted with the supervision of Government work shall neither require nor permit any violations thereof. The law has been grievously and frequently violated. The violations have been reported to the heads of several Departments, who have refused to take the necessary steps for its enforcement.

While recognizing the necessity for the employment of inmates of our penal institutions so that they may be self-supporting, labor has urged in vain the enactment of a law that shall safeguard it from the competition of the labor of convicts.

In the interest of all of our people and in consonance with their almost general demand, we have urged Congress for some tangible

relief from the constantly growing evil of induced and undesirable immigration, but without result.

Recognizing the danger of Chinese immigration and responsive to the demands of the people, Congress years ago enacted an effective Chinese-exclusion law, yet despite the experience of the people of our own country, as well as those of other countries, the present law is flagrantly violated, and now, by act of Congress, it is seriously proposed to invalidate that law and reverse the policy.

The partial relief secured by the laws of 1895 and 1898, providing that seamen shall not be compelled to endure involuntary servitude, has been seriously threatened at each succeeding Congress. The petitions to secure for the seamen equal right with all others have been denied and a disposition shown to extend to other workmen the system of compulsory labor.

Under the guise of a bill to subsidize the shipping industry a provision is incorporated, and has already passed the Senate, providing for a form of conscription, which would make compulsory naval service a condition precedent to employment on privately owned vessels.

Having in mind the terrible and unnecessary loss of life attending the burning of the *Slocum* in the harbor of New York, the wreck of the *Rio de Janeiro* at the entrance to the Bay of San Francisco, and other disasters on the waters too numerous to mention, in nearly every case the great loss of life was due to the undermanning and the unskilled manning of such vessels, we presented to Congress measures that would, if enacted, so far as human law could do, make impossible the awful loss of life. We have sought this remedy more in the interests of the traveling public than in that of the seamen, but in vain.

Having in mind the constantly increasing evil growing out of the parsimony of corporations, of towing several undermanned and unequipped vessels called "barges," on the high seas, where, in case of storm or stress, they are cut loose to drift or sink, and their crews to perish, we have urged the passage of a law that shall forbid the towing of more than one such vessel unless they shall have an equipment and a crew sufficient to manage them when cut loose and sent adrift, but in vain.

The antitrust and interstate-commerce laws enacted to protect the people against monopoly in the products of labor, and against discrimination in the transportation thereof, have been perverted, so far as the laborers are concerned, so as to invade and violate their personal liberty, as guaranteed by the Constitution. Our repeated efforts to obtain redress from Congress have been in vain.

The beneficent writ of injunction intended to protect property rights has, as used in labor disputes, been perverted so as to attack and destroy personal freedom, and in a manner to hold that the employer has some property rights in the labor of the workmen. Instead of obtaining the relief which labor has sought, it is seriously threatened with statutory authority for existing judicial usurpation.

The Committee on Labor of the House of Representatives was instituted at the demand of labor to voice its sentiments, to advocate its rights, and to protect its interests. In the past two Congresses this committee has been so organized as to make ineffectual any attempt labor has made for redress. This being the fact, in the last Congress labor requested the Speaker to appoint on the Committee on Labor Members who, from their experience, knowledge, and sympathy, would render in this Congress such service as the committee was originally designed to perform. Not only was labor's request ignored, but the hostile make-up of the committee was accentuated.

Recently the President issued an order forbidding any and all Government employees, upon the pain of instant dismissal from the Government service, to petition Congress for any redress of grievances or for any improvement in their condition. Thus the constitutional right of citizens to petition must be surrendered by the Government employee in order that he may obtain or retain his employment.

We present these grievances to your attention because we have long, patiently, and in vain waited for redress. There is not any matter of which we have complained but for which we have, in an honorable and lawful manner, submitted remedies. The remedies for these grievances proposed by labor are in line with fundamental law, and with the progress and development made necessary by changed industrial conditions.

Labor brings these its grievances to your attention because you are the Representatives responsible for legislation and for failure of legislation. The toilers come to you as your fellow-citizens, who, by reason of their position in life, have not only, with all other citizens, an equal interest in our country, but the further interest of being the burden bearers, the wage-earners of America. As labor's representatives we ask you to redress these grievances, for it is in your power so to do.

Labor now appeals to you, and we trust that it may not be in vain. But if perchance you may not heed us, we shall appeal to the conscience and the support of our fellow-citizens.

Very respectfully,

SAMUEL GOMPERS,
JAMES DUNCAN,
JAMES O'CONNELL,
MAX MORRIS,
DENNIS A. HAYES,
DANIEL J. KEEFE,
WM. D. HUBER,
JOSEPH F. VALENTINE,
JOHN B. LENNON,
FRANK MORRISON,

Executive Council American Federation of Labor.

List of representatives of labor associated with the executive council of the American Federation of Labor in the presentation of labor's grievances, March 21, 1906.

John C. Schmidt, Bakers and Confectioners' International Union of America.
Rudolph Shirra, Bakers and Confectioners' International Union of America.
Thomas H. Lockwood, Pocketknife Blade Grinders and Finishers' National Union.
Thomas R. Keenan, Brotherhood of Boiler Makers and Iron Shipbuilders of America.
Peter L. Mitchell, Brotherhood of Boiler Makers and Iron Shipbuilders of America.
James P. Speirs, Brotherhood of Boiler Makers and Iron Shipbuilders of America.
John P. Frey, Iron Moulders' Union of North America.
Ed F. Weber, International Association of Glass House Employees.
Hugh Falvey, American Brotherhood of Cement Workers.
E. C. Giengenback, American Brotherhood of Cement Workers.
P. H. Malloy, American Brotherhood of Cement Workers.
J. J. Crowley, the Granite Cutters' International Association of America.
John Lyons, the Granite Cutters' International Association of America.
Frank McArdle, International Brotherhood of Foundry Employees.
Cornelius P. Shea, International Brotherhood of Teamsters.
Thomas C. Fox, International Brotherhood of Teamsters.
J. E. Toome, International Brotherhood of Teamsters.
James F. Fitzgerald, Pulp, Sulphite, and Paper Mill Workers.
Timothy Healy, International Brotherhood of Stationary Firemen.
N. A. James, International Brotherhood of Stationary Firemen.
H. E. Burns, International Brotherhood of Stationary Firemen.
F. M. Nuse, International Brotherhood of Stationary Firemen.
Christian Schlag, International Brotherhood of Stationary Firemen.
William McPherson, International Carriage and Wagon Workers.
William M. Merrick, Plumbers, Gas Fitters, Steam Fitters, and Steam Fitters' Helpers of the United States and Canada.
Joseph H. Gallagher, Plumbers, Gas Fitters, Steam Fitters, and Steam Fitters' Helpers of the United States and Canada.
John R. Alpine, Plumbers, Gas Fitters, Steam Fitters, and Steam Fitters' Helpers of the United States and Canada.
P. H. Cummins, International Brotherhood of Blacksmiths.
J. W. Kline, International Brotherhood of Blacksmiths.
Charles T. Smith, International Steel and Copper Plate Printers' Union of North America.
E. L. Jordan, International Steel and Copper Plate Printers' Union of North America.
T. L. Mahan, International Steel and Copper Plate Printers' Union of North America.
William Dodge, Paving Cutters' Union of the United States and Canada.
James J. Dunn, Glass Bottle Blowers' Association of the United States and Canada.
William Launer, Glass Bottle Blowers' Association of the United States and Canada.
Frank Feeny, International Union of Elevator Constructors.
Charles Hank, International Brick, Tile, and Terra Cotta Workers' Alliance.
Henry Nolda, Upholsterers' International Union of North America.
Charles E. Lawyer, International Tin Plate Workers' Protective Association of America.
George Powell, International Tin Plate Workers' Protective Association of America.
W. J. McSorley, International Union of Wood, Wire, and Metal Lathers.
R. V. Brandt, International Union of Wood, Wire, and Metal Lathers.
W. S. Crown, American Federation of Musicians.
C. P. Huestis, American Federation of Musicians.
Charles Derlin, American Federation of Musicians.
Thomas F. Ryan, Amalgamated Sheet Metal Workers' International Alliance.
Daniel L. Desmond, Amalgamated Sheet Metal Workers' International Alliance.
Joseph A. Daly, Amalgamated Sheet Metal Workers' International Alliance.
W. F. Gilmore, Amalgamated Society of Carpenters and Joiners.
George G. Griffin, United Brotherhood of Carpenters and Joiners.
William M. Lewis, Brotherhood of Painters, Decorators, and Paper Hangers of America.
Frank X. Noschang, Journeymen Barbers' International Union.
Thomas O. Hughes, International Union of Slate Workers.
G. M. Huddleston, International Slate and Tile Workers' Union of America.
Ben Russell, International Slate and Tile Workers' Union of America.
Thomas F. Tracy, Cigar Makers' International Union of America.
J. A. Roberts, Cigar Makers' International Union of America.
Martin Helmuth, Amalgamated Meat Cutters and Butcher Workmen of North America.
W. E. Thompson, International Ceramic, Mosaic, and Encaustic Tile Layers and Helpers' Union.
C. O. Pratt, Amalgamated Association of Street and Electric Railway Employees of America.
T. C. Parsons, International Typographical Union.
John P. Murphy, Boot and Shoe Workers' Union.
John J. Binder, International Union of United Brewery Union.
John Mangan, Steam Fitters' International Union.
James M. Cumming, Steam Fitters' International Union.
Charles N. Isler, Steam Fitters' International Union.
Henry Fischer, Tobacco Workers' International Union.
William Feenie, United Powder and High Explosive Workers of America.
James G. McCrindle, United Powder and High Explosive Workers of America.
Andrew Furuseth, International Seamen's Union of America.
J. L. Feeney, International Brotherhood of Bookbinders.
Rodney L. Thixton, International Stereotypers and Electrotypers' Union of North America.
Michael J. Shea, International Stereotypers and Electrotypers' Union of North America.
James F. Splann, International Stereotypers and Electrotypers' Union of North America.
F. M. Ryan, International Association of Bridge and Structural Iron Workers.
P. J. McArdle, Amalgamated Association of Iron, Steel, and Tin Workers.
Martin Higgins, International Printing Pressmen's Union.
John Golden, United Textile Workers of America.
J. T. Carey, International Brotherhood of Papermakers, etc.
Thomas Meller, International Brotherhood of Papermakers, etc.
H. B. Perham, The Order of Railroad Telegraphers.
J. F. McCarthy, Central Labor Union, Washington, D. C.
Charles W. Winslow, Central Labor Union, Washington, D. C.
Shelby Smith, Allied Printing Trades Council, Philadelphia, Pa.
John Fitzpatrick, Chicago Federation of Labor.

Mr. TOWNE. It is not necessary that a man should subscribe in detail to all the allegations of this petition in order to be in general accord with its spirit. No candid observer of recent history can fail to know that the political party now in power in this country is, as an organization, the agent of the dominant economic forces of the age; a fate, let me say, which is not at all unprecedented or unusual. Such a state of affairs occurs to a greater or less extent, no matter which party is in power. The economic forces of the age will impress themselves upon the tendencies of legislation, through the control of the

dominant party, from time to time, in all self-governing communities; which fact only emphasizes, however, the necessity of changing parties from time to time in order to give contrary tendencies a chance to express themselves in the corrective legislation that may thus result. [Applause.]

Mr. WM. ALDEN SMITH. A change of bosses.

Mr. TOWNE. Yes; if bosses be necessary, Heaven knows they should be changed. And, Mr. Chairman, it is also true that those economic forces tend to capitalistic combination and consolidation; that, if unrestrained and unregulated, they threaten the stability of the social order, and that the workingmen of the country may justly feel an especial interest in curbing the rapacity of these organized appetites which exist, either by the warrant or by the permission of the laws. In this enterprise these petitioners become allies of all members of society not immediately associated in schemes of spoliation and plunder. When thus engaged they cease to be a faction, but become the representatives of the general welfare. Instead of meriting the appellation of agitators and disturbers, they range themselves among the conservative elements of our institutions in furtherance of what has become the great patriotic political duty of the hour; the restoration in the Republic of the ancient standards of justice and equality under the law, the mingled safety and progress that constitute the goal and the sanction of democratical government. [Prolonged applause.]

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. STERLING having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had insisted upon its amendments to the bill (H. R. 8461) to amend chapter 1495, Revised Statutes of the United States, entitled "An act for the survey and allotment of lands now embraced within the limits of the Flathead Indian Reservation, in the State of Montana, and the sale and disposal of all surplus lands after allotment," as amended by section 9 of chapter 1479, Revised Statutes of the United States, disagreed to by the House of Representatives, had agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon; and had appointed Mr. CLARK of Montana, Mr. MCCUMBER, and Mr. GAMBLE as the conferees on the part of the Senate.

The message also announced that the Senate had passed bill of the following title; in which the concurrence of the House of Representatives was requested:

S. 5059. An act to increase the limit of cost of the post-office at Yankton, S. Dak.

The message also announced that the Senate had agreed to the amendment of the House of Representatives to the concurrent resolution of the Senate (No. 13) authorizing the reprinting of 10,000 additional copies of the testimony taken by the Senate Committee on Interstate and Foreign Commerce, in the consideration of the so-called "railroad rates bill," and a digest of said testimony prepared under the direction of said committee.

POST-OFFICE APPROPRIATION BILL.

The committee resumed its session.

Mr. OVERSTREET. Mr. Chairman, I yield one hour to the gentleman from Minnesota [Mr. STEENERSON].

Mr. STEENERSON. Mr. Chairman, I desire during the time that has been allotted to me to discuss the somewhat misunderstood and complicated question of railway mail pay. Before doing so, I desire to refer briefly to the situation of this appropriation bill in committee and in this House. Of course, we understood that no general legislation could be placed on this bill without being subject to a point of order, and therefore the committee did not undertake a general investigation of this most important subject. It being necessary, however, to make an appropriation for the railway transportation of mails, the matter was incidentally discussed; especially was it discussed with reference to this item which has come up before Congress at the last three sessions, and several Congresses before, about special facility pay to this particular line, and which seems to have friends on both sides of the Chamber.

It is in order to leave that appropriation out, because it is an appropriation that is simply annual, and it appears with every appropriation bill. This matter, brought before the Committee on the Post-Office and Post-Roads, brought out a good deal of dissension, and when the matter was submitted to the full committee they were practically evenly divided; those who supported the special-facility pay and those who favored it reserved the right to discuss it on the floor of the House. Everyone is at perfect liberty to discuss it.

Now, that is the parliamentary situation as I understand it, and I expect to support an amendment striking out the special-facility pay. Before doing so I desire to discuss the basis upon which railroad mail pay in general is awarded and what that pay is. This I deem to be necessary, if the House will indulge me, because there seems to be a great deal of misinformation upon the subject.

I have seen articles in the newspapers relative to this matter which were entirely misleading, and there is a general misunderstanding as to what extent pay is proportioned to a just compensation.

A few days ago an article from the Washington Post was inserted in the RECORD relative to a certain railroad in Michigan. I received from that railroad a circular containing an answer, and I introduce this simply as a sample of the misinformation circulated throughout the United States on the subject of railroad mail pay. As a matter of fact, I expect to convince the House, or at least those who do me the honor to listen, that although the pay to the railroad where the traffic is light is twenty times as much per pound as where it is heavy, yet it actually, in proportion to the expense of the service, is too small, or at least is very small pay, and if there is any overpay at all it is to the railroads that do a large business. I will read this extract which was put in the RECORD two or three days ago:

The little railroad running from Pontiac to Caseville, Mich., is 100 miles long. Two trains carry mail on this route, the daily weight of the mail being 926 pounds. The United States pays $8,262 a year for this service. The trains also carry passengers and express. The total cost of operating these two trains is $14,160 a year. The United States, therefore, pays 58 per cent of the cost of operation.

Now, here is the answer which the railroad company officials, I assume, sent in this circular:

The foregoing paragraph contains four false statements:

1. The cost of operating this road, which it is proper to consider and estimate in connection with the receipts from carriage of mails, was $149,400, and not $14,160.

2. The railroad paid out of its mail pay for delivery of the mails at fifteen points, $1,240, so that its real compensation was $7,022, and not $8,262.

3. The compensation of this road for carrying the mails was 5 per cent of the expense of operation, and not 58 per cent.

4. The road, instead of being overpaid for the service it is performing for the Government in mail transportation, is much underpaid.

What are the facts? This little railroad begins at Pontiac, Mich. Its total receipts are barely sufficient to meet its operating expenses and taxes. It is in the hands of a receiver. The receiver recently visited Washington in the vain endeavor to secure an increase in their mail pay. The operating expenses of the road were, last year, $149,400. These expenses included taxes, the expense of maintaining the roadway and bridges, renewals of ties and iron, telegraph and station service, clerical service, superintendence, and the other ordinary expense of operation.

How is the service performed by this road for the Government in furnishing the mails to the people of this Congressional district?

It is performed entirely in apartment cars, which are provided by the railroad, the space set apart and fitted up in one car for a distributing post-office, in which a mail clerk travels, being 18 feet, and in another 12 feet—one-half the car in each case.

Deducting the expense of messenger service, this Pontiac railroad receives $22.50 per day for serving twenty-two towns and stations along 100 miles of road with four daily mails, or $1 per town. It provides half a car, fitted up as a post-office, in a passenger train, and carries a mail clerk in each car, who distributes 926 pounds of mail, all for $22.50 per day, while two passengers carried on each of the same trains pay $22.80 in fares. The two passengers might occupy one seat; the mails always occupy half the car, which transports the messenger as well as the mails.

Taking the country over, upon all railroads where the weight is light and mails are carried in apartment cars, in which half the car is fitted up for a post-office and a messenger is transported, the actual pay received by the road, deducting the expense for delivery to post-offices within a quarter of a mile of the station, will not exceed two full passenger fares on the same train.

The mail pay of the Pontiac road, performed in this exceptionally expensive manner, such as is not done and would not be done for any other patron, amounts to 6.54 cents per mile of service, or lower than the average pay per mile of star route service in this country.

The average pay per mile of rural free-delivery service is 10.57 cents, or 60 per cent more than the Pontiac road receives per mile for performing an altogether more valuable and expeditious and useful mail service.

Mr. SAMUEL W. SMITH. If it will not interrupt the gentleman, I would like to suggest that Mr. Bennett did not attempt to give the whole cost of the operation of the road for the year, but it was only in the case of two trains.

Mr. STEENERSON. I don't know. I don't know whether the facts sent me in this circular are correct, but I assume that they are. This railroad affords a fair illustration of the principle that I shall try to make plain—that the pay is largest per pound where the traffic is the lightest, and yet it is the least remunerative; that if there is any overpayment anywhere it is on those roads where the mail traffic is very heavy.

This is a fair sample of that misinformation that is scattered throughout the country and which we often hear even on this floor. I recollect in the last Congress I heard one gentleman speak of the fact that we paid in rent every year for R. P. O. cars more than they cost. Of course that is true, or approximately so, but we should take into consideration the fact that in an R. P. O. car weighing 100,000 pounds probably a maximum load of 10,000 pounds of mail is carried, so that there are

ten parts of dead weight to one part of live freight to be drawn and consequently the extra pay for moving that car three hundred and sixty-five days each way on a line is not unreasonable pay. But in regard to the operation of the law upon which railway mail pay is adjusted, I desire to call the attention of the House to this fact, that the gentleman from Tennessee [Mr. MOON], who deplores the fact that we are appropriating more and more money in this bill for railway service, is certainly mistaken about that being a deplorable fact. It is an evidence of health and growth. What difference does it make how much we appropriate for transportation of mail if we get an increased traffic? None at all. I desire to say in reference to a remark made by the gentleman from Tennessee [Mr. MOON]—and I will say right here that there is no man on the floor of this House for whom I entertain a higher opinion—that the increase in the appropriation is due to the growth of the transportation, and I call attention to the fact that when this great postal investigation was carried on, from 1899 to 1901, for three long years by the so-called Postal Commission, when every railway accountant of any prominence in the United States was heard, and where they employed one of the greatest experts in that branch of science that is known in the United States, Professor Adams, of the University of Michigan, professor of economics and finance and also statistician for the Interstate Commerce Commission, this subject was investigated, and the result, after a special weighing throughout the United States in 1899, arrived at was that the United States Government paid out for railway transportation proper 35 per cent of its postal receipts. That was for the year 1899.

Now, I believe those figures of Professor Adams have never been disputed, even by his critics, for I notice that Professor Newcomb, who severely criticised his figures in some respects, does not dispute that. That was at that time less, I believe, than was paid in England or in any country in Europe. I have here a table which I have prepared, showing that in the next year, 1900, that of the total receipts for postal service, without counting R. P. O. cars and special facility, the railway transportation amounted to 34½ per cent. The next year we expended 32 per cent of total receipts for railway transportation of mails. The next year it was 30⅓ per cent of the total receipts for transportation by rail. The next year, 1902, we expended 28½ per cent of the total receipts for railway mail transportation. The next year, 1903, we expended 27⅓ per cent of total receipts for railway mail transportation. In 1904 we expended 26¾ per cent, and in 1905, the last year for which there are any statistics, we expended 26 13/16 per cent. However, I do not think it is fair to figure railway mail transportation without including R. P. O. pay and special-facility pay, if there is any, because it is all paid for railway transportation. I figure that for last year, counting the whole amount of $5,000,000 for R. P. O. cars, or traveling post-offices, as they have been called, and special facility included, still the total we paid for railway transportation of mails was only 29½ per cent of the total receipts for postal service. So that we have decreased the proportion since 1899 from 35 per cent to 29 per cent, a decrease of over 6 per cent in the proportion that we pay for railway mail transportation to the total revenue from the postal service. This is a very significant fact.

Table showing percentage of railway mail pay to postal receipts.

Year.	Receipts.	Expenditures.	Railway transportation expenses, exclusive of R. P. O. and special facility.	Per cent of receipts.
1900	$102,345,579.29	$107,740,267.99	$32,993,076.00	32½
1901	111,631,193.39	115,554,920.87	33,527,333.00	30⅓
1902	121,848,047.26	124,785,697.07	34,715,864.00	28½
1903	134,224,443.24	138,784,487.97	36,720,833.00	27⅓
1904	143,582,624.34	152,362,116.70	38,556,551.62	26¾
1905	152,826,685.10	167,399,169.23	39,384,916.17	26 13/16

In 1905 the expenditure for railway transportation, including R. P. O. and special facility, was $45,061,689.57, or 29½ per cent of the total receipts.

I desire now to discuss as briefly as I possibly can the law under which this pay is allowed in order that we may understand the bearing it has upon this special-facility pay and the other questions involved. The law of 1873, as my friend from Tennessee, Judge MOON, said, was passed more than a quarter of a century ago, but the fact that it automatically operates to reduce railway mail pay in general shows that the principle upon which it is based is a sound one. When the law was passed the following were the rates, and I shall insert a copy of that provision of the law in the RECORD: Rate allowable under the act of 1873, pay per mile per annum, 200 pounds, $50; 200 to 500 pounds, $75; 500 pounds to 1,000 pounds, $100; 1,000 pounds to 1,500 pounds, $125; 1,500 pounds to 2,000 pounds, $150; 2,000 pounds to 3,500 pounds, $175; 3,500 pounds to 5,000 pounds, $200; for every additional 2,000 pounds over 5,000 pounds, $25.

Mr. MURDOCK. Why did the sliding scale stop at 5,000 pounds?

Mr. STEENERSON. I will explain my views upon that subject in due time. It is a very pertinent question.

Mr. SIBLEY. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. STEENERSON. Yes.

Mr. SIBLEY. The gentleman gives this table. Of course he recognizes the fact that that was modified by the act of 1878.

Mr. STEENERSON. Oh, I will say that I will explain that in a moment.

Mr. MURDOCK. Well, while the gentleman is elucidating that, I wish he would keep in mind that the New York Central in 1874 had an average daily weight of 32,000 pounds. It has to-day an average daily weight of 411,000 pounds.

Mr. STEENERSON. I will come to that, and I am very glad the gentleman reminds me of it, because it is possible to forget it, although it is the very essence of my argument. I would say that these roads were reduced by the act of——

Mr. COOPER of Wisconsin. Will the gentleman just permit one question?

Mr. STEENERSON. Certainly.

Mr. COOPER of Wisconsin. The gentleman from Minnesota said that by the act of 1873 the Government was to pay $50 for 200 pounds. What does that mean?

Mr. STEENERSON. I will explain. It means the average weight of mail per day carried over the whole length of route. Now, suppose that the route is 50 miles long and you carry that mail over that route out and back.

Mr. COOPER of Wisconsin. Two hundred pounds.

Mr. STEENERSON. Two hundred pounds, up to two hundred, a hundred and ninety-nine, or a hundred and fifty. If you carry that mail both ways going and coming for three hundred and sixty-five days in the year, every day in the year, you are allowed $50, which I will say will amount to something like $2 per ton per mile.

Mr. FINLEY. Will the gentleman yield?

Mr. STEENERSON. Yes.

Mr. FINLEY. Right there in that connection will the gentleman state about what is the average distance which mail is carried?

Mr. STEENERSON. I have it on some papers in connection with another part of my argument, but if the gentleman will inform me I will be glad to state it now.

Mr. FINLEY. I am not sure that I can inform the gentleman from Minnesota, but I think it is about 428 miles.

Mr. STEENERSON. The gentleman from Wisconsin asked this question: What does that $50 mean? To earn that $50 I say you have to carry mail outward and back every day in the year. It means 730 times over that route.

Mr. COOPER of Wisconsin. Does that mean 200 pounds out and 200 back for $50 a year?

Mr. STEENERSON. Certainly; it is per ton per mile—it is ton mileage.

Mr. COOPER of Wisconsin. That was the privilege of the people, to carry that amount of mail for that money; but suppose, on certain particular roads out in the country, they did not average 10 pounds or 15 pounds a day instead of 200 pounds?

Mr. STEENERSON. The same rate of pay per pound would apply where you carry 10 pounds a day. It was reduced by the act of 1876 10 per cent, and by the act of 1878 it was reduced horizontally 5 per cent, but now——

Mr. COOPER of Wisconsin. What was the rate per ton per mile?

Mr. STEENERSON. I will tell you the rate per ton per mile. At the reduction of 15 and 10 per cent made by those two acts it was figured out——

Mr. LLOYD rose.

Mr. STEENERSON. Just excuse me a moment. It was figured out, and it made 171 cents per ton per mile. That is the highest rate for transportation of mail that is paid in the United States. Then, where the weight is more than 200 pounds, on this sliding scale, as you will observe, decreases the per ton mail rate until you reach an absolute quantity—that is, about 5.8 cents per ton per mile. Now I yield to the gentleman from Missouri.

Mr. LLOYD. In your statement a moment ago I understood you to say if they carried 199 pounds out and 199 pounds back they would get paid for carrying 199 pounds. Is it not a fact they would get paid for carrying twice 199 pounds, or 398 pounds?

Mr. STEENERSON. No; you get paid for the average weight over the whole route.

Mr. LLOYD. You get pay by adding the average mail carried out and the average amount of mail carried back?

Mr. STEENERSON. Yes; but you must understand it is as far going as coming. You may have a ton of mail, and it makes no difference whether you move it forward or back, it is ton-mileage rate.

Mr. McCLEARY of Minnesota. May I interrupt the gentleman?

The CHAIRMAN. Does the gentleman yield to his colleague?

Mr. STEENERSON. I yield.

Mr. McCLEARY of Minnesota. In your illustration in answer to the gentleman from Wisconsin a moment ago you used a route of 50 miles long. Suppose the route was 250 miles long; how would that affect your answer to the gentleman from Wisconsin?

Mr. STEENERSON. It has absolutely no effect whatever what the length of the route may be. The principle of this compensation under this act of 1873 operates equally so far as the length of route is concerned. The route is fixed by the Department for convenience in computation and in pay and for other facilities.

Mr. SAMUEL W. SMITH. Will the gentleman yield?

Mr. STEENERSON. Certainly.

Mr. SAMUEL W. SMITH. Can you tell what is the average price per pound for carrying the mail?

Mr. STEENERSON. The average per ton per mile?

Mr. SAMUEL W. SMITH. No; the average per pound.

Mr. STEENERSON. Yes; but that is so small I can not see that fraction, but I can tell you what it was in 1899, according to the statistician. It was figured out to be 12½ cents per ton per mile—that is, moving a ton of mail. That mail is costing to-day on an average of probably 10½ cents, but no man living could tell what the pay on the different roads would be unless you take it up, figure out the total number of pounds, and divide it by the amount paid.

Mr. SAMUEL W. SMITH. That is 12½ cents.

Mr. STEENERSON. Yes. That is the average given by Professor Adams for 1899.

Mr. SAMUEL W. SMITH. How would that compare with the freight rates of the country?

Mr. STEENERSON. The freight rates of the country were then about 1.29 cents.

Mr. SAMUEL W. SMITH. Now, do you think that difference is fair?

Mr. STEENERSON. I am not arguing in favor of placing the railway-mail pay on the same basis as paid for freight, although I am in favor of and, as I will show before I get through, I might perhaps be willing to reduce the railway-mail pay. I do not think it would be fair to require the railroads to carry the mail for the same price as is paid for freight on freight trains.

Mr. SAMUEL W. SMITH. Do you not think that is too wide—between that and 12½ cents per ton?

Mr. STEENERSON. That difference does not exist now; because of the density of the population and greater mail traffic the rate per ton per mile has decreased, and it is approaching about 10 cents now. The 12½ rate was in 1899. By the operation of the law of 1873 the rate has automatically gone down with the increase in density of mail.

Mr. SAMUEL W. SMITH. Is it not true under your statement that a cent per ton is too much on freight and that it is about five-eights of a cent?

Mr. STEENERSON. No; the gentleman is mistaken; the lowest freight rate per ton is seventy-two one-hundredths of a cent.

Mr. SAMUEL W. SMITH. I think that is correct. It is seventy-two one-hundredths of a cent.

Mr. STEENERSON. I think it is about seventy-five one-hundredths. The gentleman from Wisconsin [Mr. COOPER] knows.

Mr. COOPER of Wisconsin. About seventy-two one hundredths.

Mr. STEENERSON. That was in 1902, when you introduced your bill, and by reason of raising the classification in the country, the freight rate is now seventy-four one-hundredths of a cent.

Mr. FINLEY. I will call the gentleman's attention to this fact for information, that in the last few years there has been a slight increase in freight rates, and my recollection is that it is now about seventy-nine one-hundredths or seventy-eight one-hundredths.

Mr. STEENERSON. Yes; I believe there has been; but it is less than a cent per ton per mile for freight, and we pay the lowest rate on mail that we ever did. We pay 6 cents per ton per mile on the densest route, such as the New York Central. And it is impossible, I would say to the gentleman from Kansas [Mr. MURDOCK], to get a lower rate until we amend the law of 1873, and I will show later on in my argument the reason for that.

Mr. SAMUEL W. SMITH. Is it not a fact that the average passenger rate per mile is under 2 cents?

Mr. STEENERSON. I think it is less than 2 cents per mile, but I do not see what that has got to do with the exact question we are now discussing.

Now, I desire to call the attention of the House to the fundamental principles of this matter. I want to call attention to the fact that we have three kinds of compensation for transporting the mails. First, we have the law of 1873. The estimate in 1900 was that we paid on an average 12½ cents per ton per mile, and the lowest possible rate was 5.8 cents per ton per mile, according to the density of traffic. We have in addition to that pay for R. P. O. cars—railway post-offices, so called—and they are post-offices. The usual car to-day is 60 feet long and the weight 100,000 pounds. There is some dispute about its capacity. The supposed usual load is 10,000 pounds. That is 5 tons, and that is the heaviest load for the heaviest car. Ten thousand pounds out of 100,000 pounds is as ten to one, so that they are hauling very much less than their own weight. The freight car only carries about half as much dead weight as it carries freight. I think the 60,000-pound car—that is, 30-ton car—only weighs about 15 tons, so it carries twice as much as its own weight, whereas the R. P. O. car carries about one-tenth of its own weight. So, consequently, we can not expect the railroad companies will haul them at great speed around the country for the purpose of enabling the postal service to distribute the mail in them without a just compensation. We must remember that in these R. P. O. cars there is at least half of the space occupied by furniture and space for the clerks to distribute the mails. It is a moving post-office, where men are engaged distributing to the different places, and also to the different routes in the cities and the rural post-offices. That gives us expedition in the mails and is a great facility, and that is the function of our R. P. O. cars. For that reason Congress provided that for the 40-foot car we should pay $25 per mile per year.

Mr. SAMUEL W. SMITH. And is it not a fact that when that law was passed there was not a 60-foot car in Government use?

Mr. STEENERSON. I do not know. The R. P. O. pay for a 45-foot car is $25 per mile per year, and the R. P. O. pay for a 55 to 60 foot car is $50 per mile per year. I will insert the table furnished by the Post-Office Department:

Rates allowable per mile, per annum, for use of R. P. O. cars when authorized.

	Per daily line.
R. P. O. cars, 40 feet	$25
R. P. O. cars, 45 feet	30
R. P. O. cars, 50 feet	40
R. P. O. cars, 55–60 feet	50

To constitute a "line" of railway post-office cars between given points, sufficient R. P. O. cars must be provided and run to make a trip daily each way between those points.

SEC. 4002. The Postmaster-General is authorized and directed to readjust the compensation hereafter to be paid for the transportation of mails on railroad routes upon the conditions and at the rates hereinafter mentioned:

First. That the mails shall be conveyed with due frequency and speed; and that sufficient and suitable room, fixtures, and furniture in a car or apartment properly lighted and warmed, shall be provided for route agents to accompany and distribute the mails.

Second. That the pay per mile per annum shall not exceed the following rates, namely: On routes carrying their whole length an average weight of mails per day of 200 pounds, $50; 500 pounds, $75; 1,000 pounds, $100; 1,500 pounds, $125; 2,000 pounds, $150; 3,500 pounds, $175; 5,000 pounds, $200, and $25 additional for every additional 2,000 pounds; the average weight to be ascertained, in every case, by the actual weighing of the mails for such a number of successive working days, not less than thirty, at such times after June 30, 1873, and not less frequently than once in every four years, and the result to be stated and verified in such form and manner as the Postmaster-General may direct. (Act of March 3, 1873.)

No pay is allowed for apartments or space in baggage cars.

Mr. MURDOCK. I realize how carefully the gentleman has gone into this subject, and for information I should like to know if he has found out any reason why we should pay $25 per year for a 40-foot car and $50 per year, or double that amount, for a 55-foot car—namely, an increase of 15 feet in length, while we double the pay.

Mr. STEENERSON. I do not think there is any good reason. I think that the adjustment of railway mail pay is in that particular defective, and I say, further, I see no reason, if they pay $50 per mile per year for a 55-foot car, why they should not pay something for the compartment on a light route, where the Government does not pay a cent except for the weight and where the pay is very much less in proportion to the cost of the service. However, I mention this to show you that in al-

lowing extra pay per mile for R. P. O. cars we are paying the railroad companies for furnishing that space, and when we have paid it once I believe that is enough. Now, there are two kinds of pay, as we have seen so far: On a route that carries no R. P. O. cars, where they either carry the mail in the baggage car or have it in a compartment, there is no pay except the weight pay—the ton-mile pay. Where they furnish these palatial so-called "R. P. O. cars," there is this other pay that I have referred to.

Mr. SAMUEL W. SMITH. In the case of the R. P. O. car we are now paying both for the use of the car and per ton besides, are we not?

Mr. STEENERSON. We certainly are.

Mr. SAMUEL W. SMITH. Do you think that is right?

Mr. STEENERSON. I will explain to you why I think it ought to be changed; but I think the principle is correct, and that is all I am discussing now. When, for the dispatch of the mail, we require a large car, weighing ten times or twenty times as much as the load it carries, I think we ought to allow extra pay for doing that, and we have done it amply in the R. P. O. car pay.

But in addition to this, on one route from Washington to New Orleans we also allow $142,000 extra. That is extra pay in addition to these two kinds of pay that I have mentioned, and on the Atchison, Topeka and Santa Fe between Kansas City, Mo., and Newton, Kans., we allow $25,000 a year for the same purpose; so those two lines are getting three kinds of pay—three times over again, so to speak—whereas the other railroads in the country—the stepchildren, if I may so call them—only get one kind of pay, to wit, the per ton per mile rate.

Now, when we understand the principles upon which the law of 1873 was framed, I think we can also understand its limitations. The law of 1873 as amended (and, of course, the amendments cut no figure except that they reduce horizontally the amount of pay) was based upon this principle, that if you increase the density of the traffic you must decrease the compensation. It is based upon the well-known economic law of increasing returns. I believe the economists lay down the principle. There is a law of increasing returns, a law of constant returns, and a law of decreasing returns—that is to say, where you have a certain amount of fixed capital invested in any kind of business you may increase the business without increasing the expenses materially, and therefore you have increased returns. For instance——

Mr. COOPER of Wisconsin. Will the gentleman permit a question?

Mr. STEENERSON. Yes.

Mr. COOPER of Wisconsin. What is the total amount paid annually by the Government of the United States for the transportation of the mails?

Mr. STEENERSON. We have not got the figures for 1906, because we have not paid it all out yet. It will end next June.

Mr. COOPER of Wisconsin. What was the amount for the previous year?

Mr. STEENERSON. I can tell you the amount for 1905. The railway mail pay was $39,384,916, but if we include the R. P. O. pay and the special facilities pay it was $45,000,000.

Mr. COOPER of Wisconsin. The appropriation was $39,000,000.

Mr. STEENERSON. No; it was $39,000,000 without counting the R. P. O. pay and without counting the special facilities pay. To be exact, the expenditure for railway transportation of mail was $39,384,916.17. For R. P. O. cars it was $5,509,044.65.

Mr. COOPER of Wisconsin. Will the gentleman permit one more question?

Mr. STEENERSON. Certainly.

Mr. COOPER of Wisconsin. Thirty-nine million dollars represents 5 per cent on $780,000,000. Now——

Mr. STEENERSON. I decline to yield for the purpose of computation.

Mr. COOPER of Wisconsin. No; but does not the gentleman think it would be better for the United States to build and own its own postal cars and pay the railroads for hauling them? Would it not be more economical? I cite these figures to show the proper force of this question. Thirty-nine million dollars is 5 per cent on $780,000,000. It would not cost anywhere near that to make the postal cars that we need.

Mr. STEENERSON. I beg the gentleman's pardon. That question does not have any bearing upon what I was saying.

Mr. COOPER of Wisconsin. Suppose the United States was to build and own the postal cars; we could get them for very much less than the $45,000,000.

Mr. STEENERSON. I will state to the gentleman, with all due respect, that he is on the wrong track if he wants to reduce the cost of transporting the mail in that way, because if the Government owned the cars it would be more expensive than it is now. The way to reduce the cost of transportation is not in Government ownership of mail cars, unless the Government owns the railroads as well, in my opinion.

Now, Mr. Chairman, I desire to go on and explain the principle upon which the law is founded. I said that this law of increased returns could be well illustrated with a man having a hotel and running a bus. If he only carries one passenger from the depot to the hotel, it costs just as much as if he carries ten. The wear and tear on the tugs and the cost of axle grease would amount to but very little, but if he increased that load so as to fill his bus it may be that there is a limit. As long as he increases it to a proper load the law of increased returns without further investment applies. But the minute he increases the load so much that the horses have to stop and rest and it takes a longer time and it comes to be better that he have two rigs to carry the load, then he reaches the limit of the law of constant returns; and if he breaks down by too heavy loading, he soon reaches the law of decreased returns, so it would be better to furnish a new rig.

Now, the underlying principle of this law of 1873 is based upon this economic law, which has more application to transportation than to any other business. Congress sought to do justice in this regard. You will observe that under this law of 1873 the rate per pound per mile is twenty times greater where the weight of the mail is 200 pounds and under, and that the lowest rate is only 5.8 per ton per mile where it is over 5,000 pounds. But you will observe, gentlemen, that under this table the operation of this law stops at 5,000 pounds, as the gentleman from Kansas [Mr. MURDOCK] suggested a while ago.

Now, is there any reason for that? None has ever been discovered. If the law of constant returns could be arrived at or reached at 5,000 pounds, then there would be reason for stopping there; but even a novice in the principles governing the business of transportation will know that it is cheaper to carry 10,000 pounds in a load on a train, proportionately, than 5,000 pounds, and that you can not carry on an ordinary train even in postal cars 20,000 pounds without materially decreasing the expense of transportation. So that the defect in the law of 1873 is not that it allows too much pay for the light route, like the one in Michigan I referred to, but that it allows no reduction where the tonnage is heaviest, where the density of the traffic is great.

Now, I desire to follow this up with a brief reference to the so-called Postal Commission of 1898. That Commission was created by statute and was composed of members of the Senate and House. They asked for an extension of time; they took testimony all over the United States and sent one man to Europe to investigate postal conditions. They printed their testimony in three volumes; they employed Professor Adams, an expert, who rendered a very able report. Then they came to this conclusion—the majority of them joined in that report—that "we conclude that the charges for railway mail transportation are not excessive," and that is all that it amounted to; that they were not excessive. They never discussed the question as to whether or not it was fair to the light routes, fair or sufficient to the road where the density of traffic was greatest. They never sought to consider the question of equality of compensation in proportion to the cost of the service.

One of the gentlemen, a member of that Commission, was Mr. Moody, a Representative from the State of Massachusetts in this House, the present Attorney-General of the United States. He made a separate report, and I want to call the attention of the House to that report so far as it concerns the crucial question in this case. It should be remembered that the railway accountants and experts had testified quite universally that the maximum load upon the R. P. O. cars was 2 tons, or 4,000 pounds, and that the dead weight was even more than was compensated for by the R. P. O. special pay, and that therefore it could not be reduced. Now, the Department officials testified that 3½ tons was an easy load for an R. P. O. on an average, and that they have loaded as high as 5 tons. It further appears in testimony, which was ignored by that Commission, that some mail was carried on storage cars in these routes where the mail was carried by special train. Now, Professor Adams, after having spent months in figuring out the cost of the service, comparing it with freight traffic, with passenger traffic, and with express traffic, came to this conclusion: that if the load could be increased or actually had increased—that is, the average—then the pay on the dense routes was too much. I would say that the gentleman who made another report, Mr. Loud, went off on an idea of his own about discarding weight pay entirely and paying for space, and as that is so unusual an idea and confined to himself, so far as I know, it is not necessary to pay any attention to it. It would result in having large cars with nothing in them.

I desire to read somewhat from the report of Mr. Moody. You will observe that the report made by Mr. Moody reviews the evidence of Mr. Adams and he says that the whole question turns upon the size of the load, so that under the operation of the economic law of transportation of increasing returns they carry it very much cheaper if they carry 3½ tons per car than if they carry 2 tons per car.

Mr. FINLEY. Mr. Chairman, will the gentleman permit an inquiry?

The CHAIRMAN. Does the gentleman yield?

Mr. STEENERSON. Certainly.

Mr. FINLEY. Right in that connection, does not the gentleman think that it is a matter of administration in the hands of the Department if the loads are lighter than they should be?

Mr. STEENERSON. Oh, no; not at all. The gentleman is entirely mistaken, as I shall show in a little while. The Department does not control the load.

Mr. FINLEY. Would it not control it in this sense, in providing more in the way of R. P. O. lines than was necessary?

Mr. STEENERSON. They never get any more R. P. O. cars than they need, because that question has to do with the dispatch of the mail, and the American people desire to have their mail fast. The dispatch of the mail is the controlling question.

Mr. FINLEY. If an R. P. O. car is only half loaded—has half as much mail as it should carry—then does not that increase the cost and expense to the Government?

Mr. STEENERSON. No; I should say not; not railway mail pay. I desire now to read an extract from the report of Mr. Moody, and I ought to say first that Mr. Adams recommended a reduction in railway mail pay under the law of 1873. It is as follows:

Some attention must now be directed to the report of Mr. Adams, and the recommendations which it contains. The existing law prescribing railway mail pay automatically lowers the rate on any given route as the volume of traffic increases. Mr. Adams shows that by the normal effect of this law the rate per ton per mile is $1.17 when the average daily weight of mail is 200 pounds, and, decreasing with the increase of volume, it becomes 6.073 cents when the average daily weight is 300,000 pounds. Under the operations of this law the average rate per ton per mile has decreased from 26.42 cents in 1873 to 12.567 cents in 1898. Beginning with 1880, the first year in which all the statistics are available for comparison, passenger rates have decreased 21 per cent, freight rates 44 per cent, and mail rates 39 per cent. This would seem satisfactory were it not for the facts that during the same period the passenger mileage of passengers increased 233 per cent, the ton mileage of freight 353 per cent, and the ton mileage of mail 579 per cent, and that there had resulted large concentrations of mail on certain routes.

Applying to these facts the fundamental law of transportation, that the cost per unit of transportation decreases as the density of the traffic increases, Mr. Adams declares that they indicate that there should have been a decidedly greater fall in mail than in passenger or freight rates. He is led at once to the inquiry whether the rates upon the routes where there is the greatest concentration of mail are not excessive. The rule of transportation invoked is based upon the assumption that the increase of traffic permits the introduction of increased economy, and notably the economy which results in so loading cars that the ratio of dead weight to paying freight is decreased.

Yet this economy is precisely what our method of transporting mail denies to the railroads. Instead of permitting the mail cars, whether apartment or full postal cars, to be loaded to their full capacity, the Government demands that the cars shall be lightly loaded, so that there may be ample space for the sorting and distribution of mail en route. In other words, instead of a freight car, we exact a traveling post-office. The modern 60-foot postal car weighs from 80,000 to 100,000 pounds. It is clear that if but 2 tons of mail are carried upon it, all the economies which result from densities of traffic upon the route are lost. This is true, although the extra pay for running the postal car is about equal to the pay for a ton of mail.

Mr. Adams recognizes clearly the effect of these facts working against the normal operation of the fundamental law of transportation under consideration. He is apparently of the opinion that if the facts are as they are claimed to be, namely, that on an average but 2 tons of mail are loaded on a postal car, and apartment cars are loaded in like proportion, the pay ought not to be reduced. Nevertheless, with this concession, he recommends a reduction of pay on the dense routes by extending the principles of the existing law, so that all routes carrying in excess of 5,000 pounds per day shall be subjected to a progressive reduction of from 1 to 12 per cent. This would effect a saving of something over a million dollars per annum. It has been suggested that there is an inconsistency between the opinion and the recommendation. I am anxious not to misrepresent Mr. Adams's views and conscious that I may do so. But, as I understand them, there is no inconsistency. He makes the recommendation in spite of the opinion, because he is unwilling to accept without further inquiry the hypothesis in respect to the loading of cars which has been pressed upon us. He is also unwilling to accept without further inquiry the present method of loading as a finality.

Now, if the Chairman pleases, the whole turning point is here. If the load of the R. P. O. car or carload was as estimated by the railway officials, then the pay is not too great. Now, I desire to read from Mr. Adams's figures as to the result.

He compares the express and mail business on the New York Central between New York and Buffalo, a distance of 439 miles, with the following results:

Railway charge for a ton of mail	$31.73
Railway charge for a ton of express	12.50
Railway charge for 100 pounds of mail	1.586
Railway charge for 100 pounds of express	.625
Railway charge per ton per mile for mail	.0723
Railway charge per ton per mile for express	.0285
Railway earnings per annum for 125 tons of mail daily	1,447,840.41
Railway earnings per annum for 125 tons of express daily	570,312.50
Railway earnings per annum per mile of line for 125 tons of mail daily	3,298.04
Railway earnings per annum per mile of line from 125 tons of express daily	1,299.12

My judgment is that the application of the statute of 1873 to the present conditions under which mail is carried results in overpayment upon the dense routes.

This conclusion is reached by a comparison of mail compensation upon any route exceeding 150 or 200 miles with railway compensation for carrying express matter or first-class freight.

In this comparison the railway has been allowed 50 per cent of the total charge for express instead of 40 per cent, which is the contract rate. It is further shown in the report that the Pennsylvania Railroad carried daily an average weight per mile of 300,000 pounds of mail, or 150 tons, and received an annual compensation of $3,422 per mile of line. The question arises, Can the Pennsylvania Railroad afford to carry the mail between New York and Philadelphia for less than $3,422 per mile of line, or $93.75 per mile of line per day? The answer depends primarily upon the manner in which the freight is to be moved. If we assume that this mail is to be carried by postal cars, with about 2 tons in each, it is doubtful if the railroad could afford to render the services more cheaply; but, on the other hand, should the cars be loaded with, let us say, 3½ tons of mail, the railroad company operates on a margin of profit that warrants a reduction of pay. The calculation upon which the above conclusions rest is as follows: At 2 tons per car, 150 tons of mail demand that seventy-eight cars be passed over each mile of this route daily. Seventy-eight cars would make eight trains.

"The average cost per train mile, all operating expenses being taken into account on all trains, is a little under $1, but we will call it $1. The New York Central gives the rate per passenger train per mile at 73 cents. This would make $8 per mile per day chargeable to operating expenses. If to this were added 33 per cent for fixed charges and dividends, improvements chargeable to income, investments and the like, we should have $10.40 per mile, which multiplied by 365 would give us $3,796 per mile per year from mail service. This you will notice is in excess of the amount which this route actually receives. If now the assumption be changed and each car be loaded with 3½ tons instead of 2 tons of mail, a similar computation shows by the rate we expend for this mail service an annual sum per mile of line of $2,427.25. Were it possible to load 5 tons to a car the expense would be $1,533 per mile of line."

A careful examination of the testimony produced before the Postal Commission, as well as of Professor Adams and the other witnesses, including Department officials, does not justify the conclusion that the maximum load of mail in a postal car is only 2 tons.

The CHAIRMAN. The time of the gentleman has expired.

Mr. OVERSTREET. May I ask my colleague if he would like a few minutes more?

Mr. STEENERSON. I would like to have a few minutes more.

Mr. OVERSTREET. I yield fifteen minutes more time to the gentleman.

Mr. STEENERSON. I thank you. Now, the Department officials testified before the Postal Commission that the load of 3½ tons was an easy load, and Mr. Adams was aware that experts of the railroads testified it was 2 tons, and the Postal Commission decided, I presume on the weight of the evidence, that it was 2 tons, and Mr. Moody, in this report I have read, agreed that there ought to be further inquiry on that point, as Mr. Adams recommended, and agreed that a further investigation of that question should be made. We took pains before the Post-Office Committee to inquire as to the load, but we got no special satisfaction out of the Department officials. They stated before the Post-Office Committee that the weights and loads were not kept separately and they would try to furnish the information later, but it does not appear in the bound copy here.

Mr. SAMUEL W. SMITH. Mr. Chairman, I would like to ask the gentleman, has the Post-Office Committee sought to carry out the recommendations of the Commission to which the gentleman referred?

Mr. STEENERSON. I should say Congress had sought to carry out the recommendations of the Commission, because the Commission recommended that nothing be done. They said the railway mail pay was not excessive.

Mr. SAMUEL W. SMITH. You do not claim that by the various reports.

Mr. STEENERSON. That is not unanimous, but it is the

report of the majority of the Postal Commission, with only one member reporting in favor of a reduction. I say the evidence before them would have justified, if not required, a report that the pay upon the dense route was excessive, and they should have made a recommendation that it should be reduced. I think the evidence now before us justifies us in amending the law, as I shall suggest. Now, I was so anxious to have this House understand this point that I sent down to the Post-Office Department and asked them, since they had not furnished the committee with the information they promised, if they would not from the weigh sheets give us the information on that point as to what the load in the postal car was, and I got a letter yesterday from the Second Assistant Postmaster-General, which I desire to have the Clerk read in my time.

The CHAIRMAN. The Clerk will report the letter.

The Clerk read as follows:

POST-OFFICE DEPARTMENT,
SECOND ASSISTANT POSTMASTER-GENERAL,
RAILWAY MAIL SERVICE,
Washington, April 4, 1906.

Hon. HALVOR STEENERSON,
House of Representatives, Washington, D. C.

SIR: Replying to your several inquiries in regard to the relative weight of mails carried in storage cars and distributing cars on exclusive mail trains, I regret that we can not give you just the information you call for, because in weighing mails we have never kept the weight carried in a storage car separate and apart from that carried in a distributing car on the same train, nor would it be practicable, as mail is being constantly shifted from one car to another in the process of distribution.

Taking all of the trains that carry storage cars as well as distributing cars on what might be termed "exclusive mail trains"—although that term is to some extent a misnomer, because there are probably not more than two or three trains in the country that are made up exclusively of mail cars, there being usually one or more express or baggage cars, or possibly a passenger car or sleeper—we find that on such trains we have forty-eight distributing cars as against twenty-six storage cars. The weight of mail carried in storage cars, as well as in distributing cars, fluctuates very much. We recently had a report showing that 47,000 pounds was carried in a storage car, but the average weight will probably run from 20,000 to 30,000 pounds. The average amount carried in a distributing car will probably run from 5,000 to 8,000 pounds.

On the transcontinental trains, as well as all other through trains, the mail in the storage car does not, as a rule, go through intact from one end to the other. It is usually distributed en route, the undistributed mail being taken from the storage car into the distributing car to be worked, its place in the storage car being taken by through mail that has already been distributed.

Very respectfully,
W. S. SHALLENBERGER,
Second Assistant Postmaster-General.

Mr. STEENERSON. Now, it will be seen that the question of the load is materially affected by whether or not they are carrying mail on storage cars, because a storage car's ordinary capacity is 45,000 pounds, or 22½ tons. If they carry two storage cars and three R. P. O. cars in a train, the average carload would be increased to at least 5 tons instead of 3½ tons, which would justify a reduction on such a route of more than 50 per cent on railway mail pay. If we assume that this mail is to be carried in postal cars of about 2 tons each it is doubtful if the railroad could afford to render the service any more cheaply. On the other hand, should the cars be loaded, let us say, with 3½ tons as an average load, the railway company operates on a margin of profit of more than 100 per cent, and that warrants a reduction in pay.

Mr. SMALL. May I interrupt the gentleman?

Mr. STEENERSON. Yes.

Mr. SMALL. I understand the gentleman to say that in his opinion the charges for railroad transportation are not excessive upon small roads or where the amount of mail matter carried is comparatively small in quantity?

Mr. STEENERSON. I do not think it is excessive on light routes where they carry mail in apartment cars and baggage cars, but excessive where they have special mail trains, and I can prove it.

Mr. SMALL. Where the amount of mail carried is large in quantity?

Mr. STEENERSON. Yes; it is all regulated by the density.

Mr. SMALL. The remedy you have would be in a horizontal reduction in rates?

Mr. STEENERSON. No, sir.

Mr. SMALL. Then what remedy has the gentleman to offer?

Mr. STEENERSON. The remedy is, instead of stopping reduction at the 5,000 pounds, as is now the law, I would carry on the reduction to the load of 15,000, 20,000, 60,000, 150,000, and 300,000 pounds. If you extend the operation of this law so that the pay is reduced as weight increases, in proportion to the increase in the density of traffic, you will arrive at a just rate for carrying the mail. Professor Adams recognized this, and pointed it out in his report as follows:

> In the appendix to this report will be found a computation showing the normal effect of the law of 1873, as influenced by a constantly increasing amount of mail traffic. It begins with an average daily weight of mail of 200 pounds, which is the smallest amount specifically provided for in the law, and carries the computation to an average daily weight of 300,000, which is a little less than the weight carried in the railway mail system as at present operated. The summary shows the rate per ton per mile, as also the pay per mile of route per annum, for a series of assumed weights between the two extremes named. Thus the rate per ton per mile, for a mail route with an average daily weight of 200 pounds, is $1.17; the rate per ton per mile of mail for a mail route with an average daily weight of 300,000 pounds is 6.073. These weights, it should be remembered, are exclusive of the amount charged as payment for postal cars. The pay per mile of route per annum over a road carrying 200 pounds of mail daily is $42.75. The pay per mile per annum over a route carrying 300,000 pounds daily is $3,325.12. These statements indicate the broad margin over which the law operates. This summary is of great assistance in the study of the problem of railway mail pay, because it shows at a glance the rate per ton per mile paid, as well as the pay per mile of route, for any assumed weight. The actual rate paid under the law can never drop below $5.856, no matter how great an increase in the weight of the mail carried. The curve of pay under the law on the diagram will be found in the appendix, and is a parabolic curve; it ever approaches but can never reach the base of rate. To criticise the law before ascertaining the conditions under which it works will be premature, but it may be remarked that the above statement of the law prepares one for the conclusion that it too quickly reaches the limit of any practicable reduction of the rate for increase in the volume of traffic. It may have fitted well into the conditions which existed in 1873, but it needs to be revised in order to properly adjust itself to the conditions of the present time.

Summary showing rate per ton and revenue per mile under the law of 1873.

Average weight of mail carried over entire route per day.	Rate per ton-mile of mail.	Pay per mile of route per annum.	Average weight of mail carried over entire route per day.	Rate per ton-mile of mail.	Pay per mile of route per annum.	Average weight of mail carried over entire route per day.	Rate per ton-mile of mail.	Pay per mile of route per annum.
Pounds.			*Pounds.*			*Pounds.*		
200	$1.17123	*$42.75*	2,400	$0.30651	$134.25	20,000	$0.09113	$332.62½
250	1.02466	46.75	2,500	.29863	136.25	21,000	.08924	342.00
300	.92694	50.75	2,600	.29136	138.25	22,000	.08817	354.00
350	.85714	54.75	2,700	.28490	139.25	23,000	.08657	363.37½
400	.80479	58.75	2,800	.27642	141.25	24,000	.08570	375.37½
450	.76408	62.75	2,900	.27067	143.25	25,000	.08433	384.75
500	.70274	*64.12½*	3,000	.26347	144.25	30,000	.08027	439.50
550	.65878	66.12½	*3,500*	.23425	*159.62½*	35,000	.07697	491.62½
600	.63128	69.12½	4,000	.21592	157.62½	40,000	.07485	546.37½
650	.59958	71.12½	4,500	.20167	165.62½	45,000	.07288	598.50
700	.58023	74.12½	*5,000*	.18740	*171.00*	50,000	.07159	653.25
750	.55616	76.12½	5,500	.17634	177.00	55,000	.07027	705.37½
800	.54195	79.12½	6,000	.16712	183.00	60,000	.06942	760.12½
850	.52297	81.12½	6,500	.15933	189.00	65,000	.06847	812.25
900	.51218	84.12½	7,000	.15059	192.37½	70,000	.06787	867.00
950	.49315	85.50	7,500	.14493	198.37½	75,000	.06715	919.12½
1,000	.46849	*85.50*	8,000	.13938	204.37½	80,000	.06670	973.87½
1,100	.45081	90.50	8,500	.13562	210.37½	85,000	.06614	1,026.00
1,200	.43607	95.50	9,000	.13014	213.75	90,000	.06580	1,080.75
1,300	.42300	100.50	9,500	.12675	219.75	95,000	.06534	1,132.87½
1,400	.41202	105.50	10,000	.12370	225.75	100,000	.06508	1,187.62½
1,500	.38041	*106.87½*	11,000	.11712	235.12½	125,000	.06372	1,453.50
1,600	.38313	111.87½	12,000	.11284	247.12½	150,000	.06290	1,722.00
1,700	.37671	116.87½	13,000	.10811	256.50	175,000	.06224	1,987.87½
1,800	.37100	121.87½	14,000	.10509	268.50	200,000	.06182	2,256.37½
1,900	.36590	126.87½	15,000	.10151	277.87½	225,000	.06142	2,522.25
2,000	.35137	*128.25*	16,000	.09827	289.87½	250,000	.06117	2,790.75
2,100	.33725	129.25	17,000	.09645	299.25	275,000	.06063	(56.62½)
2,200	.32690	131.25	18,000	.09475	311.25	300,000	.06033	3,325.12½
2,300	.31745	133.25	19,000	.09247	320.62½	Limit.	.05856	.....

NOTE.—The average weights and amounts of pay per mile per annum in italic figures are explicitly prescribed in the laws mentioned; the others are computed from these according to the weights prescribed by the Postmaster-General as warranting the addition of $1 to the annual pay per mile, these weights being 12 pounds where the daily average weight of mail is between 200 and 500 pounds, 20 pounds where the daily average weight of mail is between 500 and 1,000 pounds, 20 pounds where the daily average weight of mail is between 1,000 and 1,500 pounds, 20 pounds where the daily average weight of mail is between 1,500 and 2,000 pounds, 60 pounds where the daily average weight of mail is between 2,000 and 3,500 pounds, 60 pounds where the daily average weight of mail is between 3,500 and 5,000 pounds, 80 pounds where the daily average weight of mail is above 5,000 pounds. Amounts not warranting the addition of an entire dollar are neglected.

The laws prescribe that for each additional 2,000 pounds above 5,000 pounds there shall be paid $21.37½ per mile of route per annum.

I have already referred to the report of the Postal Commission on the general subject of railway mail pay, but the report also considers special-facility pay, and six out of eight members of that Commission, including Senators WOLCOTT, ALLISON, and Chandler and Representatives Moody, Loud, and Fleming, are unanimously opposed to special-facility pay and recommend its discontinuance. Senator MARTIN and ex-Representative Catchings disagree upon the ground that there was discretion in the Postmaster-General to expend it or not, but they do not attempt to justify it. Postmaster-General Wanamaker, as long as November 30, 1891, declined to include this in his budget for the following year, the reason given being that such an appropriation was not necessary and created dissatisfaction upon the part of other roads not receiving the benefits. Again on February 25, 1892, Postmaster-General Wanamaker, in a letter to the chairman of the Committee on Post-Offices and Post-Roads, stated:

> The continuance of special-facility allowance has for some years past been a source of much annoyance to the Department, and has

hampered the best interests of the mail service, because railroads operating in contiguous territory, and to some extent paralleling the roads which receive the extra pay, object to rendering equally good or quicker schedule mail service except they be paid corresponding rates.

Since that time no Postmaster-General, so far as I can find, has recommended this item. The present Postmaster-General, on page 9 of his annual report for this year, recommends against this item. He says:

Curtailment has been recommended wherever possible, and many decreases are shown, of which the following are examples: Railway transportation, special facilities, $167,728.25.

At the hearing before the Committee on Post-Offices and Post-Roads General Shallenberger testified:

That this line from Washington to New Orleans, including the Southern Railway, the Western Railway of Alabama, and the Louisville and Nashville, received $1,003,940.09 for transportation, $223,947 for R. P. O. cars, and $142,728 subsidy, less certain deductions amounting to $33,861.31.

Then he was asked these questions:

Q. Do you want this money or not?
A. We are not asking it nor expressing an opinion in reference to it.
Q. What is the reason that you all are silent on that question?
A. We are not silent.
Q. You say you do not ask it?
A. We do not estimate for it.
Q. And what is the reason you do not ask it?
A. Because we think that the effect upon the service or route is better if we do not select any particular route in any particular section for special favors.
Q. Then you do not select it because you think it is a bad example and that it affects the railway mail service elsewhere by giving this subsidy?
A. That is the situation.
Q. So you think that for the good of the service the thing ought not to be done, taking the country at large?
A. I think that for the good of the service at large that no special favors should be given to any one particular road or system.

The gentleman from North Carolina [Mr. SMALL], as well as other gentlemen, have asked me what my remedy is. My answer is: The post-office establishment of the United States is a business institution engaged in transportation, and is subject to the recognized economic laws governing that business. Uncle Sam has a large "plant," if we may so call it. He has 68,000 postmasters, 30,000 city carriers, 35,000 rural carriers, 13,200 railway mail clerks, and other employees in the postal service, making a grand total of 280,000. He has millions of dollars invested in buildings and equipment. He could probably increase his business without incurring a proportionate increase in expenditures even under the law governing railway pay as it now is, but he certainly could do so if it was modified as suggested by Professor Adams, and as seems to be justified by the changed conditions relative to size of load now carried on special mail trains. Should we simplify the classification of mail and consolidate third and fourth class matter, as recommended by the Postmaster-General, I believe it would result in very largely increasing our business and lowering our proportionate expenditures. I do not believe you would make anything by raising the rate on second-class matter. It is carried at a loss, it is true. Mr. Newcomb's book on the Postal Deficit gives his figures as to the distance at which mail of the different classes is carried at a loss. He points out that at 2 cents an ounce the rate per ton is $640, regardless of distance. If we pay 35 per cent of this for transportation, it will be $224, and divide this by 12.567 cents, the average rate at that time, gives 1,782 miles as the maximum distance it can be carried without loss. But he further contends that the postage actually received averages 85.6 cents per pound for first class, because of the fact that nearly all letters weigh much less than 2 ounces, so that first-class mail can actually be carried 4,768 miles without expending more than 35 per cent of the receipts.

The table is as follows:

	As given by Professor Adams.	The correct figures.
	Miles.	*Miles.*
For first-class mail	1,782	4,768
For second-class mail	56	45
For third-class mail	446	819
For fourth-class mail (ordinary)	891	947
For fourth-class (seed, etc.)	----------	512
For foreign mail	----------	2,562
For postal cards	----------	10,483

Now, if we actually receive $1,712 for every ton of first-class mail, that is certainly a very profitable part of our business. It is the policy of all engaged in the management of transportation enterprises to recognize public necessity, as it is called. The railway manager first determines how much revenue is required to pay operating expenses, interest on bonds, and dividend. Then he distributes this burden upon the different items or classifications of traffic as may best be able to bear it. The cheap coal, which is a necessity to the development of the region he serves, but which is very bulky, he must carry cheaply, even at a slight loss; but the silks, jewelry, clothing, and similar goods of high value must pay a larger share and a large profit. It costs nearly as much to move a ton of coal as a ton of silk, but if the prices were the same there would be no business, and the railroad would be worthless.

The development of the country and prosperity of its people is so closely identified with the prosperity of the transportation company that it is often said they must go up and down together. So it is wtih the business of the postal service. Primarily, it was established for the transmission and distribution of intelligence among the people. To raise the rate on second-class mail would be an additional tax on such distribution, and, as the diffusion of intelligence is a fundamental condition of the social well-being and industrial development and evolution of the people, it would seem to be an unwise thing to do. Not only would it be unwise from the viewpoint of public welfare, but it might result in actual business loss to the postal service. A newspaper or magazine may be carried at a loss of a cent or two, but if that same newspaper or magazine brings into the mail two or three or a hundred letters, paying us at the rate of 85 cents per pound, the loss is many times made up. If the result should be that fewer such periodicals would circulate, and there would be a corresponding loss in first-class mail, the raising of second-class rates would not even be good business policy. So I came to the conclusion that the remedy lies in amending the law of 1873 so as to extend the gradual reduction of rates in proportion to increased density beyond the 5,000-pound limit, and then, by revising our rates and classification, seeking to increase the business of the postal service and its usefulness to the people. That is my remedy. If I should offer such an amendment, it is liable to be ruled out on a point of order. I hope no such point will be made. But I must return, before concluding, to this item of special-facility pay, which we may strike out without conflicting with the rules.

I went down and looked at that train on the Southern Railway, which starts from Washington at 8 a. m., last Monday. While it was quite an effort to be up as early as 8 o'clock, we have had so many conflicting statements about it that I thought I would go and see for myself. That train on Monday was composed of three R. P. O. cars and one storage car and one express car.

Mr. JOHNSON. What do you mean by a storage car?

Mr. STEENERSON. A 60-foot car that is filled with mail sacks. Its capacity is 45,000 pounds—22½ tons. Everything about it is the same as a freight car, and no difference whatever between a freight car carrying freight and a freight storage car full of mail, except that it moves in this mail train. I asked the man in charge of that train—I will say right here they treated me most politely, for I believe they took me for the president of the Southern Railroad. [Laughter.] They told me that Monday was the lightest day for mail, and that on other days of the week they had two storage cars in that train, three R. P. O. cars, and an express car. Until it reaches Atlanta it carries no passengers, but when it reaches Atlanta passenger cars are attached, and instead of running 42 miles an hour it comes down to 35 miles, the ordinary speed for a passenger train. Now, then, that condition of the mails, with 40,000 pounds in the two storage cars and 10 tons in the three R. P. O. cars, makes 60,000 pounds in the three cars—30 tons of mail. They probably had 50 tons including the express car. Assuming that they get the lowest price—which is not correct; but I will assume now they get the price on the densest route, 6 cents per ton per mile—if they had 50 tons they get $3 per train mile, whereas the cost of operating a railroad train of that class was $1. If, therefore, the Southern Railroad carries mail from Washington to New Orelans in storage cars and R. P. O. cars, with an average load of 10 tons per car in the train, they receive in weight pay alone three times what it costs to run it.

But that is not all. We pay them for the special facilities, and for the R. P. O. cars besides, and the reason for this is they say that it traverses a sparsely settled country. They say that it traverses the new and undeveloped pioneer States, where the settlers are living, I suppose, in shacks upon the prairies; such new and undeveloped States as Virginia, such young Commonwealths as the magnificent State of Tennessee, which produces such splendid specimens of manhood as my friend Judge Moon. It traverses the State of South Carolina, the State of North Carolina, the State of Alabama, the States of Georgia and Louisiana. These, they claim, are new, sparsely settled States, and are therefore entitled to special favors.

It will be observed, if you look upon the map of the United States, that that route parallels the Atlantic coast; that there are several other railway lines in the same direction, only a few miles apart. There is the Seaboard Air Line, there is the Atlantic Coast Line, there is a railroad traversing almost every part of that country, and yet they say that because the conditions are different in the oldest and most prosperous sections of the United States, therefore we, out on the praries, in Dakota and Montana and Washington, where the snows are deep in the winter and the weather is cold, and the difficulty of operating railroads is great—that we ought to be content with ordinary mail pay, where the traffic is light, but that there, in the garden spot of the world, it must be subsidized. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. STEENERSON. I regret very much that I can not have a little time for a peroration.

Mr. OVERSTREET. Does the gentleman want three minutes?

Mr. STEENERSON. Thank you, I would like to have it.

Mr. OVERSTREET. I yield three minutes to the gentleman.

Mr. FINLEY. Will the gentleman allow me?

Mr. STEENERSON. I will take the time to accommodate my friend from South Carolina.

Mr. FINLEY. The gentleman spoke about this being a sparsely settled community through which this railroad runs from Washington to New Orleans. I should like to ask him this: Does he think the fact that the Southern Railway is double-tracking its line from Washington to Atlanta, Ga., is any proof of the fact that it is a sparsely settled community?

Mr. STEENERSON. Judging by the reasoning that underlies this appropriation, I think that should be considered a signal of distress. [Laughter.]

Mr. GAINES of Tennessee. But we are giving them a big subsidy all the same.

Mr. MEYER. Will you yield to me for a question?

Mr. STEENERSON. Yes; I yield to the gentleman.

Mr. MEYER. Mr. Chairman, is not the gentleman aware of the fact that some years ago the Seaboard Air Line had this contract to carry this fast mail, and gave it up because they found it was not remunerative and they could not afford to do it?

Mr. STEENERSON. I am not aware of what any other railroad did, but I am aware of the fact that the most profitable business that the Southern Railway has or ever will have is the carrying of that special train of mail loaded in storage cars. [Applause.]

I should like to say to my friend from South Carolina that I rejoice in the development of the South. There is not a man upon the Republican side or in the Northern States who has not taken the greatest pride in the wonderful development of the Southern States in the last few years. We all have read of the New South, and we all have seen the magnificent Representatives that the New South is sending to this House, and we are glad of it. [Applause.] We rejoice in your good fortune, for in no part of the United States has that infallible evidence of prosperity, the transportation of the mail, shown such an increase and such advancement as in the Southern States.

It has increased most wonderfully in those very States, and there is no section of the country where the development has been so uniform and so continuous in the last decade. And there is no part of the United States where a mail subsidy is so little needed. [Applause.] I will say right here that it is not needed anywhere, because, even if the railway mail pay is not sufficient to be compensatory, the public necessity requires all railroad companies for the common benefit to carry it. They are interested in the development of their own territory, and they will carry it at the rate of pay that we prescribe.

But, I say, let us extend the operation of the law of 1873 in principle beyond 5,000 pounds, and strike out the subsidy outrage, and we will have a just, fair compensation to the railroads, and the American people will be satisfied. [Loud applause.]

Mr. OVERSTREET. Mr. Chairman, the gentleman from Iowa [Mr. HEDGE], a member of the Committee on the Post-Office and Post-Roads, has prepared an argument upon the subject of railway mail pay. I have the manuscript of his speech. The gentleman was suddenly called to his home by the death of a son. I ask unanimous consent that his speech, the manuscript which I now have in my hand, may be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. HEDGE. What is the railroad mail pay? The railroad mail pay is not a matter of guess. The present law was the result of careful scientific study of the subject by able and honest officials of the Post-Office Department, acting in the interest of the Government. It was adopted in 1873 in place of the haphazard system of 1845, which was full of discretions, under which railroads were paid by favor largely and without much regard to the services rendered. The system of 1873 was devised by these Department officials, as the record shows, without any conferences with or cooperation of the railroads, and was criticised and opposed by the railroads almost from the beginning, especially regarding the pay allowed for providing and hauling post-office cars, which contemporary correspondence shows clearly.

The system for paying railroads for carrying the mails is based chiefly upon weight, and any consideration of the subject will show that weight ought to be the basis if the Government is to have adequate protection in the matter. The space occupied in the cars by the mails, as the system has developed, is a predominent element, it is true, but to pay for it as space, measured as space, would introduce an element of discretion and uncertainty which might result very unfavorably to the Government. Comparing the space now required and used in all cars for the mails with the space used and occupied on passenger trains by express matter and by passengers, it would be easy to evolve a schedule based upon "space" under which the present pay to railroads would be doubled for the same service they now perform. Nobody wants to take the risks of that. The payment for furnishing and hauling post-office cars is partly a recognition of space, but is more in the nature of compensation for providing a great convenience, the traveling post-office, at a low haulage rate of 5 cents per car mile hauled. It is undoubtedly true that, as a matter of principle and consistency, apartment cars ought to be specially compensated for in addition to the weight payment, but they are not.

THE WEIGHT PAYMENT.

The payment to railroads for weight of mails carried was established upon a graduated scale, which must be accurately understood in order to determine its merits. It recognizes two extremes, and if these are clearly kept in mind it is easy enough to know the rate of payment for all routes and all classes of the business.

MAIL PAYMENT ON THE SMALL ROUTES.

The pay begins with 200 pounds. It is measured over what are called "routes." These routes vary in length from 6 to 400 miles. The Post-Office Department establishes a route—that is, determines between what two stations upon a railroad it will establish a mail route. Then, if the business upon a route is very small, it falls in the lowest class, namely, the route carrying 200 pounds or less of mail a round trip over the line each day. The pay over such a route was originally fixed at $50 per mile of railroad per year.

Suppose that the route is 10 miles long, the pay for that service would, of course, be $500 per year, and a round trip for 365 days being 730 trips yearly, the compensation of that road would be 68½ cents per trip under the original law. But this has been twice reduced by Congress, so that, instead of $50 per mile, it is now $42.75, which for 10 miles is $427.50 per year, or 58½ cents per trip. If there is one intermediate town on this route, and therefore three towns are served with mail, the pay of this railroad is 19½ cents per town. If there should be two trains each way over that route, and therefore four mails daily, the pay would be 9¾ cents for each mail service at each town, and so on, depending upon the number of times each day the mail is served at that town. There are hundreds of these small routes—carrying 200 pounds or less—where the pay ranges from 3 to 8 cents per mile of service, and from 15 to 20 cents per town served daily with mail, and from 9 to 17 cents for each complete delivery of a pouch, or two pouches of mail from train to post-office, depending altogether upon the number of deliveries each day. On some small routes there are six deliveries. Now, what is this service worth? Upon these small routes, on the average, it costs the Government less than 4 cents per mile of service. The cost of the star route is officially reported as 6.5 cents per mile of service and rural free delivery costs 10.6 cents per mile of service. But the cost "per ton" and "per pound" on these small routes as upon star routes and rural free-delivery routes sounds very high. Carrying 200 pounds daily is, of course, 36½ tons yearly, and the pay being $42.75 per mile per year, we pay, therefore, on the small routes $1.17 per ton per mile, com-

pared with only 6 and 7 cents per ton per mile on the heavy routes. But no one would think of estimating the value of the star route or rural free service at so much per ton or per ton per mile. It is a question of service, requiring a man's time, his team, and equipment to handle a very small weight of mail. It is not weight, but service. In the same manner, the service upon all the small railroad routes should be considered. The railroad companies furnish a railroad; they assume responsibility for each pound of mail; it is registered or receipted for by each man who handles it; the messenger service, in many cases, exceeds the entire pay. It is a quicker service and in every respect a more satisfactory service for the Government than is performed by either the star route or the rural free, and the cost to the Government per mile of service rendered is about one-half that paid in either of the other branches.

MAIL PAY ON HEAVY ROUTES.

Now, go to the other extreme of the railroad mail pay—the heavy routes. These heavy routes all carry over 5,000 pounds daily; some of them over 300,000 pounds daily. The rate fixed by law for every pound in excess of 5,000 is $21.37 per ton (carried daily) per mile of railroad. It was originally $25 per ton, and has been reduced first 10 per cent and then 5 per cent, making it now $21.37, which for 365 tons is a rate of 5.85 cents per ton per mile. The small routes are paid at the rate of $1.17 per ton per mile, and the heavy routes are paid at the rate of 5.85 cents per ton per mile, or one-twentieth as much. Are the heavy routes paid excessively? If the rate established in this law for railroad mail pay upon the small routes seems reasonable, then is a rate that is one-twentieth as great upon the heavy routes an excessive rate? Some things seem to be clear enough in this matter.

One is that there is no other department of the railroad service in which there is so enormous a drop in the rate from a retail to wholesale transaction as in this mail rate. Indeed, it is held by many that the large shipper—the shipper in large quantities—should never be entitled to a lower rate than the small shipper. Assuming that the rate paid by the Government over small mail routes is reasonable, as it appears to be, considering the actual service and compared with the cost of star route and rural free-delivery service, the fall in the rate per ton from $1.17 on small routes to 5.85 cents per ton on large routes is certainly without parallel in any other class of railroad service or in any other service performed for the Government. It is a most drastic application of the principle of lower rates for wholesale quantities.

It also seems plain that statements of the "average rate" per ton per mile, arrived at by merely taking a large number of small mail routes with light weights, paid at the rate of $1.17 per ton per mile, to lump together with a small number of heavy routes, carrying three-fourths to four-fifths of all the mail in the country at 6 or 7 cents per ton per mile, is apt to be very misleading.

But comparisons are constantly being made in this manner. An illustration appears in a discredited book entitled "Cowles' Freight and Passenger Post," and I refer to it because this particular illustration has been frequently used in debates upon this subject. It undertakes to quote a nominal 100 pound express rate between New York and Chicago (980 miles) to compare with what is denominated in this book the "average rate" paid by the Government for carrying mails 442 miles—half the distance. Between New York and Chicago, both on express and mail, the rates are extremely low, the lowest in the country, but the mail rates are lower than express. The mail rate from New York to Chicago is $3.57 per 100, and the express earnings between the same cities on 7-pound packages (the typical express package) are $9.10 per 100, of which one-half goes to the railroad, or $4.55 per 100—that is to say, the railroad receives 20 per cent more from its express business between New York and Chicago than it receives from the Government for transporting the mails between the same points. But by plausibly comparing the express rate between New York and Chicago with a so-called "average rate" for 442 miles, which includes these hundreds of small routes over the whole country, it is made to appear that the mail rate is higher than the express rate, when the truth is just the other way.

The pouch service, the apartment-car service, the full postal-car service, and the fast mail service differ from each other so much in their cost to the railroad, in the manner of their performance by the railroad, and in their value to the railroad and to the Government that in determining whether the roads are overpaid or underpaid for carrying the mail each class should be studied by itself. In the pouch service there is some basis for comparing the price we pay to the railroad with the cost of the star route and rural free, but such basis disappears when it comes to the apartment-car service, because there the railroad furnishes often half a car and carries a messenger, but is only paid for the weight of a few pounds of mail. Nobody is to blame for these differences. They grow out of the proper conduct of the business. What I mean to say in this connection is that the question requires some knowledge and information and some exercise of judgment and some discrimination, particularly in matters of comparison of mail rates with express rates and passenger rates and freight rates. That is one reason why the views of newspaper and magazine writers picked up in an hour's reading possess little value, however much they may influence general public opinion.

There is no serious contention that there is overpayment on the small routes—the pouch service—but that the earnings of the railroads from carrying the heaviest mails are excessive.

Eighty-five per cent of all mail is carried in postal cars, either apartment or full postal cars. Upon every heavy route almost the entire weight of the mail is carried in postal cars, and upon the heaviest routes it is carried in special trains which transport nothing but mail. The railroad company does not perform any service for any other customer as it performs the apartment car, and the postal car, and the fast mail service for the Government. I shall make an attempt to candidly estimate the value of this claim of the postal service to us.

THE APARTMENT-CAR SERVICE.

It has been said that the Long Island Railroad (390 miles) is the poorest-paid railway in the United States for the work it performs in carrying the mails. This grows out of the great frequency of service on the line with light weight of mail, but chiefly because the mail is carried largely in apartment cars. The Post-Office Department asserts and exercises the right, whenever it considers the mail to be carried over any railroad route sufficient in amount and importance to require its distribution en route, or that the convenience of the public will be promoted by a distribution en route, to compel the railroad company, without compensation, to furnish half or three-quarters of a baggage car, or less, fitted up as a post-office, with space and facilities for a messenger to work in distributing the mails en route. We now have in this service 2,700 apartment cars. How may we fairly determine whether the earnings of the railroads from carriage over routes having apartment-car service are excessive or not? By knowing what the service is and what the pay is. This may best be learned by accurate knowledge regarding some typical route. In the RECORD a few days ago there were reproduced several columns of editorial matter from the Washington Post, relating to this subject, at the head of which appeared the following:

The little railroad running from Pontiac to Caseville, Mich., is 100 miles long. Two trains carry mail on this route, the daily weight of the mail being 926 pounds. The United States pays $8,282 a year for this service. The trains also carry passengers and express. The total cost of operating these two trains is $14,160 a year. The United States therefore pays 58 per cent of the cost of operation.

The name of this railroad is "The Pontiac, Oxford, and Northern." I am informed by officials of the Post-Office Department that it is in the hands of a receiver and that the receiver recently visited the Department with the purpose of trying to secure an increase in the compensation for carrying the mails and that the facts as to the service are these:

The mail service on this road is all apartment-car service—a typical route of this class. There are twenty-two post-offices on the route, at each of which the mail is delivered four times daily for three hundred and thirteen days each year for these offices and other post-offices tributary to them. At twelve different points the railroad company is required to deliver the mail from the station to the post-office, for which it pays out in cash $1,200, so that its yearly compensation is $7,062.12, or $22.50 per day. This is less than the fares of two passengers on the same trains, whose mileage (800 miles) at 3 cents per mile would yield the company $24, and less than the earnings on the lowest class of carload freight for an equal haul. This mail is not carried as freight, but upon two passenger and two mixed trains, and not in bulk as ordinary freight is transported, but in two apartment cars—fitted up as a post-office, each carrying a mail messenger. In one of these cars 18 feet of the space is occupied by mail; in the other 12 feet. This company performs 125,200 miles of mail service annually in this expensive way, and its compensation is 5.7 cents per mile, which is less than we pay per mile in the star route, and about half as much as each mile of rural free service costs the Government.

The operating expenses and interest upon the road for the year were $173,000, and its mail earnings amounted to 4 per cent of its expenses, instead of 58. The mails are carried upon four out of the six trains run on the road, and if the expenses were apportioned on the basis of trains the amount properly chargeable to these four trains would be $115,000, and the mail pay was 6 per cent of this sum.

What Member of the House is prepared to say that the Pontiac Railroad is overpaid for the service it is now rendering the Government? Who would vote to reduce that compensation 10 per cent or 5 per cent? I am assured by the officials of the Department familiar with the subject that the Pontiac case, as to compensation for work done, and as to expense to the railroad, and the value of the service to the public, and earnings from mail compared with passenger earnings, is fairly typical of the apartment-car service all over the country. If this subject is once opened up in earnest, we may expect an urgent demand from railroad companies that additional compensation be provided for in the apartment-car service.

THE POSTAL-CAR SERVICE.

There seems to be a prevalent misunderstanding as to the purpose and amount of what is designated as "postal-car pay." It is simply a misnomer to call this payment the "rent" of postal cars. It was provided in the original act of 1873 as a feature of the compensation to be allowed to roads which provided and hauled in their trains cars of this specified design, useless for any other traffic, but especially adapted for traveling post-offices.

This compensation, naturally enough, could only be allowed to such companies as conduct the business in that manner, and it seemed a fair provision that it should take the form of a wheelage rate, measured by the length of the car—that is, for a 40-foot car, 3.4 cents per mile run; for 45 feet, 4.1 cents; for 50 feet, 5.4 cents, and for 60 feet, 6.8 cents per mile run. What this amounts to per car was stated by Capt. James E. White, Superintendent of the Railway Mail Service, in his testimony as follows:

The average daily haul of a postal car is 250 miles; the actual cost to the railroad of hauling, lighting, heating, and repairing the car in one year amounts to $10,891. The Government pay for the use of the car is $6,250.

He probably estimated the cost of haulage at 9 or 10 cents per mile.

Prof. Henry C. Adams approved of the system, and said:

It is a payment, in addition to the regular payment for transportation, which the Government thought it wise to make in view of the fact that extra facilities were afforded.

The railroads do not need these postal cars for carrying the mails. They can stow all the mail bags in use on a four-car mail train in one baggage or storage car. These three postal cars additional are for post-offices only for Government use, and the roads which provide them must be paid for it or they will not furnish them. I will, with my remarks, refer to some of the evidence before the Wolcott commission relating to the reasonableness of this wheelage rate, the average paid by the Government for the country being, I think, 5 cents per mile of haul of each postal car.

I am endeavoring to make a direct and reasonable answer to the question of how much mail pay is received on the heavy routes of the country where the mail is practically all carried in postal cars, including this wheelage allowance, and whether it should be regarded as excessive. That is not a small inquiry, nor a very simple one. The earnings upon the so-called "heavy mail routes"—that is, routes carrying over 30,000 pounds of mail each way over the road daily—vary greatly. Some mail cars and trains which run west from New York and Chicago carry more than twice as much mail as the same cars carry coming east. Newspapers, magazines, and periodicals originate largely in the East and are carried west. But the cars must be run east as well as west, and the only way, of course, to know what any railroad company earns from the mail that is carried in postal cars is to ascertain what the average of its full postal cars earn east and west, including this wheelage allowance, and excluding cars held in reserve, for these reserve cars are never considered as a factor and are never paid for. The postal cars and trains on the heavy mail routes running west and east carry a much heavier weight of mail, and therefore earn much more than those running south and north.

Mr. Victor J. Bradley has for many years represented the Post-Office Department as eastern superintendent of mails, with headquarters in New York City. In his testimony, referring to the earnings of postal cars on the heavy routes, he said:

The average load carried by a postal car is about 2 tons of mail. Hence the average pay per car mile earned by a 60-foot postal car would be 11.70 cents for the weight of the mail carried in the car, plus the allowance for postal car, 6.84 cents, both together equal to 18.54 cents per car mile.

What Member of the House feels fully competent to say whether an earning capacity of 18.54 cents per car mile for a postal car is excessive or not—remembering that the car weighs 50 or 50 tons, is built for the Government's exclusive use and transported in passenger trains?

We have some knowledge of our own about how this compares, for instance, with earnings from passenger cars in suburban service where commutation rates prevail and are sometimes as low as 1 cent per mile. I am told that an average of 40 suburban passengers per car is a fair estimate. Such a passenger car will then earn 40 cents per car mile, compared with 18.54 cents earned by the average postal car in the country, according to Mr. Bradley, including the weight payment and the so-called extra compensation.

It is impossible to form an intelligent opinion whether the earnings of the heavy mail routes, where the bulk of the service is performed in postal cars, are excessive or not, without knowing the average load that is hauled in postal cars. Professor Adams fully recognized this. He said in his report:

The average load in a postal car is only 2 tons, and if you can not make it more than 2 tons, then the overpay, if there is overpay, lies on those routes where, as a matter of fact, they have an excess of 2 tons.

This view, that the question whether the large roads are overpaid depends upon what is the average load we permit the railroads to carry in postal cars, was also controlling with Mr. Loud, who was for years chairman of the Post-Office Committee, and a man who in an unusual degree possessed the confidence and esteem of this House. In his speech of February 6, 1901, reviewing the work of the Wolcott Commission, he said:

I came to Congress with the idea, because it was prevalent, that the railroad companies of this country were, to put it in a rough way, robbing the Government of a large amount of money every year. I believed it in a general way, without investigation, because people in whom I believed said so. The Commission, I suppose, were substantially at the beginning in the same frame of mind.

The investigation, which was carried on for about two years and a half, seems to have entirely changed Mr. Loud's opinion in the matter, and he joined in the Commission's report against reduction. His view, one result of the investigation, regarding the loading of postal cars, was expressed in this way:

The testimony shows that 2 tons is the average load. A postal car could carry 4 tons or 5 tons, but there are several things to consider. The car starts out for the West with more mail than it ever has again; the mail of one day may be double the mail of another. The question is what is the average weight carried from the start to the return, and if you assume an average of 4 tons, the car must have started with 16 tons, which no one contends can be loaded into a post-office car, fitted up as a post-office.

He incorporated in his remarks detailed statements regarding the service performed on the three heaviest mail routes of the country, namely, from New York to Philadelphia, from Philadelphia to Pittsburg by the Pennsylvania, and from New York to Buffalo by the New York Central—routes each carrying 300,000 pounds of mail daily. I shall add these important statements to my remarks. They show that the average load carried per postal car, not including storage cars, was, over one route, 4,320 pounds; over the second, 4,241 pounds, and over the third, 4,520 pounds—an average of 4,390 pounds, or a fraction over 2 tons per car. Based upon these figures, Mr. Loud expressed his conviction that but for the mail messenger service the small roads, carrying only 200 pounds of mail per day, are better paid than those carrying 300,000 pounds daily.

THE FAST MAIL TRAINS.

I have sought to examine each class of this service as it is conducted over the railroads of the country and apply to it, as nearly as possible, the test of reasonableness. There remains to consider the fast mail, or special train service, which, by degrees, the Post-Office Department has induced the larger railroads of the country to undertake, some of them (the Pennsylvania and New York Central systems) now running eight special fast mail trains, substantially carrying nothing but mail. These trains now carry a large percentage of the mails of the country. How much do they earn? Do they earn so much, are they so lucrative, that we ought to take the chances of their discontinuance by reducing the rates applicable to them?

Every pound of mail carried in these special mail trains goes at the minimum rate of about 6 cents per ton per mile, and is transported in postal cars traveling at the highest rate of speed, so that the maximum cost to the railroad is combined with the minimum of rate. Their earnings depend on how much they carry. A special mail train from New York to Philadelphia that is composed of three railway post-office cars can possibly carry 22 tons of mail, and with the rate of 6½ cents per ton per mile could, according to Professor Adams, earn $1.43 per train mile. If it carried four postal cars it could possibly earn $1.56 per train mile.

That is the most profitable mail train that the Pennsylvania road, with its dense traffic, can theoretically operate; it can not add another car and make the speed required in that particular service. There was produced before the Wolcott Commission complete and precise statistics showing the actual earnings of the three special mail trains operated from Chicago to Council

Bluffs over the Burlington road, the principal line in the district which I have the honor to represent on this floor—namely, train 15, west bound, $1.32 per mile; train 7, the newspaper train, also west bound, 82 cents per mile, and train 8, east bound, 61 cents per train mile, an average of 92 cents per train mile. These are actual results, including the weight compensation and postal-car pay, compared with the much higher theoretical results on the Pennsylvania road.

How much per train mile should a railroad earn to make a fair profit in running a train of this character? The Interstate Commerce Commission has published the actual cost of operating all passenger trains over the Pennsylvania road as $1.13 per train mile, and to this Professor Adams had added 33 per cent for interest, fixed charges, etc., bringing the cost above $1.50 per train mile.

Mr. Bradley's figures of actual tonnage earnings of the special train between New York and Philadelphia, carrying 15 tons of mail, are 98.5 cents per train mile. If there were 4 postal cars in this train, 27.4 cents ought to be added for the postal-car pay, making the actual earnings of the train $1.26 per train mile. If the average cost of passenger trains is $1.50 per train mile and the total earnings of the trains are $1.26 per train mile, is there overpayment in that branch of the service? While the earnings of the Burlington road from its three special mail trains average 92 cents per train mile, the average earnings of its passenger trains are officially reported to be $1.09 cents per train mile. The unusually expensive character of the special mail trains is well known. One of these trains which passes through the city where I live is scheduled at 50 miles per hour, including all stops; it must run over stretches of the road at a speed of 80 miles an hour, and is said to be the fastest train of its character in the world. All other business must give way to it, and the incidental expense caused by the delays to other traffic is, I know, regarded as an important feature, although naturally difficult to estimate.

While I have sought in my remarks to fairly examine and consider this mail traffic as it is carried on in the separate ways of pouch service or mail-bag service, apartment, and postal car and special-train service, all these various classes are simultaneously and constantly being carried on over every line of road in the country constituting a large mail route, and the sum of all the weights carried each way daily over the entire route in whatever class is the basis of the mail payment. The Pennsylvania road, for illustration, is paid on precisely the same basis as smaller roads for carrying the mails between New York and Philadelphia, where the average daily weight paid for is 309,000 pounds. This weight could be easily carried as freight in one 12-car train; many freight trains with seventy-five loaded cars are operated over western railroads. The Pennsylvania does, in fact, carry this 309,000 pounds of mail between New York and Philadelphia upon more than 140 different trains each day.

The postal car, carrying only two or three tons of mail, earns less for the railroad than its ordinary passenger coach; the special mail train, run at thundering speed, earns less than the actual average cost of its passenger-train service. Shall we from this conclude that the roads are carrying the mails at a loss? No; that does not appear to me a reasonable conclusion. In the average train-mile cost of passenger service on the Pennsylvania was included 38 cents for "interest and fixed charges." These would continue about the same if the road carried no mails. In this average train-mile cost are included all the items of maintenance of the roadway, station service, clerks, superintendence, and many others which would go on practically undiminished if no fast mail trains were operated.

Railroads undoubtedly accept and are glad to get many lines of business which pay less than the average cost of operation per car or per train. There is some profit to them if they can earn from the particular traffic something beyond the actual cost to them of handling that traffic. The mails are a necessity to the people and the people are the customers of the railroad. The Government, in this respect, is fortunate in finding this machine to command; more fortunate far, in my opinion, than if it owned the machine itself, with all its responsibilities and risks. The railroads seem willing to accept the business at the existing rates and to comply as to apartment cars and postal cars and special trains with the exacting and expensive wishes and requirements of the Post-Office Department, and I doubt if there are many railroad managers who know exactly whether they are making money on the business or not. What should be the attitude of Congress? I believe that there are few Members of this House who are not willing for the Government to pay the railroads for carrying the mails not only that proportion of expense which is properly chargeable to this class of their traffic, but such additional expense as they necessarily incur in according to us unusual space in cars and extraordinary facilities in speed, and we are also willing to pay the proportional share of a fair return upon the capital invested. Some of the roads are probably being thus compensated at the present time, but I doubt if many of them are, if the truth was known, so urgent have been the demands of the public for greater frequency and promptness in the mail service and judging from the evidence before the Wolcott Commission and the opinions of men who know how the business is conducted.

REDUCTION OF RATE SINCE 1878.

I would like to add a word upon the question whether the law has been changed or these rates reduced since 1878. The answer is that the law has not been changed, but the rates have been reduced. This law of 1873 is so skillfully drawn that it changes or its results change in the interest of the Government every year, with the effect of securing for us a constant and material and very satisfactory reduction in the rates. What we wish to know is whether we are receiving for the Government our share of the benefits flowing from the increase of volume and from greater density of traffic and the economies in railroad transportation which are incident to its marvelous growth. This was a feature which seems to have particularly interested Mr. Moody, now Attorney-General, and a member of the Wolcott Commission, and is discussed by him in his report. He quotes from the statistics furnished by Professor Adams to the effect that for our entire mail traffic, including postal-car pay, we paid the railroads at the rate of 26 cents per ton per mile in 1873, but that we only paid 12 cents per ton per mile in 1898, a decrease of more than one-half. Is that sufficient? He then compares the extent of this decline with the fall in other transportation charges since 1881, the earliest date when authentic figures were procurable. During that period of seventeen years Professor Adams states that passenger rates in this country fell 21 per cent, freight rates fell 41 per cent, and mail rates fell 39 per cent.

Professor Adams also reported the very significant fact that, while the annual rate of expenditure to railroads for carrying the mails from 1873 to 1898 had increased 425 per cent, the annual ton mileage of mail carried by the railroads had increased 1,004 per cent. This means that since 1873 the service performed for us by the railroads, measured by tons of mail carried, has increased two and one-half times as fast as their compensation, and we all know that the facilities in space and speed have increased in a still faster proportion. This means that they are steadily doing more business for less money—that is, that their rates to us are steadily falling.

Mail is always carried on passenger trains, and it is a passenger rather than a freight traffic, and Mr. Moody shows from the statistics of Professor Adams that the decline in mail rates paid by the Government is almost double the decline in passenger rates in the same period. Is that sufficient? It was satisfactory to Mr. Moody, especially in view of the almost complete revolution which the Post-Office Department has brought about in the handling of the mails upon all of the important routes.

It was satisfactory to the Wolcott Commission and, so far as we know, is satisfactory to the Post-Office Department. Mr. Moody calls it an "automatic" reduction. Upon principle this would seem to be a wiser method for securing a satisfactory change and reduction in the cost of this service in the interest of the Government and the people than the careless and necessarily ignorant method of making a horizontal cut or percentage reduction whenever the political impulse happens to seize us.

It may be suggested by some one that the review I have made of the different classes of mail service which we require from the companies and the compensation attached to each will be regarded as a statement of the railroad side of the case. That would be to utter a mere prejudice. A more sensible view is to regard it as a presentation of some of the difficulties before us. These difficulties have confronted each successive Postmaster-General and each Post-Office Committee for a generation and have confronted the five investigating commissions which from time to time during the past twenty-five years have made special inquiry into this subject. Why has there been this remarkable unanimity of conclusion that the law of 1873 is a wise law and with its great automatic reduction in the rate as the business increases that it is securing for us a substantial and sufficient reduction from year to year in the compensation that we pay to the railroads? It is because when genuine inquiry has been made the facts disclosed always seem to warrant this conclusion, and, after all, truth and fair dealing must be our chief reliance in our relations with the railroads as with all others.

THREE HEAVIEST MAIL ROUTES—AVERAGE POSTAL CARLOAD, 2 TONS.

Statement explanatory of postal car and mail service on route 109004, New York to Philadelphia, and route 110001, Philadelphia to Pittsburg, Pa.

Route 109004.—The statement is made upon the basis of through service, and shows 28 trains carrying postal cars or apartments, and which carry 80 per cent of the weight of mail. There were in addition to these 28 postal-car trains 112 other trains—some through trains, but mostly local—which carried 20 per cent of the weight. On the 28 postal-car trains there were altogether 171 cars, of which 41 were postal or storage cars; thus showing that the ratio was 1 postal car to 4 other cars per train.

Of storage cars, there were 6 out of 41, or about 14 per cent. On the basis of space, the entire equipment of storage cars would be about 11 per cent of the equipment of postal cars. It is shown that the average load per car, including storage cars, was 6,029 pounds, and excluding storage cars, 4,320 pounds.

Of the 28 postal-car trains shown, 6 trains had a mail apartment, constituting about one-half a car each; 15 trains had 1 postal car each; 5 trains had 2 postal cars each; 1 train had 3 postal cars, and 1 train had 4 postal cars.

Route 110001.—The statement is made upon the basis of through service, and shows 17 trains carrying postal cars or apartments, and which carry 96.5 per cent of the weight of mail. There were in addition to these 17 postal-car trains, 94 other trains, some through trains, but mostly local, which carried 3.5 per cent of the weight. On the 17 postal-car trains there were altogether 113 cars, of which 28 were postal or storage cars; thus showing that the ratio was 1 postal car to 4 other cars per train.

Of storage cars there were 5 out of 28, or about 18 per cent. On the basis of space the entire equipment of storage cars would be about 13 per cent of the equipment of postal cars. It is shown that the average load per car, including storage cars, was 6,341 pounds; and excluding storage cars, 4,241 pounds.

Of the 17 postal-car trains shown, 5 trains had a mail apartment constituting about one-half a car each; 6 trains had 1 postal car each; 5 trains had 2 postal cars each; 1 train had 4 postal cars.

NOTE.—It is understood that the railroad company's computations show that between 9 and 10 per cent of all passenger-train space, including local trains, is used for mail purposes between New York and Pittsburg. Also that the average number of cars per passenger train between New York and Pittsburg is 5.91.

OFFICE SUPERINTENDENT RAILWAY MAIL SERVICE,
New York, March 1½, 1900.

Statement explanatory of postal car and mail service on route 107011, New York to Buffalo, N. Y.

Route 107011.—The statement is made on the basis of through service, and shows 19 trains carrying postal cars or apartments, and which carry 94 per cent of the mail. There were, in addition to these 19 postal-car trains, 57 other trains—some through trains, but mostly local—which carried 6 per cent of the weight. On the 19 postal-car trains there were altogether 137 cars, of which 34 were postal or storage cars; thus showing that the ratio was 1 postal car to 4 other cars per train.

Of storage cars there were 7 out of 34, or about 20 per cent. On the basis of space, the entire equipment of storage cars would be about 26 per cent of the equipment of postal cars. It is shown that the average load per car, including storage cars, was 6,884 pounds, and excluding storage cars, 4,520 pounds.

Of the postal-car trains shown 6 trains had a mail apartment constituting about one-half a car each, 6 trains had 1 postal car each, 1 train had 2 postal cars, 4 trains had 3 postal cars each, and 1 train had 4 postal cars.

Wheelage rate on postal cars.

The following evidence was before the Wolcott commission, showing the usual rates prevailing among railroads for hauling empty cars.

J. H. Sturgis, of St. Joseph, Mo., auditor of the Hannibal and St. Joseph road, testified:

"The postal car compensation on the Burlington system in 1897 was $220,580; the postal cars were hauled 4,740,703 miles, being an average rate of 4.65 cents per mile.

"For hauling home for repairs by freight train a freight car of private ownership, the railroad charges 5 cents per mile."

S. C. Johnson, St. Louis, auditor of the Cotton Belt road, testified:

"The postal car pay received by this road averages 3.12 cents per car mile. The established rate paid by railroads to other roads for the use of passenger cars is 3 cents per mile, and the road using the car pays all the incident expenses of heating, lighting, etc. When we haul a Pullman sleeper deadhead over the line we receive 20 cents per car mile, and furnish no light or heat, but they are more expensive to haul than mail cars."

George H. Crosby, of Chicago, secretary of the Rock Island road, testified:

"The average revenue per mile run by the Rock Island for postal car pay is 4.82 cents. The western classification rate on empty postal cars hauled in freight trains is 15 cents per mile."

Erastus Young, of Omaha, auditor of the Union Pacific road, testified:

"This company receives 5.5 cents per mile as postal car compensation.

"The legal rate for hauling empty mail cars on freight trains is 15 cents per mile, and on passenger trains would be greater. We, in fact, charge other companies 10 cents per mile for hauling mail cars empty over our lines."

Thomas Wickes, of Chicago, vice-president of the Pullman Company, was asked the following questions by Hon. William H. Fleming:

Q. "Mr. Wickes, doesn't it frequently happen that your company has to transport an empty Pullman car from some one point where your factory is located to some other point where it is to go on an active run? What do you have to pay the railroad company for transporting that empty Pullman car?"—A. "Between 10 and 14 cents per mile; 10, 12, or 14 cents. We have paid as high as 20 cents a mile."

Q. "Ten to 14 is the average?"—A. "Probably 12 would be a good average."

The highest pay per mile that can, under the law, be made for the largest postal car is 6.84 cents.

If the Government owned the car, a reasonable charge for hauling it empty would be 10 cents per mile.

Mr. MOON of Tennessee. Mr. Chairman, I now yield to the gentleman from Georgia [Mr. LEE].

Mr. LEE. Mr. Chairman, during my brief career in this House I have heard debates on rate legislation, the Philippine tariff, statehood, appropriations, and many other questions of national importance. I have had the pleasure of listening to many interesting speeches, but I invite your attention to a question more vital to the farmers of this Republic than any yet discussed in this House.

The distinguished Secretary of Agriculture has recently said:

> The farming element, or about 35 per cent of the population, has produced an amount of wealth within ten years equal to one-half of the entire national wealth produced by the toil and composed of the surpluses and savings of three centuries.

Being myself of this class—which so largely supports the country, but whose interests are so seldom recognized in our legislative halls, although entitled to some special considerations—I propose to briefly discuss the importance of governmental aid in the building of good country roads.

All civilized governments build roads. All save our own have some established system for building and maintaining public highways, under the direction of skilled and competent officials. Early in this century some work of this kind was done by the Federal Government.

The dawn of railway building and steam transportation seems to have largely drawn public attention and enterprise from our common highways, as a natural consequence, for more than fifty years—years that have been full of throbbing life and vigor for us as a nation; years that have seen our wealth doubled and trebled and quadrupled until the figures that express it are so large that they no longer convey a definite and intelligent idea to the ordinary mind; years that have no parallel in the history of our race for triumphs of man over nature, of mind over matter; years that have seen continents girdled with belts of steel and lightning highways strung across every sea; years that have been filled with a succession of wonders and triumphs in every field of human thought and endeavor. But the greatest wonder of all these wondrous years is that as a nation we have utterly ignored our country roads, and we seem surprised when we look about us and find them no better than they were half a century ago.

Some ten years ago the public mind began to quicken on this subject in a few isolated and circumscribed spots over the country. Somebody stopped long enough to glance around and remark that our country roads were not keeping step with this age of progress and improvement. At first these remarks attracted about as much attention as does the usual observation about the weather being unsatisfactory, just as if bad weather and bad roads were necessarily coexistent evils.

But as the need for better roads increased with even pace with the increase of population, the volume of complaint grew larger and louder, until at last the sapient conclusion was reached that the road question had attained the proportions of a problem. Then solutions were in order—and are yet, for bad roads, like the poor, we have always with us.

At first there was a pretty general agreement among those engaged in road building, academically, to relegate the whole job to the farmer, and he was advised to "hump himself" and build better roads. But the farmer, being already saddled with our tariff taxes and ridden by our "infant industries," booted and spurred, has had little time and less money to devote to the theory and practice of road building. Still, whatever has been done in that line he has had it to do.

So here we are yet, right in the middle of the road, and the very sorriest kind of a road at that. "A condition confronts us, not a theory." Are not a hundred years of observation long enough to convince us that the roads will not reform themselves?

The able and honorable Secretary of Agriculture estimates that the cost, the extra burdens imposed upon this country by bad roads, is not less than $600,000,000 annually. These figures almost stagger credulity, but who can gainsay them? And yet, when a bill was recently offered in this House to appropriate $25,000,000 annually for abating this great and continuing loss it was ridiculed in some quarters as a fake—visionary and impracticable—as if it were wild and unreasonable to stop a leak of hundreds of millions of dollars with this comparatively small appropriation. But those who reviled it have not seized upon the opportunity to propose a better plan.

The great problem of the ages—of this age and of all ages—has been and is to bring the producer and the consumer into the easiest and quickest possible communication with each other. To this end we build mighty navies; to this end we girdle the earth with railroads and tangle the air with telegraph wires; to this end we thrust tunnels under vast mountain ranges and rend continents asunder with interoceanic canals. The millions and

billions that are needed for these vast enterprises are flung at them with prodigal hand. Forty millions of dollars were promptly handed out from the Public Treasury to pay for the privilege of spending two hundred millions more to dig a ditch in foreign lands more than a thousand miles from home. Not one one-hundredth of 1 per cent of our people will ever see it; not 1 in 1,000 of our people will ever feel his burdens lightened or his joy and comforts of life increased when it is finished. One-half the sum it will cost, if intelligently expended upon our public highways during the next ten years, would give 100 times as many comforts and pleasures to 1,000 times as many of our people. The canal will be a great public utility, no doubt, and I do not wish to appear to oppose this great work, but better roads are a crying public need, now—every day. [Applause.]

As long as the farmer was the only sufferer from bad roads there was little likelihood of an appeal in their behalf ever reaching the Public Treasury. For armies and navies, for forts and arsenals, for armor and projectiles, and all the wants and whims of those who fight, we hand out unstinted millions; to those who plow, and sow, and reap we dole out grudging pennies.

The appropriations for war and kindred purposes (including pensions) last year were $335,867,482. Nearly half our entire income expended—for what? Put your finger on the net returns. An archipelago full of Malays and malaria, 10,000 miles from our shores; a trail of transports streaming out at the Golden Gate and across the Pacific with thousands upon thousands of the flower of our young manhood, and returning with their overflowing cargoes of diseased and maimed—pensioners to be!

Here at home are millions of patient, plodding, toiling farmers, who pay taxes enough to foot the whole enormous Army and Navy and pension bills and two hundred millions more for other expenses. And yet these toiling, patient farmers are never heard of except when Secretary Wilson issues his annual report. When the paltry sum of less than $7,000,000 is asked for this Department—every dollar of which the farmers themselves have paid into the Treasury a hundred times over—gentlemen elevate their brows, and, with a look of interrogation, scrutinize and criticise every item. A fearful hue and cry is now in the air about a trifle of $200,000 expended by the Department in seed and plant distribution to farmers. Why, $200,000 will not pay for the ammunition our valiant Army and Navy use for shooting holes in the atmosphere—target practice, they call it. [Laughter.] Two hundred thousand dollars used by the Army and Navy go up in smoke in a few days! Two hundred thousand dollars expended for seeds by the Agricultural Department carry pleasure and comfort into 2,000,000 homes. But they are not fighters and do not wear fine uniforms and gold lace. They are just farmers, and do nothing much but produce all the food and clothing for the world. [Laughter and applause.]

Of the more than eight hundred and twenty millions carried in the appropriation bills last year, the farmer contributed about 68 per cent, or nearly five hundred and fifty-eight millions. Although thus heavily taxed and bestrode by a burly and brutal tariff monster, he added more to the aggregate wealth of the country than all other sources combined. [Applause.]

The total value of the products of the soil last year is put at six and one-half billions of dollars. It is interesting to note the value of the principal farm products for the year 1905:

Corn crop	$1,216,000,000
Hay	605,000,000
Wheat	525,000,000
Oats	282,000,000
Potatoes	138,000,000
Barley	58,000,000
Tobacco	52,000,000
Sugar cane	50,000,000
Rice	15,000,000
Cotton	685,000,000

The total value of the cotton crop of the South for the last five years is worth $400,000,000, more than all the gold and silver mined in the world for the same number of years.

Every pound of this inconceivably vast tonnage must be moved to market over our present execrable roads, 85 per cent of which are practically impassable for loaded teams during half the year.

If the Army needs a road, it gets it. Even our unprofitable and expensive possessions, the Philippine Islands in the Far East, have been the objects of our solicitous care to the extent of expending $5,000,000 in building roads for them. Porto Rico, though not much larger in area than some of our counties, has had over $3,000,000 expended upon its roads since it came into our possession. During our brief occupancy of the island of Cuba our Government expended two and a half millions upon its public roads. Even those little dots out in the Pacific, the Hawaiian Islands, acquired by diplomatic legerdemain, have come in for a share and have a contemplated expenditure of two and a half millions upon their roads.

These various sums aggregate $13,000,000 that have been expended during the past few years in building roads, not a foot of which lie within the United States. What have we against our own people that we should deny to them blessings that are freely extended to the idle islanders of the seas?

But other interests and forces are coming to the aid of the solitary, the isolated, the unorganized, and almost unorganizable farmer. His friends in the cities, having grown rich and equipped themselves liberally with self-propelling vehicles, want better roads to roll them over, and they are interested in the problem of the roads. The manufacturer, learning from experience that bad roads interfere materially with his obtaining steady and continuous supplies of raw material, wants the roads improved. The millions of operatives in mines, mills, and shops are learning that bad roads increase the cost and disturb the regular supply of food products from the farms which they must have, and they want better roads. The merchant has learned that bad roads retard and depress trade, and he wants them mended. Our Post-Office Department is greatly hindered and hampered in its efforts to supply to the country regular, prompt, and reliable mail service for lack of better roads. In fact, it would be hard to name an interest, an industry, or an individual who would not be benefited by better roads.

The question of railway rate legislation has commanded the attention of this House for days and weeks, and has been receiving the serious thought of the Senate for weeks. For years it has aroused the deepest interest throughout the country, and I would by no means disparage the importance of this question; but, sir, I call your attention to the fact that the average charge of railroad transportation of freight throughout the country is three-fourths of 1 cent per mile for the hauling of a ton of freight. Now, mark you, that the average cost of hauling freight over dirt roads is 25 cents per ton, or thirty-three times as much, and further, bear in mind, that the freight that is hauled over the railroads in a large part must first travel the dirt road; in fact, 98 per cent of the freight that is shipped over railroads must first pass over a dirt road to get to a railroad for transportation. Does not this impress the importance of the improvement of our roads throughout the land?

If I had the privilege of writing upon our statute books a law that had more of the promise and potency for immediate and lasting good to all the people than any law that has been proposed or discussed in this Hall, it would be a law creating a Department of Public Highways, to act through and in conjunction with State, county, and municipal authorities in redeeming our country from the throes and thraldom of its miserable roads; and I would give that Department not less than fifty millions a year until the work had reached a satisfactory stage of advancement.

A distinguished Senator, in the debate on the rate bill a few days ago, stated that a reduction of 1 cent per ton per mile in the present rates on all freights would put more than half the railroads in the hands of receivers. If this be true, what must be the appalling cost to the country of a system of public roads that increases the cost of moving its vast agricultural products, not 1 cent only, but five or ten times as much per ton per mile? A simple arithmetical calculation would give us the figures, but the mind could scarcely grasp their staggering import.

Mr. Chairman, when we find we are in the wrong road, no matter how long nor how far we have traveled it, it is the part of wisdom to stop and change our course. For a hundred years we have waited for this road problem to be worked out under the old methods, and we are only getting deeper in the mud. To the principle and practice of extending Federal aid to road building we have already been long committed. I take pleasure in mentioning the fact that more than seventy years ago the Hon. John C. Calhoun, of South Carolina, advocated the very idea proposed in a bill which I had the honor to introduce here recently. He advocated the division of the surplus among the States and the expenditure of it by the States in road building. And another southern statesman, the Hon. Jefferson Davis, of Mississippi, was the very first, I believe, to give official indorsement to the idea of a transcontinental railway to be built by the Federal Government. Had his recommendation, made while he was Secretary of War in 1855, been carried out, what an ugly chapter in our history might have been omitted, and what an empire of public lands, granted finally for this purpose, would have remained the property of the home seeker.

But if there were neither law nor precedent for the General Government to engage in road building, it is high time we were making both. Congress is wisely encouraging and sustaining

the Post-Office Department in its efforts to extend the wonderfully vitalizing and educating benefits of free rural mail delivery. Nothing that has been undertaken by the General Government since the establishment of the Post-Office Department has proven so immediately and universally popular as these daily rural mails. To send these mails daily over such roads as we have now must be done at an expenditure of money and labor and energy and time that would be reduced in many instances by half if the roads were given proper attention. Nothing will contribute more to the rapid extension and improvement of this service than to improve the roads over which it must travel.

I do not believe that this Congress can make a more useful expenditure of public funds than in the direction I have indicated, nor one that would be more immediately and lastingly popular and beneficial. Then shall every interest be guarded by national legislation, and the welfare of that class which affords sustenance to all classes be not neglected. Shall no voice be heard in behalf of the millions of farmers in the United States? These people maintain no lobbies at your portals. They have trusted to your high sense of duty, to your loyalty to the supreme interest of the Republic. Will you longer disappoint them? [Prolonged applause.]

Mr. MOON of Tennessee. Mr. Chairman, I now yield to the gentleman from Illinois [Mr. RAINEY].

Mr. RAINEY. Mr. Chairman, the levy and collection of taxes is one of the most important functions of the modern State, and I know of no better time to discuss this great subject than now, when we have under consideration a bill which carries $191,000,000.

There has grown up in this country within the last few years a system of levying taxes not dreamed of by the founders of the Republic; a system of taxation in existence at the present time in no other great commercial nation in all the world; a system of taxation that Alexander Hamilton did not believe in nor did he indorse. His dictum was, and he repeated it on all occasions wherever he had an opportunity, that subsidies might be properly paid to industries newly established, but their continuance upon industries long established was most questionable.

A great party followed in his footsteps for many years, but a few years ago, when the so-called "McKinley tariff" was under discussion, they for the first time threw aside the mask and declared themselves in favor of that system of taxation which might be exercised not for the purpose of raising revenue, not for the purpose of subserving any interest of the State, but they claimed then for the first time, in opposition to the teachings of the great Hamilton, that they had a right to delegate the taxing power to individuals and to private corporations, to be exercised by them for their own personal and private benefit.

As a result of this sort of practice, already in this country it has not only become impossible to buy in the cheapest market, but it has become impossible for the American citizen to buy American-made goods in the cheapest market. Up here for 1,500 miles along our northern frontier they have built a railroad out of American steel rails, and it cost $27 a ton for the rails that built every mile of it. It cost $27 per ton for the rails that built every mile of siding and for the rails that keep it in repair. Just on the other side of the border, over in Canada, they have built another railroad—in every sense of the term a parallel and competing line—out of rails that cost $22 per ton; but the rails out of which the Canadian road is built and the rails out of which the American road is built all came from the same factory here in the United States, protected by our tariff laws.

Are the men who build our railroads permitted under these circumstances to buy American-made goods as cheaply at home as American-made goods can be bought in another country?

Not long ago there was considerable talk in the papers upon the question of the material and all structural iron intended to be used in the construction of the Panama Canal, and the people learned, through the President of the United States, and it was an object lesson to all of them, that if American-made goods, American structural iron and steel, could be purchased at the export price, at the price the steel companies charged for it 3,000 miles away across the sea, it would result in the saving of untold millions of dollars to the United States Government.

Back of a tariff wall make one price. Just on the other side and out in the open the protected factories meet the competition of the world, and they meet it successfully, and they make there another and cheaper price. Back of the tariff wall our agricultural-implement factories manufacture plows and harrows and other agricultural implements, and they ship them to all the agricultural sections of all the world, and they sell them from 25 to 50 per cent cheaper than the American farmer who lives within 50 miles of the factory can buy them. They sell in South America drills and plows and harrows, and the sheep farmer of South America, with American-made goods purchased from 25 to 40 and 50 per cent cheaper than the American farmer can buy them, plows up his sheep pastures, sows wheat, and sends that wheat to Liverpool there to compete with the products of the American farm.

These facts have been brought home to all of us for many years. Before the last Presidential election there were murmurs of discontent from the Republicans in the States of the far East.

Mr. McCLEARY of Minnesota. Mr. Chairman, before my friend gets on to another subject, would it interrupt him if I should ask him a question at this time?

The CHAIRMAN. Does the gentleman yield?

Mr. RAINEY. I certainly yield.

Mr. McCLEARY of Minnesota. Is my friend aware that in the last report of the British Iron Trade Journal steel rails are quoted at £6 5s. a ton, which is a little over $31, and that they are quoted at $28 a ton in the United States?

Mr. RAINEY. Mr. Chairman, that sometimes occurs. That occurred in 1898, but for only sixty days. That is a mere temporary condition, the gentleman will find.

Mr. McCLEARY of Minnesota. The gentleman admits the fact.

Mr. RAINEY. I do not admit the fact. I do not know.

Mr. McCLEARY of Minnesota. That is what I want to find out. It is a fact.

Mr. RAINEY. We shipped abroad in 1899, $9,000,000 worth of steel rails when we were selling steel rails here for $27 a ton and when they were selling for $22 a ton across the sea, and we competed, and competed successfully, with that price. Why, if you could buy the structural steel and the ship plates that go into a 12,000-ton vessel at the export price—if you could buy at the English price—a 12,000-ton vessel would cost $250,000 less in this country than it costs now to build. Under these circumstances, is it not time to at least somewhat modify our present tariff schedules? Murmurs of discontent were heard before the last Presidential election. In the Far East—from the Republicans of Massachusetts—there came murmurs of discontent in no uncertain terms. In the great States of the Northwest the same kind of murmurs were heard, and in the great States of the Middle West.

Before entering upon the last campaign and when the President of the United States was notified on the 27th day of July, 1904, of his nomination at the hands of a great party, in response to the official notification of the action of the Republican convention, he said, and I am quoting his exact language:

> That whenever the need arises there should be a readjustment of tariff schedules is undoubted, but such changes can with safety be made only by those whose devotion to the principle of a protective tariff is beyond question, for otherwise the changes would amount not to readjustment, but to repeal. The readjustment when made must maintain and not destroy the protective principle.

And Republicans, from one end of the land to the other, who were complaining about the tariff were satisfied with this statement. They were led to believe that the way to get a readjustment of tariff schedules was to elect to this House men who were friends of the protective tariff. It was the old argument that the tariff must be revised in the house of its friends, and the campaign proceeded. One million five hundred thousand Democrats stayed away from the polls, and enough friends of the protective tariff were elected to this House to accomplish some results. They elected so many friends of the protective tariff that they have overflowed this side of the Chamber, and as we sit here there are Republicans to the right of us, Republicans to the left of us, and Republicans in front of us, and sometimes, when we turn around, there are so many of them here we find them behind us also.

No House in the last fifty years ever had so many friends of the protective-tariff system as the present House. We sit here a small oasis in a desert of Republicans. You can not expect at any time in the future to get more Republicans here than you have here now; but you can expect this fall, if you do not make a substantial revision of these tariff schedules, to have less, and a good many less. [Applause on the Democratic side.] We were prepared for the letter of the majority leader to the Massachusetts delegation. That did not surprise the country any. It was foreshadowed over a year ago by the American Protective Tariff League. Why, as soon as you were able to cross the Rubicon, as soon as you obtained this enormous majority in this House, your zeal for tariff reform ended, and the majority leader, when he made public on the 24th day of last month his letter, did not settle anything that we did not already know. After the elections were safely passed, and at its twentieth annual meeting, the

American Protective Tariff League, speaking, as it always does, for the Republican party, in the resolutions it adopted in the city of New York a little over a year ago, said:

> The voters of the United States were asked to choose between the party of tariff destruction and the party of tariff maintenance. Their choice was made. * * * The people by an enormous majority have once more expressed their complete approval of that system and policy. They have declared once more in favor of tariff peace; of tariff stability.

And now, corroborating the orders issued by the Protective-Tariff League a little over a year ago, and in obedience thereto and in order to find another excuse for not revising the tariff schedules at this session, the majority leader, in his efforts now to quiet the apprehensions of the Massachusetts delegation, in order to settle forever so far as this Congress is concerned the question of tariff revision, announces this as the reason for the refusal of the Republican party to act, and I quote from his letter:

> Congress is not prepared to review the tariff schedules in that calm, judicial frame of mind so necessary to the proper preparation of a tariff act at a time so near the coming Congressional elections.

The excuse at the next session of Congress will be that it is the short session of Congress and we can not attempt anything of that kind, and the excuse at the following session will be that a Presidential election is approaching and that we can not maintain a "judicial frame of mind," and it will not do to surrender in the presence of the enemy. After that, my friends, you will not find it necessary to make any excuses. After that there will be no Republican Members sitting on this side of the Chamber [applause on the Democratic side] and the tariff will be revised. The demands of the people will be met, and the tariff will be revised by the only party in this country that ever will revise it. [Applause on the Democratic side.] You can not fool the people always. You were able to do it just before the last Presidential election. You have been able to do it in the sessions of Congress that have elapsed since then, but you can not keep up this sort of dawdling always. The people of the United States in this century and at this time demand action.

Now, Mr. Chairman, I want to talk this afternoon about watches, not because watches form any exception to the general rule, not because they are the only articles that are shipped abroad and sold cheaper than they are sold here at home, but because in the last three months, through the energy of a typical Democrat who lives in the city of New York, it is possible this afternoon to make of watches an object lesson; and I have caused to be displayed here in this Chamber, on the easel in front of the Speaker's desk, in the presence of the Members of this House, a photograph, 40 by 70 inches in size, taken in the city of New York two weeks ago. It represents an ordinary scene in front of the store of Mr. Charles A. Keene, at 180 Broadway, in that city. Across the front of his store is stretched a sign, covering an entire story of that store, upon which, as you all can see no matter where you sit in the room, is inscribed the following:

> Great protection sale. Waltham and Elgin watches bought in England cheaper than in America and brought back to undersell this market. Charles A. Keene, 180 Broadway, New York.

Mr. DALZELL. Mr. Chairman, I would like to ask the gentleman whether this advertising picture was taken at the instance of Mr. Keene?

Mr. RAINEY. The advertising picture was taken at my instance, at my request, and by my photographer, and I expect to pay for it. [Applause on the Democratic side.] I brought it here, and I have also brought a number of watches here from his stock. I have brought it here this afternoon, and I am going to conduct a kindergarten for "stand-pat" Republicans [applause on the Democratic side], and you gentlemen will not disconcert me by asking questions.

Mr. LACEY. Mr. Chairman, I would like to ask the gentleman a question.

The CHAIRMAN. Does the gentleman yield?

Mr. RAINEY. Yes.

Mr. LACEY. Does Mr. Keene sell these goods cheaper in New York than they are sold by other people there?

Mr. RAINEY. I am proceeding to discuss that question.

Mr. LACEY. I just want to get the facts. He imports them from England and sells them cheaper here, does he, than other people do?

Mr. RAINEY. I do not want the gentleman to make my speech.

Mr. LACEY. I want to know whether he pays the duty on them or whether he smuggles them in.

Mr. RAINEY. He has 2,400 watches hung up there now, or they were until the 31st of March, in the custom-house at New York, brought back from England. I will satisfy the gentleman on that point before I get through.

Mr. LACEY. I want to know whether he pays this duty and still sells them cheaper than other people do here. If he does, then the duty certainly does not have anything to do with it.

Mr. RAINEY. Mr. Chairman, I am very glad the gentleman from Iowa [Mr. LACEY] has asked these questions. They furnish me with a line of argument, and I will answer every one of them as I proceed. I have no objection to questions from every stand-pat Republican in this House.

Mr. GOULDEN. Mr. Chairman, will the gentleman permit a statement here?

The CHAIRMAN. Does the gentleman yield?

Mr. RAINEY. Yes.

Mr. GOULDEN. I want to corroborate what the gentleman from Illinois [Mr. RAINEY] says with regard to that. For nearly five years I have had my offices in the same building, and I have seen that sign there for the last three or four months. [Applause on the Democratic side.]

Mr. LACEY. Mr. Chairman, I am trying to find out why he does not add the duty to the price, if he paid the duty.

Mr. RAINEY. I will answer the question fully before I get through.

Mr. GOULDEN. For three or four months the same sign you see there has been on the front of that building to my personal knowledge.

Mr. RAINEY. Mr. Chairman, I will answer the question of the gentleman from Iowa, and I will satisfy every Republican in the House before I get through that the tariff schedules ought to be revised, and if I do not succeed in satisfying them, I will succeed in satisfying their constituents by putting this argument and these facts and this evidence in the RECORD, and if I succeed in satisfying their constituents, there will be many of them—and I shall not regret it—who will be relegated when the Sixtieth Congress meets to the private walks of life. [Applause on the Democratic side.]

My attention was first directed to this gentleman's business by advertisements he inserted in the New York papers. I did not pay much attention to them until I found a half-page advertisement in the New York Press, and I thought that a half-page advertisement appearing in a paper which is one of the principal exponents of the Dingley tariff in this country ought to receive some attention. While this advertisement was running, while this paper was taking the money of Mr. Keene for this advertisement, in its editorial columns they were talking about the Dingley tariff and insisting that it was inspired—every word and every syllable and every comma. Inasmuch as this advertisement in the New York Press first directed my serious attention to this subject, I desire to send it to the Clerk's desk to be read.

The CHAIRMAN. Without objection, the article will be read by the Clerk.

The Clerk read as follows:

[The New York Press, Friday morning, February 2, 1906.]

FOR SALE—DIAMONDS, WATCHES, ETC.

Warning! Do not buy Waltham or Elgin watches from dealers allied with the trust!

When I started this campaign against the iniquitous methods practiced by the watch trust against both consumer and dealer I prophesied that the exposure of the combine's unfair methods would inevitably compel the watch trust to forego extorting extravagant profits from American watch buyers and compel them to get down to a square basis or to quit the foreign field. That alternative is now being considered by the watch trust.

The members of the watch trust are now studiously analyzing the problem created by the stupendous competition I have initiated—even the dealers are protesting against and rejecting the ironclad agreements heretofore forced upon them by the trust.

The cost of your watch may be a comparatively trivial affair, but the price you pay involves a principle, and a vital one.

To pay $75 for a Waltham "Riverside Maximus" (the price which eight out of ten dealers will ask you) may not be a willful extravagance from the standpoint of intrinsic value, but to pay $32.70 more than that particular watch sells for in England, Egypt, or Australia simply because it is a home-made article and you live in the United States is hardly sufficient justification for paying tribute and dividends to the trust. The average man wants fair play in watch buying as in other things.

There are no better watches made in the world than those turned out of our American factories. That fact is made doubly plain by the high character of the goods sent abroad by the watch trust to compete with the world-renowned watches of such makers as Sir John Bennett, Jules Jurgensen, Patek Phillipe, Audemar, Constantin & Vacheron, etc.

It may seem paradoxical or a "bull" to say that in order to get the best American-made watches at the lowest prices you must buy them abroad, but such is the fact, thanks to a benevolent "protective" tariff, which enables the watch trust to hold up the American public and demand tribute for dividends from Americans.

Here is an illustration of how the watch trust mulcts (or milks) the American watch buyer:

Walk into any jewelry store in the United States and ask to be shown the best Waltham watch made. They will show you the "Riverside Maximus," at $75.

Under no circumstances are they allowed to sell this watch for less than $60, as they are bound by the "ironclad" agreement with the trust to maintain that as the minimum price. I buy this same "Riverside Maximus" in England, defray all shipping expenses, bring it back to this country duty free, and offer it to the American public at $42.30, and make a reasonable trade profit on the transaction.

The same relative price difference applies to all other grades of Waltham and Elgin watches.

It is even possible to bring Waltham movements back to this country from England and retail them for $2.75 at a profit.

All my watches are guaranteed brand new, just as they come from the Waltham and Elgin factories. The prices are all under the market; for instance, the Riverside, seventeen jewels, price $16.39. No jeweler is allowed to sell this for less than $25, under penalty of being blacklisted by the trust cutting off his supply. Ask some jeweler and find out. All my prices represent about the same percentage of saving. The prices quoted below are for movements alone. On request I will submit prices on any sort of case made. I do not sell movements without cases or cases without movements. They are priced separately simply for the convenience of customers.

Waltham, Maximus, 23 jewels	$42.30
Waltham, 15 jewels, No. 820	3.98
Waltham, 17 jewels, No. 85	4.78
Waltham, Crescent St., 19 jewels	16.92
Waltham, Crescent St., 21 jewels	18.98
Waltham, Riverside, 17 jewels	16.39
Waltham, Vanguard, 23 jewels	25.38
P. S. Bartlett, 17 jewels	7.98
Elgin, B. W. Raymond, 19 jewels	16.92
Appleton, Tracy & Co., 17 jewels	11.98
Lady Waltham, 0 size, 16 jewels	9.98
Riverside, 12 size, 17 jewels	16.39
Waltham, Maximus, 21 jewels	39.98
Elgin, Veritas, 23 jewels	25.38

CHARLES A. KEENE,
180 Broadway, New York, Watches, Diamonds, Jewelry.

Mr. RAINEY. What is known as the "big four" in the watch trust are the following: The American Waltham Watch Company, of Waltham, Mass.; the Crescent Watch Case Company, of Philadelphia; the Elgin National Watch Company, of Elgin, Ill., and the Keystone Watch Case Company, of Newark, N. J. The Waltham company make movements only, and they are put on the market and sold in Crescent watch cases. The Elgin National Watch Company sell their watches to the Keystone Watch Case Company for export, and they are exported by the Keystone Watch Case Company. The New York Standard Watch Company, of Jersey City; the Philadelphia Watch Case Company, of Riverside, N. J., and the E. Howard Watch Company, of Boston, are controlled by the same capital that controls the Keystone company, and in order to show how closely all these watch companies are related I want simply to call attention to the fact that although the capital of the Keystone company controls the Howard Watch Company, the Howard watches are made by the Waltham factory in New York. All these companies own each other's stock.

Now, I want to answer the questions of the gentleman from Iowa. They are all pertinent and in fairness they ought to be answered, and inasmuch as he has asked them, coming as they do from a leading exponent of the "stand pat" Republican policy of this country, they ought to be answered fully, and if I do not entirely satisfy the gentleman from Iowa or any other gentleman on the other side of the House, I trust that you will keep on interrupting and asking questions until I have satisfied every one of you. I have been studying the watch business for some time now, and I feel that I know something about it and I am willing to give to you, who control the situation here and who alone can say whether or not there shall be a revision of the tariff schedules, the benefit of my labors. [Applause on the Democratic side.] Under the Dingley Act the following tariffs are imposed upon watches and upon watch movements. I read from section 191 of the tariff law of 1897.

Watch movements, whether imported in cases or not, if having not more than seven jewels, 35 cents each; if having more than seven jewels and not more than eleven jewels, 50 cents each; if having more than eleven jewels and not more than fifteen jewels, 75 cents each; if having more than fifteen jewels and not more than seventeen jewels, $1.25 each; if having more than seventeen jewels, $3 each, and in addition thereto, on all the foregoing, 25 per centum ad valorem; watch cases and parts of watches, including watch dials, chronometers, parts of watches, etc., 40 per centum ad valorem. All jewels for use in the manufacture of watches or clocks, 10 per centum ad valorem.

In other words, under the Dingley Act the tariff upon watch movements and upon watch cases, adding together the specific and the ad valorem duties, amount to nearly 50 per cent of their value. Now, in order to further answer the gentleman from Iowa upon a matter about which I am surprised he is not fully informed, I want to say that American-made goods sent abroad can be brought back without paying any duty if they come back in the same condition that they were in when they went abroad. You must satisfy the tariff officers, not that they are in the same condition perhaps, but that they have not been improved upon or advanced in value while abroad, and in that connection I want to send this letter to the Clerk's desk to be read.

The CHAIRMAN. Without objection, the Clerk will read the letter.

The Clerk read as follows:

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, February 23, 1906.

Hon. HENRY T. RAINEY,
House of Representatives United States.

SIR: In reply to your letter of the 20th instant, I have the honor to inform you that articles of American production or manufacture upon being reimported into the United States after exportation thereof are entitled to entry free of duty, under paragraph 483 of the tariff act of 1897. I inclose herewith copies of Department circulars Nos. 125 and 35, of October 19, 1899, and March 26, 1903, respectively, containing the regulations relative to the entry of such reimported American goods.

Respectfully,

H. A. TAYLOR, *Acting Secretary.*

Mr. RAINEY. Now, before proceeding further with the discussion of this question I want to show how the watch trust does business. I have here a contract which the American Waltham Watch Company exacts from every retailer in this country who buys the better grades of watches, and in watch parlance the better grades of watches are called "railroad movements." No dealer who buys a railroad movement in the United States is permitted to sell that movement for less than the minimum price fixed in that contract. Under this contract the Waltham Company exercises the right to control absolutely the men who shall be jobbers of watches in the United States. In order to show you how it is possible for this business to be built up back of this tariff—a nefarious, outrageous business like this—I am going to put the contract of the Waltham Company in the RECORD. It has never been published; and I am not permitted to give the name of the retail dealer who furnished me with this copy. But I propose that the country now shall know, and I ask the Clerk to read the contract at the bottom of this bill, beginning with the words, "Bill to retailers."

The Clerk read as follows:

BILL TO RETAILERS—CONDITIONS OF SALE.

Each Waltham railroad movement specified in this bill is sold subject to all the conditions hereinafter and in the Waltham contract notice accompanying such movement set forth, which conditions, the purchaser named herein, by the acceptance of such movement, agrees with the undersigned company to keep and perform, viz: (1) Retail watch dealers must not dispose of said movements except by sale; (2) must sell said movements only to customers purchasing the same for their own or others' use and not for resale; (3) and must not advertise or sell any of said movements or any other Waltham railroad movements at less than the following net prices, respectively:

Vanguard, twenty-three jewels, $35; Vanguard, twenty-one jewels, $30; Vanguard, nineteen jewels, $28; Crescent St., twenty-one jewels, $26; Crescent St., nineteen jewels, $24; Appleton, Tracy & Co. Premier, $21; Riverside Maximus Lever Setting, $60; Riverside Lever Setting, $25.

(4) All watch dealers handling these or any other Waltham railroad movements are to be considered retail dealers, except those named as jobbers in the latest list of jobbers issued by said company. (5) A breach of any of these conditions as to any Waltham railroad movement shall revest in said company the title of such movement and of all other Waltham railroad movements in the possession of the violator, and upon tendering the price paid by the holder of such movements the said company shall be entitled to retake possession of the same.

A duplicate of this bill has been sent to the undersigned, by whom these conditions will be enforced.

AMERICAN WALTHAM WATCH COMPANY,
Waltham, Mass.

Mr. RAINEY. Now, I want to put in the RECORD, and I want to have it read here, the contract the Elgin company exacts from other companies, and this will be the first time this contract has ever been printed.

The Clerk read as follows:

RETAIL BILL.

The Elgin movements specified herein are sold subject to the following license conditions (see license accompanying each movement): (1) The retail purchaser may advertise and sell the same only to buyers for use, and at not less than the following prices: No. 214 Veritas, $35; 239 and 274 Veritas, $30; 240 Raymond, $24; Father Time, hunting or open face, $26; 17-jewel B. W. Raymond, hunting or open face, $21; 270, $28; 280, $23. (2) Acceptance of the movements is assent to these conditions. (3) Any violation of the license conditions revokes and terminates all right and license as to movements and all other Elgin movements in the violator's possession.

Mr. RAINEY. Under the contracts of the Waltham and the Elgin companies, a Crescent Street 21-jewel movement can not be sold to any retailer in the United States for a less price than $26. You can go into the store at 180 Broadway and buy that movement for $18.98. Under the minimum-price contract just read of the Waltham Company a Vanguard 23-jewel watch movement can not be sold by any retail dealer in the United States for a less price than $35. Mr. Keene, in the advertisement I had read just now from the Clerk's desk, agrees to sell this watch movement for $25.38. These movements can not be sold for less than this price. If you go into some store on a prominent thoroughfare in one of our large cities, where there is a display of diamonds on a black velvet background and a profusion of cut glass and immense plate-glass windows, they will charge you much more for a Crescent street 21-jewel Waltham movement than $26, but no retail dealer in the United States can sell it for less, and you can not buy it for less under the contract they exact from all of them and which I have just had read.

Under the contract I have had read no retail dealer can sell a Crescent Street 19-jewel Waltham movement for less than $24. In the advertisement from the New York Press, that I presented a while ago, Mr. Keene agrees to sell this watch, and does sell it, for $16.92—$8 less than any retail dealer can buy it

for in the United States. Under the minimum contract price of the Waltham company, a Riverside Maximus movement can not be sold by any retail dealer in the United States for less than $60; and if you go into the store of some fashionable dealer, where they are paying a high rate of rent and handling and selling cut glass and diamonds, they will charge you from $75 to $100 for this movement. According to the advertisement I sent to the Clerk's desk, Mr. Keene agrees to sell a Riverside Maximus movement—and it is the best watch movement made in the United States, and perhaps in the world—for $42.30. Under the Waltham contract, a Riverside lever-setting movement can not be sold for less than $25, and in this advertisement Mr. Keene says he will sell it for $16.39.

Under that little contract the Elgin company exacts from all retailers in the country; they are not permitted to sell 214 Elgin Veritas watch movements for a less price than $35. As a matter of fact, most of them sell this movement for much more than that. None of them can sell it for less without forfeiting, under this contract, not only the particular grade of watches they are so selling, but their entire stock of Elgin watches. Mr. Keene sells it for $25.38, $10 cheaper than any retailer in the country is permitted to sell it.

Under the Elgin contract a 240 Raymond Elgin can not be sold for a less price than $24. If you try to buy that kind of movement you will find it oftener sells for more than $24 than for $24. But if you go into some little obscure store, on some out-of-the-way street, you will be able to buy this movement for $24, but not for any less. Mr. Keene's price on this movement is $16.39, as shown by his advertisement.

Now, all these watches——

Mr. WILLIAMS. Mr. Chairman, if the gentleman will permit an interruption, for fear the country may think that the attention of the Republican majority in the House had never been called to this matter and that they have had no opportunity to remedy this evil by reducing this extortionate duty behind which is sheltered this trust, as claimed. I would like to get the gentleman's permission to read a brief bill of one sentence. On February 20, 1906—

Mr. WILLIAMS introduced the following bill; which was referred to the Committee on Ways and Means, and ordered to be printed.

It is still lying in that "stand-pat" Committee on Ways and Means.

A bill to reduce the duties on watches imported into the United States from foreign countries.

Be it enacted, etc., That from and after the passage of this act the duty levied, collected, and paid upon watches imported into the United States from foreign countries shall be 15 per cent ad valorem.

SEC. 2. That all provisions of the law in conflict with the provisions of this act are hereby repealed.

Now, one word more, if the gentleman from Illinois will permit me. The gentleman has told about this iniquitous trust contract which is made by these two companies; a similar contract is made by the sugar trust, and a similar contract is made by nearly all trusts. The gentleman from Mississippi, representing the minority on this side of the Chamber, December 21, 1905, introduced a bill which was referred to the Committee on Interstate and Foreign Commerce, where it seems likewise to "stand pat." That bill is a copy of the Massachusetts statute, and reads as follows:

Be it enacted, etc., That no person, firm, or corporation, or association of individuals, or association of corporations engaged in interstate commerce shall make it a condition of the sale of goods, wares, or merchandise that the purchaser shall not sell or deal in the goods, wares, or merchandise of any other person, firm, corporation, or association of natural or artificial persons: *Provided*, That this act shall not be construed to prohibit the appointment of agents or sole agents for the sale of goods, wares, or merchandise. Any violation of the provisions of this act shall be held to be a contract in restraint of trade among the several States under the provisions of section 1 of the act entitled "An act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890, and every person who shall be a party to said contract in violation of this act shall, on conviction thereof, be adjudged guilty of a misdemeanor and shall be punished by fine not exceeding $5,000 or by imprisonment for a term not exceeding one year, or by both said punishments, in the discretion of the court, and shall be subject to such other penalties, forfeitures, and suits in equity and actions at law as are prescribed in sections 4, 5, 6, and 7 of an act entitled "An act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890.

So the Republican party had opportunity to correct just exactly these two abuses which have furnished the occasion of this magnificent speech upon this glaring object lesson of national exploitation and outrage. [Applause on the Democratic side.]

Mr. HILL of Connecticut. Mr. Chairman, if the gentleman will yield, I wish to call the attention of the country also to the fact——

Mr. RAINEY. I do not yield for a speech.

Mr. HILL of Connecticut. Will not the gentleman yield for the same purpose that he yielded to the gentleman from Mississippi?

Mr. RAINEY. I will yield to the gentleman for a question.

Mr. HILL of Connecticut. You would not yield to the gentleman from Connecticut for the same purpose that you yielded to the gentleman from Mississippi?

Mr. RAINEY. The gentleman can speak in his own time. I am willing to yield for all questions that anybody wants to ask on this subject, and I will gladly answer every one of them, but I am not half through with my remarks.

Mr. HILL of Connecticut. Well, I will put it in the form of a question. Does the Democratic party when in power exercise the same policy in regard to the tariff that they do when they are out of power? I want to call the gentleman's attention to the fact that the gentleman from Mississippi now suggests that the Democratic party would put a tariff of 15 per cent on watches, but when they were in power they made it 25 per cent. [Laughter on the Republican side.]

Mr. WILLIAMS. Will the gentleman from Illinois permit me? I want to say that 15 per cent on watches now, with the improvements which have been taking place all the time in America in watch making, is a larger duty and a fuller duty in every respect than 25 per cent was then. [Laughter on the Republican side.]

Mr. LACEY. I want to ask the gentleman one question.

Mr. RAINEY. Very well.

Mr. LACEY. Isn't it a good deal easier to collect the 25 cents now than it was to collect 15 cents when the Democratic party made their tariff? [Laughter on the Republican side.]

Mr. WILLIAMS. Not if you have to live on the 25 cents. [Laughter on the Democratic side.]

Mr. RAINEY. Mr. Chairman, we are living now in the present among living issues and not among the issues of long ago. We are discussing issues of the present, and these are the issues that the country want you gentlemen of the other side to discuss; these are the issues they expect you to meet, and these are the issues you will have to meet this fall. [Applause on the Democratic side.] You can not meet them by calling attention to the schedules that have existed heretofore, whether they were Democratic or whether they were Republican schedules; but the country demands now upon these great questions action and they expect you to do something, and you may refuse to do it if you dare. [Loud applause on the Democratic side.]

Now, all of these watches in this store at 180 Broadway have been reimported from England. Every one of them has been reimported. Why does not some gentleman ask me how I know it? Do you want to know how I know that? You do not seem to want to know, but I will tell you anyway. [Laughter.] Before this gentleman started that business, three or four months ago, although he had been in business in this place three or four years before he commenced to make a specialty of reimported American watches, he accumulated a stock of watches purchased abroad, paying for them at the export price over $130,000. How do I know that? You do not ask me how I know it, but you ought to ask. [Laughter.] I will tell you how I know it.

I hold in my hand over $130,000 of American Express Company's receipts showing that within the fifteen months prior to the time he started this particular business, he cabled abroad in American money over $130,000 through the American Express Company for the purpose of purchasing abroad American-made watches.

I can not put this mass of evidence in the RECORD, but I will say to you gentlemen, and I will say to the country, that I propose to keep this evidence here accessible to every one of you, so that you can verify my statement or not, and I challenge any one of you on that side to examine here, at any time in the next two or three weeks, these American Express Company's receipts and see whether or not the statement I have now made is not true. [Applause on the Democratic side.]

The CHAIRMAN. The gentleman's hour has expired.

Mr. McCLEARY of Minnesota. Mr. Chairman, I ask unanimous consent that the gentleman's time may be extended.

The CHAIRMAN. The time is under the control of the gentleman from Tennessee [Mr. MOON].

Mr. MOON of Tennessee. Mr. Chairman, the gentleman was given such time as he desired in which to conclude his remarks.

The CHAIRMAN. If the gentleman from Tennessee desires to yield further, he may do so.

Mr. MOON of Tennessee. Then, Mr. Chairman, I yield to the gentleman such further time as he desires.

The CHAIRMAN. That is, one hour.

Mr. OVERSTREET. Mr. Chairman, I would like to inquire of the gentleman from Tennessee whether he intends that this hour shall continue to-morrow, or whether he desires the gentleman to conclude to-night? I do not intend to ask the gentleman to stop now. I ask him whether the gentleman would conclude to-night?

Mr. RAINEY. I do not know whether I could conclude to-night or not. I would prefer to finish to-morrow, if I can have the time to-morrow.

Mr. MOON of Tennessee. Then I suggest that, with the understanding that the gentleman can have the floor when the committee goes into session to-morrow, that we now rise.

Mr. OVERSTREET. Mr. Chairman, I think it would not be wise to extend an indefinite leave to the gentleman. That might consume all of the day.

Mr. RAINEY. Oh, I will not do that.

Mr. OVERSTREET. I understood that an hour and a half was the time the gentleman would take for his argument.

Mr. RAINEY. I may get through in that time.

Mr. MOON of Tennessee. I understood that also, but he may take another hour.

Mr. RAINEY. I would like to have another hour. I will get through in an hour.

Mr. MOON of Tennessee. Mr. Chairman, to settle this controversy about the time, I yield to the gentleman one more hour.

The CHAIRMAN. The Chair understands the gentleman desires to proceed now.

Mr. RAINEY. Mr. Chairman, I prefer to proceed in the morning, at the opening of the session.

The CHAIRMAN. The Chair desires to call the attention of the gentleman from Indiana [Mr. OVERSTREET] to the fact that the gentleman from Illinois [Mr. RAINEY] states that he would prefer to proceed with his hour to-morrow morning.

Mr. OVERSTREET. Oh, Mr. Chairman, I think we better proceed for a little while longer to-night.

Mr. CLARK of Missouri. Mr. Chairman, it is time to quit now, or "take out," as Mr. Kilgore, of Texas, used to say, and if the gentleman is going to speak an hour he will not gain anything by fooling away a few minutes longer here to-night. He would rather finish the rest of his speech to-morrow, and I think he would get through more quickly.

Mr. WM. ALDEN SMITH. Oh, the gentleman does not want to keep us here all night.

Mr. CLARK of Missouri. Well, you better be looking at your watches now. [Laughter.]

The CHAIRMAN. The committee will be in order. The Chair recognizes the gentleman from Illinois.

Mr. RAINEY. Mr. Chairman, I prefer to proceed in the morning.

Mr. WILLIAMS. Mr. Chairman——

The CHAIRMAN. The gentleman from Illinois has the floor.

Mr. WILLIAMS. Will the gentleman yield?

Mr. RAINEY. Yes.

Mr. WILLIAMS. With the consent of the gentleman from Illinois, I would like to ask the gentleman from Indiana [Mr. OVERSTREET] whether he can not move that the committee do now rise? The gentleman from Illinois can talk with much less fatigue to-morrow than he can now and can finish his remarks more satisfactorily to himself and better for the House. I suggest to the gentleman from Indiana that the committee do now rise.

Mr. OVERSTREET. Mr. Chairman, I will state to the gentleman from Mississippi that I was following what I understood was the definite arrangement between the gentleman from Illinois and myself. He told me that he wished to consume an hour and a half this afternoon. I suggest the gentleman proceed until, say, half past 5 and that then we rise, and that he then conclude his argument to-morrow morning. That was his own arrangement originally.

Mr. WILLIAMS. Would not the gentleman from Illinois rather go ahead to-morrow morning?

Mr. RAINEY. I would rather go ahead to-morrow.

Mr. OVERSTREET. I would ask the gentleman from Illinois if he did not say to me that he wished to proceed for an hour and a half to-night?

Mr. RAINEY. Yes; that is what I told the gentleman. I thought I would get through in an hour and a half.

Mr. OVERSTREET. That was the statement the gentleman made to me.

Mr. RAINEY. But I have been interrupted repeatedly by Members on the other side, and it has taken a great portion of my time to answer questions. I prefer to go ahead to-morrow morning. I think I can finish more quickly than by going on this afternoon.

Mr. OVERSTREET. Do I understand, then, that if we should rise now the gentleman from Illinois will conclude in an hour to-morrow?

Mr. RAINEY. Yes; I will.

Mr. OVERSTREET. Then, Mr. Chairman, I move that the committee do now rise.

The motion was agreed to

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. SHERMAN, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 16953—the post-office appropriation bill—and had come to no resolution thereon.

ENROLLED BILLS SIGNED.

The SPEAKER announced his signature to enrolled bills of the following titles:

S. 4825. An act to provide for the construction of a bridge across Rainy River, in the State of Minnesota;

S. 3899. An act granting authority to the Secretary of the Navy, in his discretion, to dismiss midshipmen from the United States Naval Academy and regulating the procedure and punishment in trials for hazing at the said academy;

S. 5182. An act to authorize the construction of a bridge across the Columbia River between Franklin and Benton counties, in the State of Washington;

S. 5183. An act to authorize the construction of a bridge across the Columbia River between Douglas and Kittitas counties, in the State of Washington;

S. 4111. An act to authorize the Chief of Ordnance, United States Army, to receive four 3.6-inch breech-loading field guns, carriages, caissons, limbers, and their pertaining equipment from the State of Connecticut;

S. 5181. An act to authorize the construction of a bridge across the Snake River between Whitman and Columbia counties, in the State of Washington; and

S. 4300. An act to amend section 4414 of the Revised Statutes of the United States, inspectors of hulls and boilers of steam vessels.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill of the following title; when the Speaker signed the same:

H. R. 11026. An act to authorize the counties of Holmes and Washington to construct a bridge across Yazoo River, Mississippi.

SENATE BILL REFERRED.

Under clause 2 of Rule XXIV, Senate bill of the following title was taken from the Speaker's table and referred to its appropriate committee, as indicated below:

S. 5059. An act to increase the limit of cost of the post-office at Yankton, S. Dak.—to the Committee on Public Buildings and Grounds.

UNITED STATES COURTS FOR ALABAMA.

The SPEAKER. The following House bill, the title of which the Clerk will report, will lie upon the table, a corresponding Senate bill having passed.

The Clerk read as follows:

A bill (H. R. 16802) to fix the regular terms of the circuit and district courts of the United States for the southern division of the northern district of Alabama, and for other purposes.

LEAVE OF ABSENCE.

By unanimous consent, Mr. CHANEY was granted leave of absence until April 22, on account of important business.

Mr. OVERSTREET. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; and accordingly (at 5 o'clock and 9 minutes p. m.) the House adjourned until to-morrow, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred as follows:

A letter from the Secretary of the Interior, transmitting, with a copy of a letter from the Commissioner of Indian Affairs, a favorable recommendation as to the payment to the Santee Sioux and Ponca Indians in Nebraska of a share in the fund in the Treasury to the credit of the Sioux Indians—to the Committee on Indian Affairs, and ordered to be printed.

A letter from the Acting Secretary of the Treasury, transmitting an estimate of appropriation for repairs of the U. S. S. *Bancroft* for use as a revenue cutter—to the Committee on Appropriations, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. GROSVENOR, from the Committee on the Merchant Marine and Fisheries, to which was referred the bill of the

Senate (S. 4339) to amend section 4502 of the Revised Statutes of the United States, relating to bonds and oaths of shipping commissioners, reported the same without amendment, accompanied by a report (No. 2902); which said bill and report were referred to the House Calendar.

Mr. CURTIS, from the Committee on Indian Affairs, to which was referred the bill of the House (H. R. 17719) to prevent the copying, selling, or disposing of any rolls of citizenship of the Five Civilized Tribes of Indians, and providing punishment therefor, reported the same with amendment, accompanied by a report (No. 2907); which said bill and report were referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. GROSVENOR, from the Committee on the Merchant Marine and Fisheries, to which was referred the bill of the Senate (S. 4954) authorizing Capt. Ejnar Mikkelsen to act as master of an American vessel, reported the same without amendment, accompanied by a report (No. 2903); which said bill and report were referred to the Private Calendar.

Mr. BURKE of South Dakota, from the Committee on Indian Affairs, to which was referred the bill of the House H. R. 15898, reported in lieu thereof a resolution (H. J. Res. 133) referring to the Court of Claims the papers in the case of Clement N. Vann and William P. Adair, accompanied by a report (No. 2904); which said resolution and report were referred to the Private Calendar.

Mr. GOLDFOGLE, from the Committee on Claims, to which was referred the bill of the House (H. R. 7028) for the relief of the Postal Telegraph Cable Company, reported the same without amendment, accompanied by a report (No. 2905); which said bill and report were referred to the Private Calendar.

Mr. OLCOTT, from the Committee on the District of Columbia, to which was referred the bill of the Senate (S. 2270) for the relief of Nicola Masino, of the District of Columbia, reported the same without amendment, accompanied by a report (No. 2906); which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. MAYNARD: A bill (H. R. 17793) authorizing the erection of a hotel upon the Government reservation at Fort Monroe—to the Committee on Military Affairs.

By Mr. HUGHES: A bill (H. R. 17794) to amend section 641 of the Revised Statutes of the United States—to the Committee on the Judiciary.

By Mr. SIMS: A bill (H. R. 17832) to close certain alleys in the District of Columbia—to the Committee on the District of Columbia.

By Mr. BURKE of South Dakota, from the Committee on Indian Affairs: A joint resolution (H. J. Res. 133) referring to the Court of Claims the bill H. R. 15898—to the House Calendar.

By Mr. WILLIAMS: A resolution (H. Res. 391) directed to the Department of Commerce and Labor, concerning certain information about railways and canals—to the Committee on Railways and Canals.

By Mr. DUNWELL: A memorial from the legislature of the State of New York, proposing an amendment to the Constitution of the United States prohibiting polygamy—to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. ALLEN of Maine: A bill (H. R. 17795) granting an increase of pension to Mary P. Nauman—to the Committee on Pensions.

By Mr. BEALL of Texas: A bill (H. R. 17796) granting an increase of pension to T. C. Alexander—to the Committee on Pensions.

By Mr. BURLEIGH: A bill (H. R. 17797) granting an increase of pension to Wilbur F. Lane—to the Committee on Invalid Pensions.

By Mr. CHANEY: A bill (H. R. 17798) to reinstate John W. Gray in his class at the Naval Academy—to the Committee on Naval Affairs.

By Mr. CLARK of Florida: A bill (H. R. 17799) granting a pension to Joseph R. Sullivan—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17800) granting a pension to William G. Thomas—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17801) granting an increase of pension to Julia C. Vanzant—to the Committee on Pensions.

Also, a bill (H. R. 17802) granting an increase of pension to Henry T. Buss—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17803) granting an increase of pension to David Raulerson—to the Committee on Pensions.

By Mr. GILBERT of Indiana: A bill (H. R. 17804) granting an increase of pension to Samuel C. Hoover—to the Committee on Invalid Pensions.

By Mr. HAY: A bill (H. R. 17805) for the relief of Rebecca J. Fisher—to the Committee on Claims.

By Mr. JONES of Washington: A bill (H. R. 17806) granting an increase of pension to Enoch Boyle—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17807) granting an increase of pension to Benson S. Philbrick—to the Committee on Invalid Pensions.

By Mr. KNOWLAND: A bill (H. R. 17808) to correct the military record of Adolph M. Clay—to the Committee on Military Affairs.

By Mr. KELIHER: A bill (H. R. 17809) granting a pension to William Barrett—to the Committee on Invalid Pensions.

By Mr. LACEY: A bill (H. R. 17810) granting a pension to Saul Caulson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17811) granting a pension to Jacob Helminger—to the Committee on Invalid Pensions.

By Mr. McGUIRE: A bill (H. R. 17812) donating lands in Oklahoma Territory for educational purposes—to the Committee on the Public Lands.

By Mr. PATTERSON of North Carolina: A bill (H. R. 17813) for the relief of Albert L. Scott, surviving partner of the firm composed of E. L. Pemberton, James R. Lee, and Albert L. Scott—to the Committee on War Claims.

By Mr. PATTERSON of South Carolina: A bill (H. R. 17814) granting an increase of pension to Simon E. Chamberlin—to the Committee on Invalid Pensions.

By Mr. TAYLOR of Ohio: A bill (H. R. 17815) granting a pension to John Joyce—to the Committee on Pensions.

Also, a bill (H. R. 17816) granting a pension to Robert B. Foster—to the Committee on Pensions.

Also, a bill (H. R. 17817) granting an increase of pension to John Grimm—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17818) granting an increase of pension to John V. Larrimer—to the Committee on Invalid Pensions.

By Mr. REEDER: A bill (H. R. 17819) granting an increase of pension to David N. Hamilton—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17820) granting an increase of pension to James M. Dixon—to the Committee on Invalid Pensions.

By Mr. RHINOCK: A bill (H. R. 17821) granting an increase of pension to Herman Young—to the Committee on Invalid Pensions.

By Mr. RICHARDSON of Kentucky: A bill (H. R. 17822) granting an increase of pension to Moses Hancock—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17823) granting an increase of pension to R. P. Bristow—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17824) granting a pension to Mariah E. Orange—to the Committee on Invalid Pensions.

By Mr. RIXEY: A bill (H. R. 17825) granting an increase of pension to Bolivar Ward—to the Committee on Pensions.

By Mr. SIMS: A bill (H. R. 17826) granting a pension to Winey A. Lindsey—to the Committee on Invalid Pensions.

By Mr. TRIMBLE: A bill (H. R. 17827) for the relief of Thomas N. Arnold—to the Committee on War Claims.

By Mr. TYNDALL: A bill (H. R. 17828) granting an increase of pension to Mark T. Campbell—to the Committee on Invalid Pensions.

By Mr. WANGER: A bill (H. R. 17829) granting an increase of pension to Gerrit S. Nichols—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17830) granting an increase of pension to William R. Snell—to the Committee on Invalid Pensions.

By Mr. SCHNEEBELI: A bill (H. R. 17831) granting an increase of pension to James Bowman—to the Committee on Invalid Pensions.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of bills of the following titles; which were thereupon referred as follows:

A bill (H. R. 17776) to provide a suitable medal for Charles P. Bragg—Committee on Military Affairs discharged, and referred to the Committee on Naval Affairs.

A bill (H. R. 17738) granting an increase of pension to John H. Hale—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER: Petition of the Preachers' Meeting of the Methodist Episcopal Church in and near New York City, for Sunday closing of the Jamestown Fair—to the Select Committee on Industrial Arts and Expositions.

Also, petition of the Woman's Home Missionary Society of the First Methodist Church of Evanston, Ill., for prohibition of liquor traffic in the Indian country of Alaska—to the Committee on the Territories.

Also, paper to accompany bill for relief of Rebecca J. Fisher—to the Committee on Invalid Pensions.

By Mr. ACHESON: Petition of the Keystone Watch Case Company, for bill H. R. 14604—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Musicians' Mutual Protective Union, for bill H. R. 4748—to the Committee on Naval Affairs.

By Mr. AIKEN: Paper to accompany bill for relief of Thomas J. Mackey—to the Committee on Pensions.

By Mr. ANDREWS: Petition of I. W. Enke and 20 others, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of the executive council of the American Federation of Labor, against bill H. R. 5281 (the pilotage bill)—to the Committee on the Merchant Marine and Fisheries.

By Mr. BURLEIGH: Petition of Morning Light Grange, Maine, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of Medora C. Small, president of the Tuesday Club, of Oakland, Me., and 35 others of the Federation of Women's Clubs, for an appropriation for investigation of the industrial condition of women—to the Committee on Appropriations.

Also, paper to accompany bill for relief of George G. Spurr (previously referred to the Committee on Invalid Pensions)—to the Committee on Pensions.

By Mr. CHANEY: Petition of Frank Boston, John J. Triste, and F. N. Muentzer, of Vincennes, Ind., for bill H. R. 7067 (previously referred to the Committee on Invalid Pensions)—to the Committee on Indian Affairs.

By Mr. COOPER of Pennsylvania: Petition of the Courier, against the tariff on linotype machines—to the Committee on Ways and Means.

Also, petition of the Keystone Watch Case Company, for bill H. R. 14604, relative to spuriously stamped articles of merchandise—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Woman's Culture Club, of Connellsville, Pa., of the General Federation of Women's Clubs, for investigation of the industrial condition of women—to the Committee on Appropriations.

Also, petition of the board of State harbor commissioners, of San Francisco, for an appropriation to remove rocks from the harbor and bar—to the Committee on Rivers and Harbors.

By Mr. COOPER of Wisconsin: Petition of Local Union No. 59, American Federation of Musicians, for bill H. R. 8748, relative to the band of the United States Marine Corps—to the Committee on Naval Affairs.

By Mr. DARRAGH: Petition of citizens of Osceola and Lake counties, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. DRESSER: Petition of the Women's Literary Club of Bradford, Pa., and the V. I. A. Club of Mount Jewett, Pa., of the General Federation of Women's Clubs, for an appropriation to investigate the industrial condition of women in the United States—to the Committee on Appropriations.

Also, petition of the committee on forestry of the State Federation of Pennsylvania Women, for the Morris law for the preservation of Minnesota forests at the headwaters of the Mississippi River—to the Committee on Agriculture.

Also, petition of the committee on forestry of the State Federation of Pennsylvania Women, for forest reservations in the White Mountains and the Southern Appalachian Mountains—to the Committee on Agriculture.

Also, petition of the State Federation of Pennsylvania Women, for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

Also, petition of citizens of Pennsylvania, for bill H. R. 10099 (the Hepburn bill)—to the Committee on Interstate and Foreign Commerce.

By Mr. DUNWELL: Petition of the New York Produce Exchange, against the "tonnage-dues" feature of the ship-sibsidy bill—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the American Federation of Labor, for bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

Also, petition of Kate Lathrop Lyon, for bill H. R. 4462—to the Committee on the District of Columbia.

Also, petition of Woman's Sixteenth Street Improvement Association, for a public reservation in the District of Columbia on the land bounded by Florida avenue on the south and Sixteenth street on the west, Meridian Hill—to the Committee on the District of Columbia.

Also, petition of the Inter-Municipal Research Commission, favoring bills H. R. 4462 and S. 2962 and Mr. GARDNER's measure relative to investigation of the labor of women and children—to the Committee on the District of Columbia.

Also, petition of the Merchants' Marine League, favoring the Congressional Merchants' Marine Commissioners' shipping bill—to the Committee on the Merchant Marine and Fisheries.

By Mr. FULLER: Petition of the National Wholesale Lumber Dealers' Association, for bill H. R. 5281 (the Littlefield pilotage bill)—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the California Fruit Growers' Exchange, favoring Government control of railway rates and private car lines—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Illinois Manufacturers' Association, for an appropriation for a deep waterway from the Great Lakes to the Gulf of Mexico—to the Committee on Rivers and Harbors.

By Mr. GRANGER: Petition of the Musicians' Protective Union, Local No. 198, American Federation of Musicians, of Providence, R. I., for bill H. R. 8748—to the Committee on Naval Affairs.

By Mr. HENRY of Texas: Petition of J. R. Moss and many other citizens of Texas, for an appropriation by Congress to send a commission to Marlin, Tex., to investigate the value of its mineral water—to the Committee on Appropriations.

By Mr. HINSHAW: Petition of members of the Hall County (Nebr.) bar, favoring the Burkett bill relative to dividing Nebraska into two judicial districts—to the Committee on the Judiciary.

By Mr. HUBBARD: Petition of citizens of Iowa, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. HUMPHREY of Washington: Petition of citizens of Washington, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. KAHN: Petition of Williams, Diamond & Co., of San Francisco, for the ship-subsidy bill—to the Committee on the Merchant Marine and Fisheries.

By Mr. KELIHER: Petition of the trustees of Boston Athenæum, against proposed amendment to the copyright law—to the Committee on Patents.

Also, petition of the American Federation of Labor, against bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

Also, petition of Boston Section of the Council of Jewish Women, favoring bill H. R. 4462—to the Committee on the District of Columbia.

Also, petition of citizens of Massachusetts, against wrongs perpetrated in the Kongo Free State—to the Committee on Foreign Affairs.

By Mr. KETCHAM: Petition of citizens of Catskill, N. Y., against destruction of Niagara Falls—to the Committee on Rivers and Harbors.

By Mr. KINKAID: Petition of John L. Hamilton, for bill H. R. 8973—to the Committee on Banking and Currency.

Also, petition of W. S. Jackson et al., against consolidation of third and fourth class mail matter—to the Committee on the Post-Office and Post-Roads.

Also, petition of Lee Park (Nebr.) Farmers' Club, for a parcels-post law—to the Committee on the Post-Office and Post-Roads.

Also, petition of citizens of Oklahoma, for the statehood bill—to the Committee on the Territories.

Also, petition of citizens of Broken Bow, Nebr., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of B. A. Burdick, against the conduct of affairs in the Kongo Free State—to the Committee on Foreign Affairs.

By Mr. LACEY: Petition of citizens of New Sharon, Iowa, and paper to accompany bill for relief of Jacob Helminger—to the Committee on Invalid Pensions.

By Mr. LAMB: Petition of Liberty Council, No. 13; May Council, No. 31, and Fairmount Council, No. 70, Daughters of Liberty, for the Penrose bill (S. 4357) for the restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. LAWRENCE: Petition of Sheffield Grange, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of 77 citizens of Northfield, Mass., against atrocities in the Kongo Free State—to the Committee on Foreign Affairs.

By Mr. LINDSAY: Petition of the Woman's Sixteenth Street Improvement Association, for Meridian Hill, in the District of Columbia, as a public reservation—to the Committee on Public Buildings and Grounds.

Also, petition of James D. Leary, of Brooklyn, N. Y., for bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

By Mr. LITTAUER: Paper to accompany bill for relief of Peter Van Antwerp—to the Committee on Invalid Pensions.

By Mr. LITTLEFIELD: Petition of Local Union No. 407, American Federation of Musicians, for bill H. R. 8748, for relief of civilian musicians—to the Committee on Naval Affairs.

Also, petition of Lizzie S. Kneeland, president of the Parlor Congress Club, of Auburn, Me., and Mrs. A. L. Talbot, president of the Sorosis Club, of Lewiston, Me., of the General Federation of Women's Clubs, for an appropriation to investigate the industrial condition of women in the United States—to the Committee on Appropriations.

Also, petition of citizens of Maine, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. McKINNEY: Petition of citizens of Illinois, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. McNARY: Petition of H. S. Hovey, for the metric system—to the Committee on Coinage, Weights, and Measures.

By Mr. MAYNARD: Petition of citizens of Norfolk, Va., and Ideal Council, No. 71, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. MICHALEK: Petition of the International Association of Master House Painters and Decorators, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. PATTERSON of South Carolina: Paper to accompany bill for relief of Simon E. Chamberlin—to the Committee on Invalid Pensions.

By Mr. RICHARDSON of Alabama: Petition of citizens of Florence, Ala., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. SCOTT: Petition of A. F. Hill et al., of Bronson, Kans., against consolidation of third and fourth class mail matter—to the Committee on the Post-Office and Post-Roads.

By Mr. SHERMAN: Paper to accompany bill for relief of Nettie A. Hill—to the Committee on Invalid Pensions.

By Mr. SIMS: Paper to accompany bill for relief of John Dillahunty—to the Committee on War Claims.

By Mr. SULZER: Petition of Mrs. Henry Parker, for a national military park of the battle ground around Petersburg, Va.—to the Committee on Military Affairs.

By Mr. WEBB: Petition of citizens of Gaston County, N. C., in favor of the Hepburn-Dolliver temperance bill (H. R. 3159)—to the Committee on the Judiciary.

SENATE.

FRIDAY, *April 6, 1906.*

Prayer by Right Rev. JAMES S. JOHNSTON, D. D., bishop of the diocese of western Texas.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. LODGE, and by unanimous consent, the further reading was dispensed with.

The VICE-PRESIDENT. The Journal stands approved.

FINDINGS OF COURT OF CLAIMS.

The VICE-PRESIDENT laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of the Trustees of the African Methodist Episcopal Church of Marietta, Ga., *v.* The United States; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

He also laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of the Trustees of the Alfred Street Baptist Church, of Alexandria, Va., *v.* The United States; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had agreed to the amendments of the Senate to the bill (H. R. 13151) granting a pension to Christopher C. Harlan.

The message also announced that the House had agreed to the amendment of the Senate to the bill (H. R. 8891) granting an increase of pension to Josephine Rogers.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the Vice-President:

S. 3899. An act granting authority to the Secretary of the Navy, in his discretion, to dismiss midshipmen from the United States Naval Academy and regulating the procedure and punishment in trials for hazing at the said academy;

S. 4111. An act to authorize the Chief of Ordnance, United States Army, to receive four 3.6-inch breech-loading field guns, carriages, caissons, limbers, and their pertaining equipment from the State of Connecticut;

S. 4300. An act to amend section 4414 of the Revised Statutes of the United States, inspectors of hulls and boilers of steam vessels;

S. 5181. An act to authorize the construction of a bridge across the Snake River between Whitman and Columbia counties, in the State of Washington;

S. 5182. An act to authorize the construction of a bridge across the Columbia River between Franklin and Benton counties, in the State of Washington;

S. 5183. An act to authorize the construction of a bridge across the Columbia River between Douglas and Kittitas counties, in the State of Washington; and

H. R. 11026. An act to authorize the counties of Holmes and Washington to construct a bridge across Yazoo River, Mississippi.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented a petition of the Woman's Missionary Society of the First Methodist Church of Evanston, Ill., praying for the enactment of legislation to prohibit the liquor traffic in all of the Indian country of Alaska; which was referred to the Committee on Territories.

He also presented the petition of A. Purdee, in behalf of the ex-Union soldiers, of Marianna, Fla., praying for the enactment of legislation to amend section 4707 of the general pension laws of the United States; which was referred to the Committee on Pensions.

Mr. LODGE. I present resolutions of the Chamber of Commerce of the State of New York, in favor of the passage of the Philippine tariff bill. The resolutions are brief, and I ask that they be printed in the RECORD and referred to the Committee on Commerce.

Mr. PLATT. I will say to the Senator that I was just about to offer similar resolutions.

There being no objection, the resolutions were referred to the Committee on the Philippines, and ordered to be printed in the RECORD, as follows:

[Chamber of Commerce of the State of New York. Founded A. D. 1768.]

At the monthly meeting of the chamber of commerce, held April 5, 1906, the following preamble and resolutions, reported by its committee on foreign commerce and the revenue laws, were adopted:

Whereas the Committee on the Philippines of the Senate has, by a vote of eight to five, declined to report, even for consideration, the Philippine tariff bill; and

Whereas this bill, apart from its economic aspect, seems to this chamber to involve a principle that is vital to a colonial policy that is to be either wise or just, namely, the principle that a colony is to be administered in its own interest and not in the interest of the governing country; and

Whereas even in its economic aspect the effect of this bill upon the United States can be but slight, while its effect upon the Philippines may be advantageous in the highest degree: Therefore, be it

Resolved, That the Chamber of Commerce of the State of New York hereby urges upon the Committee on the Philippines of the Senate and upon the Senate prompt and favorable consideration of this important measure: And be it further

Resolved, That copies of these preambles and resolutions be transmitted to the appropriate authorities at Washington, and to kindred commercial bodies, with the request to the latter that they take similar action at an early day.

A true copy.

[SEAL.]

MORRIS K. JESSUP, *President.*
GEO. WILSON, *Secretary.*

NEW YORK, *April 5, 1906.*

Mr. DRYDEN presented petitions of sundry citizens of West Orange, Roselle, Paterson, Liberty Corner, East Orange, Newark, Peapack, New Brunswick, South River, Long Branch, Hopewell, Woodstown, Gladstone, Rockaway, Summit, Hoboken, Port Morris, Freehold, Barnegat, Jersey City, Elizabeth, and Perth Amboy, all in the State of New Jersey, praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

Mr. PLATT presented a petition of the New York Historical Society, of New York City, N. Y., praying that an appropriation be made for the preservation of the frigate *Constitution;* which was referred to the Committee on Naval Affairs.

He also presented a petition of Ulster Council, No. 27, Daughters of Liberty, of Bloomington, N. Y., praying for the enactment of legislation to restrict immigration; which was referred to the Committee on Immigration.

Mr. PENROSE presented a petition of Oakland Circle, No. 61, Protected Home Circle, of Pittsburg, Pa., and a petition of Washington Camp, No. 508, Patriotic Order Sons of America, of Allenwood, Pa., praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

Mr. HEMENWAY presented a memorial of Post M, Travelers' Protective Association, of Crawfordsville, Ind., and a memorial of sundry citizens of Mount Vernon, Ind., remonstrating against the passage of the so-called "parcels-post bill;" which were referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of 125 citizens of Muncie, Ind., praying for the enactment of legislation to restrict immigration; which was referred to the Committee on Immigration.

He also presented a petition of 45 citizens of Decatur, Ind., praying for the enactment of legislation to remove the duty on denaturized alcohol; which was referred to the Committee on Finance.

He also presented a petition of the Board of Trade of Indianapolis, Ind., praying for the enactment of legislation relating to bills of lading issued by carriers for the interstate transportation of property; which was referred to the Committee on Interstate Commerce.

He also presented a petition of Local Union No. 366, American Federation of Musicians, of Vincennes, Ind., praying for the enactment of legislation to prohibit the employment of Government musicians in competition with civilian musicians; which was referred to the Committee on Military Affairs.

He also presented petitions of the Woman's Club of Anderson, of the Woman's Club of Westfield, and of the Tuesday Club of Kendallville, all in the State of Indiana, praying that an appropriation be made for a scientific investigation into the industrial conditions of women in the United States; which were referred to the Committee on Education and Labor.

Mr. PILES presented the petition of J. H. Kirkpatrick and sundry other citizens of Custer, Wash., praying for the enactment of legislation to remove the duty on denaturized alcohol; which was referred to the Committee on Finance.

Mr. SCOTT presented a petition of Lincoln Council, No. 47, Junior Order of United American Mechanics, of Charleston, W. Va., praying for the enactment of legislation to restrict immigration; which was referred to the Committee on Immigration.

Mr. ALLISON presented a memorial of the Merchants' Association of Cedar Rapids, Iowa, remonstrating against the proposed consolidation of third and fourth class mail matter; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. FRYE presented a petition of Aroostook Lodge, No. 393, Brotherhood of Railroad Trainmen, of Houlton, Me., praying for the enactment of legislation to restrict immigration; which was referred to the Committee on Immigration.

Mr. BURKETT presented sundry papers in support of a bill to grant an increase of pension to John M. Bair; which were referred to the Committee on Pensions.

Mr. OVERMAN presented sundry affidavits to accompany the bill (S. 374) for the relief of T. L. Love; which were referred to the Committee on Claims.

REPORTS OF COMMITTEES.

Mr. HEMENWAY, from the Committee on Military Affairs, to whom was referred the bill (S. 5484) authorizing the Secretary of War to accept the tract of land at or near Greeneville, Tenn., where lie the remains of Andrew Johnson, late President of the United States, and establish the same as a fourth-class national cemetery, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 1442) to increase the efficiency of the militia and promote rifle practice, reported it without amendment, and submitted a report thereon.

Mr. GALLINGER, from the Committee on Commerce, to whom was referred the bill (H. R. 395) concerning foreign-built dredges, reported it with an amendment, and submitted a report thereon.

BILLS INTRODUCED.

Mr. PENROSE introduced a bill (S. 5554) granting a pension to Louisa W. Benade; which was read twice by its title, and referred to the Committee on Pensions.

Mr. ALLISON introduced a bill (S. 5555) granting a pension to Nelly Peck Smith; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 5556) to correct the military record of James E. C. Covel; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. SPOONER introduced a bill (S. 5557) granting a pension to Henry C. Sloan; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. WETMORE introduced the following bills; which were severally read twice by their titles, and, with the accompanying papers, referred to the Committee on Pensions:

A bill (S. 5558) granting an increase of pension to George Paine; and

A bill (S. 5559) granting an increase of pension to Ann H. Crofton.

Mr. WETMORE introduced a bill (S. 5560) for the relief of Matthew J. Davis; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

Mr. BURNHAM introduced a bill (S. 5561) to amend an act entitled "An act to amend an act entitled 'An act to incorporate the Masonic Mutual Relief Association of the District of Columbia,'" approved February 5, 1901; which was read twice by its title, and, with the accompanying papers, referred to the Committee on the District of Columbia.

Mr. HEMENWAY introduced a bill (S. 5562) granting an increase of pension to John Hull; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 5563) to provide compensation for injuries received by George E. O'Hair, of Indianapolis, Ind., at Ford's Theater disaster, which occurred June 9, 1893; which was read twice by its title, and referred to the Committee on Claims.

Mr. FULTON introduced a bill (S. 5564) granting an increase of pension to Charles B. Tyler; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. GALLINGER introduced a bill (S. 5565) to close certain alleys in the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. HOPKINS introduced a bill (S. 5566) providing for pensions to the children of deceased soldiers and sailors of the United States in cases where said children have become insane, idiotic, blind, deaf and dumb, or otherwise physically or mentally helpless before the age of 22 years; which was read twice by its title, and referred to the Committee on Pensions.

Mr. McCREARY introduced a bill (S. 5567) for the relief of the heirs of L. A. Ashley, deceased; which was read twice by its title, and referred to the Committee on Claims.

He also introduced a bill (S. 5568) for the relief of the trustees of Pisgah Presbyterian Church, of Somerset, Ky.; which was read twice by its title, and referred to the Committee on Claims.

Mr. TILLMAN introduced a bill (S. 5569) for the relief of Catherine Norris; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

Mr. OVERMAN introduced a bill (S. 5570) for the relief of Nancy West; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

Mr. FRYE introduced a bill (S. 5571) granting an increase of pension to Betsey B. Whitmore; which was read twice by its title, and referred to the Committee on Pensions.

SURVEY IN PENOBSCOT BAY, MAINE.

Mr. HALE submitted the following concurrent resolution; which was referred to the Committee on Commerce:

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, authorized and directed to cause to be made an examination and survey of Long Cove, the approach thereto, Cape Jellison Harbor and the waters leading thereto, between Cape Jellison and Sears Island, Penobscot Bay, Maine.

GRAZING ON PUBLIC LANDS.

On motion of Mr. BURKETT, it was

Ordered, That there be printed for the use of the Senate 1,000 copies of Senate bill 5511, providing for the control of grazing upon the public lands in the arid States and Territories of the United States.

REGULATION OF RAILROAD RATES.

Mr. TILLMAN. I ask that the unfinished business be laid before the Senate and proceeded with.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission.

Mr. ELKINS. Mr. President, I desire to approach the consideration and discussion of this most important subject in a spirit of fairness and impartiality, with a sincere purpose to do justice to all interests concerned, and above all to secure to the people a prompt and adequate remedy for the evils, injustices, abuses, and wrongs of every kind practiced by railroads, or in any way growing out of their operation.

I stand first for the interests of the people of my own State, which I am proud to represent in part on this floor, and after that for the interests of all the people of the United States. I have no interest that can affect my judgment or prevent me doing my duty as a Senator as I see it. My desire and highest purpose is to secure and serve the public interest.

Because of my supposed interest in railroads, it is charged and believed that I favor the railroad side of this question. This has been so often repeated that I am sure it will be pardonable if I say, in justice to myself, that my interest on the side of the shipper is ten times greater than on the side of the railroads, and that my interest in railroads is confined to those in my own State.

There is a pressing demand by the people for rate legislation that the highways of commerce be kept open on equal terms and alike to all, and that all wrongs and abuses on the part of railroads should stop.

The bill now under consideration, known as the Hepburn bill, reached the Senate in the form that it was reported to the House by the House Committee on Interstate and Foreign Commerce. No amendments were allowed in the House and none were allowed in the Senate Committee on Interstate Commerce, although there were many submitted to the committee by its members.

The duty now devolves upon the Senate to say whether there shall be amendments to the bill, and to what extent. It is the opinion of many Senators who have given the subject careful consideration that the bill should be amended and in a way that will remove doubts as to its constitutionality and make its provisions clearer and stronger in the direction of affording remedies for existing abuses. I favor heartily the objects and purposes of the bill and I will vote for it, but I want to make it better and stronger.

My chief objection to the bill is that it does not go far enough. It makes no attempt to provide remedies for many existing abuses by railroads. If the bill becomes a law without amendment it will disappoint the people, and they will justly cry out against Congress for not doing its duty, especially against those now most vehement in their denunciation of railroads and their unjust practices, and still refuse to put anything in the bill to correct them.

I believe in rate regulation of interstate commerce by Congress in the interest of the people. I believe Congress has the power to fix rates of interstate carriers, and can authorize, under proper restrictions, a subordinate tribunal to carry out its will in this regard.

I believe in the right of review by the courts of any order of the Interstate Commerce Commission affecting the rights and interests of carriers, shippers, and localities alike, and in the right to suspend the order of the Commission by the court upon a proper showing; but this suspension to be allowed only upon the condition that the rights and interests of the shipper shall be absolutely safeguarded by requiring a deposit of money in the court pending the suspension, to be paid to the shipper in case the court sustains the order of the Commission reducing the rate. Railway corporations are mere creatures of the law and exist by the will and consent of the people and in the interest of the people; I believe interstate carriers should be prohibited from transacting any other business than carrying freight and passengers and from doing any business in competition with shippers; that they should make a fair distribution of cars, put in upon reasonable terms necessary switches and sidings to accommodate the needs of shippers, and promptly make connections and fair and just prorating arrangements with branch and lateral lines. The time has come when the people demand that railroads shall be law-abiding.

I am in hearty accord with the President in his position on the subject of rate regulation and his desire to secure to the people correction of all abuses by railroads.

And in his message to the present Congress he says:

> Above all else, we must strive to keep the highways of commerce open to all on equal terms.
>
> * * * * * * *

In my judgment the most important legislative act now needed as regards the regulation of corporations is the act to confer on the Interstate Commerce Commission the power to revise rates and regulations, the revised rate to at once go into effect, and to stay in effect unless and until the court of review reverses it.

And in his message to the present Congress he says:

> In my judgment the most important provision which such law should contain is that conferring upon some competent administrative body the power to decide, upon the case being brought before it, whether a given rate prescribed by a railroad is reasonable and just, and if it is found to be unreasonable and unjust then, after full investigation of the complaint, to prescribe the limit of rate beyond which it shall not be lawful to go—the maximum reasonable rate, as it is commonly called—this decision to go into effect within a reasonable time and to obtain from thence onward, subject to review by the courts.

No words could be more forceful, clearer, or more direct than those used by the Chief Executive just quoted.

SUBSTITUTE BILL.

After giving the subject my best thought, I prepared a bill embodying, as I think, the demands of the people and the ideas of the President on the subject of rate legislation, and have offered this bill (S. 4382), with some changes, as a substitute for the bill now under consideration.

The first four sections of this substitute deal with the rate question.

Briefly, the substitute provides that whenever any rate, fare, charge, or regulation established by any common carrier shall be unjust or unreasonable, or otherwise contrary to law, the Commission, after hearing, shall have power to make an order directing the carrier to modify the same in the manner and extent to be specified therein; and if the modification requires the change of any rate, fare, or charge, the order shall specify the maximum rate to be put in force by the carrier in lieu of that found by the Commission to be unjust, unreasonable, and otherwise contrary to law. It is provided further that—

> The Commission shall not have power to modify any rate, fare, or regulation established by a carrier or carriers to a greater extent than shall be necessary in order to remove the injustice, unreasonableness, or other unlawfulness thereof.

Then follows the clause prescribing a review of the orders of the Commission by the courts, and in case the court suspends such orders during the pendency of the suit to set them aside it shall do so only upon the condition that the carrier deposit in court such sum of money as may be necessary to protect the shipper and to be paid to him in case the order of the Commission changing the rate is sustained.

The remedy afforded in the first three sections of this substitute embodies clearly, definitely, and logically the ideas of the President and the demands of the people, as I understand them, and in a way that escapes all constitutional objections. It provides, in a constitutional way, for a review by the courts on behalf of any shipper, carrier, or locality affected, of the orders of the Commission and for a suspension of the same pending the suit for review.

The alternate remedy provided in the fourth section, which the Commission can pursue or not in its discretion, has the merit of expedition, does away with the delay incident to a long hearing before the Commission, taking sometimes more than a year. This time is saved to the shipper. Under this section the Commission at the cost of the United States can go immediately to the courts on complaint or on its own motion and institute a suit to enjoin any excessive or unlawful rate or unjust practice on the part of the carrier, the case can be advanced. If the court decides the rate is excessive and enjoins the carrier from charging the same it then orders the carrier within a short time to make a substitute rate, the same to be approved by the Commission, and if the carrier refuses or fails to make such substitute rate, then the Commission is authorized to make the rate, unless upon review by the courts the order should be set aside or modified.

The carrier, with all the facts before him and the decision of the court to instruct him, would hardly fail to make a proper rate and one that would be approved by the Commission. If he should fail to do so, then the Commission makes the rate.

No constitutional question can be raised under this substitute; there are no doubtful provisions that make it difficult to understand and construe. It provides remedies for existing abuses and evils that should be corrected and about which there are just complaints.

It will be observed that the Commission is not authorized under the substitute to fix the rate for the future because this power belongs to Congress and can not be delegated; but it is authorized to modify the rate made by the carrier to the extent and so far as may be necessary to remove the injustice, unreasonableness, or unlawfulness thereof and no further. Whether the Commission does this or not becomes a judicial question.

OMISSIONS OF PROVISIONS IN THE HEPBURN BILL TO CORRECT ABUSES.

I desire now to bring to the attention of the Senate what I consider omissions of necessary provisions in the Hepburn bill, and discuss the same from a practical and legal standpoint.

The main purpose of the Hepburn bill, among other things, is to provide a more efficient remedy against excessive rates in which all agree. I regret to say, however, that there are evils, injustices, and abuses by railroads for which the bill does not even attempt to provide a remedy. It makes no provision:

First. To prevent interstate carriers producing, mining, and selling coal, iron ore, and other products which they transport in competition with shippers, thereby oppressing and driving out of business the independent operator and absorbing his business.

Second. To oblige interstate carriers, on application of shippers of interstate commerce, to put in when needed, upon reasonable terms, switches to enable such shippers to get their products to market. There are instances where shippers have spent hundreds of thousands of dollars in equipping mines and mills to do business, and railroads have denied them switches and connections.

Third. To compel interstate roads to make prompt and suitable connections with connecting branch and lateral lines, as well as just, fair, and reasonable prorating arrangements with the same and allowances for originating freight.

Fourth. To require interstate carriers to make a fair and just distribution of cars among shippers on their lines.

These four omissions and, I may say, abuses on the part of the railroad have aroused public sentiment almost to an alarming degree in West Virginia, and the chief objection of her people to the bill is that no remedy whatever is prescribed in the bill to correct all or any one of these abuses.

Mr. TILLMAN. Mr. President——

The VICE-PRESIDENT. Does the Senator from West Virginia yield to the Senator from South Carolina?

Mr. ELKINS. Certainly.

Mr. TILLMAN. It is three or four years, I think, since the Senator brought in a bill from the Interstate Commerce Committee, of which he is chairman, which was declared at the time and supposed to be for the purpose of remedying all evils attending the railroad situation. Did the Senator know then that these abuses of which he speaks and which are now so glaring were in existence? If not, how long since has this condition of coal monopoly and coal production been in existence in West Virginia?

Mr. ELKINS. Mr. President, some of them were known, but they were not so accentuated as they are now; besides, the bill the Senator refers to was more particularly aimed at correcting rebates and discriminations.

The people are entitled to protection against these abuses, which exist generally and work so much injustice to shippers and independent operators, especially in the State of West Virginia. And I will say, by the way, that there is no argument in the Senator's question. Because evils and abuses exist and have not been corrected heretofore furnishes no reason why they should not be corrected now. If the Senator goes much further, Mr. President, I shall think he is on the side of the railroads.

Mr. TILLMAN. Mr. President, if the Senator will pardon me——

Mr. ELKINS. I must proceed. I have a long speech, and I am sure the Senator wants to hear it.

The VICE-PRESIDENT. The Senator from West Virginia declines to yield.

Mr. TILLMAN. I hope the Senator will not throw a rock and cut me off from the opportunity of even catching it.

Mr. ELKINS. Later on I will give the Senator ample opportunity to put his question.

The people demand absolute protection against excessive rates, but there is little complaint on this score. What they complain of most and what they desire Congress to do is to provide adequate remedies for the correction of abuses I have mentioned and others that might be named.

As to all these abuses the bill is silent. It may be said that the States should legislate to correct these evils. In the State of West Virginia, and nearly all the States, there has been legislation on these subjects, but for many reasons the law is not invoked. In the first place, a shipper, single handed and alone, can not afford to sue a great interstate railroad; in doing so he is bound to incur large expense, great delay, and is sure to incur the hostility of the great through line, which may work irreparable injury to his interests.

I have introduced amendments covering these omissions in the bill and sincerely hope they will be adopted by the Senate. Nothing short of their adoption and becoming law will satisfy the shippers, independent operators, and the people generally of my State.

Mr. PATTERSON. Mr. President——

The VICE-PRESIDENT. Does the Senator from West Virginia yield to the Senator from Colorado?

Mr. PATTERSON. I hope I will not interrupt the flow of the Senator's thought, but——

Mr. ELKINS. I yield to the Senator.

Mr. PATTERSON. I think I will bring out the Senator's position even more clearly than the Senator has brought it out by the question I put. Is it the opinion of the Senator that to regulate the evils the country is laboring under from railroad practices the bill reported from the committee is not nearly drastic enough for the Senator?

Mr. ELKINS. Is that your question?

Mr. PATTERSON. Does the Senator want a more far-reaching and more comprehensive bill, so as to eliminate more of the evils than are reached in that measure?

Mr. ELKINS. In reply to the Senator I will state that I do. I have said that the bill, though containing many excellent provisions, does not go far enough: that as to these omissions and abuses I have named it is silent and does not attempt to provide any remedy whatever.

Mr. PATTERSON. I will suggest that I do not believe the Senate is giving very close attention to that part of the Senator's speech. I was attracted by it, and I should like the Senator to repeat in what respect, in his opinion, the measure now before the Senate is not drastic enough and what evils it does not reach.

Mr. ELKINS. I have just named four omissions in the bill: First, the interstate railroads do not put in switches and sidings upon a reasonable request from the shippers to enable them to do their business; secondly, they do not make connections with branch or lateral lines and prorating arrangements, so that the branch line can live and shippers on those lines ship their products to market. They do not provide a fair distribution of cars. There is no provision in the bill to correct these abuses. Another thing is that there is nothing in this bill to prohibit a railroad from owning, mining, and selling coal in opposition to shippers.

Mr. BEVERIDGE. If the Senator will permit me, does he have an amendment which will compel the proper distribution of cars?

Mr. ELKINS. I have amendments covering all these points.

Mr. BEVERIDGE. I am sure there are a number of Senators here who would be glad to see how the Senator would secure what he thinks could be an equal or proper distribution of cars.

Mr. ELKINS. It is a most difficult question, but I have tried to put it in proper shape in one of my amendments.

Mr. FORAKER. Mr. President——

The VICE-PRESIDENT. Does the Senator from West Virginia yield to the Senator from Ohio?

Mr. ELKINS. Certainly.

Mr. FORAKER. If the Senator will permit me, I will say for the benefit of the Senator from Indiana that the Supreme Court has recently decided that there is power under the so-called "Elkins law" to enforce a distribution of cars among operators that will be fair and just. Suit was brought in the State of the Senator from West Virginia for a mandamus to compel the furnishing of cars on a just basis to operators who were complaining that they could not get a just distribution of cars, and the relief was granted.

Mr. SPOONER. The proceeding for mandamus was authorized by existing law.

Mr. FORAKER. By existing law, and so far as the distribution of cars is concerned there is legislation on the statute books now that is efficient to correct that evil, as in the past it has been an evil; but for a number of years past there has been no occasion for anybody to suffer in that way who saw fit to resort to the courts for redress.

Mr. ELKINS. The Senator from Ohio is slightly mistaken.

Mr. PERKINS. With the permission of the Senator from West Virginia, I should like to ask the Senator from Ohio if under the present bill as presented from the committee the Interstate Commerce Commissioners have the right to route freight over any line of road the shipper may designate.

Mr. ELKINS. There is nothing in the bill on that subject.

Now, let me answer the Senator from Ohio. The Supreme Court has not decided that question, but the circuit court of the United States, Judge Goff rendering the opinion, and the circuit court of appeals have done so.

Mr. FORAKER. It was decided in the circuit court and also in the circuit court of appeals, with the Chief Justice of the Supreme Court as the presiding judge in the court of appeals.

Mr. ELKINS. But that is not the Supreme Court of the United States.

Mr. FORAKER. I was in error in that respect; I was confusing that case with the recent Chesapeake and Ohio case, but it is now pending in the Supreme Court, and I do not think, in view of the two decisions below, that the decision is likely to be reversed.

Mr. ELKINS. This decision was rendered in West Virginia, and in the circuit court of appeals, and the court found power enough in what is known as the Elkins law to compel a fair distribution of cars by preventing discrimination which would work an unfair distribution of cars. That is the only case that has arisen under that law as yet, but there is no mention of distribution of cars nor anything like it in the Hepburn bill. That is the point I want to make.

Mr. BEVERIDGE. I should like to ask the Senator whether he thinks that existing law or any that could be devised could compel what the shipper himself would think to be a proper distribution of cars? As to the mandamus proceeding mentioned by the Senator from Wisconsin and the Senator from Ohio, of course that is reasonably clear, but even that would not and could not secure the distribution of cars to meet an emergency such as occurs in the shipment of meats or fruits that are spoiling, or something of that kind. That is one of the little items of this great complicated problem which has, of course, attracted the attention of everyone, and particularly my attention, in such little study as I have given it. I should be glad to have the Senator from West Virginia, who is an expert upon this matter, say how any law could be devised that will secure a proper distribution of cars in the opinion of the shipper?

Mr. ELKINS. In the opinion of the shipper, I do not think Congress could so frame a law that compliance with it would satisfy every shipper. Shippers can hardly ever get enough cars, especially when there is a demand for coal and coke. If shippers could get all the cars they wanted, then the market would soon be glutted—the supply would become greater than the demand and the price of coal go down—perhaps it would not be a good thing to give all the shippers all the cars they might want all the time. The railroads could not do it; they don't have enough cars to go around, and if they did the market would be congested and prices fall, but there should be no discrimination in the distribution of cars.

Mr. TILLMAN. Mr. President——

The VICE-PRESIDENT. Does the Senator from West Virginia yield to the Senator from South Carolina?

Mr. ELKINS. I do.

Mr. TILLMAN. I am glad the Senator has reconsidered and has let in others, and I would like to trespass on his patience for a moment.

Mr. ELKINS. It was not my intention to let anybody in, but the discussion seemed to be so interesting on these points that I was almost compelled to yield. I will yield to the Senator with great pleasure; he is on the committee and in charge of the bill.

Mr. TILLMAN. I should like to ask the Senator from West Virginia, or the Senator from Ohio, or the Senator from Wisconsin——

Mr. ELKINS. Will the Senator allow me to answer the question, as I have the floor?

Mr. TILLMAN. All right. I wish to ask anyone who is able to answer, how long it will take by this method of procedure in the courts to get relief on the question of the distribution of cars by a mandamus proceeding after a hearing before the district court or the circuit court and then before the court of appeals, and then on to the Supreme Court? I just want to know what time it will occupy. I think the Senator from West Virginia is entirely correct in saying there is nothing in the Hepburn bill which will reach this abuse.

Mr. ELKINS. There is nothing in the Hepburn bill. Under existing law the right to advance a case is given and it would not take so long. In the case that came up from West Virginia it was a very short suit, and it reached the circuit court of appeals in due season, and the railroads were satisfied with the judgment of the court in its decree as to the distribution of cars.

Now, to reply more definitely to the Senator from Indiana, as I said, it is a very difficult thing to provide in the bill for a fair distribution of cars. We can have the wording that upon a reasonable request or upon request the carriers shall furnish cars and distribute them fairly and justly among shippers. Then there is a provision in the Hepburn bill that makes it an offense not to carry out any of the provisions of the act. That leaves it to the Commission to say what is a fair distribution of cars. I do not think that you can probably go any further than that. The Senator from South Carolina [Mr. TILLMAN] asks how long it will take. We ought to have a remedy even if it does take a long time. Is not that better than not to have any remedy at all? As his bill fails to provide any remedy whatever I do no know what he is complaining about. He does not want any law or he objects to a law that allows a long time. Now, if the Senator from South Carolina stands by his bill, then he does not want any law.

Mr TILLMAN. This is the Hepburn bill. I am only in charge of it. It is not my bill. I do not want you to try to put any paternity of that sort upon me.

Mr. ELKINS. You have its paternity fastened on you, whether you consent or not.

Mr. TILLMAN. I am not speaking of any disgrace that attaches at all, because there is some effort to do something for the people. I repudiate any assumption that there is any disgrace in trying to help to get a reasonable railroad-rate bill. But I want to ask the Senator whether he does not consider that if we could by some machinery of the courts or the law prevent railroads from engaging in producing coal and other things, would there be any row or any complaint about not furnishing cars? If the carrier was confined to the business of transportation, would he not be anxious to furnish all the cars that anybody would load for him, because that would be his occupation and his income would depend upon the amount of traffic?

Mr. ELKINS. I will reply to the Senator that I have another amendment here meeting this very point in order to facilitate and to help out the people that he seems always to have in his particular keeping. The Senator takes the dear people out of his vest pocket every morning and puts them down on his desk and says, "Dear things, I will have charge of you and not allow the bad corporations and railroads to get you this day of our Lord." Then he puts the dear people back in his pocket, to be securely kept over night, and says, "Now, I have done my duty." Nobody looks after the people.

Now, Mr. President, I am trying to look after the people just as much as the Senator. I have just as much interest in them and love them just as much as he does, and so does every other Senator on this floor. I am trying in what I have to say to suggest means in his bill to guard and protect the rights of the people, and I want his able cooperation to provide proper remedies. One of my amendments goes right to that point, that the carrier shall be confined to doing the business for which it is incorporated, namely, to transport freight and passengers and do no other business, and, as the Senator has said, that would be very helpful in the line of securing a fair distribution of cars.

Mr. TILLMAN. The Senator has grown facetious at my expense. He talks about my taking the dear people out of my vest pocket every morning and then saying to the dear people, "I am going to take care of you," and all that kind of thing. I hope the Senator is not disgruntled because the dear people who voted for him, under a misconception possibly, have been sending me petitions which they would not send to him.

Mr. ELKINS. There is no argument in the world in that. The Senator can have all the petitions and all the letters he wants to print in the RECORD, if that pleases him, but I protest against the Senator constantly assuming that he has a monopoly of caring for the people's interests all the time, everywhere, and on every occasion, and no other Senator has any interest in the people, declaring often, in substance, "I am the blunt, plain, rugged, and honest Senator, and take care of the people." Now, every Senator wants a reasonable share in taking care of the public interests and the interests of the people, and I hope the Senator will not forget in his zeal that other Senators care for the people quite as much as he does.

Mr. TILLMAN. Mr. President——

Mr. ELKINS. Mr. President, I think I have given the Senator enough time.

Mr. TILLMAN. If you want to shut me off——

Mr. ELKINS. It will take me some time to finish, even without further interruptions.

Mr. McCUMBER. Mr. President——

The VICE-PRESIDENT. Does the Senator from West Virginia yield to the Senator from North Dakota?

Mr. ELKINS. I never will finish if these interruptions go on.

Mr. McCUMBER. I am going to ask the Senator a question on only one point, and he might still suggest another matter in which the bill is deficient. There have been a great many complaints made that meat packers, for instance, who own their own cars, are able to receive such a large rental for the use of those cars that it amounts to a rebate. Now, is there anything in this bill that prevents the railway company from paying these great packing houses such an excessive rental for the use of their special cars as will in effect amount to a good rebate every year?

Mr. ELKINS. I think this bill does meet that question, and

I think existing law does, if it does not. I think that is a discrimination that is already prohibited and punishable.

Mr. McCUMBER. Where?

Mr. ELKINS. The Elkins law, I think, does it. Besides, I think this is safeguarded in the first section and in the second amendment, near the top of page 3, where it defines transportation and what it includes. I think you will find enough authority there; but under the general proposition in the existing law there is power to prevent this discrimination, in my judgment. I did not refer to this omission, because I thought it was covered fully by existing law and partly in the Hepburn bill.

Mr. McCUMBER. I wish to say to the Senator that the provision on page 3 does not state what the railway company shall pay for the use of the cars, nor is there a limitation. It is simply a question as to what it may charge the public, and it pays it indirectly.

Mr. ELKINS. But the Commission will have control of all the things mentioned, and the bill puts them under the control of the Interstate Commerce Commission, and if under their control they have the right to regulate them in the first instance, and if there is any discrimination or rebate given there this is already prohibited and punished by law.

The Supreme Court of the United States has recently intimated that an interstate carrier could not engage in the business of selling coal. This decision would seem to cover one of my amendments, yet I feel it would be well to incorporate this amendment in the law, and hereafter plainly prohibit railroads from engaging in any other business than that of transportation of freight and passengers to follow the suggestions of the Supreme Court.

The most important amendment is the one providing that interstate lines shall make prompt connections with connecting branch or lateral lines, and fair, just, and reasonable prorating arrangements with them. It can hardly be hoped that another trunk line will be built to New York, Boston, Philadelphia, or Baltimore. Entrance into these cities by another trunk line is almost impossible. The cost and obstacles to be overcome make it prohibitory. In a less degree the same might be said of the great cities of the Union, especially Chicago, St. Louis, San Francisco, and Cincinnati. The people must, therefore, in the future depend largely for the further development of the country and continued increase in business upon short lines of railroad reaching rich sections. This is especially the case in the great State of West Virginia, one of the richest in the Union.

Unless the interstate railroads, reaching all the large cities and markets, make fair connecting and prorating arrangements with branch and lateral lines, the business and development of the country must be retarded. These great railroads already have immediately along their lines all the business they can do at present, and they hold that no one else should build necessary branch and lateral lines in what they term their territory. That is the assumption of these great lines, that it is "their territory," and if anyone attempts to build a branch or lateral line it is an invasion of this territory. There are many men who can build 10, 20, 50, or 100 miles of railroad to connect with interstate lines who could not possibly build a trunk line.

In the State of West Virginia and other States there are many men who have made large investments in agricultural, coal, timber, iron-ore, and other lands who are able and desirous of building short lines from 10 to 100 miles long to reach these lands and find a market for their products, but they will not build them under present conditions because of the difficulties in the way of getting switches and connections with the interstate lines, and, when they do get them, securing fair treatment. Men can not afford to take this risk without the law guarantees them protection, and the people look to Congress to provide this protection in the bill under consideration.

As matters now stand it is in the power of the great through lines to largely prevent the building of branch or lateral lines or to utterly crush them out when built or make them unprofitable. If there is not a provision in this bill compelling connections and fair treatment to short lines, the certain result will be that people who have made investments in lands will lose their money, fewer railroads will be built, and there will be less business and less development of the resources of the country.

Railways are entitled to all the protection under the law that other property enjoys. No well-minded citizen wishes to make war on railroads; an injury to the railroads would be an injury to the country; but the great lines should not be permitted to absorb the transportation of the country, prevent smaller lines being built, impair large investments, and compel rich sections of the country to remain undeveloped.

HEPBURN BILL EMPOWERS COMMISSION TO FIX RATES BETWEEN LOCALITIES.

All agree that the power to fix rates between localities should not be conferred on the Commission for many and obvious reasons. I refer to this because there is a marked difference of opinion among Senators on this point. It is claimed by the able Senators who helped to formulate and draft this bill that this power is not conferred, and that it would be dangerous if conferred. My purpose is to show that it is conferred, and I agree that it is dangerous. It would place in the hands of five or seven men the power to impair the growth of one section of the country and build up another. Railroads are vitally interested in building up communities and localities which they reach and serve; their interests are mutual and there should be no antagonism between them. All things being equal, carriers are prosperous just as communities on their lines flourish. A railroad can not prosper by oppressing localities on its line; therefore railroads can better adjust rate differences between communities on different lines than a Commission, they can give and take in a contest about rates; there is an elasticity in the operation of railroads by their officers and employees that the Commission does not and can not possess. If a railroad attempts to favor a particular city or locality on one line against a city or locality on the other line, the power railroads have of lowering or advancing rates can compel consideration and attention to the complaints of the injured community and in the end it can get a fair adjustment, and generally does. Railroad rates, like water, seek a level, an equilibrium, which in the end, sooner or later, brings substantial justice and satisfaction to the public.

The differentials that now exist on the Atlantic seaboard are the result of a contest of a quarter of a century, largely between communities, and at times, railroads. A commission never could reach the result worked out by railroads, because it only has the power to reduce rates, and in dealing with differentials in order to get an adjustment it has to cut down and never can advance the rate. If it lowers the rate from Chicago to New York, then it must do the same to Philadelphia and Baltimore.

Differentials concern communities more than they do railroads, and communities, through their boards of trade, chambers of commerce, and commercial organizations, take an active interest whenever there is a proposed change in rates. In the case of differentials between New York, Boston, Philadelphia, and Baltimore submitted to the Interstate Commerce Commission as arbitrators and lately decided, the railroads were almost passive, while the boards of trade and chambers of commerce of the respective cities conducted the arguments. They seemed much more interested than the railroads. It is a remarkable fact that after the hearing and consideration of this case for months by the Commission there was no substantial change in the adjustment of the differentials made by the railroads.

The power conferred upon the Commission by the bill that whenever it finds any regulation or practice whatsoever of such carrier or carriers affecting rates unjust or unreasonable, or unjustly discriminatory, it is to determine and prescribe what will, in its judgment, be a "just and reasonable rate or rates, charge or charges," to be thereafter observed, and what regulation or practice is just, fair, and reasonable to be thereafter followed, unquestionably gives the power to the Commission to fix and determine rates between localities. Under the words "regulation or practice" the Commission might determine largely how railroads should be run and operated.

While it is claimed that the Hepburn bill does not give the Commission discretionary power to revise or prescribe differentials or to readjust the relative commercial location of competing cities, it is very clear that the bill does confer such power. But more than this the bill, as well as all others, necessarily vests in the Commission the power to prescribe rates in terms of other rates, thus prescribing differentials which will be automatic in their operation.

For example, the rate from New York to Chicago on first-class freight is 75 cents per 100 pounds. On first-class freight the rate from New York to St. Louis is 116 per cent of the New York-Chicago rate.

Allow me to explain just here that the New York-Chicago rate is made the basis of the rates this side of the Mississippi River, and the rates to the various cities are percentages above and below the New York-Chicago rate. For instance, East St. Louis is 116 per cent. Then it takes 2 cents per hundred pounds on first-class freight to get across the bridge and into the city. To Cincinnati it is 85 cents; in Detroit, 60 cents, and to Pittsburg, 50 cents—I mean of the New York-Chicago rate—

and the Pittsburg rates govern all the points in my State west of the mountains. If the Commission lowers the percentage of the New York-Chicago rate to Cincinnati, say, 9 per cent, that would absolutely affect the rates between Chicago and Cincinnati and New York and Cincinnati, and it can not be avoided.

Suppose a man has an iron or steel plant in Cincinnati and ships to New York. The very moment you lower that rate 9 per cent, I mean of the Chicago-New York rate, the Detroit man, who has a similar factory, complains and says: "I can not get to New York on my rate and compete; I established my factory here on a certain percentage rate. I built my plant on this rate, and I can not permit this, because I can not compete, and I must have a lower rate or go out of business." Now, what does this bring about? It brings about the very thing deprecated by the junior Senator from Iowa [Mr. DOLLIVER] in his very eloquent periods describing the antagonism and war between cities and localities that would follow if the Commission should have the power to fix rates between localities. I could amplify this. The Peoria rate is the Missouri River rate; and see what a far-reaching thing it is to disturb that rate. The Ohio River and the Missouri River rates include nearly all the rates in the Middle West and upon the Atlantic seaboard, or they are affected by any change that may be made.

But, Mr. President, to proceed with the St. Louis differential, where I was interrupted.

The 16 per cent constitutes the differential of St. Louis over Chicago. It is open to jobbers in St. Louis to complain that this differential is unduly prejudicial to St. Louis. Under the Hepburn bill it is in the power of the Commission, if it finds the rate to St. Louis unduly prejudicial as compared with the rate to Chicago, to prescribe a maximum rate to St. Louis. It is not necessary for the Commission to prescribe this rate in figures independent of other rates. One of the most usual ways in determining rates is to describe them in terms of percentage of other rates; therefore the Commission, if it agrees with the St. Louis jobbers, can provide that the maximum rate from New York to St. Louis shall be not more than 105 per cent of the rate from New York to Chicago. Any subsequent reduction in the rate from New York to Chicago will automatically reduce the rate from New York to St. Louis, so as to preserve the new differential of 5 per cent thus established by the Commission.

You see, if you change the New York-Chicago rate to 70 cents, the East St. Louis rate would still be 105 per cent of that rate.

Mr. ALLISON. Mr. President, I desire to interrupt the Senator to ask him a question on that point.

The VICE-PRESIDENT. Does the Senator from West Virginia yield to the Senator from Iowa?

Mr. ELKINS. Certainly.

Mr. ALLISON. Do I understand that the Hepburn bill, or the amendments to that bill, change existing law on that subject? Is it not true now under existing law that that question can be raised, if it can be raised, under this bill? I have endeavored to ascertain what changes have been made in the pending bill in that respect, but I do not find that the law on that subject is changed in any way by this proposed amendment of the statutes. In other words, if this bill authorizes the Commission to deal with these questions they have that authority now, and this bill does not change it.

Mr. ELKINS. I think the Senator has misapprehended the law, if I understand it. Of course I say this with due deference to the Senator. This question was raised in the Maximum Rate case, and the court would not allow the Commission to do that very thing—I mean fix the rates between localities—and under this bill, without a right to review, and the right expressly given to change any rule or regulation affecting rates, the power, to my mind, is clearly conferred on the Commission to fix rates between localities.

The Maximum Rate case stopped the change of ninety-six rates, I believe it was, because the court decided the power was not in the Commission to enforce its orders and make these rates; but if the right of review is not allowed the courts, then the Commission can fix them.

I think the Senator will find, on a more careful examination of the bill, that the existing law will be changed to that extent. At least, that is the way I understand it.

If the power to prescribe practices is constitutional, then, in all probability, that power would in itself give the Commission far-reaching power over the question of differentials and relative rates. An established custom of the railroads to allow Philadelphia a differential of 2 cents under New York on business from Chicago is, in one entirely natural sense, a "practice affecting rates."

There is where this power is again conferred. The Commission might, therefore, claim with success that it could prescribe a new "practice affecting rates" by ordering a new differential to be observed. I think that is a full answer. This undoubtedly confers on the Commission the power to determine and fix the rates between localities. Then, again, the bill confers power on the Commission to fix rates between localities by further providing that the Commission may inquire into the violation of any of the provisions of this act.

That is section 3 of the old act. If this bill should become a law, then it will be all one law. Now, let us see what section 3 says:

> That it shall be unlawful for any common carrier subject to the provisions of this act to make or give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation, or locality, or any particular description of traffic.

Here the power is expressly given to set aside any preference or advantage given to any locality, and fix the rates to such locality, and while the bill attempts but fails to give the carrier the right of review by the courts it denies it to the shipper and localities. There should be a definite provision in the bill denying the power to a commission to fix rates between localities on different lines and the right given any shipper or locality that may be affected by any order of the Commission to a review by the courts.

Mr. GALLINGER. Is the Senator just quoting from the law?

Mr. ELKINS. Those are my words. I have read section 3. I think those two provisions clearly establish the right under this law to fix rates between localities. I believe even the framers of the bill themselves deprecate this; and all agree that we can not confer upon any tribunal in the world this right, because, if we did, what would happen? Very soon there would be trouble between cities, then communities, and then between sections—the very thing all seem to wish to avoid. We are in great danger if this power is conferred of getting, say, the Pacific coast and the South Atlantic States into antagonism and trouble of a most serious kind. This is a most delicate matter. You touch one of these determining rates and everything is instantly in confusion. If you disturb the cotton rate from New England, you affect the cotton rate from the South, and I might go on with all the rates from basing points.

Mr. GALLINGER. Mr. President——

The VICE-PRESIDENT. Does the Senator from West Virginia yield to the Senator from New Hampshire?

Mr. ELKINS. I yield.

Mr. GALLINGER. On that point, Mr. President, I will ask the Senator what he thinks of an amendment which I have proposed and had printed, which reads as follows:

> Nothing herein contained shall be construed as authorizing the Commission to hear any complaint based upon an alleged preference given to one locality over another, nor to set aside or substitute any rate because of any alleged preference of one locality over another.

Mr. ELKINS. I think that might do. I would have offered an amendment on this point, but I have proposed so many amendments that I hesitated.

Mr. ALLISON. Mr. President——

The VICE-PRESIDENT. Does the Senator from West Virginia yield to the Senator from Iowa?

Mr. ELKINS. Certainly.

Mr. ALLISON. If the Senator will allow me, the point he is just now touching is one of the essential features of this bill; and I am very glad, for one, to have his view upon that subject. As I understand, the promoters of this bill state that these changes apply only to the line with reference to which the complaint is made, and that they absolutely exclude the idea of dealing with questions as respects competing lines. If that be true, then the amendment of the Senator from New Hampshire [Mr. GALLINGER] partially covers it. I think I might suggest another amendment that would aid in that regard; I will not do it now, but I consider that one of the questions we should have clearly understood and defined in this bill is whether or not the power of this Commission is to be extended beyond the power they now have either directly or impliedly. I am very glad to have the Senator call attention to that subject.

Mr. FORAKER. Mr. President——

The VICE-PRESIDENT. Does the Senator from West Virginia yield to the Senator from Ohio?

Mr. ELKINS. I do.

Mr. FORAKER. I want to ask the Senator from Iowa [Mr. ALLISON] if he favors putting into this bill a prohibition against the consideration of relative rates? I mean relative as to localities. Did I understand the Senator from Iowa to so state?

Mr. ALLISON. Just at this moment——

Mr. BACON. I should like to call the attention of the Senator from Iowa to the fact that when he turns his face in the other direction those of us on this side can not hear him, and we desire to do so.

Mr. ALLISON. I will address myself to the Chair.

I will say just at this moment that I do not wish to commit myself—I hope the Senator understands that—as respects this particular feature of the bill; but I repeat that I regard it as one of the most important provisions of this bill. What we do mean should be settled clearly and distinctly, if it is not now settled clearly and distinctly.

Mr. FORAKER. Mr. President——

Mr. ALLISON. I will say one word more. My impression is at the moment, before I hear the debate further, that if it is not clearly provided for in this bill the amendment of the Senator from New Hampshire ought to be dealt with, and in some form should be embodied in the bill.

Mr. FORAKER. I regret that the Senator is not prepared to give us a positive statement as to his position in regard to this extremely important question. It is one of the most important questions connected with all this legislation. My home happens to be in Cincinnati. It is an acute question there, and has been for years. I was disappointed, as I know the shippers of that community must have been, when they read in the report made by the House committee on the Hepburn bill that they had not undertaken to deal with that question, but had postponed it for some future time, when they would give further consideration to the subject. Now, let me state to the Senator from Iowa what our difficulty is, and then he will understand why legislation that does not deal with that question can not do us any good.

The city of Cincinnati, speaking in round numbers, is about 400 miles distant from Atlanta. The city of New York, I will say, in round numbers, is something like 800 miles distant from Atlanta, but the roads from New York to Atlanta give practically as cheap rates as the rates that are given by roads from Cincinnati to Atlanta, only half the distance. The contention of the people of Cincinnati is not that the rates from Cincinnati to Atlanta are in and of themselves too high, but that they are relatively too high; that it is a discrimination against Cincinnati to take goods into Atlanta or other points in the South twice the distance at practically the same rate. It is against that sort of discrimination, as it is claimed it is, that the people of the community in which I live have been trying to get some relief.

If we are to be told that this bill does not meet that case, and that to make it doubly sure that it shall not and can not be construed to meet it, we are to put another amendment in it such as the Senator from New Hampshire proposes, I think there will be widespread disappointment, not only in that community, but in every other community, and there are perhaps thousands of them that are making similar complaints. I do not ask the Senator to answer now, for it is a troublesome question, and I can understand why he wants to answer it in a guarded way. It is a question that has given us all great difficulty; it is complicated, and it is hard to meet; but I want to invite the Senator's attention to it as one of the practical questions and to ask him to consider it, so that when we come to vote we can intelligently act upon that proposition.

Mr. ALLISON. Mr. President, just one moment——

The VICE-PRESIDENT. Does the Senator from West Virginia yield to the Senator from Iowa?

Mr. ELKINS. I do for just one moment.

Mr. ALLISON. As I understand, the Senator from Ohio [Mr. FORAKER] has a different view of what ought to be in this bill from the Senator from New Hampshire [Mr. GALLINGER], and therefore I think he must not reflect upon me because I have not been able, in the conflicting views of Senators who are friendly to this measure and who want to secure effective legislation, from the investigation I have been able to make to ascertain certainly what ought to be done with reference to this most complicated provision in this bill.

Mr. FORAKER. Mr. President, I hope the Senator from Iowa will not think I was trying to reflect upon him. I was only directing his attention to the matter, and I said I was not surprised that he was not able to give a positive statement as to what his attitude may happen to be after he hears the discussion. It is true that I do not agree with other Senators exactly as to what should be in this bill; but I want to say here, taking opportunity now while this is in the minds of Senators, that neither in this bill, nor in any other bill of this kind that can be framed, can you legislate so as to cure that evil. In the House they purposely omitted to put in a provision, out of the many that had been offered for that purpose, to cure it, and acknowledged in their report that they had passed it over without undertaking to deal with it. I have a measure that does deal with it, and I can satisfy the Senator from Iowa, I think, that under the amendment of the Elkins law which I have proposed we can meet and deal with that question without doing any injustice to anybody. I want to impress this upon the minds of Senators so they will understand it.

Mr. TILLMAN. Mr. President——

The VICE-PRESIDENT. Does the Senator from West Virginia yield to the Senator from South Carolina?

Mr. ELKINS. Being my colleague on the committee and in charge of this bill, I do not want to make any distinction, and I yield to the Senator.

Mr. TILLMAN. I am very much obliged to the Senator for his courtesy. The question just broached by the Senator from West Virginia [Mr. ELKINS] and the Senator from Iowa [Mr. ALLISON] is a very important one, probably as perplexing as any other with which we have to deal. With regard to rates between Cincinnati and Atlanta, for instance, or Chattanooga, they are, as I understand the Senator from Ohio [Mr. FORAKER] to say, the same as from New York, twice as far away.

Mr. FORAKER. I should say practically the same.

Mr. TILLMAN. Very well. I am speaking relatively. They are practically the same; but the Senator should consider in that case that the Atlantic Ocean runs from New York down as far as Savannah, giving water transportation, and that the railroad haul from Savannah to the interior there would give some little reason for an apparent discrimination against Cincinnati, where the road runs entirely overland, with no water transportation of any kind.

But let us consider that question as broached by the Senator from New Hampshire [Mr. GALLINGER] in his proposed amendment. He does not want the Interstate Commerce Commission to deal with the question of differentials or preferentials in regard to the ports of New England. I believe this question will never be settled justly and will never get to a place where it will satisfy the American people until we come to a flat mileage rate, where the people who live in any part of the United States will be compelled to take the disadvantages or the advantages of their location. Of course I can understand that New England, as of old, should be anxious to maintain any advantages which she possesses.

Mr. ALDRICH. Mr. President——

The VICE-PRESIDENT. Does the Senator from West Virginia yield to the Senator from Rhode Island?

Mr. ELKINS. Yes; but I do not know whether my other colleague on the committee [Mr. TILLMAN] has finished.

Mr. TILLMAN. I am not through at all. I am just beginning to present the question.

Mr. ELKINS. I don't want so many speeches made in my speech. I will answer questions, and I want to oblige all Senators, but I can not yield to Senators to make speeches.

Mr. TILLMAN. But the Senator was sitting down until I got up. Why does he not sit down again?

Mr. ELKINS. If I do, I am afraid the Senator will speak all day.

The VICE-PRESIDENT. Does the Senator from West Virginia yield?

Mr. ELKINS. If Senators will allow me, I will answer questions, but I do not want to yield otherwise.

Mr. TILLMAN. The Senator is not going to cut my argument off right behind the ears in that way, is he? [Laughter.]

Mr. ELKINS. The Senator can make his argument, and I will answer him when discussing the amendments.

Mr. TILLMAN. If the Senator insists, I will have to give way; but as the subject was broached by other Senators and you allowed them to have their say, I was trying to give my views; I think it a little unkind, but, of course, I will have to submit.

Mr. ELKINS. You have talked as long as the other two.

Mr. TILLMAN. I suppose I have more to talk about than they have. [Laughter.]

Mr. ELKINS. But you will have to give me a chance.

Mr. TILLMAN. I will get out of the way. There is plenty of time, I imagine. Unless the Senator from Rhode Island [Mr. ALDRICH] will agree to an early vote, we will have ample opportunity to discuss all of these questions.

The VICE-PRESIDENT. The Senator from West Virginia declines to yield.

Mr. ELKINS. I do not want the Senator to feel hurt.

Mr. TILLMAN. I must feel that you have not treated me with the same courtesy that you have treated others; but I will get even with you. The Senator had better take care; I will get even with him. [Laughter.]

Mr. ELKINS. The Senator always gets even, but I am ready to meet the Senator on getting even in this debate or any other debate. But I did try to be just as courteous to him as to others, and I sent a page to him to tell him to get in, because I saw he was getting very restless.

Mr. TILLMAN. And as soon as I get in you jerk me off my feet.

Mr. ELKINS. But the trouble with you is you want to make a speech every five minutes while I am speaking. [Laughter.]

Mr. BACON. I rise to a point of order, Mr. President.

The VICE-PRESIDENT. The Senator from Georgia will state his point of order.

Mr. BACON. The Senator from West Virginia and the Senator from South Carolina are both out of order, and have been repeatedly so, in addressing each other as "you," which is against the rule of the Senate.

The VICE-PRESIDENT. The point of order is well taken. The Senator from West Virginia is entitled to the floor.

Mr. ELKINS. Mr. President, I know this is one of the most important questions raised under this bill. I have shown, I think, conclusively that the power to fix rates between localities is given in the bill, and that it is a dangerous power, and I expressed the hope that a definite provision be incorporated in the bill against conferring this power on the Commission, and I think the amendment suggested by the Senator from New Hampshire does meet the case. Probably it might be changed somewhat.

THROUGH ROUTES AND THROUGH RATES.

Through routes and through rates are desirable and would furnish shippers and producers wider markets for their products, and I wish the bill provided, in a way free from objections, for establishing through routes and rates. Shippers often on one line of railroad can not reach points or markets on other lines because there are no through routes and rates established.

If a shipper on one line of railroad finds a market at some point on connecting lines and there is no through route established or rate made to that point, while the connecting line or lines could not refuse to haul his products, they could charge such a rate that would make it impossible to ship as against the shipper on another line who has a through rate to the same point, and therefore he would be excluded from the market.

If a shipper on the Baltimore and Ohio wants to reach a point on the Reading, Pennsylvania, New York Central, or Lehigh Valley, and there is no through route or rate, he is excluded from any point on those lines unless he pays local rates, which would be prohibitive. The bill attempts to afford a remedy by giving the Commission the power to establish through routes and rates, but is so drawn that I fear it defeats the purpose desired.

State laws authorize an intrastate road to make certain charges for transporting freight and passengers. Can this intrastate road, entirely under State jurisdiction, be made a part of a through route and be forced into an arrangement with three or four other roads, whereby it gives up the right to name its local rate, and haul through freight at a rate named by the Commission which it does not agree is profitable or remunerative?

Suppose the carriers refuse to establish a through route from New York to points in Arkansas, Texas, or California, and upon complaint the Commission establishes one and names the rate; and suppose when freight is offered to the Pennsylvania Railroad in New York, being the initial road in the through route named, it says that with the business it has in hand it can not undertake to transport this freight to points in Arkansas, Texas, or California, for the reason that the business demands upon the road in the States of New Jersey and Pennsylvania, where it was incorporated, and other States where its lines reach, are greater than it can do, and if its cars are sent to these distant points it will be compelled to refuse freight offered on its home lines and subject its charter to forfeiture by a proceeding on the part of the State. Then, again, some of the connecting lines, especially the intrastate lines, might not have the motive power to haul this traffic. Under these circumstances can Congress compel the initial line to furnish the cars and connecting lines the motive power on this through route?

It is difficult to see how one carrier can virtually be given the use of the road and equipment of another carrier without the consent of that carrier and without any judicial determination as to the just compensation to which that carrier is entitled. No tribunal but a court can decide what is just compensation. The terms and conditions under which through routes are operated are essentially matters of contract involving a great many different and difficult details, among them what schedules shall be maintained, what proportion of the equipment each company shall furnish.

SUSPENSION OF ORDER PENDING SUIT FROM A PRACTICAL STANDPOINT.

If the right to suspend the order of the Commission in the discretion of the court should be denied, this might work serious results from a practical standpoint. Should the Commission find the rate named by the carrier excessive and reduce it, and the reduced rate goes into effect at once and remains until the final hearing and determination of the action to set it aside in the circuit court, then this new rate, pending the litigation, would have to be published as all other rates, and if the rate reduced affects other rates—and it may affect hundreds of other rates—then all of these rates would have to be reduced, go into effect, and likewise be published.

If the court should hold that the carrier was right and the rate it made in the first instance was not excessive, then the reduced rate and all other rates changed would be restored.

The price of products would have to be advanced or reduced accordingly as the changes might take place in the rates. It takes time for merchants, shippers, and communities to accommodate their business to changed rates, because changes in rates bring about changes in prices. In any event, from a practical standpoint, there should be as few changes in rates as possible. But if the order made by the Commission naming a substitute rate should be suspended pending a suit, this should be done only upon the condition that a deposit in money is made in court by the carrier sufficient to pay back to the shipper the difference between the rate made by the carrier and the one made by the Commission and suspended by the court. In this way the shipper would be absolutely protected without being required to sue the carrier for the difference he may have paid. For my part I would prefer, if it could be done, that the substituted rate made by the Commission go into effect within a reasonable time and remain in force until the determination of any suit to set it aside; but able lawyers say that the courts have the right upon proper showing to grant interlocutory injunctions, and this right can not be taken from the courts.

DIVIDED RESPONSIBILITY.

If there should be no review by the courts of the orders of the Commission then the rates fixed by the Commission will be final unless its order violates some provision of the Constitution. This leads to a divided responsibility between the railroads and the Government in the management of the railroads. The Commission in effect acting for Congress would do the most important thing connected with the management of a railroad, to wit, fix the price of transportation, the only thing a railroad has to sell. Divided responsibility in business is most always attended with failure, and with the Government is almost sure to be, and this happening, the next move would be to try to secure government ownership of railroads. It may then come about, as it often does in the business, social, and political world, that extremes meet for a common purpose. Those favoring government ownership would join the owners of railroads in imploring Congress to take over the railroads, even at a fair price. Under certain conditions, government ownership of railroads would not be opposed by the owners of railroads as much as by a majority of the thoughtful people of the country.

There is a wide difference between government regulation to prevent excessive rates and correct abuses, and government management of railroads. The power is conferred on the Commission in section 15 of the bill to prescribe what "regulation or practice affecting rates" is just and reasonable, and to establish through routes and rates and prescribe the division of the same, and the "terms and conditions under which such through routes shall be operated." Just what the words "regulation or practice affecting rates and terms and conditions under which through routes shall be operated" mean no one knows, and will not until the courts consider them.

One thing is certain, they mean more than regulating commerce and fixing rates, and seem to go far in the direction of management by the Commission. Operating a route is not clear; operating a railroad is quite clear. The words must apply to railroads and mean the terms and conditions upon which railroads making up the through routes shall be operated. If so, this would be government management, in which the railroads would have little or no part.

The true limit of government regulation should be to secure by proper laws ample protection to the public interests—protection to the shippers and the people against excessive rates and all abuses, wrongs, injustices, and discriminations by railroads. The first and longest step toward government ownership would be government management of railroads. In trying to properly regulate rates we should be careful not to confer power on the Commission, even by implication, to manage railroads.

If we should find the Commission had power even to in part manage railroads, this would not last long. The railroads, in my judgment, would prefer government ownership.

I submit to the Senate that when you confer the power to prescribe the terms and conditions upon which routes shall be operated, you are going a long way. "Routes" means nothing if it don't mean railroads.

Mr. SPOONER. Would it not be subject to judicial review?

Mr. ELKINS. If the power is given to be exercised by the Commission, then the order would be subject to review, unless the orders of the Commission are made final. I do not see how it would be interpreted otherwise. I am strongly in favor of widening markets by allowing shippers to get to all markets alike, but I do not see how, under the language of this bill, this can be done.

Capital is always timid; if it is fettered or handicapped beyond the point that it deems fair treatment it will take wings and fly away. It will not long share a divided responsibility with the Government. It must be free to manage its investments as it sees fit inside the law. If the owners of railroads find they are denied the rights granted other litigants in the courts and can not have the protection of the courts in the management of their property, they may not only consent but seek government ownership, in order to invest their capital in some branch of business the Government does not undertake in part to control.

REDUCTION OF RATES.

In the United States we have the lowest rate, the highest wages, and the best railroad service in the world. During the last thirty years rates have been reduced from 2 cents per ton per mile to about seven and one-half mills per ton per mile. On some railroads last year the average rate per ton per mile was as low as 6 mills and a fraction per ton per mile. How much further this reduction in the aggregate can go is difficult to tell—possibly if the grades and curves are improved, better equipment and better motive power provided, the average rate might be reduced to half a cent per ton per mile and yet afford a fair return to the carrier, but surely the rate can not go much lower.

When the Windom Commission made its report—and that is within the memory of the senior Senator from Iowa [Mr. ALLISON] and the senior Senator from Rhode Island [Mr. ALDRICH] and many other Senators—the great question was whether the rate could ever get lower than a cent a ton a mile. Now we have about 6 mills a ton a mile on the average and lower still on some railroads. It has been pushed down to that point, but I do not know how much further it can go; I do not think beyond 5 mills per ton per mile. Already we are so near the dividing line that the reduction of a mill or two per ton per mile may mark the difference between profit or loss. It is remarkable what an enormous saving there has been to the people in thirty years in the voluntary reduction of rates by the railroads. Take, for instance, the case of the Great Northern Railroad. A statement prepared by Mr. James J. Hill, president of the road, shows that on this single road in thirty years the reduction has been over $679,000,000. What a saving to the people!

This reduction applies to all other roads in the country, and the aggregate of the saving to the people from the reduction in rates for the last thirty years reaches figures almost incomprehensible. This saving was not the result of Government regulation, but was due to the voluntary action of the railroads.

Because railroads have constantly reduced rates and developed the country and are the most important factor in our commercial and business expansion furnishes no reason why they should not be subject to proper regulation. With the great benefits and advantages railroads bring to the country there should not follow in their wake evils and abuses that oppress the people.

All property honestly acquired is sacred and entitled to protection under the law, and there ought to be no distinction under the law between different kinds of property, but no class of owners of property should be allowed to do anything against the public interest. The people's rights and the public interests are the first care of statesmen, and are higher and beyond any special interest or business or all combined. The public weal and public welfare should be the first considerations in all we may do here. There is general unrest among the people all over the world, and more generally than ever in our own country. Just what the outcome of this unrest may be no one can foresee. Many believe that individualism, with its vast benefits, and of late its vast evils to society, has about run its course, and in its stead during the 20th century will come about some form of collectivism which we do not yet understand.

MAKING RAILROAD RATES.

Making and adjusting railroad rates, even by the most experienced traffic managers, is most difficult. Presidents of railroads and boards of directors rarely have anything to say or do about making rates. This intricate and complicated duty is confided to the traffic managers and their subordinates. They must keep their fingers on the commercial and industrial pulse of the country every moment to know what to do in the matter of adjusting rates; they must confer daily with thousands of business men all over the country and be in touch with every movement of the markets. Generally market conditions and competitive industries determine rates and not traffic managers; they simply respond to these conditions. The Weather Bureau records the weather but does not make it.

Three hundred rate schedules are received daily by the Interstate Commerce Commission; the present annual average is 100,000 schedules. From 1887 to 1904 there were 2,358,960 rate schedules filed in the office of the Interstate Commerce Commission. A rate may be profitable to-day and not profitable to-morrow. Rates reasonable on one line may be unreasonable on another to the same or different points, though the distance be the same. If railroads can have loads both ways for a year or even a month they can make lower rates than if they have loads only one way.

These and many other factors that might be mentioned enter into the making of railroad rates, and make their adjustment complicated, intricate, and difficult. The regulation of rates and the prevention of all sorts of abuses, discriminations, and rebates should be left to the Government—the management of railroads to their owners.

The hearings before the Interstate Commerce Committee show, and all agree, as a general rule the great majority of shippers are satisfied with the rates made by railroads; that rebates and discriminations are growing less, as the present laws are executed and they are being enforced vigorously; but this, as I have said before, is no reason why there should not be the strictest regulation against excessive rates and abuses of every kind, so as to protect the people and minimize evils and abuses. Because people are, as a rule, honest is no reason why there should not be laws against dishonesty, murder, burglary, larceny, embezzlement, etc.

The aim of wise statesmanship should be to so adjust matters by proper legislation that the shipper and producer can make a fair profit on their products, the railroad a fair return for the service rendered, and the consumer get what he buys at a fair price.

I considered some time whether to say "just compensation" or "fair return on capital" instead, as has been suggested by the Senator from Nevada [Mr. NEWLANDS] and the Senator from Texas [Mr. CULBERSON]. But I used the term "fair return for the service rendered" as possibly the best words.

There should be no real antagonism between the shipper, the carrier, and the consumer; their interests should be mutual and not conflicting. Legislators should work to this end and try to promote and safeguard the public interest without feeling, without prejudice, without passion, and without pressure from popular clamor. This would reach the height of genuine statesmanship. For the last eight years I have been a member of the Senate Committee on Interstate Commerce and have had ample opportunity of judging the work of the Commission, which at times has not been fully understood and appreciated. It is needless to say that the Commission is made up of men of fine ability and of the very highest character. They have from the beginning devoted themselves to the important and difficult work in hand with zeal and tireless industry. The Commission has been called upon to treat a most important and difficult subject under new legislation and interpret new laws which had not been passed upon by the courts; they had to trod paths unknown and untried, and the work has at all times been most serious and difficult. The public does not hear or know of the great work of the Commission, by far of the largest part of the work the Commission does. Since its organization it has settled amicably between railroads and shippers nearly three thousand cases without contest, trial, or proceedings in court. In this way a great deal of good has been done and a great many differences reconciled between shippers and railroads under new legislation difficult to interpret and understand. The Commission by law is intrusted with the most difficult and delicate subject in our economic development, and they have met the duties laid upon them with great ability, and an honesty and integrity that has never been assailed.

Mr. President, I now wish to consider some of the legal phases of the rate question.

Mr. FORAKER. If I do not interrupt the Senator, before he takes up this other subject I should like to ask him to tell us why he arrived finally at the conclusion that the proper expression to use in that connection is "a fair return for the service rendered."

Mr. ELKINS. I will say to the Senator, as I tried to explain, that I had some hesitancy about it. I had it "fair return on the capital" at first. Just what words to use gave me some trouble. I finally decided on those I have used, because on the whole I thought "a fair return for the service rendered" cov-

ered everything the carrier could justly ask and the words would be fair to the public.

Mr. CULBERSON. Mr. President——

The VICE-PRESIDENT. Does the Senator from West Virginia yield to the Senator from Texas?

Mr. ELKINS. For a question.

Mr. CULBERSON. It is for a question, but the Senator will kindly pardon a sentence or two in explanation of the question. I ask it for the purpose of securing information with respect to the views of the Senator on an important matter with which I am very much concerned—that is, the question which the Senator is discussing as to the rate to be charged by railroad companies.

Under the present law they may charge a just and reasonable rate. Under this bill, which came from the committee of which the Senator is a member, the rate to be fixed by the Commission is to be just and reasonable and fairly remunerative. If the Senator will pardon a further word, the Supreme Court has held that the words "just and reasonable" have relation both to the rights of the public and of the companies, and that the rate must be fixed with reference to the rights of each. Now the committee, or at least the bill—whoever may be responsible for it—adds the words "fairly remunerative," as the measure of the rate which is to be fixed for carrying freight and passengers. I call the attention of the Senator from West Virginia to the definition of "remunerative" in the Standard Dictionary: "Affording, or tending to afford, ample remuneration; giving good or sufficient return; paying; profitable."

Now, what I desire to ask the Senator is this: First, what is the purpose of using the additional words "fairly remunerative," and if, in his judgment, those words do not have the effect of liberalizing the rule rather than of narrowing it or keeping it where it is under the common law and under the decisions of the Supreme Court, and if the words "fairly remunerative" do not have exclusive reference to the interests of the companies? And, lastly, I will ask the Senator if he will join with some of us in striking the words "fairly remunerative" from the bill?

Mr. ELKINS. If the Senator will do me the honor to listen to what I have to say further on, I will try to answer his questions more at length. It is difficult to say what the words "fairly remunerative" mean; whether they lay down a standard by which the courts can determine anything. I fear in the use of these words we get into a wide and unknown sea. I think the words "fairly remunerative" add to the difficulties of the question, as I shall try to show. The words "just and reasonable" furnish a standard by which the Commission is to be guided or to which it must adhere. I will shortly come to the point the Senator from Texas has raised.

Mr. CULBERSON. Would the Senator, in that connection, pardon another inquiry directed to the Senator from Iowa? And I make the inquiry of the Senator from Iowa for obvious reasons which have been developed in the last few days.

I will ask the Senator from Iowa if he believes the words "fairly remunerative" liberalize the rule by which the rate is to be measured, and if he would join with some of us in striking those words from the bill?

Mr. ELKINS. The Senator from Texas had better ask the Senator from Iowa at another time. For my part, I am willing to strike out those words.

Mr. CULBERSON. I am sure the Senator from Iowa would be glad to answer now if the Senator from West Virginia would yield.

The VICE-PRESIDENT. Does the Senator from West Virginia yield for that purpose?

Mr. ELKINS. I have to do the most painful act of my life—refuse the Senator his request.

The VICE-PRESIDENT. The Senator from West Virginia declines to yield.

Mr. CULBERSON. Of course I do not understand what the Senator from Iowa said to the Senator from West Virginia, in an undertone, but I appreciate all the same the reasons why the Senator from West Virginia does not yield.

Mr. ELKINS. I will discuss the point when I get to it later on.

Mr. SPOONER. Will the Senator from West Virginia allow me to ask him a question?

The VICE-PRESIDENT. Does the Senator from West Virginia yield to the Senator from Wisconsin?

Mr. ELKINS. With a great deal of hesitancy.

Mr. SPOONER resumed his seat.

Mr. ELKINS. Proceed.

Mr. BACON. I should like to ask the Senator from West Virginia a question.

Mr. ELKINS. I could not yield to the Senator from Wisconsin and can not to the Senator from Georgia.

The VICE-PRESIDENT. The Senator from West Virginia declines to yield.

Mr. ELKINS. I will now consider some of the legal aspects of the rate-making question.

LEGAL PRINCIPLES INVOLVED.

The general principles underlying and applicable to the power of Congress over the subject of rates by interstate carriers may be stated as follows:

1. At common law a common carrier is prohibited from making any unreasonably high charge for its services, and this prohibition has been incorporated in section 1 of the act to regulate commerce. (Int. Com. Com. *v.* Railway Co., 167 U. S., 479, 505.) Thus the shipper has a common-law and statutory right of protection against unjustly and unreasonably high rates.

2. To decide, upon the evidence, in a case properly before the court, whether any rate charged by a common carrier is unreasonably high, or, in other words, in excess of the maximum rate which would be reasonable, has always been regarded as a judicial function. (Chicago, etc., R. Co. *v.* Iowa, 94 U. S., 155, 161; Chicago, etc., R. Co. *v.* Minnesota, 134 U. S., 413, 458; Reagan *v.* Farmers' Loan and Trust Co., 154 U. S., 362, 397.)

3. Any governmental regulation establishing rates for the transportation of persons or property which will not admit of the carrier's earning such compensation as under all the circumstances is just to it and to the public would deprive such carrier of its property without due process of law. Such regulation, if by State authority, would violate the fourteenth amendment to the Constitution of the United States (Smyth *v.* Ames, 169 U. S., 466, 526); and, if by Federal authority, would obviously violate in the same way the fifth amendment to the Constitution of the United States. Thus the carrier has a constitutional right of protection against unjustly and unreasonably low rates.

4. The determination of the question whether a governmental regulation establishes rates for the transportation of persons and property so unreasonably low as to deprive the carrier of its property without such compensation as the Constitution secures is a subject of judicial inquiry. "The duty rests upon all courts, Federal and State, when their jurisdiction is properly invoked, to see to it that no right secured by the supreme law of the land is impaired or destroyed by legislation." (Smyth *v.* Ames, 169 U. S., 466, 526, 527.)

5. There may be, and generally would be, a wide range between, on the one hand, the highest rate which a common carrier could impose on the shipper without violating the shipper's common-law and statutory right to be protected against an unjustly and unreasonably high rate, and, on the other hand, the lowest rate which governmental authority could impose on the carrier without violating the carrier's constitutional right to be protected against an unjustly and unreasonably low rate. Between these two extremes there may be many different rates, each of which would necessarily be just and reasonable, because not transgressing either one of the two limits of justice and reasonableness.

6. The governmental power to prescribe rates for carriage by a common carrier is a legislative and not an administrative or judicial function. (Int. Com. Com. *v.* Railway Co., 167 U. S., 479, 505.)

7. Congress having the power to establish the interstate rates of common carriers, it would follow that Congress would have an unlimited discretion to fix any such rate at any point between the maximum rate which the carrier could lawfully charge the shipper and the minimum rate which Congress could constitutionally impose upon the carrier. This would be a wide range of discretion, and would be a purely legislative discretion.

8. That legislative power can not be delegated to any other officer or tribunal is well established and is fully recognized in the case of Clark *v.* Field (143 U. S., 649). Hence it follows that Congress can not delegate to the Interstate Commerce Commission the discretionary legislative power which Congress has under the commerce clause, whereby Congress may fix any interstate rate of a common carrier at any point between the maximum reasonable rate which the carrier could lawfully charge the shipper and the minimum rate which Congress could constitutionally impose upon the carrier.

9. The Attorney-General, in his letter of May 5, 1905, to the chairman of the Senate Committee on Interstate Commerce, holds that the only way in which a rate-fixing power can be conferred upon the Interstate Commerce Commission is for Congress to enact into law some standard of charges which shall control, and then to entrust to the Commission the duty to fix rates in conformity with that standard. In this I fully agree.

10. It would seem to follow from these premises—

First. That any legislation attempting to confer upon the Interstate Commerce Commission the power to fix rates will be unconstitutional unless it prescribes "the standard of charges which shall control," and requires the Commission to conform thereto in fixing rates.

Mr. KEAN. When the Senator concludes, I will submit a few remarks on that subject.

Mr. ELKINS. Second. That any legislation attempting to fix rates would be unconstitutional whose practical effect is to deny to common carriers the right to invoke and obtain, in due time, the protection of the courts from being compelled to transport persons or property at rates which violate the carrier's constitutional rights.

In the light of the principles just stated an examination of the bill under consideration may be instructive.

DELEGATION OF POWER IN HEPBURN BILL.

The only standard of charges prescribed by the act to regulate commerce is the common-law standard that rates shall not be unreasonably and unjustly high. This standard is vague, but still it is a standard because it is a thing judicially ascertainable which the courts have always recognized it was their right and duty to ascertain in proper cases. For Congress to enact merely this standard and then confer upon an administrative tribunal the authority to make such changes in rates as are necessary to prevent those rates from being unreasonably high, would delegate a wide discretion and a tremendous power to such a tribunal. The power so delegated to the administrative tribunal would be the greatest power exercised by any administrative tribunal in the world.

Notwithstanding these considerations, it is probable that the courts would hold constitutional an act delegating to an administrative tribunal the power to change rates of interstate common carriers so far as might be necessary to prevent their being unreasonably high in violation of the common-law and statutory prohibition, because such act would furnish a judicially ascertainable standard of charges to control, and would require the administrative tribunal to conform to that standard. It is believed, however, that this is the furthest extent to which the courts would go in sanctioning a delegation of the rate-fixing power to an administrative tribunal. The Hepburn bill seems to go far beyond this point.

The bill does not require the Commission to conform to the statutory and judicially ascertainable standard; it does not provide that the Commission shall change rates only so far as to prevent their being unreasonably high. Such a limitation on the power of the Commission seems to be the thing sought to be avoided by the framers of the bill in its present shape, and its language shows an intention to confer power upon the Commission free from any such limitation.

The language of the bill seems designed to turn the entire subject of regulation, which is within the power of Congress, over to the discretion of the Commission. The Commission is given full authority to act not merely when rates in fact violate the law but whenever the Commission "shall be of opinion" that the rates are unjust or unreasonable.

They determine their own jurisdiction by their own opinion. Thus the Commission's opinion is sought to be made the sole basis of its jurisdiction. When the Commission thus chooses to act, it is authorized not merely to change rates so far as may be necessary to prevent their being unreasonably high, or, in other words, to make them conform to the statutory standard of lawfulness, but the Commission is given full authority to prescribe "what will, in its judgment, be the just and reasonable and fairly remunerative rate," that is final and not subject to review by the courts, without the order of the Commission violates some constitutional provision. Thus it is sought to make the Commission's "judgment" the sole limitation upon the Commission's authority, subject, of course, to the limitation of the carrier's constitutional rights; in other words, the Commission is authorized to change the rate just as far as Congress itself could change the rate. This turns over to the Commission all the discretionary power that Congress itself could exercise.

The introduction of the words "fairly remunerative" does not furnish a statutory standard of charges which is to control. And here I invite the attention of the Senator from Texas [Mr. CULBERSON] to what I am about to say touching the words "fairly remunerative." Nobody knows what the term really means, and it has never been regarded as a judicially ascertainable standard. As already pointed out, any rate between the maximum lawful rate as against the shipper and the minimum lawful rate as against the carrier may be regarded as fairly remunerative, for, if not fairly remunerative under all the circumstances, it would not seem to be the just compensation to which the carrier is entitled under the Constitution.

Moreover, the fact that one rate is fairly remunerative is perfectly consistent with the fact that five or six other rates for the same service may be also fairly remunerative. The Commission may be of opinion that each of five or six different rates would be "fairly remunerative;" consequently its choice between these rates would be a matter of arbitrary discretion.

Certainly the bill does not prescribe any "standard of charges which is to control" by introducing the words "fairly remunerative." These words do not and can not establish a legal standard for any purpose.

Under the act to regulate commerce a carrier has the right to charge the highest rate which is not unlawful, or, in other words, the maximum reasonable rate. This bill, however, carefully refrains from limiting the authority of the Commission to determining "the maximum just and reasonable rate," which is the only standard the act to regulate commerce prescribes, but, on the contrary, gives the Commission the right to fix any rate which in its judgment is a just and reasonable and fairly remunerative rate, and prescribes that that rate shall be the maximum.

Mr. CULBERSON. Mr. President——

The VICE-PRESIDENT. Does the Senator from West Virginia yield to the Senator from Texas?

Mr. ELKINS. Certainly.

Mr. CULBERSON. I think the Senator from West Virginia is in error in stating that the present law authorizes the carriers to fix the maximum.

Mr. ELKINS. I did not say that.

Mr. CULBERSON. I understood the Senator to say so.

Mr. ELKINS. The bill, I say, does.

Mr. CULBERSON. I think the bill does not do that.

Mr. ELKINS. I think it does.

Mr. CULBERSON. The bill, as I understand it—and it is a matter to which I would be glad to have the Senator direct his attention—provides that the carriers shall fix just and reasonable rates. That ordinarily would be absolute rates. But the Commission is authorized to fix only just and reasonable *maximum* rates.

Mr. ELKINS. And fairly remunerative.

Mr. CULBERSON. And fairly remunerative.

Mr. ELKINS. In the bill?

Mr. CULBERSON. In the bill. I invite the attention of the Senator from West Virginia to this distinction between the character of rates fixed by the railroad companies and the character of rates which the Commission is authorized to fix in lieu of those fixed by the carriers; and I ask him if it does not at least create confusion?

Mr. ELKINS. I think, as I said before, the insertion of the words "fairly remunerative" in this bill in addition to the old law does produce confusion.

Mr. CULBERSON. But the Senator apparently does not catch the point. The point is this: The railroad companies are authorized to fix absolute rates, which must be just and reasonable. The Interstate Commerce Commission is only authorized to fix just and reasonable and fairly remunerative *maximum* rates.

Mr. ELKINS. I do not think this changes it materially, although one rule is laid down for the carriers and a different one as the standard for the Commission. My idea is that the Commission ought to have the power only to modify a rate made by the carriers to the extent of relieving it of unreasonableness, unlawfulness, and injustice. This is the power which I think the Commission should exercise and go no further, and it ought to be in this bill. Is not that satisfactory to the Senator from Texas? I listened to his speech with great interest.

Mr. CULBERSON. The rate provided by the bill is not at all satisfactory to me, and my constant reiteration of this question to Senators who have spoken is in that way to give notice to those in charge of the bill that in my judgment it must be amended in that particular.

Mr. ELKINS. I agree with the Senator that these words confuse the bill.

But to resume my argument: Thus a rate higher than the rate prescribed by the Commission might be reasonable and just and therefore entirely lawful under the act which Congress has passed; but Congress gives the power to the Commission to repeal this law *pro tanto* by fixing another just and reasonable rate lower than the maximum which is lawful, and making this lower rate thereafter the maximum.

Mr. FORAKER. I wish to ask the Senator from Texas if it is his opinion that we should confine ourselves to the words "just and reasonable rates?"

Mr. CULBERSON. I think that we should, because the meaning of that term is thoroughly understood, at least by the courts and by the profession and by that portion of the public which is specially interested in this question.

Mr. FORAKER. I only wanted to know whether the Senator had suggested any amendment to take the place of the words "fairly remunerative?"

Mr. CULBERSON. I suggest to strike out the words "fairly remunerative" and insert "just and reasonable."

Mr. ELKINS. I agree to that, but I am not in charge of the bill.

Mr. TILLMAN. I will agree to it.

Mr. ELKINS. Then we are agreed.

Mr. TILLMAN. On one thing.

Mr. ELKINS. Now, the Senator thought I said that disgrace attached to this bill. I do not think this bill is bad; it is a good bill in many respects and will do great good. That was a mere pleasantry. I said what I did because the Senator disclaims any paternity for his child. I withdraw the words. I think the framers of the bill have done a great deal of conscientious work on it, and I think the Senator from South Carolina himself is trying to make it a good bill. I only said that in jest, and I hope the Senator will take it that way.

Mr. TILLMAN. I accept the Senator's apology.

Mr. ELKINS. I should like the attention of the Senator from Texas.

The bill prescribes no standard of lawful charges which imposes that duty upon the carriers, yet it is proposed to give to the Commission the authority in its unguided discretion to reduce rates to that point if it chooses to do so. I think this answers the questions of the Senator from Texas. A clearer delegation of legislative power, uncontrolled by any standard established by the legislature itself, could not be imagined.

It may be contended that the courts will limit the authority of the Commission to changing rates so far only as may be necessary in order to prevent them from being unreasonably high, and in that way the courts will, by construction, confine the Commission to the only legal standard which the act to regulate commerce prescribes. It would seem clear, however, that the courts would not in this way revise the language used by Congress. In the Trade-mark cases (100 U. S., 82, 98) the Supreme Court said:

> While it may be true that when one part of a statute is valid and constitutional and another part is unconstitutional and void, the court may enforce the valid part, where they are distinctly separable, so that each can stand alone, it is not within the judicial province to give to the words used by Congress a narrower meaning than they are manifestly intended to bear, in order that crimes may be punished which are not described in language that brings them within the constitutional power of that body.

The question of such a delegation of power under the Federal Constitution is an entirely new question, upon which there is no controlling authority.

It is true the Supreme Court has held that the delegation of rate-making power to State commissions did not take the property of railroad companies without due process of law, contrary to the fourteenth amendment. In those cases, however, the Supreme Court did not undertake to decide whether the State statutes delegated a power to administrative tribunals, which under the State constitutions could only be exercised by the legislatures themselves. The question as to whether the Hepburn bill delegates to the Interstate Commerce Commission a legislative discretion will arise not under the fifth amendment, which prohibits the taking of property without due process of law, but out of the underlying principle of the whole Constitution that legislative power must be exercised by the legislative department of the Government. The question has never been passed upon or considered.

It should further be borne in mind that most, if not all, of the decisions relating to State constitutions will not even be persuasive authority with the Supreme Court of the United States to support the delegation of power attempted by this bill, because in many of the cases the State constitutions expressly contemplate the delegation of such a power, and in most, if not all, of the cases the delegation of power is made with limitations, more or less clearly expressed, which are entirely absent from the bill under consideration.

I wanted to introduce here some extracts from the Michigan tax case just decided, but I have been unable to get a copy of the decision, and I will not refer to it further because I have only seen the quotation in the papers. But it seems that it has a direct bearing upon conferring this power, which might be useful and instructive. I am indebted to the Senator from Wisconsin [Mr. SPOONER] for an extract from Judge Brewer's decision.

Mr. SPOONER. As published in the papers.

Mr. ELKINS. As published in the papers.

> In the nation no one of the three great departments can assume or be given the functions of another, for the Constitution distinctly grants to the President, Congress, and the judiciary separately, the executive, legislative, and judicial powers of the nation. It may, therefore, be conceded that an attempted delegation by Congress to the President or any ministerial officer or board of power to fix a rate of taxation or exercise other legislative functions would be adjudged unconstitutional.

I am much obliged to the Senator. I tried to get the decision, as I desired to put it in my remarks. I will let this go into my remarks. I could not get the decision in time.

Mr. ALLISON. The Senator will make his extract from the decision itself. I understand that there is some little discrepancy between the newspaper report and the decision.

Mr. ELKINS. I thank the Senator for the suggestion. I was afraid to take what I saw in the newspaper. I do not want to becloud the situation by a newspaper report.

Mr. TILLMAN. Mr. President——

The VICE-PRESIDENT. Does the Senator from West Virginia yield to the Senator from South Carolina?

Mr. ELKINS. Certainly.

Mr. TILLMAN. I should like to ask the Senator if, in his judgment, in view of the extract which has been published in the papers purporting to declare it to be the opinion of the court that the three great departments of the Government must be kept separate, and that no one department shall exercise the functions of the other, the Constitution having explicitly placed in Congress the power to regulate commerce, would it not be a surrender of our functions or a usurpation by the judiciary of legislative functions if we can not fix rates, if we can not regulate commerce? In other words, the Senator from Wisconsin and others declare that it would be unconstitutional if we undertook to declare that a rate can be suspended, and therefore the judges are to come in and determine for themselves whether or not Congress has exceeded its authority, etc. Is it not an infringement of legislative power, a surrender of it, on our part if we do not do it, and a usurpation on the part of the judiciary if it assumes to do it?

Mr. ELKINS. I am coming to the question of the right of suspension, and I will discuss it. It is difficult, but I have a definite opinion on the subject.

With a few exceptions, all are agreed that some provision——

Mr. NEWLANDS. Mr. President——

The VICE-PRESIDENT. Does the Senator from West Virginia yield to the Senator from Nevada?

Mr. ELKINS. I will. The Senator is a member of the committee.

Mr. NEWLANDS. Before the Senator goes to this new point, I should like to ask him a question regarding the subject which he has been discussing as to the delegation of power to the Interstate Commerce Commission. Assuming that the words "fairly remunerative" were stricken out and the power was given to this Commission to fix just and reasonable rates, does he regard that as fixing the standard which is to control the action of the Commission, or does he regard that expression as a complete delegation to the Commission of all the power that Congress has regarding the fixing of rates?

Mr. ELKINS. I answered that a while ago when the Senator was not in the Chamber. If Congress fixes a standard by which the Commission is to be governed, and then it is provided that the Commission shall go no further in changing a rate made by the carrier than modifying it to the extent of relieving it of its unreasonableness or injustice or unlawfulness, then that becomes a judicial question, which can be inquired into; but if Congress confers the power upon the Commission to fix what it considers a fair, just, and reasonable rate, in its judgment, that is final and conclusive, as much so as if Congress had said you shall fix a rate of 50 cents a ton.

Mr. NEWLANDS. Does the Senator regard that as a transfer from the legislative department to this administrative board of all the legislative power that Congress has on that subject?

Mr. ELKINS. No; I do not. If Congress should empower the Commission to say what in its judgment would be a fair and reasonable rate, then Congress delegates its legislative discretion, but if Congress confers power on the Commission to modify a rate made by the Commission only to the extent and so far as to relieve it of its unlawfulness, unreasonableness, or injustice, then this is not final, and Congress does not delegate all of its legislative power, and what the Commission may do can be reviewed by the courts.

Mr. FORAKER. The Senator a moment ago read from a newspaper clipping a part of what Mr. Justice Brewer said. In the decision to which he referred he omitted to read a part that I want to call attention to in this connection. I do not know that it will appear in the opinion as it is to be published by the

court, but it was published in the newspapers for some reason as a part of that opinion, and it is certainly good law.

Mr. TILLMAN. Does the Senator understand that the Supreme Court ever gives out an opinion that is different from the opinion it afterwards publishes?

Mr. FORAKER. I have no special understanding on the subject. I understand that the opinions of the court are prepared by some justice to whom that duty is assigned, and that after it has been prepared and printed it is submitted to his colleagues by the justice who prepared it before it is announced from the bench; and that they are in the habit when they consider it of revising it, if they think it should be revised. I understand that the opinion Mr. Justice Brewer delivered will be printed precisely as it was delivered from the bench, but——

Mr. TILLMAN. Undoubtedly, but I was just trying——

Mr. FORAKER. I have also learned in a roundabout way, simply from common talk—I do not know where it originated—that somehow or other the opinion as it was originally prepared by Mr. Justice Brewer before he submitted it to his colleagues was published in the newspapers. In some way it was given out not as it was delivered from the bench, but as he originally prepared it, and that, I believe, is all that anybody yet has.

Mr. TILLMAN. I was trying to find out whether is was the habit of the Supreme Court to ever give out an opinion in that way as a kind of press agency affair.

Mr. FORAKER. No, Mr. President, I understand it is not the habit of the court at all.

Mr. TILLMAN. I thought it was just the reverse; that nothing ever came from that court that was not authoritative and a finality.

Mr. FORAKER. I do not want the Senator to think that I would suggest for one moment that the court puts out anything except only that which the court does. We have some very enterprising newspaper men; men who sometimes get hold of things and publish them in their zeal, in the best of good faith, of course. In this case, if there was such a publication prematurely, I am quite sure it was not the intention of anybody that there should be——

Mr. TILLMAN. Is the Senator aware of this fact?

Mr. FORAKER. I do not know. I say——

Mr. HOPKINS. I desired to ask the Senator from Ohio a question, if he was about to read what purports to be the opinion of the court, as to whether it would be entirely fair to the court, inasmuch as there is a question as to what the court has actually said on that subject, to put in the RECORD what the newspaper says the court said?

Mr. FORAKER. I will say, in answer to the Senator from Illinois, that the Senator from West Virginia a few moments ago read a part of it. I thought if any of it was read it might as well all go in.

Mr. ELKINS. I withdrew it.

Mr. FORAKER. If the Senator has withdrawn it, I do not care about it.

Mr. ELKINS. I withdrew it because I want to get the correct opinion from the clerk of the court.

Mr. CULLOM. The Senator will put in his speech the correct opinion?

Mr. ELKINS. I will put in the correct opinion of the court in my remarks if I get a copy in time.

JUDICIAL REVIEW UNDER HEPBURN BILL.

With few exceptions all are agreed there should be some provision in the Hepburn bill definitely providing for a review by the courts of the orders of the Commission. The denial of a review by the courts of the orders of the Commission is new and has come about only during this last session of Congress.

In his last two messages the President favored a review of the orders of the Commission by the courts. There have been introduced in the House and Senate during and since 1905 twenty bills on the subject of rate legislation, and all save one provide in some manner or other for review of the orders of the Commission by the courts. Sixteen States legislating on the subject have also provided for court review. The difficulty is just what is the best way to prescribe the terms of this review by the courts. For my part I think a review by the court of the orders of the Commission necessary to make the bill constitutional; beyond this I am not wedded to any particular form or wording of the same. It is contended by some of the advocates of the bill and denied by others that the carrier will have thereunder ample opportunity to prevent the invasion of his constitutional rights; that it is unnecessary to make any express provision for judicial review, and that the right to such review is clearly recognized by the language of the bill.

The only expressions in the bill which can be construed as a recognition of the right in the carrier to obtain a judicial review of an order of the Commission fixing a rate are the following:

> Such order shall go into effect thirty days after notice to the carrier, and shall remain in force and be observed by the carrier unless the same shall be suspended or modified or set aside by the Commission or be suspended or set aside by a court of competent jurisdiction.
>
> * * * The orders of the Commission shall take effect at the end of thirty days after notice thereof to the carriers directed to obey the same unless such orders shall have been suspended or modified by the Commission or suspended or set aside by the order or decree of a court of competent jurisdiction. * * *
>
> The venue of suits brought in any of the circuit courts of the United States to enjoin, set aside, annul, or suspend any order or requirement of the Commission shall be in the district where the carrier against whom such order or requirement may have been made has its principal operating office.

The expressions quoted do not confer any jurisdiction upon any courts to entertain proceedings by the carrier to set aside the orders of the Commission, but simply refer to such jurisdiction, if any, as may already exist in the courts. It is so well settled as to need no citation of authorities that the circuit courts of the United States can exercise only such jurisdiction as is conferred upon them by Congress. The only grant of jurisdiction to the circuit courts of the United States which could possibly cover a suit to set aside an order of the Commission is section 1 of the act of March 3, 1875, the material part of which reads as follows:

> That the circuit courts of the United States shall have original jurisdiction, concurrent with the courts of the several States, of all suits of a civil nature at common law or in equity where the matter in dispute exceeds, exclusive of interest and costs, the sum or value of $2,000, and arising under the Constitution or laws of the United States.

Thus a circuit court of the United States can not by any possibility have jurisdiction of any proceeding to set aside an order of the Interstate Commerce Commission where the matter in dispute does not exceed, exclusive of interest and costs, the sum or value of $2,000. Under the bill the orders of the Commission are to remain in force only three years. It is entirely possible that an order of the Commission may be a palpable violation of the constitutional rights of the carrier, and yet the loss thus wrongfully inflicted will not equal in three years the sum or value of $2,000. As to every such case it is plain that there is no jurisdiction whatever in the circuit court of the United States to grant relief to the carrier. Of course, a carrier wrongfully threatened with a loss of $1,000 is as much entitled to relief as one wrongfully threatened with a loss of $100,000.

It will be observed, moreover, that if the circuit courts of the United States have jurisdiction of proceedings to set aside orders of the Commission the courts of the several States have exactly the same jurisdiction. This is expressly recognized by the language of the statute which is quoted. That this is true is made plain by the reasoning of the court in Plaquemines Freight Company *v.* Henderson (170 U. S., 511) and cases there cited.

If, therefore, the jurisdiction exists in the Federal courts to entertain proceedings to set aside orders of the Commission, such jurisdiction equally resides in the State courts and is exclusive in the State courts where the matter in dispute does not exceed, exclusive of interest and costs, the sum or value of $2,000. Of course such a proceeding in the State courts may be removed by the defendants to the circuit court of the United States in any case where the amount involved is sufficient to give the latter court jurisdiction.

This is an anomalous situation as to jurisdiction to set aside orders of the Commission which ought not to exist. If Congress intends the carrier to have any judicial protection an explicit grant of jurisdiction in the Federal courts should be provided, and for convenience should be confined to the Federal courts.

But even if a jurisdiction does reside in the State and Federal courts, as just pointed out, to entertain proceedings to set aside orders of the Commission, the further question remains, Against whom can such proceedings be instituted? Where is the defendant who can be made to respond and required to afford the relief to which the court may determine the carrier is entitled? The bill does not authorize the Commission to be made a defendant in such a suit. A suit against the Commission would be open to the objection that the suit was in effect against the Government of the United States. In Smyth *v.* Ames (169 U. S., 466–518), it was said:

> It is the settled doctrine of this court that a suit against individuals for the purpose of preventing them, as officers of a State, from enforcing an unconstitutional enactment to the injury of the rights of the plaintiff is not a suit against the State within the meaning of that amendment (that is, the eleventh amendment).

It may be assumed that the same rule would apply to a suit against officers of the United States as is thus applied to suits against officers of a State. Therefore, in order to justify a suit against the Interstate Commerce Commission, it would be neces-

sary to show that the Commission was upon the point of enforcing an unconstitutional enactment to the injury of the rights of the plaintiff. Under this bill, however, the primary method of enforcing the orders of the Commission is by heavy forfeitures, which are recoverable by civil suits in the name of the United States, and it is made the duty of the various district attorneys, under the direction of the Attorney-General, to prosecute for the recovery of such forfeitures. To a suit against the Commission it might therefore very well respond that it had no intention of enforcing the order in question, and that the only purpose of the suit was to have an adjudication upon the constitutionality of an order having the effect of law, and that so far as the defendant was concerned this was a mere abstract question. As it is implied in the language of Smyth *v.* Ames, above quoted, that the only jurisdiction is for the purpose of preventing enforcement of the order by the defendants, it is not improbable that such a response would defeat the jurisdiction entirely. It is therefore a question of grave doubt as to whether the courts could entertain a proceeding against the Commission to set aside one of its orders.

Mr. PATTERSON. Mr. President——

The VICE-PRESIDENT. Does the Senator from West Virginia yield to the Senator from Colorado?

Mr. ELKINS. I wish the Senator would excuse me.

Mr. PATTERSON. I know you are tired.

Mr. ELKINS. Yes; I yield.

Mr. PATTERSON. The Senator is discussing a part of a controversy that is really the only controversy that seems to be occupying the attention of the Senate at this time, and that is the language that will be used in providing for the right of review. There seems to be no longer any controversy on the part of Senators as to the necessity for such a measure or as to the power of Congress to delegate within certain limits the power of rate making to a Commission, and the necessity for doing so. There seems to be a consensus of opinion that there is a right, to a limited extent at least, in the Supreme Court or in other courts to review the action of the Commission. The only controversy now seems to be over the language that will be used in providing for court review. Has the Senator from West Virginia concluded in his own mind what the wording should be or within what limitation the right of review should be kept?

Mr. ELKINS. I have reached a conclusion, but I can not get it put in the bill. I think it can be done by Congress prescribing a standard that the rate should be just and reasonable, and authorizing the Commission, if it should find that the rate made by the carrier is not just and reasonable, then it shall have power to modify the rate to the extent of relieving the rate of its injustice, unreasonableness, or unlawfulness.

Mr. PATTERSON. No; but then——

Mr. ELKINS. I have concluded—I think it can be done by Congress prescribing a standard that the rate should be just and reasonable, and authorizing the Commission, if it should find that the rate made by the carrier is not just and reasonable, then it shall have power to modify the rate to the extent of relieving the rate of its injustice, unreasonableness, or unlawfulness.

But able lawyers say that if the words "laws of the United States" are added to the amendment offered by the Senator from Kansas [Mr. LONG] that would be all that is necessary to authorize a broad review of the orders of the Commission.

Mr. PATTERSON. I suppose the Senator has recognized that there are two schools in this body, if I may use this term, upon the question of the power to be conferred upon the court—one the conferring of broad, unlimited power, the other confining the decision and the operations of the court within a very narrow scope. Does the Senator belong to the broad gauge or the narrow gauge on that question?

Mr. ELKINS. I wish simply to say that, in my opinion, every material right or interest of a carrier, shipper, or locality affected by an order of the Commission should be entitled to a review by the courts.

Mr. PATTERSON. Does the Senator take into consideration the fact that these rates are to be made or changed by a commission of experts, selected by the President, ratified by the Senate, receiving high salaries, men who, in all human probability, therefore, ought to be presumed to be honest, able, and skilled in the work they are to do, or does he place the work of such a commission upon the plane of the acts or doings of private individuals without law or other obligation beyond that which surrounds every citizen in the acts that are done?

Mr. ELKINS. I think I have answered that fully.

Mr. SPOONER. Will the Senator from West Virginia let me ask the Senator from Colorado a question?

Mr. ELKINS. Certainly.

Mr. SPOONER. Does the Senator think it competent for Congress to make the finding of the Commission as to a rate conclusive because it is a high-salaried body, or for any other reason?

Mr. ALDRICH. And appointed by the President.

Mr. PATTERSON. No; I suppose not. I suppose the court——

Mr. ELKINS. If the Senator from Colorado will excuse me I will go on.

It may be remarked in passing that if the circuit court of the United States can entertain such proceeding against the Commission then the State courts can equally entertain such proceeding whenever the Commissioners are within the territorial jurisdiction of the State courts. As the Commission travels from place to place and all its members are frequently at points in the various States it is entirely possible that suits could thus be instituted in a State court and jurisdiction of the Commission obtained by actual service of process on all its members within the limits of the State. This is an anomalous condition which Congress should certainly avoid.

Even if the courts, State or Federal, should entertain jurisdiction of a suit against the Commission to set aside an order of the Commission, it is clear that the only relief which could be asked would be against the Commission, for in such a suit only the Commission could be enjoined from enforcing the order. A decree in such a suit would not be binding upon the Attorney-General or the district attorneys, who would not be and who could not be made parties to such a suit; nor would such a decree be binding upon any courts of law in which the district attorneys, under the direction of the Attorney-General, might see fit to prosecute for the recovery of the forfeitures denounced by the act against the carrier which fails to obey the order of the Commission. It would seem clear, therefore, that the relief which could be obtained in a suit against the Commission, even if such suit could be maintained, would be utterly inadequate. It could not constitute a legal protection to the carrier.

No suit could be brought by the carrier to restrain the Attorney-General and all the district attorneys from prosecuting to recover the forfeitures for the carrier's failure to observe the order. Such a suit would be a suit against the United States. This proposition is clearly illustrated by the case of Fitts *v.* McGhee (172 U. S., 516), where the court held that a suit against the prosecuting officers of the State of Alabama, to enjoin their proceeding to recover penalties denounced for failing to observe the tolls established by the legislature for the use of a bridge, was a suit against the State, of which the court had no jurisdiction. The court therefore declined to pass upon the validity of the act or to entertain the suit for any purpose whatever.

The result is that no procedure is possible under the bill whereby the carrier may initiate any proceeding in which it can obtain adequate relief against an order of the Commission. Of course the carrier can not be compelled to observe a rate which violates the carrier's constitutional rights, but apparently the only way in which the carrier can avail itself of the constitutional protection is simply to refrain from charging a rate which the Commission orders it to charge, and when proceedings are instituted against the carrier to recover the forfeitures denounced by the act for its disobedience of the order to defend these proceedings by showing that the order is unconstitutional. As these penalties are $5,000 for each offense, and as each shipment will constitute a separate offense, the carrier, by adopting this course, would incur in the course of two or three weeks the risk of penalties far greater than the total loss it would sustain if it complied with the Commission's unlawful order. This, of course, amounts to an effort to intimidate the carrier, and these penalties, if constitutional, will have the effect of coercing the carrier into charging a rate fixed by the Commission rather than incur the risk of the enormous loss which would result from refraining from charging the rate for the purpose of inviting a proceeding in which it could contest the constitutionality of the order.

Even if the carrier could avoid the risk of cumulative penalties by refraining from charging the rate fixed by the Commission, and would incur the risk of only one penalty, yet it is clear that a civil suit to recover this penalty would be an inadequate method of determining the constitutionality of the right. Such an action would be triable at law and by a jury. The questions involved are so complicated as to make it utterly impracticable for a jury to pass intelligently upon them. Probably no two juries would entirely agree as to the effect of the proof introduced as to the illegality of a given rate. As was said in Smyth *v.* Ames (169 U. S., pp. 466-518):

> Only a court of equity is competent to meet such an emergency and determine once for all and without a multiplicity of suits matters that affect not simply individuals, but the interests of the entire community,

as involved in the establishment of a public highway and in the administration of the affairs of the quasi-public corporation by which such highway is maintained.

If it be contended that on account of all these difficulties which lead to the conclusion that no adequate judicial review exists, the court will therefore construe the expressions of the bill above quoted, which refer to a court setting aside the order of the Commission, as impliedly granting a jurisdiction to the circuit courts to entertain proceedings in equity against the Commission and to give in such proceedings adequate relief and suspend or set aside the order of the Commission so as to prevent action thereon, not merely by the Commission but by the attorneys of the United States as well, the answer, in the first place, is that any such construction would be a case of judicial legislation; and in the second place, that if it is the intention of Congress to provide an adequate remedy in equity to deal with this situation there is not the remotest excuse for refusing to say so and for trusting that the courts will transcend their proper authority by saying Congress meant what it studiously refrained from declaring.

The bill seems to indicate clearly the intention of Congress that the courts shall not even pass upon the constitutionality of the order of the Commission. The only judicial proceeding expressly authorized to which the Commission is to be a party is a suit by the Commission to compel the enforcement of its order. This is an additional remedy to the civil suits by the district attorneys to recover the forfeitures. This proceeding is obviously an equitable proceeding, because the court is authorized therein to issue writs of injunction to compel the carrier to obey the Commission's order. A court in construing the bill would certainly be impressed with the fact that in this, the only instance where Congress undertook to confer a jurisdiction upon the United States circuit court sitting in equity to deal with an order of the Commission, the only two points which Congress authorizes the court to consider are, first, Was the order regularly made and duly served? and, second, Is the carrier in disobedience of the order? The court is not authorized by the jurisdiction granted to pass upon the further question whether the Commission's order violates the constitutional rights of the carrier.

If, therefore, the expressions quoted above wherein the act refers to suspending or setting aside an order of the Commission imply the creation of any jurisdiction, will not the courts construe the act as a whole and reach the conclusion that Congress merely intended that the orders of the Commission might be set aside, enjoined, or suspended only on the grounds which would justify the court in refusing to enforce the order at the instance of the Commission, to wit, that the order was not regularly made or duly served?

The conclusion to be drawn from these considerations is that no judicial review is provided for by the bill and it therefore evinces a purpose to prevent the carrier from obtaining such a review and to intimidate the carrier by the imposition of enormous and overwhelming penalties into observing the Commission's order, whether right or wrong. If this conclusion is justified, then it must follow either that the scheme of rate fixing provided for by the bill must fail, or at least the whole scheme of penalties must fail, leaving the orders of the Commission to be enforced only by suits in equity brought by the Commission, in which suits the courts will have to pass upon the lawfulness of the orders before they can take effect at all. The situation certainly calls for an amendment clearly giving an adequate judicial review.

I will conclude in a few minutes on the character and extent of this review. I have been asked by the Senator from Colorado on that particular point, and I tried to answer as briefly as I could.

CHARACTER AND EXTENT OF REVIEW.

Assuming that an express provision for judicial review is to be made, the important question remains, What shall be the character and extent of that judicial review?

It would seem clear, under the bill grant of power to the Commission, that the intervention by the Commission is absolutely dependent upon the will and discretion of the Commission down to the point where the carrier's constitutional rights are invaded. This, as already pointed out, delegates to the Commission, without any legal standard to control it, the full discretionary power which could be exercised by Congress itself. If such grant of power is not unconstitutional, it results that practically arbitrary power is given to the Commission over the property rights of the owners of the railroads and over the interests of all the people dependent upon the railroads, and, to a large extent, over the interests of shippers and localities, which will be vitally affected by the changes which the Commission can and will make in the relative advantages of competing localities. This would give the Commission a power as arbitrary as any Congress could exercise, and it would be wholly free from the constitutional checks which are designed to prevent arbitrary action by Congress.

The action of Congress is subject to veto by the President, but there is no veto power upon the action of the Commission. The creation of such arbitrary power is wholly unnecessary to the correction of any evil which has been developed. The possibilities of political and sectional strife growing out of its exercise are of the gravest character. Every consideration of justice and expediency demands a more conservative course. The Commission itself should be protected from the temptation of an exercise of such power which will surely come if it realizes that it has been given this authority without any control by the courts until the point is reached where the constitutional rights of the carrier are invaded.

Another very serious consideration, which has an important bearing upon the question of judicial review, is this: Under the power granted in the bill it is assumed the Commission will not undertake to change an entire schedule of rates by a single order. It will change a few rates by one order and a few more rates by another order. It is extremely doubtful, in view of recent decisions of the Supreme Court, as to when an order dealing with only one or a few rates of a carrier can be regarded as violating the constitutional rights of the carrier. This is strikingly shown by the case of Minneapolis and St. Louis R. R. Co. *v.* Minnesota (186 U. S., 257), a portion of the syllabus of which reads as follows:

A tariff fixed by the Commission for coal in carload lots is not proved to be unreasonable by showing that if such tariff were applied to all freight the road would not pay its operating expenses, since it might well be that the existing rates upon other merchandise, which were not disturbed by the Commission, might be sufficient to earn a large profit to the company, though it might earn little or nothing upon coal in carload lots.

In this connection it is wise to consider the language of the Supreme Court in the case of San Diego Land Co. *v.* National City (174 U. S., 739, 754):

But it should also be remembered that the judiciary ought not to interfere with the collection of rates established under legislative sanction, unless they are so plainly and palpably unreasonable as to make their enforcement equivalent to the taking of property for public use without such compensation as under all the circumstances is just both to the owner and to the public; that is, judicial interference should never occur unless the case presents, clearly and beyond all doubt, such a flagrant attack upon the rights of property under the guise of regulations as to compel the court to say that the rates prescribed will necessarily have the effect to deny just compensation for private property taken for the public use.

Such decisions as these strikingly illustrate the tremendous margin of discretion conferred upon the Commission under any system which leaves to judicial review solely the question whether the constitutional rights of the carrier have been violated.

In order to insure a judicial review which will adequately protect the property and interests involved, and which will operate as a conservative influence over the Commission itself, it is important for the act to define the Commission's jurisdiction and make it depend not upon the Commission's opinion, but upon the facts, and for the act to show that the Commission shall make no greater change than is necessary to prevent rates from being unreasonably high. This can be accomplished by authorizing the Commission to change rates only when the existing rates are unjust and unreasonable, and only so far as may be necessary to remove such injustice and unreasonableness. In this way it clearly becomes a judicial question for the court to determine whether the Commission has exceeded its jurisdiction, and if the Commission has exceeded its jurisdiction its order can be set aside. There is no other way in which Congress can make sure that an adequate judicial review can be provided.

While such provision would probably insure a fairly adequate judicial review, it would still be true that the Commission would possess a very substantial discretion. The courts would not interfere except where the Commission was clearly in the wrong. The carriers would realize that they could get no relief, either temporary or permanent, from the court unless they could show a clear case of abuse of discretion.

One further point to be considered is as to the suspension of the Commission's order pending final determination by the court, provided the court is of opinion that the order should be so suspended. It has been asserted with great confidence that Congress has absolute power to determine all details of jurisdiction and procedure by the Federal courts, and therefore to provide that the Federal courts shall not grant interlocutory injunctions or temporary restraining orders with respect to the rate-making orders of the Commission.

It is indeed a very serious question whether Congress, after

it has invested a court of equity with jurisdiction over a given subject-matter, can then trim down that jurisdiction so that it can be exercised only on final hearing. I think the Senator from Wisconsin [Mr. SPOONER] in his very able argument made this very clear, and I do not know but that he used the very words "trimmed down," though I think he said "cut down." But this is a question entirely unnecessary to consider at this time. If it be conceded that under Article III of the Constitution, dealing with the judicial power of the United States, Congress can, in the way proposed, prohibit the courts from granting interlocutory injunctions or temporary restraining orders in proceedings to review rates made by the Commission, this throws absolutely no light upon what can and can not be done under the fifth amendment to the Constitution. If, by reason of the fifth amendment, it is a deprivation of property without due process of law or a taking of property without just compensation for Congress to compel a carrier perpetpually, or for three years, to carry freight for nothing or at less than the compensation which the courts may regard as meeting the constitutional requirements, certainly it is equally unconstitutional to take the property of the carrier in exactly the same way for six months, or three months, or three days.

If Congress, by the provision of heavy penalties, coerces a carrier into temporarily observing an unconstitutionally low rate and thereby in effect temporarily takes the carrier's property without due process of law or without just compensation, or if the result is accomplished, not by heavy penalties, but by depriving the carrier of any right to obtain temporary relief from the courts, there is unquestionably a palpable violation of the fifth amendment to the Constitution, and any act which has this effect would seem to be necessarily unconstitutional. This question would be in no wise affected by the entirely different question whether such action of Congress was or was not a violation of the provisions of Article III of the Constitution relative to the judicial power.

It should be remembered that whenever a carrier is compelled to carry freight for less than the rate which under the Constitution the carrier has the right to charge the loss thereby sustained by the carrier is absolute and irreparable. The observance of a given order might, for example, impose upon the carrier an average loss of $100 every week when compared with the lowest rate which the carrier could be constitutionally required to charge. This would be a loss of approximately $15,000 in the three years during which the order of the Commission was required to remain in effect. It is simply a contradiction in terms to say that the carrier has a constitutional right to be protected from this loss of $15,000 in three years, but no constitutional right to be protected from the loss of $100 per week for the six weeks or six months or twelve months which must intervene before the carrier can obtain a final determination by the court. The thing that is protected is the use of the carrier's property. The use for a single day is protected just as much as the use for three years. If the bill provided that the orders of the Commission should remain in effect only ten days, the carrier would still be as clearly entitled to judicial protection as it is where the order is to remain in effect for three years, and the case is of a character where the judicial protection must be had before the rate takes effect, because just as soon as the rate does take effect the irreparable loss begins, and where the rate is unconstitutionally low the unwarranted taking of the carrier's property without due process of law and without just compensation begins.

Mr. President, this great debate, which will stand in history as a monument to the ability and conservatism of the Senate, participated in by some of the ablest and most distinguished Senators who have ever adorned this illustrious body, and which has so instructed and illumined the country, has been for the most part along legal lines. In what I have said I have tried in a brief way, imperfect as it may be, to bring to the attention of the Senate and the country some of the practical workings of the bill. I realized, however, that no treatment of this great question, perhaps the most important economic question ever presented to the Senate, could omit some discussion of the legal principles involved. I felt that the subject had been almost exhausted, and I ventured with some hesitancy and much diffidence to follow the great speeches that have been made, knowing that I must touch upon some of the points which have been so ably discussed with more knowledge and far more ability than I possess.

Mr. GAMBLE obtained the floor.

Mr. KEAN. Mr. President, does the Senator propose to address the Senate on the pending bill?

Mr. GAMBLE. I do.

Mr. KEAN. Then I give notice that I shall submit some remarks on the pending bill after the Senator shall have concluded.

Mr. GAMBLE. Mr. President, it is not my purpose to detain the Senate with an extended discussion of the questions raised by the pending bill. The issues involved have already been most ably and exhaustively discussed. I trust I may not seem too presumptuous in asking the indulgence of the Senate, or in the observations I may make upon this most important subject.

In the discussion so far, it appears to be conceded that abuses have existed and do exist in railway management, and that an intelligent and honest effort should be made looking to their correction. Differences, however, do exist as to the remedies proposed and the manner under constitutional limitations in which these evils may be lawfully and most effectively reached.

That the Government possesses the plenary power, and that it can in some manner lawfully exercise it, it seems to me is beyond dispute. The form and manner of its exercise under the Constitution can, it occurs to me, be solved by the wisdom of this Congress along the lines proposed by the pending measure. The issue has been raised, and its wise and just solution is pressed upon this Congress. The interest of the people is so centered and insistent for the correction of the abuses complained of, an answer should be given by the enactment of a law at this session of Congress that will be responsive to the demand and that will effectively reach and to the fullest extent remove the evils that admittedly exist. No demand is made here for radical action or to make an unjust and unreasonable assault upon vested interests or property rights. It is to place in the concrete form of law, and to invoke only the lawful exercise of those powers inherent in every government for the protection of its citizens engaged in whatever calling, to give each an equal opportunity, and for the upbuilding and conservation of individual interests and communities as well as for the whole people of the entire nation.

The necessity for the proposed legislation is urgent and is demanded by the highest consideration of every public interest in behalf of the producing as well as the consuming classes of our population. Every interest of our people is dependent upon and interwoven with the problem of transportation. In this day and age every individual is affected by it. Every community is within its reach, and its transportation facilities and the rates charged make for its upbuilding or its undoing. The just and proper control and regulation of these great agencies of our business and commercial life means the giving of equal opportunity to the individual as well as to the community, with proper regard in the latter case to natural and commercial advantages.

The proposed legislation, with its honest observance by the carriers, would, I believe, produce substantial and wholesome results to our entire business and commercial interests and would promote in a large degree the uniform prosperity and well-being of the nation. The enormous powers possessed by these great corporations, and the great public agencies they subserve, affecting practically the market value of all products of whatever character and the values and interests of every locality and individual, make it of the highest importance to every interest of the people and of the nation that the power of the Federal Government should be recognized in effective regulation and control, so that these great instrumentalities for our commercial and material development may in the highest degree serve the purpose of their creation. While fair treatment and exact justice are sought for the people the same consideration should be accorded the carriers.

All recognize the vast interests involved, and of its interrelation with the whole fabric of our business and commercial life. A proposition that has to deal directly with the property rights of such vast magnitude and the correlated interests of the whole people of our entire country has had and will have the most serious consideration for its wise and just solution. A wrong done the transportation companies would have a direct, immediate, and like result upon the business interests of the country.

Their interests are so vast and their annual transactions so great they almost pass the limit of our comprehension. Of the railway mileage of the world, 550,000 miles, we possess 220,000, or two-fifths of the total. The gross earnings the past year amounted to $2,100,000,000. There are engaged in the railway service 1,300,000 employees. The wages paid those engaged in the railway service for the year 1904 were $817,598,810. The total valuation of the railways amounts to $11,250,000,000. The dividends declared and paid the past year were $230,000,000. The number of passengers carried by the railways for the year ending June 30, 1904, was 715,000,000, and they transported 1,309,000,000 tons of freight.

We are bewildered almost by the recital of these general

statements. Aside, however, from their magnitude, how manifold and infinite are their transactions with the millions of individuals they serve and the communities they reach.

The railways have been most important factors in our economic and material development. The marvelous development of our interior, not accessible to water communication, has been made possible by the projection of the great arteries of commerce with infinite interlacing reaching from ocean to ocean. In many cases they preceded the settler. They extended into new and vast areas of our domain and made possible the rapid and marvelous growth of our material wealth, the acquisition to our strength as a people and to our integrity as a nation. With very much truth it has been said that—

Without the railroads three-fourths of the immense territory of the United States, situated too far from the sea and having insufficient communication by rivers or lakes, would be still almost deserts and would not play in the economic life of the world a more important part than Siberia did before being lifted from her isolation by the Trans-Siberian Railroad.

The States as well as the Federal Government have been most generous in their treatment of the railway corporations in the powers conferred through their charters as well as by direct grants. The control of these corporations both by the States and the General Government has, as a rule, been extremely lax. In the very nature of things, under the great stimulus of our marvelous development and with the concentration of such vast capital in the construction of railways and of the rivalry and competition thus engendered, abuses would develop seriously effecting the public welfare.

Many of the States sought to correct the evils, but State laws could only have application to a very limited amount of traffic, and it was found, if an efficient remedy was to be applied, recourse must be had through the Federal Government. The popular demand was so strong for the correction of the evils complained of that it finally resulted in the enactment of the interstate-commerce act of 1887. That this law has been productive of much good to the business and commercial world is not denied. It asserted the power of control by the Federal Government, that was a long step in advance. The position then taken by Congress, when that act was under consideration, was as vigorously and persistently resisted by the railways as the measure we now have before us. Dire results were prophesied then as now as to the effect of the proposed law on the interests of the railways and the business world.

The Interstate Commerce Commission construed the act of 1887 as granting to the Commission the power to fix rates for the future. The Commission exercised the power under the act. That construction, or the exercise of the power thereunder by the Commission, was not questioned by the railways for over ten years. As sustaining this, I quote the following from the annual report of the Commission for the year 1897:

The Commission exercised this power in a case commenced in the second month after its organization and continued to exercise it for a period of more than ten years, during which time no member of the Commission ever officially questioned the existence of such authority or failed to join in its exercise. As already stated, the authority of the Commission to modify and reduce an established rate and to enforce a reasonable rate for the future was not questioned in the answer of the defendant in the Atlantic Rate case, decided March 30, 1896, nor had it ever been denied in any answers made in more than four hundred previously commenced, many of them alleging unreasonable and unjust charges, and praying the Commission to enforce a reduction and lower the rates in the future.

Notwithstanding this legislation, and the power exercised under it by the Commission in fixing rates, and the explicit declaration by the Supreme Court of the United States that although the power was not conferred in the act yet Congress had power to exercise it, either directly or through a Commission, no dire results have befallen the railways, but instead it has been the era of their most marvelous prosperity and development, the like of which no other country or time can compare.

Mr. President, I do not have any misgivings as to the effect of the proposed legislation on railway property or railway interests. It has been apparent to anyone at all conversant with the conditions existing for the past year and upward that Congress would take cognizance of the question and that legislation along the lines proposed in the pending bill would be enacted. Notwithstanding this railway securities have in no way been depressed, nor have investments been discouraged therein. At no time in the history of the Government has there been greater confidence in these properties. Unusual investments have been made in betterments, in extensions, and in general railroad development. The literature published and sent broadcast by the railway interests to resist any and all legislation upon the subject has been appalling. The fears expressed and prophesies made as to the harmful effect of the proposed legislation does not seem to impress itself, so far, upon either the investments or the properties, or to discourage further development and extensions.

The demand for relief from the abuses complained of and which are sought to be corrected by this bill has been most insistent for many years. The need for correction has been admitted in this discussion. The declaration of the President in his annual message to Congress in 1904 very clearly stated the issue, as follows:

While I am of the opinion that at present it would be undesirable, if it were not impracticable, finally to clothe the Commission with the general authority to fix railroad rates, I do believe that, as a fair security to shippers, the Commission should be vested with the power, where a given rate has been challenged and after full hearing found to be unreasonable, to decide, subject to judicial review, what shall be a reasonable rate to take its place, the ruling of the Commission to take effect immediately, and to obtain unless and until it is reversed by the court of review.

It is upon this question the issue has been concentrated, both here and by the people. If relief is to be secured, it seems to me it can only come along the lines suggested and in the manner proposed by the pending bill. The issue was again stated and the necessities therefor were fully set out in the President's message of December last. By his decisive stand on this most absorbing question he has focused the attention of the whole country. No other subject so absorbs public attention at this hour.

In his message of 1905 the President again recommended conferring the power upon a competent administrative body to decide upon a case being brought before it, and after a full hearing if the rate then in force was found to be unreasonable and unjust "to prescribe the limit of rate beyond which it shall not be lawful to go—the 'maximum reasonable rate,' as it is commonly called—this decision to go into effect within a reasonable time and to obtain from thence onward, subject to review by the courts."

It is seen the President, both in the message of 1904 as well as in his message of 1905, took the position that the decisions made by the Commission should be subject to review by the courts.

No other construction, it seems to me, can be predicated upon the provisions of the pending bill. Differences, however, are entertained as to the extent to which the courts may be appealed to under its provisions.

It is asserted, however, with great force that the evils complained of can be corrected and the relief secured through the courts as already constituted with supplemental legislation in aid of the Elkins law. This in itself is an admission of the necessity for additional legislation and that the laws now in force are ineffectual to reach existing conditions.

The courts now are and have been open to litigants. But it must be conceded that the remedy is practically ineffective and largely abortive. The parties to the contest are unequal. The facts are largely in the possession of the railway company. Too often the shipper is practically at the mercy of the carrier. He hesitates to initiate a contest, fearing as a result the burdens upon him may be made more onerous. The amount involved as to the particular complaint may not be large, and he hesitates to enter into a contest that often concerns the community as well as himself, and he alone assume the responsibilities. The preferences given to a competitor may in itself be sufficient to overcome him and he is practically helpless. The delays incident to the litigation as a rule are so great that the relief, if secured, might be valueless under changed conditions.

That power is vested, and should be vested, somewhere in our governmental machinery to correct abuses and to control these great agencies of our commercial and business interests for the benefit of the whole people must be conceded. That the courts have proved ineffectual and must, it occurs to me, under any scheme, be ineffectual to reach and correct the evils with that promptness and efficiency the very nature of the relief sought demands can not be answered. I do not make this as a charge against the integrity or competency of our courts. The character of the investigations to be made, the multiplicity of related facts to be considered, and with the time taken and the delays incident to court procedure make it, in the very nature of the case, impossible to secure the relief desired with that dispatch and promptness the business and interests demand.

The Constitution vests in the legislative department of the Federal Government the power to regulate commerce between the States:

The Congress shall have power * * * to regulate commerce with foreign nations and among the several States and with the Indian tribes. (Sec. 8, Art. I.)

The power thus granted to Congress to regulate commerce carries with it the power to prescribe the rule by which it shall be governed and the conditions upon which it shall be conducted. This rule has at different times been declared by the Supreme Court of the United States.

This power to regulate applies to the subject of commerce as well as to the instrumentalities of commerce. It applies not

alone to its regulation in these respects, but to the compensation for the service rendered. In the case of Philadelphia Steamship Company *v.* Pennsylvania (122 U. S., 338) it was held:

The very object of engaging in transportation is to receive pay for it. If the regulation of the transportation belongs to the power of Congress to regulate commerce, the regulation of fares and freights receivable for such transportation must equally belong to that power.

The principle contended for was asserted and established by the courts of England more than a century ago. Chief Justice Waite, in the case of Munn *v.* Illinois (94 U. S., 113), gives a most interesting statement as to the rule under the common law and the development of the principle in that country both through legislation and the courts. He quotes a very suggestive preamble from a statute passed as long ago as the third year of the reign of William and Mary, as follows:

And whereas divers wagoners and other carriers, by combination amongst themselves, have raised the prices of carriage of goods in many places to excessive rates to the great injury of the trade: Be it therefore enacted, etc.

Legislation to correct the evils complained of appears from the recital of the facts to have been necessary even at that time, and the principle was sustained by the courts of England. The principles laid down by the Chief Justice in the above case were of the utmost importance, and the assertion of the power of public control over the subject-matter involved by that great court, though at that time divided, has since been acquiesced in and followed. It was held in this case:

1. Under the powers inherent in every sovereignty a government may regulate the conduct of its citizens toward each other, and, when necessary for the public good, the manner in which each shall use his own property.

2. It has, in the exercise of these powers, been customary in England from time immemorial and in this country from its first colonization to regulate ferries, common carriers, hackmen, bakers, millers, wharfingers, innkeepers, etc., and, in so doing, to fix a maximum of charge to be made for services rendered, accommodations, and articles sold.

3. Down to the time of the adoption of the fourteenth amendment of the Constitution of the United States it was not supposed that statutes regulating the use, or even the price of the use, of private property necessarily deprived an owner of his property without due process of law. Under some circumstances they may, but not under all. The amendment does not change the law in this particular; it simply prevents States from doing that which will operate as such deprivation.

4. When the owner of property devotes it to a use in which the public has an interest, he, in effect, grants to the public an interest in such use, and must to the extent of that submit to be controlled by the public for the common good as long as he maintains the use. He may withdraw this grant by discontinuing the use.

Following the above, and decided at the same term, is the case of the Chicago, Burlington and Quincy Railroad Company *v.* Iowa (94 U. S., 155), in which it was held that—

Railroads are carriers for hire. Engaged in a public employment affecting the public interest, they are, unless protected by their charters, subject to legislative control as to their rates of fares and freight.

The same doctrine was reasserted in the case of Peil *v.* Railway Co. (94 U. S., at 178). The court said:

Where property has been clothed with a public interest the legislature may fix a limit to that which shall in law be reasonable for its use. This limit binds the courts as well as the people. If it has been improperly fixed, the legislature, not the courts, must be appealed to for the change.

The foregoing cases had relation to the power of State legislatures in the fixing of rates of fare and freight within the State. That Congress has the same power to deal with the subject, under the Constitution—with interstate rates—as State legislatures have within their limitation seems to me beyond dispute. This position has been repeatedly sustained by the Supreme Court of the United States.

The power to fix rates must be conceded to be a legislative function, and that power, under the Constitution, is vested in Congress. To deny the power is practically to admit that corporations of this class are a law unto themselves upon the question of rate making and that the people are without any substantial remedy. Resort to the courts, as I have before stated, I believe is ineffectual, and it has been demonstrated to be such by experience.

It has been repeatedly held by the Supreme Court of the United States that the legislature may declare the rule of law that rates must be just, fairly remunerative, or otherwise, and authorize an administrative body or commission to fix and establish the rates or practice in conformity to the rule so established. In the case of Reagan *v.* Farmers' Loan and Trust Co. (154 U. S., at 393) the court states:

There can be no doubt of the general power of a State to regulate the fares and freight which may be charged and received by railroad or other carriers, and that this regulation can be carried on by means of a commission. Such a commission is merely an administrative board created by the State for carrying into effect the will of the State as expressed by its legislature.

The rule was still more clearly announced in the case of Commerce Commission *v.* C. N. O. and T. P. Rwy. Co. (167 U. S., at 494), wherein the power of Congress as to the fixing of rates, directly or through a commission, is fully declared by the court. Mr. Justice Brewer, speaking for the court, said:

There were three obvious and dissimilar courses open for consideration: Congress might itself prescribe the rates, or it might commit to some subordinate tribunal this duty, or it might leave the companies the right to fix rates, subject to regulations and restrictions, as well as to that rule, which is as old as the existence of common law, to wit, that rates must be reasonable. * * * Administrative control over railroads through boards or commissions was no new thing. It had been resorted to in England and in many of the States of the Union. In England, while control had been given in respect to discrimination and undue preferences, no power had been given to prescribe a tariff of rates. In this country the practice had been varying.

In the same case it was held by the court that it was a judicial act to inquire whether the rates which had been charged and collected were reasonable. On the other hand, it was a legislative act to prescribe rates which should be charged in the future. This same doctrine has been repeatedly asserted by the Supreme Court of the United States and by many of the supreme courts of the different States.

Nor shall any person * * * be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use without just compensation. (Fifth amendment to the Constitution.)

This amendment limits the power of Congress in the exercise of the right conferred by the Constitution. When this power is exceeded the courts can intervene and protect the rights that are sought to be invaded. These rights, being guaranteed and protected by the Constitution, can not be disregarded by the legislative branch of the Federal Government. Nor do I believe could this power be withdrawn from the courts by any legislative device. Rights under the amendment are constitutional guaranties, and no act of the legislative branch of the Government could deprive the court of jurisdicion in which any question might be properly raised thereunder.

Nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. (Fourteenth amendment to the Constitution.)

This amendment places the limitation upon the State legislatures, and in case of its invasion jurisdiction attaches to the courts of the United States. Under the Constitution the judicial power of the United States is vested in a Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish. While the latter courts exist and possess the powers conferred upon them by Congress under the Constitution, the guaranty given and the protection accorded by this amendment can not, in my judgment, be limited nor abridged by legislation. They would be open, I believe, to litigants without further amendment to the proposed bill for the protection of those rights guaranteed to them under these constitutional provisions.

For my part, Mr. President, I am anxious that in the proposed legislation the remedy provided to correct the evils complained of shall be efficient, speedy, and effective. If every order issued by the Commission is to be subject to judicial review and its enforcement suspended until the subject-matter is finally disposed of through the courts, with the delays incident thereto, I fear the legislation will be most disappointing. It will fail to satisfy the commercial and business interests of the country that have been most insistent for relief. I would be entirely willing, however, that the matter should be put beyond cavil or question, and that an explicit provision should be engrafted in the bill conferring affirmative jurisdiction on the courts to hear and determine whether the order or decision complained of was beyond the authority of the Commission or in violation of the rights of the carriers secured by the Constitution. This would relieve the bill from the doubts suggested as to its constitutionality in this regard, and the jurisdiction, which is conceded by the friends of the bill to be implied from its provisions, would then be affirmatively recognized in specific terms.

No one desires legislation that will not stand the test of judicial interpretation. The legislation sought is of vast consequence and reaches most important interests. Every important feature of its provisions has had and should have the utmost consideration. The law may not, and probably will not, accomplish all we expect. If possible it must be enacted in that form most certain to demonstrate its efficiency.

There is no disposition to be unjust to the carriers. They have rights guaranteed them the same as to individuals by the Constitution and by the law. The rights of the shippers and of the public should have the same consideration. There is no suggestion in the bill, and especially with the amendment pro-

posed, of the denial of any right to either person or property of the fullest constitutional protection. Resort to the courts, even without amendment, is recognized by the provisions of the bill. To deny the right of judicial review upon those grounds guaranteed by the Constitution would be held to be an attempt to take property without just compensation, and certainly if exercised would amount to the taking of property without due process of law.

In the case of Chicago, Milwaukee and St. Paul Railway Company *v.* Minnesota (134 U. S., 418), wherein the construction of an act of that State in which the railway commission was authorized to fix rates of charges and that they should be final and conclusive as to their reasonablenes, and should not be open to judicial inquiry as to their reasonableness, the court said:

> This being the construction of the statute by which we are bound in considering the present case, we are of the opinion that, so construed, it conflicts with the Constitution of the United States in the particulars complained of by the railroad company. It deprives the company of its *right* to a judicial investigation by due process of law, under the forms and with the machinery provided by the wisdom of successive ages for the investigation judicially of the truth of a matter in controversy, and substitutes therefor, as an absolute finality, the action of a railroad commission which, in view of the powers conceded to it by the State court, can not be regarded as clothed with judicial functions or possessing the machinery of a court of justice.

This decision has been frequently referred to in this debate. To my mind, with any fair construction of the provisions of the pending bill, the principle laid down therein, which no one questions, can not have application. As the bill comes to us from the House the right of the carrier to apply to the courts is expressly recognized. With the amendment suggested jurisdiction would be affirmatively extended. With the rights of the carrier thus secured, and having an opportunity to go into the courts to test the lawfulness of the order or decision of the Commission, or as to whether its constitutional rights had been invaded, no claim could be made that the action of the Commission must be accepted as "an absolute finality," or that the rights of the carrier under the Constitution had not been preserved.

Even if it were attempted, Congress could not deprive the courts of jurisdiction of those rights guaranteed by the Constitution. If I understand the position taken by the friends of this measure, the above contention is not disputed. Under the provisions of the bill jurisdiction of the courts is recognized, and that parties aggrieved by any decision or order of the Commission, at least within the constitutional protection, may seek redress therein, and hence its validity could be impeached for the foregoing reasons.

In my judgment there should be safeguards provided in the bill requiring notice to be given to the Commission and other parties in interest, and an opportunity for a full hearing had before any injunction order should be granted suspending a decision or order of the Commission. Constitutional guaranties in every way must be recognized, and the interests of the public, the shipper, and the carrier alike be protected. No other disposition has been manifested so far in this debate.

The question before us, Mr. President, is neither new nor unusual. Most of the States of the Union have invoked the same power in the fixing of rates and fares, and have exercised it through a commission, as is proposed in this bill. These laws and the manner of their exercise have been sustained by the highest courts of the respective States and by the Supreme Court of the United States.

It is not proposed, as it has been so persistently asserted by those conducting the campaign in opposition to this legislation, to give to the Commission power to fix any and all rates at their discretion, or to alter or reform, upon their own motion, any or all practices of the carriers.

> It is the duty of the Commission, and it shall have power, *whenever, after full hearing upon a complaint made as provided by this act*, it shall be of the opinion that any of the rates or charges or any regulations or practices are unjust or unreasonable or unjustly discriminatory or unduly preferential or prejudicial, to determine and prescribe what will, in its judgment, be a just and reasonable and fairly remunerative rate or rates * * * to be thereafter observed in such case as the maximum to be charged * * * and to make an order that the carrier shall cease and desist from such violation. * * * Such order shall go into effect thirty days after notice to the carrier.

It is not proposed to give to the Commission power to initiate rates. This is left with the carrier, as it should be. The bill leaves the carriers free to manage their affairs as heretofore, looking to the development of their business, the protection of their property, the increase of business, and to control their great interests with the same freedom they heretofore have had, and shall be restrained only from doing those things that in good conscience and public morals they should not do even without the necessity of statutory prohibition.

With the law enacted and the right asserted, and the consciousness and knowledge by the carriers of this power of effective control and regulation, I believe many of the complaints now existing will be removed by the carriers themselves. I trust they may largely disappear upon the initiation of the railways themselves.

Private car lines, industrial roads, terminal facilities of whatever character, refrigerator charges and the like must and should be covered by the provisions of this bill. From their management and control great abuses have arisen and against which most serious complaints have been made. The facts disclosed in many instances, where investigations have been made, show most flagrant exactions and practices imposed upon shippers.

It is claimed that under existing law railway abuses have largely disappeared, and there is no necessity for further legislation. Railway rates have been greatly reduced in this country from what they were in years past. For many years there was a gradual downward tendency so that as a general proposition there is no general complaint against excessive or relatively high rates throughout the country as a whole. In this respect passenger and freight rates bear a most favorable comparison with those of any other country. In comparison with European countries the distances are greater and the advantages in this respect are in our favor. It is admitted, however, that for the past few years rates have been on the increase. This is also shown from the reports of the Interstate Commerce Commission. It was asserted a few days since by the distinguished Senator from Minnesota [Mr. NELSON], if the same rule were applied in the keeping of accounts for all commodities actually carried by the railways, that freight rates in Prussia are lower than the average rates in this country.

It can hardly be claimed that we have yet reached the ideal state as to this most important feature of railroad management, and that no readjustments or modifications are necessary.

Although much has been accomplished by the Elkins Act on the subject of rebates, it can not be claimed that this evil has been eradicated. With the fuller powers given to the Commission in this bill, and with the enlarged jurisdiction extended over all related instrumentalities connected with transportation, I believe it will have a most wholesome effect and will strengthen the present law looking to the correction of this evil.

Discriminations are still practiced and no claim is made that they do not prevail. The injustice done both communities and shippers in this respect goes almost unchallenged. To correct these evils, and that parties and communities may have some effective forum wherein they may be heard for the adjustment and arbitrament of their claims is not only reasonable but just.

It must be assumed, Mr. President, the Commission will seek to deal justly with individuals and communities as well as with the carriers. That there should be some tribunal before which their rights may be properly and equitably adjusted with full regard to the interests of all parties concerned seems self-evident. The carrier is not justified in assuming the position of sole arbiter over these questions of such vast moment to communities as well as individuals and have regard alone to its own interests. The Government is warranted, as it is its duty, in the creation of an impartial tribunal before which all interests may be represented and that exact justice may be administered and all interests protected.

I am not disposed to inveigh against railroads or corporate or vested rights. They, however, are the servants of the public. They owe their creation and their power to the State. They should serve the people with due regard to the interests and welfare of the public, and in good faith carry out the purposes of their creation. They owe the public fair and just treatment. This should be conceded. The proposed legislation asks for nothing more.

With the amount of invested capital engaged in transportation, with its dominant influence in financial as well as in political affairs, with the great interests it serves and its relation to our commercial and economic development, and the dependence of our whole people upon a proper, fair, and just service, legislation along the lines proposed by the pending bill, asserting a proper and effective governmental control and regulation, is emphasized and justified by the highest motives for our national well-being and of patriotism.

The immense mileage of the railways may practically be divided into eight extensive systems. These systems control substantially 70 per cent of the entire railway mileage of the country and 75 per cent of the traffic. Many of these systems, and the controlling influences therein, are predominant in others. It occurs to me, Mr. President, the Government should assert itself and meet the issues these vast responsibilities suggest.

This is the forum where it is to be debated and decided. I have confidence in the wisdom and the patriotism of Congress and that it will meet the expectations of the country with a disposition of the question in the interest of the whole people.

I am strongly persuaded, unless the substantial questions raised by the pending bill are met and solved, and solved fairly, with full recognition of the rights and obligations of every interest and of the people as a whole in the proper regulation and control of railways, we will very soon be confronted with serious problems so far untried in our governmental experience. If the people can not assert and secure and effectively maintain governmental regulation and control, they will be disposed to enter upon, possess, and manage in their own right, under governmental proprietorship, these great agencies of commercial and business necessities.

With such a movement I do not and could not sympathize. Legislation along the lines proposed by the pending measure, I believe, is the only effective agency to arrest and prevent the development and growth of such a stupendous proposal.

Mr. President, I believe Congress, and especially this Senate, is conscious of the vast responsibilities imposed upon it in the enactment of this measure. Outside of and independent of the evils to be corrected, the interests conserved or the remedies proposed, it means the assertion of and the maintenance of those principles underlying the foundations of the Government, that establish justice, secure liberty to persons and to property, insure peace and orderly development, and the promotion of the general welfare of the whole people.

Mr. KEAN. Mr. President, yesterday the junior Senator from Iowa [Mr. DOLLIVER] made the following statement:

> I have considered the fixing of a railroad rate through the Commission as an act of Congress. I can find no authority in the Constitution for the exercise of the power to regulate interstate commerce except that power which is conferred upon the Congress; and I have been driven by long meditation to the conclusion that whatever else this order of the Commission is, it is an act of Congress; for Congress has the only power conferred by the Constitution to regulate commerce between the States.

Upon that proposition, Mr. President, I propose to submit a few remarks, not very lengthy, this afternoon, and I trust the Senate will bear with me for a few moments.

For this bill, amended or unamended, I can find no justification, so long as its leading purpose is adhered to. There are two or three things as self-evident, at least, as the truths stated in the Declaration of Independence.

We are assembled here under the Constitution of the United States. Except for its force, what we say or do is without effect. Although elsewhere it may be treated as an ancient, lingering useless upon the stage, whose words need not be heeded, here in the Senate of the United States, where that instrument is the only source of authority, it must be remembered that the limits of authority as thereby fixed must be observed.

We are engaged in the business of legislating, acting under the authority of Article I of the Constitution, which deals only with *legislative powers;* under section 1, which reads as follows:

> All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

And under section 8, which defines the "legislative power herein granted."

The particular legislative power which we propose to exercise is that defined in subdivision 3 of section 8:

> To regulate commerce with foreign nations and among the several States and with the Indian tribes.

The only power of Congress in the premises, then, is to *regulate* such commerce by *legislation.* If by enacting this bill we attempt to do anything but ourselves to regulate such commerce and to regulate it by legislation, then such enactment is beyond our power as fixed by the Constitution.

I assume that the power to regulate commerce includes the power to prescribe rates or to make rules for fixing rates to be charged for transportation. But I ask, Where in this bill is there any exercise of this power? Where in its provisions are rates prescribed or regulated by Congress, to which alone this power is given by the Constitution?

Section 15 tells who are to prescribe rates and in this respect to regulate commerce—the Interstate Commerce Commission. When the Commission *shall be of the opinion* that rates charged are unjust and unreasonable, then this *Commission* shall *determine* and prescribe what will, in its *judgment*, be just and reasonable rates *to be thereafter observed*, and shall *order* the carrier not to exceed the rates so prescribed, and such order the carrier is required to obey.

Section 16 provides remedies and penalties for disobedience of the orders of the Commission—damage to shippers, and forfeiture to the Government of $5,000 for each offense. By whom, I ask, is commerce to be so regulated? Is it not clearly by the Commission? Action is to be taken when it "shall be of the opinion." The Commission is to *determine* and *prescribe* what will, *in its judgment*, be just and reasonable rates, and penalties attach for disobedience, not of the commands of Congress, but by the orders of the Commission. Congress exercises no judgment, forms no opinion, determines nothing, prescribes nothing, orders nothing. All these things are to be done by the Commission. If Congress ought to prescribe rates or to regulate rates, then by this bill it simply attempts to shirk its duty and to delegate to a Commission functions which belong to it (Congress) alone, and the attempt must be futile and accomplish nothing outside the field of politics, for the Constitution authorizes no such delegation of power. The power to regulate commerce is given only to Congress and not to any other body of whatever nature, administrative or judicial; it is given only as a *legislative power*, one of the legislating powers which the Constitution declares "shall be vested in a Congress of the United States." Is it doubted that the power here sought to be given to the Commission is a legislative power?

In Texas and Pacific Railway Company *v.* Interstate Commerce Commission (162 U. S., 215), in which the question arose whether the act as it now is gives the Commission power to prescribe rates, Mr. Justice Shiras called this a "legislative power." And again, in Interstate Commerce Commission *v.* Cincinnati, New Orleans and Texas Pacific Railroad (167 U. S., 479), in which the same question was more carefully considered, Mr. Justice Brewer said:

> It is one thing to inquire whether the rates which have been charged and collected are reasonable—that is a judicial act; but an entirely different thing to *prescribe* rates that shall be charged in the future—that is a *legislative* act.

And he further says:

> The power given is to execute and enforce, not to *legislate*. The power given is partly judicial, partly executive and administrative, but *not legislative*.

And in Interstate Commerce Commission *v.* Alabama Midland Railway Company (168 U. S., 161) the power of *prescribing* rates is again called a "*legislative power*" by Mr. Justice Shiras. The very power which was considered in these cases it is now proposed to give to the Commission. If this was a *legislative power* when the Supreme Court denied that Congress had undertaken to give it to the Commission, now that it is proposed that Congress shall give it to them, is its nature changed? Is it not still a *legislative power?* Is it not one of those *legislative powers* which the Constitution has vested exclusively in the Congress of the United States? If this power be a legislative power, authority is hardly needed for the proposition that it can be exercised by Congress only. This would seem to be clear from the words of the Constitution. But hear what Judge Cooley, the first chairman of the Interstate Commerce Commission, and a recognized authority on constitutional limitations, says in his work (6th ed., p. 137):

> One of the settled maxims in constitutional law is that the power conferred upon the legislature to make laws can not be delegated by that department to any other body or authority. Where the sovereign power of the State has located the authority there it must remain, and by the constitutional agency alone the laws must be made until the Constitution itself is changed.

In Field *v.* Clark (143 U. S., 649–692) Mr. Justice Harlan says:

> That Congress can not delegate legislative powers to the President is a principle universally recognized as vital to the integrity and maintenance of the system of government ordained by the Constitution.

I am aware that the Supreme Court has recognized the validity of State laws empowering State commissions to fix rates, but I think they have done so only under the controlling decisions of the State courts. Certainly they have never held that any such delegation of legislative power could be made under the Constitution of the United States. Congress must do its own legislating. It can not turn the power and the responsibility—and the trouble, if you please—over to any other body or authority.

But it is argued that section 1 of the bill, or the similar language of the act now in force, does the work of regulating by legislation, and that sections 15 and 16 provide only a method for making such legislation effective.

Let us see what there is of such legislative regulation in section 1. Nothing but this:

> All charges made for any service rendered or to be rendered in the transportation of passengers or property as aforesaid, or in connection therewith, shall be just and reasonable, and every *unjust* and *unreasonable* charge for such service, or any part thereof, is prohibited and declared to be unlawful.

This, then, is the whole foundation of *legislative regulation* to support the provisions of sections 15 and 16. If this is not

sufficient regulation by legislation to justify the provisions of sections 15 and 16, then they can find no justification at all.

Suppose that a bill had been introduced containing only this sentence and a provision that a violation of this provision should be a misdemeanor, punishable by fine or by imprisonment. Would such a bill be seriously considered here? Would this be seriously regarded as regulation by legislation? As well might Congress enact that the Golden Rule should be followed in all matters of interstate commerce and impose a penalty for its violation. As well might it provide that all interstate carriers should be good and prohibit them from being bad. Would any such enactment be deemed to be regulation by *legislation?* Upon such an enactment could we justify the creation of a commission to form an opinion, to determine and prescribe and declare according to its judgment what specific conduct should be deemed to violate the act, to make the prohibition definite and certain, and to issue its orders accordingly, to have the force of law and make applicable the fines and penalties provided? Substantially this provision, the only legislative regulation of rates in the pending bill, has been on the statute books for nineteen years.

By section 10, act of 1887 (which it is not proposed by this bill to change), any violation of the act is made a misdemeanor punishable by fine. Have numerous prosecutions been taken under it? Have any been successful? If there have been no unjust and unreasonable charges made, where is the demand for the legislation now proposed? If unjust and unreasonable charges have been so frequent as to call for such legislation—and the act as it is makes them criminal—then what shall we say of the law officers of the Government? But the Department of Justice has not been at fault in this respect. This sentence can not properly be called legislation. No crime is thereby charged; no crime is thereby defined.

It would certainly be dangerous if the legislature could set a net large enough to catch all possible offenders and leave it to the courts to step inside and say who could be rightfully detained and who should be set at large. This would to some extent substitute the judicial for the legislative departments of the Government. (United States *v.* Reese, 92 U. S., 214.)

Congress can delegate legislative power neither by using vague language having no distinct meaning nor by making such delegation expressly. It can not one way or the other transfer to any other body or authority its legislative power. That it can not by vague language put upon the courts the duty of completing legislation is not because of any limitations of the courts, but because Congress can not delegate legislative power to any other body or authority. As this prohibition contained in the sentence quoted has during these nineteen years furnished no basis for judicial action, so, in like manner, it can form no basis for empowering the Commission to fix rates, upon the theory that in so doing the Commission will exercise only administrative functions to make effective this prohibition that rates must not be "unjust and unreasonable."

The sentence quoted from secton 1, if this bill be passed, will continue as ineffective as it has been during the last nineteen years. Effective regulation of rates will result only from the orders of the Commission. These orders are to be made, not as called for by any definite principles laid down by Congress, applied to the mere facts to be found by the Commission. They are to be made according to the "*opinion*," according to the "*judgment*," according to the "*determination*" of the Commission. Are these merely administrative functions? Are they only executive machinery to make effective rules prescribed by Congress? If so, I am at a loss to know what limit there is to the delegation of the powers of Congress—how far we may go by substituting government by commission for government by law. When Congress shall have enacted regulations of definite meaning it may doubtless provide for action by an administrative or a judicial body to aid in making such legislation effective; but no body, except Congress itself, can either prescribe rates or lay down the rules upon which rates must be fixed.

It may be said that it is difficult for Congress to determine the rules or principles upon which rates shall be fixed; that the subject is too complicated for Congressional action. Does such a suggestion tend in any degree to justify this bill? The courts have found difficulty in determining what are reasonable rates.

In Chicago, Milwaukee and St. Paul Railroad Company *v.* Tompkins (176 U. S., 167) Mr. Justice Brewer says:

Few cases are more difficult or perplexing than those which involve an inquiry whether the rates prescribed by a State legislature for the carriage of passengers and freight are unreasonable, *and yet this difficulty affords no excuse for a failure to examine and solve the questions involved.*

Much more difficult is it to lay down rules and principles upon which rates may properly be *prescribed*. But does this afford any excuse for turning over the business of legislation to a commission? If rules and principles are to be followed in prescribing rates, may they not be determined by Congress after such investigation as may be had as truly as they can be determined by the Commission after like investigation? Or will it be confessed that this business of fixing rates for transportation can not be dealt with by any governmental authority according to rules and principles, but must be dealt with arbitrarily from time to time by some such body as the Interstate Commerce Commission? If this is confessed, let us heed the words of the Supreme Court in the case of Yick Wo *v.* Hopkins (118 U. S., 356–359), as follows:

When we consider the nature and the theory of our institutions of Government, the principles upon which they are supposed to rest, and review the history of their development, we are constrained to conclude that they do not leave room for the play and action of purely personal and arbitrary power.

In the view I take, the bill can not be justified though it be so amended as to provide for judicial review of the action of the Commission. *Legislative power can not be delegated* either to a commission or to the courts or to a commission whose acts are subject to judicial review or to commission and courts together, simply because such power can not be delegated at all.

But I can not close my eyes to the light which is thrown upon the character of the proposed legislation by all this anxiety upon the part of the most ardent supporters of this bill to shield the action of the Commission from judicial criticism.

We rightly pride ourselves upon the independence and ability of our judiciary throughout our national history. We have not forgotten that the Supreme Court of the United States is the bulwark of the Constitution; we still look to the courts for justice.

I will not believe that there has come a change in the attitude of the people to the courts. Should the respect of the courts go, we might as well abandon our experiment in free government. What, then, is to be gained from the attempt to bar the courts from reviewing the acts of the Commission under this bill? Is it not that the nature of the business to be put upon the Commission is such that it is realized that it can not be done by rules and according to well-considered principles, but must be done arbitrarily, according to the changing notions of the Commission? This bill is an attempt to delegate to a commission the legislative power of Congress, and this anxiety to bar judicial review is a confession that such power when so delegated must, in the nature of the case, be exercised arbitrarily and not in such manner as to be able to stand the scrutiny of the court. The courts of justice are to be closed lest the Commission be convicted of injustice. It may be the people care little for legality in these days, that constitutional limitations sit lightly, if at all, upon the common conscience. But I believe that when that conscience is aroused it will condemn us if we attempt such a departure as is proposed by this bill from the fundamental principles of government under the Constitution.

Mr. BURNHAM. I ask unanimous consent to call up the bill (S. 191) to aid in the construction of a railroad and telegraph and telephone line in the district of Alaska.

Mr. PETTUS. Mr. President——

The VICE-PRESIDENT. Does the Senator from New Hampshire yield to the Senator from Alabama?

Mr. TILLMAN. Before the unfinished business is laid aside for the day I should like to make some inquiry as to the order of business to-morrow. I have made inquiry of Senators on both sides of the Chamber, and I do not hear of anyone who is prepared to speak on the bill to-morrow. If I am mistaken I should be glad to know it. In regard to the debate for next week, as far as I have been able to learn, it occurs to me that most Senators on this side, perhaps, will get through next week—all of them, as far as I know, who expect to speak on the general subject in set speeches.

I should like to suggest to the Senator from Rhode Island [Mr. ALDRICH], who seems to be by common consent in the control of those who are opposing this bill, or guiding or managing it for that side, whether he is now prepared to offer any idea as to when we can get a vote.

Mr. ALDRICH. I understood that the Senator from South Carolina was himself opposing the bill, and I do not know why he suggests that I am opposing the bill.

Mr. TILLMAN. If I am mistaken in the Senator's attitude and he is going to vote for it at last, I beg his pardon and withdraw the remark.

Mr. ALDRICH. I expect it to be amended in such a form that I shall be very glad to vote for it, and I hope the Senator from South Carolina will be found to be voting in the same way.

Mr. TILLMAN. If the Senator from Rhode Island and the Senator from South Carolina are found voting together for this bill, then I will be very much astonished.

Mr. ALDRICH. I hope the Senator will not abandon it, if proper and just amendments are made to it.

Mr. TILLMAN. No; I will try——

Mr. ALDRICH. I confess I have some doubt on that subject. I do not know where the Senator will be arrayed when the bill is perfected.

Mr. TILLMAN. I will try to give my support to any amendment, from whatever source it may come, that, in my judgment, will go to perfecting the bill and giving the country the relief which we feel, or some of us feel, is demanded. If the Senator from Rhode Island has an amendment which he wants to offer, which commends itself to my judgment as being a good one, I shall certainly be glad to give my vote for it.

Mr. ALDRICH. I voted to place the bill in the charge of the Senator from South Carolina, having great confidence in his judgment, intelligence, and discretion. I have watched his course upon it with great interest from day to day, and I must confess he has left more or less doubt upon my mind about what his real attitude is. If, as I hope and believe, both of us are able to vote for such amendments as may perfect the bill, in the end both may be found voting for the measure.

Mr. TILLMAN. What about the time for a vote?

Mr. ALDRICH. I think it is hardly time yet.

Mr. TILLMAN. Could the Senator give me within, say, two weeks of the time—say the 1st of May, or somewhere about there?

Mr. ALDRICH. I should like to ask the Senator what is to be the course of the discussion next week? How many speeches are to be——

Mr. TILLMAN. The Senator from Mississippi [Mr. McLAURIN] is to speak Monday and the Senator from Texas [Mr. BAILEY] will speak Tuesday. Some other Senator, the Senator from Louisiana [Mr. FOSTER], I believe, says he wants to speak on Wednesday. I have understood from the junior Senator from Wisconsin [Mr. LA FOLLETTE] that he would speak some time in the near future, though no specified day was mentioned. As I said, as far as I can learn, practically all the Senators on this side who have indicated any purpose of speaking at all will be through next week, and, unless the Senator can indicate what speeches will be made on the other side, I do not see why we can not begin to contemplate a day for the vote.

Mr. ALDRICH. Just as soon as those speeches are made——

Mr. PETTUS. Mr. President——

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Alabama?

Mr. TILLMAN. With pleasure.

Mr. PETTUS. If the debate on this subject is not to be continued, I should like to make a request to take up a bill.

Mr. TILLMAN. As soon as we have disposed of the question as to whether we shall adjourn over until Monday or continue the debate to-morrow, or whether we can fix a time for a vote, I shall be very glad to get out of the way of the Senator from Alabama or whoever else wishes to call up a bill, and let them have the floor, because I do not want to occupy it.

Mr. SPOONER. Mr. President, does the Senator from South Carolina undertake to say that Senators who desire to amend this bill are therefore to be classified as opposing the bill?

Mr. TILLMAN. Mr. President, I did not say or even hint such a thing, merely for the reason that I want to put at least half a dozen amendments on it myself.

Mr. SPOONER. That is why I wanted to direct the Senator's attention to what the Senator did say. He not only said that, but he spoke of Senators being "controlled."

Mr. TILLMAN. I did not use my language as guardedly as the Senator from Wisconsin does his. I know nobody controls that side or this side.

Mr. SPOONER. That is true.

Mr. TILLMAN. And if the Senator objects to the word "control," I will say that I was simply suggesting, controlling or directing or guiding or counseling, or whatever word will suit the Senator, the general course of discussion, and the question of when it was going to get to an end.

Mr. SPOONER. The Senator used an expression which I knew he would withdraw.

Mr. TILLMAN. Certainly I withdraw it, because it is not accurate, and I do not want to be inaccurate, although I am very often so, I suppose, in the niceties of language.

Mr. SPOONER. I do not know any man who can be nicer than the Senator from South Carolina when he thinks for a moment of time and considers what he says.

Mr. TILLMAN. If I sat down to write a nice note to the Senator from Wisconsin, I think I might use language that probably would be calculated to pass muster in that line.

Mr. SPOONER. The Senator has said a great deal to me in the heat of debate that has been very agreeable and pleasant and complimentary.

Mr. TILLMAN. I thank the Senator for the compliment. I really have no malice toward anybody, but when I once get into a discussion I get earnest, though I do not want to say anything to wound.

Mr. SPOONER. I thought the Senator might, on reading his observations in the RECORD in the morning, find that he had used a term that he did not mean, and I wanted to call his attention to it.

Mr. McLAURIN. I desire to give notice that, if I can get the floor on Monday next, I shall submit some remarks on what is known as the "railroad rate bill."

The VICE-PRESIDENT. At what time?

Mr. McLAURIN. At the conclusion of the routine morning business.

The VICE-PRESIDENT. The notice of the Senator from Mississippi will be entered.

Mr. MORGAN. I desire to give notive that I will attempt to get the floor on Monday to follow the Senator from Mississippi on the same bill.

The VICE-PRESIDENT. The notice of the Senator from Alabama will be entered.

Mr. BURNHAM. Mr. President——

Mr. PETTUS. I ask the Senator from South Carolina to yield to me for a moment.

Mr. TILLMAN. I shall be glad to have the unfinished business laid aside for the rest of the day.

The VICE-PRESIDENT. In the absence of objection, it will be so ordered.

Mr. PETTUS. I ask unanimous consent that the Senate take up for consideration the bill (S. 2355) to organize the corps of dental surgeons attached to the Medical Department of the Army.

The VICE-PRESIDENT. The Chair will first recognize the Senator from New Hampshire [Mr. BURNHAM], who made a request for the present consideration of a bill. After that bill is disposed of, the Chair will recognize the Senator from Alabama [Mr. PETTUS].

Mr. HALE. What is the regular order, Mr. President?

The VICE-PRESIDENT. The regular order has been laid aside, and the Senator from New Hampshire asks unanimous consent for the consideration of a certain bill.

Mr. BURNHAM. Mr. President——

Mr. ALLISON. I ask the Senator from New Hampshire to yield to me for a moment.

Mr. BURNHAM. Certainly.

ADJOURNMENT TO MONDAY.

Mr. ALLISON. As I understand, the Senator from South Carolina [Mr. TILLMAN] does not propose to bring the rate bill up for consideration to-morrow, there being no one——

Mr. TILLMAN. The only reason I shall not ask for the consideration of the bill to-morrow is that I know of no one who wishes to speak on it.

Mr. ALLISON. I was about to add, because there is no one ready to discuss the bill. That being the situation as respects the bill, I know of no special reason why the Senate should sit to-morrow. I therefore move that when the Senate adjourns to-day it be to meet on Monday next.

The motion was agreed to.

MEMORIAL ADDRESSES ON THE LATE SENATOR ORVILLE H. PLATT.

Mr. ALLISON. Mr. President, I desire to call the attention of the Senator from Connecticut [Mr. BULKELEY] to the fact that the 14th of April had been selected at his request for memorial services on our late colleague, the former Senator from Connecticut, Mr. PLATT. I understand that on that day there is another service to take place, on the House side of this Capitol. I therefore think it would be well, if the Senator be willing to do so, to fix another day, a week from the time heretofore selected, on which the memorial services shall take place.

Mr. BULKELEY. Mr. President, the Senate will remember that I originally requested that the 7th of April be selected for eulogies on my late colleague, Senator PLATT; but on that day ceremonies were to take place in connection with one of our buildings. I therefore asked the Senate to change the date for the memorial services until the 14th day of April; and now, in accordance with the suggestion of the Senator from Iowa [Mr. ALLISON], which I think is entirely proper, I will ask the Senate that the memorial services over my late colleague take place on Saturday, April 21.

The VICE-PRESIDENT. The Senator's notice will be entered.

ALASKAN RAILROAD, TELEGRAPH, AND TELEPHONE LINE.

Mr. BURNHAM. I ask unanimous consent for the present consideration of the bill (S. 191) to aid in the construction of a railroad and telegraph and telephone line in the district of Alaska.

The VICE-PRESIDENT. The bill will be read for the information of the Senate.

The Secretary proceeded to read the bill.

Mr. TELLER. Mr. President, I know debate is not in order on the request of the Senator from New Hampshire, but I want to say a word about it. I want to say to the Senator from New Hampshire that I think the request for the consideration of this bill is inopportune at this time. The bill will give rise to considerable discussion, I have no doubt, unless some amendments are made to it. The bill is to grant a right of way to a railroad company in Alaska. There are certain amendments which I desire made to the bill, and I think other Senators desire that amendments shall be made to it. I have had some talk with the Senator from New Hampshire about some amendments which I wish made to the bill, but I have had no time to formulate them. I do not know whether the Senator is ready to accept them or not. If not, I shall make objection to the passage of the bill, but I do not wish to make objection to its consideration. I do not think, however, this is a good time to ask for its consideration.

Mr. GALLINGER. Will the Senator not let the bill be read?

Mr. TELLER. I have no objection to letting the bill be read, reserving my right to make objection to its consideration afterwards.

Mr. BURNHAM. Mr. President, I desire to say that I should like progress made in the consideration of this bill. If the Senator from Colorado [Mr. TELLER] wishes to propose amendments to it, it is possible they might be accepted if presented; but at least I trust we may have the bill read, as it is of considerable length.

Mr. TELLER. I suggest that the bill be read, and then that it go over. I will see what I can do in the way of preparing my amendments after it is read.

Mr. BURNHAM. Very well, let the bill be read.

The VICE-PRESIDENT. In the absence of objection, the Secretary will read the bill for the information of the Senate.

The Secretary read the bill, which had been reported by the Committee on Territories with an amendment, to strike out all after the enacting clause and insert:

That William L. Bull, Grant B. Schley, Winthrop Smith, William S. McLean, Sabin W. Colton, jr., W. Frederick Snyder, Irving A. Stearns, William M. Barnum, William B. Kurtz, Charles P. Hunt, Ernest Thalmann, James H. Wilson, Samuel M. Felton, John H. McGraw, Andrew F. Burleigh, and all such other persons who shall or may be associated with them, and their successors, are hereby created and erected into a body corporate and politic in deed and in law by the name, style, and title of the "Alaska Railroad Company," and by that name shall have perpetual succession and shall be able to sue and to be sued in all courts of law and equity within the United States and its Territories, and to make and have a common seal. And said corporation is hereby authorized and empowered to lay out, locate, construct, furnish, maintain, and enjoy a continuous railroad, telegraph, and telephone line and branches, with the appurtenances, namely: Beginning at a point on the Gulf of Alaska, at or near the head of Cordova Bay, in the district of Alaska, thence by the most eligible route, as shall be determined by said company, within the territory of the United States, to a point on the Yukon River at or within 2 miles of Eagle; and is hereby vested with all the powers, privileges, and immunities necessary to carry into effect the purposes of this act as herein set forth. The capital stock of said company may consist of 200,000 shares of $100 each, all of the same class and grade, or of such lesser amount as the board of directors of said company may by by-laws determine, which said stock shall, in all respects, be deemed personal property, and shall be transferable in such manner as the by-laws of said corporation shall provide. The persons hereinbefore named are hereby appointed and constituted the first directors of said corporation, to hold their said offices until their successors are duly elected, at the first stockholders' meeting, to be held as hereinafter provided, and qualify, of whom seven shall be a quorum for the transaction of business, which said stockholders' meeting shall be held within six months after the passage of this act. The board of directors of said corporation, after the board hereinbefore constituted as the first board of directors, shall consist of nine persons, five of whom shall constitute a quorum, and said board of directors shall be invested with all the corporate powers of said company. The first meeting of said first board of directors shall be held at such time and place in the city of New York, in the State of New York, as may be designated by a notice delivered to each of said persons hereinbefore named and signed by not less than three of the said persons hereinbefore named, said first meeting to be held not later than ninety days after the passage of this act. Said first board shall organize by the choice from its number of a president, vice-president, secretary, and treasurer, and they shall require from said treasurer such bonds as may be deemed proper, and may, from time to time, change the amount thereof at their discretion. The secretary shall be sworn to the faithful performance of his duties, and such oath shall be entered upon the records of the company, signed by him, with the oath verified thereon. The president and secretary of said board shall in like manner call all other meetings, naming the time and place thereof. It shall be the duty of said first board of directors to open books, or cause books to be opened, at such time and place as they, or a quorum of them, shall determine, within four months after the passage of this act, to receive subscriptions to the capital stock of said corporation. So soon as 5,000 shares shall in good faith be subscribed for, the said president and secretary of said first board of directors shall appoint a time and place for the first meeting of the subscribers to the stock of said company and shall give notice thereof either personally to each subscriber by mailing to his address, as shown by the books, or in a newspaper published in the city of New York at least ten days previous to the day of meeting. Such subscribers as shall attend the meeting so called, either in person or by lawful proxy, then and there shall elect by ballot nine directors for said corporation, and in such election each share of said capital stock shall entitle the owner thereof to one vote. The president and secretary of said first board of directors, and in case of their absence or inability any two of the officers of said board, shall act as inspectors of said election and shall certify under their hands the names of the directors elected at said meeting. The said first directors, treasurer, and secretary shall then deliver over to said directors all the property, subscription books, and other books in their possession, and thereupon the duties of said first directors and the officers previously appointed by them shall cease and determine forever. Thereafter the stockholders shall constitute said body politic and corporate. Annual meetings of the stockholders of said corporation for the choice of officers and for the transaction of business shall be holden at such time and place and upon such notice as may be prescribed by the by-laws.

SEC. 2. That the right of way through the lands of the United States in the district of Alaska for a standard-gauge railroad, telegraph, and telephone line is hereby granted to the said Alaska Railroad Company from some point on the Gulf of Alaska at or near the head of Cordova Bay, to be determined by said company, to a point on the Yukon River at or within 2 miles of Eagle, by the most eligible route, the same to be built wholly within American territory, to the extent of 100 feet on each side of the center line of its railroad; also the right to take from the lands of the United States adjacent to the lines of said road materials—earth, stone, and timber—necessary for the construction of said railroad, telegraph, and telephone line; also the right to take for railroad uses, subject to the reservation of all minerals and coal therein, public lands adjacent to said right of way for station buildings, depots, machine shops, side tracks, turn-outs, water stations, and terminals, and other legitimate railroad purposes, not to exceed in amount 20 acres for each station, to the extent of one station for each 10 miles of its road, excepting at terminals and junction points, which may include an additional 40 acres, to be limited on navigable waters to 80 rods on the shore line, and with the right to use such additional ground as, in the opinion of the Secretary of the Interior, may be necessary where there are heavy cuts and fills: *Provided*, That at the ocean terminal of said road, on the Gulf of Alaska, on the Pacific, said terminal lands hereby granted shall include 160 acres of uplands, limited to 160 rods on the shore line, and also the mud flats or tidelands in front thereof: *Provided further*, That nothing herein contained shall be construed to give to such railroad company, its lessees, grantees, or assigns, the ownership or use of minerals, including coal, within the limits of its right of way or of the lands hereby granted: *And provided further*, That all mining operations transacted or undertaken within the limits of such right of way or of the lands hereby granted shall, under rules and regulations to be prescribed by the Secretary of the Interior, be so conducted as not to injure or interfere with the property or operation of said railroad over its said lands and right of way. And when said railroad shall connect with any navigable stream or tidewater, such company shall have power to construct, maintain, and operate such piers, wharves, docks, bunkers, and terminals as may be necessary and convenient for connection with water transportation, and for that purpose may take, possess, and use the shores in front of said terminals and extend said piers, wharves, shores in front of said terminals and extend said piers, wharves, docks, bunkers, and terminals to deep water, subject to the approval and supervision of the Secretary of War. That all charges for the transportation of freight and passengers on said railroad shall be just, fair, and reasonable, and shall be subject to all the provisions of an act entitled "An act to regulate commerce," approved February 4, 1887, and all other acts amendatory or supplemental thereof.

SEC. 3. That said company, where its right of way, or where its tracks upon such right of way, pass through any canyon, pass, or defile, shall not prevent any other railroad company from the use and occupancy of said canyon, pass, or defile for the purposes of its railroad or the crossings of its roads at grade, upon such terms and compensation as are just, and the location of its right of way through any canyon, pass, or defile shall not cause the disuse of any tramway, wagon road, or other public highway now located therein, nor prevent the location through the same of any such tramway, wagon road, or highway, provided the same shall not be so located or constructed as to impair the use of such railroad, telegraph, and telephone. And where any change in the location of such tramway, wagon road, or highway is necessary to permit the passage of such railroad through any canyon, pass, or defile, the said company shall, before entering upon the ground occupied by such tramway, wagon road, or highway for construction purposes, cause the same to be reconstructed at its own expense, in the most favorable location and in as perfect a manner as the original road or tramway: *Provided*, That such expenses shall be equitably divided between said company and any other railroad companies that may now or hereafter keep and use the same canyon, pass, or defile, and that where the space is so limited that it is necessary for said railroads to occupy and use the same tracks or roadbed, if the said companies can not agree upon terms and compensation for such use, the same shall be determined by the United States district court for Alaska having jurisdiction over such place. And nothing herein shall deprive Congress of the right to regulate the charges for freight, passengers, wharfage, or telegraph and telephone tolls, either directly or otherwise, as provided by law.

SEC. 4. That where said company shall, in the construction of said railroad, telegraph, and telephone lines, find it necessary to pass over private lines and possessory claims on lands of the United States, in case it can not agree with the owners or claimants for right of way, it may condemn the same in accordance with section 3 of the act entitled "An act to amend an act entitled 'An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes,' approved July 1, 1862," approved July 2, 1864.

SEC. 5. That said company shall file with the Secretary of the Interior, within one year after the passage of this act, a preliminary plat of its proposed route, and it shall within one year thereafter file the map of definite location provided for in this act; and said preliminary plat shall, from the time of filing the same, have the effect to render all the lands upon which said preliminary plat and route shall pass subject to said right of way.

SEC. 6. That said company shall within one year from the date of filing said preliminary plat of location of its road, as hereinbefore prescribed, whether upon surveyed or unsurveyed lands, file with the register of the land office for the district where such land is located a map and profile of at least a 20-mile section of its road as definitely fixed, and shall thereafter each year definitely locate and file a map and profile of such location as aforesaid, but not less than 20 miles additional of its line of road, until the entire road has been thus definitely located,

and upon the approval thereof by the Secretary of the Interior the same shall be noted upon the records of said office, and thereafter all such lands over which such right of way shall pass shall be disposed of subject to such right of way: *Provided*, That if any 20-mile section of said road shall not be completed within one year after the approval of said map of definite location by the Secretary of the Interior, or if the map of definite location shall not be filed within one year, as herein required, or if the entire road shall not be completed within eight years from the filing of the said preliminary plat of location, the rights herein granted may be forfeited as to any uncompleted portion of said railroad by Congress: *And provided further*, That if said Alaska Railroad Company shall not complete and put in operation at least 20 miles of its said railroad within three years from the passage of this act, all the lands granted by this act shall revert to the United States.

SEC. 7. That said Alaska Railroad shall be constructed in a substantial and workmanlike manner, with all the necessary draws, culverts, bridges, viaducts, crossings, turn-outs, stations, and watering places, and all other appurtenances, including furniture and rolling stock, equal in all respects to railroads of the first class when prepared for business, with rails of the best quality, and there shall be constructed a telegraph and telephone line of the most substantial and improved description to be operated along the entire line: *Provided*, That the said company shall not charge the Government of the United States higher rates than they do individuals for like transportation and telegraph and telephone service. And it shall be the duty of the said Alaska Railroad Company to permit any other railroad which shall be authorized to be built in Alaska to form running and track connections with it on fair and equitable terms.

SEC. 8. That the provisions of this act, except the limit of time for completing the main line, shall extend to such branch lines of railroad as said company may desire to construct, maintain, and operate, within eight years from the passage of this act.

SEC. 9. That the company shall have the power to borrow money and secure the same by mortgage or otherwise.

SEC. 10. That, in addition to the terminal lands hereinbefore granted for railroad purposes, there be, and is hereby, granted to said Alaska Railroad Company 2,560 acres of the public lands nonmineral in character, to be selected by said company by legal subdivisions, together with the mud flats or tidelands in front thereof at its terminus at or near the head of Cordova Bay, for which said 2,560 acres of public lands said company shall pay to the United States $2.50 per acre. Said Alaska Railroad Company shall pay the cost of surveying the same as now provided by law in Alaska. Said company shall have the right to select lands claimed or occupied, provided it shall obtain from the claimant or occupant an assignment or relinquishment of his rights, if such lands were claimed or occupied prior to the passage of this act, which assignment or relinquishment in writing shall be filed with the survey and selection of such lands in the office of the register of the United States land office in the district where such lands are situate. Said company shall have the right to improve the said mud flats or tidelands hereby granted for purposes of trade, commerce, and manufacture, in accordance with plans submitted to, and approved by, the Secretary of War: *Provided*, That ample streets and ways of access to the water front and the harbor area hereinafter provided for shall be reserved to the public by said plans and improvements: *Provided further*, That the public shall have the right to use all wharves, docks, slips, and waterways erected upon the said harbor area, in front of the lands granted by this section, upon payment of reasonable charges therefor: *Provided further*, That the Secretary of War shall, as soon as may be after the passage of this act, cause a harbor area to be established along the water front in front of the lands granted by this section at said terminus, at or near the head of Cordova Bay, not exceeding 800 feet in width, which said harbor area shall be reserved in perpetuity for the public, and beyond the outer line of which it shall be unlawful to erect any pier, wharf, dock, or other structure, and said harbor area is hereby reserved from the mud flats or tidelands in this section granted: *Provided further*, That suitable reservations shall be made for public buildings, schools, and parks when said lands are platted, to be approved by the Secretary of War: *And provided further*, That any other railroad company that may desire to make its terminus at Cordova Bay shall have the right to condemn for rights of way and terminal purposes, in the manner provided by law, any of the lands granted by this section and not reserved as a harbor area. Said Alaska Railroad Company is hereby given the right to confine the waters of Cordova Creek to one channel, and to straighten and deepen the same.

SEC. 11. That there be, and is hereby, granted to said Alaska Railroad Company one section of coal lands in Alaska, to be selected by said company, for which coal lands said company shall pay to the United States $10 per acre. If the lands selected are claimed or occupied, they may, nevertheless, be entered by said company, provided said company shall procure and file in the local land office, when such entry is made, an assignment or relinquishment by the claimant or occupant.

SEC. 12. That said Alaska Railroad and any and all branches it may construct, or any part thereof, shall be a post route and military road, subject to the use of the United States for postal, military, naval, and all other Government service, and also subject to such regulations as Congress may impose restricting the charges for such Government transportation: *Provided*, That said company shall be exempt from license or other tax during the construction of the road.

SEC. 13. That the directors of said company shall make to the Secretary of Commerce and Labor an annual report of their receipts and expenditures, verified by the affidavits of the president and at least five of the directors.

SEC. 14. That the directors chosen by the stockholders in pursuance of the first section of this act shall, so soon as may be after their election, elect from their own number a president and vice-president, and said board of directors shall, from time to time and so soon as may be after their election, choose a treasurer and secretary, who shall hold their offices at the will and pleasure of the board of directors. The treasurer and secretary shall give such bonds with such security as the board may from time to time require. The secretary shall, before entering upon his duties, be sworn to the faithful discharge thereof, and said oath shall be made a matter of record upon the books of the corporation. No person shall be a director of said company unless he shall be a stockholder and qualified to vote for directors at the election at which he shall be chosen.

SEC. 15. That the president, vice-president, and directors shall hold their offices for the period indicated in the by-laws of said company, not exceeding three years, respectively, and until others are chosen in their place and qualify. In case it shall so happen that an election of directors shall not be made on any day appointed by the by-laws of said company, the corporation shall not for that reason be deemed to be dissolved, but such election may be held on any day within three months thereafter, which shall be appointed by the directors. The directors, of whom five, including the president, shall be a quorum for the transaction of business, shall have full power to make and prescribe such by-laws, rules, and regulations as they shall deem needful and proper touching the disposition and management of the stock, property, estate, and effects of the company, the transfer of shares, the duties and conduct of their officers and servants touching the election and meeting of the directors, and all matters whatsoever which may appertain to the concerns of said company. And the said board of directors may have full power to fill any vacancy or vacancies that may occur from any cause or causes from time to time in their said board; and the said board of directors shall have power to appoint such engineers, agents, and subordinates as may from time to time be necessary to carry into effect the objects of the company, and to do all acts and things touching the location and construction of said road.

SEC. 16. That it shall be lawful for the directors of said company to receive payment in cash, or in property at its cash value, upon all subscriptions received of all subscribers at such times and in such proportions and on such conditions as they shall deem to be necessary to completely carry out the objects of this act. Sixty days' previous notice shall be given of the payments required and of the time and place of payment by publishing a notice once a week in one daily newspaper in the city of New York, and by mailing a notice thereof to each subscriber from whom such payment is due, addressed to him at the address given upon the books of the company. And in case any stockholder shall neglect or refuse to pay, in pursuance of such notice, the stock held by such person may be sold at public auction to the highest bidder, and the company may bid therefor to the amount due it upon such subscription, subject to the condition that the board of directors may allow any stockholder to redeem his stock when so sold on such terms as they may prescribe.

SEC. 17. That the better to accomplish the object of this act, namely, to promote the public interest and welfare by the construction of said railroad, telegraph, and telephone, and keeping the same in working order, and to secure to the Government at all times the use and benefits of the same for postal, military, and other purposes, Congress may at any time, having due regard to the rights of the said Alaska Railroad Company, add to, alter, amend, or repeal this act.

The VICE-PRESIDENT. The bill will lie over without prejudice.

Mr. BURNHAM. Retaining its place on the Calendar?

The VICE-PRESIDENT. Retaining its place on the Calendar.

CORPS OF DENTAL SURGEONS, UNITED STATES ARMY.

Mr. PETTUS. I renew my request for the present consideration of the bill (S. 2355) to organize the corps of dental surgeons, attached to the Medical Department of the Army.

Mr. LODGE. That is the Army dental bill, as I understand. The Senator from Maine [Mr. HALE] has been obliged to leave the Chamber. He asked me to say that he was opposed to the bill, and that he did not wish it to be considered in his absence. He requested me to state that, and I told him that I knew in his absence the bill would not be pressed.

The VICE-PRESIDENT. There is objection to the present consideration of the bill.

PUBLIC BUILDING AT PLATTSMOUTH, NEBR.

Mr. BURKETT. I ask unanimous consent for the present consideration of the bill (S. 2350) providing for the erection of a public building at the city of Plattsmouth, Nebr., and for other purposes.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Public Lands with an amendment, on page 1, line 11, before the word "thousand," to strike out "seventy-five" and insert "forty;" on page 2, line 1, before the word "feet," to strike out "fifty" and insert "forty;" and in line 2, after the word "alleys," to strike out "and that no part of said sum shall be expended until a valid title to said site shall be vested in the United States, and the State of Nebraska shall cede to the United States exclusive jurisdiction over the same during the time the United States shall be or remain the owner thereof, for all purposes except the administration of the criminal laws of said State and the service of any civil process therein;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to purchase a site and to cause to be erected at the city of Plattsmouth, in the State of Nebraska, a suitable building for the use and accommodation of the post-office and other Government offices in said city, with fireproof vaults extending to each story, the site and the building thereon, when completed according to plans and specifications to be previously made and approved by the Secretary of the Treasury, not to exceed the cost of $40,000: *Provided*, That there shall be an open space of not less than 40 feet upon every side of said building, including streets and alleys.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill providing for the purchase of a site and the erection of a public building at the city of Plattsmouth, Nebr."

DISPOSITION OF CERTAIN PUBLIC PROPERTY IN HAWAII.

Mr. PILES. I ask unanimous consent for the present consideration of the bill (S. 5513) to provide for the disposition of certain property in the Territory of Hawaii.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that all personal and movable property ceded and transferred to the United States by the Republic of Hawaii under the joint resolution of annexation approved July 7, 1898, may be sold, leased, or otherwise disposed of in such manner as may be provided by the laws of the Territory of Hawaii; but that all sales, leases, or other disposals of such property heretofore made by said Territory, under the authority of such laws, are hereby ratified and confirmed, and all moneys or revenues derived from sales or disposals heretofore made, or made under authority of this act, shall remain the property of said Territory.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JOHN H. POTTER.

Mr. FRYE. I ask unanimous consent for the present consideration of the bill (S. 3574) for the relief of John H. Potter.

Mr. KEAN. That is a very meritorious bill.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the Secretary of the Treasury to pay to John H. Potter, formerly master of the collier *Saturn*, $1,344, in full settlement of salary and traveling and subsistence expenses from the time of his discharge in Manila, August 31, 1901, to the time of his reporting at the Navy Department at Washington, October 25, 1901, and to reimburse him for certain sums expended by order and under authority of commanding officers.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ARCHÆOLOGICAL INSTITUTE OF AMERICA.

Mr. LODGE. I ask unanimous consent for the present consideration of the bill (S. 5131) incorporating the Archæological Institute of America.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. ALLISON. I suggest to the Senator from Massachusetts that the fourth section of the bill is surplusage. As I understand the situation, the Smithsonian Institution is already engaged in doing the work referred to in that section. At any rate, the Secretary of the Interior can make the request, and it will be respected by this association. I move that the fourth section be stricken out.

Mr. LODGE. I have no objection to the motion of the Senator from Iowa to strike out the last section.

The VICE-PRESIDENT. The amendment proposed by the Senator from Iowa will be stated.

The SECRETARY. It is proposed to strike out section 4, as follows:

SEC. 4. That the Secretary of the Interior may call upon said corporation to report upon the nature and the desirability of preserving any ancient remains of constructions or other works by former American races found on the public lands; but no expense incurred by the corporation for the purposes of preparing any such report shall be chargeable to or reimbursed by the United States.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

CABLE FROM KEY WEST TO GUANTANAMO AND CANAL ZONE.

Mr. FORAKER. I ask unanimous consent for the present consideration of the bill (S. 5448) to authorize the construction, operation, and maintenance of a telegraphic cable from Key West, Fla., to the United States naval station at Guantanamo, Cuba, and from thence to the Canal Zone, on the Isthmus of Panama.

Mr. CULLOM. Mr. President——

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from Illinois?

Mr. FORAKER. For what purpose?

Mr. CULLOM. I was about to move that the Senate proceed to the consideration of executive business.

Mr. FORAKER. I hope the Senator will withhold that motion.

Mr. KEAN. There are a few small bills which Senators would like to have passed.

Mr. CULLOM. Very well; I will withhold the motion.

The VICE-PRESIDENT. Is there objection to the request of the Senator from Ohio that the Senate proceed to the consideration of the bill named by him?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. FORAKER. On page 1, line 4, after the word "operate," I move to amend by inserting "for governmental and commercial purposes."

The VICE-PRESIDENT. The amendment of the Senator from Ohio will be stated.

The SECRETARY. On page 1, line 4, after the word "operate," it is proposed to insert "for governmental and commercial purposes;" so as to make the bill read:

Be it enacted, etc., That the Secretary of War is hereby authorized to construct, and thereafter maintain and operate, for governmental and commercial purposes, a submarine cable from Key West, Fla., to the United States naval station at Guantanamo, Cuba, and from thence to the Canal Zone, on the Isthmus of Panama; and for the purpose of carrying the foregoing provisions of this act into execution the sum of $927,000, or so much thereof as is necessary, to be immediately available, is hereby appropriated: *Provided*, That in connection with the installation and operation of such cable system the Secretary of War is authorized and empowered to utilize, if consistent with the public interest, the personnel and resources of the military establishment, as far as they can be advantageously used without detriment to the public interest, and to employ such experts and other persons as may be deemed necessary to assist in carrying into execution the provisions of this act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

STEAMSHIP LINDESFARNE.

Mr. KEAN. I ask unanimous consent for the present consideration of the bill (S. 3581) providing for the payment to the New York Marine Repair Company, of Brooklyn, N. Y., of the cost of the repairs to the steamship *Lindesfarne*, necessitated by injuries received from being fouled by the United States Army transport *Crook* in May, 1900.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It directs the Secretary of the Treasury to pay to the New York Marine Repair Company, of Brooklyn, N. Y., $850.13 in full for the cost of the repairs made by that company upon the steamship *Lindesfarne*, necessitated by the damages done to that vessel by the United States Army transport *Crook* in collision in May, 1900.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ST. PAUL, MINNEAPOLIS AND MANITOBA RAILWAY LANDS.

Mr. NELSON. I ask unanimous consent for the present consideration of the bill (H. R. 10480) for the relief of certain settlers upon land within the indemnity limits of the present St. Paul, Minneapolis and Manitoba Railway Company.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MICHIGAN STATE CLAIM.

Mr. BURROWS. I ask for the present consideration of the bill (S. 3436) to provide for the settlement of a claim of the United States against the State of Michigan for moneys held by said State as trustee for the United States in connection with the St. Marys Falls Ship Canal.

The Secretary read the bill; and, there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It provides that upon the payment by the State of Michigan of $68,927.12 into the Treasury of the United States, the Attorney-General is authorized to settle and dismiss from the Supreme Court of the United States a suit in equity now pending therein in which the United States is complainant and the State of Michigan is defendant, and to relinquish all further claims against that State, including interest upon the amount, which have arisen by reason of its trust in constructing and operating St. Marys Falls Ship Canal and locks.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

GRAND CANYON FOREST RESERVE.

Mr. SMOOT. I ask unanimous consent for the present consideration of the bill (S. 2732) for the protection of wild animals in the Grand Canyon Forest Reserve.

The Secretary read the bill.

Mr. HEYBURN. I ask that the first clause of the bill be read again. I want to know the area covered by it.

The VICE-PRESIDENT. The Secretary will read as requested.

The Secretary read as follows:

That the President of the United States is hereby authorized to designate such areas in the Grand Canyon Forest Reserve as should, in his opinion, be set aside for the protection of game animals and be recognized as a breeding place therefor.

Mr. HEYBURN. There is no limit to the area, and I ask that the bill go over.

The VICE-PRESIDENT. Under objection, the bill will lie over.

Mr. SMOOT. I should like to have it retain its place on the Calendar.

The VICE-PRESIDENT. It will retain its place on the Calendar.

FISH-CULTURAL STATION IN KANSAS.

Mr. LONG. I ask unanimous consent for the present consideration of the bill (S. 4641) to establish a fish-cultural station in the State of Kansas.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It proposes to appropriate $25,000 for the establishment of a fish-cultural station in the State of Kansas, including purchase of site, construction of buildings and ponds, and equipment, at some suitable site to be selected by the Secretary of Commerce and Labor.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CIRCUIT COURTS OF APPEALS.

Mr. BACON. I ask unanimous consent for the present consideration of the bill (H. R. 12843) to amend the seventh section of the act entitled "An act to establish circuit courts of appeals and to define and regulate in certain cases the jurisdiction of the courts of the United States, and for other purposes," approved March 3, 1891.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The VICE-PRESIDENT. The bill was reported from the Committee on the Judiciary with amendments. The amendments will be stated.

Mr. KEAN. What is the scope of the bill?

Mr. BACON. I will state that it is a bill which simply regulates the question of practice in carrying up appeals where there has been an injunction or the appointment of a receiver from the circuit court to the circuit court of appeals. It comes with the unanimous recommendation of the Judiciary Committee. I can explain it still further if the Senator desires.

Mr. SPOONER. I had forgotten the bill. I should like to ask in what respect it changes the existing law.

Mr. BACON. I have the law before me. Under the present law that proceeding can be had in all cases except where a constitutional question is involved. In other words, in all cases where a constitutional question is not involved an interlocutory order or decree of a circuit court appointing a receiver or granting an injunction can be carried immediately to the circuit court of appeals. Under the present law, however, that is limited to cases which can now go to the circuit court of appeals from the circuit court. The effect of that limitation is that, under the law as it now exists, a case which involves a constitutional question upon a final decree or any other stage of the proceeding, can not go from the circuit court to the circuit court of appeals, but must go to the Supreme Court. There is no rule by which any kind of a case can go from a circuit court to the Supreme Court upon an appeal on an interlocutory decree. The consequence is that wherever a case involves, or is alleged by the pleader to involve, a constitutional question, there is no possibility of any review of an interlocutory decree. It can not go to the circuit court of appeals, because the present law does not permit it to go there. It can not go to the Supreme Court of the United States, because under no circumstances does an interlocutory decree go by appeal to the Supreme Court of the United States.

The effect of it is that whenever there is an application for the appointment of a receiver, if the complainant does not desire that the action of the circuit court shall be reviewed in that matter, all he has to do is to allege some constitutional ground, whether it is true in fact or not, and a mere allegation of it operates to prevent any review of the interlocutory order or decree. It is a fact which is stated by the judges of the courts that that is frequently taken advantage of by pleaders for the purpose of preventing the review of the decision of a court appointing a receiver or granting an injunction by an interlocutory decree.

The only effect, I will state to Senators—let any Senator turn to the act of 1900, which is found in the volume of the Statutes at Large for 1900, page 660, in which this seventh section is set out—the only effect of the bill is to take out from it the words which I will read. It is an exact reenactment of the law as it now stands, except that it takes out the words which I now read, which are found on the page I have indicated:

Mr. HEYBURN. On what page?

Mr. BACON. On page 660. The effect of the bill is to strike out these words:

In a cause in which an appeal from a final decree may be taken under the provisions of this act to the circuit court of appeals.

The only effect of it is to make it the law in any case and not limit it as it is limited in that act.

I will state to the Senate that the demand for this enactment does not originate with me. It comes in a very general way from a great many lawyers in many States. I will state further that this is a duplicate of a bill which I introduced in the Senate, and I only bring up the House bill because it has already passed the House and it is better to do that than to pass the Senate bill. This identical bill in form was introduced by me. It was sent to me by Judge Pardee, of the fifth circuit, in a communication in which the matters I have stated are set out by him as a practical evil in the administration of justice.

I have letters from lawyers in which they state the peculiar provision in the law as it now stands, under which there can be no appeal from an interlocutory decree where there is an allegation of a constitutional right, either to the circuit court or to the Supreme Court, and that that peculiarity of the law is frequently taken advantage of and defeats really the ends of justice.

In 1900—in fact, prior to that time, but also in 1900—Congress passed a law which did not previously exist, which was not in the original circuit court of appeals act, under which appeals could be taken from a circuit court to the circuit court of appeals upon the appointment of a receiver or the granting of an injunction by an interlocutory decree. That established the policy which is now the law, and the sole effect of this bill is to make it generally applicable and not leave the particular exception which I have indicated.

The matter has been before the Judiciary Committee, and the bill comes before the Senate with the unanimous recommendation of that committee for its passage.

The VICE-PRESIDENT. The amendments reported by the committee will be stated.

The amendments of the Committee on the Judiciary were, on page 1, line 7, after the words "eighteen hundred and ninety-one," to insert "as amended by act approved June 6, 1900;" and on page 2, line 2, after the word "or," where it first appears, to insert the words "in a;" so as to make the bill read:

Be it enacted, etc., That the seventh section of the act of Congress entitled "An act to establish circuit courts of appeals and to define and regulate in certain cases the jurisdiction of the courts of the United States, and for other purposes," approved March 3, 1891, as amended by act approved June 6, 1900, be, and it is hereby, amended to read as follows:

"SEC. 7. That where, upon a hearing in equity in a district or in a circuit court, or by a judge thereof in vacation, an injunction shall be granted or continued, or a receiver appointed by an interlocutory order or decree, in any cause an appeal may be taken from such interlocutory order or decree granting or continuing such injunction, or appointing such receiver, to the circuit court of appeals: *Provided*, That the appeal must be taken within thirty days from entry of such order or decree, and it shall take precedence in the appellate court; and the proceedings in other respects in the court below shall not be stayed unless otherwise ordered by that court, or by the appellate court, or a judge thereof, during the pendency of such appeal: *Provided further*, That the court below may, in its discretion, require as a condition of the appeal an additional bond."

The amendments were agreed to.

Mr. SPOONER. As I understand the bill, this appeal does not stay the proceeding——

Mr. BACON. By no means; it leaves the law just as it is.

Mr. SPOONER. Unless the courts so decide.

Mr. BACON. It does not in any manner affect the law except in the enlargement of the jurisdiction, so as to make it include the case of a decree where there is a constitutional question involved.

I will say further to the Senate that the bill does not in any manner change the present law which will bring to the Supreme Court for adjudication any case which involves on final decree a constitutional question. It is limited simply to the interlocutory proceeding.

Mr. HEYBURN. This is, of course, a question of importance in the practice. Do I understand the Senator to interpret this amendment as merely enlarging the present scope of appeals to be taken, and in section 7 of the act as it now stands eliminat-

ing the restriction to the class of cases in which an appeal from a decree may be taken under the provisions of the act?

Mr. BACON. Yes; and the only restriction is the one which I have indicated.

Mr. HEYBURN. It makes the right more general.

Mr. BACON. Simply to that extent, and nothing more.

Mr. HEYBURN. It makes it extend to all cases, then.

Mr. BACON. Yes; by interlocutory decree. The Senator says "extend to all cases." There is but one class of cases added, because there is only one now excluded.

Mr. HEYBURN. I understand that. It does not interfere with the existing right of appeal direct to the Supreme Court?

Mr. BACON. In other words, it does not change that at all.

Mr. SPOONER. When was the law passed providing for the appeal of an interlocutory order——

Mr. BACON. Some time about 1896 or 1897.

Mr. SPOONER. For appointing a receiver?

Mr. BACON. Yes, sir. Then the act was amended in 1900.

Mr. SPOONER. I remember that.

Mr. BACON. That is the act of which I speak.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read: "An act to amend the seventh section of the act entitled 'An act to establish circuit courts of appeals and to define and regulate in certain cases the jurisdiction of the courts of the United States, and for other purposes,' approved March 3, 1891, and the several acts amendatory thereto."

PUBLIC BUILDING AT RENO, NEV.

Mr. HEYBURN. Mr. President——

Mr. CULLOM. I have been up two or three times to move an executive session, but the Senator from Idaho appeals to me in behalf of a little bill and I will yield once more.

Mr. HEYBURN. I ask unanimous consent for the present consideration of the bill (S. 4427) to increase the limit of cost of the public building at Reno, Nev.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It proposes to increase the limit of the cost of the public building to be erected at Reno, Nev., from $60,000 to $97,500.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

EXECUTIVE SESSION.

Mr. CULLOM. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After ten minutes spent in executive session the doors were reopened; and (at 5 o'clock p. m.) the Senate adjourned until Monday, April 9, 1906, at 12 o'clock meridian.

CONFIRMATIONS.

Executive nominations confirmed by the Senate April 6, 1906.

AUDITOR.

Caleb R. Layton, of Delaware, to be Auditor for the State and other Departments.

SECRETARY OF EMBASSY.

George L. Lorillard, of Rhode Island, now secretary of the legation at Copenhagen, to be secretary of the embassy of the United States at Rio de Janeiro, Brazil.

PROMOTIONS IN PORTO RICAN INFANTRY.

First Lieut. Frank C. Wood, Porto Rico Provisional Regiment of Infantry, to be captain from March 25, 1905.

Second Lieut. Jaime Nadal, Porto Rico Provisional Regiment of Infantry, to be first lieutenant from March 25, 1905.

Second Lieut. Henry C. Rexach, Porto Rico Provisional Regiment of Infantry, to be first lieutenant from April 1, 1905.

PROMOTIONS IN THE ARMY.

Quartermaster's Department.

Maj. Frederick G. Hodgson, quartermaster, to be deputy quartermaster-general with the rank of lieutenant-colonel from March 31, 1906.

Capt. Arthur W. Yates, quartermaster, to be quartermaster with the rank of major from March 31, 1906.

Cavalry Arm.

First Lieut. Albert N. McClure, Fifth Cavalry, to be captain from March 31, 1906.

Second Lieut. William M. Cooley, Fifth Cavalry, to be first lieutenant from March 29, 1906.

Artillery Corps.

Lieut. Col. Robert H. Patterson, Artillery Corps, to be colonel from April 1, 1906.

Maj. George F. E. Harrison, Artillery Corps, to be lieutenant-colonel from April 1, 1906.

Maj. John P. Wisser, detailed inspector-general, to be lieutenant-colonel in the Artillery Corps from March 28, 1906.

Medical Department.

Maj. John M. Banister, surgeon, to be deputy surgeon-general with the rank of lieutenant-colonel from March 29, 1906.

Capt. Alexander N. Stark, assistant surgeon, to be surgeon with the rank of major from March 29, 1906.

Capt. Charles Lynch, assistant surgeon, to be surgeon with the rank of major from April 2, 1906.

Corps of Engineers.

Maj. Solomon W. Roessler, Corps of Engineers, to be lieutenant-colonel from April 2, 1906.

PROMOTIONS IN THE NAVY.

Paymaster Eugene D. Ryan to be a pay inspector in the Navy from the 10th day of February, 1906.

Carpenter Frederick C. Le Pine to be a chief carpenter in the Navy from the 10th day of January, 1906, upon the completion of six years' service, in accordance with the provisions of the act of Congress approved March 3, 1899, as amended by the act of April 27, 1904.

Lieut. Horace G. Macfarland to be a lieutenant-commander in the Navy from the 19th day of February, 1906.

Lieut. Charles F. Preston to be a lieutenant-commander in the Navy from the 28th day of February, 1906.

Gunner Lewis E. Bruce to be a chief gunner in the Navy from the 10th day of March, 1906, upon the completion of six years' service, in accordance with the provisions of the act of Congress approved March 3, 1899, as amended by the act of April 27, 1904.

POSTMASTERS.

CALIFORNIA.

Thomas C. Bouldin to be postmaster at Azusa, in the county of Los Angeles and State of California.

Miriam H. Chittenden to be postmaster at Corning, in the county of Tehama and State of California.

George M. Francis to be postmaster at Napa, in the county of Napa and State of California.

William J. Hill to be postmaster at Salinas, in the county of Monterey and State of California.

Shelley Inch to be postmaster at Placerville, in the county of Eldorado and State of California.

William D. Ingram to be postmaster at Lincoln, in the county of Placer and State of California.

Roy B. Stephens to be postmaster at South Pasadena, in the county of Los Angeles and State of California.

Kennedy B. Summerfield to be postmaster at Santa Monica, in the county of Los Angeles and State of California.

James C. Tyrrell to be postmaster at Grass Valley, in the county of Nevada and State of California.

COLORADO.

John Trathen to be postmaster at Idaho Springs, in the county of Clear Creek and State of Colorado.

IOWA.

Benjamin A. Nichols to be postmaster at West Liberty, in the county of Muscatine and State of Iowa.

LOUISIANA.

Byrnes M. Young to be postmaster at Morgan City, in the parish of St. Mary and State of Louisiana.

MINNESOTA.

Almon E. King to be postmaster at Redwood Falls, in the county of Redwood and State of Minnesota.

Robert B. Kreis to be postmaster at Monticello, in the county of Wright and State of Minnesota.

Arthur McBride to be postmaster at Walker, in the county of Cass and State of Minnesota.

Peter A. Peterson to be postmaster at Cannon Falls, in the county of Goodhue and State of Minnesota.

George H. Tome to be postmaster at Pine Island, in the county of Goodhue and State of Minnesota.

NEBRASKA.

Wesley J. Cook to be postmaster at Blair, in the county of Washington and State of Nebraska.

Conrad Huber to be postmaster at Bloomington, in the county of Franklin and State of Nebraska.

NEW JERSEY.

Charles S. Robinson to be postmaster at Princeton, in the county of Mercer and State of New Jersey.

OHIO.

Alexander Sweeney to be postmaster at Steubenville, in the county of Jefferson and State of Ohio.

PENNSYLVANIA.

George R. Adam to be postmaster at Brockwayville, in the county of Jefferson and State of Pennsylvania.

Norman K. Wiley to be postmaster at California, in the county of Washington and State of Pennsylvania.

PORTO RICO.

Fred Leser, jr., to be postmaster at Mayaguez, in the department of Mayaguez and island of Porto Rico.

Juan Padovani to be postmaster at Guayama, in the county of Guayama, P. R.

VIRGINIA.

Hamilton W. Kinzer to be postmaster at Front Royal, in the county of Warren and State of Virginia.

George R. Hall to be postmaster at Oconto, in the county of Oconto and State of Wisconsin.

John C. Freeman to be postmaster at New London, in the county of Waupaca and State of Wisconsin.

John C. Outhwaite to be postmaster at De Pere, in the county of Brown and State of Wisconsin.

TREATY WITH SANTO DOMINGO.

The injunction of secrecy was removed April 6, 1906, from a report and resolutions of the New York Board of Trade and Transportation approving the pending treaty with Santo Domingo. (Ex. V, 58th Cong., 3d sess.)

HOUSE OF REPRESENTATIVES

FRIDAY, *April 6, 1906.*

The House met at 12 o'clock noon.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of the proceedings of yesterday was read and approved.

CHRISTOPHER C. HARLAN.

The SPEAKER laid before the House from the Speaker's table the following House bill with Senate amendments.

The Clerk read as follows:

An act (H. R. 15151) granting a pension to Christopher C. Harlan.

The Senate amendments were read.

Mr. LOUDENSLAGER. Mr. Speaker, I move that the House concur in the Senate amendments.

The question was taken; and the amendments were concurred in.

JOSEPHINE ROGERS.

The SPEAKER also laid before the House the following House bill with a Senate amendment.

The Clerk read as follows:

An act (H. R. 8891) granting an increase of pension to Josephine Rogers.

The Senate amendment was read.

Mr. LOUDENSLAGER. Mr. Speaker, I move that the House concur in the Senate amendment.

The question was taken; and the amendment was concurred in.

POST-OFFICE APPROPRIATION BILL.

On motion of Mr. OVERSTREET, the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 16953—the Post-Office appropriation bill—Mr. SHERMAN in the chair.

The CHAIRMAN. The gentleman from Illinois [Mr. RAINEY] has the floor for one hour.

Mr. RAINEY. Mr. Chairman, the railroads of this country have an inspection of watches. I do not know whether the law requires it or not, but every great railroad company has inaugurated a system of watch inspection and railroad men are required to carry the better grades of watch movements; for that reason the better grades of watch movements are called "railroad movements." This is a wise provision. The men who are responsible for the running of our trains ought to be required to carry watches that will keep the time correctly. Now, if a railroad man wants to buy the best grade of watch movement, if he wants to render the very best service he can to his employer and to the public he will feel like buying a Riverside Maximus movement. He will have considerable trouble, perhaps, in finding a place where he can buy a Riverside Maximus movement for the minimum price at which retailers are permitted to sell them. Even the minimum price, $60, is a large price for the average railroad man to pay. He can not find in his vicinity a small dealer who is able to carry in stock that kind of a movement, and in order to supply himself with it he must apply to the more important retail establishments, to the establishments located in the fashionable shopping districts of our cities where they have a profusion of decorative wares, where they have clerks who manicure their finger nails and wear eyeglasses and part their hair in the middle, and it costs money to run that kind of a place. He will have difficulty in buying a Riverside Maximus movement for less than $75, because they do not sell in those places as cheaply even as the trust permits them to sell. And if he buys a Riverside Maximus movement for $75, after assisting in paying a dividend to the trust upon all their watered stock, he is compelled to work, if he can save out of his wages a dollar a day (and he is likely to save nearer 50 cents a day than a dollar a day)—but assuming that he can save out of his wages a dollar a day, and that is an extravagant figure, he will be compelled to work for the watch trust for thirty days before he can buy this watch at the same price the laboring man over in Europe, 3,000 miles away, is able to buy it for. But he will have to work two or three weeks for the trust before he can buy this movement for the minimum price, $60, and if he wants to buy the very cheapest movement the railroad company will probably permit him to carry—if he wants to buy a Riverside lever-setting Waltham watch, he must work at least two weeks for the watch trust after assisting in paying dividends on millions of watered stock. The laboring man in Europe, or in Canada, just across the St. Lawrence River, is able to get it without this extra effort, thanks to the beneficent effects of our protective tariff.

I have in my possession some of the export catalogues issued by the American watch trust—by the Keystone company and by the Waltham company and the rest of them. Some of them are printed in Spanish; all of them call these watches by other names than the names they are known by here in the United States. None of them quote discounts. Therefore, in an examination of this question their export catalogues are of no service. So I have brought here the watches themselves—the identical watches sold in Europe for a small fraction of the price they are sold for here to retail dealers in this country. Every watch movement is numbered—every one of them. It is easy to identify them. Every movement has stamped upon it the name of the maker. It is easy to identify them as American-made goods.

I have here a movement made by the Waltham Watch Company. This movement is known as a 16-size, 17-jewel Riverside. This identical movement was bought by a Manchester, England, watch dealer from the London office of the Waltham company for 50 shillings net, or a trifle over $12 in American gold. This is one of the grades included in the contract the Waltham company requires dealers to execute; and before they can sell any Waltham movements they must agree to sell this movement to the consumer for $25 or more. They can not sell for less; if they do, they forfeit their entire stock of watches. If they do, the watch trust steps in and closes up their business by shutting off their supplies; and there are dozens and dozens of retail dealers who have met with that sort of treatment from the watch trust in this country. This movement the ordinary retailer sells for about $30. Mr. Keene advertises it for sale there at $16.39; and no retail dealer in this country can buy it for less than $17.35 with all discounts off.

Now, I want to give these gentlemen—the majority on the Ways and Means Committee—the number of this watch; and for their convenience I propose to put it in the RECORD. It is numbered 10537464. I challenge the Waltham company, and I do it deliberately and advisedly and with malice aforethought—I challenge the Waltham company to show by their books (and they can) whether what I have said about this movement is not the exact truth. They have opposite its number, in their books, the history of this identical watch; and I challenge them to show by their books that this watch was not sold abroad—this identical movement—for the price I say it was sold for. I challenge them to say, and to prove by their books, that Mr. Keene is not selling now this identical movement cheaper than any retail dealer in the United States can buy it. If you do not believe what I have said about it, go and inquire of any watch dealer who handles this class of goods.

I have here another Waltham movement. I want to hurry over this part of my speech. I simply want to get these into the RECORD. It is numbered 10087181. This movement is a 16 size, 17-jewel Royal Waltham. It was bought by a Manchester, England, dealer from the London office of the Waltham Watch Company for 30s. net—a trifle over $7 in American gold. This same grade of movement costs the largest

retail dealer in America, with all discounts off, $11.60; and Mr. Keene sells it for $10.98—cheaper than any retail dealer can buy it from the watch trust.

Mr. GARDNER of Massachusetts. Mr. Chairman——

The CHAIRMAN. Does the gentleman yield to the gentleman from Massachusetts?

Mr. RAINEY. For a question.

Mr. GARDNER of Massachusetts. I would like to ask the gentleman from Illinois why he keeps on speaking of the American watch trust. I am a stockholder of the Waltham Watch Company, and know nothing of any connection with any trust.

Mr. RAINEY. The Ways and Means Committee can give the gentleman a chance to testify on that question.

I have here an 0 size, 16-jewel Lady Waltham, the smallest watch made for the ordinary trade. It is numbered 12016826. This identical movement was bought from the London office of the Waltham Company. I do not know what was paid for it there, but the London dealer sold it next day for 32 shillings to the agent of Mr. Keene, and was satisfied with his profit. He therefore paid considerably less than $8 for it. This same grade of movement, with all discounts off, costs the retail dealer in this country $10.58, and he can not buy it for any less, and Mr. Keene sells it for $10.98.

I have here another movement which was sold abroad by the Waltham Company. This is a 16 size, 15-jewel movement, made by the Elgin National Watch Company, of Elgin, Ill. It is contained in a twenty-year Keystone James Boss brand case, made by the Keystone Watch Case Company, of Philadelphia, Pa. It sold in South America, this identical watch, for $8.40, complete. All the Elgin movements are shipped abroad in Keystone cases; and they only go abroad in Keystone cases, and this case and the movement together was sold in South America for $8.40. The largest retail dealer pays $11.42 with all discounts off. This identical movement paid its way to South America, paid a commission there to a jobber, paid a commission there to a retailer, paid its way back to New York, and you can buy it in this store at 180 Broadway for $9.78.

The movement in the watch that I now hold in my hand is numbered 7877492; it is a 16-size, 7-jewel Elgin watch, made by the Elgin Watch Company. It is in a silveroid case. The case is made by the Keystone Watch Case Company. This watch complete, movement and case, is sold to the South American trade by the Keystone Watch Case Company for $3.04 net. The largest retail dealer in the United States pays $4.79 for it, and Mr. Keene, after it has paid profits to two or three men, after it has paid its way to South America and back, sells it for $4.48, and then makes a profit on it that is entirely satisfactory to him.

The movement in this watch which I now present is numbered 10925821. It is an 0-size, 7-jewel Elgin watch, the smallest watch made by the Elgin company for the ordinary trade. This watch is in a five-year gold-filled Keystone case. This identical movement and this identical case were sold abroad to a London dealer for $4.60 in American gold. The American retailer pays $6.60 for this same grade of watch, and Mr. Keene sells it for $6.28, cheaper than any American retail dealer can buy it. In quoting the prices American dealers are compelled to pay for all these complete watches and movements, I have quoted the price with all discounts off.

Now, I know these facts are not particularly interesting, but I am putting them in the RECORD to give gentlemen on the other side an opportunity to determine whether it is time or not to investigate this sort of thing, and whether these tariff schedules ought not now to be revised.

But we are told since last night, the information has come to us now, that there is to be a revision of the tariff.

You will all be glad to know it and the country will be glad to know it. This morning in the Washington Post is an extract from a letter written by the Speaker of the House to Col. John N. Taylor, of the Knowles, Taylor & Knowles Pottery Company, at East Liverpool, Ohio, and he announces this as the policy now of the Republican party. And if his letter is quoted correctly I am reading it correctly now:

> I am satisfied there will be no tariff revision this Congress, but it goes without saying that the desire for a change which exists in the common mind will drive the Republican party, if continued in power, to a tariff revision. I do not want it, but it will come in the not distant future.

I believe the Speaker of this House told the exact truth about it.

Mr. SULZER. Will the gentleman allow me?

Mr. RAINEY. With pleasure.

Mr. SULZER. How in the world will it come if the Speaker does not want it, according to our rules?

Mr. RAINEY. It will come in the not distant future, because the Speaker has begun to understand that the political complexion of this House is going to change. [Applause on the Democratic side.] And that when it does change, there will be enough Democrats here to see that there is a tariff revision. There is no other way of accounting for this kind of a letter at this time.

Now, I want to refer to a little controversy, and anybody can verify what I say by examining the records of the custom-house in New York for the last week. Last week there arrived in New York a consignment of 2,400 American-made watches, shipped from abroad by Mr. Keene's agents there to him—American-made goods every one of them. When they reached the custom-house in New York, they were met by the agents of the watch trust; and I use the term advisedly, in spite of the fact that we have a plutocrat in this House who, by his own admission, is the holder of large blocks of stock in that trust. [Applause on the Democratic side.] They met this consignment of watches there and protested against the landing of the watches, and with their protest filed affidavits, and they made this showing: They said nearly 1,200 of those 2,400 watches had been advanced in value and improved upon while abroad by the addition of Swiss dials; and when Mr. Keene's agents investigated that statement they found that the watch trust, in order to stop his business, had duplicated a dial in Switzerland exactly the same color as the dials made in this country, exactly similar in all respects, but the words "Made in Switzerland" were stamped on the back of each one of them, and you could not find it out without removing the dials from the movements.

But there it was, a dial worth 4 or 5 cents added to the American movement in order that the American watch trust would be able to say that these identical movements had been "improved upon or advanced in value while abroad," and although less than half of this shipment had been improved in that way the officers in the custom-house at New York held up the entire shipment—the watches that remained unchanged together with the watches that had been improved upon or advanced in value by the addition of the aforesaid dials.

Mr. Keene appealed from the decision of the collector of the port of New York, and came down here, and on Friday of last week I accompanied him to the Department of Justice and to the officials of the Treasury Department and laid the matter before them, insisting that Mr. Keene had the right at least to withdraw his 1,287 watches that had not been improved upon or advanced in value, and that had been returned in identically the same condition they were in when they left this country. The officials at the Treasury Department held against us on that proposition. I am not prepared to say that they were not right about it. From their standpoint they were. There was some doubt about the question, and when there is any doubt about a question of this kind it is always resolved by Republican officials against the people and in favor of the trusts. [Applause on Democratic side.] Therefore I do not find any fault with them. They were compelled to do this. On last Saturday he paid the duty on the entire shipment of 2,400 watches, shipped the watches back to England, and took a rebate of 99 per cent of the amount of the duty paid. I could find nothing else for him to do. He gave his bond, agreeing to surrender to the customs officials his landing certificate when he gets it back from the consul at London, and thus release the bond.

He proposes now, these watches having been all shipped in the same consular invoice, to overcome this objection of the officials raised under the Dingley law and to remove from this consignment these watch movements that have not been changed in any way and to ship them back under a separate consular invoice, and then there can be no question so far as they are concerned. He proposes then to remove the Swiss dials from the other movements and ship these American-made movements back to this country in identically the same condition they were in when they went abroad. There are 1,123 of them, I believe. The watch trust has, in effect, served upon him this notice: When these 1,123 watches come back, we will meet you again at the custom-house. They have been here once before, and it may be true that they are in the same condition they were in when they first went abroad, but they have been here before, and here are the numbers on this liquidated consular invoice, and it has been held once that they are dutiable. We insist that that is res adjudicata, and you have got to pay the duty on them to get them. Upon that issue Mr. Keene's attorneys in New York City propose to make a fight, and that fight will be pending, if the watch trust makes good its threat, at the time the Congressional elections are on this fall, and you will have something else to answer for then.

Now, I understand, if anybody replies to this speech—and some of you had better reply to it—whoever replies will advance

this sort of an argument: "The Dingley tariff raises the wages of employees. It makes it possible to employ more men. It makes it possible for the business to enlarge and to increase in importance." Why, in 1880 there were twenty-seven watch factories in the United States. Now there are only thirteen.

Since 1880 the number of employees in the watch factories has increased, it is true; they employ now in the watch business—the business of manufacturing movements in this country—15 per cent more men than they employed in 1880; but they employ 600 per cent more women and 200 per cent more children. A tariff which produces this sort of result, which endangers the future of the race in this way, ought certainly to be investigated. It does not exist for the purpose of enabling watch companies to pay more money in wages to individual employees; it operates only to enable them to employ cheaper labor, to pay less money.

Now, nobody can say that these watches to which I have called attention are old-style goods, and that therefore they are shipping them abroad. That is the reason that is usually advanced. It is a great consolation to the old farmer to know that the color scheme on his cultivator has changed since last year, and for that reason he has got an out-of-date cultivator. It is a splendid consolation to him to know that the decoration on his wagon bed has changed. Last year they decorated wagon beds with roses; this year they decorate with lilies of the valley. The kind of wagon he bought last year is out of date, and for that reason they are shipping that kind abroad. If he wants to be up to date, to be a modern farmer, to farm in a scientific manner, he must buy wagons decorated not with roses, but with lilies of the valley. [Laughter.] Why, Mr. Chairman, they made watches four hundred years ago.

They made watches so small four hundred years ago that you could put one of them in the end of a lead pencil, and they can not do any better than that now. There has been no change in the style of watches; there has been nothing new in watches for four hundred years. They make them cheaper now, that is all. Over here in the National Museum they have a collection of watches presented to the Museum by Tiffany & Co., of New York, representing the various eras in the watch industry, and the watches made four hundred years ago are not very different from the watches they made last year in this country. These numbers I have given you are among the latest numbers. They are not old style goods. They can not escape responsibility on that ground.

Does the McKinley tariff have the effect of building up the watch industry? Why, certainly not. I have here an article written for the last edition of the Encyclopedia Americana, a signed article, written by E. A. Marsh, general superintendent of the American Waltham Watch Company, and signed by him, and I ask permission to put this in the RECORD. I do not want to read it at this time.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois? [After a pause.] The Chair hears none.

The matter referred to is as follows:

[Extract from the article on watches in the Encyclopedia Americana.]

In conclusion, it may be said that notwithstanding the two or more centuries of priority and experience enjoyed by European watchmakers, their extreme conservatism has allowed them to be outstripped by the more progressive manufacturers of America, so that modern watch making is at the present time and in its most advanced form an exclusively American achievement.

E. A. MARSH,
General Superintendent American Waltham Watch Company.

Mr. RAINEY. Credit here is given not to the tariff, not to the men who organized the companies and watered the stock, but to the brains and intelligence and skill of the American workingman, and that is where it belongs. This article should be construed most strongly against the companies on the tariff question.

Mr. Chairman, this little watch to which I last called attention is a watch that is in demand for the holiday trade, and the Elgin company keeps it scarce in the fall in order to keep the price up. Not long ago Mr. Keene bought 2,000 of these watches from the Keystone Watch Case Company in London through an agent, and when they found out the watches were intended for shipment to the United States they refused to deliver, and Mr. Keene and the man who made the purchase for him sued the Keystone Watch Case Company, and I have here the plea they filed to their declaration in the English court. It reads as follows:

In the high court of justice, Kings bench division. 1904 K, No. 549.
Between Charles Alden Keene and Maurice Michael, plaintiffs, and the Keystone Watch Case Company, defendants.

DEFENSE AND COUNTER CLAIM—DEFENSE.

1. The defendants admit paragraph 2 of the statement of claim.

2. The defendants were induced to enter into the said agreement in writing by the verbal representation of the plaintiff, Maurice Michael, to the defendants made on or about the 21st day of July, 1903, that all the said watches *were required for exportation to France only and not to the United States of America, and that he intended to and would export them.*

3. The said representation was untrue in fact. The plaintiff, Maurice Michael, then required the said watches solely for exportation to the United States of America, and so imposed and intended to export them.

Now, I am putting in the RECORD the title of this case and the number of the case, and in order that you may further investigate it I want to say that the attorneys who represented Keen & Michael in this suit were the London attorneys of R. G. Dun & Co.—Dommett & Sons, of London, England, and you can write to them if you do not believe I present here a correct copy of this defense.

Mr. GAINES of Tennessee. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. RAINEY. Yes.

Mr. GAINES of Tennessee. Has the gentleman any data showing that watches made in the United States were shipped to Europe and brought back and sold in the manner he has indicated under or during the operation of the tariff acts of 1846 or 1857, or before the civil war?

Mr. RAINEY. No; it never was done. Watches were never shipped abroad and sold for a less price than they were sold in this country until after the Dingley law went into effect. I have here a list of watch dealers in various parts of the world, from Europe, from Africa, and South America, and I charge that to each one of these watch dealers the American watch trust—the Elgin company and the Waltham company and the Keystone company and the rest of them—sell watches for a mere fraction of the price they sell to the American retailer, and I challenge them to show by their books that they do not do so, and I ask permission to put this list in the RECORD.

The CHAIRMAN. Without objection, the statement the gentleman presents will be printed in the RECORD. [After a pause.] The Chair hears no objection.

The following is the list referred to:

Mr. Evan Roberts, 30 St. Georges square, Regents Park, London; Mr. J. Blanckensee & Co., 48 Frederick street, Birmingham, England; Mr. Marcel Bourdais, 62 Ruede, Tavernue, Paris; Ballantyne & Son, 52 Virginia street, Glasgow, Scotland; MM. Les Fils de Braunschweig, Chaux de Fonde, Switzerland; E. Collins & Co., 34 Pritchard, Johannesburg, Africa; George & Co., Scotland road, Liverpool, England; Hopkins & Hopkins, No. 1 Lower Sackville, Dublin, Ireland; Mr. Hurtis Sendre, 6 Old China Bazaar street, Calcutta, India; Mr. Otto Heerman, 34 Ferdinand Strasse, Hamburg, Germany.

Mr. RAINEY. In 1898 they had a strike in the Elgin works, and I ask permission to put in the RECORD, from the Chicago Tribune, the charges made by the strikers against their employers.

The CHAIRMAN. The committee has heard the request of the gentleman from Illinois. Is there objection thereto? [After a pause.] The Chair hears none.

The article referred to is as follows:

[Extract from page 4, Chicago Tribune, Sunday, August 28, 1898.]

STATEMENT OF GRIEVANCES OF EMPLOYEES.

Whereas the amount of labor required to finish and stem-fit watches is greatly increased by the poor quality and workmanship of the material furnished us; and

Whereas the price of stem fitting and finishing watches under these conditions has been cut to a point where we can not make living wages; and

Whereas we have duly made complaint of these conditions to the foreman of the finishing department and also to the superintendent of the factory, without obtaining any satisfactory consideration; and

Whereas the stem fitters have been replaced by girls, who do the work at greater expense to the company than was demanded by the stem fitters; and

Whereas we know the company has been actuated in the past by kindly feeling for its employees, which has been shown by generous and unsolicited subscriptions to the aid fund for sick and deceased operatives, and also in many other ways: Therefore, be it

Resolved, That the president of the company be informed of the present unhappy condition of affairs at the factory, and see if our grievances can not be peaceably adjusted on the common ground of justice and fair dealing.

* * * * * * *

STATEMENT OF ONE OF THE STRIKERS.

"In order to make living wages at the scale offered by the company," one of the strikers said, "we were obliged to work so rapidly that no human being can stand the nervous tension. The most skilled finishers in the United States are unable to assemble more than forty watches a day. On one grade of movement made at Elgin a finisher would be compelled to put 100 watches together every day to make $3—a strain that would send the most phlegmatic finisher in the country to the madhouse inside of a week if it were a physical possibility to assemble that many movements."

* * * * * * *

DIVIDENDS PAID IN 1893.

In 1893, when many corporations were struggling to keep from insolvency, the Elgin National Watch Company paid four dividends of 4 per cent, though to do it, the dissatisfied men declare, half of the employees were discharged and the wages of the rest were cut from 10 to 50 per cent. None of the cuts in the wage scale, the employees say, has ever been restored. When the Dingley tariff bill was before Con-

gress the Elgin Company is credited with having obtained a special duty on imported watch movements in addition to the ad valorem duty. Senator Mason, who spoke in favor of a duty, said it was a necessity to enable American watchmakers to obtain living wages. The heavy tariff went into effect, and the Elgin Company raised the price of watch movements almost to where they had been before the panic of 1893. The exact advance is not known, as the company's prices to wholesalers are trade secrets. It is known that the wholesale dealers put up the price of Elgin movements all the way from 50 cents for the cheapest to $10 for the best movements. The employees, however, say there was no increase in wages.

Nearly two-thirds of the factory employees are women and girls. In five years improved machinery has been introduced by the Elgin mechanics that is said to be doing the work of over 200 skilled workmen, estimating by the present output of the works. Most of these machines are run by women and girls, who are paid from 60 cents to a dollar and a half a day. A skilled watchmaker acts as foreman for several of these machines. Men are found indispensable for the difficult work of assembling and timing.

Mr. RAINEY. In these charges they make they say that since the Dingley tariff went into effect the Elgin Watch Company has commenced to export their watches, that the Elgin Watch Company employ now cheaper labor, that the Elgin Watch Company employ now cheaper material, and it requires a finisher now to assemble a hundred watches of a certain kind a day in order to make $3 a day, and in order to do that work he must lay off and rest at least two days in each week. Five days after these charges were made the Elgin Company, finding that it would not do to advertise these features of their business, settled with the striking employees, and that strike won.

Now, have I satisfied the gentlemen on the other side? Interruptions are not as frequent now as they were formerly. Have I satisfied the gentleman from Pennsylvania [Mr. DALZELL], who had so much to say yesterday about this picture I displayed here on this easel? I displayed the picture here in this room because I had a right to do it under the rules of the House, and because I obtained authority from the proper source before displaying it here.

The gentleman for so many years and with such signal ability has represented the railroads and the corporations in this body that he can not understand now how a Member can honestly and conscientiously want to represent the people [applause on the Democratic side], and he puts into the RECORD these sneering remarks. The gentleman has been a member of the school of protection graft for so long a time that he can not understand what it means for a man to have an honest motive in a matter of this kind. Have I satisfied the gentleman from Iowa [Mr. LACEY]? And for him I entertain the highest personal regard. Have I satisfied the majority leader, the gentleman from New York [Mr. PAYNE]? I saw him yesterday circulating on that side advising Republicans to ask me no more questions. [Laughter and applause on the Democratic side.] Have I satisfied him? Are you all satisfied? [Applause on the Democratic side.]

Mr. PAYNE. Is the gentleman a mind reader, or did he hear it, or what is he testifying about?

Mr. RAINEY. Why did they quit then; why were you going around talking to them; why did you ask no questions? [Applause on the Democratic side.] Do you propose to investigate this watch trust? Do you? The country would be glad to know it. If there is any man in this House now who believes that a tariff that can produce this sort of outrage ought not now to be revised, stand up now, my friend, here and now.

Mr. LACEY rose.

Mr. RAINEY. If there are any more, stand up, every one of you here, so the country can see you. Stand up so we can see you. All the rest of you stand up so your constituents can see you and leave you at home when the time comes to select Members for the Sixtieth Congress.

Mr. LACEY. The gentleman calls for questions and then when anyone arises to ask him a question he declines——

Mr. RAINEY. I do not yield for a speech; you can make that in your own time.

Mr. LACEY (continuing). Then the gentleman declines to yield.

Mr. RAINEY. I yield for a question, nothing else, as I have only five minutes.

Mr. LACEY. We will agree to give you more time. You are doing well and we will give you all the time you want.

Mr. RAINEY. Very well, I will answer your question.

Mr. LACEY. I understood the gentleman to say a moment ago, in answer to the gentleman from Tennessee, that prior to the increased tariff duty there were no watches sent from the United States abroad; is that correct?

Mr. RAINEY. And sold for less——

Mr. LACEY. Or sold at any price.

Mr. RAINEY. Oh, no.

Mr. WILLIAMS. Oh, no.

Mr. RAINEY. I did not say that.

Mr. LACEY. Is it not true they were not sent abroad at any price, because they were not made here?

Mr. GAINES of Tennessee. Then why did you put on the tariff?

Mr. RAINEY. Watches have been made here for a hundred years. [Applause on the Democratic side.] Before that time for two hundred years watch making was a household industry in Switzerland.

Mr. LACEY. Under this law of which the gentleman so bitterly complains is it not true that one of the greatest manufactories in the world has been built up in your own State, and to-day a Swiss conductor on a Swiss railroad takes an Elgin watch, made in Illinois, to tell the traveler what time it is? [Applause on the Republican side.]

Mr. SULZER. And he pays less for it than the poor farmer of this country. [Applause on the Democratic side.]

Mr. RAINEY. American watches are the best in the world, I believe.

Mr. GAINES of Tennessee. I want to answer the gentleman from Iowa this way. My question was this: Has the gentleman from Illinois any data showing American watches were shipped to Europe and brought back to the United States under the acts of 1846 or 1857, or before the civil war, and sold cheaper to the people of the United States than they were sold originally in the United States? Now, then, on your question of tariff. Under the Democratic tariff act of 1846 the tariff on watches—gold, silver, etc.—was 10 per cent; under the act of 1857 the tariff was 8 per cent, and the war tariff of 1861 was 15 per cent; in 1862, 1863, and 1864, 20 per cent, and under the act of 1870 it was 25 per cent on watches—gold, silver, etc.

Mr. LACEY. The war tariff of 1862 was 5 per cent——

Mr. GAINES of Tennessee. Wait a minute. Now, if there were no goods sent to Europe, why did you put a tariff on those goods at all?

Mr. RAINEY. Mr. Chairman, I understand my time is to be extended, but I do not want to take up too much time even with that understanding. I have waited in vain for some Member on the other side to intimate that there was courage enough there to revise the tariff. You are not the leaders of the Republican party, none of you, from the Speaker down to the youngest Member who sits modestly on the other side of this Hall. The real leaders of the Republican party are the McCurdys and the McCalls and the Hamiltons, the men who furnish you with the sinews of war [applause on the Democratic side]; the Rockefellers, who skulk now behind armed guards in locked castles to evade the serving of the writs issued by our courts. They are the real leaders of the Republican party; you are not. Your cowardice in this matter proves that you are not. Why, you are only the decoys these fellows place out in the pond to lure your friends to destruction. [Applause on the Democratic side.] You dare not act; I challenge you to act; I challenge you, the majority members of the Committee on Ways and Means, to investigate any trust in this country; to serve subpœnas upon the officials of these companies to have them produce their books before the Ways and Means Committee. You can do it and find out whether what I have said is not true. You stand behind the majority you received at the last election and feel safe. One million five hundred thousand Democrats stayed at home, and you are under the impression that you are secure.

Majorities count for nothing. Over four hundred years ago an Italian university had on its enrollment 30,000 students and in its faculty 600 professors. The faculty met, and after a stormy debate for six months—there were 600 in this faculty, and it was a bigger school than this Standard Oil college out in Chicago—and they debated for months the question, and then they solemnly decided, and they unanimously decided, that the world was flat and Columbus was a fool; but that did not make it true. A majority of the inhabitants of this globe are polytheists now. Is that any reason why we should yield to the majority and tear down our churches and build Chinese joss houses? A majority is not a safe thing to stand behind, my friends.

Ninety-four years ago the great Napoleon was advancing upon the Russian capital at the head of an army of half a million men, riding in person at the head of crushing squadrons of cavalry, with nodding plumes; in all the history of the world no such magnificent aggregation of armed men had been assembled as this. Cities had thrown open their gates; kingdoms had capitulated. He was apparently soon to become the master of the known world. His power was apparently never greater; he was apparently never more secure; but at that very moment his crushing defeat and banishment to an obscure island in the Mediterranean was less than four years away. So—for many of you, who cowardly sit here to-day and keep your mouths shut, your Waterloo and your relegation to the

rear and to the private walks of life is considerably less than four years away. [Loud applause on the Democratic side.]

The Democratic party, fortunately, does not have any leaders. [Laughter on the Republican side.] They do not need any leaders. [Renewed laughter.] The brilliant gentleman, my friend from Mississippi, who sometimes for three or four days believes he is leading the small minority of this House, will agree with me in this proposition, and he does as well as anybody could possibly do. The Democratic party never had any leaders, and never will have any leaders, and the Democratic party does not need any leaders. [Laughter.] The man who wants to observe the commandment "Thou shalt not steal" does not need a leader. [Laughter and applause.] Every Democrat is a leader unto himself [laughter], and in its last analysis every Democratic platform and every Democratic campaign means this: "Thou shalt not steal." [Applause on the Democratic side.]

We stand upon certain basic principles. We believe in the doctrine—it is never too often asserted and announced—"Equal rights to all, special privileges to none." We have emblazoned that motto in letters of fire upon the clouds, until it becomes a pillar of cloud by day and a pillar of fire by night; and that is the leadership the Democratic party follows [loud applause], and no man under that kind of a leader will ever go to the penitentiary. [Laughter.] We may differ sometimes on matters of detail and party management, but we follow that leadership, and we are going in the right direction.

You are bought, every one of you, body, soul, boots, and breeches, by the trusts [laughter]; and you dare not assert the principles you really believe in. No man knows how much it costs Rockefeller, the insurance companies, and the rest of those fellows to buy you. Andy Hamilton may tell some of these days, and we will then know how many millions they had to pay for the kind of support you gave these kind of fellows.

Nobody knows except the managers of the insurance companies and their allied organizations and the managers of the Republican campaigns since 1896, and they will not tell—the men who stole the goods, and the men who received the stolen goods. The doors of our penitentiaries are opening now for every one of them. Majorities against it do not injure the Democratic party; the party stands now where it has always stood—at its post of duty. You can not defeat a party that stands for correct basic principles.

Two thousand years ago the ashes and the lava rose from Mount Vesuvius and overwhelmed two fair cities of the plain. On the walls at the gate of one of these cities stood a Roman soldier, his body incased in the iron armor of that period, holding in his hand the chain which held open the gate, and during that long and terrible night of death and despair he stood at his post of duty and held open the gate, and through the open gate thousands of men and women and children escaped to the green fields and the life and the liberty and the happiness which lay beyond.

But the ashes and the lava continued to fall, and blotted from the sight of men the ancient city of Pompeii. A thousand years passed by, and the site of that ancient city was discovered, the ashes and cinders were dug away from her streets, and there, standing on the wall, still holding in his hand the chain that held open the gates a thousand years before—standing at his post of duty—they found the old Roman soldier, his sightless eye sockets uplifted toward the stars. My friends, it does not require a thousand years for us. Already the shifting winds have blown the ashes of three great defeats from our streets, and you find the Democratic party standing where it has always stood, standing at its post of duty, still holding in its hands the chain which holds open the gates through which men, women, and children may yet escape from the dangers of the trusts, from the dangers of the protective tariff and its unrevised schedules, from all these dangers to the green fields and the life, the liberty, and the happiness that lie beyond. [Applause on the Democratic side.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. RAINEY. Mr. Chairman, I ask permission to revise and extend my remarks and to print as an appendix to them an article which recently appeared in the Chicago Public on the subject of watches.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

APPENDIX.

A LESSON IN PROTECTION.

[By ex-Congressman Robert Baker. From The Public (Louis F. Post, editor), Chicago, Ill., February 10, 1906.]

If the American people are not entirely devoid of all sense of humor, then 180 Broadway will soon become as widely known as 26 Broadway. But whereas 26 Broadway, New York, has long been an object of hatred, has embodied the very quintessence of trust wickedness, No. 180, on the same street, should personify the American spirit, the determination of the American citizen to emulate his forefathers and revolt against trust extortion.

The colossal building, 26 Broadway, which houses the numerous subsidiary companies and departments which make up the Standard Oil Company, typifies the ramifications, the strength, and the arrogance of the oil trust. The massive building seems to breathe defiance to the American people. A defiance and a warning. A defiance of all law and all restraint. A warning that whoever dares match his puny strength with that of the trust will be crushed by its remorseless despotism.

Equally does 180 Broadway personify the individual spirit; that spirit that has made America what it is; the spirit of individual determination; the spirit to do and dare; the determination to live and thrive despite the attempt of a trust to annihilate whoever will not submit to its dictation. For much as some are prone to extol bigness, it is not the great aggregations of capital that have put this country to the fore among the nations, but rather individual self-reliance, individual initiative, individual determination to achieve, no matter what the obstacles.

And the greatest evil of the trusts, in my opinion, is not their gigantic robberies, colossal as they are, but the closing up of opportunity to individual effort which inevitably results from the existence of these combinations, with their monopolistic power, to crush competition. And so I say that 180 Broadway personifies the real American spirit.

But you may ask, "In what manner, in what particular, does 180 Broadway typify the American spirit?" If there are any who do not already know it, I would say that 26 Broadway is a gigantic granite building, 14 stories high, 125 feet wide, some 250 feet deep, running through to that haven of stockbrokers, New street, and is used exclusively by the Standard Oil Company. On the other hand, 180 Broadway is a modest 25-foot building. It seems to stand as a protest against the policy of concentration going on all around it, as it is going on all over the United States, under which a constantly smaller number of people are absorbing most of the wealth produced. On the street level there is nothing to distinguish it from a score of other store fronts, as the store window, like most modern stores, is a large pane of plate glass.

But the contrast is striking in another particular. The imposing granite structure which is the home of the greediest and most ruthless of all trusts, the Standard Oil Company, that band of financial pirates dubbed by Lawson as the "system," while impressive in its massiveness, yet lacks the attractive element. One hundred and eighty Broadway, on the other hand, while itself an unimposing building, yet possesses a distinct attractive power. While none but the agents and satellites of the monopoly, and those compelled to do its bidding, ascend the steps at 26 Broadway, hundreds of the city's population eagerly enter the other, while scores of people are ever congregated in front of the store. Why this contrast? it may be asked. The answer is simple. Where 26 Broadway is the home of "addition, division, and silence," and all who enter must swear eternal fealty and secrecy, 180 can only thrive through publicity and open and above-board dealing. The oil trust has fear and necessity for its servants; all who do business with it had better keep mum as to what they learn; but the other building derives its popularity because it is the head center of a contest against monopoly.

Its power to attract lies in the fact that behind that large plate-glass window is spread out the conclusive proof of the falsity of the claim that the "system," miscalled "protection," really benefits the worker, in whose interest it is said to be established.

In that store window is displayed, in case upon case, the indisputable proof that human beings can not be trusted with unrestrained power; that such power will almost certainly be used solely for their own aggrandizement and enrichment, and not for the benefit of those in whose interest it is claimed to be conferred, and for whom those intrusted with the power are supposed to merely act as agents.

That these agents are vociferous in asserting that they ask for the power to tax simply that they may convey the benefit to others does not alter the case. The power to tax being theirs, they use it not to raise wages to employees, but to create fortunes for employers; not to expand production, but to restrict it by extortionate prices.

At 180 Broadway an enterprising American merchant presents the proof that his fellow-citizens are victims of a gigantic flim-flam game, that the people are playing with those who hold loaded dice, the dice being labeled "protection." Because that word implies a spirit of beneficence, those who hold the loaded dice are able to fool the American people into the idea that in some mysterious manner they are its beneficiaries, whereas they are really its victims.

In this store window are displayed hundreds and hundreds of watches (American) which have been exported and sold abroad at such large reductions from the home price that this watch dealer, Charles A. Keene, is able to maintain agents in England, Germany, and other European countries—yes, even in Egypt—to purchase these American watches, express them back to the United States, and, after paying all expenses for commissions, express and insurance charges, is then able to undersell other dealers in the same identical goods, who buy their watches direct from the watch trust, by from 25 to 50 per cent.

Having before their own eyes this convincing evidence of the fraud that is practiced upon them in the contention of the watch trust that a tariff on watches is necessary to prevent them from being driven out of business by foreign watch manufacturers—the very foreigners whom they are underselling in Europe—is it surprising that those who have heard of the fraud should make a pilgrimage to that store to see for themselves, and that there should always be a struggling, pushing crowd eager to examine the proof of this robbery in the name of "protection?"

Nor is it surprising that this enterprising and courageous Yankee (courageous in thus throwing down the gauge of battle to a wealthy trust) should at times find his store inadequate to accommodate those who are so foolish as to desire to obtain an American watch at from 60 to 75 per cent of the price his neighbor has paid for a similar timepiece made in the same factory (i. e., by either the Waltham or Elgin companies, who compose the trust), but which has not made a trip to Europe.

There is no possibility of the purchasers being deceived. Every one of these watches has made the European trip, is numbered and stamped with the name, either Waltham or Elgin. In order, however, that the skeptical, or even the most timid, may be relieved of any possible doubt of the absolute reliability of these watches—as to their being the standard make and that they are not old goods, but that they are of the

latest designs—this man, Charles A. Keene, who has thus circumvented the trust, gives to each purchaser a written guaranty that it is in all respects as represented, agreeing to return the purchase price if any dealer to whom the purchaser may submit the watch will say that it is not a genuine Waltham or Elgin of the latest manufacture and of the grade as represented.

It is perhaps too much to expect that, with so many other phases of the trust question engrossing public thought, the name of the American who defies and harasses the watch trust will become a household word, but if posterity is to accord fame in proportion to the effectiveness of the blows each of us may deliver against trust extortions, then the name of Charles A. Keene will surely be associated with the fight against an arrogant monopoly—the watch trust.

Whether "Keene is," as a newspaper has said, "an effective trust buster," or not, certainly he has shown that he is not merely Keene by name, but keen by nature, for in reimporting their own watches and selling them in competition with their own agents at from a quarter to a half less than they are sold for almost next door, he hits the trust a solar plexus blow. Keene is evidently an American who is alive to his opportunities; one who is not deterred from going straight to the mark by any threats of the trust that "they will put him out of business," and "will not permit him to get any watches to sell." Fortunately, he is endowed with that indomitable grit which is characteristic of his race, and he has not been bluffed, cajoled, or frightened. This case is but another illustration of how little one knows in this big city of what his neighbor is doing.

It seems that Mr. Keene has reimported and sold thousands of these watches during the past year, and yet it was only a few days ago that I learned about it; and I find that a similar ignorance of the matter existed among my friends, although some pass the store almost daily, but then a crowd no longer attracts a permanent New Yorker.

Keene distinctly disclaims being a philanthropist. He says he is merely following that immutable law which governs the actions of men, which leads them to gratify their desires with the least exertion.

Having figured out (and subsequently proved) that there was more money to be made by defying the trust than in acceding to its demands, and having the necessary grit, he proceeded to defy it. For the watch trust follows the practice of other monopolistic combinations—it exacts a written pledge from the dealers that they will not sell to customers at less than certain stipulated prices. The pledge is cast iron and copper riveted, and woe betide the dealer who dares break it by selling his watches at less than list prices.

Fourth of July orators tell us that this is a Republic, that freedom reigns, and that we are sovereign citizens. And yet this proves that thousands of watch dealers all over the country are really nothing more than the hired servants of the watch trust. It is true that their names are emblazoned on store windows and over doors. But in order to reveal the condition of servitude that exists—the real relation existing between the watch trust and retailers of watches—their signs should read, not—

"William Jones, watch dealer and jeweler."

But—

"William Jones, employee of the watch trust."

No wonder that when Keene hoists the trust with its own petard that it squirms, fumes, and threatens him with the most dreadful penalties if he does not desist from buying their own goods (abroad) and retailing them at from 30 to 50 per cent less than they permit American retailers to sell them for.

Presumably the trust's wits have been sharpened by Keene, but they have not yet devised a plan to prevent his continuance of what, for his customers at least, is a philanthropic act.

As an illustration: The most expensive watch made by the Waltham Watch Company is the grade known as "Riverside Maximus." The usual price at retail is $75. American dealers have to enter into an ironclad agreement not to sell for less than $60. Keene buys this watch abroad, pays all expenses, commissions, express, and insurance charges, and yet is able to sell it at retail for $42.30 and still make a legitimate profit.

He tells me this holds true as to practically all other grades of watches, about the same proportionate reduction of price being made all through. He is even able to reimport an American Waltham watch and retail it for $2.98.

Surely this is a lesson in protection for the American people.

Mr. RAINEY. Mr. Chairman, I also ask permission to print in the RECORD a small cut of this picture which I have used in illustrating my speech, and to furnish the cut at my own expense.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. LACEY. Reserving the right to object, I should like to ask whether this is a proposition to insert this cut-rate diamond advertisement in the CONGRESSIONAL RECORD?

The CHAIRMAN. The Chair did not understand the gentleman.

Mr. LACEY. I understand it is a proposition to insert this advertisement of cut-rate diamonds in New York City in the CONGRESSIONAL RECORD.

Mr. RAINEY. No, sir; to insert the picture that I have used in illustrating my remarks.

The CHAIRMAN. To insert the identical picture which is exhibited in front of the desk, only on a smaller scale.

Mr. LACEY. I understand the firm that it advertises will pay for the cut.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. OVERSTREET. Reserving the right to object, I wish to inquire whether this has ever been permitted?

The CHAIRMAN. The Chair is unable to inform the gentleman.

Mr. CLARK of Missouri. I can inform him. It has been done half a dozen times since I have been in Congress.

Mr. OVERSTREET. I shall make no objection, if there ever has been a picture printed in the CONGRESSIONAL RECORD illustrating a Member's remarks; but if this is the first instance of it, I think we ought to prevent the starting of a precedent.

Mr. CLARK of Missouri. It has been done repeatedly.

Mr. WILLIAMS. Maps and everything.

Mr. OVERSTREET. Mr. Chairman, I am simply inquiring whether a cut which clearly shows an advertisement of an individual has ever been printed as a part of a gentleman's remarks? I am not questioning the point which the gentleman has made, but nevertheless this is clearly advertisement, and I inquire whether it has ever been done?

Mr. GAINES of West Virginia. Mr. Chairman, I object.

Mr. WILLIAMS. Mr. Chairman, one question.

Mr. RAINEY. I ask it as a matter of right, then.

Mr. WILLIAMS. Will the gentleman yield for a question? Suppose the name is stricken out, and only the words left, "Cheaper than in America."

Mr. OVERSTREET. I ask for the regular order.

Mr. WILLIAMS. Will the gentleman yield for this question?

Mr. OVERSTREET. Of whom and what about?

Mr. WILLIAMS. Suppose the name of the dealer is stricken out and only the words left "Cheaper than in America;" would you still object?

The CHAIRMAN. The gentleman from Indiana did not object. The objection came from another source.

Mr. OVERSTREET. I ask for the floor, Mr. Chairman.

Mr. RAINEY. Mr. Chairman——

The CHAIRMAN. The gentleman from Indiana has the floor.

Mr. RAINEY. I rise to a question of privilege. I insist I have the right to put this picture in the RECORD under the rules of this House at my own expense.

The CHAIRMAN. That is something that will come up later. The Chair does not have to pass upon it now.

Mr. RAINEY. I submit it now. It is time for this speech to go to the printer.

Mr. OVERSTREET. I object.

Mr. RAINEY. I move that I be permitted to print this picture in the RECORD with my speech at my own expense.

The CHAIRMAN. The gentleman is not recognized for that; and, in the second place, the Committee of the Whole has not control of that matter, but the House.

Mr. RAINEY. Then I will submit my motion to the House.

The CHAIRMAN. The gentleman from Illinois has not the floor. The gentleman from Indiana has the floor.

Mr. OVERSTREET. If the gentleman from Tennessee [Mr. MOON] does not desire to occupy some time, I will yield ten minutes to the gentleman from New York [Mr. CALDER].

Mr. CALDER. Mr. Chairman, the pending measure is of more interest to the people of this country than any other appropriation bill that will come before this House. I regret exceedingly that, in its consideration of this bill, the Committee on Post-Offices and Post-Roads did not see fit to include a provision increasing the salaries of letter carriers to $1,200 per annum. I am advised that at the proper time an amendment to the pending measure will be introduced, fixing the salaries of carriers in all cities where the population exceeds 250,000 people to the amount above indicated. I bespeak for this amendment, when introduced, your very careful consideration.

It will affect the carriers in the post-offices at New York, Chicago, Brooklyn, Philadelphia, St. Louis, Boston, Baltimore, Cleveland, Buffalo, San Francisco, Cincinnati, Pittsburg, New Orleans, Detroit, Milwaukee, and Washington.

I ask the indulgence of the House for a few moments so that I may lay before you the reasons why, in my judgment, this amendment when offered should be adopted.

I propose to discuss the proposition from the standpoint of New York and Brooklyn. There during the past ten years rents and living expenses have increased 30 per cent. The employees in the State and municipality have had their salaries increased accordingly. We pay our police officers and firemen $1,400 per annum. Ten years ago they received $1,000. Our inspectors of health, tenements, water, and buildings are all paid from $1,200 to $1,500 per annum. The cleaners and laborers in our public buildings are paid $900 per annum, while the letter carrier, appointed after a most rigid examination and barred by the rules of the Post-Office Department from further promotion, and possessing the highest state of intelligence, receives the maximum salary of $1,000 per annum, or $19 per week. Out of this sum he is compelled to purchase two complete uniforms each year, and is not paid when he is ill. Mr. Chairman, ten years ago in New York City the carpenter was paid $3 per day; now he receives $4.50. The bricklayer, plasterer, and plumber were paid $4 per day; now they receive $5.50 per day; and so I might enumerate all of the trades. The hod carriers to-day receive $3.25 a day, as against $2.50 a day ten years ago. The motormen and conductors on the street railways receive $2.40 per

day, which is an increase of 20 per cent. The people employed in our factories and stores are receiving an average of 15 per cent more in salaries than they received ten years ago, while the letter carrier, as regular as the clock, trudges along, in all sorts of weather, not only working six days a week, but compelled to spend three or four hours at the post-office on Sunday preparing his work for the next day, and in the busy seasons, when the mail is heavy, not only works from twelve to sixteen hours a day without complaint, but at Easter, election time, Christmas, and New Year is often compelled to hire a horse and wagon to carry his bulky mail, for which expenditure the Government makes no allowance.

Mr. SULZER. Will the gentleman permit me to ask him a question?

The CHAIRMAN. Does the gentleman from New York yield to his colleague?

Mr. CALDER. I will.

Mr. SULZER. Does not the gentleman from New York know that I have introduced a bill at the request of the letter carriers of the United States in the last five Congresses to graduate their pay so that they will get enough to live on decently and be able to procure the necessaries of life for themselves and their families; and does not the gentleman know that the Republican Committee on Post-Offices and Post-Roads of this House has refused for five successive Congresses to report this letter-carriers' bill?

Mr. CALDER. I know that the gentleman from New York has introduced a bill in this Congress. I do not know what he has done before, and I do not know the reasons why the Committee on Post-Offices and Post-Roads has refused to report the measure.

Mr. HEPBURN. Will the gentleman yield to me for a question?

Mr. CALDER. Yes.

Mr. HEPBURN. I understood the gentleman to say that the letter carriers labor from twelve to fourteen hours a day?

Mr. CALDER. During certain busy seasons.

Mr. HEPBURN. I want to know if there is not a post-office regulation that compels them to suspend their labor after eight hours, even though they may be in the midst of a delivery?

Mr. SULZER. That is not a post-office regulation; it is the law.

Mr. HEPBURN. And they are not under any circumstances allowed to labor more than eight hours?

Mr. CALDER. The statement of the gentleman from Iowa is undoubtedly true, but I know of some instances where letter carriers in Brooklyn work more than eight hours a day through the busy seasons of the year.

I contend, Mr. Chairman, that there is no class of men in the Government employ more deserving. They are compelled because of the exacting character of the work to live near the post-offices in the heart of our great cities, and because of high rents are obliged in some instances to live in crowded tenements, while struggling to bring up their families and educate their children in a respectable manner.

Mr. Chairman, this country is enjoying a great era of prosperity; the workingmen, the farmer, the manufacturer, the merchant, and the professional man are all doing well; property throughout this great land has increased in value and the country is growing richer each day. I ask that these men receive their just due, and that when this amendment is offered it may have the approval of the House. [Applause.]

Mr. OVERSTREET. Mr. Chairman, I now yield 40 minutes to the gentleman from Kansas [Mr. MURDOCK].

Mr. MURDOCK. Mr. Chairman, we who believe that the use of tax-free alcohol, made undrinkable by denaturization, will work a vast change in the source of fuel, light, and power are charged with being fanciful in our hopes. But, Mr. Chairman, I submit we are no more fanciful in our hopes than the Congress is fanciful in its tenacious fealty to precedent.

Take our magnificent postal system, which has just been under discussion. Complete as the system is, it has some regulations which are as strange as they are old. A hundred years or so ago Postmaster-General Meigs, the good old soul, ruled books out of the mail because the sharp corners rubbed the addresses off of envelopes. It is a tribute to our spirit of progress that this provision does not survive. Along about the same time, however, the 80-rod provision got into the system. This regulation provided that where a new post-office was created within 80 rods of the established route the stagecoach should not charge anything extra for making the detour and delivering the mail thereto. Long ago the stagecoach passed. The railroad has come, but we still cling fondly, affectionately, to that 80-rod provision, and while the locomotive can not make the detour we make the railroads deliver the mail when the post-office is within 80 rods of the station, while we deliver it ourselves if the post-office is 85 rods away. Apparently the provision is as firmly fixed with us as the "M" in our coat lapels, originally put there as a sign of recognition by a French Revolution society; as firmly fixed as the two buttons on the back of our coats, put there four or five hundred years ago to hold up sword belts.

Akin to this has been the national attitude toward undrinkable alcohol. The internal-revenue tax on drinkable alcohol is levied by all civilized governments, but we are the one great nation left which continues to tax that alcohol which is not drinkable. Some of us believe that if the tax is taken off the undrinkable alcohol it will work eventually a revolution in the field of fuel, power, and illuminants. We believe this will be accomplished partially through known methods, but that the greater development will come through as yet undiscovered methods.

For there is no industrial avenue closed to the open sesame of American genius. By known methods the same volume of alcohol burns nearly twice as long as kerosene and gives a far better light; it is a cleaner and better fuel than gasoline. By the methods that are to come, I believe it will advance far beyond its present superiority.

INDUSTRIAL ALCOHOL IN LEASH.

Why? Because this country, the chief producer of corn, the best source of alcohol, has for nearly fifty years held burnable alcohol in leash. In those fifty years all other chemical products and fuels and illuminants have been free. Burnable alcohol, for industrial use, has been held back. Release it, and it will open the door to a chamber of marvels; not in a day, to be sure, but certainly as its use gradually develops.

We who are fanciful can not forget the story of the past. About the time that good old General Meigs was ruling books out of the mail, there passed through the city of Washington, in a stage coach, a man and a woman who were to revolutionize, between them, one of the products of the world. One was the widow of General Greene of the Revolution; the other an ingenious young Yankee from Massachusetts, Eli Whitney by name. Whitney had secured a place as private tutor in a family in Savannah.

Mr. HIGGINS. Give Connecticut credit. Whitney was from Connecticut.

Mr. MURDOCK. That is right. He did belong to Connecticut. Mrs. Greene was returning to her home in that city. When they reached Savannah, the two had become acquainted. Eli found that another man had his job. He was in a strange city without money. Mrs. Greene asked him to be her guest until he found work. While he was waiting, Eli one day saw Mrs. Greene working some embroidery on a tambour frame. This tambour frame was so constructed that it impaired and impeded the work. "I can fix that," said Eli, and he at once tinkered into shape a new tambour frame which obviated all difficulties. Out of that little tambour frame, Mr. Chairman, sprang all the prosperity of the South. For a few nights later Mrs. Greene gave a party. One of the gentlemen of the old South, when the conversation turned to cotton, said in lamentation, "The South produces but 5,000 bales of cotton a year. If there was some way in which we could get the cotton away from the seed cheaply, we would produce hundreds of thousands of bales, and we would all be prosperous."

Perhaps the company thought the gentleman fanciful. But not so the good Mrs. Green, for she said: "If you want a machine that will take the cotton from the seed, I've the Yankee boy upstairs who can make it for you. Why, see here, he made me this tambour frame." And she brought Eli down. He had never seen any raw cotton. Some one went to a warehouse and brought him a handful. And the next morning in the basement of the Green mansion he went to work and soon built the first cotton engine, which the darkies abbreviated to gin, the gin which makes the South's 13,000,000 bales possible to-day.

THE STORY OF GOODYEAR.

Nor can we who are fanciful forget Goodyear, who came out of a debtor's prison in Philadelphia to give the world vulcanized rubber. I think it was in Andrew Jackson's Administration that this country went crazy over rubber. Rubber companies capitalized to the amount of $5,000,000 were formed. Rubber boots, coats, and shawls were made. But the first ensuing summer was a hot one, and those boots and shawls melted. It was a common sight in those days, it is said, to see a man in the backyard burying his boots to get rid of the smell. Bankruptcy overwhelmed the rubber business. Meanwhile Goodyear, on Long Island, was working to discover a treatment which would make the rubber heat resisting. He found it, but no one would listen to him. They had enough of rubber. Goodyear made an

individual campaign in favor of his discovery. He dressed in rubber and paraded the streets of New York. Once a man from Boston visited New York to see Goodyear, and asked the hotel clerk how he could find him. "Go out on the street," the clerk replied, "and when you meet a man wearing rubber breeches, a rubber coat, a rubber hat, and a rubber shirt, and carrying a rubber purse without a blessed penny in it, that's Goodyear."

But Goodyear finally won, and our immense rubber production is the result.

We who are fanciful believe that denatured alcohol, with known inventions, will gradually take its place in the market with other illuminants and fuels, and with inventions that are to come, that it may ultimately dominate many portions of the market.

FOUR KINDS OF ALCOHOL.

There are four kinds of alcohol to which I desire to call your attention.

The first is ethyl alcohol, made principally from grain. This is the drinkable alcohol. From 1896 to 1905 the cost of making it from corn varied from 9 cents for 190 proof to 19 cents, this variation being because of the price of corn. There are two common measures of ethyl alcohol—one the proof gallon, which is 50 per cent alcohol, 50 per cent water; the other the 190 proof gallon, which is practically pure alcohol. The latter is that used for light and fuel. This Government places a tax of $1.10 on each proof gallon and $2.09 on each 190 proof gallon. No one proposes to take this tax off drinkable alcohol, or to disturb it.

The second is methyl alcohol, or wood alcohol. It is made from the smoke and fumes of charcoal, and is a by-product of that article together with acetate of lime. It costs to make it about 39 cents a gallon. It sells from 60 cents to $1.50, according to the degree to which it has been refined. It is now brought to a very high state, and has largely supplanted grain alcohol in manufacture. It is a poison. It is not taxed.

The third is denatured alcohol. This is a mixture of grain alcohol and wood alcohol, used extensively in many lines in other countries, but not in the United States. The usual mixture is 10 to 15 parts of wood alcohol, the denaturant, to 100 parts of grain alcohol. It is poison.

The fourth is mineralized denatured alcohol. This is a mixture of grain alcohol, wood alcohol, pyridine (a coal-tar product), and green malachite, and is used in France and other countries as fuel and illuminant. The mixture in France is 2 parts of wood alcohol, one-half part of pyridine, to 100 parts of ethyl alcohol, with a small part of malachite added. The wood alcohol poisons the ethyl alcohol, the pyridine makes it noxious so that it would vomit anyone who should drink it, and the malachite colors it green to prevent anyone taking it by mistake.

In Germany, Sweden, France, Italy, England, and Russia, and Belgium, in Chili, Brazil, Venezuela, Mexico, in fact in nearly every nation except the United States, there is no tax on denatured alcohol.

The proposition before the Congress is to take the tax off alcohol which has been denatured and thus rendered unfit for drinking or for use in liquid medicines. Extensive hearings on the subject have been given by the Ways and Means Committee, and that committee has prepared a bill and introduced it. I hope it will pass this body and the Senate this session.

PRICE OF CORN AND ALCOHOL.

The first of the alcohols I have enumerated, ethyl alcohol, is made from anything containing quantities of starch and sugar. Corn heads the list, yielding 75 per cent of alcohol. Potatoes yield 15 per cent, and are chiefly used in Germany. Our Secretary of Agriculture, Mr. Wilson, believes that a large potato will be produced here for alcohol purposes if we take the tax off denatured alcohol. As sweet potatoes, sugar canes, cassava, and sugar beets all yield alcohol, every part of the country can produce its own fuel and light. Of this ethyl alcohol the United States produced 128,623,402 proof gallons in 1902; Germany the same year produced 223,899,120 proof gallons. Of this amount Germany used 73,635,249 gallons in the arts, free of tax.

Whether or not small cooperative distilleries in farm neighborhoods would develop in this country for the production of fuel and illuminant, I am not competent to say. Such an evolution is possible and would bring with it the utilization of much of the unmarketable farm product, save transportation of the stock-feed residue from the still, and eliminate the freight charge on the raw corn to the distant distillery and the freight charge on the fuel and illuminant from the distillery to the farm. Germany has a vast number of these small distilleries. So has Belgium, but in the latter country, where distilleries putting out as little as 250 gallons per day are permitted, the small concerns have a hard struggle to live against the large distilleries and their economies. As a rule the American farmer does not divide his interest and does not manufacture, and if I should hazard a guess, I would say that the farmer will buy his fuel alcohol from an independent distiller. Of course all such distilleries will be under strict governmental supervision.

Using corn as the raw material, the average yield of alcohol from a bushel of corn is nearly 5 proof gallons, equaling 2½ gallons of absolute or pure alcohol, or 2.66 gallons testing 94 per cent. The by-products, used for feeding cattle, pay the cost of distillation. Alcohol, then, can be produced as follows: Corn, at 30 cents per bushel, would produce 94 per cent alcohol, at 11 cents; corn, at 35 cents per bushel, would produce 94 per cent alcohol, at 13 cents; corn, at 40 cents per bushel, would produce 94 per cent alcohol, at 15 cents. This would bring the estimated cost of fuel alcohol, denatured for fuel and light, to the consumer as follows:

	Cents.
Cost of grain alcohol, at, say, 14 cents per gallon	14
Cost of denaturant, at 60 cents per gallon	1½
Package and selling profit per gallon	4
Total	19½

This is a very conservative figure. No doubt it will be made at a price below that. But considering the fact that because only 2 per cent of petroleum is gasoline and by reason of the great increase in gasoline engines used this gasoline is constantly increasing in price, 20 cent alcohol, which gives twice the length of burning and is a better light than kerosene and is a cleaner and less dangerous fuel than gasoline, will occupy the field as a regulating competitor of the products of petroleum, now in rural districts a monopoly.

THE HISTORY OF KEROSENE.

This brings me to the consumption of petroleum fuel and light in this country to-day. The kerosene lamp is only fifty years old. Mr. Kier, of Pittsburg, brought the first glass chimney to America and produced the first kerosene lamp. Kier was another Whitney, another Goodyear. He made the present immense production of petroleum possible by his lamp. My father told me the other day that when he was a boy petroleum was used solely as a healing ointment and was called Seneca oil. To-day, according to the census of 1900, we use in the United States in the neighborhood of 534,000,000 gallons of kerosene annually as an illuminant. We are using about 280,000,000 gallons of gasoline of domestic production, or altogether about 800,000,000 gallons of kerosene and gasoline. My State, Kansas, uses annually 9,000,000 gallons of kerosene and 6,000,000 gallons of gasoline. This tremendous market is held by a monopoly. What will be the effect if tax-free denatured alcohol is let into this field?

USE OF ALCOHOL IN MANUFACTURES.

Those who charge us with being fanciful, to begin with, do not deny that great good will come to the manufacturers by taking the tax off denatured alcohol. They will pay a low price for an alcohol which does not injure the workmen, as wood alcohol does, where they are now paying from 70 cents to $1.50 for wood alcohol. The manufacturers who will use this product are those making aniline colors and dyes, hats (stiff, silk, and straw), electrical apparatus, transparent soap, furniture, picture moldings, burial caskets, cabinetwork, passenger cars, pianos, organs, whips, toys, rattan goods, lead pencils, brushes, wagons, boots and shoes, smokeless powder, fulminate of mercury, brass beds, gas and electric light fixtures, various kinds of metal hardware, incandescent mantles, photographic materials, celluloid and other like compounds, sulphuric ether, organic chemicals. Artificial silk, not now made in this country, will be made and will consume hundreds of thousands of bales of cotton. It is no part of the plan of this legislation to remove the tax from spirits used in patent medicines or chemicals. The fact that it will benefit the manufacturers conceded, will it benefit the farmer; and if so, how? I would answer, in three ways:

First. By increasing the market demand for corn. As we produce some 2,000,000,000 bushels of corn annually, the increased demand of some 100,000,000 bushels of corn for alcohol would not seem to have a material bearing on the price; but, nevertheless, this increased demand would come out of the surplus production, which has a disproportionate weight in reducing the price, and in years of short production this increased demand would have a greater effect on raising the price.

Second. By regulating the present erratic price of kerosene and gasoline. This would no doubt be denatured alcohol's most important function. Gasoline sells in some of the eastern cities at 9 cents a gallon; in some of the Western States at 30 cents

a gallon. Kerosene has a similar range. The price is fixed arbitrarily by the Standard Oil trust. Actual tests have demonstrated that alcohol at 30 cents a gallon is cheaper than kerosene at 15 cents a gallon. Twenty-cent alcohol would drive 10-cent kerosene down in price or out of the market. For internal-combustion engines 20-cent alcohol would bring 30-cent gasoline to 20 cents, and would perhaps in time supplant it, because gasoline, apparently from natural causes, is increasing in price.

Third. By the general use of denatured alcohol for fuel, light, and power in rural districts. This brings me to a description of the alcohol light, the alcohol engine, and the alcohol refrigerator.

Mr. SIMS. May I ask the gentleman a question?

Mr. MURDOCK. Certainly.

Mr. SIMS. In using alcohol you avoid the unpleasant odors and fumes that you get from the use of gasoline, do you not?

Mr. MURDOCK. Absolutely; it is not foul smelling.

Mr. SIBLEY. Will the gentleman pardon me an interruption?

Mr. MURDOCK. Certainly.

Mr. SIBLEY. I did not hear the gentleman state what price alcohol could be furnished to the consumer.

Mr. MURDOCK. I have stated, but I will state it again, that at one of the Peoria distilleries from 1896 to 1905 the cost of alcohol 190 proof, or 90 above proof, averaged from 9 cents to 19 cents a gallon.

Mr. NORRIS. Will the gentleman state what was the price of corn at that time?

Mr. MURDOCK. Corn varied from 30 cents up to 65 cents a bushel.

Mr. NORRIS. I would like to suggest to the gentleman that in the western part of the State, or farther west, where he and some of the rest of us live, the price of alcohol made out of corn, that is much cheaper than the price which he refers to, would reduce the cost of alcohol perceptibly.

Mr. MURDOCK. That is perfectly true, but because I have been accused of being fanciful I have tried to be conservative by taking the higher figures.

Mr. STANLEY. Will the gentleman allow me a question?

Mr. MURDOCK. Certainly.

Mr. STANLEY. Can not you produce alcohol about as good as the grain alcohol from other substances, like cornstalks, beets, refuse matter, and things of that kind, at an infinitely small price, and from useless substances that are now of no practical service to anybody?

Mr. MURDOCK. That is true, and I have left that out of consideration and dealt wholly with the corn. The residue of the sugar beets, molasses from sugar cane, cassava, yams, and Irish potatoes will all produce alcohol. Germany's alcohol, with a production of 223,000,000 gallons against our 128,000,000 gallons, is produced from potatoes.

Mr. FULKERSON. Will the gentleman allow me a question?

Mr. MURDOCK. Certainly.

Mr. FULKERSON. How does the power produced by gasoline compare with that produced by alcohol?

Mr. MURDOCK. I have stated that the power produced by gasoline and alcohol is about the same, with a slight advantage in favor of alcohol.

Mr. SULZER. Mr. Chairman, I want to say to the gentleman that I am in favor of taking off the tax on alcohol in the use of the arts. One of the most beneficial things the Ways and Means Committee has done for a long time is to report this bill favorably. I want to suggest to the gentleman from Kansas that I concur in substance with the eloquent remarks the gentleman has made, and I suggest to the gentleman that he apply, in order to bring about the consummation so devoutly to be desired, to the source of all power in the House of Representatives—the Committee on Rules—and have that committee bring in a special rule to consider this bill; and I undertake to say that if the Committee on Rules will bring in such a rule for the consideration of this measure, we will be able to pass it.

Mr. MURDOCK. While, as a rule, I am against rules, for this very commendable purpose I think I should stand for the rule. [Laughter.]

Mr. SIMS. Will the gentleman please state the price of gasoline?

Mr. MURDOCK. The price of gasoline varies over the country. It is said that it sells here for automobile purposes for 9 cents a gallon. It sells in the West for 28 cents a gallon. There are territories in the United States in which it sells at 30 cents a gallon.

Mr. MARSHALL. Mr. Chairman, I would state that I would like to correct the gentleman about the gasoline selling here for 9 cents a gallon. I am buying it every day in a small way. I pay 15 cents a gallon for it, and at some places they charge as high as 20 cents a gallon. At home I pay 22 cents a gallon for it in barrel lots. I have a letter here from Texas that tells me it is selling there for 30 cents a gallon.

Mr. MURDOCK. I will say to the gentleman from Tennessee [Mr. SIMS] that the first function of denatured tax-free alcohol, in my opinion, would be to compete and as a competing regulator with gasoline and kerosene.

Mr. SULZER. Will the gentleman permit a question right there?

Mr. MURDOCK. Yes.

Mr. SULZER. I understand the gentleman to say that if we take the tax off alcohol it will be a competitor with kerosene. Is that so?

Mr. MURDOCK. That is true.

Mr. SULZER. Then of course we are to assume that the trust of all trusts—the Standard Oil trust—is opposed to taking this tax off alcohol.

Mr. MURDOCK. I should think they would be, but I was not discussing that feature of the case.

THE ALCOHOL LAMP.

Both Professor Wiley, of the Department of Agriculture, and Rufus F. Herrick, representing the American Chemical Society, exhibited alcohol lamps before the Committee on Ways and Means. The lamp Mr. Herrick showed was of French make, price about $2. The burner, which is the vital part of the lamp, costs about $1, and is interchangeable with any ordinary kerosene burner. It is a vapor light. The alcohol is drawn up by capillary attraction to a point where it comes to a tube which has a hair-like orifice, which, being warmed, converts the alcohol into vapor, and which then rises through a perforated plate and by the white heat of the mantle is turned into gas. The resulting light is very brilliant, but can be regulated. It is clean and safe. Speaking of the lamp in comparison with kerosene lamps, Mr. Herrick said:

> I want to refer, in connection with this lamp, to the report made by the Electrical Testing Laboratories in New York City, and to state that 1 gallon of alcohol burned fifty-eight hours and fifty-two minutes, the candlepower of the lamp being twenty-five and the candlepower hours being one thousand four hundred and seventy-one. In a lamp burning kerosene 1 gallon lasted eighty-seven hours, the candlepower of the lamp being nine and the candlepower hours being seven hundred and eighty-three.
>
> The report is signed by the Electrical Testing Laboratories, by Preston D. Miller. I submit that this report shows that if we had two lamps of equal capacity, one burning alcohol and the other kerosene, the alcohol lamp would burn nearly twice as long as the kerosene lamp. I have read a report of experiments conducted for an extended period by Professor Rosseau, of the University of Brussels, Belgium, in which careful photometric tests were made of both alcohol and kerosene burning lights. This report showed that for lighting purposes alcohol costing 31 cents per gallon is slightly cheaper that kerosene costing 15 cents a gallon.

These lights are used in Germany and France. The Emperor's palace in Berlin is lighted with alcohol. No one claims that the alcohol lamp will entirely supplant the kerosense lamp, but it will become its rival in time.

THE ALCOHOL ENGINE.

Prefatory to a statement on the use of alcohol for power, something is to be said about the conquering march of the internal-combustion engine through the land. Light in weight, small in size, easy to start, requiring a minimum of attendance while in operation, it is everywhere bringing new economies, is everywhere making the sweat of industry's brow a poetical figure of speech. Its irregular snort, its asthmatic cough is abroad in the land, and as the walls of Jericho crumbled at Joshua's horn, so, at its sound, the back-breaking, arm-wearying, brain-benumbing hardships of small shop and farm are vanishing. It turns the weekly newspaper press, the town feed mill, the sausage grinder of the local butcher, the lathe of the village blacksmith, the belts of the local elevator, and in some sections it bales the farmer's hay, shells his corn, shreds the fodder, pumps the water, separates the cream, saws the wood, and last, but not least, it is marching on to the emancipation of a boyhood whose leisure has been absorbed for two centuries by taking the boy's unhappy place at the grindstone and the churn. It has marched on over obstacles, despite the fact that gasoline is dangerous; that water will not put it out; that fire insurance companies frown upon its use, despite the fact that the price of gasoline is in many places high; that it is generally increasing, and that the quality of gasoline varies, and despite the fact that gasoline is unclean and foul-smelling.

Give denatured alcohol a chance, and the conquest of the internal-combustion engine will duplicate in America General Miles' exploit in Porto Rico.

In an internal-combustion alcohol engine the alcohol vapor and air are compressed in the cylinder by the piston on the return stroke, an electric spark explodes the vapor, and transmits the

power by the shaft to the engine. According to the testimony of J. C. Warnes, representing the International Harvester Company, of Chicago, most of the engines in present use can, with slight expense, be converted into alcohol engines.

Compared with gasoline, the use of denatured alcohol shows many advantages. Mr. Warnes, mentioned above, said in his testimony:

Alcohol is a suitable fuel for explosive engines; in fact it is the ideal fuel, because of its unlimited and universal source, and because of its uniform quality. Its physical properties peculiarly adapt it to economical conversion into power in the combustion chamber of an explosive engine.

Alcohol will mix with water. It has a greater capacity to absorb heat and a lower flash point than gasoline, thus preserving a more uniform temperature, and in consequence less loss by radiation, and also permitting a higher compression. Roughly speaking, alcohol possesses only half as many heat units per volume as gasoline, but, on the other hand, its thermal efficiency is twice as great, so that equal volumes will produce equal results in power. It is not so much a question of the heat units in the substance as how many of the heat units can be converted into useful work.

Prof. Elihu Thomson, of the General Electric Company, speaking of denatured alcohol as a motor fuel, said:

It may be mentioned here that our experiments developed the fact that alcohol is suitable as a motor fuel even when it contains as high a percentage as 15 per cent of water. Notwithstanding the heating value of alcohol, or the number of heat units contained is much less than that in gasoline, it is found by actual experiment that a gallon of alcohol will develop substantially the same power in an internal combustion engine as a gallon of gasoline.

This is owing to the superior efficiency of operation when alcohol is used. Less of the heat is thrown away in waste gases and in the water jacket. The mixture of alcohol vapor with air stands a much higher compression than does gasoline and air without premature explosion, and this is one of the main factors in giving a greater efficiency. It follows from this that, with alcohol at the same price as gasoline, the amount of power developed and the cost of the power will be relatively the same so far as fuel itself is concerned, but on account of the higher efficiency of the alcohol less cooling water is required, or a less percentage of the heat of combustion is communicated to the cylinder walls of the engine. The exhaust gases from the alcohol engine carry off less heat. They are cooler gases.

Leonard B. Goebbels, representing the Otto Gas Engine Works, of Philadelphia, said, before the Ways and Means Committee:

The thermal efficiency—that is, the degree of utilizing all of the heating value—of alcohol is much greater than that of gasoline, the figures being about 21 per cent for gasoline as against 30 per cent or more for alcohol. The consumption of alcohol per horsepower I found to be practically the same in volume as it was when using gasoline—that is, about one-eighth of 1 United States gallon per hour.

The Paris Journal Revue Technique recently published a series of reports from chemists showing the comparative efficiencies to be as follows:

	Per cent.
Gasoline	20
Alcohol	33
Alcohol with 10 per cent water	38

It is noteworthy that alcohol diluted 10 per cent with water is increased thereby in efficiency over 10 per cent.

In the matter of danger from fire, alcohol has every superiority over gasoline. Water spreads gasoline. It puts alcohol fire out. Professor Thomson, whom I have just quoted, said:

Gasoline is more volatile than alcohol, having a much lower boiling point, and is therefore proportionately more dangerous, especially in warm weather. The flame of burning gasoline is a highly luminous flame, one which radiates heat rapidly, whereas the alcohol flame is a faint blue or an almost nonluminous flame, which does not radiate heat to any great extent. The consequence of this is that a mass of burning gasoline will radiate sufficient heat to set fire to things at a distance from it, while heat from burning alcohol goes upward, mostly in the hot gases which rise from the flame.

Of the vast number of alcohol engines which would be made there is ample evidence. Although the alcohol engine was not perfected in Germany until 1900, and although with the small-sized farms there the demand is slight, there are 6,000 alcohol engines now in use. One central station in Berlin in 1903 had contracts for supplying 1,011 alcohol engines, of which 544 were intended for agricultural purposes. James S. Capen, representing the Detroit Board of Commerce, says there are now under contract in and about Detroit engines which will require 200,000 gallons of gasoline or alcohol per day, or 60,000,000 gallons a year—practically as much as Germany consumes of industrial alcohol altogether. And Mr. Capen added that the question of the manufacturers of the country to-day is not so much one of cost as it is a question of absolute supply of burning material. Mr. Warnes, whom I have quoted, said:

There is little doubt but the amount of denatured alcohol used for power and lighting purposes alone would far exceed the aggregate amount used for all other purposes.

He estimated that 100,000 stationary engines a year would be put out. He offered the large number of gasoline engines in use at present as an explanation of the cause of the rapidly advancing price of gasoline.

In concluding in the matter of alcohol as a power, I will submit for your consideration the following from a consular report:

ALCOHOL MOTORS AND PUMPS IN CUBA.

[From United States Minister Squiers, Habana, Cuba.]

Matanzas, a city of about 40,000 inhabitants, has water connection in 1,700 out of 4,000 houses, which use about 100,000 gallons a day. The waterworks, operated by an American company incorporated in the State of Delaware, are located a few miles distant from the city, where there are springs giving excellent water in sufficient quantity to supply a city of 100,000 people.

The alcohol motor pump, used on Sunday last for the first time, is of German manufacture, and cost, complete with installation, $6,000. This motor pump is a 45-horsepower machine and is operated at a fuel cost of about 40 cents an hour, or $4 a day of ten hours, pumping 1,000,000 gallons of water.

As alcohol here is very cheap (10 cents a gallon) the running expenses of these motors are at the minimum. The Germans are selling in Cuba many such motors for electric-lighting and water plants at very low prices. One firm has a contract to put in an alcohol motor pump at Vento, for use in connection with the Habana water supply, which is expected to develop 180 horsepower, to cost, with installation, about $25,000, and to pump 1,000,000 gallons an hour at a fuel cost of $1.60. The same firm has installed an electric-plant alcohol motor of 45 horsepower, which supplies 138 lights (Hersh lamps) at a fuel cost of 5 cents an hour.

I call the attention of those who are interested in our Cuban trade to the fact that at the breakfast which followed the installation there was not one article on the table of American origin except the flour in the bread.

H. G. SQUIERS, *Minister.*

HABANA, CUBA, *August 20, 1904.*

COOKING, HEATING, AND REFRIGERATION.

Denatured alcohol can be used for cooking. It can also operate a portable heating stove. There are about 800,000 gasoline stoves and heaters in this country. The alcohol heaters in Germany range in price from $8.40 to $11.50. One of the convenient novelties largely used in Germany is an alcohol flatiron with a small reservoir, which, being filled with alcohol and lighted, heats the iron for the hour's work at less than 2 cents.

One of the things the farmers need is means of refrigeration. Denatured alcohol may bring that. Professor Wiley, speaking of ethyl—that is, grain alcohol—said: "When you introduce into ethyl a molecule of chlorine you make ethyl chloride, which is not a beverage and which is impossible to drink, but which is a great refrigerant and could be used by the farmer for domestic refrigeration at much less expense than anhydrous ammonia, which is the common refrigerating agent." There is a machine in existence for the utilization of this ethyl chloride, waiting for the emancipation of denatured alcohol.

THE THREE OBJECTIONS.

It has been said that the progress with denatured alcohol in England has not been such as to encourage us. But England made the mistake of placing the amount of denaturant to be used too high and of burdening the industry with an excessive supervision. It is now in process of correcting its mistake. Besides England is not agricultural as we understand agriculture. Conditions in neither England nor Germany constitute in any manner an index of what can be done in America. There are in Germany 1,000,000 farms of less than 3 acres each. Our farms are estates. Our corn production is two and a quarter billion bushels annually, and 75 per cent of corn is alcohol. Most of our soil is new, and with the proper variety of potatoes, our production in tubers would far surpass that of any country in Europe.

We are a people who adapt ourselves to innovations readily. The tax on denatured alcohol in the industries has held American ingenuity, so marvelous in all other lines, in check in this. Cut the bond, and no man can estimate the uses, in number and kind, to which America would put denatured alcohol. For instance, in the western part of my State are the high plains, of unsurpassed fertility of soil and with an abundance of water beneath. Cheap fuel will raise this water for the irrigation of the uplands. It was need of cheap fuel in this regard which first attracted my attention to denatured alcohol.

Against tax-free denatured alcohol three specific arguments have been made. I will treat of them briefly, because you have heard them answered at length in the able and exhaustive speech by Mr. MARSHALL, of North Dakota.

The first of the objections is embodied in the fear that it would be possible to recover by fraud the drinkable alcohol from the denatured alcohol. While this might be done, it has been amply demonstrated by Professor Wiley and others that it will not be done. To separate the alcohol and the denaturant many redistillations, requiring the use of costly apparatus, would be necessary. Expert witnesses agree that it would be cheaper to make the alcohol from grain and pay the high tax on it than to redistill it out of the denatured alcohol. This has been so completely proved that the temperance advocates are generally favoring the measure, and several appeared before the Committee on Ways and Means in its behalf. The reported bill provides a severe penalty for attempts at recovery.

The second objection is the possible impairment of the nation's revenues. About 8,000,000 gallons of taxable grain alcohol were

used in the industries in 1890, this being an estimate, no record being kept. At that time about 1,000,000 gallons of wood alcohol, untaxed, were produced. Now, about 8,000,000 gallons of wood alcohol, untaxed, are produced for domestic use, and because this wood alcohol is cheaper than the taxed grain alcohol, the wood alcohol has largely crowded the grain alcohol out of manufactures. As the Commissioner of Internal Revenue keeps no separate record of the grain alcohol used in the industries, no exact figures are available, but a careful estimate by Mr. Klein, of the Philadelphia Trades League, indicates that we would lose less than $500,000 in revenue annually by taking the tax off denatured alcohol. Secretary Shaw, of the Treasury, says that for so great an enterprise we can stand the cut.

The third objection deals with the harmful effect of this legislation on the wood-alcohol business. Wood alcohol pays no tax. It is protected by a customs tariff. Its selling price is arbitrarily fixed through a combination. The contracts made for the purchase of the crude product are expressly voidable in event of such legislation as this, which has been expected for years. Will denatured alcohol drive wood alcohol out of the manufactures? To a large extent, yes; because denatured alcohol is better, less harmful to the workmen, and without the tax will be cheaper. Will the wood-alcohol industry be ruined? I think not. It is made as a by-product of other profitable articles. It is generally used as a denaturant and therefore if denatured alcohol comes into general use for fuel, light, and power the consumption of wood alcohol will increase. The bill reported leaves the amount of denaturant to be used and the kind to the decision of the Commissioner of Internal Revenue. If he fixes the amount of denaturant too high per gallon, the use of denatured alcohol for fuel, light, and power will grow more slowly because of the high price of the denaturant. In that event the wood-alcohol industry will suffer.

THE CAMP OF DISBELIEF.

In 1860 this country produced 90,000,000 gallons of alcohol. This was before the tax went on. David A. Wells, special commissioner, reported to the Fifty-third Congress that in his opinion 33 per cent of the whole product, prior to the imposition of any taxes on alcohol, was consumed in the arts and industries. Consequently, with a population of 30,000,000 in 1860, we used industrially and for fuel and light 30,000,00 gallons—that is, 1 gallon per capita. The same proportion to-day, leaving out of consideration new uses, new inventions, and improved methods, would bring our consumption of denatured alcohol up to 75,000,000 gallons annually.

Who doubts that it will be more? For myself, I am chiefly interested in it because it will, I believe, bring to the farmers of the prairie West a better, cleaner light than kerosene, safer, cleaner fuel than gasoline, and in many sections at a lower price. And it may bring other comforts and conveniences.

The highest economic condition in the world is found in the occupying owner of a fair-sized farm. The life that is environed in stone and steel is one of uncompromising rivalry. In a city one man's success is often built on his neighbor's bankruptcy. On the farm success comes without harm to anybody, and usually with advantage to all. We have added, through invention and legislation, many creature comforts to the farm. Invention has given implements and the telephone; science, seed selection and soil cultivation; legislation, a daily mail and daily markets.

We do not know, we can not know, how far the use of denatured alcohol on the farm would reach. But in the matter there are two camps to choose between.

One is the camp of belief, of acceptance and encouragement and adoption of innovation; of hope for less labor in the world and greater comfort; of less moil and toil and more leisure; of ambitious reach into the dark for the bounties of the future.

The other is the camp of incredulity, where the disbeliever dwells with the ghosts of the men who opposed Stephenson's locomotive because the sparks from the smokestack would frighten the cattle at night; with the ghosts of the men who ridiculed the telephone as a toy; with the ghosts of the men who, within five years, opposed rural mail delivery as an "experiment;" with the ghost of that august member of the Cabinet who walked down Pennsylvania avenue with Professor Morse the morning Morse was to test the first telegraph wire in the world, between here and Baltimore—the Cabinet minister who was as great in his day as any man here is great in his day—the member of the Cabinet who stopped Professor Morse in the midst of his explanation and asked, with an air of polite concern, "How large a bundle, Mr. Morse, will this telegraph of yours carry from Baltimore to Washington?" [Laughter and applause.]

Mr. McGAVIN. Mr. Chairman, I hoped that I might be spared the necessity of inflicting myself upon the House at this session, but as this bill involves a question in which the people of Chicago are particularly interested, I consider it my duty to say a word.

In my desire to do something to relieve the situation in Chicago I introduced a bill in this House for the erection of a post-office building on the West Side of the city. It was not my intention to make it a sectional question there, but simply to carry out a plan which I believe to be a good one, namely, the erection of a building near the union depot, through which passes about 50 per cent of Chicago's mail. The scheme would have the further virtues of being near the great retail district of the South Side, be more convenient to the great mail-order houses on the West Side, and at the same time be away from the congested portion of the city, where the ingress and egress are interfered with by the great number of vehicles and street cars which constantly pass along the busy streets surrounding the present post-office, and which is one of the numerous handicaps of that building.

But, Mr. Chairman, when we make a proposition of this kind we are told that Chicago just had a new post-office building. That statement is partially true. We have a Government building which, I understand, houses about sixty departments of the Government—the post-office occupying the lower floors, the mailing division being in the basement and reached by means of a driveway declining from one street through the center of the building, then up to the street on the opposite side. But it did not occur to the contractors, it seems, that it would also be necessary to get out, and now in rainy or slippery weather it is impossible for teams to draw the wagons out of that driveway, and consequently they are blocked and the mails delayed. I understand, Mr. Chairman, that it was not until the building was completed in other respects that it occurred to the parties in charge that no mail chutes had been put in. They seemed to have entirely forgotten that they were building a post-office. This building is a dream of architectural beauty, but not a respectable apology for a post-office.

The exigencies of the times demand that public buildings be built for utility rather than for beauty, for business rather than for political purposes. It seems to be the consensus of the opinion of experts that in large cities post-offices should be built exclusively for post-office purposes. In the old temporary post-office at Chicago, a building two stories high and situated away from the congested part of the city, our department was well housed, the mails handled conveniently, and the work was much lighter on the employees. But to-day all this is changed. The mails are frequently delayed from twelve to twenty-four hours, and the rooms are dark and congested, and the work almost unbearable. The men in the mailing division of the Chicago post-office, I understand, average about eleven hours per day, and theirs is the hardest kind of work. These are conditions that should not and would not be tolerated by the employees of a private corporation, and which would not exist in Chicago to-day if her post-office department got what it is properly entitled to. And this brings me up to an incident to which I desire to give a passing notice. After the urgent deficiency bill had passed this House and before it had reached the Senate, Postmaster Busse, of Chicago, came down to Washington post haste and asked Congress to make an increase in the allowance for Chicago. An amendment was inserted appropriating an additional $60,000, and that amendment was concurred in by the House. Chicago wanted 225 clerks. She got 75, and the money for the hiring of the balance seems to have been diverted to other channels. Congress is not to blame for the way the money was used, except because of the rule which prohibits the express statement as to what purposes the money is for. I want to know if that is our idea of right. I want to know if Congress has no control over the money after it is appropriated, and if its expenditure is left entirely in the discretion of the Department; and if that is true, what assurances we have that the money we now appropriate will be used for the purposes for which it was intended? The $60,000 referred to having been appropriated at the instance of the Chicago postmaster, there could have been no question of what the intention of Congress was, no more than there could be if it had been expressly stated in the bill.

Mr. Chairman, where a private individual or corporation has a large dividend-paying establishment and numerous smaller nonself-supporting ones, instead of spending large sums of money on the smaller ones, it extends the larger one and increases its force, and consequently its output. This should be, though it seems it is not, the policy of the Government. With one year's net revenue from the Chicago post-office the Government could provide for Chicago in post-office facilities for the present generation at least.

Doing a larger business than all the Presidential offices in

the State of Pennsylvania; a larger business than all the Presidential offices in the States of Ohio and Indiana combined; more than the entire business of the cities of Philadelphia, Boston, Brooklyn, and St. Louis, in view of the immense amount of money that has been expended in these places, it seems to me that our requests are not unreasonable.

But Chicago is not suffering from a lack of facilities alone. It has been for some time suffering from a lack of help. I have called your attention to the manner in which Chicago was treated in the matter of the appropriation in the urgent deficiency bill, and I would here like to call to the attention of the House two letters, dated February 5, addressed to Mr. Fred A. Busse, postmaster, Chicago, Ill., and signed by F. H. Galbraith, superintendent of mails of the Chicago post-office, which read as follows:

CHICAGO, ILL., *February 5, 1906.*

Mr. FRED A. BUSSE,
Postmaster, Chicago, Ill.

SIR: In compliance with departmental instructions, fifty-five temporary clerks were dropped from the rolls of this office on Thursday, February 1, 1906. Three working days and one Sunday have passed since this curtailment of the force was made effective, and while you have received a daily report on the subject, yet I attach hereto a copy of each one of these reports in order that they may serve again to remind all concerned of the miserable kind of service we have been giving the patrons of this office during the past few days. It goes without saying that every letter, daily paper, market report, and, in fact, all matter mailed at this office should be forwarded by the first available train. However, it is now apparent to the local post-office officials that the business can not be properly handled unless we are provided with ample facilities, which, of course, includes an increase in the clerical force.

The conditions are such in the building which we are now occupying that it requires at least 150 more men to handle the business than it requires in the old quarters on the lake front. This addition to the force is absolutely necessary in order to enable us to handle in the same length of time the same quantity of mail that was handled in the old building. Nevertheless the working force has not been increased to meet the changed conditions, and, furthermore, there has in the meantime been an enormous increase in the volume of business handled. The quantity of mail handled at this office has increased fully 15 per cent during the past year, and although we have moved into a building that requires extra labor in handling the mails, yet we have no emergency fund on hand with which to employ temporary clerks, while one year ago from forty to sixty-five temporary men were employed daily.

At the present time the men are very much discouraged because of the long hours of duty. This condition is serious, but even more serious is the improper manner in which the public business is being handled in this office. It is a question as to how long the clerical force and the patrons of this office will tolerate such conditions. The clerks are tendering their resignations at an unheard-of rate, 118 having been received during the past three months. The business men of this city have made many complaints relative to delays in dispatch of their mail, but with a few more days' experience such as we have had since the first of this month the complaints will, without doubt, exceed anything we have known before.

As stated many times within the past few weeks, both verbally and in writing, it will not be possible to give the people of this city the service to which they are entitled unless the clerical force in this office is increased by the permanent appointment of at least 200 additional clerks.

Respectfully,

F. H. GALBRAITH,
Superintendent of Mails.

CHICAGO, ILL., *February 5, 1906.*

Hon. FRED A. BUSSE,
Postmaster, Chicago, Ill.

SIR: You are well aware of the fact that the conditions in the new post-office building are adverse, and that we are confronted on every side with the necessity for more men than were necessary to perform the work at the temporary building on the lake front. The machinery is frequently out of order; breakdowns and clogged chutes make it necessary to take men from their regular assignments and put them to work trucking mails. For example, when conveyor No. 11 breaks down, or when it has insufficient capacity, large quantities of mail must be trucked from the north end of platform to the elevator at south end, where they are raised two floors and then trucked to the north side of the building through narrow aisles which at times are badly crowded with trucks moving in the opposite directions, a total distance covered by truckers of nearly a quarter of a mile.

The force of laborers were employed in one section in the old building, and they were therefore able to work together to good advantage. In the new building this force is divided on conveyors Nos. 4, 5, 6, 9, and 11, and divided again for the reason that attention must be given these conveyors in the basement as well as on the second floor. The same thing in a lesser degree applies to the numerous chutes, and they are at times out of working order. The cases are spread out shoestring fashion around the oufer edge of a wall 1,340 feet in length, and the trucking required on second floor is now a good big job, requiring the services of many more laborers than in the old building. The bag room is located in such an out-of-the-way place that it requires a great deal of trucking to handle the immense quantity of surplus and defective equipment turned in here from a dozen neighboring States.

We have been compelled to get along without proper light in many places, and also to do considerable janitor and carpenter work where it was an absolute necessity. The platform and driveway facilities are abominable, and in order to handle the business it has not only been necessary to divide the platform force by sending men over to Station U, and others under and over the Dearborn street sidewalk and also at entrance and exit to the driveway, but it has also been necessary to assign a large number of additional men to the platform proper. In fact, many of the various mechanical devices, while absolutely necessary, are not labor savers in any sense of the word; instead, they require many men to care for them and to operate them as planned.

The long distances, the lack of means of communication, the frequently recurring makeshifts made necessary by stoppages of machinery all contribute to our embarrassment. To summarize the situation, will say that with the same amount of work to be performed in the same period of time conditions are such in the mailing division as to make necessary the employment of at least 150 more men than were required in the old building.

The mails have increased about 15 per cent during the past year, and this in itself, without considering the handicap in the new building, should give the mailing division about 7 per cent increase in the force, or about 65 men. This added to the number of additional clerks needed because of changed conditions make a total of 215 men, and I am certain that even that addition to the clerical force will not decrease the time of working schedules to an eight-hour basis after the 1st of March, when the advertising rush will begin.

All told, not less than 200 clerks should be provided at once; otherwise it will not be possible to give the patrons of this office the prompt and efficient service to which they are entitled.

Respectfully,

F. H. GALBRAITH,
Superintendent of Mails.

Commenting upon the situation in Chicago, Mr. Chairman, the Chicago Record, in an editorial in its issue of February 7, says:

CONGRESS'S CONCERN WITH LETTERS FROM CHICAGO.

It is an unfortunate truth that Congress can never keep up with the Chicago pace. Congress is usually able to comprehend how much mail goes through the Chicago post-office about three years too late. It usually gives the postmaster the number of clerks he ought to have had several years before. It would be wiser if it gave him the number of clerks he will need a year or two in advance.

The results are serious. Clerks are brutally overworked. Mail matter is seriously delayed. The postmaster is compelled to spend time traveling back and forth between Chicago and Washington in a vain endeavor to get the wherewithal to do his work, when he ought to be free to stay here and direct the work on the spot.

Just at present the Chicago post-office is again suffering from an acute attack of shorthandedness. Last Friday the overtime of the staff of 709 clerks and laborers engaged in handling the mails was equivalent to the labor of 234 men for eight hours each. On that day 205,900 letters missed mail trains they should have reached for the sole reason that the post-office did not have human hands enough to handle them. Such facts are the strongest of arguments for a provision of more cash and more men.

Much is said these days about the relation of business to politics. In this post-office matter not enough is said. Business should be given the mail facilities it needs. Politics should be on the keen watch to make those facilities ample.

The need in this case is not a mere Chicago need. Every letter has its point of destination as well as its point of origin. Delay in the Chicago post-office does a total injury of which Chicago by itself suffers only one-half. Every Member of Congress has constituents every day who suffer from the Chicago blockade.

There must be some way by which Congress can provide the additional employees who are immediately needed. That way should be found and acted upon before the evil grows worse.

Similar commentations have been made by the other newspapers of Chicago.

The question has been asked numerous times as to who is responsible for the conditions which prevail in Chicago, and it is usually sought to shoulder a great deal of the responsibility upon the architect and the contractors. They may be in a measure responsible, but there are also other causes. The present post-office in Chicago having been begun in 1897, following the panic of the immediate preceding years, it was impossible for the Treasury Department or the contractors to anticipate the great prosperity that was to come so soon to this country. It was just as impossible for them to foresee the enormous increase in the post-office business of Chicago as it was for you and I, Mr. Chairman, to even harbor a thought that out of the black night of business chaos and disaster should rise the sun of prosperity, more radiant in her beauty, more magnificent in her splendor, and more constant in her devotion than she had ever been since her amorous lips first kissed the cheek of this blushing young Republic. [Applause on the Republican side.] And right here, Mr. Chairman, I might say a word in reply to the argument made by my colleague the gentleman from Illinois [Mr. RAINEY], in his debate this morning, commenting upon the question of the tariff on watches. It was brought out by a question from the gentleman from Connecticut [Mr. HILL] that the Democratic party were not as sincere in their desire for tariff revision when in office as they were when out of office, and this was shown by producing the schedule which existed under the Wilson bill, which proved that it was 25 per cent ad valorem—practically the same as now. No gentleman on the other side would rise in defense of that Wilson tariff schedule, and it remains for me, Mr. Chairman, as a Republican, though not as a strict stand-patter, to defend it by saying that it did no one in this country any harm. People were not buying watches in those days. Everybody had plenty of time. [Laughter and applause.] Even the keenest appetite, fortified by the most perfect digestive organs, would fail to appreciate a metal salad in the form of a Waltham watch as a fitting substitute for beefsteak and bread. [Laughter and applause.] It is a custom, Mr. Chairman, of the gentlemen upon this side of the House to charge to the Republican party all the joys that this country has experienced since the passage of the Dingley tariff act. If that is true, then I want to hold them responsible for one thing, which may or may not be to their credit, for I believe that the Dingley tariff bill is in a measure responsible for the present intolerable conditions in the Chicago post-office, for had it not been for this measure the business would probably never have

increased as it did, from $5,000,000 to $12,000,000 during the construction of the present building. [Laughter.]

Mr. Chairman, in behalf of the post-office department at Chicago, the newspapers, the business men, and, above all, the men upon whose shoulders falls the heavy work, I ask that Chicago be given that consideration which she so justly deserves. [Applause.]

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. CURTIS having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had passed bills of the following titles; in which the concurrence of the House of Representatives was requested:

S. 5521. An act to authorize the Tyronza Central Railroad Company to construct a bridge across Little River, in the State of Arkansas; and

S. 5438. An act to establish a light and fog signal in New York Bay at the entrance to the dredged channel at Greenville, N. J.

The message also announced that the Senate had agreed to the amendments of the House of Representatives to the bill (S. 87) providing for the withdrawal from public entry of lands needed for town-site purposes in connection with irrigation projects under the reclamation act of June 17, 1902, and for other purposes.

The message also announced that the Senate had passed without amendment bill of the following title:

H. R. 12286. An act granting relief to the estate of James Staley, deceased.

POST-OFFICE APPROPRIATION BILL.

The committee resumed its session.

Mr. OVERSTREET. I will ask the gentleman from Tennessee to consume some of his time now.

Mr. MOON of Tennessee. I yield one hour to the gentleman from North Carolina.

Mr. WILLIAM W. KITCHIN. Mr. Chairman, there are several matters connected with postal affairs that I would be glad to discuss, but I feel impelled to devote the time allotted to me in discussing the item in the bill designated, I believe, by officials as the "special-facility" appropriation, but commonly known as the "subsidy." I could have contented myself with voting against this item without giving the reasons of my opposition if prominent citizens and influential business organizations had not been more than usually active in urging my support of it. In former years, when I received resolutions from city officials, boards of trade, manufacturers' clubs, or chambers of commerce favoring it, and by letter replied to them that I had investigated the matter and considered it unwise, unnecessary, and contrary to just principles, I was permitted to vote in accordance with my judgment, with no unkind criticism from my constituents, so far as reached my ears, except from the adherents of my political opponent in the campaign of 1902. I knew, of course, that my position was not satisfactory to the companies into whose coffers this money went and that my votes had incurred their disapproval.

But, Mr. Chairman, this year I have received so many resolutions and letters, many of them from my own district and some of them expressing a desire to know the grounds of my opposition, that a respect for their opinions, a desire for their good will, and a hope for their approval require me to consume this time upon this subject.

It may be, Mr. Chairman, that had I hesitated to discuss this matter it would have been attributed to, if not justified by, a very natural disposition—an unwillingness to become a target for the assaults of the demagogue. When I recall that the main line of the Southern Railway, the chief beneficiary of this appropriation, runs through the district that honors me, and that this company operates in every one of its counties, having more than 350 miles of line in operation in the district, and think of the demagogic charge which will be repeated against me this year if my party shall again nominate me, that I have "voted against helping a southern enterprise," that I have "opposed the interests of my constituents," I would shudder for my political fate if I did not have confidence in the integrity and intelligence of the people. [Applause.]

Mr. Chairman, due consideration should always be given to the resolutions received from his constituents by a Representative. If he should believe that such resolutions represent the judgment of a majority of those who sent him here, and that such majority with full information wishes to instruct him how to vote, it would at once become his duty to comply with them or resign. No such condition confronts me. I am satisfied that to-day the overwhelming majority of my constituents are not in favor of this "subsidy," and that upon a full understanding of the facts and principles involved not 500 Democrats could be found within the entire district who would advise me to support it. I believe that a majority of the members of the very organizations which have communicated with me would approve my position. This is no reflection upon them, but a compliment to their candor.

Busily engaged as they are in developing the resources and contributing to the wonderful progress of the South; their energies devoted to occupations and pursuits which limit their time for research and consideration upon the manifold questions of legislation upon which, from one influence or another, they are called upon to express themselves; the information furnished them so frequently being given by interested parties and upon one side only of a proposition; their lack of direct responsibility for the legislative action, relying, as they so often do, upon the judgment of those whom they have chosen to represent them and who, on account of having the time to more thoroughly investigate such questions and the opportunity of hearing both sides, are in a better position to reach the right conclusion—all these tend to secure the passage of resolutions by such organizations without a thorough knowledge of the facts and a full consideration of the principles at stake and without that care and deliberation which they would exercise before requesting their city council to institute an important enterprise. As an illustration, the head of one of the most prominent business organizations in my State, a gentleman of ability and accuracy, who forwarded to me the resolutions of his organization in favor of this item, in reply to a letter from me asking the reasons for thinking his city would be deprived of adequate mail facilities in case of the defeat of this item, stated that he delayed answering until he "could make some investigation and answer more intelligently," plainly indicating, it seemed to me, that sufficient investigation had not been given the matter prior to the passage of the resolutions. Frequently, however, such resolutions are of the soundest principles and of the highest merit. I give all resolutions consideration and am always glad to receive them, and especially from my constituents, but when one reaches me upon which I have reason to think my information is wider and more accurate and whose underlying principle I can not indorse, I shall adhere to my own judgment in the matter.

The items which I am now opposing read as follows:

For necessary and special facilities on trunk lines from Washington to Atlanta and New Orleans, $142,728.75: *Provided*, That no part of the appropriation made by this paragraph shall be expended unless the Postmaster-General shall deem such expenditure necessary in order to promote the interest of the postal service.

For continuing necessary and special facilities on trunk lines from Kansas City, Mo., to Newton, Kans., $25,000, or so much thereof as may be necessary: *Provided*, That no part of this appropriation shall be expended unless the Postmaster-General shall deem such expenditure necessary in order to promote the interest of the postal service.

Under the regular pay, exclusive of the subsidy, the trunk lines from Washington to New Orleans, for transportation and cars, receive from the Government the sum of $1,227,437.09.

It seems no one can speak for this special appropriation without relying upon the provisions apparently placing it in the discretion of the Postmaster-General. As to this let us see how the Department regards it. It puts the entire responsibility on Congress, where it really belongs. (Page 339 of last hearings.) In this House on April 26, 1900, the Assistant Postmaster-General's testimony on this point was quoted as follows:

Although on its face it appears to be a discretionary power, yet when Congress, after full debate year after year, has put this provision in the bill and made the appropriation, the Post-Office authorities can not construe it otherwise than as indicating the wish of Congress that it shall be spent, and have understood it as mandatory.

On the same day the Postmaster-General's testimony touching it was quoted as follows:

Well, the Department would have power to withhold it, but having recommended to Congress the advisability of withholding it, the Department is bound to assume that Congress desires the appropriation to be expended so long as it is made.

In the hearing this year, on page 323, the Assistant Postmaster-General says:

We still adhere to the policy of not recommending or estimating for any special facility service anywhere in the country.

And he adds, however, that if Congress appropriates they will continue to use it to the best advantage. So without doubt the Department, regardless of the provisions attached to the appropriation, considers it mandatory on it to expend it. When the money is appropriated how can you expect a Department official to withhold it from the railroads? Congress expects them to get it. Do you think Congress would appropriate this subsidy if it did not want the railroads to have it? Certainly not. No man votes for it unless he wants the railroads to get it, and this is the view the Department must take of it. If a gentleman here votes for it who does not want the railroad companies to get it, I would be glad to hear him say so.

Now, Mr. Chairman, let us see how the Department stands on the policy of granting this appropriation. I quote the following from Postmaster-General Wanamaker before this appropriation was made to the lines from here to New Orleans and insist that his statements are just as sound now as then and apply with equal force to this appropriation:

I believe the granting to a few and refusing to extend like compensation to the many who are performing as good or better mail schedules is a source of injury to the mail service. The preferential method should cease or all who expedite the mails should be granted the same benefit. (His report for year ending June 30, 1902.)

In his letter of date February 25, 1892, to the committee, he said:

I do not believe there exists occasion for perpetuating the preferential method whereby a limited number would be paid both ordinary and special transportation and full car compensation, while other railroads performing precisely the same character of service can be allowed nothing more than the compensation which we are by statute permitted to pay for ordinary transportation.

Again, he says:

When the special facility payments were first started it was well understood that they were but temporary, so as to bridge over a period until the natural growth of the mails would yield sufficient compensation to do away with occasion for additional compensation.

He further said—and this was long before the Southern was subsidized:

The distance from Washington to New Orleans via Atlanta is 1,143 miles. The time for the most important mail train averages 35 miles per hour.

Mr. Chairman, one of the subsidized trains to which I will again refer now, fourteen years later, with all the incidental improvements during that time, averages less than 35 miles an hour. From the days of Mr. Wanamaker till now not one Postmaster-General has ever recommended this appropriation. The present officials do not favor it. General Shallenberger does not recommend it or estimate for it. He says in the hearings:

We would estimate if we desired it.
We are not asking it, nor expressing opinions in reference to it.
I have not said I think it ought to be retained.

He further said:

I think for the good of the service at large it is better that no special favors be given to any particular road or system.

But, Mr. Chairman, one of the most direct recommendations against this appropriation is found on page 9 of Postmaster-General Cortelyou's last report. He says:

Curtailment has been recommended wherever possible, and many decreases are shown, of which the following are examples: Railway transportation, special facilities, $167,728.75.

Thus he names these two items together as the first example of those which he recommends to be omitted from this bill.

They are alike in principle, and as the fate of the smaller appropriation doubtless will follow the larger, I shall confine my discussion to the larger one. Since no Postmaster-General has ever recommended this appropriation, since for more than a dozen years it has been omitted from the estimates of the Department submitted to this body, the burden of sustaining it properly belongs to those who advocate it.

Mr. BLACKBURN. Will the gentleman allow me a question?

Mr. WILLIAM W. KITCHIN. Yes.

Mr. BLACKBURN. What was the result of the investigation of the committee as to the difference in time?

Mr. WILLIAM W. KITCHIN. I am going to discuss the time. I think I have given this matter full investigation, and if the gentleman will listen I think I can show him he ought to vote against these items. Let us consider the reasons given in its support, both in this House and elsewhere; and as I proceed if I should state any fact that anyone has reason to think incorrect, I would be glad to have my attention called to it. So far as I can recall, no reason is now given that has not been given for a dozen years. Every argument made in behalf of its continuation now, when Nos. 37 and 97 get the appropriation, were given years ago, when No. 35 got part of it, and I challenge its advocates to give a new reason.

The same sweeping assertions of its great accomplishments, and direful predictions of inadequate facilities in case this appropriation was discontinued, were made long before No. 97 was created. We were told that without this appropriation No. 35 could not run. To-day No. 35 does not get a dollar of it, but it runs, and runs under the advertised name of the "United States Fast Mail." The record is full of fears and declarations that without special recognition on the part of the Government the so-called extraordinary service which was given before No. 97 was heard of, and of which No. 35 was the main train, could not possibly be maintained. We heard the same arguments three or four years ago about the subsidy from New York to this city, and in fact then the stress was put on the New York train and the necessity for a subsidy for it. The subsidy was discontinued from New York to this place, and now we have a better schedule than then. Mr. Chairman, once we had subsidies from New York to Springfield, from New York to Albany, from Baltimore to Hagerstown, New York to Philadelphia, Philadelphia to Washington, and these subsidies were discontinued, and I am informed not a single train was discontinued in either case, but that the service was just as good after discontinuance of the subsidy as before. I further understand that in one case the railroad company stated that discontinuance of the subsidy would not affect the situation.

Another thing in this connection is that the speed of a train does not depend upon subsidies. There are many trains in the United States carrying mail that make better time than the subsidized trains. The Southern runs six passenger trains daily from Washington to Charlotte, N. C., and also No. 97, which is a mail and express train. One of the passenger trains, leaving Washington at 10.45 at night, No. 37, is a subsidized train. It runs to Charlotte in ten hours and forty minutes. No. 31, which runs daily, except Sunday, goes to Charlotte in nine hours and thirty-eight minutes, or one hour and two minutes quicker than the subsidized No. 37. It ought to be needless to refer to the argument that the appropriation goes to a southern enterprise, and therefore should have support, though such has been a serious contention in this House in the past. One of my constituents wrote me that it "was coming our way." As far as the money is concerned, it goes to the railroad stockholders, the vast majority of whom do not live in the South. Referring to this very appropriation a present member of the Cabinet in 1899, then a Member of this House from Massachusetts, said that the only people who were benefited by this appropriation were the stockholders of the railway, and he called it a gift to the railroads. While the trains go South, nearly the whole appropriation goes elsewhere. It has always been beyond my power to comprehend how the justice or the right of a thing depended upon its locality. For myself, I fail to see how any appropriation, otherwise wrong, can be made right because of its "coming our way." [Applause.] If it is right, to support it by such an argument tends to discredit it, as it is an appeal to selfishness and not to judgment.

It has been argued that this appropriation aids in building up the industries of the South. This presupposes that this appropriation gives the South her postal facilities, which we deny, and this is one of the disputed facts. Proper mail facilities no doubt aid the country, but whether the subsidy creates such facilities or whether the business of the country creates them is one of the issues. I contend that the business of the country creates and of necessity requires just such facilities as the railroads furnish, and that no facilities are furnished to the South except such as are essential to the railroad's continued enrichment from her business and industry. I deny that the Southern put on either of the trains running from this city until there was a direct and immediate necessity therefor in order to handle its traffic with proper dispatch. The amount of that traffic has fixed and its demands have created the service which the company is furnishing. The company was created to serve the public. It grows rich by it. The public has made it, not it the public.

Mr. LAMB. Has it not contributed a good deal toward that prosperity?

Mr. WILLIAM W. KITCHIN. The railroad has been an essential element in it, but this in no way affects my argument. There are many able advocates of this subsidy around me who will again vote for it, as they have voted for it heretofore. When you come to reply, since the Department did not recommend these items, the burden is yours to show their necessity and propriety. You can not deny the facts I shall state, for I have taken them from the best available statistics, and I challenge you to refute them. I repeat, the business of the country has made the railroad. As the industry of the people has developed it has extended, as it had to extend, its freight and its passenger service. But some one says, Look what service the system gave the people fourteen years ago before it got this subsidy and mark now the great improvement. He seems to forget that in that time there has been great improvement on every great railroad system in the country. You can name no great railroad that has remained stationary upon its service of fourteen years ago. The improvement in mail trains does not exceed, if indeed it equals, the improvement in through freight service.

Can any process of reasoning conclude that, except for the subsidy, the Southern Railway of all the great systems would alone have made no progress in its public service since 1892? Did it of all the systems alone require special help and discriminative favoritism to encourage it to keep up with the progress of the times and properly serve the great section that has

poured millions into its treasury? I refuse to entertain the thought, and I remind this House that, in his report for the year ending June 30, 1892, before the Southern got this subsidy, the Postmaster-General complimented the Richmond and Danville (now the Southern), along with three other roads operating in the South, with expediting the mail to a great extent.

Mr. FINLEY. Does the gentleman know how long it was after this appropriation was voted by Congress before No. 97 was ever put on?

Mr. WILLIAM W. KITCHIN. The gentleman anticipates me. But another one says this subsidy gives us train No. 97. This we deny. If it be true, why didn't it give us 97 twelve years ago? The Southern has been getting this subsidy since July 1, 1893. Why did it withhold from the people No. 97 for ten years if the subsidy gives the people that train? The CONGRESSIONAL RECORD of March 19, 1898, sets out a letter from Hon. James E. White, general railway mail superintendent, of date February 4, 1898, in which he said:

The Southern Railway, which is paid from this appropriation for special facilities, has not put on an extra train nor has it changed its schedule by reason of this appropriation.

Mr. Chairman, the great truth is that No. 97 was never thought of until the greatly increased passenger traffic—and under that head I class passengers, mail, and express—so loaded down its other trains that these were unable to make their schedules, and the running of another train became a traffic necessity. Why, does any intelligent person believe that train No. 37, leaving Washington at 10.45 at night, would be discontinued except for the subsidy? Can he give a reason for such belief? Yet the entire subsidy over the Southern is divided between that train and No. 97, which leaves here at 8 a. m.

Mr. BLACKBURN. Under this appropriation, is not 97 the only one that gets this extra pay?

Mr. WILLIAM W. KITCHIN. No, sir; the gentleman labors under a mistake. This subsidy is divided between 37 and 97.

Mr. BLACKBURN. I was asking the gentleman for information, and I want to ask him this further question. Does the Southern road run through your district and mine?

Mr. WILLIAM W. KITCHIN. It does.

Mr. BLACKBURN. How much advantage do your people get from 97?

Mr. WILLIAM W. KITCHIN. They get some advantage from 97, but none, in my judgment, from the special-facility provision, as I hope to show as I proceed.

Mr. BLACKBURN. That is why I asked you.

Mr. WILLIAM W. KITCHIN. Those who fear that trains Nos. 37 and 97 would be discontinued have not the faith in the Southern that I have. Should Congress discontinue the subsidy, I do not know what schedules or trains, if any, would be affected. I feel sure that none should be affected unless the increased traffic again justifies a change for the improvement of the service. I refuse to believe that that great system would act in a spirit of pique and withhold from the people whose industry and business sustain it proper and adequate facilities in accordance with their needs. The Southern collected from the people last fiscal year over $48,000,000 of earnings, of which over $14,400,000 were net. Of these vast sums, over $24,000,000 were earned in the States of Virginia, North Carolina, and South Carolina, of which over $8,400,000 were net earnings. The entire subsidy to the Southern is $80,947.50, the balance of it going to roads from Atlanta to New Orleans. In other words, out of every $600 which the Southern collects $1 is subsidy. Now, will anyone assert his belief that on account of losing $1 out of $600, which would still leave over $14,300,000 net earnings, the Southern would deprive its patrons of adequate mail facilities? Mr. Chairman, I again declare that I have more faith in the Southern than to expect that. I have more faith than the boards of trade, chambers of commerce, and manufacturers' clubs in the thriving cities along its line in its sense of justice and propriety. The total earnings of all the railroads in Virginia, North Carolina, and South Carolina for the year ending June 30, 1905, were two and one-fourth times the earnings in same States for year ending June 30, 1894. Wonderful increase in eleven years.

In the last fifteen years the capital invested in cotton mills in the South has increased from $60,000,000 to $225,000,000. The value of the cotton crop has nearly doubled. The value of manufactured products increased from less than $1,000,000,000 to $1,750,000,000—an increase of $750,000,000. The value of farm products has more than doubled, and a hundred other evidences of progress abound. These have built up the railroads; these have required the improved service; and, Mr. Chairman, I can not appreciate properly the innocent zeal and the agile comprehension of one who ignores such facts and declares that the subsidy is responsible for the improved mail facilities of the South.

Mr. LAMB. I would like to have you define a subsidy.

Mr. WILLIAM W. KITCHIN. I am going to do it. I have anticipated all of these arguments because I have read every speech that has been made in favor of this thing from the beginning, and I am ready to answer their arguments.

Mr. STANLEY. Has the gentleman ever heard of a high official of the railroad who did not promise in the way of a threat to take away from the people an advantage they have when you threaten to take away a subsidy?

Mr. WILLIAM W. KITCHIN. The Pennsylvania Railroad, I understand, about four years ago stated that the discontinuance of the subsidy from New York to this city would not affect its schedules.

Mr. Chairman, the business of the Southern Railroad system in Virginia, North Carolina, and South Carolina has grown so rapidly that its passenger earnings per mile of road operated in the last eleven years have increased from $1,675 to over $2,400 and its freight earnings from $2,325 to over $4,400 per mile; its total earnings from $4,000 per mile to over $6,800; showing an increase of $2,800 per mile, with a greatly increased mileage. Doubtless on its main line from here to Charlotte all earnings were greatly in excess of the above averages, and there is no doubt in my mind that the increase of earnings has been far greater from here to Charlotte than on any other part of the road.

Eleven years ago this system wanted and got $125 subsidy per mile to give the people adequate facilities. The road is now earning $2,800 more per mile than then, and yet it still wants $125 per mile subsidy to give its patrons adequate postal facilities, although every facility it now offers is justified and required by its increased business. Then its operating expenses in the three States named were 71 per cent of its gross earnings, now only 65 per cent, and yet the defenders of the appropriation assert that the South can not get proper mail facilities without the subsidy. Then its net earnings in these three States were $2,733,974, and last year they were $8,441,821, and still we are told it is not able to stand alone and give the people adequate facilities under the statutory pay.

In 1893, when this subsidy was first paid to this system, it ran only three passenger trains from here to Charlotte, Nos. 37, 11, and 35. Now it runs six through trains besides No. 97, so great has its passenger traffic increased. Can intelligence and candor assert that all these increased passenger trains have been put on by reason of the subsidy? There is just as much reason for such assertion as there is for the assertion that No. 97 is a product of the subsidy.

A familiar statement made by advocates of this subsidy, both in and out of this Hall, is that Congressmen vote for other appropriations which such advocates think are similar in principle, and one of the most common instances cited is the rural free-delivery service, which is not in fact, circumstance, or principle in any way related to it. It would be possible to likewise subsidize the rural service in this way; that is, give the carriers whose starting points are post-offices on the trunk line of railway from Washington City to New Orleans, and also to those carriers on the railway from Kansas City to Newton, Kans., but to no other carriers in the country, the sum of $300 each per annum in addition to the $720 they are now receiving, provided however, that no carrier should receive any of such additional pay for any day when he was more than a half hour behind his schedule in delivering his mail. Then it would be in principle like this railroad subsidy.

Doubtless many of the carriers who received such additional compensation for being prompt would desire its continuance, and its friends would have a multitude of arguments showing its necessity, and expressing fear that without it such carriers could no longer maintain such horses as would enable them to properly serve their patrons, owing to the peculiar condition of the country between Washington and New Orleans, and that if such additional compensation were withdrawn so that all carriers in the United States would be on the same footing and all receive pay under the same law, then it would be a strike at the South and her industry. [Applause.] But suppose some one thinks that some Member has voted for one wrong; will he contend that such Member is thereby required to support another? It is better to be inconsistent and right part of the time than to be consistent and wrong all the time. It is frequently urged in behalf of this item that one of the subsidized trains carries no passengers, but is an exclusive mail and express train. There are other roads that run such trains without subsidies. (Hearings, 207.) There are unsubsidized roads which do better than that and run exclusive mail trains without passengers or express (St. Louis to Kansas City, Chicago to Omaha, hearings, 208), and the route between St. Louis and Kansas City does not get as much pay per mile as the Southern

from here to Danville gets under the regular rate. There are 3,064 railroad mail routes in the United States. Of all that number only fifteen get more pay per mile than the route from here to Danville under the regular pay, and each of these fifteen gives more mail trips per week than from Washington to Danville, except three. There are scores of routes that have more trips with less pay than this one. The average pay for transportation of mails throughout the United States is $198.20 per mile.

The Southern from here to Danville gets, according to the regular rate, $1,497.10 per mile for transportation and $325 per mile for rent of cars, a total of $1,822.10 per mile for carrying the mail, exclusive of the subsidy, or $434,169.28 for carrying the mail two hundred and thirty-eight and a fraction miles, and yet there are people who think it could not give proper mail facilities without being coaxed to keep its schedules by giving it an extra bonus of $125 per mile. It is my judgment that never has there been a more unjustifiable subsidy or bonus paid from the Public Treasury to any man or corporation. From here to Charlotte this company is paid for transportation of mails and rent of cars under the regular pay the great sum of $647,253.52, but so great is the misinformation on this subject that many of the good people of that city fear that unless we continue to take from the Treasury and give this company $125 per mile to induce it to keep its schedules that the railroad company will in some way deprive them of proper postal facilities. From Washington to Charlotte the total pay for transportation of mails and rent of cars when the subsidy was first authorized was $232,742.15. It is now more than two and a half times what it was then, and yet we are told the subsidy is still a necessity. More than that, the regular pay without the subsidy now is more than two and a fourth times what the company then received together with the subsidy, but the company holds on to the subsidy and will forever do so until Congress does its duty by discontinuing it. From here to Charlotte, under the regular rates, the Southern is paid more money per mile for carrying mail than any other road gets in the United States south of the Potomac and Ohio and west of the Missouri rivers, and yet gentlemen think it ought to have the subsidy.

Mr. GILBERT of Kentucky. How much do the trunk lines from here to New Orleans get?

Mr. WILLIAM W. KITCHIN. From here to New Orleans, $1,227,437.09, exclusive of the subsidy.

Mr. WM. ALDEN SMITH. That is based on the weight?

Mr. WILLIAM W. KITCHIN. On the weight, at the regular rates paid all roads.

Mr. WM. ALDEN SMITH. That is, on the volume of business?

Mr. WILLIAM W. KITCHIN. On the volume of business, without any preferential involved in it.

Now, Mr. Chairman, of all I have heard or read on this subject, and I have endeavored to make a thorough research concerning it, while I have encountered many fears that train No. 97 would disappear with this appropriation stricken out, I have found but two expressions of opinion, so far as I can recall, that such would be the result—one in a letter and the other expressed in this House by a Representative during a discussion in February of last year.

So far as I am informed, no man anywhere believes or even fears that the other subsidized train, No. 37, would be taken off. It will occur to everyone that some official of the interested railway companies would expressly declare that these trains would be taken off without the subsidy, if such would be the effect of the discontinuance of the subsidy. No official has made such declaration to this body or its committee, for the simple reason, in my judgment, that no official believes it.

Mr. JOHNSON. I would like to ask the gentleman if any official of the Southern road appeared before the Committee on Post-Offices and Post-Roads?

Mr. WILLIAM W. KITCHIN. I am not on that committee, but suppose the Southern Railroad thought it was unnecessary for it to appear there, where had been developed so much friendship for it in times past on this proposition. [Applause.]

The railroad can not handle its mail, express, and passenger traffic from this city to Charlotte with two less trains than it now operates. Doubtless the day is not far distant when another train will have to be added to the present number. As I before intimated, I have no idea that either of these trains would be discontinued, unless the company should act in a spirit of resentment, and this I will not anticipate; but, on the contrary, I anticipate that it will continue to serve its patrons on business principles. One effect, I think, might follow, and regardless of the subsidy may follow, and that is other cars may be added to No. 97—maybe passenger cars. If such added cars should reduce its speed to the present speed of No. 31, it would reach Charlotte, N. C., eighteen minutes later than it now reaches Charlotte, and would reach Atlanta about thirty-two minutes later than it now does, which to the citizens of Atlanta would mean nothing, as it can make no difference whether their mail reaches there at 11.15 at night or an hour later, as people do not open their mail at midnight. Even as it is now it reaches Charlotte at 5.15 in the afternoon; and if we allow a reasonable time for it to reach the post-office, be opened, and delivered we will find that it is after business hours.

I want to call your attention to the fact that No. 97 was not put on by requirement of the Post-Office Department, as some may think, and its speed was not regulated by the Department. The Post-Office Department does not regulate the speed of any train. The Post-Office Department does not know the engines, roadbed, or other conditions upon which the speed of trains is determined. It has never undertaken to regulate the speed of a train. In regard to this particular train, it exercises sufficient control to hold it on its starting time some little after its regular schedule, if necessary to make connections.

Mr. WILLIAMS. Until the arrival of the New York train?

Mr. WILLIAM W. KITCHIN. Yes; if the New York train is not very late.

The portion of the subsidy which goes to it would not run a train which otherwise would be unnecessary and unremunerative. We have been told that the Coast Line voluntarily quit asking for the subsidy, though it continued to run the train which got all of it, because it would not maintain certain schedules for it. If that is true, does anyone think another road would, on account of the subsidy, put on an otherwise unnecessary train, which would get only one-half of it? And is it not reasonable and is it not the fact, as I believe it, that the Southern is running only those trains which are necessary to its traffic, and running them only at such speed as itself fixes, and starts them from this city at such times as it deems best for its business and the accommodation of its patrons, as every road is in duty bound to do? If under these circumstances, in addition to the regular revenues which come to all roads alike, it can also get from the public Treasury these extra thousands of subsidy for its stockholders, in these days of frenzied finance it will not hesitate to do it; and if Members of Congress intend to give this subsidy until the conscience of the favored railroad companies cries out against it, we had as well place it among our permanent laws and confess to the world that we have been unequal to the task confided to us by the people. [Applause.]

The responsibility is upon us, not upon others, and not upon the Department. We are the ones who ought to stand between the grasping greed of all great corporations and the people's Treasury. [Applause.] If you authorize the expenditure of this money to great corporations that will certainly bring pressure upon any official to get it into their own coffers, you need not expect any one official to resist their demands, if we ourselves can not resist them.

Mr. DICKSON of Illinois. Mr. Chairman, will the gentleman allow me to ask him a question?

The CHAIRMAN. Does the gentleman yield?

Mr. WILLIAM W. KITCHIN. Yes.

Mr. DICKSON of Illinois. Mr. Chairman, the Pennsylvania Railroad Company runs a special mail train out of St. Louis to Pittsburg, running through my district in southern Illinois. I ask this question, because the gentleman seems to be familiar with these subsidies and the postal-car regulations. That train carries nothing but mail, not even a coach. It is a special mail train.

Mr. WILLIAM W. KITCHIN. Yes; there are many such trains in the country.

Mr. DICKSON of Illinois. I want to ask the gentleman, purely for information, whether he knows if that line received any subsidy or remuneration from the Government outside of the regular mail pay, or whether it has ever received any?

Mr. WILLIAM W. KITCHIN. I do know that it is not receiving any. I do know that for many years not a cent of subsidy has been paid except to the through line from here to New Orleans, and to the Santa Fe road from Kansas City, Mo., to Newton, Kans. The only other line that has received a cent of subsidy in thirteen years is the one from here to New York, and the subsidy to it was discontinued several years ago.

Mr. Chairman, I think I can show that the train No. 97 is a highly paying, probably the best paying, train, exclusive of the subsidy, which the Southern operates between here and the city of Charlotte in proportion to its expense. It would be foreign to this debate to discuss at this time the excessive rates charged by railroads for freight and passengers. In what I am now about to say I shall not discuss the capitalization of the Southern, though

I will note in passing that the letter of ex-Senator Chandler of February 5, 1906, says its one hundred and eighty millions of stock is all water, nor will I discuss the regular mail pay under the statutes, which I believe to be excessive, nor the fact that the Government pays rent for each of the postal cars used on No. 97, and 37, too, as for that, from here to Atlanta, something like $16,000 each year, or about three times the average car rental—this being true, since postal cars of that class get every year from the Government $25 per mile of daily use—the rental of cars by the Government being also excessive. It has been stated in the House that the Government pays the railroads four times as much as it costs to carry the mails. The Second Assistant Postmaster-General in his report tells us that the companies plead for the through mail wherever there is competition. I would be glad to see the proper committee of this House propose a reduction in the regular mail pay and in the post-office car rentals. But taking things as they are, I propose to show that No. 97 is a train of great profit to the railway company, exclusive of the subsidy. I presume that it carries the same proportion of the mail from Danville to Charlotte as from Washington to Danville. In a letter replying to an inquiry from me, General Shallenberger, the Second Assistant Postmaster-General, on February 23, 1906, said that at the last quadrennial weighings it was computed that No. 97 carried 35 per cent of the whole weight of mail between Washington and Danville, and that 35 per cent was 45,183 pounds.

Now, Mr. Chairman, No. 97 therefore gets 35 per cent of the transportation mail pay. The entire regular mail-transportation pay from here to Charlotte is, exclusive of car rents, $525,974.52, and 35 per cent thereof, which goes to No. 97, is $184,091.08, to which add the rental of the three post-office cars to Charlotte, $28,521, and we have a total of regular pay for No. 97 from here to Charlotte of $212,612.08; and, of course, it gets large pay from Charlotte to Atlanta, but not as much per mile as from here to Charlotte. There is not so much mail handled between those two places as from here to Charlotte, and there is not as much from Danville to Charlotte as from here to Danville. To this must be added what No. 97 receives from the express company, for it is a mail and express train. We know that a carload of express is much heavier than a postal carload of mail, perhaps three times as great, as the postal cars must have racks and plenty of space for the clerks to conveniently distribute the mail. But suppose the Southern's No. 97 only collects from the express company one-fourth of what it collects from the Government, which would be $53,153.02, then it earns from here to Charlotte, exclusive of the subsidy, $265,765.10, while its part of the subsidy from here to Charlotte is $23,767.50. With these facts staring one in the face, can he contend that a train that otherwise earns $265,765.10 will be discontinued if the subsidy is withdrawn? [Applause.] I do not believe that another train of the Southern earns as much as this one, according to its expense. I desire here to say that if any of my estimates or calculations are erroneous and any authorized railroad official will give me the exact facts and figures sustaining them, I will be glad to correct my remarks, even if I have to make another speech to do so. I will add however, that I have made inquiry, both of the railway company and the express company as to the quantity of express handled on train No. 97, and both replied that they did not have the information.

Another fact, for the year ending June 30, 1904, being the last year for which I have been able to get the statistics on this point, the average earnings of the Southern's passenger trains in Virginia, North and South Carolina, and these earnings include passenger, mail, and express, were less than 99 cents for each mile such trains ran, while the average earnings of train No. 97 from here to Charlotte, exclusive of the subsidy, according to figures above stated, are $1.91 for each mile run, or nearly double the general average.

Let us consider the matter in another way. If my estimate above is correct, then, exclusive of the subsidy, train No. 97, from here to Charlotte, earns each day from mail and express the sum of $727, while its daily part of the subsidy is $68.12. Now comes the question of its average daily expense, and of this I speak not as an expert, but as one who would be glad to have the exact figures if they are in existence. I shall give you my own estimates, but shall be glad to correct them if wrong. I understand that from here to Charlotte, a distance of 380 miles, three engines are used on No. 97 and three engine crews, though the last engine and crew go far beyond Charlotte, and therefore I estimate for two and a half crews from here to Charlotte. The Government of course pays the mail clerks, and the express company pays its men, and the train carries no baggage. Let us estimate that the engineers are paid $8 apiece, or $20 a day, and the firemen $4 apiece, or $10, making the daily cost of enginemen and firemen on No. 97 from here to Charlotte $30. Suppose the conductor and his help together get $15 a day, and that oil, water, coal, and other material cost $82 a day, at a very liberal estimate, which will make a total cost of the train from here to Charlotte of $127 each day, or of $46,355 a year. But to this cost should be added the train's proper part of the expense of the maintenance of the offices, shops, roadbed, repairs, etc., of the company, which I will put at $100 a day, or $36,500 a year, making a total cost chargeable to this train of $227 per day from here to Charlotte, or $82,855 a year, leaving a daily net profit of $500, or a clear profit of over 200 per cent, or a yearly profit of $182,500, exclusive of the subsidy. If it carries the express on a free pass without charge, then on the mail alone this train clears $130,000 a year, or more than 150 per cent profit.

Now, then, who will say that as a business proposition this railroad would discontinue this train if we vote away from this train $23,000? [Applause.] No; so I maintain if it ever discontinues this train it will be in a spirit of pique and resentment, because the representatives of the people, acting upon their judgment and conscience in this matter, refuse to gratify the greed of the company by a bonus. [Applause.]

Notwithstanding all these facts, Mr. Chairman, many of my constituents have been so misled on this subject that they urge me to vote to give the company this subsidy. And more than that, some prominent newspapers of the South, some of them in my State, have endeavored to reflect upon and embarrass those of us from the South who refuse to sacrifice our judgment and conscience upon this matter. One paper named me and said that in voting against this subsidy I would vote against my section of the country. One has declared that the appropriation is opposed in ignorance and stupidity or from a malignant attempt to hurt the South. This paper probably never gave the question an hour's research or a moment's consideration. If with full knowledge it made that declaration, it only shows to what lengths of error and vituperation the defenders of injustice and favoritism will go in assailing the motives and character of those whose facts they can not deny and whose argument they can not answer.

Another paper has commented on the fact that while the gentleman from Indiana [Mr. OVERSTREET] champions this appropriation, it is opposed by some Southern Representatives through whose districts the fast mail runs. When one understands the matter, the remarkable thing is not that some Democrats differ with the gentleman from Indiana, but that any Democrats agree with him on this appropriation. [Loud applause.] Mr. Chairman, the Democratic party is practically a unit against the ship-subsidy bill. In my judgment, there is more to condemn in principle in this appropriation than in the ship-subsidy bill. Under it the subsidy proposed would apply to all our steamship lines alike, thus having some show of equality in it, while this "special facility" pay does not apply to all roads alike, but is a special favoritism bestowed alone upon the lines from here to New Orleans and from Kansas City to Newton.

The CHAIRMAN. The gentleman's time has expired.

Mr. GILBERT of Kentucky. Mr. Chairman, I ask unanimous consent that the gentleman's time be extended.

Mr. MOON of Tennessee. I yield ten minutes more. I regret I can not give the gentleman any more time..

Mr. WILLIAM W. KITCHIN. It is beyond my understanding how any Democrat can oppose the ship subsidy and then support the railroad subsidy. Frequently gentlemen object to this appropriation being called a "subsidy." It is a subsidy or worse—a bonus, a gift. According to Webster's International Dictionary, a subsidy is a grant from the government to a "company to assist in the establishment or support of an enterprise deemed advantageous to the public." Is it not, according to the argument of its own supporters, a grant to the railroad to assist it in running two trains for the advantage of the public? Ordinarily governments have not subsidized any company unless its business was otherwise unprofitable, but here you subsidize companies whose business is greatly profitable. You give from the people's money to increase the treasury of the railroad. You subsidize trains for passengers and express as well as mail. Every pound of express carried on No. 97 and every passenger and all express on No. 37 are subsidized as well as the mail. Passengers and express get the benefit. What would a passenger say if the railroad should try to collect from him extra pay for getting him to his station on time, and what would one say who should be required to pay for his express an extra price because it came in due time. Yet you pay these companies extra for getting the mail to Charlotte on time. The railroad company fixes its schedule and you subsidize it to keep its own schedule. If it makes the schedule, it gets that day's sub-

sidy; if it fails to make it, that day's subsidy is withheld. It is a bonus to induce the company to do its duty. Every day the company does its duty it gets this extra pay. If No. 97 leaves here on time and is five minutes behind the schedule which the company has fixed for it at Danville and Charlotte and Atlanta, it does not get for that day a cent of this subsidy, though it makes the trip; but if it is on time it gets the extra pay. I therefore state that it is a pure bonus to the railroad not to enable it to run the subsidized trains, but merely to persuade it in running them to keep its own schedules. [Applause.]

So strange are the influences that control actions that business men in my district, who would stand a lawsuit before they would pay the company an extra dollar over and above the regular price for getting them or their freight or express to their town on time, though by a subsidized train, yet urgently request me to vote to pay the company extra, over and above the regular statutory price, for getting the mail there on time.

We have heard much of the fines levied against these trains by the Department, and doubtless many people think the so-called fines are a punishment. If they were fined every day in the year by withholding the subsidy, they would then get the same pay as other roads. It is really, instead of being a punishment when they fail to keep the schedules, a bonus when they do keep them—such as no other roads in the country have.

Now, Mr. Chairman, I have quite fully discussed this matter, but I desire it understood that my main opposition is to the principle involved in it. If we, by reason of our great industries, progressive enterprise, and increasing business, are entitled, as I contend we are, to the facilities which we now enjoy, then the great companies that are enriched by that business and enterprise should furnish us adequate mail facilities at the very profitable rates allowed to all under the general law, and it becomes a profligate waste of public money and an inexcusable badge of favoritism to grant this subsidy to the railroad companies.

If, on the other hand, our energy, business, enterprise, and traffic do not justify our present facilities and this subsidy bestows upon the people along the main line from Washington to New Orleans facilities to which they are not entitled, while withholding similar help from millions of our fellow-citizens who have not mail facilities equal to ours, then this subsidy becomes a vicious piece of partiality, a special privilege to a section, a legislative preference which, in my judgment, no Democrat should encourage and no patriot approve. On the one hand it is legalized graft to the companies; on the other it is legalized graft to their patrons. In either case it is unwise, vicious, undemocratic, and unworthy of the tolerance of a just Government. If the people—as I hope they soon will be—were as ready to condemn votes against their interests and to approve those in favor of justice and equality as the recipients of special privileges are ready to oppose those who resist their greed and to support those who vote for their projects, this subsidy would, in my opinion, long ago have been discontinued. [Applause.] I rejoice that the people, through the benefits of the press and the daily mail, are rapidly becoming watchful of public conduct.

Among those who have urged my support doubtless there are many misinformed, some misled, and others misdirected. Wide in scope, strong in effect, and varied in operation are the influences which have molded opinion upon this subject along the subsidized railway lines. Information has been withheld where knowledge would operate against the subsidy. The public conscience has been aroused and its sense of propriety shocked by discoveries of frauds among the high financiers of the country. In a less degree in its universality, perhaps, but no less genuine in its sincerity, will be the sentiment of the people against this subsidy when they once comprehend it in all of its phases. If the Representatives of the people stand, as they do stand, against the crimes of frenzied finance, they should also stand against the great offenses of governmental preference and favoritism. If Representatives stand, as they do stand, against the wrongs of insurance companies, they should likewise stand against the wrongs of railway companies. The people expect us, amid all the waves of excitement and against all the pressure of influence, to uphold the right as we see it. For myself, against the opposition which my position on this subsidy brings upon me, I cheerfully appeal to the conscience and judgment of the people of North Carolina, who have never yet bowed to frenzied finance or surrendered to the legions of greed. [Loud applause.]

Mr. OVERSTREET. Mr. Chairman, I yield to the gentleman from Illinois [Mr. MADDEN].

Mr. MADDEN. Mr. Chairman, the expediency and the necessity for a deep waterway from Lake Michigan to the Gulf of Mexico are most obvious, and this Congress should appropriate a sum of money sufficient to enable the work to be pushed vigorously and steadily until a subsequent appropriation is available. In my opinion, Congress should authorize a continuous contract for the completion of this improvement. At any event, practical results should be secured.

Work on this great and beneficent project should begin at the earliest date possible and be continued uninterruptedly until completed. The work should be rushed, and no effort should be spared to complete it.

Mr. Chairman, we will never have a merchant marine such as our national wealth commands until ocean-going ships can sail into the heart of this continent, tie up at the wharves along this proposed route, and take on cargoes which can go unbroken to foreign markets.

I therefore believe, sir, that the Government should undertake earnestly the accomplishment of a project which will not only enable this to be done, but which will surely give to us that percentage of foreign business to which we are entitled.

Give the great Mississippi Valley a chance to get its products into the Latin-American countries by some cheap and direct means, such as this water route would afford, and we will not long be compelled to suffer the humiliation of permitting the international balance sheet to show a sum of $500,000,000 annually against us in our transactions with those countries.

Europe to-day furnishes Latin America with upwards of three-fourths of all she consumes. We furnish the rest. We purchase from those countries, however, three-fifths of all they produce.

We can easily have the bulk of this trade if Congress will but extend this canal as proposed. The cheap transportation thus afforded will attract from the great West and Northwest a traffic simply stupendous. Enormous as the commerce of that section is to-day it can easily be doubled when the cost of transportation becomes reasonable. The great States of Illinois, Missouri, Iowa, Wisconsin, and Minnesota alone produce 26 per cent of the agricultural products of the United States and contain 19 per cent of its population. In these States there are 100,000 manufacturers, or 19 per cent of the number in the United States. In these institutions over $600,000,000 are invested; a million of workmen are employed, who earn $450,000,000 annually, or 16 per cent of all the wages paid in the United States—a good showing for five States out of forty-five, I respectfully submit.

It requires no strength of imagination, Mr. Chairman, to foresee the commercial benefits that will result from this improvement when the Panama Canal shall have been completed, and I have no doubt that it will be completed. The President asserts with great confidence and firmness that the canal will be built. Denial is therefore preposterous, and the roaring protests of certain turbulent demagogues will serve only to render its accomplishment more certain.

Mr. Chairman, all sections of this country should unite in an earnest effort to secure cheap transportation for carrying goods to and from the markets of foreign countries to the great sections of production of our own. The plain necessity for such action justifies the most lavish national exertion and expenditure even if pecuniary profit was our only object, which is not the case. When the Panama Canal is completed, commercial traffic with the Philippines, China, and Japan will afford an opportunity of introducing into those countries Christianity with its great rewards, which in itself is far more praiseworthy, and which will redound more to our glory as a nation than anything that can be gained by a satisfaction of our appetite for commercial greatness. While we are looking for foreign markets for the boundless resources of the prolific Mississippi Valley, let us not overlook an opportunity to teach the principles of Christian civilization.

Mr. Chairman, Europe can deliver the products of England, Germany, and France to points in Mexico and Central and South America at a cost three times less than we can deliver from our centers of production goods to the same points, simply because our exports and imports are largely controlled by railways whose rates are almost prohibitive. Under the present transportation system it costs, I am informed, something in the neighborhood of $30 per ton on freight from the West to points in Latin America. If the proposed canal were in operation to-day, the same articles could be transported to Latin America for $10 per ton, a difference of $20. Let us free the people, gentlemen, by constructing this deep waterway. They have paid tribute to the railroads long enough.

Mr. Chairman, this country spends 95 per cent on its land transportation and only 5 per cent for sea carriage. Products valued at $300,000,000 are annually imported into our country from South America in foreign bottoms, and we pay to these foreign ships $30,000,000 for this service alone. How does it happen that the United States has to-day 1,500,000 less tonnage

on the seas than it had sixty-five years ago, and how long are we going to continue paying annually over five and one-half billion dollars for the transportation of passengers, mail, and freight around the world?

The building of this proposed deep waterway will correct the seeming indifference to me of the most commendable national enterprises. It will give an impetus to shipbuilding here in the United States such as was never before dreamed of. It will relieve the Interstate Commerce Commission of the further duty of railroad rate regulation, for it will certainly solve this most important question.

No railroad can charge higher freight rates than those made by a competing carrier and prosper. As proof of this assertion, permit me to call your attention to a part of the argument made by Mr. Frank J. Delaney, of Chicago, before the committee on appropriations of the forty-second general assembly of the State of Illinois, concerning the value of the Illinois and Michigan Canal to the farmers and shippers of the State and the effect upon freight rates.

Mr. Delaney's argument was in part as follows:

First. Freight rates (either water or rail) are markedly lower along the canal than at any other points in the State.

Second. That the low rail rates made by railways paralleling the canal force the nearest competing railroads on either side to make correspondingly low charges, though these roads may be miles distant from the canal proper, and that this influence is directly felt at a distance 40 or 50 miles either side of the canal.

Third (and it may be well to note this particularly). That the greater the distance from the canal the higher the freight rate, regardless of the distance from Chicago.

Assuming that the canal territory most directly influenced is the territory to be considered we find that the very presence of the canal, regardless of the volume of business done upon its waters, has saved to farmers of this territory about $1,500,000 in last year's crop of corn, oats, and wheat.

The following counties being what we will consider as "canal counties"—that is, those being the counties most directly and most noticeably influenced: Cook, Will, Dupage, Kane, Kendall, Grundy, Dekalb, Kankakee, Iroquois, Livingston, Woodford, Marshall, Lee, Bureau, Putnam, Stark, Peoria, and Tazewell.

These counties last year produced 973,340 bushels of wheat, 94,880,160 bushels of corn, and 65,579,274 bushels of oats. (Figures taken from report of 1899, Illinois State board of agriculture, computing corn at 40 bushels to the acre.)

A study of the various rates throughout this section and a reference to the rate map will show that the presence of the canal saves from 1½ cents to 4 cents in freight charges per hundred pounds on grain alone. Assuming, therefore, that the average saving of freight charges by this waterway is but 2 cents per hundred pounds—certainly a very conservative estimate—we find that this canal has saved to the farmers of this territory along during the last year approximately $1,500,000, and by a sympathetic reduction of freights throughout its competitive influence many times that sum.

Of the amounts of grain mentioned we may assume that perhaps one-third of this went to market and paid freight, this receiving the actual tangible benefit of the canal in dollars and cents. The other portion of the grain raised was consumed at home and received its proportion of the saving indirectly, and its market value was the same as and its benefit equal to the grain actually marketed.

When we consider that this computation includes corn, wheat, and oats, only three of the many products of this territory, we can readily see the immense value this comparatively short waterway is to our State.

The following table, taken from the proceedings of a convention of the Upper Mississippi River Improvement Association, held in Dubuque, Iowa, in November of last year, shows a comparison of all-rail with all-water rates:

A comparison of all rail with all water rates.

[In cents per 100 pounds.]

	Miles.	Classes.									
		1.	2.	3.	4.	5.	6.	7.	8.	9.	10.
St. Louis to Cairo, Ill., by water	151	0.34	0.29	0.24	0.19	0.14½	0.14	0.12	0.09½	0.08½	0.07½
		1.	2.	3.	4.	5.	A.	B.	C.	D.	E.
St. Louis to Williamsville, Mo., by rail	145	0.65	0.58	0.49	0.39	0.25	0.22	0.18½	0.14	0.14	0.10

These rates are governed by two different classifications, but the Illinois to Cairo is the lower basis and makes the difference more pronounced than shown by the figures.

	Miles.	1.	2.	3.	4.	5.	A.	B.	C.	D.	E.
St. Louis to St. Paul, Minn., by water	582	0.63	0.52½	0.42	0.26	0.21	0.26	0.21	0.18	0.15	0.13½
St. Louis to Oklahoma City, Okla., by rail	543	1.30	1.09	.97	.84	.67	.65	.53	.40	.37	.29

In this instance rates forced by water competition are less than half of the other.

	Miles.	1.	2.	3.	4.	5.	A.	B.	C.	D.	E.
St. Louis to Hannibal, Mo., by water	120	0.28	0.22	0.17	0.12	0.09	0.11	0.10	0.09	0.07½	0.06½
St. Louis to Centralia, Mo., by rail	124	.47	.36	.26	.21	.16	.18	.15	.13	.11	.09

This comparison shows the effect on short hauls.

	Miles.	1.	2.	3.	4.	5.	6.	7.	8.	9.	10.
East St. Louis to Peoria, Ill	159	0.25	0.20	0.16	0.12	0.11	0.10	0.09½	0.09	0.08½	0.07
East St. Louis to Green Valley, Ill	139	.4418	.3478	.2716	.2180	.1744	.1410	.1288	.1034	.0822	.0722

Green Valley is intermediate to Peoria on the C. and A.

	Miles.	1.	2.	3.	4.	5.	6.	A.	B.	C.	D.
St. Louis to New Orleans, La., by water	706	0.90	0.75	0.65	0.50	0.40	0.35	0.25	0.25	0.25	0.20
St. Louis to Lauderdale, Miss., by rail	493	1.33	1.11	.95	.80	.62	.54	.41	.44	.33	.25

Lauderdale is intermediate to New Orleans on the M. and O. Rwy.

Instead of being detrimental I believe deep waterways to be essential adjuncts to successful railway operation, and I thoroughly believe, Mr. Chairman, that this proposed deep waterway would be a veritable boon to railroads contiguous thereto. It would stimulate business and take away from them freight of a nonproductive nature. All well-regulated waterway systems have benefited adjoining railroads. The best railroad authorities in our country recognize the fact that water competition, instead of being a detriment to the railroads, is a benefit to them. Railroads handle with small profit freight usually carried by water. If anyone doubts that this argument rests on a sound basis, let him study the contemporaneous development of railroads and canals in France. In our own country the most prosperous railroads are those that parallel waterways.

A comparison of the stock lists of roads running to and from the seaports and lake ports with those of interior cities will satisfy any fair-minded man, it seems to me, of the truthfulness of this assertion. Take the New York stock quotations of this year. Note the roads whose securities are above par.

Railroads having competing waterways: Lake Shore and Michigan Southern, 200; Michigan Central, 200; Chicago, Milwaukee and St. Paul, preferred, 174⅜; Chicago and Northwestern, preferred, 228½; Delaware and Hudson, 202⅜; New York Central, 145¾; New York, New Haven and Hartford, 200½.

Railroads having no competing waterways: Atchison, Topeka and Santa Fe, preferred, 102; Baltimore and Ohio, 110¼; Cleveland, Cincinnati, Chicago and St. Louis, 99; Chesapeake and Ohio, 57⅞; Atlantic and Pacific; Colorado Coal and Iron, 60⅜; Chicago, Rock Island and Pacific, 66¾ New York, Lake Erie and Western, preferred; Denver and Rio Grande, 86⅝; Texas and Pacific, 34.

These quotations are self-explanatory and I do not care to make further argument in defense of my assertion that waterways benefit adjoining railroads. We are here to legislate for the people and not for the railroads. The railroads of this country, with their subsidies and land grants, are estimated to be worth between $18,000,000,000 and $19,000,000,000, and should be able to get on without further governmental assistance.

The Government has gone far enough, in my humble opinion, in bestowing favors upon great railroad corporations—favors which have no doubt been judiciously used for the betterment of the people. I make no complaint against Government land grants and subsidies to certain railroads. I think perhaps they were necessary and have proven beneficent. But the railroads need no further aid by way of subsidies from the Government.

The present transportation facilities are inadequate and wholly unsatisfactory. With present high freight rates, transshipments, etc., competition with other sections of our country, and more especially with foreign countries, is out of the question. That this, the richest territory on earth, embracing, as it does, half of the States in the Union, with a navigable river system of 20,000 miles, and possessing half of the nation's population, should have been so long denied a direct and economical means of transportation for its enormous commerce is a problem to solve which would require faculties I do not possess. Fairness demands that this section of our country, upon which the stability of the nation rests, should be given all Government aid possible to encourage it to increase its commercial supremacy. Men who are broad-minded enough to see the future greatness of the United States and who have the power of taking in the interests of the whole country realize fully the importance of speedy action on the part of the Government to the end that this commercial supremacy be maintained.

Mr. Chairman, the Mississippi Valley has an area of 1,350,000 square miles. It is 2,500 miles in length and 2,000 miles in width. Within its boundaries lie the greatest producing States in the Union; yea, in the world. The arms of its principal river reach out from east to west and, with the Missouri, form the boundary lines of twenty-one States and affords 20,000 miles of navigation.

What a splendid opportunity is here afforded by this proposed deep waterway to give to this section of our country, which has raised us from a debtor to a creditor nation, cheap transportation for its commerce to foreign markets. This great valley produces 75 per cent of all our foreign exports, only a small portion of which, however, finds a direct route to foreign markets. Commerce for export should go direct and in American bottoms. It is a shame, Mr. Chairman, that over 90 per cent of the export trade of this country is carried in foreign bottoms. Give to this fruitful region the cheap and necessary means of transportation, and a mighty impetus will be given to the shipbuilding industry. By no subsidies, save the expenditure by the Government of money in the permanent betterment of channels, an American merchant marine has grown up on the Great Lakes which excels the merchant marine of any foreign nation except England and Germany. Machinery for the rapid handling of cargoes, such as seen in no other part of the world, has been invented and placed in extensive use in lake transportation. The capacity of the ships in the active carrying of freight has been greatly increased, whereby cargoes of 100,000 bushels of grain are loaded within five hours and unloaded in six hours. Five thousand tons of ore are placed on shipboard within three hours, and the cargo is taken out in the light of a working day. Coal drops from car-dumping machines into the holds of vessels, and within three hours of the time they tie up to the dock they have on board from 3,000 to 5,000 tons and are ready to sail again. Vessel owners claim that nowhere in the world has the science of handling freight economically and rapidly reached so high a state of perfection as in the lake service. The ships built at the shipyards during the present decade will compare favorably with vessels of the same class built anywhere in the world.

The marvelous development of Chicago is due largely to the fact that the city is located at the point where railroad transportation and water transportation meet. The growth of the city has been but the reflex of the development of the West, and the traffic of the West has come to Chicago because its products could be shipped at lower rate through the Chicago River than elsewhere.

It would be a reiteration of a familiar story and a waste of your time to urge the magnitude of Chicago's commerce and manufactories. We might call your attention to the fact that this city is the largest railroad center in the world, that it holds the lead in many lines of manufacturing, and that as a primary market for grain it has no rival. Her position in the commercial, financial, and manufacturing life of the nation needs no detail of statistics. [Loud applause.]

I desire at this point, Mr. Chairman, to call the attention of the House to a table, prepared at the customs office at Chicago, which shows the lake commerce of Chicago for 1904, in order that some idea may be had of the great tonnage received and shipped from that port:

Lake commerce of Chicago, 1904.

RECEIVED.

Coal	tons	1,024,853
Iron ore	do	2,573,622
Salt	barrels	1,526,859
Lumber	M feet	402,839
Shingles	do	20,796
Lath	do	13,761
Posts	number	1,051,083
Ties	do	1,787,234
Poles	do	113,165
Wood	cords	9,996
Plaster	barrels	84,098
Cement	do	278,413
Asphalt	do	24,657
Sulphur	do	5,644
Copper	bars	76,466
Hides	bales	1,214
Hardware	packages	399,083
Shoes	do	368,079
Sugar	do	1,478,305
Groceries	tons	73,623
Green fruits	packages	3,882,058
Potatoes	bushels	180,320
Coffee	sacks	127,364
Grain	bushels	2,012,600
Unclassified	tons	463,589
Number of vessels entered		6,428
Tonnage		6,325,092

SHIPPED.

Wheat	bushels	5,715,987
Corn	do	41,864,828
Oats	do	7,607,466
Rye	do	237,000
Barley	do	1,083,990
Flaxseed	do	161,500
Flour	barrels	1,535,439
Cereals	do	70,523
Mill stuffs	sacks	1,905,250
Gluten meal	do	119,266
Malt	do	114,973
Oil cake	do	195,975
Grass seed	do	36,589
Glucose	barrels	67,104
Sugar	do	30,010
Oil	do	104,668
Pork	do	7,142
Tallow	do	23,853
Hides	bales	4,898
Wool and hair	sacks	35,087
Broom corn	bales	1,249
Spelter	plates	120,981
Groceries	tons	7,110
Manufactures of iron	do	20,989
Unclassified	do	376,744
Number of vessels cleared		6,476
Tonnage		6,420,986

The following tables, taken from the report of the Board of Trade of the city of Chicago for the year ended December 31, 1904, and prepared by Hon. George F. Stone, its secretary, to whom I am indebted for the same, will serve to illustrate in part Chicago's great business for that year:

FLOUR AND GRAIN.—*The entire movement of these products at Chicago during 1904.*

RECEIPTS.

	Flour.	Wheat.	Corn.	Oats.	Rye.	Barley.
	Barrels.	*Bushels.*	*Bushels.*	*Bushels.*	*Bushels.*	*Bushels.*
Lake	7,380	495,000				
Canal	54,735	7,000	459,274	48,304		
Chicago and Northwestern Railway	1,414,855	3,029,331	7,606,004	14,478,141	543,775	10,284,307
Illinois Central Railroad	295,353	1,453,525	25,679,700	9,492,700	75,200	976,800
Chicago, Rock Island and Pacific Railway	739,988	4,079,380	11,530,575	10,865,251	184,615	1,753,370
Chicago, Burlington and Quincy Railway	1,712,000	3,298,225	19,620,250	9,128,250	528,250	770,600
Chicago and Alton Railroad	481,426	1,098,595	9,740,900	2,561,750	23,200	8,800
Chicago and Eastern Illinois Railroad		65,900	5,724,900	3,168,250	3,000	

FLOUR AND GRAIN.—*The entire movement of these products at Chicago during 1904*—Continued.

	Flour.	Wheat.	Corn.	Oats.	Rye.	Barley.
	Barrels.	*Bushels.*	*Bushels.*	*Bushels.*	*Bushels.*	*Bushels.*
Chicago, Milwaukee and St. Paul Railway	1,699,500	3,796,845	4,047,200	12,807,100	551,100	9,819,850
Wabash Railroad (west of Chicago)	118,200	448,700	4,998,900	2,118,450	9,850	
Chicago Great Western Railway	805,400	1,540,000	1,668,500	3,566,100	81,550	1,186,500
Atchison, Topeka and Santa Fe Railway	313,539	4,207,300	5,549,250	2,194,850	33,000	1,000
Wisconsin Central Lines	1,042,421	535,834	2,100	271,670	28,250	249,768
Elgin, Joliet and Eastern Railway		401,650	3,477,450	1,996,750	78,250	78,100
Chicago, Indianapolis and Louisville Railway	112,073	80,152	382,559	345,291	229,132	181,572
Eastern Lines[a]	42,350	19,310	55,645	10,262	10,195	6,250
Total receipts	8,839,220	24,457,347	100,543,207	73,023,119	2,379,367	25,316,917
Flour manufactured in the city	750,000					
In store and afloat in harbor, December 31, 1903	17,700	2,768,291	2,244,068	1,227,728	242,279	271,310
Grand totals	9,606,920	27,225,638	102,787,275	74,250,847	2,621,646	25,588,228

SHIPMENTS.

	Barrels.	*Bushels.*	*Bushels.*	*Bushels.*	*Bushels.*	*Bushels.*
Lake—To Buffalo	511,743	5,179,787	28,262,265	4,226,578	237,000	865,181
To Erie	143,152	60,000	317,000			
To Ogdensburg	11,572		2,507,074	1,073,442		15,000
To Port Huron			1,199,200			
To other United States ports	27,492	385,999	933,115	30,800		
To Depot Harbor	7,210		3,371,446	478,850		116,800
To Montreal	290		1,832,474			89,000
To Midland			1,456,709	62,312		
To Collingwood	1,902		1,184,992	270,588		
To Kingston			217,600			
To Sarnia				554,953		
To other Canadian ports		1,600	516,176	943,554		
Totals by Lake	703,361	5,627,386	41,798,051	7,641,077	237,000	1,083,981
Canal	2,054	383,010		4,765		
Chicago and Northwestern Rwy	20,107	124,494	364,900	69,058	12,150	33,571
Illinois Central R. R	35,864	307,500	140,950	234,300	6,650	202,400
Chicago, Rock Island and Pacific Rwy	15,863	614,364	2,295,100	1,038,332		212,045
Chicago, Burlington and Quincy Rwy	6,600					
Chicago and Alton R. R	1,350	177,338				
Chicago and Eastern Illinois R. R	8,850	103,950	349,000	85,350	2,000	39,300
Chicago, Milwaukee and St. Paul Rwy	26,300	82,550	246,025	23,200	5,750	24,300
Wabash R. R. (west of Chicago)		33,900	4,000	4,350		19,800
Chicago Great Western Rwy						
Atchison, Topeka and Santa Fe Rwy	25,820		47,800	3,200		3,300
Wisconsin Central lines						
Elgin, Joliet and Eastern Rwy	51,400	666,475	748,750	463,600	19,000	5,700
Chicago, Indianapolis and Louisville Rwy	236,269	578,463	586,501	604,871	392,169	405,815
Eastern lines	6,134,058	9,257,986	28,603,681	37,131,798	832,554	3,772,844
Total shipments	7,267,896	17,957,416	75,184,758	47,303,901	1,567,273	5,842,854
In store and afloat in harbor December 31, 1904	33,500	1,656,152	2,140,383	3,579,842	414,192	12,733
City consumption and unaccounted for	2,305,524	7,612,070	25,462,134	23,367,104	640,181	19,772,639
Grand totals	9,606,920	27,225,638	102,787,275	74,250,847	2,621,646	25,588,228

[a] The Eastern Lines include the Wabash R. R. (east of Chicago), C., C., C. & St. L. Rwy., Michigan Central R. R., L. S. & M. S. Rwy., P., Ft. W. & C. Rwy., P., C., C. & St. L. Rwy., B. & O. R. R., C. & G. T. Rwy., N. Y. C. & St. L. Rwy., and the Chicago and Erie R. R.

LIVE AND DRESSED HOGS.—*Receipts and shipments during 1904.*

RECEIPTS.

	Live.	Dressed.
Chicago and Northwestern Rwy	1,798,314	19,511
Illinois Central R. R	702,664	8
Chicago, Rock Island and Pacific Rwy	994,208	276
Chicago, Burlington and Quincy Rwy	886,544	
Chicago and Alton R. R	114,092	
Chicago and Eastern Illinois R. R	127,144	
Chicago, Milwaukee and St. Paul Rwy	1,786,418	
Wabash R. R	143,179	
Chicago Great Western Rwy	257,213	
Atchison, Topeka and Santa Fe R. R	174,861	
Wisconsin Central Lines	53,804	
Chicago, Indianapolis and Louisville Rwy	46,269	39
Michigan Central R. R	23,041	
Lake Shore and Michigan Southern Rwy	11,991	
Pittsburg, Fort Wayne and Chicago Rwy	12,623	
Pittsburg, Cincinnati, Chicago and St. Louis Rwy	50,590	
Baltimore and Ohio R. R	4,709	
Chicago and Grand Trunk Rwy	19,233	
New York, Chicago and St. Louis R. R	13,761	
Chicago and Erie R. R	19,500	
Pere Marquette R. R	16,337	
Chicago Junction R. R	457	
Eastern Lines		190
Driven into yards	1,794	
Total live	7,238,746	
Total dressed		20,024
Total live and dressed		7,258,770

SHIPMENTS.

Chicago and Northwestern Rwy	13,671	8
Illinois Central R. R	978	22
Chicago, Rock Island and Pacific Rwy	251	
Chicago, Burlington and Quincy Rwy		
Chicago and Alton R. R	95	30
Chicago and Eastern Illinois R. R	966	
Chicago, Milwaukee and St. Paul Rwy	9,851	
Wabash R. R	470	
Chicago Great Western Rwy	29	
Atchison, Topeka and Santa Fe R. R		
Wisconsin Central Lines		
Chicago, Indianapolis and Louisville Rwy	6,051	207

LIVE AND DRESSED HOGS.—*Receipts and shipments during 1904*—Cont'd.

SHIPMENTS—continued.

	Live.	Dressed.
Michigan Central R. R	226,044	
Lake Shore and Michigan Southern Rwy	749,448	
Pittsburg, Fort Wayne and Chicago Rwy	271,004	
Pittsburg, Cincinnati, Chicago and St. Louis Rwy	111,187	
Baltimore and Ohio R. R	149,161	
Chicago and Grand Trunk Rwy	4,804	
New York, Chicago and St. Louis R. R	50,440	
Chicago and Erie R. R	31,324	
Pere Marquette R. R	174	
Chicago Junction R. R		
Eastern Lines		120,372
Total live	1,626,022	
Total dressed		120,845
Total live and dressed		1,746,867
City consumption and packing	6,156,724	

By months during 1904.

RECEIPTS.

	Live.		Dressed.
	Number.	Average weight.	
January	869,814	206	973
February	845,894	205	801
March	612,141	206	803
April	558,122	208	708
May	580,014	214	1,050
June	577,138	221	2,249
July	349,558	226	1,704
August	502,465	239	2,783
September	356,204	244	2,987
October	477,217	230	1,803
November	705,440	232	2,379
December	804,679	228	1,634
Total receipts, live	7,238,746		
Total receipts, dressed			20,024
Total live and dressed			7,258,770

By months during 1904—Continued.

SHIPMENTS.

	Live.	Dressed.
January	159,542	19,258
February	180,529	16,552
March	236,375	10,039
April	188,002	11,493
May	143,597	12,962
June	105,838	5,886
July	97,778	3,675
August	123,163	5,085
September	98,076	4,149
October	83,131	6,835
November	106,895	10,945
December	102,106	13,955
Total shipments, live	1,626,022	
Total shipments, dressed		120,845
Total live and dressed		1,746,867
City consumption and packing	6,156,724	

CATTLE AND SHEEP.—*Receipts and shipments of these varieties of live stock during 1904.*

[As reported by the Union Stock Yards Company.]

RECEIPTS.

	Cattle.	Sheep.
Chicago and Northwestern Rwy	663,924	1,087,752
Illinois Central R. R	258,165	140,452
Chicago, Rock Island and Pacific Rwy	323,317	246,320
Chicago, Burlington and Quincy Rwy	739,069	882,108
Chicago and Alton R. R	173,409	64,403
Chicago and Eastern Illinois R. R	65,358	93,806
Chicago, Milwaukee and St. Paul Rwy	601,905	1,240,314
Wabash R. R	107,821	68,858
Chicago Great Western Rwy	114,566	214,674
Atchison, Topeka and Santa Fe R. R	119,274	47,532
Wisconsin Central lines	18,927	192,810
Chicago, Indianapolis and Louisville Rwy	28,898	111,288
Michigan Central R. R	4,875	15,975
Lake Shore and Michigan Southern Rwy	2,991	19,825
Pittsburg, Fort Wayne and Chicago Rwy	2,748	14,028
Pittsburg, Cincinnati, Chicago and St. Louis Rwy	13,416	30,900
Baltimore and Ohio R. R	1,344	7,074
Chicago and Grand Trunk Rwy	2,517	13,580
New York, Chicago and St. Louis R. R	2,787	15,288
Chicago and Erie R. R	1,548	10,518
Pere Marquette R. R	2,012	6,300
Chicago Junction Rwy	464	
Driven into yards	3,850	825
Total	3,259,185	4,504,630

SHIPMENTS.

Chicago and Northwestern Rwy	42,032	19,734
Illinois Central R. R	30,513	36,459
Chicago, Rock Island and Pacific Rwy	24,957	11,868
Chicago, Burlington and Quincy Rwy	55,889	16,079
Chicago and Alton R. R	11,287	13,189
Chicago and Eastern Illinois R. R	29,815	41,598
Chicago, Milwaukee and St. Paul Rwy	28,853	33,451
Wabash R. R	32,298	29,147
Chicago Great Western Rwy	2,366	3,466
Atchison, Topeka and Santa Fe R. R	13,971	3,505
Wisconsin Central lines	1,738	4,440
Chicago, Indianapolis and Louisville Rwy	20,172	33,121
Michigan Central R. R	226,547	81,851
Lake Shore and Michigan Southern Rwy	172,734	270,637
Pittsburg, Fort Wayne and Chicago Rwy	225,529	363,423
Pittsburg, Cincinnati, Chicago and St. Louis Rwy	65,507	61,090
Baltimore and Ohio R. R	88,752	92,764
Chicago and Grand Trunk Rwy	186,463	132,571
New York, Chicago and St. Louis R. R	17,536	22,909
Chicago and Erie R. R	36,088	78,215
Pere Marquette R. R	8,438	12,753
Chicago Junction Rwy	9,847	
Total	1,326,332	1,362,270
City consumption and packing	1,932,853	3,142,360

CATTLE AND SHEEP.—*Receipts and shipments of these varieties of live stock by months during 1904.*

[As reported by the Union Stock Yards Company.]

RECEIPTS.

	Cattle.	Sheep.
January	293,300	355,926
February	295,704	431,612
March	261,076	374,680
April	246,299	391,301
May	236,647	288,571
June	267,681	332,442
July	154,526	216,945
August	272,509	420,746
September	277,068	406,951
October	302,376	574,694
November	338,987	422,450
December	282,922	318,312
Total	3,259,185	4,504,630

CATTLE AND SHEEP.—*Receipts and shipments of these varieties of live stock by months during 1904*—Continued.

SHIPMENTS.

	Cattle.	Sheep.
January	111,409	63,110
February	107,592	93,769
March	117,442	103,897
April	107,807	51,334
May	96,483	45,436
June	96,755	31,043
July	74,155	93,983
August	116,419	224,019
September	126,341	239,701
October	132,335	251,401
November	118,823	97,473
December	120,711	67,104
Total	1,326,332	1,362,270
City consumption and packing	1,932,853	3,142,360

HIDES AND WOOL.—*Receipts and shipments of these products during 1904, by routes.*

	Hides.		Wool.	
	Received.	Shipped.	Received.	Shipped.
	Pounds.	*Pounds.*	*Pounds.*	*Pounds.*
Lake	39,200	2,914,000	20,000	8,850,700
Canal				
Chicago and Northwestern Rwy	79,743,559	26,497,932	22,033,702	2,114,210
Illinois Central R. R	7,463,870	2,247,488	7,098,291	167,200
Chicago, Rock Island and Pacific Rwy	13,159,664	993,804	10,750,029	183,016
Chicago, Burlington and Quincy Rwy	20,475,398	943,012	18,289,953	783,048
Chicago and Alton R. R	17,462,297	16,000	56,770	17,060
Chicago and Eastern Illinois R. R				
Chicago, Milwaukee and St. Paul Rwy			9,064,600	
Wabash R. R. (west of Chicago)	5,555,940			
Chicago Great Western Rwy			3,020,424	
Atchison, Topeka and Santa Fe R. R	2,510,442		126,060	
Wisconsin Central Lines	8,151,280		87,465	
Elgin, Joliet and Eastern Rwy				
Chicago, Indianapolis and Louisville Rwy	6,296,102	13,266,270	1,559,536	1,823,140
Eastern lines	4,881,698	150,590,745	586,220	59,378,185
Total	165,739,850	197,469,251	72,693,060	73,316,559

TIMOTHY AND CLOVER SEEDS.—*Receipts and shipments of these commodities during 1904, by routes.*

	Timothy seed.		Clover seed.	
	Received.	Shipped.	Received.	Shipped.
	Pounds.	*Pounds.*	*Pounds.*	*Pounds.*
Lake		732,368		19,040
Canal				
Chicago and Northwestern Rwy	5,944,699	223,060	185,489	200,572
Illinois Central R. R	4,130,893	221,800	1,886,149	112,407
Chicago, Rock Island and Pacific Rwy	12,625,885		158,485	170,000
Chicago, Burlington and Quincy Rwy	8,954,255		693,671	80,238
Chicago and Alton R. R	168,660		415,961	24,000
Chicago and Eastern Illinois R. R				
Chicago, Milwaukee and St. Paul Rwy	13,500,000		280,000	
Wabash R. R. (west of Chicago)	80,000			
Chicago Great Western Rwy	14,100,049			
Atchison, Topeka and Santa Fe R. R	105,000			
Wisconsin Central lines				
Elgin, Joliet and Eastern Rwy				
Chicago, Indianapolis and Louisville Rwy	2,217,181	2,702,285	2,756,965	1,307,975
Eastern lines	163,250	21,607,000	1,543,495	4,268,356
Total	61,989,872	25,486,513	7,920,245	6,242,568

These figures serve to show in part the greatness of the commerce of Chicago and the surrounding country and how important a part they are of the commerce of the nation.

The great city of Chicago, cognizant of the future commercial greatness of the West and Northwest and realizing the imperative future necessity of a ship canal from Lake Michigan to the Gulf of Mexico, burdened itself by taxation to the amount of $18,000,000 in excess of what was necessary to build a canal for drainage purposes alone, as was originally contemplated.

This, in many respects the greatest engineering project ever undertaken, renders the continuation by the Government of a deep waterway to the Gulf of Mexico exceedingly easy and inexpensive. Some idea of its magnitude and importance may be had by a perusal of a memorial recently presented to the Con-

gress of the United States by the trustees of the sanitary district of Chicago, the following extracts of which I desire to insert in the RECORD for the benefit of Members desiring to enlighten themselves upon this great subject:

THE CHICAGO SANITARY AND SHIP CANAL.

The Chicago Sanitary and Ship Canal may well be called the greatest artificial waterway ever constructed, and in its character of a navigable channel it stands ready to hand for the benefit of the Federal Government as a complete and in every respect satisfactory section of a deep waterway from Lake Michigan to the Mississippi River. It is, indeed, because of this character of the Sanitary and Ship Canal, and because it was designed for such ultimate use, that your memorialists, who have had its construction in their charge, are able to address you as parties deeply interested in the development of the waterway.

Before describing the inception and construction of the canal in detail it is well to point out again the place it fills in the general plan. It cuts through the divide between the Chicago River and the headwaters of the Desplaines, which is, by far, the most difficult and expensive portion of the entire work of construction. Its cost, when completed, will be close to $55,000,000, more than double the amount which will be necessary, as figures to be presented later will show, for the entire remainder of the work. It carries a volume of water large enough to furnish a steady supply for a waterway 14 feet deep, from its commencement at Chicago to the Mississippi River at St. Louis. To give it this capacity at least $18,000,000 more was spent upon it than would have been necessary to meet the demands of its use for sanitation alone.

The Chicago Sanitary and Ship Canal was, as has been said, primarily constructed for the disposal of the sewage of the city of Chicago, which had previously passed into Lake Michigan, polluting the water supply of the city. Notwithstanding this use of the canal, it is not to be thought that it is an unpleasant stream. So great is the volume of water provided that the canal is clear and odorless, and, in fact, in better condition hygienically than the ordinary river flowing through an inhabited country.

The construction of the canal was authorized by State law May 29, 1889, and the sanitary district of Chicago was organized for the work, its territory including all that part of Chicago lying north of Eighty-seventh street, with the exception of two small outlying suburbs, and 43 square miles of Cook County outside of the city limits. Its total area is 185 square miles. The district is 18 miles long from north to south and 9½ miles wide on a line east and west through the city hall. Its extreme width is 15 miles.[a] The nine trustees to whom the control of the district was given were authorized to levy taxes to the extent of one-half of 1 per cent per annum on the assessed valuation of the property of the district; and for the five years from 1895 to 1899 they were allowed a tax rate of 1½ per cent. They were also empowered to issue bonds to the amount of 5 per cent of the taxable property of the district, with the provision that that amount should not exceed $15,000,000, a limitation which in 1901 was raised to $20,000,000 to enable further improvement of the Chicago River. The total bond issue to date has been $24,790,000, of which amount $17,565,000 is still outstanding. The total income of the district from taxes to date has been $27,950,766.38.

The first board of trustees of the district, elected December 12, 1889, consisted of John J. Altpeter, Arnold P. Gilmore, Christoph Hotz, John A. King, Murry Nelson, Richard Prendergast, William H. Russell, Frank Wenter, and Henry J. Willing. Trustees Hotz, King, Nelson, and Willing resigned early in their terms, however, and in their places William Boldenweck, Lyman E. Cooley, Bernard A. Eckhart, and Thomas Kelly were elected.

The second board of trustees, elected November 5, 1895, included Trustees Boldenweck, Eckhart, Kelly, and Wenter, of the former board, and the following new members: Joseph C. Braden, Zina R. Carter, Alexander J. Jones, James P. Mallette, and Thomas A. Smyth.

November 6, 1900, the present board of trustees was elected, Trustees Braden, Carter, Jones, Smyth, and Wenter being returned, and William H. Baker, Frank X. Cloidt, William Legner, and Thomas J. Webb taking the places of retired members.

The presidents of the board have been:

Murry Nelson, February 1, 1890, to December 2, 1890.
Richard Prendergast, December 2, 1890, to December 8, 1891.
Frank Wenter, December 8, 1891, to December 3, 1895.
Bernard A. Eckhart, December 3, 1895, to December 8, 1896.
Thomas Kelly, December 8, 1896, to December 7, 1897.
William Boldenweck, December 7, 1897, to December 4, 1900.
Alexander J. Jones, December 4, 1900, to December 3, 1901.
Thomas A. Smyth, December 3, 1901, to December 8, 1903.
Zina R. Carter, December 8, 1903.

Ground was broken for the work of excavation September 3, 1892, Trustee Wenter, then president of the board, throwing the first shovelful of earth. From that time forward the work was pushed in the face of every obstacle, and at times with a rapidity hitherto unknown in channel digging; as, for example, when in a single month, August, 1894, 1,291,688 cubic yards of glacial drift and 413,164 yards of solid rock were excavated. Many new methods were introduced for the gigantic task, and schemes of a boldness fitting the great enterprise were adopted. Finally, after more than seven years of work, the canal and enough of the coordinated works were finished to make it possible to begin to put it to use. January 2, 1900, the water of the Chicago River was turned into the channel, and fifteen days later the gates at the lower end were opened, and for the first time in centuries the water of the lake began to flow toward the Gulf of Mexico.

The canal proper is, as now being extended, 32.3 miles long, but in addition 6 miles of the Chicago River and 2¼ miles of the Desplaines River have been improved by the district, so that the stretch of water over which control has been formally assumed, in accordance with the law, is 40.55 miles long. The Chicago River has become an uninterrupted part of the channel, with even better navigable depth than the canal proper, while the Desplaines has only been improved sufficiently to answer the sanitary purposes of the canal.

The Chicago River, prior to the opening of the canal, was a short and deep stream, branching to the north and to the south a mile back from the lake. With little fall, and small sources of supply excepting the water poured into it from many sewers, it was almost stagnant. As its dock lines had never been carefully preserved, its banks were irregular, the bed varying greatly in width at different places. The problem which the sanitary district had to face was the enlarging of this river so that it would provide a sufficient volume of water for the needs of the canal without producing a current injurious to navigation. This was accomplished in the first instance by dredging to a depth of 20 feet (except over tunnels), and by the construction of two by-passes or conduits, with dimensions of 16 by 50 feet, on the west side of the river from Monroe to Van Buren streets, where the channel was narrowest. Several of the most obstructive center-pier bridges were also removed.

Later on, however, after the water was turned into the canal, in 1900, a systematic study of river improvement to meet the needs of navigation was made, and the district by ordinance adopted a policy which provided for the widening of the river to 200 feet and its deepening to 26 feet through the entire length used in securing water supply. At the same time a depth of 30 feet was indicated as ultimately desirable. Under the ordinance condemnation proceedings have been begun for all the necessary land which could not be secured by purchase, and dredging, piling and docking have been going on simultaneously at many points. At the same time plans have been made to remove all of the center-pier bridges in the river, and substitute bascule bridges for them. Some of these bridges are already finished, others in process of construction, and the remainder will be contracted for as rapidly as is possible without interfering too seriously with traffic on the streets. The estimate for the total cost of this work is $9,000,000. At this writing, June, 1904, about 42 per cent of it has been finished. The completion of this work is dependent upon the rapidity with which the courts will handle the necessary condemnation suits. With all of the property in the possession of the district, the construction work could be completed in two years. With the completion of the work under these plans, the Chicago River will be a perfect navigable stream, of a uniform depth of 26 feet, saving only for the presence of three street railway tunnels, the removal of which is certain to come in the near future, but must wait the action of either the city of Chicago or the Federal Government.

The Sanitary and Ship Canal proper begins at the west fork of the south branch of the Chicago River at Robey street, and extends 28.05 miles to Lockport. The depth of water in it varies with the flow, but the construction is such that under no conditions will the minimum be less than 22 feet. The present depth is between 24 and 25 feet. The channel is cut part of the way through glacial drift and part of the way through rock.

From Robey street to Summit, a distance of nearly 8 miles, the channel is 110 feet wide at the bottom and 198 feet wide at the water line. This part of the channel is cut through soil which permits easy dredging while the channel is in use, and for this reason it was not given its full capacity at the start, but left for enlargement as needs require. From Summit to Willow Springs, something over 5 miles farther, the channel is cut through earth with much hard material mixed in it, and it has the full planned dimensions, being 202 feet wide at the bottom and 290 feet at the water line. From Willow Springs to Lockport, 15 miles, the channel is through rock, and is 160 feet wide at the bottom and 162 feet at the water line. The average depth of the trough cut through the rock in this section is 35 feet. The grade of the channel is 1⅛ inches to the mile through the earth sections, and 3½ inches to the mile through the rock section. The bottom of the channel at Robey street is 24.448 feet below Chicago datum, the datum being reckoned from low water in Lake Michigan in 1847. At Lockport the bottom of the channel is 30.1 feet below datum.

At Lockport there is in the canal a large windage basin, cut in the stone to enable large vessels to turn around. Here also are the controlling works, by means of which the flow of water in the canal is governed. These works consist of seven sluice gates of metal with masonry bulkheads, and one bear-trap dam. The sluice gates have a vertical play of 20 feet and openings of 30 feet each. The bear-trap dam has an opening of 160 feet and an oscillation of 17 feet vertically. This dam is essentially two great metal leaves, hinged together and working between masonry bulkheads. The downstream leaf is securely hinged to a heavy foundation, and the raising or lowering of the dam is accomplished by the admission or discharge of water through regulating valves. The dam is regarded as one of the greatest engineering triumphs of the age.

From Lockport to the southern limits of Joliet, 6½ miles, the work of the sanitary district consisted in the deepening, widening, and leveling of the Desplaines River, so that it will accommodate a flow of 1,500,000 cubic feet of water a minute. This capacity provides both for the flow from the sanitary canal and for all possible flood waters of the Desplaines Valley. No attempt was made in this part of the work to establish the navigable depth, which was one of the primary considerations in the plans from Chicago to Lockport.

There is now, however, under construction by the sanitary district on this section a work of water-power development which, when it is completed, will afford a 22-foot channel for 3.3 miles and a 10-foot channel for 1 mile, the two covering over half of the entire distance. This water power, created by the heavy declivity of 52 feet in 8 miles on this section, is exceedingly valuable, the gross tolls possible from it being estimated on different methods of development at from $628,150 to $1,086,300 a year. The cost of the development will be $3,000,000. Besides the power now being developed below Lockport the district will, as soon as it can acquire the necessary property, develop a second power near the southerly limits of the city of Joliet. This second power will afford about 18,000 net horsepower with the full flow of the channel. This is called the Hickory Creek development, and the building of the dam necessary for its accomplishment will afford nearly a mile of waterway about 13 feet in depth.

The flow of water which the canal is designed to accommodate is 600,000 cubic feet per minute. In its present condition the canal will not, however, admit this volume in all parts without producing a current harmful to navigation. The narrow section of the canal between Robey street and Summit will carry only 300,000 cubic feet at a current of a mile and a quarter an hour. The Chicago River will, as yet, handle little over 300,000 cubic feet; but a flow of 480,000 cubic feet will be possible when the work now under way is finished, while an additional volume of 120,000 cubic feet will be supplied through a large conduit to the Lake along Thirty-ninth street. The actual flow of water in the Chicago River is regulated in accordance with the orders of the Secretary of War. At present the flow permitted is 250,000 cubic feet per minute. With the progress of improvements in the river the increase of the permissible flow is to be expected.

The building of the canal involved the construction or alteration of many bridges, and in this, as in every part of the work, the needs of navigation were always kept in mind. The bridges are all either of the swing or rolling lift type, and the district boasts some of the largest

[a] By an act of the legislature of the State of Illinois in the year 1903, 78.6 square miles of territory to the north were added to the corporate limits of the original sanitary district and 94.5 square miles to the south. The present total area is now 358.1 square miles and 38 miles long from north to south.

lift bridges ever constructed. One of the railway bridges has space for eight tracks. Thirty-seven bridges have already been built or contracted for, and there are many more to be placed across the Chicago River. The following table shows their distribution on different parts of the channel:

Bridges across the Chicago Sanitary and Ship Canal.

	Highway.	Railroad.
Chicago River	9	1
Main channel	6	7
Desplaines River	2	4
Controlling works	1	
Joliet project	5	2
Total	23	14

The distribution of the construction expenditures is shown in the following table:

Statement of expenditures, account construction of main channel of sanitary district of Chicago and auxiliary work to June 1, 1904.

	Excavation, etc.	Bridges.
Main channel excavation, etc	$18,499,136.15	
Bridge construction, main channel		$1,975,114.73
Chicago River dredging, docking, etc	1,714,514.71	
Bridge construction, Chicago River		1,944,629.02
River diversion, excavation, etc	1,000,186.38	
Bridge construction, river division		142,391.94
Controlling works at Lockport	330,560.73	
Bridge construction, controlling works		7,873.25
Joliet project excavation, etc	1,285,760.98	
Bridge construction, Joliet project		271,161.66
Illinois and Michigan Canal improvement near Bridgeport	77,016.08	
Water power development	71,191.17	
Thirty-ninth street pumping plant	45,960.00	
Total	23,054,356.20	4,341,170.70
		23,054,356.20
		27,395,526.90

Of the total cost $18,000,000 at least would have been saved had the channel been made merely sufficient for the needs of sanitation, and not built with a view to the creation in the future of a deep waterway. The additional cost in the one matter of bridges alone, to make them all movable, so that they would not hinder navigation, was close to $2,500,000.

To make the immensity of the work done by the sanitary district all the clearer the following table of the quantities involved in the construction work, completed and under contract, as taken from the 1903 report of the chief engineer, is presented:

Quantities involved in the construction of the Chicago Sanitary and Ship Canal.

	Earth.	Rock.	Masonry.	Metal in bridges.
	Cu. yds.	*Cu. yds.*	*Cu. yds.*	*Pounds.*
Chicago River	3,209,946	4,473	59,695	21,091,490
Main channel	26,692,773	12,265,442	421,965	22,862,454
Desplaines River diversion	1,810,652	258,659	1,447	2,006,785
Controlling works		10,111	11,454	109,161
Joliet project	593,130	598,483	22,911	3,956,654
Water-power development	105,000	1,273,689	144,504	
Total	32,411,501	14,410,857	661,976	50,006,524

DESCRIPTION AND ESTIMATES OF THE PROJECTED DEEP WATERWAY.

Having described the Chicago Sanitary and Ship Canal as a complete section of a deep waterway to the Mississippi, and having shown that from it the full flow of water necessary to the waterway can be secured, your memorialists wish to point out one further fact in connection with it before proceeding to discuss in detail the projected improvement of the route. This is, that the Sanitary and Ship Canal is itself a most powerful engineering aid to the further work which must be undertaken. Considered as a mere instrument for the scouring of the bed of the Illinois River, the flow of water from the sanitary canal is worth millions of dollars, because it will save millions that would otherwise have to be spent. In broad rivers, such as is the Illinois for the greater part of its course, there is a tendency to alluvial deposits, and a large volume of water scours the channel and keeps it clear. The water from the sanitary canal thus becomes a force so powerful that engineers will take it into account from the very beginning of their reckonings. The full flow of 600,000 cubic feet of water per minute, possible in the Sanitary and Ship Canal, is one-half the volume in the Mississippi River at Rock Island during the low-water season. Its discharge into the Mississippi from the mouth of the Illinois at Grafton will therefore materially increase the volume of the Father of Waters for a great part of the year. It follows that, even below Grafton, in the Mississippi itself, the water from the Sanitary and Ship Canal will be an important aid in the engineering operations necessary for the establishment of permanent deep-water navigation.

From Lake Michigan at Chicago to St. Louis, following the water route, is 362 miles. Of this distance the Sanitary and Ship Canal has already fully developed 34 miles. There are 286 miles of the Desplaines and Illinois rivers to be improved, and the Mississippi River section covers 39 miles.

When the deep-waterway survey which your honorable body has authorized is completed, you will be in possession of full information as to the work which must be done and the expenses which must be incurred. Pending that time, it is nevertheless possible, as a result of preliminary surveys and estimates made on behalf of this sanitary district and of other organizations interested in the establishment of a deep waterway, to give figures and estimates that are close to the truth.

These estimates are made on the basis of a 22-foot channel from Chicago to Lake Joliet and a 14-foot channel from that point to the mouth of the Illinois. The 14-foot figure is chosen because it is that depth for which the sanitary and ship canal provides the necessary flow of water. An estimate of the cost of establishing a 14-foot channel from the mouth of the Illinois to St. Louis is also given, though it does not pretend to the same accuracy as the other estimates.

The characteristics of the river valley from the lower end of the Sanitary and Ship Canal to the Mississippi are of such nature that the distance can well be divided into three sections, requiring different methods of development and varying greatly in probable expense. The following table shows the main facts for these sections, as well as for the Sanitary and Ship Canal and for the Mississippi River as far as St. Louis.

Sections of the proposed waterway.	Length.	Declivity.	Minimum depth.	Number of levels.	Cost to January 1, 1904.
Chicago River and Chicago Sanitary and Ship Canal, Chicago to Lockport	*Miles.* 34	*Feet.* 24	*Feet.* 22	1	$42,593,168.80
Desplaines and Illinois rivers:					
Lockport to Lake Joliet	8	52	22	2	a 5,000,000.00
Lake Joliet to Utica	54	66	14	3	10,000,000.00
Utica to mouth of Illinois	227	32	14	1	7,000,000.00
Mississippi River, mouth of Illinois to St. Louis	39	21	14	2	5,000,000.00
Total for sections dependent on Government action	328	171		8	27,000,000.00

a Exclusive of the $3,000,000 which the sanitary district is about to spend on this section.

A discussion of the work still remaining to be done in order to secure such a deep waterway will now be given.

THE JOLIET SECTION—LOCKPORT TO LAKE JOLIET.

A depth of 22 feet, rather than of 14 feet, is dictated on the Lockport-Lake Joliet section of the proposed waterway, partly because the water-power development plans of the sanitary district will produce that depth for over half of the distance, and partly because, where the channel must be cut through rock, that depth will furnish the most economical method of handling the volume of water required on the lower reaches of the waterway. The sanitary district's water power plans have been carefully made with a view to future waterway construction, and the dams to be built will furnish no obstacles whatever. Two locks will be required. A location has been provided for a lock at the upper dam, giving a lift of about 34 feet. For the lower lock a location is set apart on the west side of the river. The locks must be large enough to handle whole fleets of barges and tugs.

The construction of the deep waterway on this section is the most difficult and expensive, mile for mile, that is required on any portion of the route. The total cost is estimated at $8,000,000, of which, as has been said, the sanitary district is preparing to spend $3,000,000, or about half of the primary cost of cutting the channel proper through the rock. The additional cost is required for the two great locks. An expenditure of $5,000,000 will, it is thought, be ample for the Government's share of the work, and it has been frequently suggested that the State of Illinois construct this section by prison labor from the penitentiary at Joliet, through which city the course runs.

THE UPPER ILLINOIS SECTION—LAKE JOLIET TO UTICA.

The 54 miles of the river immediately below Lake Joliet are much more easily handled from an engineering standpoint. The level of Lake Joliet is 76 feet below Lake Michigan, and the fall of 66 feet from this to the Utica level of 142 feet below the lake is made in a series of pools and rapids, according to the nature of the resisting strata. The three pools—Lake Joliet, Lake Du Page, and the pool above Marseilles—cover about one-third of the distance. There is a well-defined outlet valley and a developed stream bed, deeply cut for the greater part of the way. The distance between banks is from 500 to 700 feet. The tributary watershed varies from 6,400 square miles, at the mouth of the Kankakee, to 10,400 square miles at Utica, and gives rise to floods which come in part during the season of navigation. There are no artificial obstructions, except the mill dam at Marseilles, but six highway and three railroad bridges will require alteration.

The studies thus far made indicate the possibility of a proper treatment without injury to any great area of bottom lands. Lake Joliet, at the upper end of this section, is 5 miles long, and needs nothing but the cutting away of deposits in the shape of narrow gravel bars to insure the proper depth. In the rapids, the considerable declivity and consequent velocity make necessary a large and deep channel in the interests of navigation. Studies thus far made have proceeded for a depth of 14 feet and a width of 300 feet. Three levels or pools will be necessary, and three dams or locks. A 14-foot channel, with locks designed for an ultimate depth of 20 feet, can be secured, it is estimated, for $10,000,000.

THE LOWER ILLINOIS—UTICA TO THE MOUTH OF THE ILLINOIS.

The problem of river improvement changes entirely again after Utica is passed. From that city southward, the Illinois is an alluvial stream with a declivity so small as to be almost unique among American rivers, amounting to only 28 feet in the natural river, and only 32 feet from the level of the pool formed by the Henry dam at Utica bridge to the low-water line of the Mississippi. The stream bed is from 600 to 900 feet wide, and some 700 square miles of bottom lands are subject to overflow, the situation being complicated by backwater from the Mississippi, which at extreme high water is on a level with natural low water 30 miles below Utica. The banks are low, averaging not more than 12 to 14 feet above low water. There are four dams and locks, two built by the State at Henry and Copperas Creek and two by the United States at La Grange and Kampsville on this section.

Experience in dredging the sand bars showed a reasonable perma-

nence in results, even with the smaller volumes of water, before the Chicago Sanitary and Ship Canal was opened, but the volume was not sufficient to maintain a channel more than 4 to 6 feet deep. In the last two years, since the sanitary canal was opened, it has been possible to maintain a channel 7 feet deep and 200 feet wide, except at the mouth of the Illinois, without great trouble. When the full flow of 10,000 cubic feet a second passes out of the canal, this depth will be increased without further dredging. It is easy to see what a great effect this volume of water will have on the channel, for it is sixteen times greater than that of natural low water at La Salle, and eight times greater than at the mouth of the Illinois. It is a very appreciable quantity, even in comparison with bankfull figures, 12 feet above low water, which official measurements before the opening of the sanitary canal showed to be 18,000 to 22,000 cubic feet per second from Utica to Havana, 30,000 cubic feet at La Grange, and 40,000 cubic feet at Kampsville. The average low-water flow at the present time may be placed at about 5,000 cubic feet.

The problem, therefore, becomes the creation of an additional depth of 7 feet, and this can be secured for the most part by cheap hydraulic dredging. It is estimated that 70,000,000 yards would have to be removed, but for all of it there can be found easy places of deposit on the back channels, sloughs, and marshes near the banks, to the benefit of the bottoms. A channel 300 feet wide and 14 feet deep can be secured, it is believed, at a cost not to exceed $7,000,000. This does not make allowance for the aid which the scouring action of the augmented volume of the stream would give to the project, nor does it take into account economies in methods, which could be introduced on a work undertaken on so large a scale. For the $7,000,000 it is thought that practically 100,000,000 yards instead of 70,000,000 yards could be handled, and the channel could be made larger by just that proportion.

THE MISSISSIPPI RIVER, GRAFTON TO ST. LOUIS.

No detailed studies have been made as yet for this section of the route, but there is no reason to doubt that a 14-foot channel could be maintained. Of the 39 miles, with their total fall of 21 feet, the first 20 miles to Alton have a fall of only 7 feet, and by the establishment of a dam at that city, raising low water perhaps 10 feet, the extension of deep water to this point would be comparatively easy.

The next 19 miles have a fall of 14 feet, and the situation is complicated by the entrance of the Missouri. If the deepening of the channel should prove difficult it would still be quite possible to carry deep-water navigation to St. Louis Harbor by a short canal, and by developing channels behind Chouteau and Cabaret islands.

A deep waterway over this route could probably be kept open the entire year, for ice is much less of an obstruction to navigation on such a channel than on the Great Lakes. Records kept at Morris, on the upper Illinois, show an ice season of sixty to seventy days, as against one hundred and twenty to one hundred and forty days on the lake routes from Chicago to Buffalo. Possibly in two-thirds of the years ice would offer no obstruction at all to river navigation, while in the other years ice boats would easily keep navigation open.

The total estimate of the cost of all of these improvements from Lockport to St. Louis is $27,000,000, exclusive of what the sanitary district is to spend. While the estimates given are in some cases very liberal, it is not to be assumed that the total cost will be less than this amount; but it will certainly not greatly exceed it. Moreover, the channel may be put in use for navigation long before the entire amount is spent. The first 8 miles from Lockport to Lake Joliet would have to be completed as a whole at the outset. Lower down three locks and dams would also have to be finished to their final capacity before the opening of the deep waterway. The rest of the work could, however, be carried on at leisure afterwards, the prism of the river being progressively developed from year to year.

If a depth of 20 feet for the entire way is desired it would be perfectly possible to secure it without excessive additional cost. It would, however, be necessary to enlarge the Chicago Sanitary and Ship Canal, so as to provide at least double the volume of water it is now capable of carrying. The extension of a 20-foot channel from Lake Joliet to Utica would involve only a fraction of the cost of a 14-foot channel, while a 20-foot depth in the lower Illinois is simply a matter of water supply and dredging. The large volume of water would be here necessary as an insurance against deterioration. The total additional cost which a 20-foot channel instead of a 14-foot channel from Lockport to St. Louis would involve is roughly placed at $60,000,000.

A 20-foot channel in the Illinois valley is, however, not advocated by your memorialists as an affair of the present, because its full utilization would depend upon the establishment of a similar depth in the lower Mississippi to the Gulf of Mexico. As conditions now stand, the Mississippi offers a 14-foot depth below St. Louis, to equal the 14 feet now urged for the Illinois, for from five to seven months in the average year. An assured minimum of 9 to 10 feet is promised. The method by which a 20-foot depth in the lower Mississippi can be secured is not yet clear, though there is no reason to doubt its ultimate possibility.

Summarizing the facts thus far brought out, but leaving for the next section the discussion of the commercial importance of the deep waterway project, your memorialists respectfully urge upon your consideration the following points:

1. The construction of the proposed waterway is thoroughly practicable.

2. It does not involve the cutting of a new channel through rock, but is really the deepening and improving of an existing waterway, and so is consistent with the known policy of Congress.

3. The Chicago Sanitary and Ship Canal stands completed and ready for use as the eastern section of such a waterway.

4. The total cost of developing and making available a channel which in connection with the Sanitary and Ship Canal will furnish a waterway of 22 feet depth for the first 42 miles, and of 14 feet depth for the rest of the way, will not exceed $22,000,000 to the mouth of the Illinois or $27,000,000 to St. Louis, the larger figure being little more than half of what the sanitary district of Chicago will alone have spent when its entire work is finished.

5. Besides serving the purposes of navigation, the proposed channel would provide for the flood waters of the Desplaines and Illinois rivers, and thus prevent the serious injury now done almost yearly to the dwellers along the river valleys.

6. The State of Illinois has by legislation and by joint resolution of its general assembly not only formally given approval to the project, but contingently turned the channel over to the Federal Government for navigation purposes, the Government control to begin as soon as the full length of the waterway is open.

7. The 14-foot minimum depth is suggested as desirable, but without prejudice against any other depths which may prove after fuller surveys to be better.

Mr. OVERSTREET. I yield to the gentleman from New York.

Mr. BENNET of New York. Mr. Chairman, I have had the pleasure of listening in the last few months to very excellent addresses on the part of several Members of this House on the general subject of immigration; and I desire to speak briefly concerning the first four or five lines of the Dillingham bill, recently reported in the Senate, which, as to those particular lines, is practically the same as the bill this day ordered to be reported from the Committee on Immigration of the House.

As I followed the remarks of the gentleman from Alabama [Mr. UNDERWOOD], the gentleman from Kentucky [Mr. HOPKINS], and the gentleman from Tennessee [Mr. HOUSTON], I gathered that these gentlemen were what might be termed "selectionists;" that is, in favor of immigration of a proper sort and opposed to all immigration of an improper sort. The gentleman from Massachusetts [Mr. GARDNER] I would perhaps class as a "restrictionist," differing somewhat from the other three in his general ideas on the subject. Therefore, in what I have to say I will perhaps touch more directly upon the remarks of the three gentlemen who are "selectionists," than those of the gentleman from Massachusetts [Mr. GARDNER], a "restrictionist." The provision to which I refer in the Dillingham bill is as follows:

SECTION 1. That there shall be levied and collected and paid a duty of $5 for each and every passenger, not a citizen of the United States or of the Dominion of Canada, not a citizen of the Republic of Cuba, or the Republic of Mexico, who shall come by steam, sail, or other vessel from any foreign port to any port within the United States, or by railway or other mode of transportation from foreign contiguous territory to the United States.

That is what is known as the "head tax" provision. The tax is paid by the steamship companies, and the two committees, that of the Senate and that of the House, are endeavoring to raise that head tax from $2, the sum at which it is now fixed, to $5.

Now, the aim of the "selectionists," as I understand it, is to get better immigrants. Some of them stated very frankly that they were opposed to immigrants from Italy and southeastern Europe; others said that their remarks apply to no particular race, but all said that they had no particular objection to number if the quality of the immigrant was all right.

Now, let us see how the $5 head tax will work out. I do not know whether it is generally understood that a $5 head tax means $5 on every man, woman, and child; that it is just the same on the nursing baby as it is on the sturdy workman; that there is no gradation, change, or difference. So here is what happens. My friends say they want to keep out the man who comes here just for a few months to earn money and then go back to some other country. A $5 head tax does not affect him at all. It simply means that he has to make arrangements not only to get the money to pay his fare across the ocean, but to pay the additional $3 which will be deducted from his first week's or month's money. You have not even caused him inconvenience. He has only himself to look out for. The difference in wages between the country from which he comes and the wages here make this up so quickly that the amount is absolutely inconsiderable so far as he is concerned, and you have not kept one of these men out. On the other hand, take what these gentlemen call the desirable classes of immigrants, the men from the northern part of Europe, for whom I have just as high respect as they, although I differ with them in their attempt to classify immigration as desirable or undesirable by countries. Take the men who come from there with families. Take the man who comes with his wife and five or six children, as these Germans, Irishmen, Finns, Swedes, Danes, and Norwegians do, day after day, into the ports of Boston, New York, Philadelphia, and the other ports. Instead of meaning $5 to every one of those men it means $5 multiplied by as many as there are in his family, down to the youngest child; and instead of restricting the coming of the man who means to stay but a few months to make a little money and go back, and the single man, you have penalized the man who intends coming here with his family to make this his permanent home and abiding place. So much for that branch of it.

If there ever was a bill that should have been labeled a gift to foreign steamship companies, this is that bill. Who pays this head tax? The law says that it is a lien on the steamship, and the steamship company pays it. How does it pay it? Why, of course, in the end the money does not come out of the funds of the steamship company, but it is put on the ticket. Obviously, there can be but one price for tickets, and to-day there is but one price. So what is the result? Does the alien immigrant alone pay this head tax? Oh, no; everybody who comes across the Atlantic Ocean, first or second class or steerage, pays it to-day; either the full $2 or some portion of it; and where the

Government does not get the $2—that is, where the money is paid by an American citizen returning or an alien who already has a domicile here, or anyone, except those to whom the law applies—the steamship company gets the $2, and we are legislating to raise the rate of dividend of the German and all the other foreign steamship lines, for we have only one American line of shipping on the Atlantic coast engaged in this business, that line running to Philadelphia and New York. So that is what we are going to do. There was not a steamship company came before our committee to protest, and I do not wonder. It had been advertised far and abroad that the head tax was going to be raised. That was a gift for the steamship companies to the extent of $3 on every ticket sold to other than aliens. That is all that that particular part of this much-advertised bill does. It stops nobody except the man with a wife and family.

The steamship companies! It gives them all there is in the bill. American citizens returning from abroad! It makes them pay either the full $5, or so much as the steamship companies determine that the traffic will stand of the $5, in addition to what they would otherwise pay for passage; and, above all, and more than that, this bill takes from the immigrating family $5 for every man, woman, and child of the immigrants that the gentlemen to whom I have alluded most earnestly desire. What will they do? They will do what they are doing now to some extent, only more so. Instead of taking a steamer for an American port and becoming valuable American citizens, with American opportunities for themselves and their children, they will take a British steamer to Canada or some other foreign steamer to Argentina, and we shall lose just the kind of immigrants who in the early days went out on the western prairies and everywhere and built up all of the great Middle West. Canada, that is to-day sending agents down into Minnesota and Wisconsin and paying them a premium for every American citizen that they can get to emigrate across the border over into their wheat fields, will get the kind of immigrants that these gentlemen say that they want to get here.

I intend, as to that particular provision of the bill, should it come before the House, to vote against it. I think the sober second thought of the Members here, when they study the question, will lead them along the same lines, and I believe that when that question is thoroughly considered they will come to the conclusion that the head tax is all right for this purpose—and this purpose only—to pay the expenses of the immigration service. What are the facts to-day? This $2 head tax has been in force just three years, and to-day they have paid all the expenses of immigration out of the fund raised from that $2 head tax and have a fund of over $2,000,000 as a surplus; and when I say "expenses" I include additional land and new buildings. The gentlemen who drafted the House bill were so certain that it would be a revenue-producing measure, that it would produce more money than would be necessary for the needs of the service, as to insert the provision that where the head tax produces more than two and one-half million dollars yearly the surplus shall be paid into the Treasury of the United States.

In other words, if this bill succeeds, we are going into the business of taxing not only the immigrant, which is bad enough, but taxing the casual visitor, for this bill applies to every alien passenger that crosses either the Atlantic or Pacific ocean, and making each of our own citizens pay $5 to some foreign steamship company. Every German that comes to investigate our great resources, every Englishman who travels in the great West is subject to this tax. Up to last year there had more Englishmen gone each year through the Yellowstone Park than there had Americans. He pays, in addition to the expenses of travel, an utterly unnecessary sum of $5. Up to this time the head tax has not been a large sum, and it has not been noticed, but the increase will be noticed and travel will be diverted. It is these annoying little things at the threshold that do divert travel.

To sum up, we do not stop a single undesirable man by the increase. We make the poor man, who has had to struggle to get here, who has money enough to start him in, go down into his slender resources and pay the Government—that does not need it—anywhere from $10 to $60 for the privilege of crossing our shore line. We accomplish nothing by it, and I hope when the bill comes before the House this head tax will be put back where it is now, where it is justified, where it simply raises money enough to cover the expense and causes no one any serious inconvenience. [Applause.]

Mr. OVERSTREET. I suggest now that the gentleman from Tennessee occupy the remainder of the afternoon.

Mr. MOON of Tennessee. Mr. Chairman, I yield one hour to the gentleman from Mississippi [Mr. BYRD].

Mr. BYRD. Mr. Chairman, considering its record, one must view with misgiving confidence the conduct of the party in power, as represented on this floor, in having supported the measure to save the people from the extortions, discriminations, and rebates by the railroads. If sincere in its protestation for public good, why has it not made an effort to rid the country of that more grievous evil—the unbridled and unconscionable trusts? Nor will the American people confide in the fidelity of the President in supporting this great Democratic policy unless he intensifies his efforts to save them from these far more destructive evils. His abortive court procedure invokes derisive contempt from both the people and the trusts, and this mockery is being accepted by many as either an approval of or a surrender to these monsters of iniquity by the party in power.

The Administration must know that the trusts are barricaded by protection; it must further know the most serious blow that could be inflicted is to repeal the protective schedules of the Dingley law. They laugh at the futile attempts to enforce the antitrust laws, but if the trust-controlled articles were put upon the free list there would be "wailing and gnashing of teeth" in their camp. It is within the power of this Congress to destroy 85 per cent of the trusts within the next twenty days, and it is "up to" our Republican friends to act now or stand branded as the champions of the most villainous iniquity of the age. The President in his early manhood drank too deeply of the political philosophy of Cobden and Bright not to be fully advised that the trusts are the fruits of protection, and his acute strenuosity in investigating public wrongs must have long since convinced him that the existing railroad abuses are largely the parasitic evils of protecton and trusts—that in the clutches of such giants as the steel, beef, and oil trusts the greatest railroads are as powerless as a private citizen, and that when they say "Come," they cometh, "Go," they goeth, or are either absorbed or subjected to a ruinous boycott. Knowing these facts and remembering that he has acquired a reputation for proverbial honesty of statesmanship, we can not account for his complete surrender to the tariff "stand-pat" policy of his party, unless it be that his quietude is inspired by the disloyalty of his party friends; too, he doubtless remembers that it took Moses many years to overcome the idolatry of the Israelites.

Mr. Chairman, I am an avowed advocate of railroad rate legislation, believing that rebates and private car lines are auxiliaries to the trusts. I voted for the Hepburn bill, and, though defective as it is, I believe its adoption will likely result in much good to the country. But to one who thinks a moment about the industrial conditions of the country, how insignificant must appear the "graft" of railroads when contrasted with the wholesale robberies of the trusts. While the railroads have increased the price of freight on lumber about 17 per cent, the lumber trust has increased the cost of the product to the home builder more than 100 per cent. While the railroads have increased the freight on shoes about one-fourth of a cent per pair from Boston to the South, the hide trust, an adjunct of the beef trust, has increased the price from 10 to 50 cents per pair within the last six months. Governor Douglas, of Massachusetts, is credited with recently saying that the duty on hides alone annually cost the people $10,000,000, of which $2,250,000 is paid to the Government and the balance of more than $7,000,000 to the hide trust. The railroads have unjustly increased the freight on agricultural implements from Chicago to the great Southwest, but the international harvester trust sell the same products to the foreign farmer for from 20 to 30 per cent less than to those at home. Since the Dingley law went into operation the railroads have doubtless largely increased the freight on iron, steel, and the manufactures thereof, but the steel trust has almost doubled the price of these products. A manufacturer of farm wagons, in explaining why he advanced prices 25 per cent, said:

> Less than two years ago the president of the great steel corporation testified that bar iron and steel could be produced at a profit for $12.50 per ton, and for steel we must pay $40, or over 200 per cent profit. The steel magnates tell us that when iron was sold at $18 per ton the price was too low and was a breeder of panics; but we all recall the fact that in 1893 the Carnegie properties were valued at less than $10,000,000, and that after five years of panic and $18 prices Mr. Carnegie sold his interests alone in these properties for $360,000,000. This was 350 per cent profit in five years, or 72 per cent annually, and in panic times, too. How long, O Lord, how long, will "the dear people" be thus fooled?

And, too, how insignificant appear the rebates on the freight on sugar when compared with the millions annually pocketed by the sugar trust; and as another evidence of the insincerity of our Republican friends, let me state that the Democrats on two different occasions within the last two years have voted almost solidly to repeal the duty on refined sugar and thereby destroy the sugar trust, while our Republican friends voted almost solidly against the proposition. But more than this, there are a cartload of bills before the Ways and Means Committee touch-

ing every phase of the tariff law, all having for their chief aim the abolition of a trust, as well as the opening of new markets for our increasing commerce, and if passed would save millions to the consumers on agricultural implements, barbed wire, shoes, vehicles, and other necessaries. But they are as dead in that committee as though interred in the Arlington Cemetery. [Laughter.]

Mr. Chairman, what better evidence of the duplicity and arrant hypocrisy of the Republican party is wanted? It may be that their policy of crucifying the witch and sparing the devil is founded upon the lurking prejudice against the railroads for failing to "come across" as liberally as they should have done in the late Presidential campaign. Perhaps if the latter had contributed as liberally as did the trusts and the insurance companies, these Ahabs of protection might have spared their vineyards, and at this good hour their lords might have been wining and dining with the McCurdys in the courts abroad. [Laughter and applause on the Democratic side.]

Our Republican friends should not conclude for a moment that by their cuttlefish antics in dealing with existing wrongs they can muddy the waters of public opinion. The people are beginning to know the real issue, the real cause of the trouble, and appreciate the insincerity of any effort to abolish the trusts without the abolition of protection. It is known in every hamlet that the steel trust, sugar trust, agricultural-implement trust, and many others are waxing strong and stronger, day by day, under the sheltering schedules of the Dingley law.

The question of the hour is, Who shall live—the people or the trusts? Who shall sway the rod of empire—the people or these monsters of protection? Whether the great agricultural industry of the South and West shall be released from these bandits of spoliation and have a free and unfettered market for their increasing crops and whether the multitude of American consumers shall continue to pay more tribute to the moguls of protection than to the support of their Government are the real issues.

The people are determined in their efforts for reform, and our Republican friends can not quell them by such pacific measures as this emasculated Hepburn bill or by sending a few petty thieves from the Post-Office Department to the penitentiary. The wage-earners want a chance to enjoy the fruits of their toil. The masses are crying for an opportunity to spend their hard earnings in the support and education of their families instead of dividing it with bandits. The 30,000,000 of our farmers, who scorn a bounty from the Government, demand the world for their market. Their broad acres are smiling with riches as soon as the Government stays the hand of the robber and removes the protective wall that isolates them from the world.

Mr. Chairman, I dare say that if the great consuming masses of the country could fully appreciate the extent of the wholesale robbery being daily perpetrated under the laws of their country, if they could know and behold the truth of the iniquities that follow in the wake of protection, there would be a political revolution the like of which has not found a place in history.

The great mass of our plain, patriotic people, having labored incessantly for a living, have never considered seriously the proposition that under trust rule every cent of duty levied under the Dingley law on any article is paid by them, whether the same is imported or made at home. Thus, if the American farmers annually purchase 1,000,000 sewing machines, of which 1,000 are imported and 999,000 made at home, then the price of the 1,000, plus the tax of from $5 to $10 each, fixes the price of the entire number manufactured at home. The tariff tax is always added to the cost of the domestic product as well as to the cost of the imported article. If it is not added to the domestic as well as the imported article, there would be no use for protection. Its sole purpose is to enable the home manufacturer to add the amount of the tariff as an extra profit to the cost of production. Otherwise no one would want protection, or a low duty would do as well as a high one. In other words, when a manufacturer demands that there shall be a duty of 45 or 50 per cent tax on the article he makes, then he is simply asking the Government to permit him to add the said amount to the cost of production, since the difference in the expense of manufacturing here and elsewhere is more than equaled by the cost of transportation from a foreign country. This seems so plain that a wayfaring man, though a fool, may see it.

Speaking of the effect of protection, Alexander Hamilton said:

> Duties of this nature evidently amount to a virtual bounty on the domestic fabrics.

To the same effect John Quincy Adams wrote:

> The duty constitutes a part of the price of the whole mass of the article in the market. It is substantially paid upon the article of domestic manufacture as well as upon that of foreign production. Upon one it is a bounty, upon the other a burden, and the repeal of the tax must operate as an equivalent reduction of the price of the article, whether foreign or domestic.

If the duty was regarded by the ablest friends of protection as a bounty to the manufacturer, and paid by the consumer, when there were no trusts, how should it now be considered when every vestige of domestic competition is destroyed?

Mr. Chairman, I contend that, separated by thousands of miles from all formidable competition and having more convenient raw material than any other nation, we can compete with any country in the manufacture of almost any article. I contend, further, that the entire tariff tax, amounting to not less than an average of 48 per cent on all kinds of manufactures, is a subsidy to the manufacturers, if taken; and I contend, further, that under the trust rule it is accepted and passed as a surplus profit into the coffers of the trusts. In these contentions I believe that I am sustained by the intelligent judgment of the American people, if not by the Republican wizards of this House.

In this connection let me read you a table showing the total amount of four leading products imported into the United States in 1905, together with the actual per cent rate of duty paid and amount received by the Government:

Articles.	Value.	Duty.	Ad valorem rate.
			Per ct.
Iron and steel products	$22,044,937	$8,422,237	38
Meat products	726,664	254,332	35
Agricultural implements	13,876	2,775	20
Glass and glassware	5,776,669	3,311,715	57

The value of these imports plus the cost of transportation and plus the duty collected not only fixed their prices in this market, but also the prices of all like domestic products consumed. There is no difference in market price of an imported and non-imported article of like class. "A dress suit that cost $22 in Berlin, plus a $19 import duty, could not be duplicated out of domestic goods of like kind in this city for less than $40," says a substantial citizen. Schwab, while at the head of the steel trust, wrote his man Frick a few years ago that, while steel rails sold here for $28 a ton, he could deliver them in England for $16 and make $4 profit. It is a well-known fact that the beef trust sells meat 25 per cent higher in Buffalo than just across the line in Canada. The net profits of American steel industry alone for 1905 amounted to $119,850,282. The Canadian tariff commission says:

> Makers of thrashing machines, feeders, stackers, weighers, baggers, and portable farm engines in the United States are selling these things in Canada at 35 per cent below American prices. They say that the discounts are that much below what any jobber can obtain them for in the United States, and that a trade has been built up which amounts to $750,000 a year.

These facts not only verify the doctrine of Hamilton and Adams, but demonstrate to every impartial mind that the entire duty is taxed against the consumer, that on the imported article going to the Government and on the domestic article to the trusts, which are born of protection and sired by the Republican party.

Thus there are 6,000,000 farms in the United States, and granting that each consumes 200 pounds of domestic wire, valued at 4 cents per pound, we find they consume 1,200,000,000 pounds, costing $48,000,000; and applying the principle just enunciated we find that 42 per cent of the $48,000,000, or $20,000,000, is tariff profit to the trusts. The truth of this is apparent.

Let us apply this doctrine to a few of the general schedules of the Dingley law and note the results. By adding 15 per cent increase to the amount shown by the census report for 1900, we find that in 1905 the total iron and steel products manufactured in the United States amounted to $1,131,395,205, of which $134,727,221 was exported, leaving for home consumption the amount of $996,667,984. Of this amount 38 per cent, or approximately $378,000,000, was tax levied for the trust, while the Government on like products imported for the same year received only $8,472,237, as is shown by the table just read.

In the same year and in the same manner we find that our total manufactured meat products amounted to $1,000,000,000, being $745,567,433 in 1900, of which was exported the amount of $169,990,685, leaving $830,000,315 for home consumption. Of this amount 35 per cent, or quite $290,000,000, was tariff bounty to the meat trust, while the Government, as per the table read, received a tax on the imported product of only $254,332. The average duty of 35 per cent is a modest estimate, since the tax is 2 cents a pound on fresh meats, 5 cents on hams and bacon, and 35 per cent on extracts of meat.

Likewise in 1905 we manufactured agricultural implements to the amount of $126,000,000, of which we exported $29,721,741, leaving $96,278,259 for the home market. Of this 20 per cent,

or about $19,000,000, was tariff to the trust, while the Government on like imported articles received only $2,775, the amount imported being $13,876.

It is estimated that in 1905 we produced about $175,000,000 of glass and glassware and exported $2,252,709, leaving for the domestic market $192,747,291, of which 57 per cent, or more than $86,000,000, is tax profit pure and simple.

In the same manner, on scores of other articles of everyday consumption, such as sugar, leather products, woolen goods, hats, cutlery, sewing machines, etc., it can be shown that, under the Dingley trust reign, the consumers are paying many times more to the trusts than to the Government. Collecting the facts I have just stated, we find that in 1905 the American consumers on four leading articles of everyday consumption were taxed by the Dingley law $773,000,000 for the trusts, while only $14,506,013 for their Government, as is shown by this table:

Articles.	To the Government.	To the trusts.
Iron and steel products	$8,472,237	$378,000,000
Meat products	254,332	290,000,000
Agricultural implements	2,775	19,000,000
Glass and glassware	5,776,669	86,000,000
Total	14,506,013	773,000,000

Mr. Chairman, this is a remarkable disclosure indeed, but it is nevertheless true. These estimates are based upon the rate of duty collected on the class of articles imported, while there are many articles in the schedules bearing a much higher duty that are not imported. If anyone doubts the truth of these figures let him go in the markets and buy a beefsteak, a window sash, a mowing machine, a roll of steel wire, and then have the same order duplicated in any free market. I dare say that there are 80,000,000 of American consumers who are willing to attest the truth of this proposition.

Let us present this robbery in another phase. A purchaser going into the markets to buy a bill of goods, places at least one-third of his money to the credit of the trusts. The farmer buying a bill of necessaries in the home market pays the trusts the same tax he would have to pay the Government were he to buy them in England and bring them to this country. We submit the following, showing the approximate amount of "graft" for the trust on a modest bill of domestic merchandise, estimating the same according to the actual amount of tax paid on like products imported in 1905:

Articles.	Total cost.	Trust tax.
Sewing machine	$25.00	$7.00
Disk harrow	40.00	11.00
Vehicle	50.00	8.33
Set of harness	30.00	8.26
Worsted suit	20.00	9.46
Glass, door, and window panels	50.00	31.80
3 barrels sugar	15.00	4.62
Total	230.00	80.47

The same bill of goods, made at the same time, out of the same material and in the same factories, is sold to foreigners at $80.57 less than at home, and still the farmer votes the Republican ticket. I never think of protection and the farmer that I am not reminded of Macklin's definition of law, when he said: "It is a sort of hocus-pocus science, that smiles in yer face while it picks yer pockets."

But, sir, there is one pertinent inquiry in this connection that I desire to make. How can your party face the farmers of the West in defense of a policy that taxes them $19,000,000 for the trusts while only $2,775 for their Government? Or, how are you to stand before the 80,000,000 of our meat consumers, who are being annually robbed under your coveted policy of $290,000,000? If they knew, as we know, your party would be crying for the mountains to fall upon it to hide its iniquity.

A few days ago I introduced a bill to place all kinds of manufactured meat products on the free list, and if this Congress will pass it, not only will the beef trust be destroyed, but millions will be blessed. Canada has a meat surplus of $31,000,000; Argentina, $27,000,000; New Zealand, $19,000,000, and Australia $11,000,000, as well as other countries many millions, all ready to come into our market and destroy the trust, if you will but pass this bill. Now, what are you going to do—stand by the people or the trust?

Charles Edward Russell, in his valuable work on the beef trust, says it annually extracts from the railroads $25,000,000 in rebates. The rate bill is intended to stop this iniquity. Now, by passing this bill and cutting off the multiplied millions of tariff "graft," this monster of criminal aggression will be shorn of its gory locks. In the brief period of ten days you can accomplish more good than can the courts in a century. Adopt this measure and not only will the trust be destroyed, but millions of the poor who have not tasted this life-giving food for months will waft your praises to heaven.

Mr. Chairman, in view of these appalling abuses of protection we should send a message of warning to the American people. It should be proclaimed in every hamlet that the time has arrived in the life of this Republic when under the law a private citizen is taxed many times more to enrich the trusts than to support his Government. Every toiling farmer should be impressed with the truth of the statement that his class is taxed annually a hundred times more for the trusts than for the Government on the implements of husbandry; and the whole people should know that their annual tribute to the beef trust alone is nearly equal to the total expenditures of the Government. Impart these facts as we know them, and I dare say there will be a political panic in November.

Mr. GREENE. May I ask the gentleman a question?

Mr. BYRD. Yes, sir.

Mr. GREENE. What is the state of industry in Mississippi to-day, prosperous or not?

Mr. BYRD. Everything is prosperous, but nothing depending on protection.

Mr. GREENE. Are they very prosperous?

Mr. BYRD. Yes.

Mr. GREENE. What was the state of industry under the Wilson bill?

Mr. BYRD. My brother, if you will sit in that chair and listen until I get through I will tell you.

Mr. GREENE. Will not the gentleman answer what was the state of industry during the life of the Wilson bill?

Mr. BYRD. Well, not as bad as in 1873, when the Republicans had control.

Mr. GREENE. Never mind that; I ask you what was the state of industry under the Wilson bill?

Mr. BYRD. About as good as at any other time back to 1860, when the Republican reign began.

Mr. POU. Will the gentleman allow me a question?

Mr. BYRD. Only a question.

Mr. POU. I would like to inquire if the paralyzed conditions did not exist in foreign countries at that time as well as in the United States?

Mr. BYRD. Yes; that is all in my speech, and I do not want to anticipate.

Mr. WILLIAMS. If the gentleman will pardon me, I want to suggest in answer to the gentleman from Massachusetts [Mr. GREENE] that the price of cotton in Mississippi was lower under the first McKinley Administration than it has ever been in the history of the country.

Mr. BYRD. Protection is binding the Government and the trusts in enduring wedlock, and the Republican party is the high priest officiating at the nuptial debauchery. This unhallowed union reminds one of that ancient Jew, of reasonable respectability, who united his destiny with the princess of devils—Jezabel. But these unholy bonds must be dissolved; the time for separation is at hand; the unforgiving sin has been committed. Appeals to the courts will not suffice; such punishment is regarded by the trusts as the boy considers the brief, stinging "flogging" of his affectionate father. If the party in power really desires their destruction, if it really craves consternation in their ranks, immediately sever their life-giving artery—protection. [Applause.]

I am aware that the power of taxation for legitimate purposes is inherent in all governments, that revenue is the lifeblood of organized society, and that often in the administration of this high function of government grevious wrongs have been committed in all ages and in all countries. But surely not elsewhere in the realms of civilization can be found a parallel for such prostitution of the taxing power as under the Dingley law. Other nations impose duties, but not for the sole purpose of fostering criminals. By a system of impressment the Sultan of Turkey may appropriate the entire estate of his subject even to support his lusty harem, but the priest-ridden heathen is taught that his sacrifice is for the public good. Ours is a system of legalized impressment by which private property is subjected, not for public weal but private greed. The lustful Oriental inflicts his wrong for public vice—ours is for private, and oftimes bacchanalian debauchery; and while the wrongs of the one may be forgotten in blissful ignorance, the tyrannies of the other will endure as long as the fire of just resentment burns in a patriotic heart. [Applause.]

Sir, in answer to those who refer to free oil and the Standard Oil trust to disprove the contention that protection is the au-

thor of these evils, I want to say that that monster of finance is not more dependent on oil than on protected industries for its wonderful success. It has reached out and drawn into its hideous fold many of our most highly protected enterprises. The Evening Times a few days ago gave a long list of protected industries, representing hundreds of millions of dollars, controlled by the Standard Oil people. Nor do we admit that oil and petroleum are unprotected. It is true that they are on the free list, but with this proviso:

That if there be imported into the United States crude petroleum or the products of crude petroleum produced in any country which imposes a duty on petroleum or its products exported from the United States, there shall, in such cases, be levied, paid, and collected a duty upon said crude petroleum or its products so imported equal to the duty imposed by such country.

Russia, our only competitor in the export of oil, having protected her product by a heavy duty against all countries, is excluded from our markets by this act, and with the Russian products outlawed the trust has no opposition from any quarter. Indeed this is a very artful manner of providing for this baby industry by its friends. But "the ox knoweth his owner and the ass his master's crib." [Applause.]

A trust lives only when competition dies, and it is not a trust until all competitors are destroyed or controlled. Anything that limits the number or domain of independent industries facilitates trust formation, and if it is difficult to destroy competition in a county it is more so in a State, still more so in the nation, and infinitely more so in the world. This being true, and protection having destroyed foreign competition, it follows as a logical sequence that this is an inviting field to be exploited by those strong enough to overcome domestic competition. The princely bounties offered intensify industrial effort to such an extent that our manufacturers, like ravenous wolves over the carcass of the plains, contest with each other for the lion's share of the booty, destroying the weak to satisfy gourmandized greed. If this alluring bequest is not the real trouble, why should this be such a coveted home for the trusts? Why do they not abound in Mexico and Canada? Or why did they not infest this country in the days when this bounty was not so inviting? The unlawful centralization of capital has intensified in the same ratio that tariff profits have increased, and the trusts will be destroyed to the same extent that these emoluments are diminished. It may be true that a few might survive the wreck of tariff reformation, but they would be emasculated of all danger; would be like the hideous, writhing serpent with its poisonous fangs extracted—might strike, but do no harm. In that event the consumers would have the open markets of the world as a protecting shield from the criminal extortions at home.

Mr. Chairman, having at the last session submitted a few remarks touching the effect of protection on our foreign markets, I will not again discuss it more than to say that in retaliation of our trust-breeding policy Canada, China, England, and Germany are rapidly boycotting our products. Canada is passing her antidumping laws, and our outlawed goods are rotting in the warehouses of China. England is largely buying her great food supply from Argentina, Canada, Denmark, the Netherlands, and elsewhere, and Germany has grown so vindictive in her retaliating war policy as to necessitate the intervention of our State Department to hold her in abeyance for even twelve months. Under her new tariff American meat products are completely excluded from that market. I wonder what the meat producers of the West will think of protection and the trusts when they learn that this rich market, which in 1905 consumed $72,000,000 of their products, will soon be closed to them, and when they learn from a bulletin just published by the Agricultural Department that their product is being rapidly driven from Great Britain, the greatest meat market of the world; that there has been no increase in the importation into that country from the United States since 1895, while from Canada and Denmark it has doubled, and from Argentina it has increased fourfold. In the item of fresh beef alone England's annual imports from the United States in the same time have declined from 75 to 55 per cent, and from Argentina have increased from 2 to 36 per cent. Destroy protection and the trusts and you will end the Chamberlain crusade against American products in that rich market.

Some months ago the New York Chamber of Commerce sent out a circular letter warning the country of the dangers threatening our foreign trade, from which I read the following:

It is of the utmost importance that the National Government be informed in no uncertain terms of the demand of the business community that our foreign trade be extended and enlarged by improved commercial relations with the countries of Europe, so that the imminent danger of a disastrous tariff war of retaliation may be avoided, and we would therefore urge you to present your views on this subject to the President of the United States and his advisers, and also to the Senators and Congressmen from your State. It is necessary that this important question, which means either life and growth or practical extinction to a large part of our valuable export trade, should be thoroughly agitated. To this end the prompt, thorough, and effective support of all the commercial organizations of the country is imperatively demanded.

Again, permit me to say that the future of the South is vitally interested in the revocation of this market-destroying policy. She is absolutely dependent on foreign consumption of her great staple product. Anything limiting the extent of her market is destructive to her prosperity. In 1895 foreign countries took our cotton, 4,870,451 bales, at 5 cents per pound, and in 1905 they took about 8,000,000 bales, at from 8 to 12 cents per pound. Our sales of raw cotton to Japan and China from 1901 to 1905 have increased from 86,243 to 332,243 bales.

In 1895 our total exports of cotton cloths amounted to 694,500,715 yards, of which 474,909,500 yards went to China alone. She paid for this product $27,761,095, while in 1903 she took only 277,671,500 yards, valued at $13,685,860, having more than doubled in three years. These figures are remarkable indeed when we consider for a moment that little more than a decade ago our cotton products were not noted in the statistics from that country. At this ratio of increase China alone will, in less than ten years, consume one-third of our cotton products. She is the greatest prospective cotton market of the world, being more densely populated and just emerging from a state of semi-barbarism, she has wonderful trade advantages for those who are judicious enough to embrace them. It is our candid opinion that an unfettered market with that country will enrich not only the South, but the cotton factory districts of New England; and, in view of this fact, it is strange indeed how anyone living in that section can affiliate with a party whose policy tends to isolate them from the richest market of the world.

But can we have any assurance of these promised riches from China with her 400,000,000 people? Have we not by our misguided legislation invoked a ruinous boycott to American commerce, if not civil war with that country? Instead of marshaling our armies upon the shores of China, why not modify our tariff schedule and repeal the discriminating features of the Chinese exclusion law, or why not apply its provisions to like characters from other countries, thereby removing its offending features, and save the South its greatest market, as well as the nation from threatened war? Instead of spending this session on minor measures, why not do something that will make half of New England and all of the South sing our praises? To the South peace with China means wealth; war means ruin.

But, just in this connection, I want to say that all praise is due the President for recently sending special trade agents to South America, China, and elsewhere. The reports of two of these, Messrs. Crist and Burrell, just issued by the Bureau of Commerce and Labor, is a revelation on the possibilities of our trade with China, and should be read by every citizen.

Permit me to read from them a few brief excerpts touching the cotton possibilities in China:

American manufactures, especially of cotton goods, have a wonderful opportunity in China. The territory for exploiting is practically a limitless one. * * * With the establishment here of more Americans in the foreign trade the use of various cotton goods should increase greatly and all competition should be overcome. * * * Out of a total value of cotton piece goods sold in this (Tientsin) market during 1904 of over $6,500,000, these lines represent the great bulk, and approximately two-thirds of the sum stated are supplied by Manchester mills from cotton obtained in America, shipped across the Atlantic Ocean, woven into cloth, and shipped to northern China. That a greatly increased share of this as well as of the entire Chinese market can be won by American manufacturers and held against all competitors there is not the slightest doubt. * * * The offtake from the Shanghai market, where virtually the entire import is centered, has grown from a total in 1895 of 1,647,000 pieces of all descriptions of American goods to a total in 1904 of 8,200,000 pieces, in round numbers. It is estimated that this year fully 10,000,000 pieces of cotton goods have been imported, all indicating a most gratifying increase in the exportation of American piece goods to this market. * * * *The boycott caused a complete stagnation of business,* and the enormous quantity of goods ordered for speculative purposes also affected the situation. Extensive orders had been placed in due time, shipments were made, and cargo after cargo of piece goods arrived in Shanghai, only to be consigned to the warehouses or godowns.

Mr. Chairman, this disastrous boycott of American goods by China is not the only result of the discriminating features of the Chinese-exclusion law, but is largely caused by the maladministration of that law. Hon. John W. Foster, once a Cabinet officer and the very best authority on the subject, recently said:

The Chinese boycott of American goods is a striking evidence of an awakening spirit of resentment in the great Empire against the injustice and aggression of foreign countries. * * * The treatment which the Chinese residents have received at the hands of hoodlums, ruffians, race haters, and mobs has been a disgrace to our civilization; but that has not been so shameful as their treatment by the officials of Federal and local governments.

In describing a recent raid against the Chinese by Federal officers in Boston, he says:

Every Chinese who did not at once produce his certificate of residence was taken in charge, and the unfortunate ones were rushed off

to the Federal building without further ceremony. * * * In the raid no mercy was shown by the Government officials. The frightened Chinese who had sought to escape were dragged from their hiding places and stowed like cattle upon wagons or other vehicles to be conveyed to the designated place of detention. On one of those wagons or trucks from seventy to eighty persons were thrown, and soon after it moved it was overturned. A scene of indescribable confusion followed, in which the shrieks of those attempting to escape mingled with the groans of those who were injured.

But leaving this part of my subject let me say that the average duty on all protected articles under the Dingley law is about 48 per cent, and since at least 80 per cent of our manufactured products are controlled by the trust for the sole purpose of appropriating all the tariff bounty, that counting only 20 per cent of the value of our entire manufactured products as tariff tax, we have an alarming result. In 1900 our total manufactured products amounted to $8,370,000,000, and for 1905 it is estimated at not less than $9,000,000,000. Of this amount we exported $548,607,975, leaving a balance of $8,456,392,025 for home consumption, on which the American consumer paid a tax at this conservative rate of about $1,691,278,405 to the trust, while in the same year they paid less than one-half of this amount to support the Government. But some will contend that this amount is not added. If not, why not? The real truth is, more is added, when we consider that there are more than a hundred articles controlled by the trust on which the tax is more than 100 per cent.

In this connection there is another thought worthy of consideration. If we will deduct the tariff value, together with the $2,000,000,000 of raw farm products that enter into manufactures, we will find that the net value of the entire factory products is $5,308,721,595, while that of the farm is $6,415,000,000. In the fiscal year 1905 the exports from the American farm amounted to $820,863,405, and from the factory $543,607,975. These figures show conclusively that the farm is our greatest wealth-producing industry, yet it is a remarkable fact that rural wealth has not increased in the same proportion as that of the factory centers, the cities, as will appear from the following table, from 1860 to 1900:

Year.	Urban.	Rural.
1860	$8,180,000,000	$7,980,000,000
1880	31,538,000,000	12,104,000,000
1900	73,786,000,000	20,514,000,000

What a remarkable difference would have been in this table if the one had not been subsidized with a bounty of from one-half to one billion dollars annually almost exclusively at the expense of the other. Protection is the cause of the disparity of these figures. Upon what principle of economic philosophy can such a policy be predicated; or where can a logical reason be found for destroying the market for a greater industry in order that a smaller one may thrive on monopoly? Or, in this Union of equal States, how can you justify pauperizing one to enrich another? Such a policy is abhorrent to every principle of political economy, and will ultimately destroy the Republic unless checked.

Mr. Chairman, our Republican friends scorn the idea of ridding the country of this iniquity, their leader having announced a few days ago that there would be no tariff legislation in the Fifty-ninth Congress. By their inaction they acknowledge to the world that favoritism in the administration of Republican government is a virtue; that legalized robbery is a benediction; that sectionalism is the spirit of the Constitution, and that anarchy and agrarianism are "rather to be chosen" than Democracy and patriotism.

But it is contended that we must have protection for revenue; if not for this, for fostering American industries; if not for this, to protect our labor; if not for this, for building up home markets for our farmers; and if not for this, for the unacknowledged purpose of providing an inexhaustible resource from whence to draw campaign funds, and, however insidiously wrong it may appear, the latter is the more sensible purpose, since the others vanish in the sunlight of reason.

Revenue is paid on the imported article and not the domestic. High duties prevent importation and destroy revenue, while low duties encourage importation and increase revenue. In 1904, manufactures of wool imported, with a duty of 92 per cent, paid the Government $16,000,000, while 1896, like imports, with a duty of 47 per cent, paid $23,000,000. Hence, as the tax increases the revenue decreases.

It is the protective and not the revenue schedules of the tariff law against which the country so seriously complains. A revenue tariff is a duty levied for revenue with incidental protection to legitimate American industries, and a protection tariff is a duty levied for the benefit of the trust with incidental emoluments to the Government. In other words, protection gives all or much more to the trusts than to the Government. When the tax is so high as to practically prevent the importation of the article taxed, then the trusts get the loaf and the Government the crumbs. Such are the schedules of the Dingley law, imposing more than a billion dollars annually on our consumers for the trust and manufacturers, while giving the Government less than one-half that amount. Hence it follows that duties levied for revenue only is the only honest system of tariff taxation.

Protection was never intended for more than a temporary aid to our struggling industries by the fathers of the policy. Senator LODGE, in his splendid biography of Alexander Hamilton, who was the founder as well as the ablest exponent of the doctrine, says Hamilton took "substantially the same ground as Mill in his Political Economy that protection for nascent industries in order to remove the obstacles of starting is wise and proper." And Hamilton himself justifies it to abate "the fear of want of success in untried enterprises, the intrinsic difficulties of first essays."

Hamilton, Clay, Webster, and Calhoun, the ablest in the litany of American statesmen, all advocated moderate protection when our infant industries were struggling in the wilds of a new country, and when England, the greatest manufacturing country in the world, with that malice born of unsuccessful war, was trying to destroy them. But what would they now say could they behold the present prostitution of their cherished policy, or what would be their consternation could they behold our "nascent industries" struggling for existence with the Herculean giants of Dingleyism—the trusts?

The doctrine of protecting infant industries from "the obstacles of starting" is as dead as its illustrious founder. As administered by the "latter-day saints" of the creed, it paralyzes legitimate industrial effort by fostered vandalism. It upbuilds irrepressible trusts to crush them. Bankruptcy and ruin is the reward of every business enterprise falling into their clutches. A poor man might as well sink his hard earnings in the "deep blue sea" as to embark in almost any business enterprise. Unless a "captain of finance" he is barred from the "pursuit of happiness" in many legitimate avocations. Consequently our capital is seeking investment abroad. Nearly six millions have gone to Mexico, two millions to Cuba and Canada each, and vast sums to South America and Hawaii—so says a high governmental official. There is being prepared in the Census Department a bulletin showing that the number of industrial enterprises are rapidly decreasing. All minor industries that are not absorbed are being destroyed to make clear the highway of plunder. Sir, the protection given "nascent industries" by the Dingley law is like that given by the hungry lion to the weaker denizens of the forest, or that the ravenous eagle gives the defenseless lamb it swoops down upon and bears away to the mountain crag for a dainty meal. [Applause on the Democratic side.]

That protection helps American labor is likewise untenable. If one-half heard from the other side about the "compensating wage" were true, every industrial artisan could rear his family in affluence rather than in poverty and vice, as is true in many industrial centers. The laborers for nonprotected industries own more homes and are more contented and happy than any other laboring class. If anyone doubts this let him consult the railroads, construction companies, building contractors, and the farm laborers of the South and the West. From the humble negro plowman to the skilled mechanic, their wages have in many sections increased from 50 to 100 per cent since 1900. The average yearly wages of railroad employees throughout the country in 1900 was $595, while the steel industry, protected by millions of tariff "graft," paid only $520, and the manufacturing wool and worsted industries of Massachusetts, which is also protected to the extent of millions of tariff profit, in 1903 only paid from $422 to $490 to laborers. Mr. Havemeyer before the Industrial Commission said the wages paid by the sugar trust was $1.35 to $1.50 per day of from eight to twelve hours, and the employees were required to work in a heat of from 90° to 110°. Deduct from this the daily cost of their food and lodging in a crowded city and how much will their wives and children receive? Poor, deluded creatures. To all such I would say: "Take up thy bed and walk" to the sunny South, where the Lord and justice reign. Remove your children from that dismal tenement of vice and crime to where there is no hunger and where sympathy rides the sunbeam and charity blooms with the wild flower, and where they can grow up to vigorous manhood and virtuous womanhood.

In further refutation of this fallacious contention, permit me to say that the strikes—the torch—the rifle—yea, incipient anarchy, have been quite as available as Dingleyism in raising

wages. The coal miners have inaugurated the most stupendous strike of the age. Why do they strike? Why do they not look to protection for satisfactory wages? It gives the operators a bounty of 60 cents a ton on coal, which, according to good authority, pays quite all the expense of mining. In other words, the Government goes down into the bowels of the earth and brings forth the product practically as a free offering to the operator, and why do they not divide this bounty with the miners and save the bloodshed and misery of a strike?

From a report of the Census Bureau, showing the increase of wages per hour, from 1890 to 1903, we find that wages in four protected industries have increased less than in nonprotected industries.

	Per cent.
PROTECTED.	
Boiler makers	0.02
Iron molders	.04
Machinists	.02
Blacksmiths	.02
NONPROTECTED.	
Bricklayers	.11
Hod carriers	.06
Painters	.07
Carpenters	.08

There may be some truth in the statement that the wages of industrial laborers have advanced 20 or 25 per cent since the enactment of the Dingley law, but what does this profit the wage-earner, since it costs 40 per cent more to live than in 1897? The average American laborer does not work for stocks, bonds, or gold, but for food and raiment for wife and children. Hence his dollar-a-day wage in 1897 was more than his $1.25 of to-day. Then he purchased beef at 10 cents a pound, now he pays the trusts 18 cents; his shoes at 90 cents, now at $1.35; his worsted suit at $7, now $10; his hat at $1, now $1.35; his sewing machine at $12, now $20; and so on through the schedule of the necessaries. If a laborer spends all of his wages for necessaries, advanced in price 40 per cent, while his earnings have only increased 25 per cent, then according to the rules of common sense he is being surely impoverished. What good doth it do a man to pay him a dollar and the next breath rob him of it?

But there is another fact that belies this pretended panacea for the laborer. The Commissioner of Labor, in his 1903 report, shows that the less number of people owned their homes in the highly protected sections than elsewhere in the Union. Listen to the following, showing the per cent that own homes and the per cent that live in rented homes, to wit:

Section.	Rented homes.	Owned homes.
	Per ct.	*Per ct.*
North Atlantic States	86.66	13.34
South Atlantic States	80.44	19.56
North Central States	72.44	27.56
South Central States	79.20	20.80
Western States	69.03	30.97

These figures tell the story of the laborer's degradation and the fallacy of protection for his benefit with more eloquence than human lips can utter. After the highest system of protection known to the world for forty years, we find more homeless people in the protected North Atlantic States than in the practically nonprotected Southern States; and, too, it must not be overlooked that the civil war left that section almost as bare as Sahara and with millions of pauperized negroes to care for. What has gone with the multiplied millions from protection that like manna from heaven has annually fallen on that section? Why should anyone dare cringe from shivering winds or the pangs of hunger? If you will give the South one-half that bounty, no one will ever again say in all that section that he "hath not where to lay his head." But the per capita of wealth of the Northern States is many times that of the Southern States, and "thereby hangs a tale" that explains it all. If you will put Carnegie and Havemeyer and others on the witness stand and probe them for the truth—ask them who created their wealth; ask them how much of the tariff steal they gave their employees; ask them why they can build mansions on the Scottish lakes while their employees can not provide huts in the mountains of Pennsylvania; ask them why before Dingleyism their laborers received 11 per cent more of the wealth created by their labor than now—ask these questions, and if truthful answers are given the theory that protection is the friend of labor will be forever damned. One must be an imbecile who fails to observe that if protection is intended for the laboring man he has been woefully robbed.

The millions being spent subsidizing libraries and buying passports to heaven are largely the legitimate fruits of the sweat and blood of labor. Now, sir, if your party is indeed and in truth the real friend of labor, why do you not devise some means to prevent this bounty of protection from being stolen by the millionaires while in transit to the laborers? I dare say that if you will give to the half million striking miners even one-half the 60 cents a ton bounty on coal that they will return to work and strike no more.

When England abandoned protection, the wages of her laborers increased 40 per cent in a few years, says John Bright. Another said, "the laboring people of Great Britain are 30 per cent better fed, 40 per cent better clothed, 50 per cent better housed, and 100 per cent better educated than when England had a protective tariff." This is easily explained. When she opened her doors to the world, she at once became the world's greatest seller, and the demand for her products increased far more rapidly than she could supply them. Hence there was a greater demand for labor and higher wages followed. This would inevitably be the result in America were protection abandoned. We have a growing surplus of almost everything, and it must be apparent to everyone that as it increases the demand for and price of labor will decrease. Our congested home market is oversupplied with the fruits of labor. We need a wider market. There are twenty-five persons beyond the sea to consume our products where there is but one at home. Open the barred doors of the world by unlocking our own, and the increasing demand for our products will take care of three laborers while protection half starves one. [Applause.]

Sir, it must be apparent to every observer that trust-breeding protection, instead of building up, is destructive to the home market of the farmer. The trusts not only fix the price of the manufactured article, but of the raw material also. The prices for a year ahead is already fixed on his tobacco, cattle, hogs, sheep, hemp, poultry, hide, and many other products. They fix the prices and the farmer must submit. The great staples—cotton and grain—being dependent on a foreign market for consumption, are beyond the price-fixing power of the trust, and consequently have been higher than for years. Listen to the reading of a few lines from a well-known writer about the character of market protection and the beef trust as given the western farmers:

Being now the only buyer of cattle and the only seller of meat, the trust began a series of thoughtful operations that have reached from every farmer to every dinner table and taken tribute all the way. It put down the average price of medium cattle from $6 a hundredweight in September, 1899, to $4.50 in March, 1904, and in the same period it put up the retail prices of dressed meat about 20 per cent. It raked off profits at every stage of the decline of the price of cattle and at every stage of the ascent of the price of meat. It advanced the prices of its fertilizer and offal products. It reached the producer and it racked the consumer and stood resolutely between them, gathering toll from each. It advanced day by day further into the field of production and day by day laid hold upon new victims. It disclosed gradually a gigantic plan to control the price of every edible thing grown in this country, and to control it for its own dividends.

Let me here read you a table showing the manner in which the trust has advanced the price of meat to the 3,000,000 of people in New York City since 1900:

Article.		October 21, 1900.	April 28, 1905.
Porterhouse steak	per pound	$0.20	$0.28
Sirloin steak	do	.16	.24
Chuck steak	do	.08	.12½
Prime rib roast	do	.18	.24
Veal cutlets	do	.18	.25
Leg of mutton	do	.10	.14
Soup meat	do	.08	.12
Ham, best grade	do	.12	.18
Bacon, canned, rindless	do	.20	.28

Now, on the other hand, let me show you from the following table that the farmers' steers have not increased in price in Chicago since 1899. It is taken from the Weekly Live Stock Report:

Yearly average.	1,350 to 1,500 pounds.	1,200 to 1,350 pounds.	1,050 to 1,200 pounds.
1905	$5.50	$5.05	$4.55
1904	5.45	4.95	4.45
1903	5.05	4.80	4.45
1902	6.80	6.25	5.65
1901	5.65	5.25	4.85
1900	5.40	5.15	4.90
1899	5.55	5.25	4.95

If the home-market theory of protection is true, then we have stopped far short of the good that might be derived by extending this doctrine to the States, and even down to the counties. Why not let each State provide a home market by passing a Dingley law? But what would become of New England if the other States were to enact a Dingley law against her products, or what would Pennsylvania do if they were to invoke the same

protection she demands for her iron and steel? Texas has oil field enough to bring her fabulous riches if permitted to erect a Dingley schedule against the Standard Oil trust. Your party cries out for an open market with all the States, yet denies the same privilege with all the world. If the freedom of commerce between the States is the correct economic policy, then as a logical conclusion it follows that a similar policy with all the consuming nations of the earth is the correct one, and especially is this true since we have much to sell and little to buy.

But, sir, the most fallacious reason yet offered in defense of protection is that it brought the unparalleled prosperity that has swept over many sections of the country for the past five or six years. If this is true, why have the unprotected sections been the more prosperous, and why has this benediction not reached us long ago? Have we not had this policy for forty-five years, and have we not during that time realized the most destructive panics?

We have heard some labored speeches try to assimilate protection and prosperity, but their logic is not above the philosophy of a Mississippi darky, who believes the world is flat and does not extend beyond the limits of his vision. Every intelligent man well knows that existing prosperity is not limited to any section or any country. It is sweeping over the world. No such business activity has hitherto been known in Canada, Mexico, Argentina, Cape Colony, Germany, and many other European countries. Indeed, other countries have in many respects within the last few years been even more prosperous than the United States. Land values in Canada and parts of Mexico have since 1900 doubled in value; and exports, which are always a sure index to a nation's prosperity, have increased far more in many other countries than in the United States. Here is a table from a report of the Commerce and Labor Department, showing the increase of exports by nations since 1896:

	Per cent.
United States	88
Japan	173
Argentina	159
Mexico	122
Bulgaria	116
Cape of Good Hope	89
Norway	87
British India	82
Australia	78
Canada	76
Egypt	74

Now, we know that the defenders of protection have the assumption of an Egyptian god, but I hardly think they will have the temerity to contend that beneficent effects of Dingleyism has showered wealth on far-away Argentina, in the Cape of Good Hope, or in the far-away Australia. I know the Republican party can murder heathens by the "six hundred," or almost repeal the Lord's Prayer, under the iron-clad rules of this House, but I do not think they can compass the world's prosperity with their policy. Nor do I think they can expand its virtues so as to make it the cause of England, Japan, and Russia buying war supplies from the granaries of the West, or to make it the reason for the price of cotton advancing in Liverpool, wheat in London, and meat at Hamburg. No, Mr. Chairman, the present wave of prosperity is but the same as that which has swept over the greater part of the world during the past few years. Other countries, being prosperous, have consumed millions of dollars more of our products in the last few years than ever before, and we have prospered. The $800,000,000 of cotton and food products we are annually sending the prosperous world, and not Dingleyism, is booming this country. "All the gold mineral in the world in the last four hundred years could not purchase the farm crops of the last two years," recently wrote a great man, and if all obstructions are removed from our foreign markets the farm will continue to take care of our national wealth. The real cause of this world-wide prosperity is difficult to explain, unless it be attributed to the unprecedented increase in gold production and to the immense amount expended by England, Japan, and Russia in recent wars.

Every dollar that is dug out of the earth not only intensifies business, but adds that much additional wealth to the world, and every dollar spent in war naturally drifts to those countries buying the sinews of war. England in the Boer war expended about $775,000,000, and Japan and Russia each far more than this amount, which largely drifted to the producing nations, and, too, there has been an unprecedented acceleration in the production of gold in the last decade. Since 1850 the world's annual production of this metal has increased from $16,000,000 to $375,000,000. Since 1897 the amount has increased from $128,000,000, as is shown by the following table from the New York Herald:

1897	$237,504,800
1898	286,879,700
1899	306,724,100
1900	254,576,300
1901	260,992,900
1902	296,048,800
1903	325,527,200
1904	347,150,700
1905 (estimated)	375,000,000

Mr. Chairman, it must be the irresistible judgment of every impartial observer that the existing policy of protection is not only without a virtue, but is a menace to that justice and equality involved in the spirit of the Constitution, and is rapidly breeding the leprosy of national deterioration. It is the verdict of universal history that wealth gives strength to a nation only when distributed with approximate equality among its subjects. Extreme poverty and massive riches alike breed the germs of national disease. Paupers and millionaires do not affiliate. One gravitates to the hovels of ignorance and anarchy and the other to the palaces of debauchery and moral death. One wields the sword of death-dealing vengeance, the other plunders with insatiable rapacity, and alike they murder patriotism. If seductive gold could have stayed the arrows of national decay, the story of liberty's tragic death would not have been embalmed in the ruins of Athens and Greece. In the golden age of Pericles, Athens has been described as being a statue with a "head of gold and feet of clay"—typical of the fact that her segregated aristocracy owned the realm with all of its villas and broad acres, while the common citizens were left to compete with slaves for bread. One surrendered the fruits of toil to physical masters and the other to industrial lords. Aristotle said that "Greek slaves were living machines which a man possesses," and some modern writer has defined an industrial slave as being "one the fruits of whose labor belongs to another." They are the successive footprints on the sands of social dissolution, and brought destruction to Greece in spite of her gold or her brilliant philosophy.

It has been said that the "rise of the Cæsars was the fall of Rome," but it should be remembered that when the patriot Brutus was staining his soul with the blood of the tyrant, three-fourths of the people were being fed from the public granaries and the remainder were debauching in fabulous wealth. According to the record left by the tribune Philipus, only 2,000 men in Rome owned anything. One of these boasted that he had more money than three kings. Another paid $18,000,000 to the Pretorian Guard to wear the Imperial Purple, and seven others purchased the entire Province of Africa. Under this mingled avalanche of pauperism and greed the world's most splendid civilization perished forever.

Mr. HILL of Connecticut. Does the gentleman think the tariff had anything to do with it?

Mr. BYRD. Not a thing. The price of cotton is one thing that the tariff does not affect, except to contract its market.

How ominously suggestive is the tragedy of this dead nation when viewed in the light of our industrial conditions. Less than a score of men own or control all the railroads and coal fields of half the nation. In 1900 our total wealth was estimated at $90,000,000,000, and Doctor Spahr, in a creditable work on the subject, says that "1 per cent of the families own more of this vast amount than the other 99 per cent, and that one-eighth of the families own seven-eighths of the total amount." Rockefeller, Morgan, and many others could each buy one or more States of the Union, and I dare say would, if offered for sale. But in the shadow of this regal splendor we find lurking the most galling poverty. Many of our crowded industrial centers are the hotbeds of pauperism, vice, and socialism. "In a judicial district in this city there have been more evictions within the last three months than have occurred in the whole of Ireland during the same period," said a New York paper recently. "Hard by the palaces of the nabobs, women and children are being driven to suicide by poverty," says a late writer. Listen to the reading of this about the condition of the poor in New York:

Inspector H. M. Lechstrecker, of the State board of charities, on investigating, reported that out of 10,707 school children only 1,855 or less than one-fifth, began the day's work with adequate breakfast. Over 1,000 children never had for their morning meal more than bread only or coffee only, and nearly 500 came without any breakfast at all. The Salvation Army at once opened food stations for school children, and actually has close to a thousand every morning in attendance.

How does this horrible disclosure impress the minds of the defenders of the beef trust? Let others think as they may, but I had rather die a pauper and slumber in potter's field than to be the prince of a trust withholding food from the starving children of the land. [Applause.]

But one other thought in this connection. The returns of the

last election show that socialism is increasing in the United States with alarming rapidity, more so than in any other country. It recently invaded the sacred precincts of a western court and, putting law and justice to flight, acquitted one of the blackest self-confessed criminals of the age. The castles of the millionaires are being guarded by walking battalions, and even the tombs of the dead nabobs are watched by armed sentinels to drive away the socialistic ghouls who seek their dead bodies for ransom.

Mr. Chairman, we can not refrain from pronouncing this system of taxation for private greed as the most stupendous instrument of corruption ever tolerated by any government. Nor was there ever known a more insidious "disguise of disinterested patriotism" than that inspiring the conduct of those who now seek its perpetuation. In unmitigated viciousness it stands without a precedent, without a parallel, and without approval, either by the laws of God or humanity. In my humble judgment protected trusts, in iniquitous comparison with other evils that infest nations, rise like the rugged clifts of a mountain above the surrounding hillocks. Not only do they beget poverty with its attendant vices and crimes, but they paralyze national effort and supplant patriotism by that cringing cowardice common to all people after long submission to public wrong. Foreign invasion, treason, or rebellion are to be preferred. They sweep like "visions of sorrow" across the national horizon, but when their transient race is run, renewed hope and invigorated patriotism urge the people to more exalted triumphs. They may leave in their wake death and hideous ruin, but they do not "killeth the soul" of a nation like these monsters of avaricious greed.

Ill fares the land to hastening ills a prey,
Where wealth accumulates and men decay;
Princes and lords may flourish or may fade;
A breath can make them, as a breath has made;
But a bold peasantry, their country's pride,
When once destroyed can never be supplied.

[Applause.]

Sir, the history of your party is an unending repetition of political crimes. It impoverished a great section by the tyranny of reconstruction; it exploited the Credit Mobilier and star-route frauds; it gave to railroad corporations enough of the public domain to make a State as large as Mississippi; it stole the Chief Magistry of the nation once and has purchased it many times since; but of all its iniquities the blackest and most wicked is the holding up of our 80,000,000 people for the trusts to "rifle" their pockets. Such an act is as cruel and wicked as the tyranny of that ancient despot who rejoiced while burning the homes of his defenseless subjects.

Why longer continue such a policy? The hour for its destruction is at hand. It serves no purpose but usurpation and blesses none but the blessed; the poor it robs of food and the more fortunate of their bounty; it means death to legitimate industry and pauperism to labor; it bars our markets and rots the wealth of the farm. Its scanty virtues have been lost in its prostitution and its vices are supreme on the throne of avarice.

It sits as the arbiter of dishonesty, dividing the earnings of millions with the ghouls of greed. It awards them one-third of the salary of every servant of the Government, from the commanding general in the field to the janitor of this House; it gives the beef trust a full share of the pennies spent by the widow for a soup bone for her starving children; for the trusts it coins into sheckles of gold the sweat and brawn of the toiling farmer, and drives his promising boy from the schoolroom to the plowshare. All classes—the weak, the strong, the Indian, the son of Ham, the Caucasian—are embraced within its insidious folds.

If this policy is to continue, we should erect a monument to departed justice and forever commit to the flames that sacred parchment bearing the insignia of equality of right among men; and we should further publish to the world that this nation is rapidly drifting to the goal of all former republics, and that the last and greatest example of self-government will soon perish—the victim of avarice.

Though why should we despair? Rather should we not rejoice to know that this wrong has reached the climax of its infamy, while the people are yet strong in patriotic virtue. There is a deep, resistless wave of political resentment rolling across the continent, that will not break until enthroned greed is swept from its anchorage into oblivion. The shepherds of the people are patiently keeping the night watch for the star that will guide them to the Bethlehem of a true leader, under whose banner they can march to victory and to liberty. May every Pharisee of greed soon cry out:

The thorns which I have reap'd are of the tree
I planted; they have torn me, and I bleed.
I should have known what fruit would spring from such a seed.

[Loud applause.]

Mr. OVERSTREET. Does not the gentleman from Tennessee [Mr. MOON] think that we had better rise at this time?

Mr. MOON of Tennessee. I wish the gentleman from Indiana would let us put in another speaker for about ten minutes and then rise.

Mr. OVERSTREET. Well, I thought, in view of the insistence of the other side last night to rise at 5 o'clock, that it would be well to do so now.

Mr. MOON of Tennessee. The gentleman from Arkansas desires the floor for an hour.

Mr. MACON. I desire to state to the gentleman from Indiana that the gentleman from Tennessee has agreed to recognize me at this time for one hour, and if the gentleman will allow me to take the floor at this time that I may be recognized to proceed in the morning, I will then yield in order that the committee may now rise.

Mr. OVERSTREET. Well, I feel that inasmuch as the gentleman from Tennessee [Mr. MOON] began the debate to-day immediately after the reading of the Journal, it would be only fair for this side to have control of that hour to-morrow.

Mr. MOON of Tennessee. My intention was to give the gentleman from Arkansas [Mr. MACON] one hour, let him proceed for a minute or so and then let the committee rise, and have him continue to-morrow morning. I know we are ahead of the gentleman on this side in point of time. If the gentleman desires to use an hour of his time now, I shall not yield to the gentleman from Arkansas until after that hour has been consumed to-morrow.

Mr. OVERSTREET. I suggest that it would be better practice if this side of the Chamber might consume the first hour upon meeting to-morrow.

Mr. MOON of Tennessee. Very well. Then I shall, with that understanding, yield to the gentleman from Arkansas after that hour has been consumed by the gentleman's side to-morrow.

Mr. OVERSTREET. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. SHERMAN, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the post-office appropriation bill, and had come to no resolution thereon.

ENROLLED BILLS SIGNED.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill of the following title; when the Speaker signed the same:

H. R. 12286. An act granting relief to the estate of James Staley, deceased.

The SPEAKER announced his signature to enrolled bills of the following titles:

S. 5215. An act to fix the regular terms of the circuit and district courts of the United States for the southern division of the northern district of Alabama, and for other purposes; and

S. 87. An act providing for the withdrawal from public entry of lands needed for town-site purposes in connection with irrigation projects under the reclamation act of June 17, 1902, and for other purposes.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States for his approval the following bills:

H. R. 7144. An act for the relief of Aaron Everly;

H. R. 2202. An act granting a pension to Ellen Harriman;

H. R. 3541. An act granting a pension to Dora A. Weathersby;

H. R. 3806. An act granting a pension to Eva L. Martin;

H. R. 4261. An act granting a pension to A. Louisa S. McWhinnie;

H. R. 4593. An act granting a pension to William C. Short;

H. R. 5485. An act granting a pension to Horace D. Mann;

H. R. 5486. An act granting a pension to Margarett Carroll;

H. R. 6147. An act granting a pension to Maud O. Worth;

H. R. 7839. An act granting a pension to Ray E. Kline;

H. R. 8339. An act granting a pension to Vienna Ward;

H. R. 9705. An act granting a pension to George W. Robinson;

H. R. 10785. An act granting a pension to Thomas J. Chambers;

H. R. 11214. An act granting a pension to Isaac Baker;

H. R. 11873. An act granting a pension to Joseph B. Fonner, alias John Havens;

H. R. 12403. An act granting a pension to Lydia A. Fiedler;

H. R. 12656. An act granting a pension to Louise Ackley;

H. R. 13527. An act granting a pension to Willard V. Shepherd;
H. R. 14092. An act granting a pension to Frances Coyner;
H. R. 14098. An act granting a pension to Mary Winfrey;
H. R. 14642. An act granting a pension to James P. Himes;
H. R. 14768. An act granting a pension to Orlando W. Frazier;
H. R. 15449. An act granting a pension to Rhoda Kennedy;
H. R. 15870. An act granting a pension to Mary Palmer;
H. R. 15941. An act granting a pension to Lydia A. Keller;
H. R. 533. An act granting an increase of pension to Sumner F. Hunnewell;
H. R. 552. An act granting an increase of pension to William H. Nortrip;
H. R. 1027. An act granting an increase of pension to Charles H. Friend;
H. R. 1241. An act granting an increase of pension to John G. Wallace;
H. R. 1322. An act granting an increase of pension to Katherine F. Wainwright;
H. R. 1468. An act granting an increase of pension to Morris B. Drake;
H. R. 1655. An act granting an increase of pension to Henry A. Wheeler;
H. R. 1897. An act granting an increase of pension to William R. Duncan;
H. R. 1913. An act granting an increase of pension to Charles H. Conley;
H. R. 2082. An act granting an increase of pension to Siotha Bennett;
H. R. 2090. An act granting an increase of pension to Ellen M. Brant;
H. R. 2195. An act granting an increase of pension to Hannah A. Sawyer;
H. R. 2267. An act granting an increase of pension to Joseph Rupert;
H. R. 2341. An act granting an increase of pension to Helen H. Hulbert;
H. R. 2396. An act granting an increase of pension to Charles Hull;
H. R. 2640. An act granting an increase of pension to Decatur Harmon;
H. R. 2697. An act granting an increase of pension to Rufus G. Childress;
H. R. 2765. An act granting an increase of pension to Andrew J. Benson;
H. R. 2780. An act granting an increase of pension to Mary E. Fifield;
H. R. 2984. An act granting an increase of pension to William H. Gildersleeve;
H. R. 3007. An act granting an increase of pension to Thomas Carder;
H. R. 3197. An act granting an increase of pension to Milo G. Gibson;
H. R. 3233. An act granting an increase of pension to Lucius R. Simons;
H. R. 3281. An act granting an increase of pension to Thomas F. Underwood;
H. R. 3344. An act granting an increase of pension to Henry Sanborn;
H. R. 3484. An act granting an increase of pension to Edson J. Harrison;
H. R. 3660. An act granting an increase of pension to James H. Hill;
H. R. 3978. An act granting an increase of pension to Samuel Greenlee;
H. R. 4209. An act granting an increase of pension to Martin Callahan;
H. R. 4352. An act granting an increase of pension to Thomas Wolcott;
H. R. 4598. An act granting an increase of pension to James B. Barry;
H. R. 4691. An act granting an increase of pension to George L. Janney;
H. R. 4717. An act granting an increase of pension to Marshall U. Gage;
H. R. 4766. An act granting an increase of pension to John Deardourff;
H. R. 4809. An act granting an increase of pension to John W. Hatfield;
H. R. 4888. An act granting an increase of pension to William Moore;
H. R. 4946. An act granting an increase of pension to William H. Lewis;
H. R. 5252. An act granting an increase of pension to Thomas Howard;
H. R. 5434. An act granting an increase of pension to Hugh Green;
H. R. 5725. An act granting an increase of pension to John G. Davis;
H. R. 5726. An act granting an increase of pension to Cate E. Cobb;
H. R. 5933. An act granting an increase of pension to Winnie C. Pittenger;
H. R. 6058. An act granting an increase of pension to Emilie Scheldt;
H. R. 6110. An act granting an increase of pension to Abram W. Davenport;
H. R. 6128. An act granting an increase of pension to Thomas Patterson;
H. R. 6142. An act granting an increase of pension to David Davis;
H. R. 6407. An act granting an increase of pension to William Blair;
H. R. 6465. An act granting an increase of pension to Augustus Joy;
H. R. 6557. An act granting an increase of pension to Charles H. Jasper;
H. R. 6775. An act granting an increase of pension to William A. Lincoln;
H. R. 6888. An act granting an increase of pension to John W. Hannah;
H. R. 6946. An act granting an increase of pension to Elias Claunch;
H. R. 7225. An act granting an increase of pension to Mary O. Arnold;
H. R. 7331. An act granting an increase of pension to Henry Porter;
H. R. 7515. An act granting an increase of pension to Firman F. Kirk;
H. R. 7585. An act granting an increase of pension to Joseph Girdler;
H. R. 7609. An act granting an increase of pension to Charles W. Henderson;
H. R. 7681. An act granting an increase of pension to James M. Miller;
H. R. 7738. An act granting an increase of pension to Franklin J. Keck;
H. R. 7806. An act granting an increase of pension to Johanna Walgwist;
H. R. 7823. An act granting an increase of pension to Annie E. Peters;
H. R. 7856. An act granting an increase of pension to Norman C. Potter;
H. R. 7951. An act granting an increase of pension to William H. Pitchford;
H. R. 8042. An act granting an increase of pension to Bottol Larsen;
H. R. 8062. An act granting an increase of pension to John K. Miller;
H. R. 8206. An act granting an increase of pension to Carner C. Welch;
H. R. 8315. An act granting an increase of pension to Martin V. Cannedy;
H. R. 8316. An act granting an increase of pension to William Smith;
H. R. 8328. An act granting an increase of pension to Ira Grabill;
H. R. 8333. An act granting an increase of pension to John G. Honeywell;
H. R. 8530. An act granting an increase of pension to Benjamin Q. Ward;
H. R. 8565. An act granting an increase of pension to Andrew La Forge;
H. R. 8578. An act granting an increase of pension to Franklin G. Mattern;
H. R. 8665. An act granting an increase of pension to Hiram Long;
H. R. 8725. An act granting an increase of pension to Moses B. Davis;
H. R. 8823. An act granting an increase of pension to Charles C. Briant;
H. R. 8930. An act granting an increase of pension to Margaret Becker;
H. R. 8942. An act granting an increase of pension to Marquis L. Johnson;
H. R. 9053. An act granting an increase of pension to John M. Jones;
H. R. 9087. An act granting an increase of pension to William Winn;

H. R. 9093. An act granting an increase of pension to Farrie M. Allis;
H. R. 9126. An act granting an increase of pension to Nathan Parish;
H. R. 9296. An act granting an increase of pension to Elizabeth D. Hoppin;
H. R. 9406. An act granting an increase of pension to Francis W. Preston;
H. R. 9617. An act granting an increase of pension to David A. Kirk;
H. R. 9839. An act granting an increase of pension to Jesse Siler;
H. R. 9896. An act granting an increase of pension to William McKenzie;
H. R. 9898. An act granting an increase of pension to Abraham H. Miller;
H. R. 9904. An act granting an increase of pension to Neeta H. Marquis;
H. R. 9995. An act granting an increase of pension to Elias Johnson;
H. R. 10019. An act granting an increase of pension to Jonathan Shook;
H. R. 10230. An act granting an increase of pension to Clark A. Winans;
H. R. 10252. An act granting an increase of pension to Joseph J. Vincent;
H. R. 10293. An act granting an increase of pension to Sarah F. Galbraith;
H. R. 10300. An act granting an increase of pension to George C. Sackett;
H. R. 10326. An act granting an increase of pension to Edmund Chapman;
H. R. 10396. An act granting an increase of pension to John A. Malone;
H. R. 10404. An act granting an increase of pension to John Moules;
H. R. 10448. An act granting an increase of pension to George M. Frazer;
H. R. 10450. An act granting an increase of pension to Silas H. Ballard;
H. R. 10490. An act granting an increase of pension to Lucius A. West;
H. R. 10562. An act granting an increase of pension to Alphenis M. Beall;
H. R. 10594. An act granting an increase of pension to James Martin;
H. R. 10622. An act granting an increase of pension to James H. Ward;
H. R. 10753. An act granting an increase of pension to Jacob Keller;
H. R. 10816. An act granting an increase of pension to August Bauer;
H. R. 10879. An act granting an increase of pension to Thomas E. Myers;
H. R. 10900. An act granting an increase of pension to Arthur R. Dreppard;
H. R. 10907. An act granting an increase of pension to John N. Boyd;
H. R. 10923. An act granting an increase of pension to Matilda Rockwell;
H. R. 11209. An act granting an increase of pension to Thomas Griffith;
H. R. 11509. An act granting an increase of pension to Josephine Hoornbeek;
H. R. 11638. An act granting an increase of pension to John N. Vivian;
H. R. 11690. An act granting an increase of pension to Lewis Lowry;
H. R. 11691. An act granting an increase of pension to John Clark;
H. R. 11905. An act granting an increase of pension to Elizabeth E. Atkinson;
H. R. 11990. An act granting an increase of pension to Daniel M. Coffman;
H. R. 12014. An act granting an increase of pension to Francis H. Frasier;
H. R. 12393. An act granting an increase of pension to William Hardy;
H. R. 12417. An act granting an increase of pension to Samuel G. Raymond;
H. R. 12443. An act granting an increase of pension to Nathaniel Southard;
H. R. 12455. An act granting an increase of pension to John Jacoby;
H. R. 12540. An act granting an increase of pension to Morris J. James;
H. R. 12541. An act granting an increase of pension to Edward V. Miles;
H. R. 12578. An act granting an increase of pension to John B. Craig;
H. R. 12584. An act granting an increase of pension to William R. Guion;
H. R. 12643. An act granting an increase of pension to William H. Franklin;
H. R. 12760. An act granting an increase of pension to William Ralston;
H. R. 12795. An act granting an increase of pension to Henry Stimon;
H. R. 12825. An act granting an increase of pension to Daniel Bloomer;
H. R. 12834. An act granting an increase of pension to Theodor Schramm;
H. R. 12880. An act granting an increase of pension to Lorenzo D. Mason;
H. R. 12897. An act granting an increase of pension to Robert B. Malone;
H. R. 12900. An act granting an increase of pension to James D. Havens;
H. R. 13005. An act granting an increase of pension to Robert R. Wilson;
H. R. 13028. An act granting an increase of pension to Mary E. Bennett;
H. R. 13034. An act granting an increase of pension to Frederick Hildenbrand;
H. R. 13038. An act granting an increase of pension to Rebecca Ramsey;
H. R. 13081. An act granting an increase of pension to Orren R. Smith;
H. R. 13082. An act granting an increase of pension to Herbert Williams;
H. R. 13083. An act granting an increase of pension to Mordecai B. Barbee;
H. R. 13136. An act granting an increase of pension to William Gaynor;
H. R. 13138. An act granting an increase of pension to Eada Lowry;
H. R. 13148. An act granting an increase of pension to William Davis;
H. R. 13150. An act granting an increase of pension to Cate F. Galbraith;
H. R. 13198. An act granting an increase of pension to Josiah F. Allen;
H. R. 13230. An act granting an increase of pension to Elizabeth Webb;
H. R. 13231. An act granting an increase of pension to Gatsey Mattucks;
H. R. 13238. An act granting an increase of pension to William Strasburg;
H. R. 13310. An act granting an increase of pension to James McKee;
H. R. 13311. An act granting an increase of pension to John Wilkinson;
H. R. 13341. An act granting an increase of pension to Robert C. Pate;
H. R. 13417. An act granting an increase of pension to John W. Bookman;
H. R. 13502. An act granting an increase of pension to John N. Buchanan;
H. R. 13505. An act granting an increase of pension to Martha E. Chambers;
H. R. 13525. An act granting an increase of pension to Martha J. Hensley;
H. R. 13584. An act granting an increase of pension to Anna M. Jefferis;
H. R. 13587. An act granting an increase of pension to August Frahm;
H. R. 13597. An act granting an increase of pension to Abram J. Bozarth;
H. R. 13610. An act granting an increase of pension to James Hann;
H. R. 13627. An act granting an increase of pension to Homer F. Herriman, alias George F. Wilson;
H. R. 13697. An act granting an increase of pension to William Shoemaker;
H. R. 13710. An act granting an increase of pension to Anna M. Wilson;
H. R. 13712. An act granting an increase of pension to Caroline D. Scudder;

H. R. 13761. An act granting an increase of pension to John Cook;
H. R. 13798. An act granting an increase of pension to Alida King;
H. R. 13826. An act granting an increase of pension to Frank S. Pettingill;
H. R. 13872. An act granting an increase of pension to Alvin D. Hopper;
H. R. 13891. An act granting an increase of pension to Hugh G. Wilson;
H. R. 13959. An act granting an increase of pension to Thomas B. Mouser;
H. R. 13988. An act granting an increase of pension to Mary McMahon;
H. R. 13994. An act granting an increase of pension to Francis A. Barkis;
H. R. 14076. An act granting an increase of pension to William Sanders;
H. R. 14077. An act granting an increase of pension to George W. Ceesebro;
H. R. 14078. An act granting an increase of pension to Catherine Summers;
H. R. 14086. An act granting an increase of pension to Daniel Pence;
H. R. 14089. An act granting an increase of pension to Martin Harter;
H. R. 14112. An act granting an increase of pension to Andrew J. Baker;
H. R. 14113. An act granting an increase of pension to Isaac N. Perry;
H. R. 14140. An act granting an increase of pension to Josephine M. Cage;
H. R. 14258. An act granting an increase of pension to John S. Miles;
H. R. 14277. An act granting an increase of pension to George S. Scott;
H. R. 14287. An act granting an increase of pension to Martha Brooks;
H. R. 14327. An act granting an increase of pension to Amelia Nichols;
H. R. 14367. An act granting an increase of pension to Lemuel O. Gilman;
H. R. 14369. An act granting an increase of pension to Sumner P. Wyman;
H. R. 14389. An act granting an increase of pension to Amos Hart;
H. R. 14425. An act granting an increase of pension to Robert Henderson Griffin;
H. R. 14426. An act granting an increase of pension to Thomas S. Menefee;
H. R. 14538. An act granting an increase of pension to Eliza L. Norwood;
H. R. 14563. An act granting an increase of pension to Edwin L. Higgins;
H. R. 14639. An act granting an increase of pension to Sarah J. Merrill;
H. R. 14646. An act granting an increase of pension to Ambrose R. Fisher;
H. R. 14653. An act granting an increase of pension to Sophronia Lofton;
H. R. 14655. An act granting an increase of pension to Henry Gilham;
H. R. 14669. An act granting an increase of pension to Anna H. Wagner;
H. R. 14694. An act granting an increase of pension to Samuel R. Dummer;
H. R. 14748. An act granting an increase of pension to William F. Burks;
H. R. 14761. An act granting an increase of pension to John L. Decker;
H. R. 14793. An act granting an increase of pension to William W. Howell;
H. R. 14834. An act granting an increase of pension to Ruth J. McCann;
H. R. 14840. An act granting an increase of pension to Nathaniel H. Rone;
H. R. 14848. An act granting an increase of pension to Samantha E. Herald;
H. R. 14878. An act granting an increase of pension to Charles Rattray;
H. R. 14888. An act granting an increase of pension to Eliza A. Bunker;
H. R. 14890. An act granting an increase of pension to James H. Posey;
H. R. 14925. An act granting an increase of pension to James Grizzle;
H. R. 14937. An act granting an increase of pension to William S. Nagle;
H. R. 14988. An act granting an increase of pension to James B. Cox;
H. R. 15062. An act granting an increase of pension to Thomas Sparrow;
H. R. 15199. An act granting an increase of pension to John T. Cook;
H. R. 15249. An act granting an increase of pension to Isaac N. Seal; and
H. R. 15276. An act granting an increase of pension to Wesley Smith.

SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 5438. An act to establish a light and fog signal in New York Bay at the entrance to the dredged channel at Greenville, N. J.—to the Committee on Interstate and Foreign Commerce.
S. 1165. An act granting an increase of pension to James Moss—to the Committee on Pensions.
S. 2115. An act granting a pension to Carrie E. Costinett—to the Committee on Pensions.
S. 1308. An act granting an increase of pension to Emilie Grace Reich—to the Committee on Pensions.
S. 4834. An act granting an increase of pension to Octave Counter—to the Committee on Invalid Pensions.
S. 1376. An act granting a pension to Adam Werner—to the Committee on Invalid Pensions.
S. 2378. An act granting an increase of pension to Maria Leuckart—to the Committee on Pensions.
S. 1398. An act granting an increase of pension to Edmund Morgan—to the Committee on Invalid Pensions.
S. 4826. An act granting a pension to Sarah Agnes Earl—to the Committee on Invalid Pensions.
S. 4675. An act granting an increase of pension to Fannie P. Norton—to the Committee on Invalid Pensions.
S. 4650. An act granting an increase of pension to Thomas McDonald—to the Committee on Invalid Pensions.
S. 4309. An act granting an increase of pension to Adele Jeanette Hughes—to the Committee on Invalid Pensions.
S. 4972. An act granting an increase of pension to Sarah E. Hull—to the Committee on Invalid Pensions.
S. 2733. An act granting an increase of pension to Charles Crismon—to the Committee on Invalid Pensions.
S. 1975. An act granting an increase of pension to Mary E. Dugger—to the Committee on Invalid Pensions.
S. 4360. An act granting an increase of pension to John P. Dunn—to the Committee on Invalid Pensions.
S. 4467. An act removing the charge of desertion from the military record of James B. Boyd—to the Committee on Military Affairs.

ADJOURNMENT.

Then, on motion of Mr. OVERSTREET (at 5 o'clock and 14 minutes p. m.), the House adjourned until to-morrow, at 12 o'clock m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. WANGER, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the House (H. R. 17662) to authorize the Tyronza Central Railroad Company to construct a bridge across Little River, in the State of Arkansas, reported the same without amendment, accompanied by a report (No. 2942); which said bill and report were referred to the House Calendar.

Mr. TAYLOR of Ohio, from the Committee on the District of Columbia, to which was referred the bill of the Senate (S. 4170) to amend an act approved March 3, 1891, entitled "An act making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1891, and for prior years, and for other purposes," reported the same without amendment, accompanied by a report (No. 2944); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. HILL of Connecticut, from the Committee on Ways and Means, to which was referred the bill of the House (H. R.

15071) to provide means for the sale of internal-revenue stamps in the island of Porto Rico, reported the same with amendment, accompanied by a report (No. 2945); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. OLCOTT, from the Committee on the District of Columbia, to which was referred the bill of the House (H. R. 17217) to amend an act entitled "An act to establish a code of law for the District of Columbia," regulating proceedings for condemnation of land for streets, reported the same with amendment, accompanied by a report (No. 2946); which said bill and report were referred to the House Calendar.

Mr. MORRELL, from the Committee on the District of Columbia, to which was referred the bill of the Senate (S. 1243) providing for compulsory education in the District of Columbia, reported the same with amendment, accompanied by a report (No. 2947); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

He also, from the same committee, to which was referred the bill of the Senate (S. 4302) to amend the provision in an act approved March 3, 1899, imposing a charge for tuition on nonresident pupils in the public schools of the District of Columbia, reported the same without amendment, accompanied by a report (No. 2948); which said bill and report were referred to the House Calendar.

He also, from the same committee, to which was referred bills of the House H. R. 375, 4462, and 5974, reported in lieu thereof a bill (H. R. 17838) to regulate the employment of child labor in the District of Columbia, accompanied by a report (No. 2949); which said bill and report were referred to the House Calendar.

Mr. LACEY, from the Committee on Indian Affairs, to which was referred the bill of the House (H. R. 5290) providing for the allotment and distribution of Indian tribal funds, reported the same with amendment, accompanied by a report (No. 2950); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. MARTIN, from the Committee on the Public Lands, to which was referred the bill of the House (H. R. 17756) to provide for the entry of agricultural lands within the Black Hills Forest Reserve, reported the same without amendment, accompanied by a report (No. 2951); which said bill and report were referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. LONGWORTH, from the Committee on Pensions, to which was referred the bill of the House (H. R. 6864) granting an increase of pension to Henry Good, reported the same with amendment, accompanied by a report (No. 2908); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL, from the Committee on Pensions, to which was referred the bill of the House (H. R. 7737) granting a pension to William H. Winters, reported the same with amendment, accompanied by a report (No. 2909); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 8226) granting a pension to Laura B. Ihrie, reported the same with amendment, accompanied by a report (No. 2910); which said bill and report were referred to the Private Calendar.

Mr. BENNETT of Kentucky, from the Committee on Pensions, to which was referred the bill of the House (H. R. 9491) granting an increase of pension to R. L. Davis, reported the same with amendment, accompanied by a report (No. 2911); which said bill and report were referred to the Senate Calendar.

Mr. AIKEN, from the Committee on Pensions, to which was referred the bill of the House (H. R. 12561) granting a pension to Francis M. McClendon, reported the same with amendment, accompanied by a report (No. 2912); which said bill and report were referred to the Private Calendar.

Mr. DICKSON of Illinois, from the Committee on Pensions, to which was referred the bill of the House (H. R. 13421) granting a pension to John W. Wabrass, reported the same with amendment, accompanied by a report (No. 2913); which said bill and report were referred to the Private Calendar.

Mr. DRAPER, from the Committee on Pensions, to which was referred the bill of the House (H. R. 13575) granting a pension to Frances Bell, reported the same with amendment, accompanied by a report (No. 2914); which said bill and report were referred to the Private Calendar.

Mr. McLAIN, from the Committee on Pensions, to which was referred the bill of the House (H. R. 14745) granting an increase of pension to Frederick B. Walton, reported the same with amendment, accompanied by a report (No. 2915); which said bill and report were referred to the Private Calendar.

Mr. DICKSON of Illinois, from the Committee on Pensions, to which was referred the bill of the House (H. R. 14955) granting a pension to Eliza Moore, reported the same with amendment, accompanied by a report (No. 2916); which said bill and report were referred to the Private Calendar.

Mr. LONGWORTH, from the Committee on Pensions, to which was referred the bill of the House (H. R. 15366) granting a pension to Elvia Lane, reported the same with amendment, accompanied by a report (No. 2917); which said bill and report were referred to the Private Calendar.

Mr. HOGG, from the Committee on Pensions, to which was referred the bill of the House (H. R. 15855) granting a pension to Will E. Kayser, reported the same without amendment, accompanied by a report (No. 2918); which said bill and report were referred to the Private Calendar.

Mr. RICHARDSON of Alabama, from the Committee on Pensions, to which was referred the bill of the House (H. R. 16224) granting an increase of pension to Francis M. Crawford, reported the same with amendment, accompanied by a report (No. 2919); which said bill and report were referred to the Private Calendar.

Mr. MACON, from the Committee on Pensions, to which was referred the bill of the House (H. R. 16466) granting an increase of pension to Asenith Woodall, reported the same with amendment, accompanied by a report (No. 2920); which said bill and report were referred to the Private Calendar.

Mr. AIKEN, from the Committee on Pensions, to which was referred the bill of the House (H. R. 16527) granting an increase of pension to William Martin, reported the same with amendment, accompanied by a report (No. 2921); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 16529) granting an increase of pension to James M. Sykes, reported the same with amendment, accompanied by a report (No. 2922); which said bill and report were referred to the Private Calendar.

Mr. MACON, from the Committee on Pensions, to which was referred the bill of the House (H. R. 16576) granting an increase of pension to Silas P. Conway, reported the same with amendment, accompanied by a report (No. 2923); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 16577) granting an increase of pension to Joseph M. Pound, reported the same with amendment, accompanied by a report (No. 2924); which said bill and report were referred to the Private Calendar.

Mr. HOGG, from the Committee on Pensions, to which was referred the bill of the House (H. R. 16681) granting a pension to Gustave Bergen, reported the same with amendment, accompanied by a report (No. 2925); which said bill and report were referred to the Private Calendar.

Mr. RICHARDSON of Alabama, from the Committee on Pensions, to which was referred the bill of the House (H. R. 16902) granting an increase of pension to Dennis Winn, reported the same with amendment, accompanied by a report (No. 2926); which said bill and report were referred to the Private Calendar.

Mr. MACON, from the Committee on Pensions, to which was referred the bill of the House (H. R. 16931) granting a pension to Cornelia Mitchell, reported the same with amendment, accompanied by a report (No. 2927); which said bill and report were referred to the Private Calendar.

Mr. RICHARDSON of Alabama, from the Committee on Pensions, to which was referred the bill of the House (H. R. 17026) granting an increase of pension to Josephine L. Jordan, reported the same with amendment, accompanied by a report (No. 2928); which said bill and report were referred to the Private Calendar.

Mr. McLAIN, from the Committee on Pensions, to which was referred the bill of the House (H. R. 17067) granting an increase of pension to Simeon Pierce, reported the same with amendment, accompanied by a report (No. 2929); which said bill and report were referred to the Private Calendar.

Mr. RICHARDSON of Kentucky, from the Committee on Pensions, to which was referred the bill of the House (H. R. 17151) granting a pension to William T. Morgan, reported the same with amendment, accompanied by a report (No. 2930); which said bill and report were referred to the Private Calendar.

Mr. McLAIN, from the Committee on Pensions, to which was

referred the bill of the House (H. R. 17194) granting an increase of pension to Jennie White, reported the same without amendment, accompanied by a report (No. 2931); which said bill and report were referred to the Private Calendar.

Mr. RICHARDSON of Alabama, from the Committee on Pensions, to which was referred the bill of the House (H. R. 17278) granting an increase of pension to Mary E. Patterson, reported the same with amendment, accompanied by a report (No. 2932); which said bill and report were referred to the Private Calendar.

Mr. RICHARDSON of Kentucky, from the Committee on Pensions, to which was referred the bill of the House (H. R. 17310) granting an increase of pension to Francis A. Hite, reported the same without amendment, accompanied by a report (No. 2933); which said bill and report were referred to the Private Calendar.

Mr. RICHARDSON of Alabama, from the Committee on Pensions, to which was referred the bill of the House (H. R. 17342) granting an increase of pension to Wesley G. Cox, reported the same without amendment, accompanied by a report (No. 2934); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 17372) granting an increase of pension to Arethusa M. Pettit, reported the same with amendment, accompanied by a report (No. 2935); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 17402) granting an increase of pension to Isaiah H. Hazlitt, reported the same with amendment, accompanied by a report (No. 2936); which said bill and report were referred to the Private Calendar.

Mr. BENNETT of Kentucky, from the Committee on Pensions, to which was referred the bill of the House (H. R. 17591) granting an increase of pension to William Hall, reported the same with amendment, accompanied by a report (No. 2937); which said bill and report were referred to the Private Calendar.

Mr. McLAIN, from the Committee on Pensions, to which was referred the bill of the House (H. R. 17613) granting an increase of pension to Susan E. Nash, reported the same without amendment, accompanied by a report (No. 2938); which said bill and report were referred to the Private Calendar.

Mr. AIKEN, from the Committee on Pensions, to which was referred the bill of the House (H. R. 17619) granting an increase of pension to Davia D. Spain, reported the same with amendment, accompanied by a report (No. 2939); which said bill and report were referred to the Private Calendar.

Mr. TYNDALL, from the Committee on the Public Lands, to which was referred the bill of the Senate (S. 2188) granting to the city of Durango, in the State of Colorado, certain lands therein described for water reservoirs, reported the same with amendment, accompanied by a report (No. 2940); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Montana, from the Committee on the Public Lands, to which was referred the bill of the House (H. R. 10292) granting to the town of Mancos, Colo., the right to enter certain lands, reported the same without amendment, accompanied by a report (No. 2941); which said bill and report were referred to the Private Calendar.

Mr. KLINE, from the Committee on the District of Columbia, to which was referred the bill of the Senate (S. 4376) to quitclaim all the interest of the United States of America in and to a certain lot of land lying in the District of Columbia and State of Maryland to heirs of John C. Rives, deceased, reported the same with amendment, accompanied by a report (No. 2943); which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. COOPER of Pennsylvania: A bill (H. R. 17833) providing for the administration of the operations of the act of Congress approved June 17, 1902, known as the reclamation act—to the Committee on Irrigation of Arid Lands.

By Mr. LITTLEFIELD: A bill (H. R. 17834) to amend section 764 of the Revised Statutes of the United States, relating to appeals in petitions for habeas corpus—to the Committee on the Judiciary.

By Mr. DE ARMOND: A bill (H. R. 17835) concerning jurisdiction in judicial proceedings—to the Committee on the Judiciary.

Also, a bill (H. R. 17836) to regulate practice as to instructing juries—to the Committee on the Judiciary.

Also, a bill (H. R. 17837) providing for the assessment by jury of the punishment to be imposed upon conviction of crime—to the Committee on the Judiciary.

By Mr. MORRELL, from the Committee on the District of Columbia: A bill (H. R. 17838) to regulate the employment of child labor in the District of Columbia—to the House Calendar.

By Mr. GARDNER of New Jersey: A bill (H. R. 17839) providing for the appointment of a chaplain in the Life-Saving Service of the United States in the district including the coast of New Jersey—to the Committee on Interstate and Foreign Commerce.

Also (by request), a bill (H. R. 17840) regulating wages in the District of Columbia—to the Committee on the District of Columbia.

By Mr. MOUSER: A bill (H. R. 17878) to incorporate the Rock River Navigation and Improvement Company, and to authorize the construction and maintenance of one or more dams across Rock River for the purpose of the improvement of the navigation thereof and to utilize the water power thereby created incidental to such construction—to the Committee on Rivers and Harbors.

By Mr. GOULDEN:—A bill (H. R. 17879) to amend section 4472 of the Revised Statutes, relating to the carrying of dangerous articles on passenger steamers—to the Committee on the Merchant Marine and Fisheries.

By Mr. STEPHENS of Texas: A resolution (H. Res. 392) asking the Secretary of the Interior for certain information concerning the Shawnee Training School, in Oklahoma—to the Committee on Indian Affairs.

By Mr. WILLIAMS: A resolution (H. Res. 393) asking certain information of the Secretary of the Treasury concerning the accounts of the United States postal agent at Shanghai and the United States consul at Tientsin—to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. ANDRUS: A bill (H. R. 17841) granting an increase of pension to Cornelius Springsteel—to the Committee on Invalid Pensions.

By Mr. BARTLETT: A bill (H. R. 17842) granting a pension to Josephine Virginia Sparks—to the Committee on Pensions.

By Mr. BENNETT of Kentucky: A bill (H. R. 17843) granting an increase of pension to Samuel Watkins—to the Committee on Pensions.

Also, a bill (H. R. 17844) granting an increase of pension to Gordon McCormick—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17845) granting an increase of pension to John H. Watson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17846) granting an increase of pension to B. C. Crosthwait—to the Committee on Invalid Pensions.

By Mr. BOWERSOCK: A bill (H. R. 17847) granting an increase of pension to William H. Young—to the Committee on Invalid Pensions.

By Mr. BROOKS of Colorado: A bill (H. R. 17848) for the relief of Jesse W. Coleman—to the Committee on War Claims.

By Mr. BURLEIGH: A bill (H. R. 17849) granting an increase of pension to Henry A. Pierce—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17850) granting an increase of pension to Josephine E. Wilson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17851) granting an increase of pension to George S. Ramsey—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17852) granting an increase of pension to Joseph P. Phillips—to the Committee on Invalid Pensions.

By Mr. CAMPBELL of Kansas: A bill (H. R. 17853) granting a pension to Henry Williams—to the Committee on Pensions.

By Mr. EDWARDS: A bill (H. R. 17854) granting an increase of pension to John Eubanks—to the Committee on Pensions.

By Mr. ELLERBE: A bill (H. R. 17855) granting an increase of pension to Harriett E. Miller—to the Committee on Invalid Pensions.

By Mr. FINLEY: A bill (H. R. 17856) for the relief of U. G. Des Portes, administrator of the estate of S. S. Wolfe, deceased—to the Committee on War Claims.

By Mr. FLOYD: A bill (H. R. 17857) granting an increase of pension to John S. Taylor—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17858) to correct the military record of and grant to John B. Curtis an honorable discharge—to the Committee on Military Affairs.

By Mr. GILL: A bill (H. R. 17859) for the relief of the legal representatives of John Derr—to the Committee on Claims.

Also, a bill (H. R. 17860) granting a pension to Emeline K. Wright—to the Committee on Pensions.

By Mr. HALE: A bill (H. R. 17861) granting a pension to Thomas D. Bearden—to the Committee on Pensions.

Also, a bill (H. R. 17862) granting an increase of pension to T. M. Youngblood—to the Committee on Invalid Pensions.

By Mr. HASKINS: A bill (H. R. 17863) granting an increase of pension to Louisa M. Tarbell—to the Committee on Invalid Pensions.

By Mr. HAYES: A bill (H. R. 17864) granting an increase of pension to Mary E. Austin—to the Committee on Invalid Pensions.

By Mr. HERMANN: A bill (H. R. 17865) granting an increase of pension to J. B. Arnott—to the Committee on Invalid Pensions.

By Mr. OLCOTT: A bill (H. R. 17866) for the relief of the executors of the estate of Edward W. Southworth and others—to the Committee on Claims.

By Mr. REEDER: A bill (H. R. 17867) for the relief of David Parrott—to the Committee on Military Affairs.

By Mr. REYNOLDS: A bill (H. R. 17868) granting a pension to Burdene Blake—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17869) granting a pension to Joseph Snowden—to the Committee on Invalid Pensions.

By Mr. RICHARDSON of Kentucky: A bill (H. R. 17870) for the relief of Harrison Dobbs—to the Committee on War Claims.

Also, a bill (H. R. 17871) granting a pension to M. E. Garretson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17872) granting an increase of pension to A. D. Metcalfe—to the Committee on Invalid Pensions.

By Mr. SMITH of Iowa: A bill (H. R. 17873) granting an increase of pension to Milo Bunce—to the Committee on Invalid Pensions.

By Mr. SULLIVAN of New York: A bill (H. R. 17874) granting an increase of pension to Roseanna Hughes—to the Committee on Pensions.

By Mr. THOMAS of North Carolina: A bill (H. R. 17875) waiving the age limit for admission to the Pay Corps of the United States Navy in the case of W. W. Peirce—to the Committee on Naval Affairs.

By Mr. TYNDALL: A bill (H. R. 17876) granting an increase of pension to John M. Rupert—to the Committee on Invalid Pensions.

By Mr. WALDO: A bill (H. R. 17877) granting an increase of pension to Emmagene Bronson—to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER: Paper to accompany bill for relief of Rebecca J. Fisher (previously referred to the Committee on Invalid Pensions)—to the Committee on Claims.

By Mr. BARCHFELD: Petition of R. A. and J. J. Williams, Robert C. Lippincott, Howard L. Neff, Eli B. Hallowell & Co., Miller, Robinson & Co., Thomas B. Hammer, Edmund A. Souder & Co., and William L. Shew & Co., for bill H. R. 5281 (the pilotage bill)—to the Committee on the Merchant Marine and Fisheries.

Also, petition of McKees Rocks Division, No. 201, Order of Railway Conductors, against the Hepburn railway rate bill—to the Committee on Interstate and Foreign Commerce.

By Mr. BATES: Petition of the Keystone Watch Case Company, of Philadelphia, Pa., against bill H. R. 14604, relative to spuriously stamped articles of merchandise—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Sorosis Woman's Club of Union City, Pa., for forest reserves in the White Mountains—to the Committee on Agriculture.

Also, petition of the Sorosis Woman's Club of Union City, Pa., for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

Also, petition of the Sorosis Woman's Club of Union City, Pa., for the Morris law (timber reservation in Minnesota)—to the Committee on Agriculture.

Also, petition of E. B. Hallowell, George F. Craig, William L. Shew & Co., R. A. & J. J. Williams, Thomas B. Hammer, Howard L. Neff, E. A. Souder & Co., and Miller, Robinson & Co., of Philadelphia, Pa., for bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the Emerson Club, of Townsville, Pa., for investigation of the industrial condition of women in the United States—to the Committee on Appropriations.

By Mr. BEALL of Texas: Paper to accompany bill for relief of Virginia C. Moore—to the Committee on Pensions.

By Mr. BELL of Georgia: Paper to accompany bill for relief of Thomas J. Benton—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of Maggie Carroll—to the Committee on Invalid Pensions.

By Mr. BENNETT of Kentucky: Paper to accompany bill for relief of Burnwell C. Crosthwait—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of Gordon McCormick—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of Samuel Watkins—to the Committee on Pensions.

Also, paper to accompany bill for relief of John P. Simer—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of David Ross—to the Committee on Pensions.

Also, paper to accompany bill for relief of Martin Spriggs—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of Jasper Staten—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of dependent brother and sister of Isaac Myers—to the Committee on Invalid Pensions.

By Mr. BRADLEY: Petition of Mystic Council, No. 10, Daughters of Liberty, of Newburgh, N. Y., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. BURKE of Pennsylvania: Petition of Edmund A. Sonder & Co., William L. Shew & Co., Thomas B. Hammer, R. A. & J. J. Williams, Eli B. Hallowell & Co., Miller, Robinson & Co., Howard L. Neff, and Robert C. Lippincott, for bill H. R. 5281 (the pilotage bill)—to the Committee on the Merchant Marine and Fisheries.

Also, petition of McKees Rocks Division, No. 201, Order of Railway Conductors, against the Hepburn railway rate bill—to the Committee on Interstate and Foreign Commerce.

By Mr. BURNETT: Petition of the American Federation of Labor, against bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

Also, paper to accompany bill for relief of Henry Morris—to the Committee on Military Affairs.

By Mr. DAWSON: Petition of 20 attorneys of Clinton, Iowa, for passage of bill H. R. 16551—to the Committee on the Judiciary.

By Mr. FINLEY: Paper to accompany bill for relief of Ulysses G. Des Portes, administrator of estate of Saling S. Wolf—to the Committee on Claims.

By Mr. FITZGERALD: Petition of the advisory committee of 100, of New York, for battle-ship construction at the Brooklyn Navy-Yard—to the Committee on Naval Affairs.

By Mr. FLOOD: Petition of Cyclopean Towers Council, No. 87, of Mount Solon, Va., and Gilt Edge Council, No. 42, of Mount Sidney, Va., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. FULLER: Petition of the American Federation of Labor, against the pilotage bill (H. R. 5281)—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the Sandwich (Ill.) Manufacturing Company, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of the Fortnightly Club, of Genoa, Ill., for an appropriation for investigation of the industrial condition of women in the United States—to the Committee on Appropriations.

Also, petition of citizens of Ottawa, Ill., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of Local Union No. 1037, United Brotherhood of Carpenters and Joiners of America, against bill H. R. 12973, relative to Chinese immigration and for the Chinese-exclusion act—to the Committee on Immigration and Naturalization.

By Mr. GILLETT of Massachusetts: Petition of Springfield (Mass.) Grange, officers and 475 members, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. GRAHAM: Petition of the Burroughs Club, favoring bills H. R. 7019, 11949, and 11950, relative to the preservation of game in the Territories and the District of Columbia—to the Committee on Agriculture.

Also, petition of Colonel F. M. Bayne Council, No. 103, Daughters of Liberty, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of Emma Mabon, for relief of landless Indians of northern California—to the Committee on Indian Affairs.

Also, petition of many citizens of New York and vicinity, for relief for heirs of victims of *General Slocum* disaster—to the Committee on Claims.

Also, petition of McKees Rocks Division, Order of Railway Conductors, against the Hepburn railway rate bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of Miller, Robinson & Co., R. A. & J. J. Williams, Eli B. Hallowell & Co., Howard L. Neff, Thomas B. Hammer, Edmund A. Souder & Co., and William L. Shew & Co., for bill H. R. 5281 (pilotage)—to the Committee on the Merchant Marine and Fisheries.

By Mr. GREENE: Petition of 303 citizens of the District of Columbia, for a law to correct defects in the present system of school instruction in the District—to the Committee on the District of Columbia.

By Mr. HAYES: Petition of the Fortnightly Club, of San Jose, Cal., for investigation of the industrial condition of women in the United States—to the Committee on Appropriations.

Also, petition of the California Equal Suffrage Association, for bill S. 50 (Senator GALLINGER, regulation of child labor), bill H. R. 4462 (Mr. BABCOCK), and for bill S. 2962 (Senator CRANE, a children's bureau)—to the Committee on the District of Columbia.

Also, petition of citizens of Palo Alto and Santa Clara County, Cal., for relief for Indians of California—to the Committee on Indian Affairs.

By Mr. HERMANN: Petition of citizens of Josephine County, Oreg., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. HINSHAW: Petition of the American Federation of Labor, against bill H. R. 5281 (the pilotage bill)—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the Acacia, of Lincoln, Nebr., against the tariff on linotype machines—to the Committee on Ways and Means.

By Mr. LAWRENCE: Petition of Leyden (Mass.) Grange, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. LINDSAY: Petition of E. Bailey & Sons, W. H. Lundequist, the Benner Line of New York, and the John C. Orr Company, for bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

By Mr. LITTLEFIELD: Petition of Lincoln Bailey et al., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of Mary H. Blake et al., for relief of landless Indians in northern California—to the Committee on Indian Affairs.

By Mr. LIVINGSTON: Paper to accompany bill for relief of Charles P. Coursey—to the Committee on War Claims.

By Mr. MAYNARD: Petition of Washington Men's Council, No. 2, Norfolk, Va., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of citizens of Hampton, Va., and Peninsula Council, No. 125, for the Penrose bill (S. 4357) for the restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. MOUSER: Petition of 800 citizens of Ohio, against sale of liquor in Government buildings—to the Committee on Alcoholic Liquor Traffic.

By Mr. PAYNE: Paper to accompany bill for relief of James West—to the Committee on Invalid Pensions.

By Mr. SHERMAN: Petition of citizens of Mount Kisco, N. Y., for relief of the California Indians—to the Committee on Indian Affairs.

By Mr. STEVENS of Minnesota: Resolution of Camp Merwin M. Carleton, indorsing the Bonynge bill, for medals for officers and enlisted men serving in the Philippines—to the Committee on Military Affairs.

Also, petition of citizens of St. Paul, Minn., against bill H. R. 7067—to the Committee on Indian Affairs.

By Mr. SULZER: Petition of the Chamber of Commerce of New York, for reform in the consular service—to the Committee on Foreign Affairs.

Also, petition of the Chamber of Commerce of New York, for an amendment to the customs administrative act—to the Committee on Ways and Means.

Also, petition of the Cone Export and Commission Company, against forgery of trade-marks—to the Committee on Patents.

By Mr. WANGER: Petition of citizens of the Eighth Congressional district of Pennsylvania and members of the Church of the Seventh-Day Adventists, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of Lansdale Council, No. 111, Daughters of Liberty, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. WILLIAMS: Paper to accompany bill to place C. W. Geddes upon the retired list of the Navy as first assistant engineer—to the Committee on Naval Affairs.

By Mr. WOOD of New Jersey: Petition of the Cumberland Glass Company, of Bridgeton, N. J., and the Rio Grande Canning Company, for bill S. 88, with an amendment as suggested by the House committee (the pure-food bill)—to the Committee on Interstate and Foreign Commerce.

Also, petition of Pride of Trenton Council, No. 46, Daughters of Liberty, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of the Henry & Wright Manufacturing Company and the Sipp Electric and Machine Company, against the Littauer bill (compulsory metric system)—to the Committee on Coinage, Weights, and Measures.

Also petition of Hightstown Council, No. 46, Daughters of Liberty, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of citizens of Peapack, N. J.; W. O. George, of Trenton, N. J.; R. S. Tomlinson, of Mercerville, N. J.; John R. Patrey, of Gladstone, N. J., and citizens of Somerville, Hopewell, and Liberty Corner, N. J., for bill H. R. 15442 (the naturalization bill)—to the Committee on Immigration and Naturalization.

HOUSE OF REPRESENTATIVES.

SATURDAY, *April 7, 1906.*

The House met at 12 o'clock m.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of the proceedings of yesterday was read and approved.

DOUBLE TAXATION OF DISTILLED SPIRITS.

Mr. DALZELL. Mr. Speaker, I called up the privileged bill (H. R. 16226) to amend the internal-revenue laws and to prevent the double taxation of certain distilled spirits, which I send to the desk and ask to have read.

The Clerk read as follows:

Be it enacted, etc., That distilled spirits commonly known as "soakage," which exist in the staves or wood of any cask or package at the time of its withdrawal from a distillery or bonded warehouse, shall not be subject to any tax whatever after its withdrawal under or by virtue of the existing laws.

With the following amendment:

In line 7, after the word "laws," add "should such spirits at any time thereafter be recovered from the wood of such package by any process."

Mr. DALZELL. Mr. Speaker, I ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

The SPEAKER. The gentleman from Pennsylvania asks unanimous consent that the bill be considered in the House as in the Committee of the Whole. Is there objection? [After a pause.] The Chair hears none. The question is on agreeing to the amendment.

The question was taken; and the amendment was agreed to.

The SPEAKER. The question now is on the engrossment and third reading of the bill as amended.

The bill was ordered to be engrossed and read a third time, read the third time, and passed.

On motion of Mr. DALZELL, a motion to reconsider the last vote was laid on the table.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had passed with amendments bill of the following title; in which the concurrence of the House of Representatives was requested:

H. R. 12843. An act to amend the seventh section of the act entitled "An act to establish circuit courts of appeals and to define and regulate in certain cases the jurisdiction of the courts of the United States, and for other purposes," approved March 3, 1891.

The message also announced that the Senate had passed bills of the following titles; in which the concurrence of the House of Representatives was requested:

S. 5448. An act to authorize the construction, operation, and maintenance of a telegraphic cable from Key West, Fla., to the United States naval station at Guantanamo, Cuba, and from thence to the Canal Zone, on the Isthmus of Panama;

S. 5131. An act incorporating the Archæological Institute of America;

S. 4641. An act to establish a fish-cultural station in the State of Kansas;

S. 4427. An act to increase the limit of cost of the public building at Reno Nev.;

S. 3574. An act providing for the payment to the New York Marine Repair Company, of Brooklyn, N. Y., of the cost of the repairs to the steamship *Lindesfarne*, necessitated by injuries received from being fouled by the United States Army transport *Crook*, in May, 1900;

S. 3574. An act for the relief of John H. Potter;

S. 3436. An act to provide for the settlement of a claim of the United States against the State of Michigan for moneys held by said State as trustee for the United States in connection with the St. Marys Falls Ship Canal; and

S. 2350. An act providing for the purchase of a site and the erection of a public building at the city of Plattsmouth, Nebr.

The message also announced that the Senate had passed without amendment bills of the following titles:

H. R. 10480. An act for the relief of certain settlers upon land within the indemnity limits of the present St. Paul, Minneapolis and Manitoba Railway Company; and

S. 5513. An act to provide for the disposition of certain property in the Territory of Hawaii.

SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 5513. An act to provide for the disposition of certain property in the Territory of Hawaii—to the Committee on the Territories.

S. 5131. An act incorporating the Archæological Institute of America—to the Committee on the District of Columbia.

S. 4641. An act to establish a fish-cultural station in the State of Kansas—to the Committee on the Merchant Marine and Fisheries.

S. 4427. An act to increase the limit of cost of the public building at Reno, Nev.—to the Committee on Public Buildings and Grounds.

S. 3581. An act providing for the payment to the New York Marine Repair Company, of Brooklyn, N. Y., of the cost of the repairs to the steamship *Lindesfarne*, necessitated by injuries received from being fouled by the U. S. Army transport *Crook* in May, 1900—to the Committee on Claims.

S. 3574. An act for the relief of John H. Potter—to the Committee on Claims.

S. 3436. An act to provide for the settlement of a claim of the United States against the State of Michigan for moneys held by said State as trustee for the United States in connection with the St. Marys Falls Ship Canal—to the Committee on Claims.

S. 2350. An act providing for the purchase of a site and the erection of a public building at the city of Plattsmouth, Nebr.—to the Committee on Public Buildings and Grounds.

ENROLLED BILLS SIGNED.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

H. R. 8891. An act granting an increase of pension to Josephine Rogers; and

H. R. 13151. An act granting an increase of pension to Christopher C. Harlan.

BRIDGE ACROSS LITTLE RIVER, ARKANSAS.

Mr. MACON. Mr. Speaker, I call up from the Speaker's table the bill (S. 5521) to authorize the Tyronza Central Railroad Company to construct a bridge across Little River, in the State of Arkansas, which I send to the desk, and I ask unanimous consent that a similar House bill upon the Calendar, reported from the Committee on Interstate and Foreign Commerce, do lie upon the table.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That the Tyronza Central Railroad Company, a corporation organized under the laws of the State of Arkansas, its successors and assigns, be, and they are hereby, authorized to construct, maintain, and operate a drawbridge and approaches thereto across the Little River, in the northeast quarter of section 3, township 11 north, in range 7 east, in Poinsett County, in the State of Arkansas, in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The SPEAKER. The gentleman desires the passage of the Senate bill without amendment?

Mr. MACON. Yes.

The SPEAKER. The question is on the third reading of the Senate bill.

The bill was ordered to be read a third time, read the third time, and passed.

On motion of Mr. MACON, a motion to reconsider the last vote was laid on the table.

The SPEAKER. Without objection, the similar House bill will lie upon the table. [After a pause.] The Chair hears none, and it is so ordered.

ROCHAMBEAU STATUE.

Mr. CHARLES B. LANDIS. Mr. Speaker, I ask unanimous consent for the present consideration of the following Senate concurrent resolution.

The SPEAKER. The gentleman from Indiana asks unanimous consent for the present consideration of a Senate concurrent resolution, which the Clerk will report.

The Clerk read as follows:

Concurrent resolution No. 1.

Resolved by the Senate (the House of Representatives concurring), That the concurrent resolution passed February 2, 1904, providing for the publication of the proceedings on the occasion of the unveiling of the Rochambeau statue is hereby continued in force, and excepted from the limitation of one year, as provided in section 80 of the act of January 12, 1895, providing for the public printing and binding and the distribution of public documents.

The SPEAKER. Is there objection?

Mr. SULZER. Reserving the right to object, I desire some information——

Mr. WILLIAMS. Mr. Speaker, I reserve the right to object, and would like to know the necessity——

Mr. CHARLES B. LANDIS. I yield to the gentleman from Mississippi.

Mr. WILLIAMS. I would like to ask the necessity for this?

Mr. CHARLES B. LANDIS. I will say this resolution was passed in the second session of the Fifty-eighth Congress, but the copy not being submitted to the Public Printer within one year, the authority to print lapsed.

Mr. WILLIAMS. This is simply to carry out the original legislation.

Mr. CHARLES B. LANDIS. That is all.

Mr. WILLIAMS. There is no objection.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The question was taken; and the concurrent resolution was agreed to.

PRINTING CERTAIN PAPERS AND DOCUMENTS, NAVY DEPARTMENT.

Mr. CHARLES B. LANDIS. Mr. Speaker, I ask unanimous consent for the present consideration of the following Senate concurrent resolution.

The SPEAKER. The Clerk will report the same.

The Clerk read as follows:

Concurrent resolution No. 15.

Resolved by the Senate (the House of Representatives concurring), That there be printed the following documents:

First. Reports of the efficiency of various coals used by the United States ships from 1896 to 1898, inclusive, made by the Bureau of Equipment of the Navy in 1899.

Second. Pages 47 to 71, inclusive, of the Report of the Bureau of Equipment of the Navy for 1902, under the heading of "Equipment expenses abroad."

Third. Pages 55 to 67 of the report of said Bureau for 1903, under the same heading.

Fourth. Letter from the Secretary of the Navy to John T. Morgan, with the accompanying statements, dated March 6, 1906.

Said papers to be bound together in cloth as one document, of which the usual number shall be printed and bound for the use of the Senate and 500 copies for the Navy Department.

The amendment recommended by the committee was read, as follows:

Strike out all of the last paragraph and insert in lieu thereof the following:

"Said papers to be bound together in cloth as one document, of which 2,000 copies shall be printed—500 copies for the Senate, 1,000 copies for the House of Representatives, and 500 copies for the Navy Department."

Mr. TAWNEY. Mr. Speaker, reserving the right to object, I wish to ask the gentleman from Indiana whether, in the publication of these documents, the expense will be charged to Congressional printing or departmental printing?

Mr. CHARLES B. LANDIS. The composition and illustrations, if any, would be charged after July 1 to the Navy Department allotment.

Mr. TAWNEY. What is the necessity, then, for allotting to Congress as many volumes of these publications as you have, in view of the fact that they are primarily for the use of the Navy Department?

Mr. CHARLES B. LANDIS. Well, I will say that the distributing officers of the Senate and House have stated there have been quite a number of requests for publications of this character, growing out of some recent experiments which have been made by the Geological Survey and by the Navy Department. I suggested myself possibly it might be well not to make the distribution in that way, but, on consultation with these officers, it was decided otherwise.

Mr. TAWNEY. One more question, Mr. Speaker. I notice that in the distribution of documents between the two Houses they follow the custom here of distributing documents equally. I do not care anything about this particular document——

Mr. CHARLES B. LANDIS. Not equally. The gentleman is in error there. It is about two to one.

Mr. TAWNEY. I do not mean equally, but 1,000 to the House and 500 to the Senate, and that is about the same proportion documents are usually distributed, are they not, between the two Houses?

Mr. CHARLES B. LANDIS. Yes, sir.

Mr. TAWNEY. Does the gentleman who is chairman of the Committee on Printing think that is a fair division of public documents, which are of value to Members of the House and to members of the Senate, in view of the fact that we have 386 Members and the Senate has only 90?

Mr. CHARLES B. LANDIS. Well, I will say to the gentleman that same question has arisen a number of times, and this is the rule that has been followed. As a matter of fact, the demands on the Senators are greater than the demands on the individual Members of the House, and, in the experience of the superintendents of the folding rooms of the Senate and House, this is as near an equitable and practicable distribution as can be made.

Mr. TAWNEY. I appreciate the fact a Senator represents more people than a Member of the House, but a Member of the House receives requests from as many, if not more, people from his own district than Senators receive from their entire State. I know this matter has been up before, but I think the Committee on Printing ought to consider, in view of the increased membership of the House and increased number of Congressional districts throughout the country, and take seriously under consideration a legitimate apportionment of these public documents which are of value to us. That adjustment was based upon a membership far less than we have at the present time, and when we get a valuable document our quotas are exhausted before we have supplied the demands from our constituents, largely due to the fact we are not getting a fair share of the apportionment.

Mr. CHARLES B. LANDIS. Oh, I will say to the gentleman from Minnesota, that matter has been seriously taken up here in connection with the other matters which have demanded attention.

Mr. TAWNEY. Then I will say effectually.

The SPEAKER. Is there objection?

Mr. JONES of Washington. Mr. Speaker, I would like to ask the gentleman a question. How are the volumes that are alloted to the House placed—to the credit of the individual Member?

Mr. CHARLES B. LANDIS. They are.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The question was taken; and the amendment was agreed to.

The concurrent resolution as amended was agreed to.

MEDICAL AND SANITARY FEATURES OF THE RUSSO-JAPANESE WAR.

Mr. CHARLES B. LANDIS. Mr. Speaker, I ask unanimous consent for the present consideration of the Senate concurrent resolution I send to the Clerk's desk.

The Clerk read as follows:

Senate concurrent resolution No. 17.

Resolved by the Senate (the House of Representatives concurring), That there be printed 4,750 copies of the "Report on the Japanese Naval Medical and Sanitary Features of the Russo-Japanese War to the Surgeon-General, United States Navy," by Surg. William C. Braisted, United States Navy, the same to include the illustrations, of which 1,250 copies shall be for the use of the Senate, 2,500 copies shall be for the use of the House of Representatives, and 1,000 copies for the use of the Bureau of Medicine and Surgery of the Navy Department.

The SPEAKER. Is there objection?

Mr. TAWNEY. Mr. Speaker, I shall not object; but I am going to ask the gentleman to move to amend by striking out all the authorization for the Senate and House of Representatives and leave a thousand copies for the Bureau.

Mr. CHARLES B. LANDIS. I think the gentleman will make a mistake if he does that. This is considered a very valuable document; the publication of a report made by a special officer detailed by the Navy Department to study sanitary and medical features in connection with the war between Japan and Russia. It is considered one of the most valuable reports that has ever been made, and there will be a great demand made by the surgeons of this country for this publication.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The question was taken; and the concurrent resolution was agreed to.

CHANGE OF REFERENCE.

Mr. ADAMS of Pennsylvania. Mr. Speaker, I ask unanimous consent to change the reference of the bill H. R. 17297 from the Committee on the Judiciary to the Committee on Foreign Affairs. I will state that I do this with the consent of the chairman of the Committee on the Judiciary.

The SPEAKER. The Clerk will report the title of the bill.

The Clerk read as follows:

A bill (H. R. 17297) providing for the establishment of a district court of the United States for China and Korea.

The SPEAKER. The gentleman asks unanimous consent to change that reference from the Committee on the Judiciary to the Committee on Foreign Affairs. Is there objection? [After a pause.] The Chair hears none.

POST-OFFICE APPROPRIATION BILL.

Mr. OVERSTREET. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union, for the further consideration of the Post-Office appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole House on the state of the Union, Mr. SHERMAN in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 16953.

Mr. OVERSTREET. Mr. Chairman, I yield one hour to the gentleman from Pennsylvania [Mr. SIBLEY].

Mr. SIBLEY. Mr. Chairman, the railroad mail pay is a fruitful field for comment by young newspaper and magazine writers for two quite different reasons. One is that so much that is readable can be written about it with so little necessary accurate knowledge of the subject, and the other is that publishers interested in maintaining the pound rate of transportation for their product at 1 cent are always ready to favorably entertain and publish any story caluculated to divert attention from the abuses of the second-class rate to the sums paid to railroads for carrying the mails.

THE AGGREGATE IS LARGE.

The author who speaks in "millions," accompanied by adjectives, always has an audience, and the statement that above $45,000,000 are annually paid to railroads by the Government for mail transportation is usually made with the word "enormous" attached to it, accompanied, perhaps, by the words "robbery" and "fraud."

A short time since there appeared an article in one of the leading newspapers of the United States, displayed in heavy headlines, stating and giving figures to show the correctness of their assertion, that one-tenth of the entire railway earnings were derived from their contract for carrying United States mail. This article was widely copied by American newspapers and has, I think, been inserted in the CONGRESSIONAL RECORD. The fallacy of this statement is easily recognized by reference to the earnings of the American railways, which, as shown by the report of the Interstate Commerce Commission, exceeds two thousand millions annually. According, therefore, to this writer, 10 per cent which they receive would amount to $200,000,000. Inasmuch as the total compensation for railway mail pay, including cars, is about $45,000,000, this article merely illustrates the truth of the old proverb that "figures won't lie, but liars will figure."

The cost of our entire post-office establishment is now approaching $200,000,000 a year, and the question naturally arises, For what purpose does the public pay this $200,000,000? The answer is, For having our letters carried from place to place, over our enormous territory, so that business may be transacted, and homes and towns and cities may be maintained in widely scattered regions. Who carries these letters of ours? The railroads. Do we pay the two hundred millions to the railroads? By no means; not much more than one dollar in five is paid to the railroads. Out of every dollar that we expend for the post-office service we pay just 23 cents to the people who carry the mails—that is, to the railroads—and 4 cents to

star-route contractors, and the balance we pay chiefly for having the business managed for us and for the modern and very expensive, but apparently necessary luxury of delivering the letter and the newspaper to the citizen at his own door.

Mr. STEENERSON. I do not understand how the gentleman arrives at the percentage of total receipts paid for railway mail pay. I have these figures that were presented, and which showed last year we paid out for railway mail transportation proper and for R. P. O. cars and special facilities, $45,061,689, and the total receipts were $152,836,685.10. I do not see how you can figure that only 23 per cent of the total. I think the true charge of the railway mail pay would amount to a little over 39 per cent of the total receipts. I think that is a very gratifying result myself.

Mr. SIBLEY. I think, Mr. Chairman, that I must have failed to make myself understood. I said that out of each dollar we pay for postal service 23 cents was paid to those who carried the mails on railroads.

Mr. STEENERSON. That is different. I thought you meant that of every dollar we received as postal revenue. Of course we may be extravagant in other directions, but that would not be a proper criterion.

Mr. SIBLEY. The service of the post-office is carrying the mails. The Department, to whom we pay close upon $200,000,000 for the service, pays about one-fourth of it to those who actually do the carrying.

The salaries of postmasters and their clerks amount to forty-four millions; city free delivery costs twenty-one millions; rural free delivery, twenty-eight millions; officials at Washington and elsewhere aggregate other millions. These items constitute largely the expense of the machine that we have created.

We must have post-offices in which to sort and distribute the mails, so that each letter shall reach the very person for whom intended and no other, and yet 85 per cent of the work of sorting and distributing the mails is performed in the post-office cars, or traveling post-offices, furnished by the railroads. And the marvel of it is that this real distribution of the mails is carried on while the mails are flying through space, so that the speed of transmitting a letter from sender to receiver is tremendously accelerated.

Experts say that if all railway car post-offices were now abolished the average time for transmission of mails in this country would be more than doubled. How do we pay for this tremendous special enlargement of our mail facilities? We make an allowance to such railroad companies as furnish and haul over their roads full-length, specially built postal cars the low haulage or wheelage rate of about 5 cents per mile for each mile the car is hauled, or, as a witness before the Wolcott commission puts it, "a lower rate than the railroads charge each other for hauling in a freight train an empty box car being taken home for repairs." This item is what the young newspaper writer denominates "rent of postal cars."

I say, therefore, that when the facts are considered it is a great mistake to think that because the appropriation required to compensate the railroads for performing the mail transport service of the country is large it is necessarily too large. In comparison with other features it is small.

Gentlemen speak of the enormous increase in payments to the railways and complain because this year we have made larger appropriations than for the fiscal year ending June 30, 1906. It is true that year by year the cost of the transportation of railway mail has increased. If gentlemen will turn to page 13 in the report on the post-office appropriation bill they will find at the top of the page the appropriations for the year 1900 and for each subsequent year, which show that the appropriations have increased from $33,275,000 in 1900 to $40,900,000 for the fiscal year 1906. This shows a total increase of 22.9 per cent, covering a period of six years, or an average annual rate of increase of 3.8 per cent.

If gentlemen will turn to page 23 of the same report, at the bottom of the page, and commence with the year 1900, they will find that down to the close of the fiscal year 1906 the total expenditures of the Post-Office Department during that period have increased by an aggregate of 52 per cent, or an average increase of 8.67 per cent. If the railway mail pay had increased in the same ratio that the general expenses of the Post-Office Department have increased, instead of appropriating $40,900,000 we would have appropriated $50,577,000.

If you will look on the top of page 12 of the same report, you will find that for regulation, screen, and other wagon service the increase in this compensation for the same six years has been 47 per cent, or an annual increase of 7.9 per cent. If the same rate of increase had applied to railway mail service that has applied to wagon service, instead of appropriating for the fiscal year 1906 $40,900,000, we would have appropriated $48,814,000.

If you will turn to the middle of page 13, for the compensation to administrative officers and postal clerks, you will find that the increase for six years has been at the average rate of 9½ per cent, as against an increase in railway mail compensation of but 3.8 per cent. Had the railway mail pay increased in the same ratio that the compensation to administrative officers and postal clerks has increased, we would have appropriated for the fiscal year 1906 $52,241,000 instead of $40,900,000.

If you will turn to page 16, there will be afforded a significant item. The Government a few years since commenced to make its own postage stamps. The result has been that during the six years ending with the fiscal year 1906 the cost of manufacturing postage stamps has increased a trifle more than 100 per cent, while the cost of railway mail pay compensation has increased but 22.9 per cent.

Had the railway mail pay compensation increased at the same ratio as the increase in the cost of Government-manufactured postage stamps, we would have appropriated for the fiscal year 1906, $66,550,000, or an increase of $26,550,000 more than we actually appropriated.

In the item for the railway post-office car service the appropriation is $5,875,000, an average increase for the last six years of 6.6 per cent per annum.

Had this item, which you designate as rent of postal cars, increased in the same ratio as the general expenses have increased, we would have appropriated this year $6,396,160.

I will not weary your patience with the further details of dry statistics, but I can assure any gentleman that precisely in proportion as he will acquaint himself with the facts and analyze the figures he will be forced to the same conclusion as was reached by that distinguished committee who for more than two years investigated the problem of whether the Government was granting undue compensation.

Mr. SMITH of Kentucky. Mr. Chairman, as the gentleman has evidently studied the question pretty carefully, I desire to ask him a question for information. A few years ago—within the last five or six years, I do not remember on which one of the appropriation bills it was, but we changed to a new system of letting star-route contracts, providing they should be let to people along the line of route. Now, has that had any effect in increasing the cost of the star-route service? Can the gentleman answer?

Mr. SIBLEY. Mr. Chairman, I think that that question can be answered much better by the gentleman from Indiana. I will merely state that we did find that for the compensation on star routes the appropriation has increased, notwithstanding the fact that we have substituted free delivery for many of the star routes.

Mr. OVERSTREET. If the gentleman from Pennsylvania will permit, I will state to the gentleman from Kentucky that while the total amount for star-route service has not greatly increased by reason of the gradual extension of rural free-delivery service in the same section of the country, nevertheless the contracts for the star-route service, to a very small amount, has increased on account of the limitation to which the gentleman from Kentucky refers, because the price to the local resident along the line of the route is greater than where the contracts were sublet from a general central contractor. In addition to that, a further limitation has been provided, which authorizes the collection and delivery of individual mail along the routes, which, in turn, increases the cost of that service, although we are getting better service at the higher rate for star-route service. The reduction is due entirely to the gradual extension of the rural delivery service. I will state that since 1882—I think that is the date—the total expense for star-route service has only increased between one and two millions of dollars, showing that it has not increased in the same proportion as the other service. You can not compare it by reason of the additional service on these lines from the extension of rural service.

Mr. NORRIS. Will the gentleman yield to me?

Mr. SIBLEY. I will yield to my friend.

Mr. NORRIS. Before the gentleman leaves that subject I wish he would give us the result of his research on the difference in the cost, on a per cent basis, if he can, of postage stamps when they were made under contract by private parties and since the Government has been making them itself.

Mr. SIBLEY. I think I have not the data that would qualify me to give exact figures during the hour that I have at my disposal this morning, but I think under the five-minute rule I will be able to give the gentleman the figures.

IMPORTANCE OF THE SERVICE.

This railroad service is a vital feature. It is in reality the mail system of the nation. Rural free delivery is a modern luxury. Ten years ago it was unknown, and for experimental service in that direction we appropriated $40,000. There existed for this service of rural free delivery no universal demand. We are now appropriating for this service for the coming year $28,000,000, and we are not blind to the fact that before many years the expenditure for this item alone promises to largely exceed the amount paid for the railroad mail transportation of the nation. No Member is heard protesting against rural free delivery, but many seem ready to believe all manner of idle newspaper and magazine gossip, truthful or otherwise, in order to find some excuse for curtailing the necessary and important service performed by the railroads.

The pound-rate service, the carriage of second-class matter at 1 cent per pound for the benefit of newspapers and magazine publishers, is a luxury, and a very expensive one. Let me read from the report of the Postmaster-General to show what this costs:

According to estimates heretofore made and published, matter of the second class approximates in weight two-thirds of the bulk of all mail matter, yet produces only about 4 per cent of the postage revenue.

The cost to the Government of hauling all mail matter is estimated to be between 5 and 8 cents a pound. A portion of second-class matter mailed by publishers and news agents is carried free of all postage, and from the remainder the revenue is 1 cent a pound upon the bulk weight, paid in money, regardless of the number of pieces in the pound, except that copies addressed for carrier delivery in the city of publication are required to be prepaid by postage stamps affixed at the rate of 1 cent a copy on newspapers, regardless of weight; 1 cent a copy on periodicals not in excess of 2 ounces in weight, and 2 cents a copy if over 2 ounces. Publishers usually employ private carriers for delivering in the city of publication. The revenue derived from such copies when mailed is estimated to be but twenty-four one-hundredths of 1 per cent of the postage revenue, and is not taken into account in these calculations.

During the last fiscal year the total weight carried at 1 cent a pound and free was 663,107,128 pounds. If it cost the Government as much as 5 cents a pound to handle this matter in the mails, it will be seen that the amount paid out was $33,155,356.40. The actual revenue was $6,186,647.54.

Mr. REEDER. At a loss of $28,000,000.

Mr. SIBLEY. At a loss of more than $27,000,000.

The situation now and for some time past with regard to the publishers of bona fide newspapers and periodicals, and to the public itself, is wholly different from that at the time the law was enacted. Whether it is sound public policy to continue the present rates and conditions for this class of matter, so liable to abuses, is a subject well worthy of the most serious consideration. No person who has given it even casual thought but admits the desirability, even the necessity, of a change. Any change, however, is certain to be resisted by those whose interests are benefited by the present conditions.

Has any Member of this House who has attacked the railroad mail pay offered one practical suggestion for reducing the expense of this wholly unnecessary luxury of transporting the magazine and newspaper freight of this country for the benefit of great publishing corporations at an expense to the Government of $27,000,000 a year? If so, I have not heard him.

Mr. HARDWICK rose.

Mr. SIBLEY. I yield to the gentleman.

Mr. HARDWICK. I want to ask the gentleman this question for information: Is the gentleman aware of the fact whether, in the report of the Postmaster-General, submitted to this Congress at the opening of this session, the Postmaster-General says himself that the Congress and his Department have not sufficient data to find out whether we are paying too much for carrying the railway mail generally or not?

Mr. SIBLEY. Further along I will, in the course of my remarks, give the gentleman the best answer I can. Here, then, exists to-day in our post-office system class-mail abuse, costing this tremendous sum of money. Whose voices in this House are seriously raised to reform this expensive feature of the post-office service?

So far from any measure of reform being proposed in these matters where reform might amount to something, we are constantly, and this very year, extending the cost of rural free delivery and increasing by millions the expense of handling the second-class matter.

The cost of these two items in the mail service exceeds already by $10,000,000 the entire amount paid to railroads for transporting the mails by rail into every part of the country, and amounts to about four times this year's so-called "deficit" of fifteen millions in that Department. There is, in truth, no "deficit." According to the report of the Postmaster-General, we paid last year to newspaper and magazine publishers a bonus of $27,000,000, in order to swell the profits of their already lucrative business undertakings. The great increase in the number of new magazines, loaded with advertisements, shows how profitable this field of business has become. If these periodicals paid to the Government of the United States two-thirds of the sum which it costs the Government to convey them, there would exist to-day a surplus in the postal revenues rather than a deficit. Your committee have taken measures which will at the next session afford opportunity to judge more accurately where the real leakage exists. We believe that the American citizen is entitled to be made acquainted at the earliest moment with the current happenings, and we have sought to facilitate in every proper way the rapid transmission of intelligence to the people, and if this service should be performed at a close margin, or trifling loss, the public good to be attained would be full compensation for any pecuniary deficit. But magazines, so-called, which, through a great circulation of inflammatory and revolutionary matter, and which in some instances are shown to be simply blackmail publications, reaching, as they do, millions of people, make their advertising columns sources of tremendous revenues to those publishers; and the fair question is, How many millions of dollars shall Congress appropriate as a direct bonus to these publications? If this bonus were withdrawn, if it were only even cut in two, the operations of the post-office would this year almost show a profit, notwithstanding the expenditure of twenty-one millions for rural free delivery.

Mr. MURDOCK. Mr. Chairman, will the gentleman allow me an interruption there?

Mr. SIBLEY. Yes.

Mr. MURDOCK. In your computation you will allow this, of course, that second-class matter, by reason of its wide distribution, creates first-class matter which pays us for the service almost wholly.

Mr. SIBLEY. Oh, unquestionably, there is an interdependence; and for the benefit of the Committee of the Whole House on the state of the Union, I wish to state, and perhaps the chairman of our committee, in his introductory remarks stated, that we are going to attempt to have the different classes of mail matter weighed so that we can know exactly the items which are responsible for this large deficit in our postal receipts and which increase our postal expenses, and we intend to have this information ready to report to the next session of this Congress.

Mr. SCOTT. In regard to the provision which you are making for having this second-class matter weighed during the coming two months, have you provided in any way for distinction in the second-class matter, separating newspapers from magazines and other advertising publications?

Mr. SIBLEY. Yes; whether they be fraternal magazines or any of the various types of second-class matter, the different forms of second-class matter which are deposited in the post-office will be weighed, so that the House may have for its own information and guidance the most complete exhibit that it is possible for us to have as afforded by the post-office.

Mr. PRINCE. I think the question which I desired to ask has been asked in part by the gentleman from Kansas [Mr. MURDOCK] and by the other gentleman from Kansas [Mr. SCOTT]; but this is the question I was going to ask you: As a matter of fact, does not the cheap mail service accorded to papers and magazines stimulate and increase the postal receipts by increasing business of other kinds?

Mr. SIBLEY. I should think, Mr. Chairman, that it would be a very fair answer to say unquestionably to some extent, but how far it would reach to overcome this deficit might be a question of doubt.

Mr. GAINES of West Virginia. Does the gentleman think that the magazines get up enough correspondence to equal the $27,000,000 deficit that the gentleman complains of, or the amount that the magazines cost to transport over and above the revenue they pay the Government?

Mr. SIBLEY. Oh, Mr. Chairman, I do not think the magazines alone create a deficit of $27,000,000 of which the Postmaster-General complains.

Mr. GAINES of West Virginia. I mean mail of that class.

Mr. SIBLEY. To know what class of matter it is that loads down the mails with this tremendous weight is the object sought by the committee in asking that this weighing take place in every post-office in the United States.

Mr. PRINCE. Will the gentleman allow me a question?

Mr. SIBLEY. I will, but I am afraid my time is being rapidly exhausted.

Mr. PRINCE. I do not think the gentleman from West Virginia understood my question. I said papers and magazines. I trust the gentleman from West Virginia is not opposed to the country newspapers getting this privilege.

Mr. SIBLEY. Oh, no.

Mr. MURDOCK. In that connection I want to call the atten-

tion of the gentleman from Pennsylvania to the fact that the daily newspaper circulates in a circumscribed zone, and covers only one or two routes, while the magazines will go across the country and cover a great many contract routes.

Mr. SIBLEY. Yes; we found in our hearings some years ago that many of these magazines were sent out by freight when going short distances. In other instances they were sent by express, but when they were to be sent across the continent or to any long distance—when there was a long journey ahead and it was going to cost large amounts of money to send them—the United States Government carried them in the mails, and the post-office did not get the business except for long distances.

Mr. SMITH of Kentucky. I would like to ask the gentleman from Pennsylvania one other question at that point. If the Government is carrying this printed matter at less than a reasonable rate, are not the people getting the benefit of that, and if you undertake to increase that rate do you not increase the price necessarily that the people will have to pay for the literature?

Mr. SIBLEY. That would be a subject for discussion perhaps out in the cloakroom between my friend from Kentucky and myself, whether the people are benefited by having the great flood of misinformation distributed over the country. It is a question whether this information for the public mind affords the people a just basis—whether the apprehension and the prejudice created and calumny that he reads in many of these periodicals at the present time can be called beneficial literature.

Mr. SMITH of Kentucky. If you attempt to draw the line between that which carries correct information and that which does not, what kind of a tribunal will you establish for adjudicating that question?

Mr. SIBLEY. Mr. Chairman, I said at the outset that I did not think this was a question to be discussed here, that we might philosophically discuss it in the cloakroom. The thought of the committee, and I believe of all men, is that we should give to our newspapers, which afford the American citizenship speedy and prompt knowledge of the current events and the events transpiring throughout the world, all the facilities that we can; the public is entitled to receive that information, and we can accelerate that service and perhaps need not figure closely as to whether we are carrying it at a profit or a loss. But for the benefit of some one running a private enterprise that does not apply. If you will turn to the modern magazine and see the hundreds of advertisements you will admit that to run that private enterprise at the expense of the United States Government is an unfair and an unjust proposition, and that they should not be granted that right.

Mr. CHARLES B. LANDIS. I would like to ask the gentleman a question. I would like to ask him if it ever occurred to him to inquire as to the extent of the business originated by these advertisements—the millions and millions of dollars that these advertisers originate?

Mr. SIBLEY. Mr. Chairman, I have not done that and I am afraid that my time is going to be occupied without my saying anything about railway mail pay. [Laughter.] I saw a man not long ago, in an office I was in, pull out and open a package to see what he had got in answer to one of these advertisements. He sent $2 and he got a value of about 25 cents.

Mr. CHARLES B. LANDIS. I would not venture to say what the nature of his advertisement was, but I say that it occurs to me that when he is figuring a profit and loss he ought to take into consideration the fact that the advertisements in these magazines originate millions and millions of dollars in the way of business for manufacturing companies, express companies, and railroad companies of the United States.

Mr. SIBLEY. Has it ever occurred to the gentleman to investigate the probable millions of dollars that we have given to the owners of these magazines because of the Government being willing to transport them at a loss?

Mr. YOUNG. Mr. Chairman, will the gentleman yield for a question?

Mr. SIBLEY. I yield for a question, but I can not enter into an argument on magazine ethics.

Mr. YOUNG. I wish merely to suggest to the gentleman that if this business originated with these advertisements were so profitable to the magazines that the owners of those magazines might well afford to pay the actual cost for their transportation.

Mr. SIBLEY. I thank my friend for the suggestion. We do not even desire the actual cost, but we do believe the time has come when the cost ought to be fairly divided, and that Uncle Sam is occasionally entitled to the turkey end of the proposition, and we think these publications ought to pay at least two-fifths of the cost of the service that we perform for them.

Another charge brought against the present rate of railroad compensation is that it is greatly in excess of sums paid by the express companies to the railroads for similar service. This charge is so frequently made and has been so seldom denied that the truthfulness of the statement has come to be a matter of public belief, yet the sworn testimony taken before the Wolcott Commission shows the contrary to be the case.

On page 520, Part I, appears the testimony of Henry S. Julier, general manager of the American Express Company, who, after stating that he had no interest in any railway company, testified:

> Upon the New York Central and Hudson River Railroad for the year ending June 30, 1897 (the latest year then available for comparison), the cost per ton per mile paid by the American Express Company to the railroad was 7.01 cents, while the Government paid to the same railroad over the same lines for mail carriage in the same period 6.45 cents per ton per mile.

The Boston and Albany Railroad, in the same period, received for mails 6.35 cents per ton per mile. For express it received 7.53 cents per ton per mile, or 18 per cent greater compensation, pound for pound, from the carriage of express than from the mails.

On page 549, Part II, appears the testimony of the auditor of the Chicago, Burlington and Quincy Railroad:

> The Burlington carried last year 8,489,000 tons of express one mile for the Adams Express Company and 14,243,000 tons of mail for the Government, and ton for ton, pound for pound, it received from the express company more money than it did from the Government.

On page 682, Part I, of the same report Mr. Samuel Spencer, president of the Southern Railway, testified:

> The actual rate received by the Southern Railway for the mail tonnage handled in 1898 was 5.6 cents per pound.
> The average amount received by the Southern Railway per ton per mile for hauling express is 6⅓ cents, or 17 per cent greater than the sum received for hauling the mail.

On page 647, Part I, Wolcott Commission's Report, Mr. T. Postlethwaite, of the Pennsylvania Railroad, testified that his company receives for the carriage of mail between New York and Philadelphia 27 cents per hundred and for express 87 cents per hundred, and that taking the average weight of express and mail, a car between New York and Philadelphia in express service would earn on one trip $87.84, while the average of the postal car would be $22.51.

Testimony to the same effect was given by the Northern Pacific and many other railroads, and no testimony was given in contradiction to these statements.

What I have said is, of course, not an answer to the question whether the Government is paying too much to railroad companies for the transportation of the mails. Some persons answer that question promptly in the affirmative who do not know how much we are paying. Others make the ignorant reply that the rate must be excessive because the law remains as it stood in 1878.

Hon. William H. Moody, now Attorney-General, was for several years a Member of the House, and an active and influential member of the Wolcott Commission. He has stated that he entered upon that investigation impressed with the conviction that the rates paid to the railroads for carrying the mails were excessive, but that the evidence changed his mind, and that it was his conviction that no service was rendered to the Government on fairer terms of compensation than that of the railway mail service. He unites with Senators Wolcott, ALLISON, and MARTIN and Representatives Loud and Catchings in the chief conclusion of the Commission, which was against any reduction whatever in the rate of railway compensation so long as the railroads are required to perform the services by the present very expensive methods. Mr. Moody preferred to state his conclusions in a separate report, in the course of which he said:

> The existing law prescribing mail pay automatically lowers the rate on any given route as the volume of traffic increases. By the normal effect of this law the rate per ton per mile is $1.17 when the average daily weight of mail is 200 pounds, and, decreasing with the increase of volume, it becomes 6.073 cents when the average daily weight is 300,000 pounds. Under the operations of this law the average rate per ton per mile has decreased from 26.42 cents in 1873 to 12.567 cents in 1898. Beginning with 1880 (the first year in which all the statistics are available for comparison) passenger rates have decreased 21 per cent; freight rates, 44 per cent, and mail rates, 39 per cent.

Now, unless some one can answer that argument of Mr. Moody's, there is nothing in the contention that the rate must be excessive because the law has stood for many years.

Mr. SMITH of Kentucky. Mr. Chairman, I would like to ask the gentleman if his fellow-members upon that Commission agreed with Mr. Moody in his conclusion?

Mr. SIBLEY. All agreed except two. There were two mi-

nority reports filed. I think Mr. Fleming, of Georgia, filed a minority report, and Professor Adams did not join.

Mr. LLOYD. But Professor Adams was not a member of the Commission.

Mr. SIBLEY. No; he was an expert. I should have said Mr. Chandler.

Mr. SMITH of Kentucky. Of course this is all information to me. I had the impression that the gentleman said nearly everyone else had about the comparison of express rates and mail rates on the railroads. I see that the gentleman from Minnesota, Mr. STEENERSON, in his remarks quotes the figures of Professor Adams made in that report, and he gives an illustration here of the New York Central Railroad, between New York and Buffalo, a distance of 439 miles, in which he says that the charge per ton per mile is $31.73, while the charge per ton per mile for express is only $12.15. There seems to be a very wide difference between Mr. Moody and Professor Adams. It looks to me as if there ought to be some way to get at the truth of this matter, and I do not know of any person any better qualified to examine into and dig up the truth from it than the gentleman from Pennsylvania [Mr. SIBLEY]. I think he has investigated the matter pretty fully, and I would like to hear him give his opinion upon the merits of these respective figures.

Mr. SIBLEY. Mr. Chairman, the fact of it is that Professor Adams, I think, to-day admits that he made an error. If you will examine Mr. Julier's testimony, at page 516, Part II, of the Wolcott Commission, you will find that he points out that Professor Adams was mistaken. He stated that Professor Adams gives the amount received by the New York Central for the carriage of 100 pounds of express from New York to Chicago as $1.25, while the actual payment by the express company was $2.59. Professor Adams was 50 per cent out of the way. From New York to Indianapolis Professor Adams gave the rate of $1.13, but in fact they paid the railroad company $2.57. Professor Adams gives the rate per hundred from Chicago to Minneapolis as $1, and the express company actually paid to the railroad, according to Mr. Julier's testimony, $2. Now, there is the sworn testimony of the general manager, which I think perhaps would answer the gentleman's question.

Mr. SMITH of Kentucky. In view of that statement, I want to suggest that it looks to me as if it would be a very good rule to observe in the discussion of these questions in this body not to throw into our remarks a lot of unreliable information. If Professor Adams's figures were clearly wrong, as this last statement of the gentleman indicates, they ought not to go into the CONGRESSIONAL RECORD to be spread broadcast throughout the country.

Mr. SIBLEY. Mr. Chairman, I thoroughly agree with my friend from Kentucky, and I think we all seek to give the House, or ought to at least, such information as we possess, and certainly when the question is not a partisan one, but one reaching into our entire domestic economy, this should be done. But I suggest this, that even statisticians will differ. Why, sometimes on tariff schedules you can not get two men to look at the same figures alike to save your life.

Men are prone to error. A man states a proposition, and states it from his own belief, candidly and honestly, but he has been misled into an error, and so General Manager Julier, in commenting upon the statement of Professor Adams, showed that the actual figures of Professor Adams, who is ordinarily a very accurate gentleman, in that instance were errors.

Mr. HARDWICK. Will the gentleman allow me to ask him this question? In 1873, when the original statute under which we are now operating——

Mr. SIBLEY. We do not operate under that now.

Mr. HARDWICK. Well, there are two amendments, and the last one was in 1878, and now the statute under which it operates, as finally amended in 1878, fixes the 5,000 pounds as a limit of the large scale.

Mr. SIBLEY. I am going to come to that now, if my friend will wait.

Mr. HARDWICK. Will the gentleman mind answering this question? Do you not think the changed conditions—the growth of the mail service—require a still further reduction above the 5,000 pounds limit?

Mr. SIBLEY. Mr. Chairman, in response to my friend from Georgia, I will state that I believe that any man seeking alone the truth and divesting himself of bias, if he will investigate the railway mail compensation, will come to the same conclusion that was arrived at by that Commission, which put nearly three years of hard, earnest, honest work upon the subject.

Mr. HARDWICK. And that is exactly the conclusion the expert—the man who went abroad—came to. Is not that it?

Mr. SIBLEY. I can not undertake, Mr. Chairman, to tell what another man thinks.

Mr. STEENERSON. Mr. Chairman——

The CHAIRMAN. Does the gentleman from Pennsylvania yield?

Mr. SIBLEY. I yield to my colleague.

Mr. STEENERSON. Is it not a fact that Mr. Moody, who made the separate report, stated that upon the evidence he was in doubt as to the size of the average load carried in postal cars; that if the Department officials were correct, that the average load was 3½ tons, then it was clear that the railway mail pay upon dense routes should be reduced; and did not Professor Adams figure out that if the average load was 3½ tons, then the railway mail pay upon the New York Central, where is carried as heavy traffic as 300,000 pounds—150 tons—is paying them twice as much as it cost. In other words, in round numbers it cost $150 to render the service of the railroads for which they receive over $300. Are these figures disputed by anybody?

Mr. SIBLEY. Why, Mr. Chairman, I know that my friend, from long experience on the committee with me, states all his propositions accurately, or intends to; but he starts his proposition with: "And if," "if so," and "if so and so." The best judgment that I can form, and that I believe the majority form, is that the load is not as great, but it is about 2 tons to the car.

Mr. STEENERSON. Very well; if the gentleman will yield further. Will the gentleman concede that the whole question of railway mail pay turns upon the size of the load? Is not that an ascertainable fact, and further investigation could satisfy the gentleman that it is not 2 tons, but is nearer 5 tons——

Mr. SIBLEY. Oh, Mr. Chairman, the whole question does not turn on the weight. It turns on the speed as well as the weight, and the cost of the service to be performed, the conditions surrounding it, the requirements made by the Department; there are many conditions besides that of weight.

Mr. STEENERSON. I do not wish to interrupt the gentleman if it is not agreeable to him.

Mr. SIBLEY. I like to yield to the gentleman if I am able to give him any information.

Mr. STEENERSON. On the principle of the law of 1873, as it stands unchanged except a horizontal reduction of 5 per cent and 10 per cent, is it not a fact we allow for speed because that law gives pay for the piece on the amount of work? If the railway train travels 500 miles in a day and you allow them per mile per ton, you pay them for the speed, because it does it in less time. If the railway car travels in twenty-four hours a thousand miles, they need less railway equipment than if they traveled 25 miles an hour. Is not the whole principle of the law of 1873 that railway post-office pay is based upon piece pay, upon the pay of so much for the work?

The CHAIRMAN. The time assigned to the gentleman from Pennsylvania has expired.

Mr. SIBLEY. Mr. Chairman, I do not desire to trespass on the patience of the House, and I think I can hurry through in a few more minutes.

Mr. OVERSTREET. I yield fifteen minutes further to the gentleman from Pennsylvania.

The CHAIRMAN. The gentleman from Pennsylvania is recognized for fifteen minutes further.

Mr. SIBLEY. I would say to my friend from Minnesota in closing that I do not know of anybody who has acquired information any faster than he has on postal affairs. I am perfectly willing to believe that in three or four years' further service he will occupy somewhat the position on this subject that I occupy at the present time. [Laughter.] I can see that he is appreciating the fact that the mail rates on the smaller lines are not excessive to-day, and with that further investigation and the power of close analysis and the logical mind he has I am sure he will arrive at the full truth of it later on.

Mr. STEENERSON. I would ask the gentleman if we ought not to recognize that this question is governed by the amount of traffic and the weight of the load?

Mr. SIBLEY. I will publish in my remarks the rate for the various classes and weights, together with the rate paid for the different kinds.

Mr. STEENERSON. I will say to the gentleman that, although he has no doubt spent a great deal of time in the study of this subject——

Mr. SIBLEY. Not a great deal.

Mr. STEENERSON (continuing). That I have spent as much time in the last three sessions that I have served on that committee as the gentleman.

Mr. SIBLEY. No doubt. I will here insert the table to which I have referred.

Schedule of rates for railway mail transportation.

Average weight of mails per day carried over whole length of route.	Pay per mile per annum. Rates allowable under act of Mar. 3, 1873.	Rates allowable under acts of July 12, 1876, and June 17, 1878.	Rates allowable to land-grant railroads, being 80 per cent of allowance to other railroads, under act of July 12, 1876.	Intermediate weight warranting allowance of $1 per mile under the custom of the Department, subject to acts of July 12, 1876, and June 17, 1878.
				Pounds.
200 pounds	$50.00	$42.75	$34.20	
200 pounds to 500 pounds				12
500 pounds	75.00	64.12	51.30	
500 pounds to 1,000 pounds				20
1,000 pounds	100.00	85.50	68.40	
1,000 pounds to 1,500 pounds				20
1,500 pounds	125.00	106.87	85.50	
1,500 pounds to 2,000 pounds				20
2,000 pounds	150.00	128.25	102.60	
2,000 pounds to 3,500 pounds				60
3,500 pounds	175.00	149.62	119.70	
3,500 pounds to 5,000 pounds				60
5,000 pounds	200.00	171.00	136.80	
For every additional 2,000 pounds	25.00	21.37	17.10	
Over 5,000 pounds				80

No allowance is made for weights not justifying the addition of $1.

Rates allowable per mile per annum for use of R. P. O. cars when authorized.

Railway post-office cars, 40 feet, per daily line	$25
Railway post-office cars, 45 feet, per daily line	30
Railway post-office cars, 50 feet, per daily line	40
Railway post-office cars, 55–60 feet, per daily line	50

To constitute a "line" of railway post-office cars between given points sufficient R. P. O. cars must be provided and run to make a trip daily each way between those points.

WHAT DO WE PAY?

The present method of payment is by weight. Upon every mail route carrying 5,000 pounds of mail and upward daily the compensation for the excess above 5,000 pounds is limited under the present law and can not amount to 1 cent per pound. It is, therefore, an entirely accurate statement to make that the railroad pay for a large part of the mail they carry is less than 1 cent per pound. Anyone may figure that out for himself very easily. The rate upon these heavy routes now fixed by law is 5.85 cents per ton per mile for all mail beyond 5,000 pounds. The average length of haul of each pound of mail does not, in my opinion, at the present time exceed 340 miles. Multiply 340 by 5.85 cents; the rate per ton is, therefore, $19.89, and as there are twenty hundred in a ton, the rate per pound is less than a cent.

Is 1 cent per pound too high a rate for the bulk of the mail—that is, for carrying a pound of mail 340 miles—each pound divided up, if composed of letters, into forty-five parts, and packages of which are taken on and off at nearly every station during the course of every day?

What Member of this House regards himself possessed of sufficient knowledge and information on the subject to intelligently answer that question?

REPORT OF THE WOLCOTT COMMISSION.

I candidly admit that my own opinions upon this question have been much influenced by the report of the Wolcott Commission. That committee was composed of eight members of the Senate and House. Six of these members—Senators WOLCOTT, ALLISON, and MARTIN, and Representatives LOUD, MOODY, and CATCHINGS—united in the conclusion that the present rate of compensation of railroads for carrying the mails is no higher than it ought to be, and is being constantly and sufficiently reduced by the increase of the mails on the heavy routes, to which increase the minimum rate of about 1 cent per pound applies.

I have confidence in the integrity of those Senators and Representatives, and in their judgment. Their conclusion on the main point has the approval of the Post-Office Department, and is, I think, in accord with the views of the Post-Office Committee of this House. What facts are found before us to justify any Member in voting to overthrow the judgment of the Wolcott Commission? What is the use of having an investigation of a complex subject like this, extending over two years, and a decision by the ablest and most trusted Members of Congress, if we are to set it aside upon mere hearsay and newspaper and magazine gossip?

Mr. STEENERSON. I would ask the gentleman if he does not think that the information we receive as to the size of the average load from the Post-Office Department is just as good information of that to which it relates as the opinion of these members of the Wolcott Commission upon the testimony before them? They were not experts; they knew nothing about it. Is it not quite as well to read the evidence and pass upon it? The Department said the load was different from what the railroad men said, and Mr. Shallenberger says that it is from five to eight thousand pounds to-day, and it must be larger, because they use more storage cars.

Mr. SIBLEY. Well, Mr. Chairman, I agree that there has been, and probably will be, a continued increase. That does not determine yet whether the railways are receiving an excessively large sum for the service performed.

ONE RESULT NOT ALWAYS THOUGHT OF.

The first suggestion in this country of assorting and making distribution of letters and papers on the cars was made in 1862 by Mr. W. A. Davis, a clerk in the post-office at St. Joseph, Mo., whose idea was that it would greatly facilitate the starting of the overland mail west from St. Joseph.

The real organizer, however, of the present railway fast mail system was Col. George S. Bangs, of Illinois, who became superintendent in 1871. He secured between New York and Chicago, over the New York Central and Lake Shore roads, in 1875, the first exclusive mail train, followed by the Pennsylvania.

In the year 1888 the publishing house of Charles Scribner's Sons brought out a rather celebrated book entitled "The American Railway," which contained an article by Hon. Thomas L. James, who was at one time postmaster of New York, and subsequently Postmaster-General under Garfield, with the title "The Railway Mail Service." This article is historical and not in any sense written in the railroad interest nor by a railroad man.

Referring to the establishment of the fast mail service, Mr. James says:

Thus had been established two fast trains, and the outlook was bright for the future, when Congress, in spite of the efforts of the Post-Office Department, passed an act reducing the already inadequate compensation to the trunk lines for the carrying of the mails. This action brought official notice from Messrs. Vanderbilt and Scott of the *discontinuance of the fast mail trains between New York City and Chicago*, and that service ended.

Colonel Bangs was greatly mortified at this result, but stood his ground and remained at his post until the close of the year. Then, worn out with never-ending toil and disheartened by the action of Congress, he tendered his resignation and insisted on its acceptance. Parted from the post-office, President Grant, knowing his worth and wishing to recognize his services, appointed him assistant treasurer of the United States at Chicago. He lived to perform the duties of this office only a few months, as death overtook him suddenly while on a visit to Washington on official business, December, 1876. His work, however, was not permitted to drop. He had left in the service three assistants—Theodore N. Vail, William B. Thompson (afterwards Second Assistant Postmaster-General), and John Jameson—who were fully imbued with the ideas of their late chief and were fully loyal to them. They, in the order named, became his successors, and never permitted opportunities to escape wherein there was a possible benefit to the service to be secured. Although the fast mail service was suspended for lack of support from Congress, its usefulness and practicability had been so thoroughly demonstrated that an appropriation of $150,000 was made in March, 1877, for its resumption on the trunk lines. This victory was not reached without untiring efforts on the part of Mr. Vail and by generous support in both Houses of Congress—in the Senate by the Hon. Hannibal Hamlin and James G. Blaine, of Maine, and in the House of Representatives by such broad and liberal statesmen as Mr. Waddell, of North Carolina; Mr. Randall, of Pennsylvania, and Mr. Cox, of New York.

There is a point in this recital which may be worthy of very serious consideration at the present time.

Mr. James says:

The outlook was bright for the future, when Congress, in spite of the efforts of the Post-Office Department, passed an act reducing the already inadequate compensation to the trunk lines for the carrying of the mails. This action brought official notice from Messrs. Vanderbilt and Scott of the discontinuance of the fast mail trains between New York City and Chicago, and that service ended.

History may in this respect repeat itself. This House, in spite of the opinions and advice of the Post-Office Department, in spite of the almost unanimous report of the Wolcott investigating committee, in spite of the report of its own Committee on Post-Offices and Post-Roads, in spite of all the facts and reason of the case, may, without investigation, reduce this rate of its own sweet, autocratic will.

There is good reason for thinking that this may result in a discontinuance of the fast mail service. The Pennsylvania company now runs eight special fast mail trains, and the New York Central system runs as many. Suppose that service is ended, as may very easily result from ill-considered action on our part?

The people managing our American railways, to my mind, are honorable gentlemen, the peers of any men in all the breadth of our continent. They have by their energy and genius been potential agents in our national development. They are seeking within their sphere to do their duty to the stockholders, their constituents, and to their country, perhaps as honorably and consistently as we are seeking to do ours; but the continued iterations and reiterations that they are seeking to wrongfully wrest from the pockets of the public tremendous sums of money beyond all just deserts becomes after a time galling. So long as this shall be confined to irresponsible writers in newspapers and periodicals, and is not shared by the general public or indorsed by Congress, whose duty it is to investigate and determine, they accept these criticisms as we all do, appealing from the unjust aspersion to the court of public judgment. But when that public judgment shall approve the assertions of irresponsible writers, there is but one course left open, and the action that I fear may be taken, namely, the withdrawing the special facilities and transporting mail as they transport other matter, not at the highest possible attainable schedules, but at reasonable and remunerative speed schedules, for it is well known that a steamer of given dimensions may be driven 18 knots an hour on a consumption of 200 tons of coal daily, but to maintain a speed of 20 knots an hour would require something like 450 tons of coal daily. And it does not require a high degree of knowledge of railway technique to know that the speed of 50 miles an hour is maintained at a cost, approximately, double that of 35 miles an hour.

We live in an age which demands the best of all things—the highest degree of comfort, the best of homes, and the best of food. We aim for the best in our political, economic, social, and moral life, and our American railway system, and our railway mail system, both of which are the wonder and admiration of all the other nations of the world, are also the pride of the fair-minded people of this country, and I can not believe that either in this House or elsewhere there exists any considerable number of people who earnestly desire any service rendered them for which an adequate compensation should not be given. [Loud applause.]

Mr. OVERSTREET. Will the gentleman from Tennessee occupy some of his time now?

Mr. MOON of Tennessee. Very well. I yield an hour to the gentleman from Arkansas [Mr. MACON].

Mr. MACON. Mr. Chairman, it makes little difference to me whether the antireform Members of the House desire to hear me or not, so long as the Reporter will give me his ear, for, sir, I do not expect to be able to convert a single one of those Members who have been able to stay here year in and year out by reason of the support and influence given them by the great corporations of this country, it being my purpose at this time to call the attention of the country to some of the iniquities of the Post-Office appropriation bill that is now being considered by the House.

And in the outset I desire to call attention to the fact that the bill passed by the House a year ago making appropriation for the support of the Post-Office Department for the fiscal year will be in full force and effect until the 30th day of June, and hence if it is the desire of Congress to eliminate the many evils that are being upheld in this bill, to defeat the measure at this time, the Committee on Post-Offices and Post-Roads will have plenty of time to bring in a bill correcting them—a bill in the interest of the people as against the corporate interests of the country—thereby correcting many of the abuses now existing in the postal service; and I charge that many of the members of the Committee on Post-Offices and Post-Roads know of these evils, but up to this time have seemingly had no thought of correcting them.

In my judgment, it would be well for every representative body, whenever and wherever assembled together, to ask itself the question: "What are we here for? Are we assembled for the purpose of representing the corporate interests of the country, or are we here to represent the toiling masses, who have made the world what it is and without whom it could not exist in a progressive or material sense? Are we here to inaugurate reforms or to encourage graft and greed?"

Corporation representatives have no more business in a legislative body of the people than two-faced church members have in the church, and the sooner both organizations are rid of them the better off they will be. I therefore call the attention of the people of the country to the fact that it is necessary for them to examine the record made by this body closely, in order that they may be able to visit the proper punishment on those Members, if any such are here, who vote to plunder the people's Treasury in order that the corporate till may be filled.

Sir, the present Post-Office appropriation bill is the largest that was ever presented to the Congress and carries the stupendous sum of $191,373,848.75, and notwithstanding this large amount, it is estimated by the committee that there will be a deficit of more than $10,000,000 for the next fiscal year.

Mr. Chairman, the people would like to know why such deficits should exist in the face of such an enormous appropriation. They would like to know why the Post-Office Department is not to live within its income. They know that every post-office in the country pays its own way; in fact, that its revenues exceed the expenditures, and hence they can not understand why every other branch of this great departmental service can not be kept within the bounds of the appropriation made for its support. They know that every well-conducted business does not tolerate an expenditure, long at a time, that is greater than its income. Therefore they can not understand why, if it is necessary in order to overcome the deficit, a reform can not be made here and there that will bring about such a happy result. They know that the salaries of the postmasters of the large cities of the country could be cut a very respectable per cent without materially embarassing the recipients or taking from them any of the necessaries of life.

They know that the postmaster of the city of New York does but little more work than the postmaster of some office where the salary is much smaller, and that his extra work is confined principally to signing his name to such papers or documents as may be presented to him by assistants that the Government provides him with to prepare them, his chief business being to sit in his well-appointed office and sign his name when his subordinates lay papers or documents before him and request him to attach his signature thereto.

I know, sir, that these postmasters do not labor as do those who support the Government by their toil. Hence, I say that no great injustice would be done if the salaries of these high-salaried officials were to be cut in a reasonable degree and thereby remove a part of the burden from the shoulders of the masses.

But, sir, the salaries of postmasters, as an evil, pale into insignificance in comparison with the great mail-carrying evil, if such facts as I have been able to gather from reports of committees, duly appointed to the task of investigating the iniquitous evils of the railway postal service of the country, are true, if such facts set forth by reputable newspapers and other worthy publications are correct, and, sir, I am prepared to believe the statements of such committees and publications as against the statements of Congressional railroad attorneys who appear in this House in favor of the excesses of the railroads as against the people's rights, then the railroad mail-carrying evil is stupendous.

It may not be generally known, but it is a fact, if the hearings before the Committee on Post-Offices and Post-Roads are true, that about $45,000,000 are appropriated each year and turned over to the Second Assistant Postmaster-General to be expended by him for railroad mail services without any check whatever upon his action. The hearings show that he reports to his clerical force the amounts to be paid to the railroads monthly, and that they make out the checks for the payment thereof without opportunity of investigating the correctness or incorrectness of the report, and the Treasurer cashes the checks without question.

Ah, gentlemen, the thought of $45,000,000 being turned over to a hired official to be disbursed by him annually without any check of any kind or character upon his work is enough to scare the average business man out of his boots. Such a proceeding would not be tolerated by any business man or business concern on earth.

Sir, is there any wonder that scandal and deficits occur in the Post-Office Department when Congress gives such a loose rein into the hands of a single official of the Government? It strikes me that instances of governmental extravagance and recklessness in the Post-Office Department could be multiplied almost indefinitely.

It is reported by an authority that I do not doubt that we pay more for transportation of mails than all the other countries of the world combined. In the last year for which comparative figures are available—1901—it cost us $38,500,000 for railroad transportation of mail alone. All the other countries of the world paid for transportation by all means only $37,000,000, or $1,500,000 less than we paid to the railroads.

Freight and passenger rates have gone down, and they are cheaper in this country than abroad. The express companies pay the railroads about half the rate they charge the Government for postal service, and yet the Post-Office Department continues to pay for the transportation of mail just about as much as it did thirty years ago. It was the boast of Members of this House, who opposed the Hepburn railroad rate bill

when it was being considered by it a few weeks ago, that the railroad tariffs in this country were cheaper than anywhere else in the world, and they argued that as a reason why the Interstate Commerce Commission should not be given power to substitute a just rate for an unjust one.

If, therefore, conditions are such that railroads in this country can charge a much lower tariff rate in the United States than they do in other countries, why is it that they can not carry the mails of this country as cheaply as they can abroad? If statistics are correct, we are paying three times as much for the transportation of our mails over the railroads as England is paying for the same service over its railroads.

It is reported, and I have seen no denial of the fact, that we pay the railroads for mail service twice the amount per number of pounds that we pay star-route carriers for a similar service. If it is our purpose to do the right thing by all persons or agencies concerned, it would seem, from the fact that we are paying star-route carriers about one-half what we are paying the railroads for the same character of service, that mail can be carried cheaper by coach than by rail. But, if so, why is it that freight can not also be carried cheaper by coach than by rail?

It is stated as a fact, and not denied, that freight can be and is hauled by railroads at about one-tenth of what it costs to have it hauled by wagon. If these facts are true—and I do not see how anyone can doubt them—we are either doing the star-route carriers a great injustice, or else we are suffering ourselves to be perennially robbed for the benefit of the railroads.

Ah, Mr. Chairman, why this inequality, this injustice in the pay of star-route carriers and railroads for the same kind of service? I will answer by saying that one reason is that some of the Representatives in this House do not know, nor will they take time to inquire, of the inequality.

But a second and, in my judgment, a more far-reaching reason is that the railroads are better represented in both Houses of Congress than are the star-route carriers, and hence are guarded against anything which tends toward the reduction of the price paid them for the service they perform.

Another inequality shown by the Department between them is that the star-route carriers are required to enter into competitive contests for the privilege of carrying the mail, and the lowest bidder is given the contract; and in many instances it forces him to underbid himself, while the railroads are not forced to compete with each other for the privilege of carrying the mail, but are paid just such price as they say they will carry it for.

Notwithstanding it is clearly shown that the United States is paying more for the carrying of the mails over the railroads than all other countries combined are paying for carrying their mails by all agencies and instrumentalities, and notwithstanding it is clearly shown that the railroads are discriminated in favor of as against the star-route carriers by at least 50 per cent, still we have Representatives upon this floor who are presumed to represent the people, not the railroads, who loudly clamor in favor of the continuance of so unjust a policy and who strenuously oppose any righteous reform that is offered by a Member who considers the masses as against the classes.

Sir, I fully understand that matters have gone from bad to worse in this House, until it is considered demagoguish for a Member to raise his voice in behalf of the people. The moment he does it the special corporation leaders of both sides of the House are ready to ridicule and speak slightingly of his efforts in behalf of those who sent him here. I, for one, spurn their criticisms and have a perfect contempt for those who resort to them.

Mr. Chairman, in addition to the outrageous price we are paying the railroads per pound for carrying the mail, we are paying them a rental of from $5,427 to $20,000 per annum for each postal car used in the service, while the cars themselves do not cost more than $17,000 for construction. Thus, in some instances, it will be seen that we pay $3,000 per annum more for the use of a car than it costs to construct it.

And that is not all. The hearings before the Post-Office and Post-Roads Committee, while it was preparing the bill that is now before the House, disclose the fact that we pay $5,427 per annum for each of 215 postal cars that are standing in the car barns throughout the country, the total amount paid out for that purpose being $1,166,805. The argument used by the friends of the railroads in justification of such an outrageous act is that perhaps a wreck might occur on some line of the railroad and a car be damaged or destroyed, and hence, in order to facilitate the service, it would be necessary to have a car standing in a shed somewhere to take the place of one so crippled or destroyed. That kind of argument may sound good to railroad advocates, but it does not appeal to me.

You might as well tell me that the Government ought to pay rent on a building in a different part of town from the post-office other than the one in which the office is maintained, for fear a fire or cyclone might destroy the one in use and thereby necessitate the use of another, or, to use a country-grown comparison, that when a farmer employs a laborer and his mule for so much a day, he ought to be required to pay for an extra mule, standing in the barn, for fear the one in the plow might get sick. It would be just as reasonable to require the Government to pay rent on the extra house in order that the party from whom it rented might carry out his contract in case of a fire, or the farmer pay for the extra mule in case the one in use should get sick, in order that the laborer might carry out his contract, as it is to require the Government to pay for idle cars, in order that the railroads can fulfill their contracts for carrying the mails.

Sir, the thought of taking from the people, while they sleep, the sum of $1,166,805 to enrich the coffers of the railroads of this country, when nothing is given by them in return therefor, is so repugnant to my sense of justice that I can hardly find parliamentary language with which to express myself in regard to it.

Mr. JOHNSON. Mr. Chairman, may I ask the gentleman a question?

Mr. MACON. Certainly.

Mr. JOHNSON. Do I understand the gentleman to say that the Government pays for the rent of cars that are not used?

Mr. MACON. Yes, sir; 215 of them per annum, according to the statement made before the Post-Office and Post-Roads Committee by the official who does the paying for them. He himself says there is no justification at all for such an expenditure.

Ah, Mr. Chairman, with such practices as that connected with so important a part of this Government, is there any wonder that scandal after scandal should occur in it? The wonder to me is that the people in their might do not rise as one man on election day and smite a political party to death or strike down the political aspirations of any or all of the Members of either branch of Congress that indorse such things with their votes.

If a majority of the Members of this House will vote with me to defeat this bill, or will vote to recommit it to the committee, with instructions to strike out these evils and bring in a clean and wholesome measure, we will be rid of them before another week.

But, sir, the railroads, not being satisfied with the enormous amount we pay them under outrageous contracts for carrying the mail, take a further dip down into the pockets of the people and purloin more of their hard earnings from them by padding the mails.

In evidence of that fact I will here incorporate in my remarks a purported interview with a certain Senator upon that subject, which appeared in the Washington Post of February 22 last:

A United States Senator, chatting with the writer yesterday on the subject of padding the mails, told how he had for four years been accessory to the fraud without knowing it. He laughed over the manner in which he and several of his colleagues had been victimized by a shrewd railroad employee, who masqueraded as a clerk of a Congress committee.

"This fellow came to me," said the Senator, "and asked me if I had supplied the Agricultural Yearbook to all of my constituents who had applied for it. I told him I had not, as the demand for it was very great and I had exhausted my quota.

"'That's all right,' he said; 'I've got a lot of copies, and I'll send them out for you.'

"I thanked him, and offered to pay him a reasonable sum for the books, but he declined the offer, and said he would be glad to accommodate me. I paid little attention to the matter, thinking that some Senator or Member had turned over to the fellow a lot of books, which is not a remarkable occurrence. Several of my colleagues happened to mention that the same fellow had accommodated them in the same manner. We regarded it as quite a favor, and I took it for granted that that was what the fellow wanted—to put us under a small obligation to him.

OBLIGING AT ALL TIMES.

"This thing occurred several years in succession, as I remember it now. Finally one spring the fellow came to me again and asked if I had exhausted my quota of Diseases of the Horse, or the Yearbook, or whatever it was. As usual, I had, and as usual he offered to supply a lot. I had my secretary turn over to him a whole lot of franks already addressed to people in my State, as this man said it would be more convenient for him to handle the books himself.

"A week or so later I asked him if the books had gone out, and he said 'no.' He gave some excuse that I can not recall. A few days after that I met him again, and he said: 'Those books have all gone out.' I offered to pay him for his trouble, but he declined payment. I said to myself: 'That is a pretty nice kind of a fellow and I'll try to help him when I can.'

"The next day I happened to see an item in the newspaper to the effect that the Post-Office Department had begun the weighing of the mails in the section that includes my State. A light suddenly dawned upon me. 'Aha!' said I to myself, 'this explains, possibly, why I have been getting something for nothing.'

"I did a little quiet investigation, and learned, to my own satisfac-

tion at least, that this fellow was in the pay of a certain big railroad company while acting as a committee clerk or messenger. I am satisfied that he was put in the place he occupied for the very purpose of padding the mails. At a rough calculation I had been an innocent participant in a fraud that swelled the mails to the extent of at least 2,000 pounds annually for four years. As this fraud was perpetrated every year and the weighings are held in different sections every year, this fellow's work was evidently for the benefit of several railroads in different parts of the country.

"My colleague from my own State fell into the same trap, and he was one of the best lawyers in the Senate. Several other Senators told me they had accepted similar 'favors' from this same fellow. I suppose he must have sent out at least 10,000 pounds of books and documents during the weighing period. After this experience I have to smile when I read the solemn assurance of railroad representatives that it is impossible to stuff the mails and thereby increase the railway mail pay."

If the Senator's statement is true—and I do not doubt it, because so reputable a newspaper as the Post could not afford to publish it unless it were true—I can't see how the people can help but wake up.

It has been urged upon this floor by the railroad representatives that one of the reasons why we have to pay the railroads as much as we do for carrying the mails is that we require them to make certain scheduled time, and that if they fail to make it, they are fined a considerable amount.

To contradict that argument I will here read a clause of an editorial in the Washington Post, under the caption of "Railroads and the Government," and let you judge from it as to whether you think the argument about fining railroads for failing to make time will hold water. It is as follows:

What can the Post-Office Department do? Can it compel the railroads to maintain the fast schedule by imposing fines or making deductions for a failure to arrive on time? Perhaps it can, but it does not do so. According to the admissions of the Second Assistant Postmaster-General to a Congressional committee, the practice of fining railroads is practically obsolete.

Judging from the article just read, I am constrained to think that there is such a close and intimate relation existing between the Post-Office Department and the railroads that it shuts its eyes to every failure of its pets to make the time required under the contract schedule. That kind of practice, of course, occurs by reason of the fact that the representatives of the people have allowed the large interests of the country to influence them too much in the matter of legislation.

Let the railroads get behind any species of legislation that comes before this body, and you will find many of its Members immediately becoming interested in the matter. But when you ask them to give a justifiable reason for their support of it, the only answer they can give is to throw up their hands, look wise, and say, "It's a good thing for my section of the country."

To illustrate my point as to that, I will say that we find many southern Members of the House supporting the following iniquitous provision of this bill:

For necessary and special facilities on trunk lines from Washington to Atlanta and New Orleans, $142,728.75: *Provided*, That no part of the appropriation made by this paragraph shall be expended unless the Postmaster-General shall deem such expenditure necessary in order to promote the interest of the postal service.

And when you ask them for a sane reason for their support of it, they can only say that it is building up a southern industry; but when you ask them to tell you in what way it is building up a southern industry, ask them to give you a single instance as to who has been benefited by this subsidy except J. Pierpont Morgan, the owner of the Southern Railroad, they can not do so.

But, sir, from some strange cause, they grow red in the face when you call this graft a subsidy, and most earnestly deny that they would support a subsidy at all.

But let's see what a subsidy is and see whether or not they are supporting one in this instance. The definition of "subsidize," as given by Webster, is "to furnish with a subsidy; to aid or promote with public money, as to subsidize a steamship line." The definition of "subsidy," as given by Webster, is "a grant from the Government to a private person or company to assist in the establishment or support of an enterprise."

Now, sirs, exclusive of this $142,728.75, the Government is paying the Southern Railroad $1,227,437.09 per annum for carrying the mail from Washington to New Orleans, which seems to be a pretty fair compensation for the service given. Therefore, when we appropriate $142,728.75 as additional pay to the same road for carrying the mail, is it not "a grant from the Government to a private person or company to assist in the establishment or support of an enterprise," and hence a subsidy pure and simple?

For the life of me I can not see the difference between subsidizing a railroad to carry the mails from Washington to New Orleans and subsidizing a vessel to carry it upon the ocean; and yet my southern colleagues know that if they were to support the iniquitous ship-subsidy bill now pending before this body their constituents would retire them from Congress so fast it would make their heads swim.

I insist, Mr. Chairman, that this sum is a pure gift from the Government to the Southern Railroad and that not one single cent of it is necessary for the maintenance of the mail service upon said road. As evidence of that fact, I will now submit what the Second Assistant Postmaster-General said about it when he was before the Committee on Post-Offices and Post-Roads, giving estimates as to the amount necessary to be appropriated for the next fiscal year for the maintenance of the postal service. He says:

We have not asked Congress to give it. We pay it out simply because when we have not asked for it, when there is no demand on the part of the Department for it, you still insist and pass the law. We regard your action under such circumstances mandatory and imperative upon us to obey and pay the subsidy.

Mr. MOON. Then, General, let me come down to the very bottom question of administration: Do you want this money or not?

General SHALLENBERGER. We are not asking it nor expressing an opinion in reference to it.

Mr. MOON. What is the reason that you all are silent on that question?

General SHALLENBERGER. We are not silent.

Mr. MOON. You say you do not ask it.

General SHALLENBERGER. We do not estimate for it.

Mr. MOON. And what is the reason you do not ask it?

General SHALLENBERGER. Because we think that the effect upon the service at large is better if we do not select any particular route in any particular section for special favors.

Mr. MOON. Then you do not select it because you think that it is a bad example, and that it affects the Railway Mail Service elsewhere to give this subsidy?

General SHALLENBERGER. That is the situation.

Mr. MOON. That is the situation. So you think that for the good of the service the thing ought not to be done, taking the country at large?

General SHALLENBERGER. Why, I think for the good of the service at large it is better that no special favors be given to any one particular road or system.

You will observe that there is not a single line or word in what General Shallenberger said that even indicated that any part of this appropriation was necessary. When the committee put the proviso to the paragraph which provides "that no part of the appropriation made by this paragraph shall be expended unless the Postmaster-General shall deem such expenditure necessary in order to promote the interest of the postal service," it thought to throw the burden of this expenditure upon the Postmaster-General, and when he was interrogated as to why he spent it, if it was not necessary, he said:

Although on its face it appears to be a discretionary power, yet when Congress, after full debate, year after year, has put this provision in the bill and made the appropriation, the post-office authorities can not construe it otherwise than as indicating the wish of Congress that it shall be spent, and have understood it as mandatory.

And in his report to this Congress he recommends against the appropriation of it. No Postmaster-General has recommended it in ten years, but, to the contrary, they have all insisted that there was no longer any necessity for it; and yet, in the face of all these recommendations and protestations against it, the friends of the railroads in Congress have been able to force it through the House.

When this matter was before the House in the last session of the Fifty-eighth Congress several Members made speeches against it and denounced it as a rank subsidy; but when the chairman of the committee closed the debate upon the subject he said that it was no more a subsidy than was the appropriation for the levees on the Mississippi River or for the one to pay the carriers on the rural mail routes of the country. And I am sorry to say that several southern Members applauded his declaration to the echo.

I heard one Member, whose constituents are greatly benefited by the levees on the Mississippi and who was among the number that applauded the chairman of the committee, say that his speech was one of the greatest he ever heard in the House.

Those of us who are opposed to graft and subsidies failed to discover anything great in it, and I now say that it was nothing more nor less than an attempt upon the part of one who had conducted an improper appropriation through the Post-Office Committee and was endeavoring to conduct it through this House in the interest of a great railroad company to pour balm upon the lacerated consciences of those Democrats who in the very teeth of their party platform voted to maintain a subsidy. [Applause.]

Sirs, I now boldly charge that, in my judgment, every Democrat who tramples upon his party platform and supports this proposition for special mail facilities on the Southern Railroad has received special benefits at the hands of that or some other railroad. There is no other way to reconcile their conduct, and there is no other conclusion I can come to and be honest. And, sir, I shall now take my seat for a few moments and give any Member who has supported this measure an opportunity to arise in his place and deny the charge I make. [Takes his seat and waits for Members to arise.]

Ah, Mr. Chairman, there is no response. I therefore call the attention of the country through you, my colleagues, and through the CONGRESSIONAL RECORD, to the fact that I have made the charge and that no Member who is supporting this proposition dare stand in his place and say that he has not received special benefits at their hands. Human nature is a safe rule to measure a man by when he comes to act upon matters of legislation, and when measured by it you will find that he is always on the side of the people as against the corporations and trusts unless he has received special benefits at their hands.

Reverting to the "great" speech of the chairman of the Committee on the Post-Office and Post-Roads, when he said that the appropriation for levees on the Mississippi River is a subsidy, I make bold to say that he is too intelligent a man to believe such stuff himself. Three-fourths of the States and Territories of this Union either shed all or a large per cent of their water into the Mississippi River, and it is rushed down upon the people who live along the lower parts of it in great volumes, threatening devastation and ruin to life and property; and hence, in comity, in justice, it is nothing but right for them to join in an appropriation to save the lives and the property that their floods would otherwise destroy.

Again, sir, by constructing levees upon the Mississippi River the Government preserves or reclaims a magnificent territory, the richest in all the world, and settlers from almost every State of the Union, since these leeves have been constructed, have located upon the lands protected by them and are now making their homes upon them and are receiving a handsome return on their investments.

In view of the definition of the word "subsidy," I would like to know what right anyone has to say that a policy that will reclaim a section of country for settlement that is far richer than that of the valley of the Nile, or of the Po, or any other valley of which ancient or modern history teaches, is a subsidy; and for the benefit of those who would like to answer my question in regard to that matter, I will now repeat the definition of the word "subsidy:" "A grant from the Government to a private person or company to assist in the establishment or support of an enterprise."

Therefore, when the Government appropriates money to construct levees, it is not a grant to a private person or company to assist in the establishment or support of an enterprise, and no fair mind can twist it to a point where it will be susceptible of any such construction. And when the chairman of the Committee on the Post-Office and Post-Roads attempted to do so he simply intended for what he said to be used as a lotion to heal the wounds that Democrats themselves inflicted upon their consciences when they voted for this iniquitous special mail facilities appropriation. And the argument of the chairman to the effect that rural free delivery is a subsidy, which received applause from these same Democrats, was nothing more or less than a job lot of rot.

The idea of this Government giving to the toiling masses of the country one mail a day during the week days of the year being characterized as a subsidy must certainly be the emanation of a diseased mind. It certainly is not founded upon fact or reason; and the thought of Democrats applauding such a sentiment offered in justification of their act in voting for a real subsidy is enough to disgust all persons whose aim it is to do right by all of the interests of the country.

A majority of the constituents of every Democrat from the South who is supporting this subsidy, and who applauded the sentiment that the giving of a single mail a day to the people on rural routes is a subsidy, reside in the rural districts of our country; and if I am not mistaken in them, they will examine the CONGRESSIONAL RECORD and see what Members of this House are so disregardful of their interests that they are ready to class their one mail a day with this subsidy and vote to give $142,728.75 to J. Pierpont Morgan, the owner of the Southern Railroad. [Applause.]

The facts disclose that there are five mail trains which pass over the Southern Railroad every day, aside from the two subsidized trains; and hence the people who live along that route receive their mail, independent of a subsidy, five times a day, while those who live in the interior receive theirs once a day.

I challenge each and every advocate of a subsidy for this railroad to justify this partiality of mail distribution between the people who live along the line of the railroad and those who live in the interior, and I will pause for them to do so now, if they can conceive of anything that justifies it.

Ah, sir, again they fail to respond, and I assert without fear of contradiction that they could not present a truthful response if they had from now until doomsday in which to do it.

I assert further that these gentlemen can not show a single business industry along the line of this railroad that has received or is enjoying any material benefit by reason of these subsidized mails. It is my judgment that whenever any business is conducted in such a rapid way as to require more than five mails a day from a given direction, it is time for its managers to resort to electricity, instead of relying upon the slow progress of steam transportation.

But gentlemen say, "These mails are going to the South, and we of the South ought to support this proposition." Why, sirs, I am as much opposed to a steal for the benefit of the South as I am for one for any other section of this country. Why, I had a Member to say to me a few days ago, in talking about this matter, that it looked like I was against everything that was intended to build up the South. I told him that I was against everything that was intended to be given to the plutocrats of the East under the guise of building up a southern industry.

Ah, Mr. Chairman, these arguments about building up the South at the expense of honor and integrity remind me of an incident that occurred nearly two thousand years ago, when the sponsor for all Satanic infamy took the Savior of the world upon a high mountain and indicated to Him that unless He did certain things He would be against the building up of the industries of a certain climate that is reputed to be ten thousand times hotter than that through which the Southern Railroad runs. [Applause.]

Ah, sir, I am ready to work against the building up of the South whenever it becomes necessary to rob and plunder the other sections of this country in order to build it up. God has favored the South in natural resources, climate, and conditions far above those that He has bestowed upon any other section of this country. He has given to us bluer skies, richer soil, and a more congenial climate than He has the other sections of this Union, and it seems to me that we would be either knaves or disciples of Mammon if we wanted to plunder the public Treasury in order to further advance the interests of a country so richly blessed. [Applause.]

But, Mr. Chairman, as indicated in the beginning of my remarks, I have no hope of convincing a single railroad-sympathizing Member of this body who has resolved to give his influence for special benefits received at their hands; for it has been my observation that whenever a man determines to make his bed in hell, that moment he loses all respect for the Christian religion and can see no virtue in the Ten Commandments and no efficacy in the Sermon on the Mount. [Applause.]

Upon the same principle, when men decide to place themselves upon the side of the railroads and other corporate interests as against the side on which the people stand they can see no virtue in the people's cause or efficacy in the principles they proclaim.

It has been argued here by some of the Members from the South who favor this appropriation that they have been petitioned to do so by boards of trade, committees, and the like. That, sir, is an evidence of the weakness of the cause rather than of its strength, for whenever it is necessary to get up petitions to support a project that is already in existence you may know at once that it is unworthy and could not stand by reason of its own worth or merit. If it is a worthy project it does not need petitions to sustain it; and we all know how petitions are gotten up, what selfish influences are always behind them, and how easy it is to get the signature of anyone to a petition when only one side of the case is presented and an earnest appeal made to the desired signer. When an application is made to an executive for clemency in behalf of a worthy cause it is not necessary for the one that presents it to be loaded down with petitions and resolutions to support it. A straightforward statement of the facts is all that is necessary for him to be armed with, but if he wants to present a bad case, then it becomes necessary for him to secure a petition that will stretch across the confines of his county or of his State, thereby hoping to unduly influence the executive and wring from him something that he would not otherwise give. [Applause.]

Sir, when I see Democrats supporting a special interest of this kind, voting for a subsidy as iniquitous as this one is, it has the appearance of a political stampede to me. While I recognize the right of every man to be what he pleases in religion or politics, I can not see how he can be a Christian if he be a blasphemer, or a Democrat if he be a subsidizer. [Applause.] How can a Democrat complain of a northern Republican voting for a high protective tariff with which to build up the industries of the North if he can vote for subsidies simply because he says they are intended to build up southern industries. I have always understood that Democracy is founded upon principle and not upon expediency.

Ah, gentlemen, how can the gentleman from Alabama, who says he is opposed to the protective tariff that benefits the people of Massachusetts, Pennsylvania, and New York, be in favor

of a railroad subsidy that he supposes will benefit somebody somewhere in the South, but can not show a single man, woman, or child who will be benefited by it. [Applause.] Sir, I can not understand it; and I would not have the heart to complain of the protectionists of the North, who want their policy to obtain in order that the steel trust may further plunder the people, if I stood ready to assist the Southern Railroad in its pilfering scheme.

Ah, Mr. Chairman, it would be amusing, if the question were not so serious, to hear the arguments presented by advocates of this appropriation. Did you notice on yesterday, when the gentleman from Pennsylvania suggested that this special subsidy was needed because the railroad that was to be benefited thereby traversed an unsettled territory, how quickly the advocates of the appropriation jumped at the suggestion. You never saw a brook trout snap at a bait quicker than they jumped at his suggestion. Yet the facts show that the Southern Railroad runs through the oldest and as well settled a part of the country as is to be found in the United States. Perhaps they know the reason they bit. I do not, and can only surmise.

The Government is indeed approaching a dangerous state when its representatives will allow special interests to control their actions upon questions where the people are interested, and unless an aroused public conscience speedily takes a hand in the administration of its affairs a point will soon be reached where the privileges of greed will have greater tribute paid to them than the rights of the people, and that, too, by their representatives in this body.

Mr. Chairman, there is enough improper appropriation in this bill to wipe out the deficit of the Government for the past fiscal year, and if it is recommitted with proper instructions, it can be pared down so as to produce that happy result without retarding or hindering in any way the honest discharge of every duty resting upon the Post-Office Department. [Applause.]

Mr. RUCKER. Will the gentleman yield for a question?

Mr. MACON. Certainly.

Mr. RUCKER. I want to say that, so far as the principle for which the gentleman is speaking is concerned, I am in sympathy with him. I am opposed to this subsidy and shall vote against it. But I should like to ask the gentleman if he does not believe that gentlemen of high integrity can honestly differ with him in the views he entertains? And if so, if the gentleman ought not to address himself to the principle involved and not to criticism of Members who do not agree with him? I agree with the gentleman in all he has said in regard to this appropriation.

Mr. MACON. I will say to the gentleman that my criticisms have not been personal, but have been based upon the general rule of human action. Now, if that rule is at fault, then I am at fault. It certainly has not been my purpose to be personal.

Mr. RUCKER. I know of no rule of human action that justifies me in condemning your motives because you and I happen to differ. You may be as honest as I am, but my opinion is that gentlemen who differ from us may cast their votes in perfect honesty. I shall vote as the gentleman will vote, but I think we ought to concede integrity to other gentlemen as well as to claim it for ourselves. I know you and I are honest.

Mr. MACON. I thank the gentleman for his closing declaration, and I will say that in what I have said I have not charged any Members with being dishonest in his motives. I did say that when measured by the rule of human action men were usually on the side of the people and not on the side of great corporations; and I did say that it was my humble opinion that anyone who stood for this subsidy had himself received special favors at the hands of this or some other railroad, and I called upon any Member who did not occupy that position to deny it, and I took my seat and gave ample opportunity to do so, but there was no response.

But I insist, sir, that under no circumstances can my language be twisted into meaning that a Member was dishonest simply because he differed with me.

Mr. RUCKER. I am glad to hear the gentleman say that.

Mr. MACON. I, sir, am broad enough, I hope, to give every man the right to think upon all questions to suit himself. I do not pretend to be the keeper of any man's conscience, his politics, or anything else that is peculiarly his own, but I have a sincere conviction that causes me to express myself honestly upon any subject that may come before this House for consideration.

A man may be ever so honest in his purposes and yet be persuaded to do a thing that, if stripped of special interest, would appear to him in an entirely different light. I insist that special interests have often caused the downfall of many true and patriotic souls that were thoughtless enough to give ear to their seductive wooings.

No, sir, I do not believe that a single man who favors this appropriation is dishonest, but I do believe that in supporting it he is supporting something that is contrary to the best interests of the country, and I know it is contrary to the principles of the Democratic party. [Applause.]

Mr. SMALL. Mr. Chairman, I desire to ask the gentleman a question.

Mr. MACON. I will yield to the gentleman with pleasure.

Mr. SMALL. I desire to ask the gentleman if he has read the entire post-office bill?

Mr. MACON. Yes; I have read the whole of it.

Mr. SMALL. I desire to ask the gentleman if he is in favor of the so-called "subsidy" for carrying the foreign ocean mail to Haiti, which costs $40,000?

Mr. MACON. No, sir; I am not in favor of that or of any other subsidy.

Mr. SMALL. Will the gentleman give us his reasons for that?

Mr. MACON. A sufficient answer to that would be that my party is opposed to subsidies. But I will say further that in my judgment subsidies have done as much, if not more, to curse our country than any other agency. But my time has expired, and I will leave the matter with the gentleman.

Mr. SMALL. Mr. Chairman, I ask that the gentleman may have a few minutes more in order to answer my question. I would like to know if he voted for the subsidy to Haiti in the last Congress.

Mr. MACON. I did not. I voted against the final passage of the Post-Office appropriation bill because of the subsidy evils it carried. [Loud applause.]

The CHAIRMAN. The time of the gentleman from Arkansas has expired.

Mr. SMALL. I ask that he have a minute more to answer my question.

Mr. OVERSTREET. I have not any time to yield. If the gentleman from Tennessee sees fit to yield he can do so. Mr. Chairman, I now yield to the gentleman from Indiana [Mr. CRUMPACKER].

Mr. MACON. Mr. Chairman, I know the gentleman from Indiana will yield long enough for me to ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. Without objection, the request of the gentleman from Arkansas will be granted.

There was no objection.

[Mr. CRUMPACKER addressed the committee. See Appendix.]

Mr. OVERSTREET. Mr. Chairman, I now yield thirty minutes to the gentleman from New York [Mr. PERKINS].

Mr. PERKINS. Mr. Chairman, a person who ventures to speak in the comparative solitude of Saturday afternoon I think is entitled to one privilege which I shall ask, and that is that the few who are here will kindly keep quiet.

Mr. Chairman, in view of the statement recently made by the leader of the Republican side that no revision of the tariff would be allowed at this session, it might seem superfluous for a Republican to debate further this question; but the distinguished leader of the Republican party, though he has said that we can not vote, has not said that we can not speak. [Applause.]

There are those who really believe, and I am one of them, that the tariff ought to be reformed by its friends. We not only say we believe it, but we do believe it, and we know it needs no prophet to say that if it is not reformed by its friends it will sooner or later, and perchance sooner, be modified by those who, in my judgment, will bring to it neither the same kindly feeling nor the same degree of intelligence to deal with the question. It is not the first time in the world's history that it has been solemnly announced that present conditions should remain unchanged, and it will not be the first time in the world's history that such solemn resolutions have come to naught. So I purpose to-day not to discuss the tariff in any detail, but to call attention to one schedule which I have had occasion to examine. It is a schedule where it can be easily seen what effect it has produced upon prices. It can be easily seen who has got the benefit of the change in prices and who have paid the additional price. Whether those results are desirable it is for this House, and those whom they represent, to say. Doubtless they are desirable to those who reap the benefit, and how far they may influence others we shall see.

I will say, in passing, that I am by no means one of those who occupy time in denouncing what are called the trusts. The great business combinations in this country are to a large extent the result of the operation of natural economic laws. If any man or any corporation can in conformity with economic laws accumulate millions or hundreds of millions, I know no rea-

son why the Government should interfere, and certainly I would be one of the last to rail at the results. But, Mr. Chairman, what I wish to present this afternoon is a somewhat different question—not, Shall the Government interfere and seek to dissolve any great combination of business interests that it may find, but, Shall the Government allow, by the operation of a law which it enacts, the building up of such a combination and the creation of enormous amounts of wealth which rest, and rest alone, upon the positive legislation of the Government?

Mr. Chairman, the article of lead is one of universal use. It is used by the rich and it is used by the poor. Lead is used in enormous quantities, for instance, by the great corporations that manufacture telephonic apparatus. It is used in enormous quantities by other great manufacturers, and it is used by the poor man who puts a sink in his kitchen and has a lead pipe to assist in carrying off the water. So there we strike something of universal use. Used as it is by all, any increase in the price of lead must be paid by all this multiplicity of users. If the price of a pound of lead is 5 cents instead of 3 cents, it is evident to every one that that additional price is paid by all the people of all sorts and kinds who either in private life or business combination have occasion to use lead. So I think that all will agree that any increase in the price of this article falls upon the entire community. If it falls upon a manufacturer it has one of two results. Either it lessens his profits or else it compels him to enhance the price of his goods, and that is paid by the consumer. If it falls upon the small consumer, of course he pays it himself, and therefore we may fairly say that the price of such an article as that should not be enhanced by the Government unless there are persons especially entitled to the Government's aid.

The next question that we come to is, Who reaps the benefit; who has derived the benefit of the duty which has been imposed upon lead ore and pig lead? Without at all wishing to join those who are vociferous in their attacks upon trusts, I would commend to the eloquence of any gentleman who desires to make that an object, as a most excellent example of what is claimed by them to be an evil, the American Smelting Company. I have taken the pains to have prepared statistics in reference to the company, and the organizations created by it, and which form a portion of it, which I shall very briefly state to the House, as the figures which I have thus collected are necessary in order to reach the conclusion which I shall seek to establish.

The American Smelting Company was organized in 1899, very shortly after the passage of the Dingley bill. It was made up by a combination of smaller companies, and was organized with a capital of $65,000,000, one-half preferred at 7 per cent and one-half common stock, which was afterwards increased to $100,000,000, one-half preferred and one-half common. Out of that hardy tree has grown a considerable number of vigorous offspring. There have been since organized and are owned or controlled by that corporation, first, the Federal Mining Company, with a capital of $30,000,000, $20,000,000 preferred and $10,000,000 common stock; next the American Smelters' Securities Company, with a capital of $77,000,000, $47,000,000 preferred and $30,000,000 common stock; last, the United Lead Company, with a capital of $25,000,000, $10,000,000 preferred and $15,000,000 common stock.

In reference to all these corporations we may safely say that the preferred stock that was issued not only represented the original cost of all the smaller or subsidiary companies which were taken into it, but more than that. It represented a valuation placed upon them higher than had ever been placed until this combination was made feasible, and I think we can say without the least danger of contradiction that the common stock of these various corporations represented not one dollar of property, but only the hope of a profit that would be made as a result of the combination. There is in this company more than $100,000,000 of common stock, and it is safe to say that every dollar of that is pure water requiring no filter; unadulterated by one dollar's worth of actual property going into the corporation above the preferred stock. Now, it is apparent that if a combination such as that can be made, and it is possible to create $100,000,000 of common stock based upon the hope of future profits, and if actual value can be projected into it, and the $100,000,000, more or less, thus issued can be rendered of large value, there is a possibility of the accumulation of the enormous fortunes which do undoubtedly at times stagger our minds in these present days of American development.

We now come to the effect of the duty. There is a duty imposed by the Dingley bill on lead ore of 1½ cents per pound. The duty on pig lead is 2½ cents per pound. The American Smelting Company, I believe, claims not to own the actual mining companies which dig up the ore, but it controls them. It is the only person that buys from them; it is the only person that smelts their goods; it is the only person from which their goods can be bought, so it has control of that portion of the lead production of the United States of which it has obtained control. Now, we have its own reports, Mr. Chairman, because the figures I have given are not obtained from loose talk, but are based upon the official report and statistics furnished in every case. In 1903 the American Smelting Company, according to its own report, controlled 85 per cent of the lead production of the United States. At the present time it undoubtedly controls, because it has added somewhat since them, 90 per cent. So of the lead sold in the United States 90 per cent is sold by the American Smelting Company. In other words, it has practical control of the market. Now, let us see what effect that has produced upon the price. In 1896 the price of pig lead in New York was 3 cents per pound. In 1899 the American Smelting Company was organized, the Dingley bill had been passed, and the price of lead was raised by it in the year 1899 to 4½ cents per pound. There is a very interesting feature that one studying the effect of tariff laws can easily ascertain. The difference between the price of a foreign commodity and the price at which it is sold in this country will not be equal to the amount of the tariff ordinarily so long as there is still competition in the business. In other words, though there may be a tariff of 2 cents a pound on lead, yet if there are a number of different competitors, each one endeavoring to cut down under its adversary, ordinarily the price in this country is not raised to the full amount of the tariff duty.

But when some one corporation or combination obtains practical control of the entire market it does what anyone would do; it raises the price to the full limit covered by the difference in the tariff. And so we find, coming down to January, 1906, that the price of pig lead sold in London was 3.65 cents per pound; that the price of pig lead sold in New York City was 5.6 cents per pound. In other words, allowing for the small fraction of a cent that the lead would cost to be sent from London to New York, the price that is now asked on lead, which is paid by every man in the United States, from the largest manufacturer to the smallest mechanic who builds a house or puts in a sink, is increased about 2 cents a pound. Who gets the benefit? The United States Smelting Company, controlling 90 per cent of the product sold in 1903—about 485,000,000 pounds. Its sales at the present time are at least 500,000,000 pounds. Assuming that it is only charging the difference of the tariff on lead ore, that amounts annually to seven and a half million dollars. If they get 2 cents more, the amount that is allowed on pig lead, it would amount to about $10,000,000. Let us take the lowest amount and we have an enhanced price for the lead sold by the American Smelting Company, according to its official report, of at least seven and a half million dollars.

There can be no dispute, Mr. Chairman, that this is made possible by the duty. In the absence of that people would buy lead in London and have it sent to this country. But we can come nearer. In the city of Toronto, just on the other side of the line, lead is purchased by manufacturers for from 2 to 2½ cents less than it is purchased by manufacturers in the same business that live in the cities of Buffalo, Rochester, and Syracuse. Without the duty the Canadian market, like any other foreign market, would be open to them.

Is the price, the enhanced price of 5.6 cents, for which pig lead is now sold in the city of New York necessary in order to cover the enhanced cost of lead in this country? In other words, if lead can be sold at London at 3.65 cents, and can be sold at Toronto at the same price, is it necessary to have a duty of 2 cents in order to cover the enhanced cost of getting out the lead in this country?

To that, Mr. Chairman, there are two answers. In the first place, I do not believe there is a man in this House or out of this House who believes that with the richness of American mines, with the facilities of American machinery, with the enterprise of American operators, lead ore can not be produced in the United States as cheaply as it can in any other part of the world. I believe it can be produced more cheaply here. [Applause.]

But there is another answer, Mr. Chairman. We have seen these corporations organized with, I will say, preferred capitalization of, roughly, $100,000,000, that represented, doubtless at a very liberal valuation, the cost of the various plants the capital that had gone into mines and smelters. Certainly they were entitled to a fair profit on that, and if it was necessary to have a duty upon lead, pig lead, or lead ore to enable those engaged in that business to obtain a fair profit, I for one would be entirely willing to support such a measure. But the report of the smelting company shows a profit, a net profit, for the last year of $9,000,000. Its report and that of the other subsidiary

companies show that if the $7,500,000 additional cost of lead sold by this company had not been obtained; in other words, if the profits had been $7,500,000 less, it would have made enough to pay liberal dividends upon every dollar of preferred stock of these various corporations. In other words, the enhanced price of lead has furnished the possibility of paying dividends upon $100,000,000 of common stock.

The $7,000,000 which it is estimated the American Smelting Company and its subsidiary companies make by reason of this tax pays of itself a dividend of 7 per cent on a hundred million dollars. In other words, as the result of this specific schedule on lead—and here I come up to the precise question—it is possible to give value to a hundred millions of stock that represented nothing but the paper upon which it was printed, and the increased price of lead which has made this profit possible has been paid by every man that in the United States uses lead. Is a schedule to be forever retained that makes possible the creation of imaginary property and yields a profit on it, a profit which is paid by those who certainly are quite as much entitled to the benefit of the Government's friendly hand? Take the American Smelting Company. Its common stock when first issued represented no property. Some was sold early in its history at 20, 30, and 40, and that was clear profit. The subsidiary companies received preferred stock for their property and a vast amount of common stock as bonus, and the man who sold this and got 30 or 40 cents on the dollar did well.

But the more sagacious man who held on did better, because as a result of the enhanced price which the American Smelting Company, controlling 90 per cent, has been able to fix upon lead, all this stock has become valuable. It pays dividends. The last report of the smelting company showed that on its $50,000,000 of common stock it had earned 11 per cent. It is not necessary to trouble this House with the earnings of the other subsidiary companies. The common stock of the smelting company, which sold at first for 30 or 40, now sells at 160 to 170, and its friends say that there is yet before it a great future. The common stock of the Federal Mining Company has not advanced so much, but it has advanced over 75 points.

In other words, if the figures that I have submitted are correct, the common stock of these various corporations is now worth, at a present valuation justified by their earnings, at least $150,000,000. That is what it would sell for, roughly, to-day. That is what it is worth to-day, judged by the earnings it makes and the returns it is enabled to pay.

Mr. GILLESPIE. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. Yes.

Mr. GILLESPIE. I should like to know the gentleman's opinion whether from his investigation of that concern it does not exist in violation of the Sherman antitrust law?

Mr. PERKINS. I do not know anything about that. I have not investigated that question at all. In these remarks, Mr. Chairman, I have wished only to call the attention of the House, and possibly the attention of some of those outside of the House who may sometimes read what is here said, to some practical phases of certain schedules of the tariff. It is to be considered whether if there are schedules which, when they are exposed to public attention will, as it seems to me, excite public animadversion, it is wise to say that for all time the consideration even of an item like this shall be closed to the House of Representatives. I should be loth to say, Mr. Chairman, that the tariff is the mother of trusts; but sometimes we do see an illegitimate child, a misbegotten monster, that does look as if it owed to the tariff its existence and its growth. [Applause.]

Mr. OVERSTREET. I yield ten minutes to the gentleman from Ohio [Mr. SMYSER].

Mr. SMYSER. Mr. Chairman, I desire to have read from the Clerk's desk an amendment to the pending bill.

The CHAIRMAN. If there be no objection, the amendment which the gentleman proposes to present later will be read by the Clerk.

The Clerk read as follows:

Amend, on page 27, lines 17 and 18, by striking out the words "twenty-eight million two hundred thousand dollars" and inserting in lieu thereof the words "thirty-two million four hundred thousand dollars: *Provided*, That not to exceed $4,200,000 of said sum here appropriated shall be paid to rural mail carriers for horse hire and wagon equipment."

Mr. SMYSER. Mr. Chairman, the object of this amendment is to increase the compensation paid to the rural mail carriers, and in presenting it I am not unmindful of the fact that the disposition of this House is to exercise the utmost economy in the expenditure of public money. But I am actuated in the presentation of this amendment with the belief that the rural mail carrier, as compared with the compensation paid to clerks and others in the mail service, is unjustly discriminated against. He does not receive pay adequate to the service he renders.

The clerical force here in the capital receives from $900 to $1,800 per year. The railway mail clerks receive from $900 to $1,400. I am not unmindful of the fact, either, that the railway mail service requires perhaps a higher degree of intelligence, of education, and physical endurance than the ordinary carrier, either in the city or on the rural routes. The railway mail clerk must be familiar and conversant with the geography of his country. He must know States, counties, towns, railroads, and railroad connections, so that the mail transported shall reach its destination in the shortest possible time.

It is true that they are on duty but one-half the time, but for the service they render their compensation is not, in my judgment, excessive. Ordinarily the average compensation of the city carrier is a trifle over $800 per year. His hours are no longer than the hours of the rural carrier; he has ordinarily paved streets and sidewalks to traverse, and is not confronted with the mud and snow and all that that the rural carrier must encounter, and the rural carrier must go day in and day out; and yet the highest compensation of the rural carrier is $720 per year. Out of that $720 per year he must provide his horse hire and horse keep and the wagon that he uses.

Until within a year ago the Government paid a part of this hire. That is now eliminated. The cost to the rural carrier per year for the horse hire, for horse feed, for maintaining his equipment, Mr. Chairman, is something over $200 per year. On last Tuesday morning, in my own town, as the carriers were starting out over their respective routes, I called them together and said, "What does it cost you to keep your horse; what are your expenses per year?" One answered me very promptly, and he could not have anticipated that the question was coming, "If I was at home I could give you the figures, but it is something close to $260 per year." I have from him an itemized statement of the expenditures that he made in maintaining his horse hire and his wagon, and fitting himself for the discharge of his duty. And these expenditures, as verified by his account book, aggregate $259. The length of his route is 24 miles, which he travels six days in the week regardless of conditions of weather or roads. His compensation for this service is $720 a year, out of which he makes the expenditure of over $250 for horse hire and equipment, and which does not leave sufficient compensation for the service rendered. I also have an itemized statement from several other carriers showing an aggregate expenditure ranging from $230 up to $280.

I have before me the last report of the Fourth Assistant Postmaster-General in which it is stated that in the last fiscal year over 8 per cent of the rural mail carriers tendered their resignations, because of underpay and for no other reason. It would be difficult to assign any other sufficient reason for so large a percentage of resignations in a particular service, except that of inadequacy of compensation for services rendered.

Mr. KEIFER. And for inability to buy their outfit.

Mr. SMYSER. Yes; and as the gentleman suggests, for inability to buy their outfit in the discharge of their duty. They are not only discriminated against; but I beg to remind gentlemen who are not familiar with the benefits of the rural mail service that there is no expenditure made, there is nothing that the Government does, that so commends itself to the rural community as the rural mail service. It is an education to the farmer; it makes intelligent people out of them; they write more letters; they take more papers and more magazines, and there is no citizen in the world that is so well informed on all public questions and so able to discuss them with discrimination, judgment, and understanding as the American farmer. [Applause.]

Moreover, Mr. Chairman, it is a benefit to him in another way. The daily rural mail takes to him the daily papers. He is just as well posted upon the market as the men engaged in handling the various products. It enables him, by keeping track, by having knowledge of the conditions of the market, to sell his product at the highest price, and he is diligent in keeping himself informed as to the condition of the market. We need have no fear that the expenditure of this kind is going to meet any adverse criticism. The increase in the proposed amendment is just and due to the rural carrier. It will enable him to render more valuable service and feel that at the end of the year he has something left.

This service grows daily; it is here to stay, not only to stay, but to expand. There are about 35,000 rural carriers now. The amendment that I have had read, Mr. Chairman, and that I propose to press upon the attention of the committee at the proper time, contemplates an increase in the compensation of the rural carrier at the rate of $10 per month.

I have said that the rural carrier is unjustly discriminated against in that his compensation is less than provided for in other like governmental service, and that no provision is made for his necessary expenses. The rural carrier for some reason is not put on an equality with the city carrier. Why, curiously enough, in this very bill, for the city carrier, you have provided horse hire; you have provided transportation over the electric railway and for special messenger service; and why in the city the carrier should be provided with horse hire and transportation over the electric route to take him to the destination where his service begins and not accord that same privilege and same right to the rural carrier I do not comprehend. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. KEIFER. Mr. Chairman, I would like to ask the gentleman a question.

Mr. OVERSTREET. I will yield to the gentleman two minutes more.

Mr. KEIFER. I want it stated whether a one-horse outfit is sufficient ordinarily when carrying the average distance that these rural carriers have to travel daily, say 25 miles.

Mr. SMYSER. In answer to the question I will say that in my county the average route is 24 miles. These carriers have to have two horses; one horse can not stand the work in continuous service.

Mr. KEIFER. They own the horses themselves, and wagon?

Mr. SMYSER. Yes; the whole outfit.

Mr. FOSTER of Vermont. Mr. Chairman, I wish to emphasize all that was said by the last speaker, the gentleman from Ohio [Mr. SMYSER], with reference to the rural free-delivery service and the compensation of the carriers on these rural routes. In my judgment, the value of this service to our agricultural interests, and therefore to the country at large, is in no danger of being overestimated. And it is certainly true that the letter carriers in this branch of the service are the most poorly paid class in the public service. We who have been especially interested in establishing and maintaining and developing this service have had it thrown in our faces whenever we have sought to secure a living wage for these letter carriers that there was a tremendous deficit in the revenue of the Post-Office Department, for which this rural service was mainly responsible.

First of all, I wish to protest against the bookkeeping which demonstrates the existence of this apparent deficit in the revenues of the Post-Office Department, amounting in the last fiscal year, in round numbers, to $14,600,000.

In point of fact, there is no deficit in the revenues of this Department. The fault is with the bookkeeping. Because of the existing system of bookkeeping the Post-Office Department is made to carry the burden that naturally and properly belongs to the other Executive Departments of the Government. I refer to the franking privilege, which is exercised not merely by the Post-Office Department, but by each of the other Executive Departments. Under this franking privilege the Post-Office Department is compelled to pay the expense of carrying the free mail matter sent out by the Agricultural Department, the Treasury Department, the Department of the Interior, the Department of War, the Department of the Navy, the Department of State, the Department of Commerce and Labor, and the Department of Justice.

Mr. WILLIAMS. This franking privilege is exercised by the legislative department also.

Mr. FOSTER of Vermont. That is true. We exercise it. It is exercised by the legislative department, and the whole expense is piled upon the Post-Office Department, and thereby it is made to appear that there is a deficit. The papers of the country exploit the tremendous deficit in the revenues of the Post-Office Department and cry out against its administration, and we are called upon to exercise better economy in connection with this Department. So we are restrained from providing reasonable compensation for the letter carriers on these rural routes.

Mr. SIMS. Mr. Chairman, I would like to ask the gentleman a question. Is it not a fact that the Government last year lost $27,000,000 in carrying second-class mail matter, of which the newspapers are the beneficiaries themselves?

Mr. FOSTER of Vermont. Yes; Mr. Chairman, my friend the gentleman from Tennessee is right; or rather, in my judgment, his estimate is too low. I believe that I can demonstrate to the satisfaction of any fair-minded man that during the last fiscal year the Post-Office Department expended nearly $30,000,000 for carrying and distributing the newspapers and magazines of the country over and above what it received from these papers and magazines.

Mr. SMALL. Mr. Chairman, I would like to state that I think the deficit for the last fiscal year was nearly $15,000,000 because of the carriage of second-class mail matter.

Mr. FOSTER of Vermont. I am attempting to show, first of all, that there is no deficit in the revenues of the Post-Office Department; that the apparent deficit is caused by the faulty bookkeeping which charges up to the Post-Office Department the $20,000,000 which is properly a portion of the expense of maintaining the other Departments of the Government, and should be charged to those other Departments. And secondly, I shall show that if this kind of bookkeeping was had in the Post-Office Department, and if then the Post-Office Department received from the newspapers and magazines of the country a fair proportion of the expense of carrying and distributing these publications, it would have a yearly surplus of at least $20,000,000.

Mr. SIMS. Mr. Chairman, I wish to call attention to the fact that the newspapers who specially emphasize the fact of this deficit are themselves the largest producers of this deficit.

Mr. FOSTER of Vermont. Again the gentleman from Tennessee is entirely right. These very newspapers that are the loudest in denouncing the Post-Office Department and Congress for the apparent deficit in the revenues of this Department are themselves beneficiaries to the extent of $30,000,000 per year.

But I repeat that if the proper method of bookkeeping obtained in the Executive Departments of the Government, the method that is employed in every first-class business establishment in the country, it would be found that there is no deficit in the Post-Office Department. In the years 1874, 1875, and 1876, as many of you know, these Executive Departments paid their own postage, and so we have a basis upon which to work out the proportion of mail matter sent out by the different Departments. It is found that during these years the average income from postage upon the mail matter sent out by these Executive Departments amounted to about 5½ per cent of the total income of the Post-Office Department from this source. Taking the fiscal year 1905 and this percentage as a basis, it is easy to figure out that the cost of carrying the mail for these various Departments for that year amounted to about $9,000,000. But this is not an accurate method of ascertaining the present cost of carrying the mail for these Departments. We have still a better one. In 1899, when there was a general weighing of the mail all over the country, pains were taken to weigh the mail which came from these various Executive Departments, and it was then found that 12½ per cent of all the mails carried by the railroads came free from these various Executive Departments. Now, figuring out the cost of carrying the mail for these various Departments for the year 1905 upon this basis, we find that it cost the Post-Office Department far more than $9,000,000. Congress from time to time since the restoration of the franking privilege to these Departments of the Government has extended the privilege. And we all know that the use of the privilege by the various Departments in sending out public documents has increased tremendously during the last few years. It is therefore safe to say that it costs the Post-Office Department annually not less than $20,000,000 to carry and distribute the mails sent out free by the legislative and other Executive Departments of the Government. But we will be entirely conservative to say that the expense of carrying all the franked matter, including that of the Post-Office Department itself, amounts to $20,000,000, and then allow $5,000,000 for the expense of carrying the franked matter of the Post-Office Department alone, and then there are $15,000,000 now charged to the Post-Office Department which in no way belongs to it, and which should be charged up to the other Departments of the Government.

Mr. WILLIAMS. Mr. Chairman, will the gentleman pardon me, but how does he arrive at the conclusion that the proportion of the cost of the Post-Office Department itself could be as much as $5,000,000?

Mr. FOSTER of Vermont. I do not for a moment concede that it amounts to any such sum, but I said that we could grant that it did cost that amount, and that, even then, there would be no deficit in the Post-Office Department.

Mr. WILLIAMS. Take, for example, the Agricultural Department. It sends out a great deal more, more than twice as much as the Post-Office Department.

Mr. FOSTER of Vermont. That is undoubtedly true, and I repeat that the more one investigates this question the more the conclusion is forced upon him that the Post-Office Department is carrying a burden of nearly, if not quite, $20,000,000 which belongs wholly to the other Departments. So, Mr. Chairman, it is perfectly apparent that instead of a deficit in the revenues of the Post-Office Department for the last fiscal year of $14,600,000, there was absolutely no deficit whatever.

And why should this vast sum, which ought to be charged up to the other Departments, be dumped upon the Post-Office

Department, and an opportunity be given to the press of the country and to the people of the country, who are unfamiliar with the circumstances and the facts of the case, to cry out against the administration of the Post-Office Department and against its deficit? We should have a new method of bookkeeping. I am not asking that the Government should return to the old method, the method in vogue in 1874, 1875, and 1876. The experience of those years would not justify our returning to the method of requiring these different Departments to pay postage upon their mail matter. But sound business principles require that each Department should have charged up against it the amount that it costs the Government to carry the free mail matter which it sends out. It is properly and absolutely a part of the expense of maintaining and running the Department. Then, too, Mr. Chairman, there is another reason why this should be done. In that way we should be able to ascertain with more definiteness what these various Departments are sending out. We should have a chance to compare the amount sent out by the Agricultural Department with that sent out by the Treasury Department, by the War Department, and by the other Departments; and we should be better able to guard against the misuse of the franking privilege by any one of these Departments.

So, Mr. Chairman, it seems to me that we may well call upon the Committee on Post-Offices and Post-Roads to report to the House a bill embodying the necessary legislation in this behalf. We are powerless to act unless they do this. We all understand that there is a large amount of work involved in preparing this annual post-office appropriation bill. But the members of the committee ought not to consider that their labors begin and end with this work. They should go further and enable the House to enact the legislation necessary for the proper adjustment, the proper distribution among the various Departments, of the expense of the franking privilege. When this is done, and the Post-Office Department is thus relieved of its apparent deficit, we can proceed to look after the needs of its employees.

We offer our various bills here and have them referred to the Committee on the Post-Office and Post-Roads. In the great majority of instances these bills are pigeonholed, and when the committee is asked with reference to them the reply is that the committee has not found time in which to consider them. You know how powerless we are to effect any general legislation in connection with this appropriation bill. The rule of the House prohibiting general legislation in connection with the annual appropriation bills is undoubtedly a wise one, but wise or unwise it is absolutely effective. Should we offer any amendment to this bill looking to the necessary legislation in behalf of this subject of the distribution of the expense of the franking privilege, the point of order would be promptly raised by the committee. I am not here to criticise the committee. We all know that it is a faithful, hard-working committee and that it exhibits great industry and careful research in the preparation of the annual appropriation bill. The members of the committee are constantly looking after the best interests of the Government and of the people whom the Post-Office Department serves. But, Mr. Chairman, we are not going to be satisfied unless the committee keeps in mind these other needs and affords us an opportunity to provide the necessary legislation to improve this service. And I was glad to hear my friend the gentleman from Pennsylvania [Mr. SIBLEY], who is a member of this committee, indicate in his instructive address that the committee intended in the near future to revise the present law respecting the postage on papers and magazines. As I indicated a few moments ago, it is apparent that the Post-Office Department expends nearly $30,000,000 in this behalf more than it receives. As this service is, in a way, for the benefit of the people, there is a propriety in the Government bearing a fair portion of this expense. But the present division is utterly inequitable. One-half of this $30,000,000 ought to be borne by the parties who send out these papers and magazines. When this is done the Post-Office Department will be a revenue-producing Department. Instead of a deficit we shall have a surplus of twenty or twenty-five millions of dollars, and we shall then be able to go forward and improve the other branches of the service.

I fully agree with the gentleman who spoke last [Mr. SMYSER] respecting the inadequate pay of the letter carriers on the rural routes. We do not pay them to-day a living wage. Seven hundred and twenty dollars is their maximum pay per year. Under the law they can not hold any other little office. The fourth-class postmaster is permitted to hold any other local office that will permit him to eke out his income, provided it does not interfere with the discharge of his duties as postmaster. But the carrier on these routes, although he may have considerable time at his disposal and is so situated that he could perform the duties of many of the minor local offices of his community, and thus add materially to his income, is not permitted to hold the most insignificant one. And we have circumscribed by law and by the rules and regulations of the Post-Office Department his privileges in the matter of earning any income outside his salary from the Government. The duties of his position are exacting. He must start out each morning rain or shine. While his task may not require the entire day, it takes so large a portion of the day as to make it impossible for him to engage in any other work. It is an expensive employment. The carrier must not only equip himself at the start with a span of horses and with a necessary vehicle, but he must maintain these horses and this vehicle.

Mr. JOHNSON. And they do not even get Christmas.

Mr. FOSTER of Vermont. No; they do not even get Christmas. Under the present arrangements they are given one or two holidays in the course of the year. But they are not permitted to enjoy Christmas as a holiday. The Government employees in the various Departments here in Washington are given thirty days leave with pay in addition to all the holidays. These rural carriers are only given one or two holidays in the course of the year. Beyond this they are not given one single day's leave of absence.

And, Mr. Chairman, there is one other matter in this connection to which I would like to call attention. We all know that every business man who has a large and diversified business takes great pains to see that each department is self-supporting. We ought to see if some means can not be devised by which these rural carriers could increase their earning power to the Government. I believe that a very simple way could be devised. Suppose we should pass a law providing for a special postal rate on packages between the post-office and the patrons on the several routes emanating therefrom. To-day if the farmer on one of these routes desires 4 pounds of nails brought him by the carrier, he can telephone the hardware man in the village, and the latter can take the package to the post-office and send it out by the rural carrier. But the postage is 64 cents, and therefore prohibitive. By making the postage on such a package 5 cents, and increasing it to 10 cents for a 10-pound package, it would be possible to greatly increase the postal business on these routes without in any way detracting from the efficiency of the service. The average weight of mail carried by these carriers probably does not exceed 50 pounds. The carrier could easily carry another hundred pounds. And I am firmly of the opinion that if the necessary legislation in this behalf was had, it would be but a short time before many of these carriers would be earning their $2 per day in carrying this extra postal matter and the service would be self-supporting. Then, again, we would hear less talk about a deficiency in the Post-Office Department because of the rural service.

Mr. SIMS. Will the gentleman allow me to ask this? Is there any especial reason why the Post-Office Department should be self-supporting? If the interests of the country require the additions to the service, is there any more reason why the Post-Office Department should be self-supporting than any other Department?

Mr. FOSTER of Vermont. There is none, whatever. The points that I have been endeavoring to make are that the Post-Office Department is, in point of fact, self-supporting, and that with a correct system of bookkeeping it would be shown to be self-supporting.

Mr. WILLIAMS. And the only self-supporting Department of the Government.

Mr. FOSTER of Vermont. Absolutely the only self-supporting Department of the Government.

Mr. SIMS. The others are all deficits.

Mr. FOSTER of Vermont. Yes; the other Departments are expenses upon the Government. The Post-Office Department is the only Department of the Government which does not cost the Government one single cent.

Mr. PADGETT. Is it not a further fact that if the Post-Office Department were credited with carrying the mails for the other Departments it would be a revenue producer?

Mr. FOSTER of Vermont. Yes. I have already stated that if these different Departments were properly charged, as they should be, with the expenses of carrying the matter they send out, then the Post-Office Department would not merely have no apparent deficit, but it would be actually shown to be a revenue-producing Department. Then we would go one step further and require the newspapers and magazines of the country to bear a fair proportion of the expense of carrying those publications, and when we have provided a proper postal rate between the

post-office and the routes emanating, respectively, therefrom, the Post-Office Department will not only be a revenue-producing Department, but one whose net revenues will amount to many millions of dollars per year.

The Post-Office Department is a great business enterprise. With all its ramifications it is one of the very greatest business enterprises in the world. It is conducted for the benefit of the people. It should be wisely and economically administered. If possible, it should be administered so that there will be no deficit. I do not mean to claim that in point of fact it should be made a revenue-producing Department. The Government should not expect to make anything out of the Post-Office Department, but it should be so administered as to afford the proper increase in its revenues to enable us to extend and develop and perfect the service and pay a living wage to every member of the vast army scattered all over this broad land and working, some by day and others by night, to transmit the messages of business and of love and of affection. [Applause.]

Mr. OVERSTREET. Mr. Chairman, I suggest that the gentleman from Tennessee occupy some time.

Mr. MOON of Tennessee. I yield forty minutes to the gentleman from North Carolina.

Mr. POU. Mr. Chairman, I shall invite the attention of this House for a short while this afternoon to a subject which is nonpartisan; and I shall repeat the request made by the gentleman from New York, that during the time I shall attempt to discuss this question I may have the attention of gentlemen who are present.

Mr. Chairman, I find in the message of President Roosevelt last year the following words:

> The power of the Government to protect the integrity of the elections of its own officials is inherent and has been recognized and affirmed by repeated declarations of the Supreme Court. There is no enemy of free government more dangerous and none so insidious as the corruption of the electorate. No one defends or excuses corruption, and it would seem to follow that none would oppose vigorous measures to eradicate it. I recommend the enactment of a law directed against bribery and corruption in Federal elections.

And again, in his message this year, the President took occasion to allude to corrupt practices which have obtained in elections in this country in the following words:

> It is entirely proper both to give and receive them (contributions) unless there is an improper motive connected with either gift or reception. If they are extorted by any kind of pressure or promise, express or implied, direct or indirect, in the way of favor or immunity, then the giving or receiving becomes not only improper, but criminal.

Again, I find that the eminent Secretary of State has also raised his voice against this vicious and indefensible practice. He used these words, speaking in the New York constitutional convention:

> The use of money has come to such a pass at the hands of both of the great political parties in this country that we find enormous contributions necessary to maintain party machinery—to conduct party warfare—and the effect is that great moneyed interests, corporate and personal, are exerting yearly more and more undue influence in political affairs.

There you have, Mr. Chairman, in two messages from the President of the United States, an emphatic recommendation in favor of the passage of some law which will put an end to what I believe to be the greatest blot upon the good name of this American nation. You find his Secretary of State, one of the most eminent men in the Republic, supporting the President in the most emphatic manner by the declaration I have read.

The other day I sent to the Committee on the Election of President and Vice-President a request that I be furnished with such bills as have been introduced for the purpose of putting an end to this practice. I find that nine bills have been introduced, some of them by Democrats and some by Republicans; some requiring publicity and a statement setting forth in detail the amounts contributed, who contributed it, and how it was expended. Other bills go a little further and make it unlawful for any corporation to contribute money intended to affect the result of an election.

Now, Mr. Chairman, I undertook to draw a bill which I believe is conservative, which I believe ought to pass. I am not an extremist generally about anything, and I thought that in view of the recommendation of the President of the United States, in view of his well-known attitude with respect to this practice, considering the admitted existence of the evil, the committee having in charge these bills should at least report favorably a bill making it unlawful for a corporation subject to the jurisdiction of the laws of the United States to give away the stockholders' money without the consent of every stockholder interested. Probably a stronger bill should be reported, but it seems to me that bill, so moderate and just, ought to pass, and I am sounding the alarm here this afternoon. Here are nine bills before that committee, and I am informed that the chairman of the committee having them in charge can not be induced to take action with respect to a single one. I may do him an injustice in making this assertion, but this is my information.

Mr. RUCKER. Will the gentleman permit an explanation?

Mr. POU. Certainly.

Mr. RUCKER. I want to say that I am a member of the committee to which the gentleman has reference, and that every Democratic member of that committee and some of our colleagues on the other side have been diligently trying to induce the chairman to permit us to meet and vote on these very bills, indorsed by the President of the United States, introduced by Members of this House.

Mr. POU. I am glad that my distinguished and good friend from Missouri has exonerated at least the minority of that committee, and I am glad to hear from him the statement that there are Republicans on that committee who favor the enactment of some law similar to those bills as well as the Democrats, because I declare to you, Mr. Chairman, that this question is above every party and above all parties. The very life of the nation is involved in this corrupt practice, which has been already tolerated too long. [Applause.] The strange thing to me is that men who claim to be honest, and who are honest in every other respect, quietly and without protest permit these things to go on, when every thinking man must know that unless an end is put to this corrupt practice, sooner or later the Government itself, the greatest ever built up by man, may be overthrown in the disaster sure to follow.

Now, Mr. Chairman, I want to point out the danger of allowing this practice to continue. We are told, upon what seems to be good authority, that in the campaign of 1904 $1,900,000 were used. I say this, I do not believe that much money ever was used honestly in any one campaign. I am not going to be personal. I am not going to charge anybody with wrongdoing, because I do not know; but I do say that I do not believe any political party can have an honest use for $1,900,000 in one campaign.

Now, I do not care which way that cuts. I do not care whether it comes back home to my party or not, and I am here ready to admit that the guilt of either political party is probably limited only by the amount of money its agents can raise.

Let us be fair about this discussion. In 1900 $2,800,000 were used, so we are told upon what is accepted as good authority. In 1896, that year of all years, when some of the officers of these insurance companies were trying to save the honor of the nation by stealing the money that belonged to widows and orphans, trying to save the country from the disaster of the election of W. J. Bryan by robbery and theft that ought to put them in stripes—we are told that in that year $3,800,000 were used by the Republican national committee alone.

They go back to 1892, the year when a Democratic President was elected, and they tell us that in that year $4,100,000 were used. I want to say, Mr. Chairman, that that may be true or it may not be true. If it is true, I have no defense for it under the sun. I regret it with all my heart and soul; but I want to say that I do not believe that in any campaign that has ever been fought out in this country, before or since, was there as much money used as there was in the campaign of 1896. [Applause.] I will say further that I am just as confident that in 1896 the election of Mr. Bryan was prevented by bribery and fraud as I am that I am living here to-day. [Applause on the Democratic side.] Our Republican friends hardly deny this in private conversation.

Now, Mr. Chairman, the narrow margin that exists between the two political parties constitutes an ever-present temptation for the use of money. The men skilled in politics, the professional politician, the machine politician, the man who makes a business of politics, the gentleman who becomes an expert in producing results by the use of money, this man—for whom I have always had a profound contempt—this man always knows where the weak points are, knows where the votes are needed, and the result of it is that the money is always forthcoming from the interests which want and need protection in the halls of Congress. Respecting the statement of the President, whom I highly respect, that contributions are entirely proper unless there is an improper motive connected with either the gift or the reception, I will submit that contributions which have no such motive behind them are very small and seldom made at all.

Now, Mr. Chairman, at some pains I have investigated the narrow margins that have divided the two political parties since the year 1876. In that year Mr. Hayes received a majority of 1 in the electoral college. He received 185 votes, while Mr. Tilden received 184. That is to say, Mr. Hayes got 185 votes after the Electoral Commission had done its work. In that election the defeated candidate received a majority of

the popular vote. Mr. Tilden's plurality was 250,807, or only a little less than 3 per cent of the entire vote cast. But, Mr. Chairman, in that election a change of 529 votes in one State would have elected Mr. Tilden, notwithstanding the Electoral Commission.

In 1880 General Garfield received only 9,464 votes more than his opponent, General Hancock. He received nothing like a majority of all the votes cast. He received a majority of 51 in the electoral college, but a change of 10,517 votes in one State only would have elected General Hancock and defeated General Garfield.

In 1884 the defeated candidate, Mr. Blaine, again received a trifling plurality in the popular vote; he received 25 votes more than his opponent, but was defeated in the electoral college by a majority of 37, and yet a change of 575 votes in one State alone would have changed the result of the election and conferred the great office on Mr. Blaine.

Coming down to 1888, again the defeated candidate received a plurality of 100,496 in the popular vote. This was a little less than 1 per cent of the entire vote cast. In the electoral college Mr. Harrison received a majority of 65, but a change of 6,502 votes in one State would have changed the result in that election.

In 1892 the successful candidate, Mr. Cleveland, received a plurality of 380,822, or about 3.17 per cent of the entire vote cast, and also received a majority of 110 in the electoral college; but a change of 26,322 in two States would have changed the result of that election.

Now, Mr. Chairman, we come to the year 1896, the year which was a Waterloo for the Democratic party. In that year the successful candidate received a majority of all the votes cast. His plurality was 819,952 votes, nearly a million. The plurality was overwhelming, and Mr. McKinley received a majority of 95 in the electoral college. But even in that election the change of 31,756 votes in four States would have elected Mr. Bryan and would have defeated Mr. McKinley.

In 1900 again the successful candidate, Mr. McKinley, received a majority of 456,259. But a change of 99,132 votes in four States would have made Mr. Bryan President even in 1900.

I have not examined the figures in the last election, but I present these figures for the purpose of showing what a slight difference in the popular vote will change the entire result. It is easier to raise money now than it was forty years ago. The wealth of our country has become so great and the interests of certain individuals have become so vast that the amount of money required to accomplish a desired result is hardly a consideration. Millions to-day are almost as common as thousands were half a century ago. The wealth of the United States in 1860 was $16,159,616,000; in the year 1900 it was six times as great, or $94,300,000,000. In 1860 the population of the United States was a little over 31,000,000, and in 1900 it was a little over 76,000,000. Therefore, while the weath of our country has increased six fold, our population has increased only two and one-half fold. The margin between the two great political parties since 1876, except in three elections, has been perhaps smaller than during any other period of equal length in the life of the Republic. The great increase in wealth has largely found its way into the hands of a few men. It is therefore easier to raise large campaign funds, and the temptation to use this money is correspondingly greater. I do not belong to that class—if there is such a class—who envy the man who is more fortunate in the possession of the world's goods than I am, and I give these figures, not for the purpose of arousing any feeling against the very wealthy, if it were possible for me to do so, but solely to sustain my argument and to show how easy it is for a few men to raise enough money to actually buy the result in an election.

The most reliable work, probably, on the subject of the concentration of wealth is that published by Rufus Cope in 1890. He quotes, with qualified indorsement, certain statistics prepared by Thomas G. Shearman in 1889. At that time the wealth of the United States was sixty-one and one-half billions of dollars. Two persons owned $300,000,000; 5 persons owned $500,000,000; 1 person owned $70,000,000; 68 persons owned $2,700,000,000; 70 persons owned 4 per cent, or one twenty-fifth of the entire wealth of the nation; 845 families, or about one fifteen-thousandth of the population owned one-eighth of the total wealth; less than one fifteen-hundredth owned three-sevenths of the total wealth, and one thirty-fourth of the population owned more than 70 per cent of the entire wealth of the country. Now, it has been repeatedly stated—and we all know that the newspapers publish nothing but the truth [laughter]—it has been stated repeatedly that there are four men in this country of ours whose aggregate wealth exceeds $1,000,000,000. For myself I am inclined to believe the statement is true. If it is true, it would require fifty-two trains, each with thirty cars, and each car loaded with 40,000 pounds of silver, to convey the wealth of these four men from one place to another.

Mr. Chairman, when we know that men are weak, when we know that votes can be bought, when we know that vast interests are at stake in every election, and when good men tolerate these corrupt practices without protest, is it strange that these millionaires do not hesitate to protect themselves by contributions of enormous sums for campaign purposes? In the year 1896 one insurance company gave $15,000 of money that belonged to whom? To the man that gave it? Not at all, but to me and to you and to other men who have policies in that company. I happen to be one of the unfortunate individuals. The officers of this insurance company stole that much money, part of which belonged to me, to help elect William McKinley President of the United States. In 1900 they stole $35,000 more. Why they wanted to steal it 1904 surpasses my comprehension, because I made quite a number of speeches in that campaign and talked with many well-informed persons, and I found nobody who thought that Theodore Roosevelt was in any danger of defeat at any time during the campaign. But, Mr. Chairman, in 1904 these same insurance officers went down into the coffers of their company and took $42,500 and contributed that money to Mr. Cortelyou to help elect Theodore Roosevelt President of the United States—committed a crime, because it was a crime, a moral crime if not a legal crime.

No wonder, Mr. Chairman, that the people are clamoring and that certain legislation longed for, prayed for by the millions who toil, encounters so many obstacles along the legislative pathway blazed out by the Republican party. No wonder that we are at the present time witnessing a struggle in the other end of this building between the railroads on the one hand and the people on the other. [Applause on the Democratic side.] No wonder that a cry is going up all over this country from the consumers that something be done to raise the burdens of the protective tariff, while $400,000,000 worth of goods are sent across the water every year and sold cheaper over there to Hottentots and to foreigners than the same goods are sold to our own people. No wonder the people want to know why something can not be done to remedy this evil. No wonder that, with hundreds of trusts violating the law every day in the year, the people are asking why it is more effective legislation is not put upon the statute books. I will tell you where I believe the trouble can be found. During every campaign these great interests take particular care to fix themselves with the political party they believe is going to be successful. Why did the Mutual Life Insurance Company give Mr. Cortelyou $42,000? Does anybody think the gift was prompted by a proper motive? No, Mr. Chairman; that money was given to put the Republican party under obligations to that company.

During my three terms in Congress not a single law has been passed which, in my humble judgment, was seriously opposed by the moneyed interests of the country. Everybody knows the trusts are violating the law every day in the year. Everybody knows that they fix the price of what they buy as well as what they sell.

Let us put a law upon the statute books which will make these contributions unlawful. Let us make this law plain and explicit. If it puts a Democrat in the penitentiary, for one, I favor the enactment and enforcement of such a law, and I submit that the time has come when men of all political parties should unite to pass a law which will purify the political atmosphere. Now, Mr. Chairman, when a few men raise a large sum of money and a sufficient number of votes are thereby changed to cause the election of certain candidates, such result is not the expression of the will of the people, but it is a result bought with money. It is not the administration of the people, but the administration of money. Men elevated to public position by this means are not the servants of the people. Unless they are possessed of rare virtue and almost superhuman strength of character they will primarily represent those who contribute to their election. Popular government ends and plutocracy is enthroned in power. The small percentages which change results and the weakness of poverty constitute an ever-present temptation to debauch the American electorate.

This is not a partisan question, I repeat, Mr. Chairman, but it is a great national problem which should engage the thought of every man who loves his country. The perpetuity of American institutions is involved; the liberty of the American citizen is involved; the happiness of posterity is involved; the Republic itself is involved. Everything which liberty-loving people cherish is at the mercy of this vicious practice. Shall this crime become respectable because all parties are guilty of it? Shall one party justify by charging that the other is guilty? Does the practice cease to be evil because it has be-

come universal? Shall all protests be laughed to scorn? Has purity of purpose become impractical in the most important of all American institutions? God forbid! Mr. Chairman, an effectual way by which an end can be put to this practice is by political parties nominating for office only men who refuse to act as brokers in the distribution of these corrupt funds. Aye, more than this. The machinery of a great political party should be operated only by men who refuse to distribute stolen funds—embezzled funds. Good men everywhere should refuse to follow the lead of men who accept for political purposes money stolen from the fund which honest men have set apart for their wives and children. Let political parties refuse to put their machinery in the hands of men of shady reputation. Let the machine politician be put out of business.

Now, Mr. Chairman, I have about concluded what I had intended to say. I rose here this afternoon for the purpose of reminding the country that the President of the United States has demanded this legislation in two messages; for the purpose of reminding the country that bills covering almost every phase of this evil have been introduced, have been referred to the Committee on Election of President and Vice-President, and I call upon that committee to act—to do something. Either say you are for these bills or against them; act one way or the other, and let the country know where you stand, and do not let this Congress adjourn with these bills sleeping in the archives of your committee.

Mr. RUCKER. Mr. Chairman——

The CHAIRMAN. Does the gentleman from North Carolina yield?

Mr. POU. With pleasure.

Mr. RUCKER. I would like to ask the gentleman how can members of this committee who are anxious to vote vote when they can not get a meeting. Please tell us that?

Mr. POU. You give me a nut too hard to crack. You are beyond me. Mr. Chairman, it seems that the minority of the committee is ready to act. Then I should say that the responsibility is upon the majority.

Mr. RUCKER. I want to be fair about it. I believe there are gentlemen of the majority who will vote with the minority at any time to pass some of these bills.

Mr. POU. Then, Mr. Chairman, I am glad that this discussion has fixed the responsibility where it properly belongs. There is somebody responsible for delay in this legislation.

Mr. WILLIAMS. Mr. Chairman, I am not certain of it, but I heard once upon the floor of this House from a Member several Congresses ago that a committee could, if it chose, elect a chairman when it was decided that the man who happened to be the first named from the Speaker's list——

Mr. RUCKER. Mr. Chairman, I never knew before—the gentleman never gave me the advantage of his long experience and great learning—that a committee could select its chairman.

Mr. WILLIAMS. Mr. Chairman, I did not give that as my statement; I merely say I myself heard that suggestion, and do not know whether that is so or not.

Mr. RUCKER. So far as I am concerned, I am ready to vote at any time to change the chairman and put somebody else at the head of that committee who will give an opportunity at least once a month for us to express ourselves upon these great questions.

Mr. WILLIAMS. Mr. Chairman, if the gentleman will pardon me, one other question. Has the committee a regular meeting day?

Mr. RUCKER. No; nor an irregular one, either.

Mr. WILLIAMS. I was going to say that if it has a regular meeting and there is a quorum present, whether the chairman is there or not, the committee can proceed.

Mr. RUCKER. But we have no regular or irregular meeting.

Mr. SIMS. May I ask the gentleman from North Carolina whether the amount he has mentioned as being spent in these respective campaigns is money spent through the national committees?

Mr. POU. I am glad my friend called my attention to that. The amounts named were expended, so I am informed, by the national committees of the two parties.

Mr. SIMS. Is it not a fact that vast amounts are spent that do not come through the national committees?

Mr. POU. Undoubtedly. The amount is so vast, Mr. Chairman, that nobody can compute with any degree of certainty how great and vast it is. I am obliged to my friend from Tennessee for calling my attention to that.

Now, Mr. Chairman, just one word in conclusion. Four years ago I sounded this alarm. I was laughed at. Newspapers made fun of me. At the very moment the newspapers were trying to poke fun at me the officers of these insurance companies were stealing the money which belonged to policy holders to aid in defeating W. J. Bryan, one of the purest men in public life. [Applause on the Democratic side.]

Mr. Chairman, at one time in the history of the world there was a man who kept rising up in the greatest legislative body then in existence to warn his people of a constant menace to their liberties. If I have not gotten my history mixed, Cato the Elder wound up every speech with the words "Carthago delenda est"—Carthage must be destroyed. At last Carthage was destroyed. I do not know how long I will be permitted to remain in this body, but so long as I am a Member, just so long as the constituency I am proud to represent continues to send me here, I will continue to sound this alarm, utterly indifferent to all ridicule, until something is done one way or the other, or until I am silenced by a return to the shades of private life. [Loud applause.]

Mr. MOON of Tennessee. I yield to the gentleman from Massachusetts.

Mr. KELIHER. Mr. Chairman, from the time when the venturesome sons and daughters of the Old World, impelled by ambition to improve their condition in life, began to migrate in any numbers to these United States their admission has been opposed by an inhospitable element whose size has fluctuated, combativeness abated at times, and influence frequently waned, but whose voice has never been hushed.

It fairly shrieked against the admission of the hardy visitors of sixty years ago, who, anxious to toil, came at a time when the young nation yearned for sturdy hands to hew the timber and clear the way into the great West, and capital in the East eagerly sought labor with which to prosecute great public projects. Notwithstanding that time has proven the folly of their reasoning, they still keep up the cry which has been taken up by the majority party. A great alarm has been sounded by the Republicans warning the people against the invasion of foreign enemies in the form of immigration, and with an alacrity and willingness that would win approbation if exercised against the tariff evils they start to build legislative walls that will halt the progress of the immigrant. Our naturalization laws, too, are to be remolded.

Radical changes will be wrought in our naturalization system unless there can be aroused sufficient interest to cause the Members of the House to carefully examine into the provisions of the bill now pending. It is my intention to-day to confine myself strictly to a discussion of the measure before the House, which proposes many remarkable changes in the method of naturalization. Against many features of the bill I propose to briefly address a few objections, with little hope of pausing the majority in its desire to hamper the alien's ambition to obtain citizenship. Undoubtedly one of the most perplexing problems with which the governor has to cope is that of the subject of naturalization.

It is apparent to everyone who has given a serious thought to the matter that our present laws are lamentably inadequate in preventing gross frauds in naturalization. I think that we are unanimous in the opinion that some change is necessary; that something ought to be done; that laws ought to be enacted which will bar the door of American citizenship to the perjurer, and the professional applicant, who for a price impersonates would-be citizens, and which shall insure the bringing to an end of the flourishing business of the dealer in citizenship papers, who sells his ill-gotten wares for magnificent prices to customers in Europe and the Orient, who covet the paper that permits them to masquerade as citizens of this country and guarantees the protection of its strong arm.

All these frauds are possible because of the great difficulty of apprehending the violators under our present laws. House bill No. 15442, reported by the Committee on Immigration, contains provisions which will unquestionably remedy these more dangerous abuses from which the country now suffers. Had the committee confined themselves to prescribing for the disease which weakens our naturalization laws it would have commanded the support of the entire House. But, like most bodies intrusted with the duty of formulating remedial legislation, it has fallen into the way of undertaking too much. It has gone too far. Instead of stopping with its commendable efforts of drafting a law that will unquestionably prevent fraudulent naturalization by perjury and impersonation it has tinkered with the whole system, offering remedies that are not only not required, but will prove harmful in the long run.

It has challenged the opposition of a great many by establishing an educational feature, by depriving certain courts of jurisdiction, and by reporting an uncalled-for and unreasonable increase in the naturalization fee. For long over a hundred years the world has marveled at the unparalleled development of this magnificent nation of ours. This wonderful growth has been due in no small degree to the humane policy that allows the

oppressed of the world to land on our shores, and to the spirit of friendliness in which we invite them to join our common citizenship. [Applause.]

All we have asked them to do precedent to embracing citizenship is to indicate an intention of remaining with us by establishing a residence and later forswearing allegiance to the head of the government they had left. Under this humane policy our citizenship has expanded amazingly and our social and economic prestige and influence increased correspondingly. To sustain this proposition I need neither marshal statistics nor invoke the utterance or writing of a single philosopher, historian, or statesman. The magnitude, power, and grandeur of the nation are monuments which the toil, thrift, and patriotism of the immigrant contributed no small share in erecting. If an abundance of good and very little harm has come of absorbing into our citizenship these worthy foreigners, is there any need of alarm? Why not let well enough alone? We are agreed, all of us, upon the sound proposition that that alien who embraces citizenship is the most desirable. This being so, obviously it is sound policy to convert as many as we can into citizens. This can not be done with any degree of success if you insist in erecting a barrier in the path to naturalization which the alien will find impossible to get over.

How much better to allow him to enroll in our great book of citizenship, even if, having been denied an opportunity to educate himself under an unwholesome monarchical government, he is incapable of reading and writing. While I believe it unwise to make lack of education an obstacle in the way to citizenship, I am unswervingly opposed to extending the ballot to a citizen, newly made or one long in the enjoyment of this great privilege, who can not read and write. [Applause.]

At least this much education ought to be a prerequisite to voting. The ambition of almost every alien who becomes a citizen is to exercise the voting right. Make him a citizen and he will strive to acquire sufficient knowledge to qualify for the ballot. Citizenship adds zest to the desire to acquire the voting franchise. So far as we in Massachusetts are concerned, the imposition of an educational feature will not affect us in the slightest. Under the laws of our Commonwealth no man can vote who is unable to read our constitution and write his name. We find that this law works well. Our ballot is of such a character that it requires a knowledge of reading to intelligently vote it. The matter of limiting the courts that may naturalize I am not going to discuss, for I know it will be pointed out, and effectively so, that this will work a great deal of harm. To the provision of the increase in the naturalization fee I desire to enter a most emphatic protest. This bill provides a fee of $11. Just think of it! Eleven dollars represents a great sum to the poor alien whose first obligation is to his family and, as strong as may be his ambition to join our citizenship, he will be forced to surrender the hope when confronted with the payment of what is practically a prohibitive fee, as is this one. [Applause.]

In Massachusetts it costs $3 to be naturalized. Do you think it likely that a raise to $11 will prove an incentive to become a citizen? Undoubtedly not. We want all the aliens in our country we can get to become naturalized. He reckons soundly who does so from the premises that citizenship awakens in the former alien a keener interest, deeper love, and stronger pride in the institutions of our country. The establishment of a fee of the size fixed in the bill will minimize naturalization. It is unwise to argue that because the payment is made in three installments the burden will not fall heavily. The prospective applicant learns that it will cost $11 and will abandon the idea of becoming a citizen. It is a mistake, a grave mistake, which I trust the House will remedy. It is like inviting a man to your home and when he is seen coming bolting the door and turning a deaf ear to his knock for admission.

Believing that this unwarrantable increase in the naturalization fee will deter no end of aliens who would make desirable citizens from becoming so, I intend to offer amendments which will place the aggregate fee at $3. By rendering citizenship practically impossible of attainment by the alien who has the desire you will recruit the ranks of that dangerous element in society which is made up of those who have no voice in our Government, interest in her institutions, or concern in her welfare. [Applause.]

Let us pause before we add to this class, and add to it we surely will if we place beyond the reach of the humble that which insures equal opportunity and advantage—American citizenship. They come here in great numbers 'tis true, but each one contributes an economic value that sooner or later inures to the benefit of the country. Their fellow-countrymen came before them and aided materially in the upbuilding of the nation. They come with the same intention and should be welcomed not only to land, but in due time allowed to embrace citizenship under reasonable conditions. What would have been the effect upon the country if, sixty years ago when the great stream of immigration from Ireland and Germany were directed here, an unwise Congress had harkened to the hysterical appeals of that narrow element that then insisted that our doors be closed upon the newcomers? Having landed, suppose the right of citizenship had been denied these strangers who had come in the prime of sturdy manhood to mingle and become a part of the people of this land, do you think they would have proven such a valuable acquisition to the nation as they unquestionably have? Is it likely that they would have contributed so liberally to the prosperity of the country? Would they have rallied in such numbers and with such patriotism and valor to the cause of the Union in the gloomy days of its adversity, when the nation's life was in jeopardy, had they been forbidden by obnoxious laws to blend with our citizenship?

Thanks to the wisdom and foresight of the nation's guides of those early days they were admitted to our midst, and not only were they completely assimilated, but the blood of our body politic enriched and its physical and mental strength increased till it assumed the stature of a giant among the nations of the world. In spite of this, there are those—and the proponents of this measure are among them—who ignore the lesson of the past and lend willing ears to the advice of the busy few who advocate this doubtful policy that our worthy predecessors ever repudiated. Come these immigrants will, for a natural law, which is far stronger than social and economic laws, attracts them, and legislation can not be devised which will prove successful in keeping them from the land they have dreamed of reaching. Welcome them in the proper spirit, not with laws that proscribe. There is ample room and abundant work to be done. Let those who are endowed with the physical capacity to work and evince the proper spirit come in and share the blessings the Almighty has so generously showered upon our land. Let them share alike our adversity and prosperity, not as aliens, but full-fledged citizens in entire sympathy with our history and institutions and with an abiding interest in the nation's advancement along every line of progress. [Loud applause.]

Mr. OVERSTREET. I suggest to the gentleman from Tennessee whether he does not think this is a good time for the committee to rise.

Mr. MOON of Tennessee. I do.

Mr. OVERSTREET. I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. SHERMAN, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 16593, and had come to no resolution thereon.

PLACE ON CALL OF COMMITTEES.

Mr. GREENE. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries be placed on the list of committees that are passed without prejudice.

The SPEAKER. The gentleman from Massachusetts asks unanimous consent that the Committee on Merchant Marine and Fisheries be placed on the list of committees passed without prejudice. Is there objection? [After a pause.] The Chair hears none.

ACCOUNTS OF UNITED STATES POSTAL AGENT AT SHANGHAI, CHINA.

By unanimous consent, change of reference was made of House resolution 393 from the Committee on Foreign Affairs to the Committee on Expenditures in the State Department.

THOMAS J. LINDSEY.

The SPEAKER laid before the House the bill (H. R. 11129) granting an increase of pension to Thomas J. Lindsey, with a Senate amendment; which was read.

Mr. KEIFER. Mr. Speaker, I move that the amendment of the Senate be concurred in.

The motion was agreed to.

JAMES D. HUDSON.

The SPEAKER laid before the House the bill (H. R. 11536) granting an increase of pension to James D. Hudson, with a Senate amendment; which was read.

Mr. DIXON of Indiana. Mr. Speaker, I move that the House concur in the Senate amendment.

The motion was agreed to.

UNITED STATES DISTRICT AND CIRCUIT COURTS AT EVANSTON, WYO.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent for the present consideration of the following Senate bill.

The Clerk read as follows:

A bill (S. 535) to amend and reenact section 1 of chapter 77 of volume 27 of the United States Statutes at Large, being "An act to provide

for a term of the United States circuit and district courts at Evanston, Wyo.," approved May 23, 1892.

Be it enacted, etc., That section 1 of chapter 77 of voluume 27 of the United States Statutes at Large, being "An act to provide for a term of the United States circuit and district courts at Evanston, Wyo.," approved May 23, 1892, be, and the same is hereby, amended and reenacted so as to read as follows:

"That hereafter and until otherwise provided by law there shall be held annually, on the second Tuesday in July each year, a term of the circuit and district courts for the district of Wyoming at the town of Evanston, in said district, said term to be in addition to the terms now required by law to be held at the city of Cheyenne, in said district."

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The bill was ordered to a third reading, read the third time, and passed.

On motion of Mr. MONDELL, a motion to reconsider the vote by which the bill was passed was laid on the table.

JOHNSON COUNTY, WYO.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 16521) directing the Secretary of the Interior to convey a certain parcel of land to Johnson County, Wyo.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to convey and sell to the county of Johnson, in the State of Wyoming, for a poor farm, the following-described tract of land, to wit: The northeast quarter of the northwest quarter and the north half of the northeast quarter of section 8, and the northwest quarter of the northwest quarter of section 9, in township 50 north of range 82 west, upon the payment by said county of the sum of $1.25 per acre for the said lands.

With the following amendments:

In line 4, page 1, strike out the words "and sell;" and in the same line and page, immediately preceding the word "convey," insert the words "sell and."

The SPEAKER. Is there objection?

There was no objection.

The amendments were agreed to.

The bill as amended was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

On motion of Mr. MONDELL, a motion to reconsider the last vote was laid on the table.

By unanimous consent, the title was amended so as to read: "A bill directing the Secretary of the Interior to sell and convey a certain parcel of land to Johnson County, Wyo."

SHILOH NATIONAL PARK.

Mr. CANDLER. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 16125) granting to the Corinth and Shiloh Electric Railway Company a right of way and authority to construct a track or tracks through the Shiloh National Park, and to operate electric cars thereon.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of War is hereby authorized, at his discretion, and upon the favorable recommendation of the Shiloh National Park Commission, to grant a right of way to the Corinth and Shiloh Electric Railway Company and authority to lay a track or tracks through the Shiloh National Park, and to grant such other concessions as may be necessary to permit the said Corinth and Shiloh Electric Railway Company to lay said track or tracks and operate electric cars through said park: *Provided*, That such grant or grants shall only become or be operative on the condition that the track or tracks and roadbed of the said Corinth and Shiloh Railway Company, and the right of way for any and all extensions of the road of the said company to and through the said national park, shall first be definitely fixed and located upon a line or lines which shall be satisfactory to and approved by the said Shiloh National Park Commission, and no part of said line or lines of road, after being so located, established, built, or constructed, shall be changed, moved, or extended without the consent in writing of said Commission thereto being first had and obtained, and upon the further condition that an agreement satisfactory to the said Commission and approved by it shall be entered into on the part of the said railway company for the proper maintenance of said track or tracks and its roadbed, and to keep same at all times in proper repair and condition.

With the following amendments:

Strike out the following on page 1, lines 5 to 10: "grant a right of way to the Corinth and Shiloh Electric Railway Company and authority to lay a track or tracks through the Shiloh National Park, and to grant such other concessions as may be necessary to permit the said Corinth and Shiloh Electric Railway Company to lay said track or tracks" and insert in lieu thereof "permit and license the Corinth and Shiloh Electric Railway Company to lay a track or tracks through the Shiloh National Park."

In the proviso, page 1, line 11, strike out the words "grant or grants" and insert "license and permit."

On page 2, line 5, after "approved by the said Shiloh National Park Commission and," insert "the Secretary of War in writing, and."

Page 2, at end of line 8, after "of said commission," insert "and said Secretary."

In line 11, after "approved by it," insert "and said Secretary of War."

At the end insert "and said license and permit, and all rights of said company thereunder, shall be terminable by the Secretary of War, in whole or in part, at any time without compensation."

The SPEAKER. Is there objection?

There was no objection.

The amendments were agreed to.

The bill as amended was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

On motion of Mr. CANDLER, a motion to reconsider the last vote was laid on the table.

By unanimous consent, the title of the bill was amended by striking out the word "granting" and inserting the words "authorizing a license and permit."

BLACK HILLS FOREST RESERVE.

Mr. LACEY. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 17756) to provide for the entry of agricultural lands within the Black Hills Forest Reserve.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of Agriculture may, in his discretion, and he is hereby authorized, upon application or otherwise, to examine and ascertain as to the location and extent of lands within the Black Hills Forest Reserve which are chiefly valuable for agriculture, and which, in his opinion, may be occupied for agricultural purposes without injury to the said forest reserve, and which are not needed for public purposes, and may list and describe the same by metes and bounds, or otherwise, and file the lists and descriptions with the Secretary of the Interior, with the request that the said lands be opened to entry in accordance with the provisions of the homestead laws and this act.

Upon the filing of any such list or description the Secretary of the Interior shall declare the said lands open to homestead settlement and entry in tracts not exceeding 160 acres in area and not exceeding 1 mile in length, at the expiration of sixty days from the filing of the list in the land office of the district within which the lands are located, during which period the said list or description shall be prominently posted in the land office and advertised for a period of not less than four weeks in one newspaper of general circulation published in the county in which the lands are situated: *Provided*, That any settler actually occupying and in good faith claiming such lands for agricultural purposes prior to January 1, 1906, and who shall not have abandoned the same, and the person, if qualified to make a homestead entry, upon whose application the land proposed to be entered was examined and listed, shall, each in the order named, have a preference right of settlement and entry: *Provided further*, That any entryman desiring to obtain patent to any lands described by metes and bounds entered by him under the provisions of this act shall, within five years of the date of making settlement, file, with the required proof of residence and cultivation, a plat and field notes of the lands entered, made by or under the direction of the United States surveyor-general, showing accurately the boundaries of such lands, which shall be distinctly marked by monuments on the ground, and by posting a copy of such plat, together with a notice of the time and place of offering proof, in a conspicuous place on the land embraced in such plat during the period prescribed by law for the publication of his notice of intention to offer proof, and that a copy of such plat and field notes shall also be kept posted in the office of the register of the land office for the land district in which such lands are situated for a like period; and further, that any agricultural lands within said forest reserve may, at the discretion of the Secretary, be surveyed by metes and bounds, and that no lands entered under the provisions of this act shall be patented under the commutation provisions of the homestead laws, but settlers, upon final proof, shall have credit for the period of their actual residence upon the lands covered by their entries: *Provided further*, That the Secretary of Agriculture may set aside such forest-reserve lands as were not occupied by a bona fide settler January 1, 1906, when he considers them necessary for forest-reserve administrative purposes, which lands so set aside shall be listed in the local land office and shall not be subject to settlement entry or location under the public-land laws during the life of the said forest reserve, or until such lists are revoked by the Secretary.

SEC. 2. That settlers upon lands chiefly valuable for agriculture within said forest reserve on January 1, 1906, who have already exercised or lost their homestead privilege, but are otherwise competent to enter lands under the homestead laws, are hereby granted an additional homestead right of entry for the purposes of this act only, and such settlers must otherwise comply with the provisions of the homestead law, and in addition thereto must pay $2.50 per acre for lands entered under the provisions of this section, such payment to be made at the time of making final proof on such lands.

SEC. 3. That all entries under this act shall be subject to the quartz or lode mining laws of the United States and the laws and regulations permitting the location, appropriation, and use of the waters within the forest reserves for mining, irrigation, and other purposes; and no titles acquired to agricultural lands under this act shall vest in the patentee any riparian rights to any stream or streams of flowing water within said reserve; and that such limitation of title shall be expressed in the patents for the lands covered by such entries.

SEC. 4. That no homestead settlements or entries shall be allowed in that portion of the Black Hills Forest Reserve in Lawrence and Pennington counties in South Dakota except to persons occupying lands therein prior to January 1, 1906, and the provisions of this act shall apply to the said counties in said reserve only so far as is necessary to give and perfect title of such settlers or occupants to lands chiefly valuable for agriculture therein occupied or claimed by them prior to the said date, and all homestead entries under this act in said counties in said reserve shall be described by metes and bounds survey.

SEC. 5. That nothing herein contained shall be held to authorize any future settlement on any lands within said forest reserve until such lands have been opened to settlement as provided in this act, or to in any way impair the legal rights of any bona fide homestead settler who has or shall establish residence upon public lands prior to their inclusion within said forest reserve.

The SPEAKER. Is there objection?

Mr. JONES of Washington. Mr. Speaker, I should like to ask the gentleman a question.

Mr. LACEY. Certainly.

Mr. JONES of Washington. As I understand this, it applies only to the Black Hills Forest Reserve.

Mr. LACEY. That is correct. There are two bills on the Calendar, one a general bill, and the other this special bill limited to the Black Hills Forest Reserve. The general bill produced some discussion in the committee, and as there was no opposition to the present bill it is proposed to pass this one, limited to this one forest reserve. The general bill, however, is on the Calendar, so that if it is desired to have it passed it can be done.

Mr. JONES of Washington. It seems to me we ought to have some general legislation, as there is a demand for it. The committee, I understood, were considering it.

Mr. LACEY. We have considered it and reported it, but there being no opposition to this bill, and there being some question about the other bill, the gentleman from South Dakota [Mr. MARTIN] was quite anxious to secure the enactment of this particular bill.

Mr. JONES of Washington. I should like to see some general legislation along this line.

The SPEAKER. Is there objection?

There was no objection.

The bill was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

On motion of Mr. LACEY, a motion to reconsider the last vote was laid on the table.

COMMITTEE ON LABOR.

Mr. GARDNER of New Jersey. Mr. Speaker, I ask unanimous consent for the present consideration of the resolution which I send to the Clerk's desk.

The Clerk read as follows:

Resolved, That the Committee on Labor be authorized to have printed and bound whatever papers and documents in connection with the subjects under consideration by the committee may be necessary for the transaction of its business.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The resolution was agreed to.

Mr. OVERSTREET. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

Accordingly (at 4 o'clock and 46 minutes p. m.) the House adjourned until Monday, April 9, at 12 o'clock meridian.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred as follows:

A letter from the Secretary of the Interior, transmitting, with a copy of a letter from the governor of Alaska, papers relating to the claim of Dr. S. I. Stone and Miss Lulu Burt—to the Committee on Claims, and ordered to be printed.

A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Tyaskin Creek, Maryland—to the Committee on Rivers and Harbors, and ordered to be printed, with accompanying illustrations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. LITTLEFIELD, from the Committee on the Judiciary, to which was referred the bill of the House H. R. 17572, reported in lieu thereof a bill (H. R. 17880) making penal certain acts when committed within the territorial and maritime jurisdiction of the United States and prescribing the punishment therefor, accompanied by a report (No. 3013); which said bill and report were referred to the House Calendar.

Mr. PARKER, from the Committee on the Judiciary, to which was referred the bill of the House (H. R. 17501) to amend section 169 of the Revised Statutes of 1878, reported the same with amendment, accompanied by a report (No. 3015); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. MONDELL, from the Committee on Irrigation of Arid Lands, to which was referred the bill of the House (H. R. 17883) providing for the administration of the operations of the act of Congress approved June 17, 1902, known as the reclamation act, reported the same without amendment, accompanied by a report (No. 3019); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. TAYLOR of Ohio, from the Committee on the District of Columbia, to which was referred the bill of the House (H. R. 15961) to quiet title to certain lots in the District of Columbia, reported the same with amendment, accompanied by a report (No. 3020); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. FULLER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 10580) granting an increase of pension to Samuel Fish, reported the same with amendment, accompanied by a report (No. 2952); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 10686) granting an increase of pension to George W. Adams, reported the same without amendment, accompanied by a report (No. 2953); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 10727) granting an increase of pension to Aquella M. Hizar, reported the same with amendment, accompanied by a report (No. 2954); which said bill and report were referred to the Private Calendar.

Mr. KELIHER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 11466) granting an increase of pension to Benjamin F. Heald, reported the same with amendment, accompanied by a report (No. 2955); which said bill and report were referred to the Private Calendar.

Mr. FULLER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 11532) granting a pension to Andrew J. Speed, reported the same with amendment, accompanied by a report (No. 2956); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 12803) granting a pension to Emma C. Waldren, reported the same with amendment, accompanied by a report (No. 2957); which said bill and report were referred to the Private Calendar.

Mr. FULLER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 13024) granting a pension to William J. Beach, reported the same with amendment, accompanied by a report (No. 2958); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 13140) granting an increase of pension to Jesse W. Howe, reported the same without amendment, accompanied by a report (No. 2959); which said bill and report were referred to the Private Calendar.

Mr. FULLER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 13704) granting a pension to Ann Dewier, reported the same without amendment, accompanied by a report (No. 2960); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 13730) granting a pension to Joseph Shroyer, reported the same with amendment, accompanied by a report (No. 2961); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 12733) granting an increase of pension to Charles W. Kelsey, reported the same without amendment, accompanied by a report (No. 2962); which said bill and report were referred to the Private Calendar.

Mr. FULLER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 13689) granting an increase of pension to William S. Newman, reported the same without amendment, accompanied by a report (No. 2963); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 13465) granting an increase of pension to Eleanor Gregory, reported the same with amendment, accompanied by a report (No. 2964); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17238) granting an increase of pension to John G. Vassar, re-

ported the same with amendment, accompanied by a report (No. 2965); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17174) granting an increase of pension to Nathaniel C. Sawyer, reported the same with amendment, accompanied by a report (No. 2966); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17055) granting an increase of pension to George Fankell, reported the same with amendment, accompanied by a report (No. 2967); which said bill and report were referred to the Private Calendar.

Mr. CALDERHEAD, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16941) granting a pension to Thomas H. Hogan, reported the same with amendment, accompanied by a report (No. 2968); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16884) granting an increase of pension to William D. Woodcock, reported the same with amendment, accompanied by a report (No. 2969); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16806) granting an increase of pension to Henry Brenizer, reported the same without amendment, accompanied by a report (No. 2970); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16765) granting an increase of pension to Angus Campbell, reported the same with amendment, accompanied by a report (No. 2971); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16606) granting an increase of pension to James A. Duff, reported the same with amendment, accompanied by a report (No. 2972); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 16535) granting an increase of pension to Jonathan I. Wright, reported the same with amendment, accompanied by a report (No. 2973); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16486) granting an increase of pension to Thomas Bosworth, reported the same with amendment, accompanied by a report (No. 2974); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16455) granting an increase of pension to John Long, reported the same with amendment, accompanied by a report (No. 2975); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16165) granting an increase of pension to Morris Smith, reported the same with amendment, accompanied by a report (No. 2976); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15972) granting an increase of pension to Thomas J. Smith, reported the same without amendment, accompanied by a report (No. 2977); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15932) granting an increase of pension to Hartley B. Cox, reported the same with amendment, accompanied by a report (No. 2978); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15641) granting an increase of pension to Eli Woodbury, reported the same with amendment, accompanied by a report (No. 2979); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15614) granting an increase of pension to Clark Cornett, reported the same with amendment, accompanied by a report (No. 2980); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15272) granting an increase of pension to Patrick Mooney, reported the same with amendment, accompanied by a report (No. 2981); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 14980) granting an increase of pension to Matthew H. Bellamy, reported the same with amendment, accompanied by a report (No. 2982); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15011) granting an increase of pension to John Eldridge, jr., reported the same with amendment, accompanied by a report (No. 2983); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 14736) granting an increase of pension to Isaac C. Smallwood, reported the same with amendment, accompanied by a report (No. 2984); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 13787) granting an increase of pension to Malcolm Ray, reported the same with amendment, accompanied by a report (No. 2985); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 8518) granting an increase of pension to Samuel Meadows, reported the same with amendment, accompanied by a report (No. 2986); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 7419) granting an increase of pension to James Scott, reported the same without amendment, accompanied by a report (No. 2987); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17638) granting an increase of pension to York A. Woodward, reported the same with amendment, accompanied by a report (No. 2988); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 9417) granting an increase of pension to George A. Havel, reported the same with amendment, accompanied by a report (No. 2989); which said bill and report were referred to the Private Calendar.

Mr. CALDERHEAD, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17608) granting an increase of pension to Sidney S. Brewerton, reported the same without amendment, accompanied by a report (No. 2990); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16358) granting an increase of pension to Charles Dorin, reported the same with amendment, accompanied by a report (No. 2991); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 8711) granting an increase of pension to James F. Howard, reported the same with amendment, accompanied by a report (No. 2992); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 17586) granting an increase of pension to Harriet A. Morton, reported the same with amendment, accompanied by a report (No. 2993); which said bill and report were referred to the Private Calendar.

Mr. KELIHER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17589) granting an increase of pension to Sidney A. Lawrence, reported the same with amendment, accompanied by a report (No. 2994) which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 9375) granting an increase of pension to Charles H. McKenney, reported the same with amendment, accompanied by a report (No. 2995); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17406) granting an increase of pension to William B. McAllister, reported the same with amendment, accompanied by a report (No. 2996); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 9441) granting

a pension to Clara N. Scranton, reported the same with amendment, accompanied by a report (No. 2997); which said bill and report were referred to the Private Calendar.

Mr. CALDERHEAD, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17308) granting a pension to Margaret E. Eveland, reported the same with amendment, accompanied by a report (No. 2998); which said bill and report were referred to the Private Calendar.

Mr. KELIHER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17251) granting an increase of pension to John J. Higgins, reported the same without amendment, accompanied by a report (No. 2999); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17244) granting an increase of pension to James Crandol, reported the same with amendment, accompanied by a report (No. 3000); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 4242) granting an increase of pension to Mary A. Foster, reported the same with amendment, accompanied by a report (No. 3001); which said bill and report were referred to the Private Calendar.

Mr. FULLER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 6112) granting an increase of pension to Edmund Fish, reported the same with amendment, accompanied by a report (No. 3002); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 6111) granting an increase of pension to Edwin R. Steenrod, reported the same with amendment, accompanied by a report (No. 3003); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 5853) granting an increase of pension to Quincy Corwin, reported the same with amendment, accompanied by a report (No. 3004); which said bill and report were referred to the Private Calendar.

Mr. FULLER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15180) granting an increase of pension to Amanda Pittman, reported the same with amendment, accompanied by a report (No. 3005); which said bill and report were referred to the Private Calendar.

Mr. KELIHER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 4350) granting an increase of pension to Joseph W. Vance, reported the same with amendment, accompanied by a report (No. 3006); which said bill and report were referred to the Private Calendar.

Mr. FULLER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 4763) granting an increase of pension to John C. Matheny, reported the same without amendment, accompanied by a report (No. 3007); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15178) granting an increase of pension to Matilda Morrison, reported the same with amendment, accompanied by a report (No. 3008); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 10774) granting an increase of pension to James D. Leach, reported the same with amendment, accompanied by a report (No. 3009); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 3347) granting an increase of pension to Orestes B. Wright, reported the same with amendment, accompanied by a report (No. 3010); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 1858) granting an increase of pension to James Jacobs, reported the same with amendment, accompanied by a report (No. 3011); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 14660) granting an increase of pension to Daniel M. Philbrook, reported the same without amendment, accompanied by a report (No. 3012); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16319) granting an increase of pension to Orrin D. Nichols, reported the same without amendment, accompanied by a report (No. 3014); which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. LITTLEFIELD, from the Committee on the Judiciary: A bill (H. R. 17880) making penal certain acts when committed within the admiralty and maritime and the territorial jurisdiction of the United States, and pescribing the punishment therefor—to the House Calendar.

By Mr. BUCKMAN: A bill (H. R. 17881) permitting the building of a dam across the Crow Wing River between the counties of Morrison and Cass, State of Minnesota—to the Committee on Interstate and Foreign Commerce.

By Mr. SIMS: A bill (H. R. 17882) regulating appointment of local and municipal officers in the District of Columbia—to the Committee on the District of Columbia.

By Mr. PARKER: A bill (H. R. 17883) to limit the jurisdiction of the courts of the United States—to the Committee on the Judiciary.

By Mr. FRENCH: A bill (H. R. 17884) to authorize the sale and disposition of surplus or unallotted lands of the Coeur d'Alene Indian Reservation, in the State of Idaho, and for other purposes—to the Committee on Indian Affairs.

By Mr. McGUIRE: A bill (H. R. 17885) to amend an act entitled "An act for the relief of settlers on public lands," approved May 14, 1880—to the Committee on the Public Lands.

By Mr. KINKAID: A bill (H. R. 17886) to grant to Charles H. Cornell, his assigns and successors, the right to abut a dam across the Niobrara River on the Fort Niobrara Reservation, Nebr., and to construct and operate a trolley or electric railway line and telegraph and telephone line across said reservation—to the Committee on Military Affairs.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. BARTLETT: A bill (H. R. 17887) for the relief of Thomas F. Hastings—to the Committee on Claims.

By Mr. BELL of Georgia: A bill (H. R. 17888) granting a pension to Swinfield Stanley—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17889) for the relief of heirs of Jasper N. Martin—to the Committee on Invalid Pensions.

By Mr. BEALL of Texas: A bill (H. R. 17890) granting an increase of pension to J. T. Baudy—to the Committee on Pensions.

Also, a bill (H. R. 17891) granting an increase of pension to Eliza M. Buice—to the Committee on Pensions.

Also, a bill (H. R. 17892) granting an increase of pension to Abraham K. Smith—to the Committee on Pensions.

By Mr. BENNETT of Kentucky: A bill (H. R. 17893) for the relief of Miles A. Hughes—to the Committee on Military Affairs.

By Mr. BYRD: A bill (H. R. 17894) granting an increase of pension to Harvey Rice—to the Committee on Pensions.

By Mr. CLARK of Florida: A bill (H. R. 17895) for the relief of A. T. Triay—to the Committee on War Claims.

By Mr. DE ARMOND: A bill (H. R. 17896) granting an increase of pension to James K. Dickinson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17897) granting an increase of pension to Max Augeroth—to the Committee on Invalid Pensions.

By Mr. DICKSON of Illinois: A bill (H. R. 17898) granting a pension to Mary C. Phillips—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17899) granting a pension to Willard I. Nettleton—to the Committee on Pensions.

Also, a bill (H. R. 17900) granting an increase of pension to William J. Dowell—to the Committee on Invalid Pensions.

By Mr. DIXON of Indiana: A bill (H. R. 17901) granting an increase of pension to Douglas A. Hunt—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17902) granting an increase of pension to John S. Brent—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17903) granting an increase of pension to Lewis H. Jones—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17904) granting an increase of pension to William I. Reed—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17905) granting an increase of pension to John H. Leasure—to the Committee on Invalid Pensions.

By Mr. FLOOD: A bill (H. R. 17906) for the relief of the heirs of Gustavus B. Alexander—to the Committee on War Claims.

By Mr. GARDNER of Massachusetts: A bill (H. R. 17907) granting an increase of pension to Caroline Pettengill—to the Committee on Invalid Pensions.

By Mr. HALE: A bill (H. R. 17908) granting an increase of pension to Robert N. Johnston—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17909) granting an increase of pension to Henry Rigsby—to the Committee on Pensions.

By Mr. HAMILTON: A bill (H. R. 17910) for the relief of Simeon Stevens, deceased—to the Committee on Military Affairs.

By Mr. HEFLIN: A bill (H. R. 17911) for the relief of W. R. Hall, of Weoka, Elmore County, Ala.—to the Committee on War Claims.

By Mr. HOAR: A bill (H. R. 17912) granting an increase of pension to William E. Chase—to the Committee on Invalid Pensions.

By Mr. KINKAID: A bill (H. R. 17913) granting an increase of pension to Philo Green—to the Committee on Invalid Pensions.

By Mr. WILLIAM W. KITCHIN: A bill (H. R. 17914) for the relief of John Henry Edgarton—to the Committee on War Claims.

By Mr. FREDERICK LANDIS: A bill (H. R. 17915) granting an increase of pension to William W. Dudley—to the Committee on Invalid Pensions.

By Mr. LAW: A bill (H. R. 17916) granting an increase of pension to Alexander Deitrich—to the Committee on Pensions.

Also, a bill (H. R. 17917) to remove the charge of desertion standing against Thomas Devine—to the Committee on Naval Affairs.

By Mr. LEVER: A bill (H. R. 17918) granting a pension to Walter S. Harman—to the Committee on Pensions.

Also, a bill (H. R. 17919) granting a pension to Minnie C. O'Connor—to the Committee on Pensions.

Also, a bill (H. R. 17920) granting an increase of pension to Sallie E. Blanding—to the Committee on Pensions.

By Mr. McGUIRE: A bill (H. R. 17921) granting an increase of pension to James Reppeto—to the Committee on Invalid Pensions.

By Mr. MAYNARD: A bill (H. R. 17922) granting an increase of pension to Thomas D. Adams—to the Committee on Invalid Pensions.

By Mr. MURDOCK: A bill (H. R. 17923) granting an increase of pension to John L. Macomber—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17924) granting an increase of pension to Andrew J. Wilcox—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17925) granting an increase of pension to John A. Shaffer—to the Committee on Invalid Pensions.

By Mr. MURPHY: A bill (H. R. 17926) granting a pension to Nancy M. Blackman—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17927) granting an increase of pension to William A. Bates—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17928) granting an increase of pension to Jackson Denton—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17929) granting an increase of pension to John Shilkett—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17930) granting an increase of pension to Henry A. Hayes—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17931) granting an increase of pension to James C. Bench—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17932) granting an increase of pension to James Kinsley—to the Committee on Invalid Pensions.

By Mr. SIMS: A bill (H. R. 17933) granting an increase of pension to Harriet E. Vandine—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17934) granting an increase of pension to Thomas J. Byrd—to the Committee on Pensions.

By Mr. SMITH of Texas: A bill (H. R. 17935) granting an increase of pension to Andrew C. Woodward—to the Committee on Pensions.

By Mr. SOUTHARD: A bill (H. R. 17936) granting an increase of pension to Amelia Pero—to the Committee on Invalid Pensions.

By Mr. STEVENS of Minnesota: A bill (H. R. 17937) granting an increase of pension to Zacheus B. Fifield—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17938) granting an increase of pension to Clarissa L. Downing—to the Committee on Invalid Pensions.

By Mr. SULLOWAY: A bill (H. R. 17939) granting an increase of pension to Robert A. Seaver—to the Committee on Invalid Pensions.

By Mr. WEBB: A bill (H. R. 17940) granting a pension to Florence Tilton—to the Committee on Pensions.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the Committee on Invalid Pensions was discharged from the consideration of the bill (H. R. 4388) granting a pension to Laura Hilgeman, and it was referred to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER: Petition of business firms of Connecticut, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. ADAMS of Pennsylvania: Petition of the Lumbermen's Exchange of Philadelphia, for bill H. R. 5281 (pilotage)—to the Committee on the Merchant Marine and Fisheries.

By Mr. ADAMSON: Petition of the Georgia, Florida and Alabama Railway Company, for an appropriation to improve West Pass and St. Georges Sound—to the Committee on Rivers and Harbors.

Also, resolution of the Seventh Biennial Convention of the Brotherhood of Railway Trainmen, relative to failure of legislation for restriction of immigration, etc.—to the Committee on Immigration and Naturalization.

By Mr. BARCHFELD: Petition of the Provident Lumber Company, of Philadelphia; the Lumbermen's Exchange of Philadelphia, and the William M. Lloyd Company, for bill H. R. 5281 (pilotage)—to the Committee on the Merchant Marine and Fisheries.

By Mr. BATES: Petition of the State Federation of Pennsylvania Women, for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

Also, petition of the William M. Lloyd Company and the Provident Lumber Company, of Philadelphia, Pa., for bill H. R. 5821 (pilotage)—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the Merchant Marine League of Cleveland, Ohio, for the merchant marine bill—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the Sorosis Club of New York, for a bureau to be known as the "Children's Bureau" (bill H. R. 4462)—to the Committee on the District of Columbia.

Also, petition of the Lumbermen's Exchange of Philadelphia, Pa., for bill H. R. 5281 (pilotage)—to the Committee on the Merchant Marine and Fisheries.

By Mr. BEALL of Texas: Paper to accompany bill for relief of Abraham K. Smith—to the Committee on Pensions.

Also, paper to accompany bill for relief of Eliza B. Buice—to the Committee on Pensions.

By Mr. BELL of Georgia: Paper to accompany bill for relief of Thomas J. Benton (previously referred to the Committee on Invalid Pensions)—to the Committee on Claims.

By Mr. BENNETT of Kentucky: Paper to accompany bill for relief of heirs of John Hawkins—to the Committee on Claims.

Also, paper to accompany bill for relief of Lafayette North—to the Committee on Pensions.

Also, paper to accompany bill for relief of Mary L. Overby—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of John H. Watson—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of J. B. Applegate—to the Committee on Invalid Pensions.

By Mr. BURKE of Pennsylvania: Petition of citizens of Pennsylvania, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of the Provident Lumber Company, the Lumbermen's Exchange, and the William M. Lloyd Company, for bill H. R. 5281 (pilotage)—to the Committee on the Merchant Marine and Fisheries.

By Mr. BURKE of South Dakota: Petition of citizens of South Dakota, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. BURLEIGH: Petition of H. B. Whipple et al., of Bingham, Me., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, paper to accompany bill for relief of Georges Ramsey—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of Henry A. Pierce—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of Joseph A. Phillips—to the Committee on Invalid Pensions.

By Mr. CASSEL: Petition of the American Federation of Musicians, for bill H. R. 8748—to the Committee on Naval Affairs.

Also, petition of Thomas B. Hammer, Charles Estee, William L. Shew & Co., Edmund A. Louder & Co., Eli B. Hallowell & Co., George F. Craig & Co., Miller, Robinson & Co., Howard L. Neff, and R. A. & J. J. Williams, of Philadelphia, for bill H. R. 5821 (pilotage)—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the Pennsylvania State Sabbath Association, for Sunday closing of Jamestown Exposition—to the Committee on Industrial Arts and Expositions.

Also, petition of the A. Buch's Sons Company, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of the Rulley Bros. & Sternman Hardware Company, against a parcels-post law—to the Committee on the Post-Office and Post-Roads.

By Mr. CHAPMAN: Petition of Home Culture Club of Carmi, Ill., for an appropriation to investigate the industrial condition of women in the United States—to the Committee on Appropriations.

By Mr. COUSINS: Petition of the Merchants' Association of Cedar Rapids, Iowa, against consolidation of third and fourth class mail matter—to the Committee on the Post-Office and Post-Roads.

By Mr. CURRIER: Petition of citizens of Washington, N. H., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. DE ARMOND: Paper to accompany bill for relief of Lucinda McRoberts—to the Committee on War Claims.

Also, paper to accompany bill for relief of Max Augerath—to the Committee on Invalid Pensions.

By Mr. DEEMER: Petition of citizens of Shingle House, Pa., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. DIXON of Indiana: Petition of M. T. Reeves, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. DOVENER: Paper to accompany bill for relief of John Noy—to the Committee on Pensions.

By Mr. DUNWELL: Petition of the advisory committee of 100, of Brooklyn, N. Y., for battle-ship construction in the Brooklyn Navy-yard—to the Committee on Naval Affairs.

Also, petition of the Brooklyn Daily Times, for repeal of the tariff on works of art—to the Committee on Ways and Means.

By Mr. FLOYD: Paper to accompany bill for relief of John S. Taylor—to the Committee on Invalid Pensions.

By Mr. FOSTER of Vermont: Petition of Rutland Valley (Vt.) Grange, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. GARDNER of Massachusetts: Petition of citizens of Gloucester, Mass., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. GRAHAM: Petition of the William M. Lloyd Company, the Lumbermen's Exchange, and the Provident Lumber Company, for bill H. R. 5821 (pilotage)—to the Committee on the Merchant Marine and Fisheries.

By Mr. GRONNA: Petition of M. Strong et al., of North Dakota, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of Charlotte B. Wilbur et al., for bill H. R. 4462 (the child-labor bill, District of Columbia)—to the Committee on the District of Columbia.

By Mr. HAYES: Petition of the Woman's Christian Temperance Union of Benicia, Cal., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of the board of State harbor commissioners, of San Francisco, for an appropriation to remove rocks from the harbor—to the Committee on Rivers and Harbors.

Also, petition of the Manufacturers and Producers' Association of California, for bill H. R. 10117 (Federal building in San Francisco)—to the Committee on Public Buildings and Grounds.

Also, petition of R. O. Tripp, for the Heyburn pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Congregational Church of Saratoga, Cal., for relief of Indians of California—to the Committee on Indian Affairs.

Also, petition of citizens of Santa Clara County, Cal., for relief of Indians of California—to the Committee on Indian Affairs.

By Mr. HEPBURN: Petition of citizens of Iowa, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. HITT: Petition of citizens of Rock Falls, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. HOAR: Paper to accompany bill for relief of William E. Chase—to the Committee on Invalid Pensions.

By Mr. HOWELL of Utah: Petition of many citizens of New York and vicinity, for relief for heirs of victims of *General Slocum* disaster—to the Committee on Claims.

Also, petition of the Utah State Journal and the Deseret News Company, for free wood pulp and news print paper—to the Committee on Ways and Means.

By Mr. HUNT: Petition of the St. Louis Credit Men's Association, against repeal of the bankruptcy law—to the Committee on the Judiciary.

By Mr. KEIFER: Petition of Benjamin Williams and 23 others, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. LINDSAY: Petition of the Sorosis Club of New York, for bills S. 30 and H. R. 4462 (child-labor bills)—to the Committee on the District of Columbia.

Also, resolution of the senate of New York State, for a convention to prepare an amendment to the Constitution prohibiting polygamy—to the Committee on the Judiciary.

Also, petition of the Typothetæ of New York City, against the anti-injunction bills—to the Committee on the Judiciary.

Also, petition of the Cross, Austin & Ireland Lumber Company, of Brooklyn; Peter S. Carter, of New York City; J. B. Tisdale, and the Atlantic Basin Iron Works—to the Committee on the Merchant Marine and Fisheries.

By Mr. LITTLEFIELD: Petition of C. F. Oliver et al., of Maine, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. MANN: Petition of the American Federation of Labor, against bill H. R. 5281 (pilotage)—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the American Institute of Architects, Illinois Chapter, against a tariff on works of art—to the Committee on Ways and Means.

Also, petition of Division No. 260 and Division No. 266, Amalgamated Association of Street and Electric Railway Employees of America, against bill H. R. 12973, for the restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. MOUSER: Petition of many citizens of New York and vicinity, for relief for heirs of victims of *General Slocum* disaster—to the Committee on Claims.

By Mr. MURDOCK: Petition of citizens of Kansas, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. MURPHY: Paper to accompany bill for relief of Betsey A. Crumley—to the Committee on Invalid Pensions.

Also, petition of citizens of Texas County, Mo., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. NORRIS: Petition of citizens of Missouri, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. PARSONS: Petition of Woman's National Sabbath Alliance, against Sunday opening of the Jamestown Exposition—to the Select Committee on Industrial Arts and Expositions.

Also, petition of H. B. Cooper et al., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. RIXEY: Paper to accompany bill for relief of Charles Kirby—to the Committee on War Claims.

By Mr. SHARTEL: Petition of citizens of Missouri, against a parcels-post law—to the Committee on the Post-Office and Post-Roads.

By Mr. SHEPPARD: Petition of A. C. Jones et al. and G. A. Hood et al., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. SHERMAN: Petition of citizens of Rome, N. Y., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. SMITH of Iowa: Petition of citizens of Iowa, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. SOUTHARD: Petition of the Council of Jewish Women of Toledo, Ohio, for an appropriation to investigate the industrial condition of women in the United States—to the Committee on Appropriations.

By Mr. STERLING: Petition of citizens of Pontiac, Mich., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. WOOD of New Jersey: Petition of the General Compressed Air House Cleaning Company, of St. Louis, and the Northern Engineering Works, of Detroit, Mich., against bill

H. R. 8988 (the metric system)—to the Committee on Coinage, Weights, and Measures.

Also, petition of the Peerless Motor Car Company, of Ohio, against bill H. R. 8988 (the metric system)—to the Committee on Coinage, Weights, and Measures.

Also, petition of citizens of New Jersey, for bill H. R. 15442 (the naturalization bill)—to the Committee on Immigration and Naturalization.

SENATE.

MONDAY, *April 9, 1906.*

Prayer by the Chaplain, Rev. EDWARD E. HALE.

The Secretary proceeded to read the Journal of the proceedings of Friday last, when, on request of Mr. GALLINGER, and by unanimous consent, the further reading was dispensed with.

The VICE-PRESIDENT. The Journal stands approved.

PUBLIC SCHOOL TEACHERS IN ALASKA.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Interior, transmitting a letter from the governor of Alaska recommending that an appropriation be made to pay the salary claims of Dr. S. I. Stone and Miss Lulu Burt for services as substitute teachers in the public school at Kodiak, Alaska; which, with the accompanying paper, was referred to the Committee on Appropriations, and ordered to be printed.

LEMHI INDIANS.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, transmitting a letter from the Secretary of the Interior submitting an estimate of reappropriation for inclusion in the Indian appropriation bill of $5,000 for the removal of the Lemhi Indians to the Fort Hall Reservation, Idaho; which, with the accompanying paper, was referred to the Committee on Indian Affairs, and ordered to be printed.

FINDINGS OF COURT OF CLAIMS.

The VICE-PRESIDENT laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of Howard F. Downs, administrator de bonis non of James Hutchinson, deceased, *v.* The United States; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed the following bills:

S. 535. An act to amend and reenact section 1 of chapter 77 of volume 27 of the United States Statutes at Large, being "An act to provide for a term of the United States circuit and district courts at Evanston, Wyo.," approved May 23, 1892; and

S. 5521. An act to authorize the Tyronza Central Railroad Company to construct a bridge across Little River, in the State of Arkansas.

The message also announced that the House had agreed to the amendments of the Senate to the following bills:

H. R. 11129. An act granting an increase of pension to Thomas J. Lindsey; and

H. R. 11536. An act granting an increase of pension to James D. Hudson.

The message further announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

H. R. 16125. An act authorizing a license and permit to the Corinth and Shiloh Electric Railway Company to construct a track or tracks through the Shiloh National Park, and to operate electric cars thereon;

H. R. 16226. An act to amend the internal-revenue laws and to prevent the double taxation of certain distilled spirits;

H. R. 16521. An act directing the Secretary of the Interior to sell and convey a certain parcel of land to Johnson County, Wyo.; and

H. R. 17756. An act to provide for the entry of agricultural lands within the Black Hills Forest Reserve.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 17359) making appropriations to supply additional urgent deficiencies in the appropriations for the fiscal year ending June 30, 1906, and for prior years, and for other purposes, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. LITTAUER, Mr. TAWNEY, and Mr. LIVINGSTON managers at the conference on the part of the House.

The message also announced that the House had passed the concurrent resolution of the Senate providing for the publication of the proceedings on the occasion of the unveiling of the Rochambeau statue, etc.

The message further announced that the House had passed the concurrent resolution of the Senate providing for the printing of 4,750 copies of the Report on the Japanese Naval Medical and Sanitary Features of the Russo-Japanese War to the Surgeon-General, United States Navy.

The message further announced that the House had passed the concurrent resolution of the Senate providing for the printing of certain papers and documents of the Navy Department, relating to the efficiency of various coals used by the United States vessels for steaming purposes, with an amendment in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the Vice-President:

S. 87. An act providing for the withdrawal from public entry of lands needed for town-site purposes in connection with irrigation projects under the reclamation act of June 17, 1902, and for other purposes;

S. 5215. An act to fix the regular terms of the circuit and district courts of the United States for the southern division of the northern district of Alabama, and for other purposes;

H. R. 8891. An act granting an increase of pension to Josephine Rogers;

H. R. 12286. An act granting relief to the estate of James Staley, deceased; and

H. R. 13151. An act granting an increase of pension to Christopher C. Harlan.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented a petition of the Lumbermen's Exchange of Philadelphia, Pa., praying for the enactment of legislation to abolish compulsory pilotage on sailing vessels engaged in the coastwise trade; which was ordered to lie on the table.

He also presented a petition of the National Association of Railway Commissioners, praying for the enactment of legislation to enlarge the powers of the Interstate Commerce Commission; which was referred to the Committee on Interstate Commerce.

He also presented a petition of the National Association of Railway Commissioners, praying for the enactment of legislation to require railroads engaged in interstate commerce throughout the United States, within two years after the passage of the so-called "Hepburn railroad rate bill," to prepare and adopt a uniform classification of freight articles; which was referred to the Committee on Interstate Commerce.

Mr. FRYE presented a petition of sundry citizens of Glenburn, Me., praying for the removal of the internal-revenue tax on denaturized alcohol; which was referred to the Committee on Finance.

Mr. CULLOM presented a petition of the Farmers' Institute of Will County, Ill., praying for the construction of a ship canal connecting the Gulf of Mexico with the Great Lakes; which was referred to the Committee on Commerce.

He also presented a memorial of Local Division No. 248, Amalgamated Association of Street and Electric Railway Employees of America, of Venice, Ill., remonstrating against the repeal of the present Chinese-exclusion law; which was referred to the Committee on Immigration.

Mr. GALLINGER presented the petition of Charles E. Adams, of Exeter, N. H., praying for the enactment of legislation to restrict the immigration of aliens into the United States by an educational test and property qualification; which was referred to the Committee on Immigration.

He also presented a petition of Merrimac Lodge, No. 266, Brotherhood of Railroad Trainmen, of Nashua, N. H., praying for the passage of the so-called "employers' liability bill;" which was referred to the Committee on Interstate Commerce.

He also presented a petition of General Grant Council, No. 25, Junior Order of United American Mechanics, of Exeter, N. H., and a petition of Molly Stark Council, No. 1, Daughters of Liberty, of Manchester, N. H., praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

He also presented petitions of the National Council of Women of the United States and sundry petitions of the Sorosis Club of New York City, N. Y., praying for the enactment of legislation to regulate the employment of child labor in the District of Columbia; which were referred to the Committee on the District of Columbia.

Mr. DRYDEN presented petitions of the Morris County So-

ciety for the Prevention of Cruelty to Children, of Newark; of the Irving Club, of Irvington, and of the Woman's Club, of Salem, all in the State of New Jersey, praying that an appropriation be made for a scientific investigation into the industrial conditions of women in the United States; which were referred to the Committee on Education and Labor.

He also presented petitions of Hightstown Council, No. 46, Daughters of Liberty, of Hightstown; of the Pride of Mechanics Home Council, No. 61, Daughters of Liberty, of Jamesburg, and of Victory Council, No. 93, Daughters of Liberty, of Jersey City, all in the State of New Jersey, praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

He also presented a petition of the Philadelphia Watch Case Company, of Riverside, N. J., praying for the enactment of legislation to prohibit the importation and carriage in interstate commerce of falsely or spuriously stamped articles of merchandise made of gold or silver or other alloys, etc.; which was referred to the Committee on Interstate Commerce.

He also presented petitions of the Junior Order United American Mechanics in the State of New Jersey, and of sundry citizens of Jamesburg, Roselle, West Orange, Orange, Newark, Perth Amboy, Lambertville, Montclair, Mount Hope, Dover, Freehold, Hackensack, Vineland, Woodstown, Glendola, Jersey City, and Lafayette, all in the State of New Jersey, praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

Mr. KEAN presented a petition of sundry citizens of New Jersey, praying for the enactment of legislation for the relief of the landless Indians of northern California; which was referred to the Committee on Indian Affairs.

He also presented a petition of the Woman's Club of Salem, N. J., praying that an investigation be made into the industrial condition of women in the United States; which was referred to the Committee on Education and Labor.

He also presented a petition of the Morris County Society for the Prevention of Cruelty to Children, of New Jersey, praying that an investigation be made into the labor conditions of the women and children in the United States; which was referred to the Committee on Education and Labor.

He also presented petitions of Pride of Trenton Council, No. 4, Daughters of Liberty, of Trenton; of Victory Council, No. 93, Daughters of Liberty, of Jersey City; of Star of Hope Council, No. 167, Daughters of Liberty, of Newfoundland; of Pride of Monmouth Council, No. 27, Daughters of Liberty, of Red Bank; of Patriot Council, No. 80, Daughters of Liberty, of Jersey City; of Elizabeth Council, No. 10, Daughters of Liberty, of Elizabeth; of Oliver C. Frake, of Red Bank, and of A. C. Bendy, of Red Bank, all in the State of New Jersey, praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

Mr. SCOTT presented a petition of the Students' Club, of Wheeling, W. Va., praying for an investigation into the industrial conditions of the women of the country; which was referred to the Committee on Education and Labor.

He also presented a petition of Excelsior Council, No. 4, Daughters of Liberty, of Wheeling, W. Va., praying for the enactment of legislation to restrict immigration; which was referred to the Committee on Immigration.

He also presented a petition of Hinton Lodge, No. 236, Brotherhood of Locomotive Firemen, of Hinton, W. Va., praying for the passage of the so-called "employers' liability bill," and also the "anti-injunction bill;" which was referred to the Committee on Interstate Commerce.

He also presented a memorial of Local Division No. 103, Amalgamated Association of Street and Electric Railway Employees, of Wheeling, W. Va., remonstrating against the repeal of the present Chinese-exclusion bill; which was referred to the Committee on Immigration.

Mr. BRANDEGEE presented a petition of the Woman's Club of Waterbury, Conn., praying for an investigation into the industrial condition of the women of the country; which was referred to the Committee on Education and Labor.

He also presented a petition of sundry citizens of New London, Conn., praying for the enactment of legislation for the relief of the landless Indians of northern California; which was referred to the Committee on Indian Affairs.

Mr. KITTREDGE presented a petition of the Federation of Women's Clubs of Lead, S. Dak., praying for an investigation into the industrial condition of the women of the country; which was referred to the Committee on Education and Labor.

Mr. BURKETT presented sundry petitions of citizens of North Platte, Nebr., praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

Mr. KNOX presented a petition of the congregation of the Fourth Avenue Baptist Church, of Pittsburg, Pa., praying for an investigation into the existing conditions in the Kongo Free State; which was referred to the Committee on Foreign Relations.

He also presented petitions of Council No. 103, Daughters of Liberty, of Bellevue; Council No. 129, Daughters of Liberty, of Chambersburg; Council No. 27, Daughters of Liberty, of Allegheny; Council No. 113, Daughters of Liberty, of Altoona; Council No. 178, Daughters of Liberty, of Allegheny; Council No. 105, Daughters of Liberty, of Dallastown; Council No. 182, Daughters of Liberty, of Washington; Council No. 177, Daughters of Liberty, of Shamokin; Council No. 4, Daughters of Liberty, of Williamsport; Council No. 186, Daughters of Liberty, of East Prospect; Council No. 107, Daughters of Liberty, of Cressona; Council No. 134, Daughters of Liberty, of Hazleton; Council No. 155, Daughters of Liberty, of Oberlin; Council No. 41, Daughters of Liberty, of Eden; Council No. 50, Daughters of Liberty, of Quakertown; of sundry citizens of McKees Rocks; Camp No. 418, Patriotic Order Sons of America, of Tylersville; Camp No. 693, Patriotic Order Sons of America, of Thompsontown; Council No. 44, Junior Order United American Mechanics, of Irwin; Lodge No. 292, Brotherhood of Railroad Trainmen, of Lehighton; Council No. 43, Daughters of Liberty, of Pittston; Camp No. 345, Patriotic Order Sons of America, of Germantown; the Erie Bureau of Charities, of Erie, and Circle No. 611, Protected Home Circle, of Pittsburg, all in the State of Pennsylvania, praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

He also presented memorials of Hugo Bilgram, of Merritt & Co., of the Eynon-Evans Manufacturing Company, of Lindsay Hyde Company, of George V. Cresson Company, of Homer Brass Works, of Haines-Jones & Cadbury Company, of Schaum & Uhlinger, of the Otto Gas Engine Works, of the Adams & Westlake Company, of the Tabor Manufacturing Company, of H. Bellfield & Company, of Vienna Dye Works, of Rose Manufacturing Company, all of Philadelphia, in the State of Pennsylvania, remonstrating against the passage of the so-called "anti-injunction bill;" which were referred to the Committee on the Judiciary.

He also presented petitions of the Village Improvement Association, of Doylestown; the Civic Club of Cambria County, of Johnstown; the Sorosis Club, of Union City; Twentieth Century Club, of Union City; the New Era Club of Western Pennsylvania, of Allegheny; the Epoch Club, of Pittsburg; Woman's Suffrage Society of Philadelphia County, of Philadelphia; the Civic Club of Easton; the Century Club, of Kennett Square; Woman's Club of Beaver; Woman's Club of Pittsburg; Library Club of Athens; Woman's Club of Mechanicsburg; Woman's Club of Ben Avon; the Civic Club of Harrisburg; Friday Night Club, of Sharon; Woman's Club of McKeesport; Woman's Club of Erie; the Emerson Club, of Townville; Woman's Literary Club, of Bradford; Belles Lettres Club, of Oil City; Woman's Club of Lebanon; Harmonie Circle, of Lebanon; Woman's Culture Club, of Connellsville, all in the State of Pennsylvania, praying that an appropriation be made for a scientific investigation into the industrial conditions of women in the United States; which were referred to the Committee on Education and Labor.

Mr. BULKELEY presented a petition of the Chamber of Commerce of New Haven, Conn., praying for the enactment of legislation providing for the reorganization of the consular service; which was ordered to lie on the table.

He also presented a petition of sundry citizens of Hartford, Conn., praying for the enactment of legislation to aid the landless Indians in northern California; which was referred to the Committee on Indian Affairs.

He also presented a petition of the Chamber of Commerce of New Haven, Conn., praying for the establishment of forest reserves in the Appalachian Mountains and White Mountains, to be known as the "Appalachian Forest Reserve" and the "White Mountain Forest Reserve," respectively; which was ordered to lie on the table.

He also presented a petition of the Organized Charities Association of New Haven, Conn., praying for the enactment of legislation to improve the charitable and industrial conditions in the District of Columbia; which was referred to the Committee on the District of Columbia.

He also presented petitions of Lady Wooster Council, No. 11, Daughters of Liberty, of Danbury; of Perseverance Council, No. 33, Daughters of Liberty, of New Haven; of Lady Unity Council, No. 51, Daughters of Liberty, of Southington, and of Olive Branch Council, No. 41, Daughters of Liberty, of New Canaan, all in the State of Connecticut, praying for the enact-

ment of legislation to restrict immigration; which was referred to the Committee on Immigration.

He also presented petitions of the congregations of the South Park Methodist Episcopal Church, of Hartford; of St. Andrew's Methodist Episcopal Church, of New Haven; of the Olivet Baptist Church, of Hartford; of the Howard Avenue Methodist Episcopal Church, of New Haven, and of the Methodist Ministers' Association, of New Haven, all in the State of Connecticut, praying for the enactment of legislation to regulate the interstate transportation of intoxicating liquors; which were referred to the Committee on Interstate Commerce.

REPORTS OF COMMITTEES.

Mr. GALLINGER, from the Committee on the District of Columbia, to whom was referred the bill (H. R. 16384) regulating the speed of automobiles in the District of Columbia, and for other purposes, reported it with amendments, and submitted a report thereon.

Mr. McCUMBER, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 4511) granting an increase of pension to William Hoaglin;

A bill (S. 4010) granting an increase of pension to Bridget Egan;

A bill (S. 5055) granting an increase of pension to Melvin Grandy;

A bill (S. 2977) granting an increase of pension to David B. Neafus;

A bill (S. 4901) granting an increase of pension to Joshua M. Lounsberry;

A bill (H. R. 11256) granting an increase of pension to William M. Ewing;

A bill (H. R. 6454) granting an increase of pension to Milo B. Morse;

A bill (H. R. 7243) granting an increase of pension to Moses B. Page;

A bill (H. R. 1793) granting an increase of pension to Playford Gregg;

A bill (H. R. 5555) granting an increase of pension to Andrew P. Allen;

A bill (H. R. 1218) granting an increase of pension to Nathan Hinkle; and

A bill (H. R. 8307) granting a pension to William C. Estill.

Mr. McCUMBER, from the Committee on Pensions, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 4688) granting an increase of pension to Noel J. Burgess;

A bill (S. 4359) granting an increase of pension to Mary E. Lincoln;

A bill (S. 2985) granting an increase of pension to George W. Bodenhamer;

A bill (S. 5455) granting a pension to Emily J. Alden;

A bill (S. 1818) granting a pension to Edward T. White;

A bill (H. R. 1160) granting an increase of pension to Eliza Swords; and

A bill (H. R. 8158) granting an increase of pension to Lemuel P. Storms.

Mr. McCUMBER, from the Committee on Pensions, to whom were referred the following bills, reported them severally with amendments, and submitted reports thereon:

A bill (S. 2021) granting a pension to Juliet K. Phillips; and

A bill (S. 4392) granting an increase of pension to Cornelia A. Mobley.

Mr. McCUMBER (for Mr. BURNHAM), from the Committee on Pensions, to whom were referred the following bills, reported them severally with amendments, and submitted reports thereon:

A bill (S. 1260) granting an increase of pension to Frank Pugsley;

A bill (S. 5186) granting an increase of pension to Robert Staplins; and

A bill (S. 13) granting an increase of pension to Huntville A. Johnson.

Mr. McCUMBER (for Mr. BURNHAM), from the Committee on Pensions, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 918) granting an increase of pension to Edwin N. Baker; and

A bill (S. 4126) granting an increase of pension to Willard Farrington.

Mr. McCUMBER (for Mr. BURNHAM), from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 9277) granting an increase of pension to Elizabeth A. Butler;

A bill (H. R. 10818) granting an increase of pension to George W. Creasey;

A bill (H. R. 10884) granting an increase of pension to Lorenzo D. Libby;

A bill (H. R. 5806) granting an increase of pension to Samuel J. Harding;

A bill (H. R. 6094) granting a pension to Julia G. Aldrich;

A bill (H. R. 6773) granting an increase of pension to Weston Ferris;

A bill (H. R. 6897) granting an increase of pension to Abbie B. Gould;

A bill (H. R. 6969) granting a pension to Ellen C. Lewis;

A bill (H. R. 1667) granting an increase of pension to Abram H. Hicks; and

A bill (H. R. 2757) granting an increase of pension to Jonathan E. Floyd.

Mr. PILES, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 5517) granting an increase of pension to William H. H. Shaffer;

A bill (H. R. 5638) granting an increase of pension to Alpheus Jones;

A bill (H. R. 5639) granting an increase of pension to Thomas C. Craig;

A bill (H. R. 7718) granting an increase of pension to Jacob D. Peterson;

A bill (H. R. 7630) granting an increase of pension to Henry W. Higley;

A bill (H. R. 1357) granting an increase of pension to George W. Burton;

A bill (H. R. 15306) granting an increase of pension to Asa Wall; and

A bill (H. R. 14920) granting an increase of pension to Winfield S. Bruce.

Mr. SCOTT, from the Committee on Pensions, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 2959) granting an increase of pension to William R. Gallion;

A bill (S. 3759) granting an increase of pension to Henry D. Miller;

A bill (S. 1913) granting a pension to Clara F. Leslie; and

A bill (H. R. 11046) granting an increase of pension to Helen G. Heiner.

Mr. SCOTT, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 10830) granting an increase of pension to Dudley Portwood;

A bill (H. R. 10931) granting an increase of pension to Levi C. Bishop;

A bill (H. R. 10864) granting an increase of pension to John P. Kleckner;

A bill (H. R. 1069) granting an increase of pension to Daniel Britton; and

A bill (H. R. 2120) granting an increase of pension to Parmer Stewart.

Mr. SCOTT (for Mr. ALGER), from the Committee on Pensions, to whom was referred the bill (S. 1223) granting a pension to Mary E. Bronaugh, reported it with an amendment, and submitted a report thereon.

He also (for Mr. ALGER), from the same committee, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 7935) granting an increase of pension to Samuel J. Stannah;

A bill (H. R. 9832) granting an increase of pension to Alexander D. Polston;

A bill (H. R. 5840) granting a pension to Catherine Spier;

A bill (H. R. 5850) granting an increase of pension to Lucas Hagar;

A bill (H. R. 2491) granting an increase of pension to Edwin A. Botsford; and

A bill (H. R. 2468) granting an increase of pension to John Broad.

Mr. SMOOT, from the Committee on Pensions, to whom were referred the following bills, reported them severally with amendments, and submitted reports thereon:

A bill (S. 5366) granting an increase of pension to John Beatty; and

A bill (S. 971) granting an increase of pension to W. H. Hackney.

Mr. SMOOT, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 8953) granting an increase of pension to Lutellus Cook;

A bill (H. R. 10452) granting an increase of pension to Richard C. Daly;

A bill (H. R. 11331) granting an increase of pension to Thomas Rowan;

A bill (H. R. 11332) granting an increase of pension to William F. Kenner;

A bill (H. R. 6118) granting an increase of pension to Bridget Reidy;

A bill (H. R. 6937) granting an increase of pension to Thomas Furey;

A bill (H. R. 3423) granting an increase of pension to Thomas Watt;

A bill (H. R. 3434) granting an increase of pension to George W. Darby; and

A bill (H. R. 13019) granting an increase of pension to George Whitman.

Mr. BURKETT, from the Committee on Pensions, to whom was referred the bill (S. 4576) granting an increase of pension to William Monks, reported it with amendments, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 5219) granting an increase of pension to David N. Morland, reported it with an amendment, and submitted a report thereon.

He also, from the same committee, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 3272) granting an increase of pension to John Hirth;

A bill (H. R. 9451) granting an increase of pension to Frederick M. Wood;

A bill (H. R. 10148) granting an increase of pension to John Spear;

A bill (H. R. 10819) granting an increase of pension to John Burns;

A bill (H. R. 6384) granting an increase of pension to William McBeth;

A bill (H. R. 7483) granting an increase of pension to Laurence V. Whitcraft;

A bill (H. R. 7760) granting an increase of pension to William H. Brown;

A bill (H. R. 7759) granting an increase of pension to John Gemmill;

A bill (H. R. 5210) granting an increase of pension to Elizabeth Moore; and

A bill (H. R. 5511) granting an increase of pension to Christopher Bohn.

Mr. BURKETT, from the Committee on the District of Columbia, to whom was referred the bill (S. 4268) changing the name of Douglas street to Clifton street, reported it without amendment, and submitted a report thereon.

Mr. TALIAFERRO, from the Committee on Pensions, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 3818) granting an increase of pension to David B. Johnson;

A bill (S. 1728) granting an increase of pension to Joseph H. Allen; and

A bill (S. 3655) granting an increase of pension to Mary A. Good.

Mr. TALIAFERRO, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 5936) granting an increase of pension to Caroline Neilson;

A bill (H. R. 9033) granting an increase of pension to Burgoyne Knight;

A bill (H. R. 9397) granting an increase of pension to Mary A. King;

A bill (H. R. 10523) granting an increase of pension to Elizabeth Gorton;

A bill (H. R. 1969) granting an increase of pension to Christian Peterson;

A bill (H. R. 3273) granting an increase of pension to Andrew J. Levi; and

A bill (H. R. 5488) granting an increase of pension to Margaret E. Foster.

Mr. TALIAFERRO (for Mr. LA FOLLETTE), from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 8137) granting an increase of pension to Marion L. Holvenstot;

A bill (H. R. 7807) granting an increase of pension to John D. Atwaters;

A bill (H. R. 3223) granting an increase of pension to Thomas G. McLaughlin;

A bill (H. R. 6488) granting an increase of pension to Frank Osterber[illegible] alias William McKay;

A bill (H. R. 7588) granting a pension to Thomas F. Dowling; and

A bill (H. R. 5403) granting an increase of pension to John Lines.

Mr. OVERMAN, from the Committee on Pensions, to whom were referred the following bills, reported them severally with amendments, and submitted reports thereon:

A bill (S. 5291) granting an increase of pension to E. A. Smith; and

A bill (S. 5344) granting an increase of pension to Sophronia Roberts.

Mr. OVERMAN, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 5338) granting an increase of pension to David Buckner;

A bill (H. R. 8869) granting an increase of pension to Nathan Coward;

A bill (H. R. 10449) granting an increase of pension to George B. D. Alexander;

A bill (H. R. 10451) granting an increase of pension to Robert M. White;

A bill (H. R. 6461) granting an increase of pension to Daniel G. Sterling;

A bill (H. R. 7518) granting an increase of pension to George Richter;

A bill (H. R. 2263) granting an increase of pension to Edward Keating; and

A bill (H. R. 2377) granting an increase of pension to John N. Moore.

Mr. OVERMAN, from the Committee on Pensions, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 5340) granting an increase of pension to Laura Hentig;

A bill (S. 5342) granting an increase of pension to Mary E. Johnson; and

A bill (S. 5337) granting an increase of pension to Samuel M. Tow.

Mr. GEARIN, from the Committee on Pensions, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 5515) granting an increase of pension to Matilda C. Frizelle; and

A bill (S. 5453) granting an increase of pension to Jacob M. Pickle.

Mr. GEARIN, from the Committee on Pensions, to whom were referred the following bills, reported them severally with amendments, and submitted reports thereon:

A bill (S. 2886) granting an increase of pension to Martha Hoffman;

A bill (S. 5092) granting an increase of pension to Mary C. Feigley; and

A bill (S. 5091) granting an increase of pension to Sallie Tyrrell.

Mr. GEARIN, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 9039) granting an increase of pension to James R. Hales;

A bill (H. R. 9294) granting an increase of pension to S. Amanda Mansfield;

A bill (H. R. 9587) granting an increase of pension to Samuel S. Thompson;

A bill (H. R. 9910) granting an increase of pension to John McCoy;

A bill (H. R. 6563) granting an increase of pension to George Stewart;

A bill (H. R. 6576) granting an increase of pension to Napoleon McDowell;

A bill (H. R. 4671) granting an increase of pension to William H. Brady; and

A bill (H. R. 15974) granting an increase of pension to Martin C. King.

Mr. SCOTT, from the Committee on the District of Columbia, to whom was referred the bill (H. R. 16484) to amend section 1 of an act entitled "An act relating to the Metropolitan police of the District of Columbia," approved February 28, 1901, reported it with amendments, and submitted a report thereon.

He also, from the same committee, to whom were referred the following bills, submitted adverse reports thereon, which were agreed to; and the bills were postponed indefinitely:

A bill (S. 70) to amend section 1 of an act entitled "An act relating to the Metropolitan police of the District of Columbia," approved February 28, 1901; and

A bill (S. 3644) to amend section 1 of an act entitled "An act relating to the Metropolitan police of the District of Columbia," approved February 28, 1901.

Mr. WARNER, from the Committee on Military Affairs, to whom was referred the bill (S. 2616) to authorize the President of the United States to appoint William F. de Niedman captain and quartermaster in the Army, submitted an adverse report thereon, which was agreed to; and the bill was postponed indefinitely.

Mr. LONG, from the Committee on Indian Affairs, to whom was referred the bill (S. 5520) to amend an act entitled "An act granting to the Choctaw, Oklahoma and Gulf Railroad Company the power to sell and convey to the Chicago, Rock Island and Pacific Railway Company all the railway property, rights, franchises, and privileges of the Choctaw, Oklahoma and Gulf Railroad Company, and for other purposes," approved March 3, 1905, reported it without amendment, and submitted a report thereon.

Mr. PATTERSON, from the Committee on Pensions, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 1514) granting an increase of pension to George W. Wicks;

A bill (S. 4582) granting an increase of pension to Seth H. Cooper;

A bill (S. 5173) granting an increase of pension to William S. Garrett;

A bill (S. 591) granting a pension to William C. Banks; and

A bill (S. 4759) granting an increase of pension to Oliver M. Stone.

Mr. PATTERSON, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 4763) granting an increase of pension to Harrison Randolph;

A bill (H. R. 8319) granting an increase of pension to John Gardner Stocks;

A bill (H. R. 9270) granting an increase of pension to Wiley B. Johnson;

A bill (H. R. 9271) granting an increase of pension to Joseph Henry Martin;

A bill (H. R. 10432) granting an increase of pension to John E. Oyler;

A bill (H. R. 5712) granting an increase of pension to Caroline Dehlendorf;

A bill (H. R. 6500) granting an increase of pension to Jesse Bucey;

A bill (H. R. 603) granting an increase of pension to Thomas Blyth;

A bill (H. R. 4364) granting an increase of pension to George W. Neece; and

A bill (H. R. 8191) granting a pension to John Hobart.

SURVEY IN PENOBSCOT BAY, MAINE.

Mr. FRYE. I report back from the Committee on Commerce favorably a concurrent resolution providing for a survey, and my colleague [Mr. HALE] would like to have it considered now.

The concurrent resolution submitted by Mr. HALE on the 6th instant was read, considered by unanimous consent, and agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring). That the Secretary of War be, and he is hereby, authorized and directed to cause to be made an examination and survey of Long Cove, the approach thereto, Cape Jellison Harbor and the waters leading thereto, between Cape Jellison and Sears Island, Penobscot Bay, Maine.

UNIVERSITY OF UTAH.

Mr. WARREN. I am directed by the Committee on Military Affairs, to whom was referred the bill (S. 5498) granting additional lands adjacent to its site to the University of Utah, to report it favorably with an amendment, and I submit a report thereon.

Mr. SUTHERLAND. The bill just reported by the Senator from Wyoming has the approval of the War Department and is of importance to my State. I ask unanimous consent for its present consideration.

The VICE-PRESIDENT. The bill will be read for the information of the Senate.

The Secretary read the bill.

Mr. TALIAFERRO. I ask that the bill may go over.

The VICE-PRESIDENT. Under objection, the bill will go over.

Mr. WARREN. I hope the bill will not be detained. The bill has been read and the amendment reported by the committee was just about being read.

Mr. TALIAFERRO. I understood from the reading that the amendment had not been incorporated in the bill.

The VICE-PRESIDENT. The amendment reported by the committee will be read.

The SECRETARY. The committee report to add, after the word "land" at the end of the bill, the words "at the expense of the University of Utah."

The VICE-PRESIDENT. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered as in Committee of the Whole.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill granting additional lands from the Fort Douglas Military Reservation to the University of Utah."

Mr. WARREN. I am directed by the Committee on Military Affairs, to whom was referred the bill (S. 5153) granting additional lands adjacent to its site to the University of Utah, to report it adversely, and I move its indefinite postponement.

The motion was agreed to.

COURTS IN TENNESSEE.

Mr. KITTREDGE. I am directed by the Committee on the Judiciary, to whom was referred the bill (H. R. 20) to change and fix the time for holding the circuit and district courts of the United States for the middle district of Tennessee; in the southern division of the eastern district of Tennessee at Chattanooga, and the northeastern division of the eastern district of Tennessee at Greeneville, and for other purposes, to report it favorably, without amendment.

Mr. FRAZIER. I ask for the immediate consideration of the bill.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. FRYE introduced a bill (S. 5572) to amend section 4348 of the Revised Statutes, establishing great coasting districts of the United States; which was read twice by its title, and referred to the Committee on Commerce.

He also introduced a bill (S. 5573) granting an increase of pension to Gustavus A. Thompson; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. CULLOM introduced a bill (S. 5574) granting an increase of pension to Thomas Ringoald; which was read twice by its title, and referred to the Committee on Pensions.

Mr. MCLAURIN introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Claims:

A bill (S. 5575) for the relief of the estate of C. H. Barland, deceased; and

A bill (S. 5576) for the relief of the estate of John McFarland, deceased.

Mr. CULBERSON (by request) introduced a bill (S. 5577) for the relief of J. C. Lankford; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

Mr. WETMORE introduced the following bills; which were severally read twice by their titles, and, with the accompanying papers, referred to the Committee on Pensions:

A bill (S. 5578) granting an increase of pension to Sheffield L. Sherman, jr.; and

A bill (S. 5579) granting an increase of pension to Henry T. Sisson.

Mr. KEAN introduced a bill (S. 5580) granting a pension to Julia Vroom; which was read twice by its title, and referred to the Committee on Pensions.

Mr. DRYDEN introduced a bill (S. 5581) to provide for the purchase of a site and the erection of a public building at

Passaic, N. J.; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

He also introduced a bill (S. 5582) to amend the laws of the United States relative to the registration of trade-marks; which was read twice by its title, and referred to the Committee on Patents.

Mr. CRANE introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 5583) granting an increase of pension to Foster L. Banister (with accompanying papers);

A bill (S. 5584) granting an increase of pension to E. Bradford Gay;

A bill (S. 5585) granting an increase of pension to Frank Loveley (with an accompanying paper); and

A bill (S. 5586) granting an increase of pension to Albert F. Pepoon.

Mr. BURROWS introduced a bill (S. 5587) for the relief of William S. Shaw; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Claims.

He also (for Mr. ALGER) introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Military Affairs:

A bill (S. 5588) to correct the military record of James O'Neill;

A bill (S. 5589) to correct the military record of Oliver C. Rouse; and

A bill (S. 5590) to correct the military record of Capt. Daniel H. Powers (with accompanying papers).

Mr. BURROWS (for Mr. ALGER) introduced a bill (S. 5591) authorizing the Secretary of the Treasury to pay Frederick Carlisle the sum of $234, balance due for services as expert witness; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

He also (for Mr. ALGER) introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 5592) granting an increase of pension to Mary L. Miller;

A bill (S. 5593) granting an increase of pension to James C. Higgins;

A bill (S. 5594) granting an increase of pension to Edward Corselius;

A bill (S. 5595) granting an increase of pension to George W. Bannon;

A bill (S. 5596) granting an increase of pension to Roger A. Sprague; and

A bill (S. 5597) granting an increase of pension to Oscar H. Carus.

Mr. BRANDEGEE introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 5598) granting an increase of pension to Almond Greeley; and

A bill (S. 5599) granting an increase of pension to Dennis Flaherty.

Mr. BURKETT introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 5600) granting a pension to Matilda Brown (with an accompanying paper);

A bill (S. 5601) granting an increase of pension to Mathew B. Reid; and

A bill (S. 5602) granting an increase of pension to Alexander Brady.

Mr. HALE introduced a bill (S. 5603) granting a pension to Kate S. Hutchings; which was read twice by its title, and referred to the Committee on Pensions.

Mr. PATTERSON introduced a bill (S. 5604) granting an increase of pension to Fredericka Pitschner; which was read twice by its title, and referred to the Committee on Pensions.

Mr. MORGAN introduced a bill (S. 5605) for the relief of George W. Lancaster; which was read twice by its title, and referred to the Committee on Claims.

Mr. PILES introduced a bill (S. 5606) to provide for the erection of a public building at the city of Juneau, in the district of Alaska; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. CULLOM (for Mr. HOPKINS) submitted an amendment proposing to appropriate $2,000 for a librarian of the United States circuit court of appeals for the seventh judicial circuit, etc., intended to be proposed by him to the legislative, executive, and judicial appropriation bill; which was ordered to be printed, and, with the accompanying paper, referred to the Committee on Appropriations.

Mr. KITTREDGE submitted an amendment authorizing the issuance of a fee simple patent to Jennie Quinn, Sisseton and Wahpeton allottee, for land heretofore allotted to her, intended to be proposed by him to the Indian appropriation bill; which was referred to the Committee on Indian Affairs, and ordered to be printed.

REGULATION OF RAILROAD RATES.

Mr. McLAURIN submitted an amendment intended to be proposed by him to the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission; which was ordered to lie on the table, and be printed.

POST-OFFICE SUPPLIES AND MAIL MATTER.

Mr. CLAY. I submit a resolution and ask for its immediate consideration.

The resolution was read, as follows:

Resolved, That the Postmaster-General be, and he is hereby, directed to inform the Senate—

First. The aggregate of all the mail carried, in pounds, for the year ending June 30, 1900.

Second. The aggregate of all the mail carried, in pounds, for the year ending June 30, 1905.

Third. What per cent was first class, second class free matter, third and fourth class together, Government free matter, equipment for the Post-Office Department and other Departments?

Fourth. The Postmaster-General is also directed to inform the Senate of the practice of the various Departments of the Government in transmitting by mail merchandise in connection with the administration of the Departments. For example, would a canceling machine for use in a local post-office be properly mailable matter, to be carried without question by the Department?

Has there been any ruling by your Department to the effect that post-office supplies of whatever nature, regardless of weight, are not prohibited admission to the mails, and does this same ruling apply to supplies for any other Executive Department, regardless of the 4 pounds' limit? In other words, is it not true that the weight limit does not prevail against the Post-Office Department or other Executive Departments transmitting matter through the mail?

The Postmaster-General is also directed to inform the Senate what class of articles weighing more than 4 pounds are usually transmitted through the mails free by the Post-Office Department and Executive Departments.

Is it not true that the other Executive Departments use the mails for the purpose of transmitting supplies of almost every class free of charges, and does not the use of the mails for the transmission of such articles tend to increase the weight, which weight becomes the basis of pay to the railroads, and is it not true that the weight of the mails would be greatly decreased if the Post-Office Department and other Executive Departments were required to carry by freight all articles of supply and equipment above 4 pounds' limit instead of by mail? Is it not true that such a provision of law would greatly decrease the cost of carrying the mails and would not interfere with the efficiency of the service?

If all articles of equipment for the Post-Office Department and other Departments above the 4 pounds' limit were excluded from the mails, about what per cent would this decrease the total weight of the mails, and how much cheaper could such articles be carried by freight than by mail?

The Postmaster-General is also directed to inform the Senate whether or not, in his opinion, a provision of law requiring that all post-office supplies and supplies for all other Executive Departments of the Government above the 4 pounds' limit be carried by freight instead of by mail would in any way impair the efficiency of the post-office service.

The VICE-PRESIDENT. Is there objection to the present consideration of the resolution?

Mr. HANSBROUGH. I think the resolution ought to go over, so that Senators may have an opportunity to look at it.

The VICE-PRESIDENT. Under objection, the resolution will be printed and go over.

HOUSE BILLS REFERRED.

H. R. 16125. An act authorizing a license and permit to the Corinth and Shiloh Electric Railway Company to construct a track or tracks through the Shiloh National Park, and to operate electric cars thereon, was read twice by its title, and referred to the Committee on Military Affairs.

H. R. 16226. An act to amend the internal-revenue laws and to prevent the double taxation of certain distilled spirits was read twice by its title, and referred to the Committee on Finance.

H. R. 16521. An act directing the Secretary of the Interior to sell and convey a certain parcel of land to Johnson County, Wyo., was read twice by its title, and referred to the Committee on Public Lands.

H. R. 17756. An act to provide for the entry of agricultural lands within the Black Hills Forest Reserve was read twice by its title, and referred to the Committee on Forest Reservations and the Protection of Game.

FANNIE DINER.

The joint resolution (H. J. Res. 132) permitting the waiving of the alien immigration law in the case of Fannie Diner was read the first time by its title.

Mr. DILLINGHAM. I ask to have the joint resolution read at length.

The joint resolution was read the second time at length, as follows:

Resolved, etc., That the Secretary of Commerce and Labor be, and he hereby is, authorized to waive the provisions of "An act to regulate the immigration of aliens into the United States," approved March 3, 1903, in the case of Fannie Diner, if, after investigation, he deem such waiver proper.

Mr. DILLINGHAM. Mr. President, my attention has been called to this joint resolution by the Department of Commerce and Labor, or rather by the Bureau of Immigration, a part of that Department. It appears that the person named in the joint resolution is an idiot and comes clearly within the provisions of the law, and has been ordered to be deported at the expense of the company which brought her here.

The case briefly stated is as follows: The family consists of a mother, one son, and four daughters. The son and three daughters are already in this country. The son is a prosperous business man. The mother and the idiot daugher have just arrived and have been ordered to be deported. The son is very anxious to make some provision for the idiot sister, but there is no provision of the law under which any guaranty can be given. I understand the immigration officers have said to him if he would provide a suitable person to accompany the idiot sister upon her return to the country from which she came the mother will be admitted. I do not know that under the law anything further can be done, and I do not know why anything further should be asked for. If the immigration laws mean anything they mean that this person should be denied admittance to the United States. The joint resolution is an attempt, of course, to override the general law and to admit this person into the United States.

I do not know that I can say anything further in explanation of the joint resolution.

The VICE-PRESIDENT. The joint resolution will be referred to the Committee on Immigration.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. B. F. BARNES, one of his secretaries, announced that the President had approved and signed the following acts:

On April 5:

S. 1345. An act to provide for the reorganization of the consular service of the United States.

On April 6:

S. 4825. An act to provide for the construction of a bridge across Rainy River, in the State of Minnesota.

On April 9:

S. 2872. An act for the relief of the French Trans-Atlantic Cable Company;

S. 3899. An act granting authority to the Secretary of the Navy, in his discretion, to dismiss midshipmen from the United States Naval Academy and regulating the procedure and punishment in trials for hazing at the said academy;

S. 4111. An act to authorize the Chief of Ordnance, United States Army, to receive four 3.6-inch breech-loading field guns, carriages, caissons, limbers, and their pertaining equipment from the State of Connecticut;

S. 4300. An act to amend section 4414 of the Revised Statutes of the United States, inspectors of hulls and boilers of steam vessels;

S. 5181. An act to authorize the construction of a bridge across the Snake River between Whitman and Columbia counties, in the State of Washington;

S. 5182. An act to authorize the construction of a bridge across the Columbia River between Franklin and Benton counties, in the State of Washington; and

S. 5183. An act to authorize the construction of a bridge across the Columbia River between Douglas and Kittitas counties, in the State of Washington.

URGENT DEFICIENCY APPROPRIATION BILL.

The VICE-PRESIDENT laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 17359) making appropriations to supply additional urgent deficiencies in the appropriations for the fiscal year ending June 30, 1906, and for prior years, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. HALE. I move that the Senate insist upon its amendments and agree to the conference asked for by the House, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to.

The VICE-PRESIDENT appointed Mr. HALE, Mr. ALLISON, and Mr. TELLER as the conferees on the part of the Senate.

STATISTICS RELATING TO COAL.

The VICE-PRESIDENT laid before the Senate the following amendment of the House of Representatives to the concurrent resolution of the Senate providing for the printing of certain papers and documents of the Navy Department relating to the efficiency of various coals used by the United States vessels for steaming purposes, which was, on page 2, to strike out all after line 1 down to and including line 5 and insert "2,000 copies shall be printed, 500 copies for the Senate, 1,000 copies for the House of Representatives, and 500 copies for the Navy Department."

Mr. MORGAN. I move that the Senate concur in the amendment of the House of Representatives.

The motion was agreed to.

SPANISH TREATY CLAIMS COMMISSION.

The VICE-PRESIDENT laid before the Senate the following message from the President of the United States; which was read:

To the Senate and House of Representatives:

There is herewith transmitted for the information of the Congress a communication from the president of the Spanish Treaty Claims Commission relative to the progress and condition of the business of that Commission. From this report it is clearly apparent that the work of the Commission is proceeding with due care and reasonable expedition. The Spanish Government is now courteously furnishing the evidence from its archives and officials which is indispensable to give complete information concerning the transactions upon which the claims before the Commission are founded.

I recommend the passage of a law limiting and fixing the fees of attorneys in cases where awards are made in favor of claimants; and also that the question whether a right of review by the Supreme Court of the decisions of the Commission should be given by means of writs of certiorari be decided at the present session of Congress.

THEODORE ROOSEVELT.

THE WHITE HOUSE, *April 9, 1906.*

The VICE-PRESIDENT. The message and accompanying papers will be referred to the Committee on the Judiciary, and be printed.

Mr. LODGE. I think the Chair will find that all matters relating to the Spanish treaty have heretofore been referred to the Committee on Foreign Relations.

The VICE-PRESIDENT. The message and accompanying papers will be referred to the Committee on Foreign Relations, in the absence of objection.

REGULATION OF RAILROAD RATES.

Mr. McLAURIN. I ask that House bill 12987 be laid before the Senate.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission.

Mr. McLAURIN. Mr. President, the consideration of this bill seems to be somewhat embarrassed by two things. One thing is, some of the newspapers ever and anon tell us what the President's wishes are in respect to the passage of this or some other bill. At one time these media of the dissemination of current news tell us that the President has had a conference with certain Members of Congress—Senators or Representatives, or both—in which he has set forth more specifically than in his message to Congress his views concerning this measure, and urged their adoption by these Members of Congress and enactment by Congress into law. Shortly afterwards we are told by these papers that the President has modified his views in some particulars and advanced additional views in other particulars, labeled with his private mark and given to a chosen few. Shortly again we are told that all of this is untrue, and that the President, having constitutionally discharged his official duty in the matter when he sent his message to Congress, is content to rest upon that message.

Now, I am loath to believe that the President is playing lobbyist and is, by urging upon a few Members of Congress private views and policies into whose confidence he does not take the entire Congress, attempting to vote the confidential few as proxies. I would rather believe that the President, having well considered this Democratic policy and doctrine of the right of Congress to so regulate interstate commerce as to give a fair return to capital invested in the business, and prohibit extortion by the carrier upon the shipper, advocated all over the country by Democrats, led by that Christian gentleman as well as great statesman and orator, William Jennings Bryan, more than a decade ago, is trying to induce his party to forego their opposition and support the policy even if they do not teach the doctrine.

The other thing that seems to embarrass this consideration is the question that appears to be in the minds of some Senators, How far will the courts permit Congress to legislate in this

direction? I will give attention to this embarrassment farther along in this discussion.

I am not one of those, if there be such, who believe there should be, or is, a constant warfare between the people and the carriers, as if the carriers themselves were not a part of the people. Nor do I believe that the enactment of laws defining limits higher than which carriers shall not go in the collection of tolls for carriage implies a distrust of the whole body of carriers any more than I believe that the enactment of laws for the punishment of faithless officials implies a reflection upon the integrity of officeholders generally.

I believe the law should regulate the transportation of property wholly by water, as well as wholly by railroad, but inasmuch as the bill in its present shape—and I fear in the shape in which it will appear when the Senate shall have done amending it—omits transportation wholly by water and thereby practically confines it to railroad regulation, I will briefly refer to it from this aspect.

When capitalists design to construct a railroad they decide to voluntarily appropriate their private property, sufficient to construct the railroad, to public use, and in the construction of the railroad do voluntarily appropriate such private property to public use. To do this they induce the creating of a corporation, and procure a charter therefor, that they may not be liable individually for more than they are willing voluntarily to appropriate to public use. The corporation thus becomes an artificial person, is not now exclusively a private affair, but has engaged in a public emprise. It asks and is allowed to and does exercise the power of eminent domain, an attribute of sovereignty; so that if the owner of land through which it is designed to run the railroad is unwilling to make a contract for the sale of a right of way for the railroad over his land, or, being willing to sell the right of way, will not or does not agree with the corporation upon the price, this company invokes and obtains the authority and power of the Government to compel him, in one instance to sell and in the other instance to agree upon a price for the right of way over his land. This is done under that authority which empowers the Government to take private property for public use, limited only by the inhibition that just compensation shall first be made, and there is no other warrant for its expropriation in this manner. Land is taken in the same way, with or without the owner's consent, for depots, stations, offices, ballast—in the way of gravel pits—and all other purposes necessary or useful for the convenience of the company.

It follows that when the railroad is constructed it is appropriated to public use. It is public property of private ownership and operated by private persons for private compensation. The right to condemn and take, upon just compensation, the private property of others being exercised by the railroad company expressly for public use, it were the height of absurdity were the company to assert immunity from legislative regulation under the claim that it is private property, in the ordinary sense of the words "private property." If the legislative authority were helpless to reach it except as it reaches other private property, as soon as it is condemned and compulsorily acquired for public use the company could withdraw it from that or any other public use. The contemplation of such a result is not to be tolerated. Ordinarily when private property is taken for public use it is done by the State for the State and the just compensation is paid by the State, and the State therefore exclusively uses the property for the entire public—I use the word "State" here in the sense of either the State or General Government. But when a railroad company is permitted to exercise the power of eminent domain, and thereby takes private property for public use, the just compensation is paid by the company. There is then an implied, if not an express, understanding that while the property shall be used for the public the company shall be permitted to collect a reasonable return for its use in the way of tolls from those of the public to whom it renders service.

By this law-invoked arrangement the railroad company has a right to demand and collect a reasonable toll for reasonable services, and its patrons have a right to demand and receive reasonable services for a reasonable toll. Neither ought to desire more or less than this. The arrangement involves reciprocal rights, duties, and obligations.

The company's property being voluntarily appropriated to public use for private compensation and kept in operation and repair by contributions from shippers in return for services rendered, it follows that the property of the shipper is appropriated to public use as well as that of the company.

The property having lost its character as private property and acquired a new character as public property by an arrangement between the company and the Government voluntarily contracted by both, under such circumstances that of necessity its repair and operation must be done by contributions from its patrons, whatever such contributions may be they go to a public use. For the company can not refuse to take of these contributions and repair and operate its property for the public.

After providing the money for repair and operation of this public property the patrons must contribute a further amount sufficient to compensate the company for construction and management and supervision. This is a just arrangement, and it is one of which the patrons do not complain. The fact that the property is owned and managed and controlled by the company does not make it any the less property devoted to public use; nor does it depreciate the fact that money levied to repair and operate it is devoted to public use.

If the property is devoted to public use money levied to improve and operate it for public use is necessarily devoted to public use. It follows "as the night follows the day."

Chief Justice Waite, in 99 United States, 719, said:

> It is a private corporation created for public purposes, and its property is to a large extent devoted to public uses.

Neither the railroad company nor the patron has the exclusive right to fix what is reasonable compensation for services demanded and given. If either has the exclusive right to fix rates Congress has no right to regulate the compensation. The patrons of the railroads—the shippers and passengers—have never, so far as I have ever heard, essayed to do so. The railroad companies, by reason of their position in the transaction, have generally fixed the amount of this compensation, and, for the same reason, the patrons have generally acquiesced. But this has neither forfeited the right of one nor absolved the duty of the other. If the company is required to do the service for less than reasonable tolls, to that extent its property is taken for public use without just compensation; if the patron of the railroad is required to pay more than what is reasonable for the services he receives from the railroad company, to that extent his property is taken for public use without just compensation. It is partiality—of which no government or law should be guilty—to deprecate the taking of the property of railroad companies for public use without just compensation and ignore the taking of the private property of the humble citizen for public use without equally just compensation.

It is not always easy—I may say it is, as a rule, difficult—for the impartial critic to say what is reasonable compensation for given services by the railroad company. It is far more difficult for the shipper or carrier, impressed with his or its partiality for his or its own interest, to define the limits of reasonableness or unreasonableness in the assessment of rates. Therefore it is that an impartial commission may be legally established to adjust such differences as may arise between carriers and shippers as to rates, rebates, discriminations, and preferences whenever such differences shall arise. The establishment of such a commission pertains to the lawmaking department of the Government. The Supreme Court of the United States holds that Congress has such power. I refer to the case of Commission *v.* Railroad Company (167 U. S.), and could refer to others, and would do so but for the fact that I have not so far found a case holding a different opinion.

The Interstate Commerce Commission can meet the exigencies of the case in many instances; there are thousands of cases and conditions which it is impossible for the Commission to reach. I speak of intermediate points and small shippers. Large cities and large and wealthy shippers can take their cases and grievances before the Commission, and are able, through the Commission, or even without the Commission, to take care of themselves. But small shippers and shippers from intermediate points, either from the country or from small towns, are unable to take their cases before the Commission; and if they could get them there, the time required by the Commission to hear all of them would involve interminable delay.

Must these people be ignored? Shall they receive no consideration in this matter? Shall their patriotism be requited with a sneer when they ask that the little modicum of property acquired by their brains, business energy, and brawny arms shall receive at the hands of the Government the same treatment given to the wealth of the rich and great? They are patient in many instances, to be sure, because their circumstances compel them to be so, but even-handed justice to them by the law is the best foundation for the security and perpetuity of the Government.

I have offered an amendment to the bill which, if adopted, will be self-operating and will go far toward doing justice to this part of the people. It proposes that the carrier shall not charge more for carrying freight a part of the distance than for carrying the same freight the whole distance in the same direction between two given points. It does not propose the mileage basis for freight transportation. To illustrate, it proposes if certain freight is shipped from Chicago, by Pittsburg, to New

York for a dollar the same carrier shall not collect more than a dollar for shipping the same freight from Chicago to Pittsburg.

I will further illustrate by existing, or formerly existing conditions, if my information is correct. Port Gibson is between Vicksburg and New Orleans, on the Yazoo and Mississippi Valley Railroad. Cotton was—and is now, I understand—shipped over this road from Vicksburg, by Port Gibson, to New Orleans for a half dollar a bale; but from Port Gibson to New Orleans the rate is, or was, if I am correctly informed, one dollar and six bits a bale, three and a half times as much. In this instance, if 50 cents from Vicksburg is a fair rate, more than 50 cents from Port Gibson is extortion, and neither logic nor sophistry can refute the assertion. The same state of affairs, in more or less degree, applies to all the other towns between Vicksburg and New Orleans, and to the towns above Vicksburg, except where they touch or virtually touch the river.

Now, that it is neither right nor honest to require one man to pay the tariff or freight for another all men are agreed. That equality is equity no man will deny. And here let me, parenthetically, say to all others who favor the jurisdiction of courts of equity to adjudge whether the rate ordained is or not violative of the Constitution that those who demand equity should do equity. Do equity by giving equality to the country shipper and small-town shipper and small shipper. If it is a fair price to carry certain freight from the east by Laurel, Ellisville, Hattiesburg, or any other town on the way, to New Orleans for a dollar, it is extortion to charge these towns more than a dollar when it is stopped there on its way.

If the toll charged to the terminal point is not sufficient to make just compensation and the balance is collected from shippers on the way, such collection is the taking of one's property and discharging the obligation of another with it. Somebody must make just compensation to the carrier, and if the shipper to the terminal is not required to make it, the intermediate shipper has to make it, in addition to paying for the services he himself receives. I fear I should be said to be unparliamentary if I were to characterize such a transaction, but I may be allowed to say that if an individual were, at the point of a pistol, to take the property of one and apply it to the discharge of the obligation of another, he should "be in danger of the judgment."

But they say such an amendment as this, while it is just, would necessitate a revision of railroad rates all over the country. Is not this bill for a revision of the rates of the entire country? If rates are not wrong, they should not be disturbed; if they are wrong, all the wrong should be remedied. While this is being done I desire to see this relief given to people who can, better than in any other way, get relief through self-operating law. I would allow the shipper whose rights are invaded or denied to go into the courts at home and with the least expense be indemnified.

The amendment of the senior Senator from Texas [Mr. CULBERSON] to forbid corporations to contribute to campaign funds is so eminently just that, while I have not the time to discuss or mention more than two or three amendments, I must say it should undoubtedly meet with no opposition.

I heartily indorse the amendment of the senior Senator from Ohio [Mr. FORAKER] to prohibit the issuance of free passes. The officers of the railroad companies, however, who have private cars have them fitted up for offices where they can work while they travel, and I see no reason why the different companies should not be allowed to exchange the courtesy of carrying each others cars as heretofore.

I come now to discuss the amendment of the junior Senator from Texas [Mr. BAILEY]. This involves the constitutionality of a provision prohibiting the issuance of preliminary injunctions on ex parte hearings, and also the powers of Congress to pass a law to prevent a decree before a full and final hearing.

It is contended by the opponents of that part of the amendment that denies to the courts jurisdiction to set aside the Commission's order until a final hearing that Congress can not repeal or change any part of the common law of equity. In support of this contention we are cited to the first section of the third article of the Constitution, which reads:

> The judicial power of the United States shall be vested in one Supreme court and in such inferior courts as the Congress may from time to time ordain and establish, etc.

The next section reads:

> The judicial power shall extend to all cases in law and equity arising under this Constitution, the laws of the United States, and treaties made or which shall be made under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States; between a State and citizens of another State; between citizens of different States; between citizens of the same State claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign states, citizens, or subjects.

It may be that the opinion I entertain in reference to these two sections exists because of the opacity of my mind, that will not let in the light necessary to see the refinements of the distinguished Senators who have argued this contention. But I am unable to see that the framers of the Constitution were at all obscure in dedicating this judicial power. They had said that "all legislative power herein granted shall be vested in a Congress;" that the executive power shall be vested in a President, and now say where the judicial power shall be vested. The time when these powers shall be vested in Congress, a President, and the courts is not designated, but it is expressly in the future, and manifestly when and as soon as the Government shall be in operation under this Constitution.

The Constitution is an instrument of enumeration and not of definition. It was putting in operation a government of three coordinate departments, each the equal of either of the others, and not only supreme, but exclusive, within its own sphere—the legislative to make the laws, the executive to administer, and the judicial to adjudicate causes according to the laws. I take issue with the distinguished and learned Senator from Wisconsin [Mr. SPOONER] when he says the judicial department was created to hold the other two departments to the limitations of the Constitution. The Senator himself says the three are coordinate and independent. This were impossible if one had power over the others. Besides, instances can be cited where the Executive has encroached upon the limitations of the Constitution and the courts had no power to reach him or his encroachment.

After vesting in Congress all legislative powers that are granted, and in a President the executive power, and the courts the judicial power of the United States all the powers of this Government were vested. The intention of the framers of the Constitution was to say that the power of each department shall be distinct and exclusive. It follows, then, mathematically that none of the departments can constitutionally exercise any power that pertains to the jurisdiction of either of the others.

For instance, Congress can not try causes involving the rights of litigants, nor enter decrees, nor set aside verdicts, but it can, and it is its duty to, enact laws by which the trial of such causes shall be conducted, decrees entered, and verdicts set aside. Courts can not make laws prescribing what is right and prohibiting what is wrong, but they can, and it is their duty to, try the causes of litigants, adjudge the causes, decree what is right, and enjoin what is wrong, according to such laws enacted by Congress.

One of the earliest things I learned in law is that a court is a place where justice is administered according to law. This is the judicial power of the United States, to administer justice according to the laws of Congress and the Constitution. The laws of Congress are no less obligatory upon the courts than the laws of the Constitution. Where acts of Congress conflict with the Constitution they are not laws; but where there is no such conflict the acts of Congress are as binding upon the courts as any mandate or prohibition or vestment of the Constitution.

Judicial has been defined to mean "of or belonging to a court of justice; of or pertaining to a judge; pertaining to the administration of justice; proper to a court of law; consisting of or resulting from legal inquiry or judgment, as judicial power or proceedings; a judicial decision, writ, sale, or punishments; determinative; giving judgment." When the word "judicial," limiting the word "power," was used in the Constitution it was to distinguish this power from the legislative power granted to Congress and from the executive power granted to the President. It meant to say that the courts must be confined to adjudications according to law, and not to make law nor exercise functions pertaining to the executive.

As said by Justice Field (99 U. S., 761):

> The distinction between a judicial and legislative act is well defined. The one determines what the law is, and what the rights of the parties are with reference to transactions already had; the other prescribes what the law shall be in future cases arising under it.

In 10 Wheaton, Wayman *v.* Southard, it was held that the legislative department establishes rules; the judicial department determines rights and obligations by such rules.

If the Constitution had declared the law by which the courts are to be governed, that alone would be the law to govern courts in adjudicating causes and entering judgments and decrees; and Congress could have no authority to enact laws to the contrary or even supplementary; but as the Constitution did not, even by the most farfetched construction, do this, but after vesting Congress with power to declare the laws for the guidance of courts as well as of the people empowered the courts to adjudicate, it is clear that the intention was that the power of adjudication should be in accordance with Congressional enactment, if such enactment be authorized by the Constitution.

In New York, in 1777, just shortly after the Declaration of

Independence, and while the Revolutionary war was in progress, in the adoption of a Constitution the thirty-fifth article declared that—

Such parts of the common law of England and of the statute law of England and Great Britain and the acts of the legislature of the colony of New York as together did form the law of the said colony on the 19th April, 1775, shall be and continue the law of this State, subject to such alterations and provisions as the legislature of the State shall from time to time make concerning the same.

Under that Constitution the judicial power had a chart at once for its guidance in judicial exercise. It was evidently thought necessary by the framers of that Constitution that a provision of the kind should be ingrafted.

They also evidently thought the term "judicial power" did not carry with it any power independent of law.

It is said the courts are by the Constitution vested with power. This is true; but it is not arbitrary power. It is neither unlimited nor unqualified power. It is judicial; there it is qualified power. It is the judicial power of the United States, but not the judicial power of the individual States; here it is limited.

The power that draws the vehicle is vested in the horse; but it is not an unbridled power. The power that propels the engine is vested in the steam; but it is not an unrestrained power; it is guided by fixed mechanical laws. The beneficence of the power in each instance is in the law that governs.

So the beneficence of the power vested by the Constitution in the courts is in the restriction of it to judicial exercise—that is, to adjudging according to law. The law protects the unborn babe; protects the infant in the cradle, the schoolboy, the young man strong in the vigor of his youth, the middle-aged ripe in thought, and the old man with whitened locks and trembling steps supported by his staff, and when at last he totters into the beckoning grave it protects the little mound of earth that marks his final resting place this side of eternity. Courts are neither authorized nor empowered to make or enact this law; Congress is empowered to enact it and courts are constitutionally commanded to obey it.

Eulogiums upon the blessings and beneficence and benefactions of courts will hear no dissonant voice from me, but it is always with the understanding that they are governed by law. Thus guided and governed all are safe under their influence and protecting power, but turned loose without restraint or limitation they are like some magnificent ocean steamer plowing the trackless deep, without chart or compass, rudder or pilot, fraught with no special cargo and destined to no definite port.

As I understand Senators, it is contended that courts have certain inherent powers that can not be controlled by law, and that one of these is the power of courts of equity to grant preliminary injunctions. It is true that courts of equity are established by law; it is true that courts of equity follow the law, and this not in the sense of sequence but in the sense of having common-law rules for their guidance the same as common-law courts; it is true that their power to issue writs of injunction is derived from law just as the authority of common-law courts is derived, either from immemorial custom, which constitutes common law, or statutory enactment; it is true that the legislative power to repeal or amend the common law has never been denied by any court; but in the face of all this the contention is that there is an inherent power in courts of equity to grant preliminary injunctions that defies all the powers of Congress.

In a case in Texas—Messner *v.* Giddings (65 Texas)—when it was claimed that the court had authority over the estate of minors under that clause of the Texas constitution conferring on the district courts all the powers of courts of equity, Judge Stayton, speaking for the court, said:

If it is claimed that in the court, as a court of equity, under that clause (of the constitution), the power existed, it must be replied that the district court, whether as a court of law or court of equity, had only such power as the constitution gave it. There is no such thing as the inherent power of a court, if by that he meant a power which a court may exercise without a law authorizing it. That clause of the constitution empowered district courts to exercise all the power given, whether the procedure necessary to accomplish that purpose be such as pertains to a court of law or court of equity; but it in no manner conferred upon such courts the power to exercise any and every power that at any time may have been exercised by courts of chancery in England or elsewhere.

In the case of Austin, etc., *v.* Cluck (97 Tex., and reported in 64 L. R. A.) the court reiterated this principle, and also said the clause of the Texas constitution conferred on the district court "all the powers of courts of equity."

All the powers of courts of law and of courts of equity being conferred by the Texas constitution on the district court, I am unable to perceive how it can be said that less judicial power is conferred thereby than is conferred by the United States Constitution.

I will digress here far enough to say that the court in these two cases treated jurisdiction and power as synonyms. I can not see how there can be power without jurisdiction or jurisdiction without power. They are used by courts interchangeably. The court can not have power without jurisdiction, nor can it use jurisdiction without power. The power of the court is coextensive with its jurisdiction, and its jurisdiction is necessarily coextensive with its power. To convert a mathematical maxim, things that are equal to each other are equal to the same thing.

In the case of Newark, etc., R. Co. *v.* Newark (23 N. J. Eq., 515), the court said:

In the absence of modification arising from statutory or an established course of proceeding the practice of this court is in conformity with the House of Lords. On all unsettled points this is the model to which we recur. With the exception just mentioned, the established English routine is the law of this court, and such law is as obligatory, until altered by statute, as are any of the general principles of the common law.

The constitution of Mississippi (1832) is in effect the same as that of the United States in reference to this subject. It reads (sec. 1, art. 4):

The judicial power of this State shall be vested in one high court of errors and appeals and such other courts of law and equity as are hereinafter provided in this constitution.

In the case of McGowan *v.* James (12 Smedes and Marshall, 448), arising under that constitution and laws thereunder, Judge Clayton, speaking for the court, said:

The statute directs that in default of an answer the bill may be taken pro confesso and set for hearing at the same term; and such pro confesso, so taken, shall not be set aside unless upon good cause shown and payment of costs. This strongly implies that it shall be done upon good cause shown, and we can scarcely conceive a stronger showing than was here made.

This decision recognized the power of the legislature to make laws for the government of the courts of equity in future cases in a matter that goes to the very equity of the case.

That was when William L. Sharkey was chief justice, than whom no greater jurist ever sat in this or any other country.

In the case of Pittman *v.* McClellan (55 Miss.) the court said:

To what extent has the statute changed the practice? First, it has converted what was before very much a matter of discretion into a matter of duty.

This was under the constitution of 1869, which, in this respect, was in effect as the one I have read.

In a case in 5 California (pages 74 and 75) it was held that the legislature did not have power to enact a law prohibiting the court from granting an injunction in a specified case, but the implication is clear in that case that the legislature had the power to make such a rule—the manifestly implied holding being in substance that to make rules for all cases or for a class of cases is legislative, but to apply such rules to specified cases is judicial.

In 47 Mississippi, page 619, and 55 Mississippi, page 19, it is held that the legislature may enact laws shifting the burden of proof from the plaintiff to the defendant. This was in an equity court. That was in the case of a tax title, the act of the legislature providing that the tax deed shall prevail and constitute prima facie proof that everything was lawfully done in the sale until it is disproved on final hearing. This being so it will be analogous legislation to enact that the action of the Commission shall be prima facie proof that the rate named by the Commission will return just compensation until its assailant shall prove otherwise upon final hearing.

If courts in the exercise of judicial power were not to be unfettered by law and if Congress could not pass laws for their government or guidance, by what laws were they to adjudicate? While there is common law of the States, and many of the rights of the people rest upon this common law of the States, there is no such thing as common law of the United States. I refer for this to Bucher *v.* R. R. Co. (125 U. S., 583, 584), and there are other cases.

If it had been intended that the words "judicial power" should vest the courts with all power that courts had theretofore exercised, there would have been no necessity for the second clause of section 9, Article I, which prohibited the suspension of "the privilege of the writ of habeas corpus." This was an old writ coming from the Roman republic through the Empire and dark ages, and if anything could have been thought to be sanctified in the jurisprudence of English-speaking peoples it is this writ. It deals with human liberty, whose aspirations never die; injunction deals with property, that perishes.

When Senators produce judicial authorities to prove that when courts have jurisdiction of a matter or case they may exercise power over it to the full limit of the Constitution, they are engaged in a work of supererogation. This principle is judicially axiomatic. The question still recurs, What is the

limit of the Constitution? It is the line that divides the judicial power from the legislative power and from the executive power. It is the line that marks the boundary between the investigation of the rights of litigants, as such rights existed by the law at the time of their genesis, and the prescribing of rules of action for the future, commanding what is right and forbidding what is wrong. It is not for the court to inquire whether rules prescribed by Congress, within its constitutional sphere, will do justice or equity.

Nor is it for the court to adopt what appears to it better rules for its judgment in the dispensation of justice. Under our form of government the courts must take that which is commanded by the acts of Congress, in its constitutional sphere, as being right and that which is prohibited as being wrong, so long as such acts remain unrepealed. Congress often passes vicious acts, especially when it is Republican, but if they are within the scope of its constitutional authority the courts have no right to repeal them.

And, as said by Chief Justice Waite, in 99 United States, 718:

> Every possible presumption is in favor of the validity of the statute.

It is not necessary to resort to the court to get a confirmation of the law. It is the law when Congress, within its sphere, enacts it. (Swift *v.* Tyson, 16 Peters, 18.)

But I will not detain the Senate longer on this question. I fear I am trespassing upon your patience. I beg your further indulgence, however, while I devote a few moments to another phase of the question.

It being true that Congress has the power to prohibit the issuance of preliminary injunctions, the next question is the wisdom of its exercise. If the Commission should name a rate less than sufficient to return just compensation to the carrier, the difference between such rate and a sufficient rate during the time of the litigation would be taken from the carrier without just compensation if preliminary injunction is denied, and therefore the carrier's property would be taken for public use to that extent without just compensation.

But if the Commission names a rate sufficient to return just compensation to the carrier and it is less than the rate fixed by the carrier and a preliminary injunction is granted, the private property of the patrons of the carrier, to the extent of the difference between the rate named by the Commission and that fixed by the carrier, is taken for public use without just compensation to them during the time of the litigation.

So in the very nature of the case there is a possibility of the taking of some one's property for public use without just compensation. If preliminary injunction is granted and the Commission's rate is unlawful no harm is done by the injunction. If preliminary injunction is denied and the Commission's rate is lawful no harm is done by the denial.

This is a case, then, where probabilities must be weighed against each other. Two interested parties have a controversy as to rates and take it before a supposedly disinterested and impartial commission for arbitration. When the commission makes its award the probabilities should be far greater that the award is correct than the contention of either of the parties. There is, therefore, far less probability of taking private property for public use without just compensation by denying than by granting preliminary injunction.

Besides, the shipper, in the very nature of the case, can not appeal, so that if he has a just contention and the Commission by mistake rejects it, he must continue to suffer the taking of his private property for public use without just compensation, without remedy or review by the courts.

It has been proposed to compose the difficulty of doing exact justice by requiring the carrier to fund, during the litigation, the difference between the Commission and railroad rates, the carrier retaining it if successful and returning it to the shippers if unsuccessful. Instead of composing the existing difficulty, this arrangement would add another. In some instances it would do justice or equity, but, as a rule, the shipper has added the excess tariff to his customer's debit, and the customer, who really has paid it, could never receive its return.

It is not always possible for the courts to see that parties receive exact justice or equity. Delays in hearing causes are inevitable; and every day's delay is a suspension of the rights of the party whose cause is just, from which delay he may suffer irremediable and redressless loss. Innocent men are sometimes deprived of their liberty, while baseless charges against them are delayed of hearing because of the imperfections indissolubly incident to all human affairs. But these are evils that can not be avoided. They are inevitably incident to the exigencies of government.

So in the case under consideration. There is unavoidable danger of irremediable loss to some one, or more. Legislative powers and judicial efforts should be exerted to minimize this danger to the least degree.

If any carrier should be so dissatisfied with and feel so aggrieved by the award of the Commission as to desire to have a judicial investigation of the matter, no just thought would deny access to the courts and a full judicial review of every question of constitutional and legal right. Indeed, constitutional right is legal right, and legal right is constitutional right.

But as the court's power is limited to enjoining the taking of the carrier's property without just compensation, and can not adjudicate and establish what is a just compensatory rate, the shipper is thereby denied any appeal to the court, though he may be ever so dissatisfied and feel ever so aggrieved by the Commission's award. The power to fix rates being legislative, Congress can not confer it upon courts, therefore it is beyond judicial power to correct an error of the Commission against the shipper who complains of rates.

Only one of the parties to the controversy before the Commission—the carrier—having access to the courts, the Commission's order should not be enjoined until a full and final hearing—a hearing that ought to be expedited by legislative rule and judicial effort.

It is not as if Congress were prescribing rules for enjoining the pulling down of buildings or excavation of lands or killing live stock and the like, where all the damage sought to be prohibited will have been done before a hearing can be had; but it is an injunction to forbid the exercise of the order of a lawfully constituted commission in a case where it is impossible for an injunction bond to even approximately indemnify the really injured parties if the injunction shall be found without legal merit.

Before concluding I will address a few words to the political complexion of this matter. We frequently hear from Republicans and read in Republican newspapers of the nonpartisanness—if I may coin a word—of this measure. But these Republicans and Republican newspapers in discussing it speak of it as the President's policy, as if the President were the Columbus of it. We have seen all along accounts of conferences between the President and Republican Representatives and Senators in reference to this measure, but until a very few days ago, after this fact had excited remark as appearing to show that there is partisanship in it, I never heard of a Democratic Senator or Representative being consulted. And after the able and alert junior Senator from Texas [Mr. BAILEY] prepared and offered an amendment to meet the justice, as well as constitutional obligation, of opening a door to the courts, and, at the same time, protecting the shipper's rights and interests by limiting the court's decree to the final hearing of the cause before decree, and prohibiting a preliminary injunction on ex parte hearing, an amendment not so explicit, but along similar lines, is introduced by the Senator from Kansas [Mr. LONG], and we are told by these newspapers that this is an amendment prepared by the President, and that it is desirable that we, the Democrats, go over and help him to adopt it, as well as help him to carry out his policy.

If this is nonpolitical legislation, what good reason can be given for ignoring the amendment offered by the Senator from Texas [Mr. BAILEY]? It is far more explicit and better adapted to do justice and reach the just end sought to be attained. This is not a policy discovered and copyrighted or patented by the President. It is a policy proclaimed and advocated by the Democratic party long since and opposed by the President and Republican party until less than a year and a half ago, when the President seems to have first seen its beneficence. I say opposed by the President, because his party opposed it, and I presume as soon as he saw his party's error he made the announcement, and that was not made until December, 1904.

Now, assuming that the President and the faction in his party who are willing to follow him on this measure are sincere and earnestly desire legislation herein in the interest of the great mass of plain people of the country, let him and them come over and help us enact a law that will be a sure-enough law—one that has meaning sufficient to accomplish the good results for which the entire country is looking. Let them help us to enact a rate law that will give relief to the plain people of all walks and vocations. Let us give the small farmer and the large farmer, who ships his cotton or flour or corn or meat, a fair rate, and lift the hand of extortion from him. Let us reduce any exorbitant rate on the food and fuel that feeds and warms the laboring man in cities and towns and villages, and at the same time reduce any exorbitant rate upon the large shipper.

The Senator from North Dakota [Mr. MCCUMBER] eulogized

in this discussion what he termed the "blessings of a protective tariff." Let us remove by this bill one of the curses of a prohibitive tariff. I know of no exact rule for determining what is just compensation, within the meaning of the Constitution, for the carriage of freight or passengers by railroads; but I do know that the cost of the construction of the railroad and its equipage enters into its computation. The greater the cost of construction, the more will the railroad company be allowed to charge for its services; and the less the cost of construction, the less will the railroad be allowed to charge to get just compensation.

Therefore, if the price of steel is high it will cost more to build the railroad, and it will be felt by every shipper over it in the excessive rates of tolls. But if the price of steel rails is low it will cost less to build the railroad, and it will be felt by every shipper in the reduction of freight charges the company will be compelled therefor to make. Whatever, therefore, adds to the cost of construction adds to the freight charges and is felt by every man who ships or uses anything that is shipped over railroads.

There is a prohibitive tariff on iron and steel bars under which, in the last fiscal year, only 17,025 tons of these bars were imported, on which was collected a revenue of $133,476 only; while the price of rails was thereby raised about $10 a ton, so that the railroad companies were taxed by the steel trust about $10 a ton, and the patrons of the railroads were required to pay in proportion higher passenger and freight charges. This tariff tax was not levied on these rails to collect revenue for the Government, and collects for the Government a comparatively insignificant sum. It was levied to collect taxes for the steel trust and collects millions of dollars for that trust, and every man who ships freight or uses freight that is shipped over railroads has charged against him a higher rate to make good that levy of robbery.

I intended to read an able article on this tariff on steel rails, found in the Washington Post a few days ago, but I find that I have mislaid it. It so forcibly presents the subject that I regret its misplacement.

Here is an opportunity for the Republican party to strike a blow for the reduction of freight rates that will benefit shippers and everybody else everywhere. Repeal the iniquitous prohibitive tariff on iron and steel.

When this bill shall become a law—as I am confident it will in some shape—let it be a law that will give the full measure of relief and remedy craved by the people. Do not let it be an act to pacify public demand without filling the measure of public hopes.

Mr. MORGAN. Mr. President, I expected to take the floor at the conclusion of the speech of the Senator from Mississippi for the purpose of discussing the rate bill, but it is an inconvenient hour for Senators, and I will proceed with my remarks at 2 o'clock, or as soon thereafter as the bill is taken up.

Mr. HEYBURN. I offer certain amendments to House bill 12987—the rate bill. I ask that the amendment I send to the desk may be read.

The VICE-PRESIDENT. The amendment will be read by the Secretary.

The Secretary read as follows:

On page 20, line 2, insert the following:

"That any party who shall have made complaint in the manner herein provided to the Interstate Commerce Commission against any common carrier charging such common carrier with charging, demanding, or publishing an unjust, unreasonable, discriminatory, preferential, or prejudicial rate, charge, or practice for or in connection with the transportation of any proper subject of interstate commerce, which such complaining party may offer, or may desire to offer, for transportation by the said common carrier, and the said Interstate Commerce Commission shall make and enter a decision against the claim made by such complaining party in regard to such rate charged or to be charged, then such complaining party may cause to be reviewed by the United States circuit court sitting in the district in which the said cause of complaint has arisen the proceedings had before such Interstate Commerce Commission relative to the said complaint, which proceedings upon the demand of the complaining party shall be fully certified by the Interstate Commerce Commission to the United States circuit court aforesaid for review therein, and said proceedings so certified shall constitute the record to be considered and passed upon by the said circuit court.

"That the circuit courts of the United States shall, on behalf of either the complainant or carrier, have and exercise jurisdiction to review any final decision of the Interstate Commerce Commission establishing rates or conditions regulating interstate commerce under the provisions of this act. The jurisdiction of said circuit courts to review such proceedings shall attach upon the filing therein of a certified copy of the proceedings had before the Interstate Commerce Commission within thirty days after the making of the order to be reviewed, which said proceedings shall constitute all of the record upon which said review may be had. And upon the filing thereof the jurisdiction of said circuit court shall fully attach for the purpose of determining all questions of law and fact presented by said record, and the entering of judgment therein according to the law and the premises; and the hearing and consideration of such cases by the said circuit court shall be prompt, and such cases shall have priority in hearing and determination over all other cases, except criminal cases.

"That the said circuit court shall have power to make and issue all necessary interlocutory orders and writs for the preservation of the rights of the parties litigant pending the hearing and determination of the review of the proceedings of the Interstate Commerce Commission: *Provided*, That no order or writ shall be made suspending the operation of the order under review, except upon the party asking for such order giving an indemnity bond in such sum as the court or judge thereof may direct, or depositing the amount of such indemnity with the court subject to its order. And the liability under such indemnity bond or deposit shall cover the costs of the hearing before the Interstate Commerce Commission and the review by the circuit or Supreme Court, together with the amount of money involved in the controversy to be reviewed. And no stay of the order of the Interstate Commerce Commission shall be allowed under any order or writ made or issued by the circuit court for a period of more than sixty days, at the expiration of which time, should the parties seeking to have the proceedings of the Interstate Commerce Commission reviewed desire a further stay, they must show to the said court or judge thereof that they have been and are exercising due diligence in the preparation and prosecution of the action, and that injustice would result from the refusal to grant such extension of time.

"That the circuit court having jurisdiction of the case shall at all times be open for any purpose or proceeding in the exercise of the jurisdiction herein conferred for the review of the orders and proceedings of the Interstate Commerce Commission and for receiving, considering, and determining interlocutory orders pertaining thereto, regardless of the term time of the said circuit court, and all such hearings upon any matter pertaining to the review of such decision by the said circuit court may be had before the said circuit court, and any interlocutory or final order, decision, or decree of the said circuit court may be made, entered, and enforced by appropriate proceedings without regard to the regular term of the said court.

"That the decisions of the United States circuit courts upon a review of any of the proceedings of the Interstate Commerce Commission as aforesaid or of any matter pertaining thereto shall be final, except that whenever it shall be made to appear by verified petition to the Supreme Court of the United States or to a justice thereof, upon the presentation of the certified copy of the record upon which the final judgment of the circuit court is based, that any of the rights of the contesting parties under the Constitution of the United States have been violated by a denial of such rights of the parties to such controversy by the order, judgment, or decree under review, then and in that case the Supreme Court or a justice thereof may, by appropriate order or writ, cause the record of the proceedings of the said circuit court to be certified to the Supreme Court of the United States for review thereby, and upon such review only such portions of the record as involve the determination of the rights of the litigants under the Constitution of the United States shall be considered or determined. And the Supreme Court shall have the power to make such orders and issue such writs as, in its judgment, are necessary to protect the rights of the parties litigant, pending a hearing and determination of the cause, to the same extent as is herein provided in this behalf during the pendency of the review of such cause in the circuit court: *Provided*, That the proceedings for the review of the judgment of the circuit court in such case, whether by appeal or otherwise, in the Supreme Court of the United States shall be commenced by the filing of a certified transcript of the record, proceedings, and judgment or decree had in the said circuit court in said cause with the clerk of the Supreme Court of the United States within thirty days after the entry of such judgment by the said circuit court, and that thereafter the consideration by the Supreme Court of the United States of such causes shall have priority in hearing and determination over all other causes except criminal causes, but the pendency of such review in the said Supreme Court of the United States shall not vacate or suspend the order appealed from except in the manner or under the conditions as hereinbefore provided in the case of the proceeding in the circuit court to review the order of the Interstate Commerce Commission.

"That any order made by the Interstate Commerce Commission fixing or regulating interstate traffic rates, or any matters pertaining thereto under the authority vested in said Commission by law, shall be in force from time of the making of such order by the said Commission, and shall only be suspended in the manner hereinbefore provided."

The VICE-PRESIDENT. The proposed amendment will be printed and lie on the table.

Mr. HEYBURN. I offer further amendments to the rate bill, which I ask be printed and lie on the table.

The amendments were ordered to lie on the table and to be printed, as follows:

Amendments intended to be proposed by Mr. HEYBURN to H. R. 12987, an act to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission.

On page 11, line 9, after the word "jurisdiction," add the words "upon a review at the instance of the party upon whose complaint the Commission acted, or the common carrier against whom such complaint was made."

On page 13, line 18, after the word "within," strike out the words "two years" and insert the words "six months."

On page 13, line 21, after the word "within," strike out the words "one year" and insert in lieu thereof the words "six months."

Mr. HEYBURN. Mr. President, I ask permission to offer another amendment to the railroad rate bill, which I will send to the desk and ask that it be printed in the RECORD, and that it be printed and lie on the table.

The VICE-PRESIDENT. Is there objection to the request of the Senator from Idaho? The Chair hears none, and that order is made.

The amendment referred to is as follows:

On page 3, after section 1, insert the following:

"That for the purpose of enabling the Interstate Commerce Commission to determine the basis upon which to ascertain what rates shall be just and reasonable, the said Commission shall require any common carrier against whom complaint shall be made under the provisions of this act to file with said Commission, at its office in the city of Washington, in the District of Columbia, a copy of its articles of incorporation, together with any amendments or supplemental articles adopted by it, duly certified by the secretary of state, or officer corresponding thereto of the State, Territory, district, insular possession, or foreign country wherein such corporation shall have been in-

corporated, and shall also file in like manner a copy of any and all by-laws of such corporation duly certified by the president or vice-president thereof, and under the seal thereof, attested by the secretary of the corporation.

"That at the time of filing the articles of incorporation and by-laws of any corporation as hereinbefore provided, and on or before June 30 in every succeeding year, the corporation so filing the same shall file with said Commission a statement, verified by the oath of its president or vice-president, fully setting forth as follows:

"First. The name of the corporation and the place and date of incorporation.

"Second. The names, residence, and business or occupation of the officers of the corporation.

"Third. The business in which the corporation is actually engaged, and in what States, Territories, districts, or insular possessions it is engaged in transacting such business.

"Fourth. The cash value of the assets of the corporation and the nature and character of such assets.

"Fifth. The amount of indebtedness of the corporation, and, if such indebtedness is secured, in what manner.

"Sixth. A statement in detail of all bonds and mortgages issued by and outstanding against said corporation, showing when said bonds were issued and when the same become due, and the consideration received by the corporation for said bonds in property or money, and, if in property, the nature and cash value of such property and where situated; and in case of mortgages, showing the date of such mortgages, the date of their maturity, the property covered thereby, and the cash value thereof.

"Seventh. The amount of shares of stock or bonds owned or controlled by said corporation in any other corporation, and the proportion of the entire capital stock which such holding represents, both in the reporting corporation and the corporation whose shares it holds.

"Eighth. The amount of assets and liabilities of any corporation in which such reporting corporation holds stock or bonds, giving the character of such assets and liabilities and of what such assets and liabilities consist.

"Ninth. The number of shares of the capital stock of the corporation which have been actually issued, and the amount and value of the consideration actually received into the treasury of the corporation for such shares; where the payment was made in money, then the amount in money per share; where such payment was made in property, a description of such property as to location, character, and the cash value thereof.

"Tenth. That no other stock of any character has been issued or is outstanding than that so reported.

"Eleventh. That the corporation has issued no other bonds, mortgages, or other evidence of indebtedness than those stated in said report to have been issued.

"Twelfth. The amount expended for extensions, construction, and improvements each year, and where expended, and the character thereof.

"Thirteenth. The earning receipts from each branch of the business and from all sources, the operating and other expenses, balances of profit and loss, and a complete exhibit of the financial operations of the carrier each year, including an annual balance sheet. Such reports shall also contain information in relation to rates or regulations concerning freights or fares, or agreements or arrangements or contracts affecting the same, as the Commission may require. Such detailed report shall contain all the required statistics for a period of twelve months ending on the 30th day of June of each year, and shall be made under oath and filed with the Commission, at its office in Washington, on or before the 20th day of September then next following unless additional time may be granted in any case by the Commission. And if any carrier, person, or corporation subject to the provisions of this act shall fail to make and file such annual report within the time above specified, or within the time extended by the Commission for making and filing the same, or shall fail to make specific answer to any question authorized by the provisions of this section within thirty days from the time it is lawfully required so to do, such parties shall forfeit to the United States the sum of $100 for each and every day it shall be in default in respect thereto. The Commission shall also have authority to require said carrier to file monthly reports of earnings and expenses or special reports within a specified period, and if any such carrier shall fail to file such reports of earnings and expenses or special reports within a specified period, and if any such carrier shall fail to file such report within the time fixed by the Commission, it shall be subject to the forfeitures last above provided. Said forfeitures shall be recovered in the manner provided for the recovery of forfeitures under the provisions of this act. Any oath required to be taken in this act may be taken before any person authorized to administer an oath by laws of the State in which the same is taken.

"Fourteenth. That it is engaged in no other business than that set forth in the report."

ABATEMENT OF NUISANCES IN THE DISTRICT OF COLUMBIA.

Mr. GALLINGER. There are quite a number of District of Columbia bills on the Calendar, and if I could get an opportunity I should like to have two or three of them passed to-day in the interim.

I ask unanimous consent for the present consideration of the bill (H. R. 4461) to provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District, and for other purposes.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CONDEMNATION OF INSANITARY BUILDINGS.

Mr. GALLINGER. I beg the indulgence of the Senate to ask for the consideration of the next Order of Business, a bill covering another condition in the District of Columbia that ought to be cured. I ask the Senate to proceed to the consideration of the bill (S. 47) to create a board for the condemnation of insanitary buildings in the District of Columbia, and for other purposes.

The Secretary read the bill.

The VICE-PRESIDENT. Is there objection to the present consideration of the bill?

Mr. PETTUS. There will be no time now to debate that bill, and some of us want to state some objections to it.

The VICE-PRESIDENT. Under objection, the bill will lie over.

Mr. GALLINGER. The bill was reported from the committee with an amendment, which is a simple one. I ask that it be adopted.

The VICE-PRESIDENT. Without objection, the amendment reported by the Committee on the District of Columbia will be read.

The SECRETARY. On page 13, line 21, after the word "purpose," insert:

One-half from the revenues of the District of Columbia and one-half from any money in the Treasury not otherwise appropriated.

The VICE-PRESIDENT. If there be no objection, the bill will be regarded as being before the Senate as in Committee of the Whole, and the Chair will put the question on agreeing to the amendment. Shall the amendment be agreed to?

The amendment was agreed to.

Mr. GALLINGER. Now let the bill go over as amended.

The VICE-PRESIDENT. The bill will lie over, retaining its place on the Calendar.

JACOB PICKENS.

Mr. WARNER. I ask unanimous consent for the present consideration of the bill (H. R. 8717) for the relief of Jacob Pickens.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It proposes to pay to Jacob Pickens, of Neosho, Mo., $208.44, being the amount stolen from a registered letter belonging to Pickens and collected by the United States Government from a mail contractor, and being now in the United States Treasury.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOHN M. BURKS.

Mr. BURKETT. I ask unanimous consent for the present consideration of the bill (S. 1344) for the relief of John M. Burks.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It proposes to pay to John M. Burks, of Lincoln, Nebr., $50, for fine unlawfully collected from him.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CHAMBERLAIN LAND DISTRICT, SOUTH DAKOTA.

Mr. KITTREDGE. I ask unanimous consent for the present consideration of the bill (H. R. 15328) to approve certain final proofs in the Chamberlain land district, South Dakota.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MESA VERDE NATIONAL PARK.

Mr. PATTERSON. I ask unanimous consent for the present consideration of the bill (S. 3245) creating the Mesa Verde National Park.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

Mr. PATTERSON. My colleague [Mr. TELLER] offered some amendments to the bill, which I am quite willing to accept.

The VICE-PRESIDENT. The first amendment proposed by the senior Senator from Colorado [Mr. TELLER] will be stated.

The SECRETARY. In lines 6 and 7, page 4, strike out the word "restoration" and insert in lieu thereof the word "preservation."

The amendment was agreed to.

The VICE-PRESIDENT. The next amendment proposed by the senior Senator from Colorado will be stated.

The SECRETARY. Strike out all of section 4, after the word "months," in line 2, page 5, and insert in lieu thereof the following:

Provided, That all laws of the United States in force in the State of Colorado concerning mines and mining shall be and remain in full force and effect within said national park; and patents shall issue for mines heretofore or hereafter located within said park as in other parts of Colorado: *And provided further*, That the Secretary of the Interior may designate bounds not to exceed one-half mile in all directions from any of the ruins intended to be preserved hereby and including the same, within which bounds the above proviso shall not be operative.

The amendment was agreed to.

The VICE-PRESIDENT. The next amendment submitted by the senior Senator from Colorado will be stated.

The SECRETARY. It is proposed to add to the bill the following as a new section:

SEC. 5. That nothing in this act shall prevent the service of writs or warrants, or any other legal process issued out of any of the State or other courts, the same as though this act had not been adopted.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ALASKA SHORT LINE RAILWAY AND NAVIGATION COMPANY'S RAILROAD.

Mr. PATTERSON. I ask the indulgence of the Senate for unanimous consent for the present consideration of the bill (S. 4256) for the relief of the Alaska Short Line Railway and Navigation Company's Railroad, as I shall be going away tomorrow for about ten days.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes that the time of the Alaska Short Line Railway and Navigation Company to comply with the provisions of sections 4 and 5 of chapter 299 of the laws of the United States entitled "An act extending the homestead laws and providing for the right of way for railroads in the district of Alaska, and for other purposes," approved May 14, 1898, in acquiring and completing its railroad now under construction in Alaska, be extended as follows:

First. The time to file the map and profile of definite location of its second section of at least 20 miles with the register of the land office in the district of Alaska, as provided in said sections 4 and 5, is hereby extended to and including the 20th day of March, 1907.

Second. The time to complete the first section of at least 20 miles of its railroad, as provided in said section 5, is hereby extended to and including the 20th day of March, 1907, and such railroad and navigation company shall be entitled to all the benefits conferred upon it by the provisions of such act upon its due compliance with all the provisions thereof, excepting only the provisions thereof relating to the filing of the map and profile of definite location of its second section of not less than 20 miles of its road: *Provided*, That it shall have successively one year each after said 20th day of March, 1907, in which to file the map and profile of its definite location of the succeeding sections of not less than 20 miles each: *And provided further*, That it shall have five years in which to complete its entire line from Illamna Bay to the Yukon River.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ABATEMENT OF NUISANCES IN THE DISTRICT OF COLUMBIA.

Mr. PETTUS. In relation to House bill 4461, in reference to declaring certain houses in the District of Columbia to be nuisances, which passed the Senate a few moments ago, I move to reconsider the vote by which it was passed.

The VICE-PRESIDENT. The question is on the motion of the Senator from Alabama. [Putting the question.] The ayes have it, and the motion to reconsider is agreed to.

Mr. GALLINGER. Do I understand the motion prevails, Mr. President?

The VICE-PRESIDENT. The motion prevails.

Mr. GALLINGER. I wish to question that vote, Mr. President.

The VICE-PRESIDENT. The Chair will put the question again.

Mr. PETTUS. I desire to say something upon the bill before it is finally acted on, Mr. President.

The VICE-PRESIDENT. The question on the motion of the Senator from Alabama will be again put.

Mr. PETTUS. I understood the senior Senator from Alabama [Mr. MORGAN] was going to address the Senate at this time.

The VICE-PRESIDENT. The Chair will state that the Senator's motion was evidently not understood by the Senate when it agreed to reconsider. So the Chair will again put the question.

Mr. PETTUS. I desire that the motion go over until the proper time, when the Senator in charge of the bill may call it up. I want to address the Senate on it.

The VICE-PRESIDENT. The Chair understands, then, the Senator from Alabama desires merely to enter a motion to reconsider the vote by which the bill was passed.

Mr. PETTUS. I simply enter the motion, and ask that it be noted, to reconsider the vote by which the bill was passed, and then let the motion go over until such time as the bill may be called up.

The VICE-PRESIDENT. The motion will be entered.

Mr. GALLINGER. Mr. President, I want to take a moment, and only a moment, to address myself to the motion of the Senator from Alabama [Mr. PETTUS] to reconsider the vote by which House bill 4461 was passed a few moments ago. The Senator from Alabama said the bill related to the destruction of buildings in the District of Columbia. The bill does not relate to that subject at all, I will say to the Senator, and I trust he will read the bill carefully before his motion is put.

I want simply to add that for five years the very best people in this District, and all the associations that have to do with the welfare of the people of the District, as well as some of the good people outside of the District, have been urging this legislation, and I have given a great deal of thought and time to it, as has the committee of which I chance to be chairman.

I trust the Senator will press his motion to reconsider at an early day, and then we will discuss it and act upon it.

Mr. PETTUS. I have said the Senator may call it up at any time.

Mr. GALLINGER. That is satisfactory.

Mr. PETTUS. I merely want to have an opportunity to state my objections to the bill.

Mr. GALLINGER. That is all right.

The VICE-PRESIDENT. The motion to reconsider has been entered.

GOVERNMENT POWDER FACTORY.

Mr. DANIEL. I ask permission, Mr. President, to have inserted in the RECORD a letter from Robert S. Waddell, esq., the president of the Buckeye Powder Company, of Peoria, Ill. It is apropos of a subject which has been discussed here and in answer to another letter which was put in the RECORD.

The VICE-PRESIDENT. Is there objection to the request made by the Senator from Virginia? The Chair hears none, and it is so ordered.

The letter referred to is as follows:

PEORIA, ILL., *April 2, 1906.*

Senator JOHN W. DANIEL,
Washington, D. C.

MY DEAR SIR: In the RECORD of the 29th ultimo, the letter of Mr. G. M. Peters, president King Powder Company, contradicts my statements and I beg to submit the following reply:

My letter to you reads: "Business men recite the experience of the King Powder Company," and I then state the facts recited, and add that "I was on the other side and chuckled over the results. And then the 'King' went into the 'trust.'"

To this Mr. Peters replies:

"If Mr. Waddell made such statement, we wish to say that it is * * *, nothing of the kind ever having occurred or ever having been thought of by us.

"We wish further to say, in contradiction of Mr. Waddell's statement as reported, that the King Powder Company does not belong and never has belonged to a 'powder trust,' and, furthermore, that we do not believe there is such a thing in existence as a 'powder trust.'"

The incident of packing Du Pont powder in King kegs was mentioned not to injure the King company, but to illustrate the difficulties that many business men speak of experiencing in the past when competing against a "trust" that maintains a strong lobby at Washington. This incident occurred several years ago, has been often related by those conversant with the details, is generally believed to be true, and has never hitherto been disputed, so far as I know.

Although not present in person to witness each step in the deal, I have never doubted the full truth as reported, for it was in harmony with kindred acts of Great Western Powder Company, John King, founder, the name of which company was changed to King Powder Company, in honor of its president, after his demise and the advent of Mr. Peters in the business. King bought a large quantity of powder from the Government which had been made by Du Pont, Hazard, and Laflin & Rand, deteriorated, was condemned and sold. King reglazed the powder, packed it in his own kegs and sold it under "Continental" brand made by King's mills. I also know that Messrs. Du Pont maintained a suit against a Cincinnati firm and forced it to discontinue packing King powder in Du Pont kegs and selling it as of the latter make. Reference is made to the court records. Knowing that Mr. Peters's predecessors were not strangers to trade deceptions and that Mr. Peters is now packing King powder under Du Pont and Hazard labels, I still credit the reports made to us as stated.

This is an immaterial issue, the important feature being Mr. Peters's statement.

"We wish further to say, in contradiction of Mr. Waddell's statement as reported, that the King Powder Company does not belong and never has belonged to a 'powder trust,' and, furthermore, that we do not believe there is such a thing in existence as a 'powder trust.'"

I am glad to get this "rise" out of a trust magnate, but realize that in defending against anyone who may be troubled with "mental reservations" it is necessary to resort to definitions. In all my representations to the Congress I have used the word "trust" in its broadest sense, as covering any and all organizations of powder manufacturers, acting contrary to and in defiance of the Sherman or national antitrust law. Whether it be called association, agreement, syndicate, pool, trust, understanding, or other name, if its action resulted in fixing or regulating prices, dividing, apportioning, or limiting production of powder in restraint of trade or to destroy competition, it is covered by the commonly accepted term "trust," and Mr. Peters so understands me, for he knows I refer to powder deals that are prohibited by national and State laws. The Du Pont trust not only comes under this general definition, but on certain kinds of powder, like Army and Navy smokeless, it is a trust in the most limited sense, enjoying an absolute and exclusive monopoly, and Mr. Peters knows my representations are true.

I repeat the statement that the King Powder Company, by the personal agreement of G. M. Peters, president, is and has been for many years a party to a "trust." The last one was formed in 1896, and it was in the form of a pool. The following are the percentages of each company in said pool:

Percentages of 1896 pool on blasting powder.

	Per cent.
Du Pont, Hazard, and Sycamore (3 companies)	30.52
Laflin & Rand and Schaghticoke (2 companies)	22.44
Oriental	5.02
American	4.44
Austin	5.00
Miami	5.11
King	4.60
Ohio	3.20
Marcellus	1.53
Lake Superior	1.53
Chattanooga	4.98
Equitable	4.14
Phœnix	4.89
Birmingham	2.25
Globe	.35
	100.00

This included a total of about 4,000,000 kegs of blasting powder, of which the percentage of the King Powder Company was 4.60. That is, of the total sales of all of the companies in the pool, amounting to 4,000,000 kegs, the share of the King Powder Company would be 4.60 per cent, or say, 184,000 kegs per year. The price of this powder was fixed by the advisory committee, composed of T. C. Du Pont; Col. Henry A. Du Pont; A. J. Moxham, president of Hazard Powder Company; A. O. Fay, president Miami-American; A. Lent, president of Austin Powder Company, and F. W. Olin, president of Equitable Powder Company. The agreement between the King Powder Company and the other companies was that the other members of the pool should fix the prices, and "King" agreed to follow them. The King company was a constant disturber of prices, and always failed to keep its agreements with associates. It became necessary, in order to maintain the established price, that the blasting-powder product of the King mills must be controlled. Certain officials of the other powder companies formed the King Mercantile Company, principal offices, Cincinnati, and bought the product of the King Powder Company for a term of twenty-five years. The price paid for this powder is the average price fixed by the "trust" for the territory lying between New England and the Mississippi River. All of the King blasting powder is marketed by this King Mercantile Company, and Mr. Peters has received his checks with regularity. Each of the principals, Mr. Peters included, or some other officer of his company, made a sworn statement to the "trust" secretary, between the 1st and 7th of each month, of the number of kegs sold during the preceding month. The King Mercantile Company now attends to this part of the "trust" business. The price is fixed by the "trust," as I have stated, and Mr. Peters agrees to and accepts it.

There was another and separate pool or trust governing sporting powder. This particular kind was not purchased and marketed by the King Mercantile Company. The most of it is sold by King Powder Company or is used in loading shells and metallic ammunition by the Peters Cartridge Company, of which Mr. Peters is the founder. Under the sporting-powder pool the King Powder Company's percentage is 5.4342.

Article 4 of the "understanding," as Mr. Peters and associates call it, provides that sworn statements of sales by an officer of each company shall be sent in quarterly and "statements in adjustment" are made up, and the last paragraph of section 4 reads:

"Payments to be made by those who shall have sold in excess shall be made through the treasurer and within thirty days from the date of the statement in adjustment, and the money so paid through him shall be divided as soon as practicable among those whose sales have been in deficiency."

I have before me, selected at random, one of these "statements in adjustment" for the twenty-fourth period. I will omit the items of the blasting settlement and give the sporting tables because shorter. The table of payments shows the settlement with King on both kinds and amount of check received by King Powder Company:

SPORTING POWDER.

Statement in adjustment of trade for the twenty-fourth period, or the quarter ending June 30, 1902, being an adjustment made by the advisory committee in pursuance of the provisions of the understanding dated July 1, 1896.

Company.	Yearly allotments.	Quarterly allotments.	Per cent to each.	Sales, merchandise.
	Kegs.	*Kegs.*		*Kegs.*
"Five Companies"	217,738	54,434½	65.7346	62,931
Oriental	24,223	6,055½	7.3129	1,589
American	31,750	7,937½	9.5852	9,006
Austin	15,575	3,893½	4.7021	1,790
Miami	11,452	2,863	3.4573	1,408
King	18,000	4,500	5.4342	2,527
Equitable	7,500	1,875	2.2642	622
Phœnix	5,000	1,250	1.5095	8
Total	331,238	82,809½	100.0000	79,890

Statement in adjustment of trade for the twenty-fourth period, or the quarter ending June 30, 1902, etc.—Continued.

Company.	Equalization.	Excess.	Deficiency.
	Kegs.	*Kegs.*	*Kegs.*
"Five Companies"	52,515	10,416	
Oriental	5,842		4,253
American	7,658	1,348	
Austin	3,757		1,958
Miami	2,762		1,354
King	4,341		1,814
Equitable	1,809		1,187
Phœnix	1,206		1,198
Total	79,890	11,764	11,764

Money value of excess.

"Five Companies," 10,416 kegs, at $1.50 per keg	$15,624.00
American, 1,348 kegs, at $1.50 per keg	2,022.00
Total	17,646.00

Money value of deficiency.

Oriental, 4,253 kegs, at $1.50	$6,379.50
Austin, 1,958 kegs, at $1.50	2,937.00
Miami, 1,354 kegs, at $1.50	2,031.00
King, 1,814 kegs, at $1.50	2,721.00
Equitable, 1,187 kegs, at $1.50	1,780.50
Phœnix, 1,198 kegs, at $1.50	1,797.00
11,764 kegs	17,646.00

Total sums to be received and paid in settlement.

Five Companies to pay, sporting	$15,624.00
Five Companies to pay, blasting	3,370.73
Net amount to pay	18,995.73
Oriental, to receive, sporting	6,379.50
Oriental, to pay, blasting	7,233.90
Net amount to pay	854.40
American, to pay, sporting	2,022.00
American, to receive, blasting	1,839.57
Net amount to pay	182.43
Austin, to receive, sporting	2,937.00
Austin, to pay, blasting	5,766.07
Net amount to pay	2,829.07
Miami, to receive, sporting	2,031.00
Miami, to pay, blasting	534.07
Net amount to receive	2,565.07
King, to receive, sporting	2,721.00
King, to receive, blasting	5,633.88
Net amount to receive	8,354.88
Ohio, to receive, blasting	4,126.15
Marcellus, to receive, blasting	5,464.45
Lake Superior, to receive, blasting	1,162.62
Chattanooga, to pay, blasting	2,914.50
Equitable, to receive, sporting	1,780.50
Equitable, to receive, blasting	3,134.92
Net amount to receive	4,915.42
Phœnix, to receive, sporting	1,797.00
Phœnix, to pay, blasting	5,316.89
Net amount to pay	3,519.89
Birmingham, to receive, blasting	2,707.43
Total amounts to receive and to pay, each	29,296.02

EDWARD GREEN, *Secretary.*

NEW YORK, N. Y., *August 20, 1902.*

The price of King powder in the vicinity of Cincinnati is very low in order to destroy a local independent manufacturer. The average price fixed by the trust in territory between New England and Mississippi River is higher, and King Powder Company is a party to and accepts these conditions. Further, the King company packs powder in kegs made at its plant, bearing Du Pont and Hazard brands, and such powder is now daily sold as of Du Pont and Hazard manufacture and with the full knowledge and agreement of Mr. Peters.

Mr. Peters's training in the pulpit makes him cautious against breaking laws, and he has said his company can not be a party to any association, pool, or "trust." He for a time stood outside the door, agreed to abide by the action of associates, but he must have a larger quota of the division, then sent his pals into the room to fix prices, apportion the trade of the country, hold up the American people and allow Peters a bigger share of the "swag." When he found no one had gone to State prison his courage arose and he attended powder-trust meetings, filed and prosecuted charges against agents, argued eloquently for higher prices, approved ways and means to crush independent competitors, and served on "trust" committees.

The proofs of all this and more in form of documents that I hold are too voluminous to print, but are open to inspection.

On file at the capitols of Illinois, Missouri, and many other States are statements of the officers of these powder companies, made under oath, that their companies are not parties to any association, agreement, pool, trust, or understanding for the fixing of prices on any commodity, etc.

I now urgently call upon the Attorney-General of the United States and of Ohio, Indiana, Illinois, Iowa, Wisconsin, Missouri, and Kansas, where the "trust" is operating mills, to afford these parties an opportunity to appear before the courts and, without mental reservation or secret evasion of mind, to vindicate themselves from the specific charges I make by disclosing the truth, the whole truth, and nothing but the truth, or pay the penalty for willful infraction of the laws of States and nation. I pledge myself to furnish all and more proofs than is necessary to determine the cases. I agree to voluntarily attend and jog the memory of Mr. Peters and others of the above and hundreds of other acts wherein they knowingly and willfully have and are now levying extortions on the people and Government in defiance of law.

Respectfully, ROBERT S. WADDELL.

REGULATION OF RAILROAD RATES.

Mr. GALLINGER. Regular order, Mr. President.

The VICE-PRESIDENT. The Chair lays before the Senate the unfinished business, being House bill 12987.

The Senate, as in Committee of the Whole, resumed the con-

sideration of the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission.

Mr. ALLISON. I suggest the absence of a quorum, Mr. President.

The VICE-PRESIDENT. The Senator from Iowa suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll; and the following Senators responded to their names:

Aldrich	Clark, Wyo.	Hale	Patterson
Allison	Clarke, Ark.	Hansbrough	Pettus
Ankeny	Culiom	Heyburn	Piles
Bailey	Daniel	Kean	Rayner
Berry	Dillingham	Kittredge	Scott
Blackburn	Dubois	Long	Spooner
Bulkeley	Foraker	McCumber	Sutherland
Burkett	Foster	McLaurin	Warner
Burrows	Frye	Money	Warren
Carter	Fulton	Morgan	Wetmore
Clapp	Gallinger	Nixon	
Clark, Mont.	Gearin	Overman	

The VICE-PRESIDENT. Forty-six Senators have answered to their names. A quorum is present.

Mr. MORGAN. Mr. President, I wish to address the Senate on some existing conditions and the remedy under consideration for their reformation. I will confine my remarks to the bill now before the Senate, without reference to any amendment that has been proposed to it, as no amendment has been suggested that removes my difficulties in giving it my support. There are vital constitutional questions presented in this bill that have been carefully ignored in this debate that can not be suppressed.

The bill claims to be an amendment of the existing law. In fact it is a repeal of that law in some of its vital principles which are, in its actual recitals, based upon the express language of the Constitution of the United States. These principles, which relate expressly to the right of trial by jury and to the constitutional separation of the jurisdiction of the courts of law and courts of equity, are excluded from this bill and repealed by its provisions, for the manifest purpose of preventing the people from exercising the right to demand jury trials in the Federal courts and in all other courts on the questions of rate charges of railroads engaged in the transportation of interstate commerce. The reasonableness of such rates is always a question to be tried by a jury that no State or Federal court can take away from either party to a suit when the remedy at law is plain, adequate and complete. Verdicts of juries settle all questions of the reasonableness of charges by common carriers in suits in the courts of law, and their verdicts are final when they are not set aside on motion for a new trial. These rights, secured by the seventh amendment and so stated in the existing law, are stricken out of this bill.

The text of the existing law on this subject that is stricken out is as follows:

> If the matters involved in any such order or requirement of said Commission are founded upon a controversy requiring a trial by jury, as provided by the seventh amendment to the Constitution of the United States, and any such common carrier shall violate or refuse or neglect to obey or perform the same, after notice given by said Commission as provided in the fifteenth section of this act, it shall be lawful for any person or company interested in such order or requirement to apply in a summary way by petition to the circuit court of the United States sitting as a court of law in the judicial district in which the carrier complained of has its principal office, or in which the violation or disobedience of such order or requirement shall happen, alleging such violation or disobedience, as the case may be; and said court shall, by its order, then fix a time and place for the trial of said cause, which shall not be less than twenty nor more than forty days from the time said order is made, and it shall be the duty of the marshal of the district in which said proceeding is pending to forthwith serve a copy of said petition and of said order upon each of the defendants, and it shall be the duty of the defendants to file their answers to said petition within ten days after the service of the same upon them as aforesaid. At the trial the findings of fact of said Commission as set forth in its report shall be prima facie evidence of the matters therein stated, and if either party shall demand a jury or shall omit to waive a jury the court shall, by its order, direct the marshal forthwith to summon a jury to try the cause; but if all the parties shall waive a jury in writing, then the court shall try the issues in said cause and render its judgment thereon.

To get rid of trial by jury this amended bill also destroys the constitutional boundaries between Federal courts of law and courts of equity by conferring power upon Federal judges sitting for the trial of equity causes to hear and determine causes in which the remedy at law is plain, adequate, and complete.

This direct assault upon the Constitution is necessary for the success of this new plan of legislation. It can not succeed unless it can ride down or evade the express provisions of the Constitution of the United States, which define and protect the judicial powers of the courts created by the Constitution, and all its important provisions are framed for this purpose.

In a land of laws, where all rights, all property, and the lives and the liberties of the people are under the shelter and protection of laws enacted in pursuance of the Constitution, the effort is made, in supposed obedience to the will of the majority, which is a wild and mistaken misconception of the popular will, to destroy or ignore some of the most substantial foundations of our constitutional organism as a free government.

The people are not demanding the surrender of their constitutional right of trial by jury, and I can not vote to compel it.

All this is being done to establish and equip a national railroad commission which, when it has attained to its full powers, will, through political control and exploitation, embody and exert a power in the rule of the country greater than all other powers. It will have and will hold the mastery over the Federal Government, and over the States, under the principles on which this measure is based, never to be relinquished or destroyed. Once the railroads have full control of the Commission and are furnished with the compulsory powers vested in it by this bill, which they will soon acquire, they will compel obedience to their rule; and if the laws creating them should be changed hereafter, it will only be done to increase their power. They will see to it that changes in the law in the future will be made in that direction.

If the combined capital of the controllers of the so-called "interstate railroads" is sufficient to sustain their employees for six months, or for three months, a strike—a refusal to transport commerce among the States except upon their own terms—would tax all transportation and affect the facilities of commercial intercourse to an extent that would bring all their opponents to terms; and there is no power in this act to compel them to continue in the business of through transportation. In the absence of such power, the law will be futile and will fail of execution.

No wisdom or forecast of future events that may arise from known conditions can measure the danger to the country of the power of a national railroad commission under the control of the railroads. Controlled by popular will on the one hand, or by the combined capital of railroads on the other hand, when the Commission is absolved from control by the courts, through hostile and restrictive legislation, such as this measure provides, a national railroad commission would riot in abuses to satisfy the requirements of those who create it or control its appointment.

To provide against these destructive conditions, one or the other of which will certainly result from the enactment of the law as proposed by the majority of the committee, is a most difficult undertaking. Its consideration should be approached with the utmost caution, and the principles underlying its powers should be tested with the most deliberate, patient, and patriotic care.

This solemn and important duty involves inquiries into our Constitution, which is openly invaded by this measure, into the powers and jurisdiction of our courts, which it seeks to throttle or to destroy; and into the distribution of constitutional powers among the great Departments of our Government, which it proposes to concenter and amalgamate in the hands of a national railroad commission.

The bill proposes to repeal the law that every English-speaking people, and the Latin nations before them, have always maintained, that no fixed rate can be applied to the compensation of a common carrier that is not just and reasonable, to be freely measured by the conscience of a court.

There are questions of justice and equity in which it is impossible to measure the rights of a party by positive provisions of law, and the just compensation of common carriers has always been classed among such demands.

In all criminal cases the reasonable doubt of a single juror as to the guilty intention of the accused requires his acquittal, and the graver the accusation the greater the necessity for this power to be exercised by a jury. So in the case of self-defense, where a reasonable apprehension of death or great bodily harm will justify the killing of an assailant, a jury must judge of the reasonableness of the alleged justification.

In every aspect of trial by jury it is, of all the provisions of law, the best interpreter of justice modified by equity, reason, and good conscience in its application of the affairs of men. It is a liberty secured by the Constitution to the people to protect them against arbitrary and oppressive judges and chancellors and the possibility of judicial corruption.

This Senate will rue the day when it abolishes trial by jury in the adjudication of the reasonableness of rates of transportation by common carriers, which everybody admits are unlawful if they are not reasonable.

The railroad magnates who abuse the corporate powers granted them by the people of the States, in imposing burdens upon them that are too grievous to be borne, could not ask a safer retreat from the demands of justice, or one that is more coveted by them, than this measure furnishes them in discarding

and abolishing all right of the people to bring them to justice before honest juries.

Reserve to the people the full right of jury trials and they will not, for very long, suffer injustice from those who have seized upon their railroads and their charter powers and are using them for their wrong and oppression.

The one ordeal that a railroad magnate dreads, above all others, is the stern and inflexible sense of justice that prevails in the jury box. Whatever others may do to shelter the criminals who are sacrificing the rights and interests of the people to gratify their greed for gold and its merciless exactions, I will not aid them in striking down the great constitutional barrier to their aggressions that our fathers provided in securing to the people the right of trial by jury.

This measure leaves no room for contesting the rulings or conduct of national railroad commissioners, except in the Federal courts and in the equity jurisdiction of those courts, in which no jury is empaneled to pass upon the reasonableness of the rates of freight it may impose upon the railroads or upon the people who own the railroads.

A special statutory procedure being provided in this bill for the trial of all questions involved in the acts, decrees, rulings, and orders of the national railroad commission, in respect of interstate railroads and their rate charges and discriminations, which proceedings must be conducted in the Federal courts, in the nature of a review or appeal from their decisions, it will be insisted, and most likely it will be held, that such special procedure provided by statute for this special purpose excludes all other tribunals, especially the State courts, from all jurisdiction to hear and determine the reasonableness of a freight rate imposed upon a shipper or a railroad by the national railroad commission.

The power to review, control, or controvert proceedings by mandamus or by injunction, so thoroughly discussed in this debate, is not given by this bill to State courts, whose powers are so buried under this avalanche of legal lore urged in favor of it that no regard is paid to them. They are industriously ignored in the debate and will never be heard of in future, because no right is left to any State to protect its own citizens against any injustice a national railroad commission may inflict upon them.

As to the State railroad commissions, they will be left in bucolic repose, to wonder at the magic that has given a paralytic stroke to all their important official functions.

When a carload of cotton shipped from Mobile to Boston, at a certain rate per ton per mile, is found in the same train with a carload of cotton, or a single bale of cotton, shipped from Mobile, Ala., to Bridgeport, Ala., at a higher or lower rate per mile per ton, the railroad commission of Alabama will have no easy time in calculating and collecting the freight rate to Bridgeport or in putting in force, as to a car or a single bale of cotton, the laws of Alabama intended to secure cotton destined to Bridgeport from the dangers of fire or the other many dangers of such transportation.

This illustration is only intended to call attention to the fact that, in thousands of instances, the national and State commissions will be brought into unavoidable conflict as to their respective rights and duties, on the same train of cars, as to commerce that is being transported to different destinations.

We know how such differences will end in the paramountcy of the national commission in every feature of control, and how the friends of the States and their rights will sit by, in this Chamber, and listen to the Philippics against "the horrors of the middle passage" repeated in the greater horrors of "jim-crow cars." In the end the United States will own or control all the railroads, including those that are now owned by the States. I am not anxious to live to see that day.

The principles of government on which such legislation is based should be admitted on all hands to be sound and clear; and the demand for the national railroad commission, that will supplant all State railroad commissions, as the shadow of a great oak chokes and destroys all other vegetation beneath it, should be only founded upon supreme national necessity. This bill is contested in the Senate on grave constitutional grounds by Senators who are in the front rank among publicists and international lawyers of the country, and are as true and conscientious men and as able as any who have sat in this tribunal.

Its wisdom is challenged by many of our wisest and most worthy Senators and Representatives, whose patriotism can not be questioned, and who ignore all partisan and political alliances and influences in their dealings with this subject. In such circumstances, I must seek such lines of action as are the clearest and least embarrassed with difficulties, and such as have received, in the most solemn form, the sanction of the people and government of Alabama. The States are the creators of these important machines of transportation, and can destroy them for any just and lawful cause.

Transportation by common carriers within a State is admitted on all hands to be a feature of commerce, within the meaning of the Constitution of the United States, that the State has the sovereign right to regulate, whether it is conducted by individuals, copartnerships, joint stock companies, or chartered corporations. In the case of railroad companies, the power of the State over them is far greater than it is with reference to all other classes of common carriers.

Railroad corporations can only exist in virtue of the express authority of the State from which their charter powers are derived. Their continued existence may be cut off and their powers may be exterminated by the action of the State, through its courts or by the repeal of their charters, for the violation of any prescribed duty or the omission to perform any duty imposed upon them by the law of the State. The United States does not hold such relations to any railroad that is chartered in any State and can not create such relations by legal compulsion.

Transportation by railroads and its regulation is a matter that can be regulated only by the States that create them, except when the transportation extends beyond the limits of such State and becomes interstate transportation of commerce. If the intent of the carrier and shipper is to engage in interstate commerce, the commerce transported is interstate commerce. If such is not the purpose of both parties, the transportation, within the limits of the State, is transportation of domestic commerce.

In one vital feature railroad corporations differ from all other common carriers. They own the highways upon which all their work as common carriers is done, and their highways are dedicated to the service, not to the use and control of the public, and such dedication is solely for the purposes of transportation. The nature of this service carries with it the right of the public to demand its performance for their service to a reasonable extent, in a reasonable way, and for a reasonable compensation; but the carrier can quit the business of interstate transportation if he so chooses, and neither Congress nor any Federal court can force him to resume that occupation.

With these qualifications, the transportation service that a railroad company, chartered by a State, must render to the public and to all shippers of commerce must be in the character of a common carrier whenever the right of eminent domain is exerted by a State in establishing the highway; for that right can only be exercised by the State in the condemnation of private property for the public use, and when such use is thus created it stands good to the public, and the State that created the use can execute it, through its courts, by the appointment of a receiver of the railroad, and so compel its execution.

This duty, which the corporation owes the State and its people, does not extend to all the people of the United States, like the use of navigable waters. The people at large are the real proprietors of the navigable waters for commercial purposes, and Congress can provide laws for securing to them the freedom of their navigation. The public uses of public railroads are in the proprietorship of the people of the State that created them and are subject exclusively to their legislative power as to their operations within the limits of the State. They can not refuse obedience to any law of the State that created them which conforms to the constitution of the States and of the United States and is not in violation of their charter rights.

In every charter of a railroad company created for the purpose of the transportation of commerce the carrier is a common carrier and not a private carrier. So that the chartered railroad companies acquire the exclusive right to the proprietorship of the designated highway, and their rights, duties, and responsibilities as common carriers are subject to control under State laws. They derive no powers from the laws of the United States and are not responsible to that Government for their existence, nor are they amenable to the laws of the United States for the violation of the State laws that control them if such laws are valid under the Constitution of the United States.

They have not, nor can they have, any right to violate the Constitution of the United States. If such a violation occurs, the act is simply void. If such act is done in the pursuance of a State law, such law is void, and there the matter stops.

The State railroad corporations are quite beyond the power of Congress to condemn them to extermination by repealing or forfeiting their charters. I am stating limitations of power that Congress can not transcend. Congress can not exercise such powers over State corporations by due process of law. Such powers reside only in the States that create such corporations. Until a State railroad is dedicated to the service

of interstate transportation by some lawful act, it remains subject to its duty to the State that created it, and Congress can not compel such dedication without the express or the implied consent of such State.

Here, then, we have a great many railroad corporations, chartered by the States—possibly more than five hundred of them—that have the right and the duty of transporting commerce as common carriers within the respective States of their origin, without any possible legislative control by Congress so long as they transact such business within the States that created them and in accordance with the laws and constitutions of such States.

These States, respectively, have the sole right to enact laws for the regulation and control of these chartered railroads as to their operation within their limits. The right of regulation and control, when it is not limited in their charters or by the existence of some right of property or privilege that is within the category of vested rights, extends to all the business they conduct for the public within the limits of the States that created them.

It extends to the lawfulness and regularity of their meetings of stockholders and directors; to the control of the conduct of their officers, agents, employees, in so far as it affects shippers, passengers, or the general public; to all matters concerning timetables and connections with other railroads, and the speed of safety of travel or transportation; to the proper equipment of their cars, the use of brakes and other safety appliances; to the classification of passengers and freights; to regulating the transportation of diseased persons or animals for the preservation of the public health, and of dangerous freights, or of persons in the cars who are personally dangerous or obnoxious to others. Indeed, this power of control by the States extends to every part and instrumentality of a railroad chartered by them, from the roadbed up to the conductors and engineers that operate the trains, so far as they relate to the safety of the people or the general service and convenience of the public.

It is far too much to say that Congress can exert such control over railroads operating as carriers within the States, or that it has inherent or constitutional authority to exercise such control over all the railroads that are engaged in interstate transportation. If Congress has such power, it is not in virtue of the charter rights or duties of State railroads, for the States even could not confer such power on Congress to control their railroads, nor is it because Congress acquires any proprietorship of a State road that engages in transporting interstate commerce. In such a case the unlawful act is that of the carrier, not of the owner of the property he is transporting. It is not the railroad, but the owner that commits the wrong of charging unlawful rates to shippers. Therefore the proceeding for condemnation can not be in rem, but must be in personam, and must be for the violation of some duty that the carrier owes to the people of the United States. Such a relation can only arise from the exercise of some public duty that the carrier assumes voluntarily upon entering upon the business of a carrier of interstate commerce.

When such public service is lawful within the provisions of its charter, or with the consent of the State, Congress can accept the situation so created as a dedication of such service to the general public use, as a navigable water course is dedicated by law, or usage, to the like service.

It is the element of consent, express or implied, that gives to Congress the right and power to control State corporations that enter voluntarily into the business of transporting interstate commerce. Congress can forbid them if it so chooses, or it can prescribe terms and conditions as to railroads that enter into this field of business pursuits, but it can not force those State corporations to become transporters of interstate commerce or to continue in such business, and here is the fatal error of this measure.

It is the absence of mandatory power over State railroads that Congress can not possess and that the States can not confer upon Congress as legislative power that prevents Congress from compelling them to continue in the business of transporting interstate commerce when the owners of the railroads choose to withdraw from it.

This sort of control and regulation, by compulsion, can never be exercised by Congress unless the United States, disregarding the laws and constitutions of all the States, shall repeal all these State charters and substitute them with charters enacted by Congress. The impossibility of such a destruction and confiscation of property needs not to be discussed in the Senate of the United States, while the Constitution protects all property from confiscation and forbids it from being subject to condemnation for public uses except by due process of law. I need not occupy the time of the Senate in the discussion of a matter that is so obviously absurd and impossible.

Among other things the States may do in the control of railroads chartered by them is to prohibit them, as common carriers, from the transportation of freights or passengers beyond the limits of the States from which they derived their charters, under contracts with the railroads of other States.

No State can lawfully prohibit common carriers not chartered under its laws from engaging in such business, but the power of a State over its own creature is quite equal to the right to prohibit such corporations from engaging in the transportation of commerce among other States. It is a part of the law of its existence that a corporation shall not transcend or violate the laws prescribed to it by the State that created it, and that it may be dissolved because of such acts.

The States, therefore, have it in their power to forbid their railroad corporations from entering into any agreements with the railroad corporations of other States for the transportation of commerce; or they may authorize their railroads to make such agreements with the railroads of other States to transport interstate commerce under such terms and conditions as the laws of the United States may prescribe.

In case of gross injustice to a State by the action of a national railroad commission in so arranging differentials and preferences as to discriminate against certain States or their seaports, it can not be said that a State that is thus wronged may not forbid its railroad corporations, on pain of dissolution, from assisting the national railroad commission in its operations in respect of such commercial regulations. This is not an extreme view of a condition that may happen or is even remote. It is only a comment on conditions that have occurred. Such wrongs are now made the subject of much complaint.

Very many illustrations, drawn from bitter experience, could be cited to show that it is not the question of rates, to last for a period of three years, as provided in this measure, that will bring on the heavy fighting over its provisions in future.

The rate question is a mere bagatelle as compared with the contests that will certainly arise between seaboard States and between State railroad commissions and a national railroad commission. If they are not permitted to be decided in the courts on the complaint of any State, or of any person, or community that has suffered wrong and injustice, they will be decided by other means, political or belligerent, that will insure redress.

In dealing with the subject of rate regulation in respect of commerce among the States we again adopted the plan in this measure that was founded on fatal error in 1887, and are making our mistake more obvious and the more distressing the further we go in the same direction.

We are assuming, in this measure, that railroads that form continuous lines, by physical connections and continuous routes of transportation between many and distant States, by agreements that provide for certain freight rates and certain percentages of the division of the fares, have thereby subjected themselves, as matter of law, to an obligation or duty to continue the business on different terms, to be prescribed by the national railroad commission. Such agreements are the only obligations that now connect this vast system of railroads in through routes of transportation. Congress can not change their terms and compel obedience to new or substituted terms by mandamus proceedings in the courts or otherwise.

Congress can not adopt such agreements as valid arrangements for constituting through routes of interstate commerce and in the same breath denounce them or reform them as to the freight rates fixed by such agreements. Congress can not hold the contracting railroads to their agreement to transport interstate commerce while it denounces and punishes them for excessive charges prescribed in the same contract.

This is exactly what is proposed to be done under the provisions of this bill as to the railroads that are engaged, under mutual agreements, in transporting interstate commerce.

If these agreements were lawful when they were made (because they were not prohibited and were based upon good and valuable considerations), they can not be altered by act of Congress, nor can they be made criminal by post factum laws. If they were unlawful, Congress can not reform them by changing their terms or their effect by statutes that can relate back and cure them. But Congress can disregard them and proceed to legislate as if they had no existence.

Congress can enact that any State railroad corporation, thereunto duly empowered by the law of the State of its creation, may conduct the business of transporting interstate commerce upon terms and conditions prescribed in the law granting such privilege after the conditions have been expressed in a statute.

These conditions may include all the restrictions in this bill, and others, if Congress is disposed to share in the hostility to railroads that even this bill does not express.

When the State authorizes their railroads to accept such terms, there is an end to the controversy; and their railroad commissioners and their legislatures will be strongly inclined to adopt the rates prescribed by the national railroad commission as the standard of domestic rates of transportation within their limits.

On this basis even the questions of reasonable rates and remunerative rates may cease their conflict, which can never be settled finally by any power except the cooperation of the States with the Federal Government. It is about time that the United States were trying this plan for securing the general welfare.

The demand for the control of railroad transportation is of sudden growth, and has been the result of rapid and enormous expansion of our domestic commerce, in which the railroad transportation has been a chief if not a controlling factor. Without the tremendous extension of transportation by rail the growth of our domestic commerce would not have been nearly so rapid.

But it must be remembered that this enormous increase in commerce is very largely due to State railroads, some of which are in State ownership, and their rights must and will be respected. The people will require this at the hands of Congress and the courts.

This new era of internal trade has invited capital from all over the world into railway investments. Such investments represent many billions of dollars—probably, all told, more than twenty billions.

These stocks and bonds have become the treasuries of capital, at interest and profit, for a great number of people, and it has become the ambition, pride, and cupidity of the greatly rich to concentrate financial investments and power in such holdings. The trust combinations and the holding companies have concentrated this enormous power in few hands, until less than fifty railroad magnates in the United States are now in virtual control of more than 250,000 miles of railroad, and are the sponsors to the owners of the stocks and bonds that represent all this vast property.

Such a power, in a republic, will control its destiny, if it is not held in check by the national power, or, better, by the united power of the States and the Federal Government. I admit, with fear and trembling for the future of our country, that this concentrated power of railroad ownership and control must be subjected to the control of the law, at the peril of our safety from the despotism of an oligarchy of capitalists, or the worse peril of a destructive cyclone of popular resentment and socialistic jealousies that will destroy the protection of property which, when it is lost, leaves nothing but wreckage in the track of the storm.

The united powers of the State and Federal governments, in firm and patriotic cooperation, were never more necessary for the safety of good constitutional government.

It is an unsafe calculation that the control of Congress by the power or the forces that have concentrated these many billions of money invested in the ownership of our railroads in the hands of a few men will prevent them from dominating the Federal Government and from the overlordship of all our industries and the traffic they create, if the States are excluded from their proper influence in the control of the railroads. Their power is indispensable to the safety of the country, as against the power of these aggregations of vast wealth in the hands of railroad magnates.

The sole power, force, or influence that has caused capitalists to load their billions into our railroad securities and properties has been the assured safety of a steady income from the profits of the transportation of commerce among the States and the other incidental profits and advantages that arise from that source, such as the building up of great cities and great factories, and the increase in value of land holdings along or near these railroad lines. They could no more afford to lose the control of interstate railroad lines over this splendid country than they could afford to burn half their stocks and bonds.

With the leverage afforded by such conditions, to enable the States and the Federal Government, in cooperation, to regulate commerce among the States by regulating the instrumentalities of such commerce and their operations to promote the general welfare, no task could be more simple and, to me, no privilege would be more inviting than to assist in its success.

The States can do this single handed, but it might cause great losses in the suspension of the courses and currents of commercial intercourse were the States to deny to their railroads the right to make agreements for through routes for transporting interstate commerce, except upon conditions that their laws shall prescribe.

The United States can control the entire field of interstate operations and suppress all the frauds and crimes with which it is infested by a series of simple enactments, civil and criminal. The penal enactments now on the statute books are nearly sufficient to repress railroad crimes relating to rates, rebates, preferences, and discriminations.

But, to prevent the possible capture of a majority of the national railroad commission by the monopolists, the power of the States held in reserve to prevent them from enjoying the profits and advantages of through routes would make them content to do business with the people on just terms.

A statute to prohibit any railroad company from transporting commerce among or between the States except in compliance with regulations prescribed by Congress, and prohibiting such companies now engaged in such commerce under agreement with other companies from obstructing commerce by the abandonment of their agreements for that purpose and with that intent, say, within a year from the date of the enactment, and making the voluntary act of abandonment within a certain time presumptive evidence of guilt, would give to Congress or the commission the power to fix, adjust, and change rates which would become binding on the railroad companies as conditions upon which they may engage or continue in the business of transporting commerce among the States. These conditions may be formulated in a license issued by the national railroad commission, after due investigation in respect of combinations among the railroads to control rates, such as pooling agreements, rebates, allowances, and other matters tending to avoid the law.

As the United States has no ownership of the railroads in any respect and has not granted any of the charters under which they exist and are owned by the stockholders and are held under mortgages to the bondholders, and as the railroads are under the exclusive control of the States that created them, the legislation of Congress can only relate to their operations in the business of transporting commerce between or among the States as common carriers.

This business requires to be regulated by Congress, because Congress alone can regulate commerce among the States. But this power does not extend to the regulation of the instrumentalities of transportation that are under the control of the States that chartered the railroads—such as the right of way, the roadbed, the quality of the engines and cars, the employees and officials of the railroad—except to require that they shall be safe and convenient and open to the use of all classes of people and freights in a reasonable way and to a reasonable extent, which can be effectively accomplished through a system of inspections and fines.

Interstate transporters of commerce, which is the class we are trying to deal with as common carriers, are not interstate commerce, nor are the railroad properties interstate commerce. It is only their dealings in the transportation of interstate commerce that Congress has the power to regulate. This is, in the legal sense, a narrow field of jurisdiction, and can be fully controlled by Congress without serious difficulty, at least as to the principles on which such control can be rightfully exercised. As to vicious practices by the transporters of interstate passengers and freights, Congress has the clear right to define and punish them as crimes, and can recite in the law the state of facts that create a legal presumption of guilt on the part of the accused.

The most important questions that Congress may rightfully deal with, in its legislation to control railroads engaged in interstate transportation, are freight and passenger rates of transportation, and the abuses they may inflict upon interstate commerce by the various practices they impose upon it, to the detriment of the people, in granting advantages to favored persons and places which, of course, are to be paid for.

In both aspects, the subject is of vital consequence to the country. In considering the magnitude of this evil condition, the necessity for its control, and the true ground upon which Congress should base its legislation for the relief of the people and the security of the freedom of their commerce, it is indispensable that we should trace to its source this power to do evil and wrong to the people and to endanger the general welfare.

Unquestionably, the real source of these crying evils and wrongs to the people is the abuse of the powers of railroad corporations created by the States, by men and corporations that are chiefly foreign to such States.

Acting separately, and within the powers granted them by the States creating them, the railroad companies could not in-

flict any great and permanent harm upon the interstate commerce of the people.

The absence of their employment in transporting commerce among the States, on through routes, would have greatly retarded our commercial growth and strength; and, to drive them out from that employment would now inflict hardship and distress upon the whole country. But the resulting injury to the States that created the railroad corporations would assure very conservative action on the part of the States. They would enlarge the powers of their corporations to meet such occasions. Yet Congress has not the power to compel these railroads to remain in the business of through-line transportation, which is only a matter of agreement between the railroad companies, nor has Congress the power to compel their continued operation within the States that created them. Congress can not do this, as the States can, by putting them in the hands of receivers. The railroads can go out of business, or be put out of business by the States that created them, in despite of all that Congress can do to prevent such a calamity.

There is no way known to the law by which any person or corporation can be forced to conduct business as a common carrier or as a private carrier, unless it may be a railroad company chartered by a State, and, if such power exists as to such a company, only the State that created it can enforce such an order against it.

Congress may destroy interstate transportation by rail through hostile legislation, but in doing this it would at least violate the spirit of the Constitution, which authorizes Congress to regulate commerce among the States, but by no means to prevent or destroy it.

Thus confined in its power over commerce, Congress is very helpless in the effort to regulate transportation by State railroads through coercion or compulsion. The railroads, however, have grown in such authority over interstate commerce that their influence and their real power amounts to duress upon the freedom of commerce. They can disturb and in many cases they can prevent commerce between distant points through their power to refuse to transport passengers or productions except upon such terms as to freight rates and as to other matters as they choose to impose. These terms and conditions amount to duress, and violate the freedom of commerce they were created to sustain.

It is this power of compelling the people to submit to injustice, under duress, that Congress is endeavoring to control or suppress. The States can suppress this evil power, or control it, by requiring the railroads chartered by them to conform their rates of charges and all their practices as transporters of interstate commerce to the standard of regulation and control that Congress may adopt; and they would cheerfully do this and punish their railroad corporations for refusing compliance, by a forfeiture of their charters, rather than distress their own people by embarrassing interstate commerce. No problem of trade is more remote from realization than this.

The powers of the States will come to the rescue of the commerce of the country at large by controlling their railroad companies, even while Congress is engaged in the effort to destroy their sovereign rights by enacting laws to confer arbitrary power upon a national railroad commission and in sheltering them from review and correction by the courts.

Already more than half the States have conferred authority upon their railroad corporations to make agreements with the corporations of other States for establishing through lines of transportation, and it is this consent of the States alone that makes such agreements lawful. Without the consent of the States that created them, such agreements would be of no legal validity.

The other links in the combinations that comprise through lines of transportation are either wanting or they are supplied through the ownership of a majority of the stock of the weaker companies by the greater railroad companies which, in the end, control all the companies in great through lines. Just at this point the greatest danger to the country arises from the power of concentrated capital.

Any railroad company a majority of whose stock is owned by another railroad company in a different State, or by a great capitalist, can be forced into any interstate transportation agreement without the consent of the legislature that created it through the power of its stock held by a foreign corporation or by a foreign capitalist and voted in its stockholders' meetings. This can not be prevented except by the action of the States that created these emasculated railroad companies, forbidding such overlordship. Congress can, if it chooses, prohibit railroad corporations that own the stock or the bonds of other corporations from establishing through lines or routes of transportation by agreement with them. But such legislation would probably be too severe on the capitalists, and there is little hope that it will ever be enacted by Congress.

This bill contains no such corrective legislation. It does not permit the national railroad commission to inquire into such abuses. In this respect this measure is quite indulgent to the favorite wickedness of the reprobates whose evil practices it professes to correct for the safety of the people.

As the condition is to-day, we are searching for power to control railroads engaged in the transportation among or between the States, and are removing constitutional barriers to our progress by tearing them out of the existing laws and kicking them out of the legislative chambers bodily. We find our powers still further barricaded by the fact that Congress can not repeal or modify the charters of the railroad corporations created by the States. We are compelled to use the agreements of those corporations to support the legislation in the measure now before the Senate, and yet they can create a dead bar and obstruction to our further progress at any time by dissolving their agreements with other railroad companies to carry on the business of transportation beyond the limits of the States that created them. Indeed, it may be safely assumed that few, if any, of these agreements are obligatory on the companies that made them for the want of the legislative consent of the States that chartered them.

It is upon this uncertain base that Congress, in this measure, is advised to exercise the wide, indefinite, and extremely doubtful power of exercising legislative control over all State railroad companies that engage in the interstate transportation of commerce. If any such corporation should for any cause refuse to engage in such transaction, there is no Federal power that can compel it to continue in the business. It is probably the consciousness of this difficulty that has led to the insertion in the bill reported by the committee of the provision in the lines 17 to 25, inclusive, on page 11 of the bill, as follows:

> The Commission may also, after hearing on a complaint, establish through routes and joint rates as the maximum to be charged and prescribe the division of such rates, as hereinbefore provided, and the terms and conditions under which such through routes shall be operated, when that may be necessary to give effect to any provision of this act and the carriers complained of have refused or neglected to voluntarily establish such through routes and joint rates, provided no reasonable or satisfactory through routes exist.

The language of this proposed enactment is quite broad enough to empower the Commission to construct through railroads to connect with other railroads, for the establishment of through routes of transportation where no reasonable or satisfactory through routes exist, or where such routes exist and "the carriers complained of have refused or neglected to voluntarily establish such through routes and joint rates."

If the power to regulate commerce among the States includes the power to build railroads within the States by act of Congress in order to establish through routes for the transportation of interstate commerce, this legislation has a constitutional foundation upon which it can be rested. Otherwise it is a new departure that dislocates all our ideas of the rightful powers of Congress, and will in the end wreck the entire plan of the Federal Government as being supplied by the Constitution only with delegated and limited powers.

If this clause, as it is written in this bill, is enacted into a law, no further or other limit can be placed upon the power of Congress to construct and to own and conduct every railroad in the United States as a vehicle of commerce among the States.

This feature of this measure is a distinct advance in the plan of government ownership of all railroads, and is the first practical demonstration of that fatal heresy that Congress has yet made in actual legislation.

If this broad provision shall be so construed as to apply to railroads existing in the States now or hereafter, and to empower the national railroad commission to set aside traffic agreements between the railroad companies of different States for through transportation of commerce, which agreements are not denounced in this bill as being unlawful, or if it is so construed as to establish through routes and joint rates between railroads where no such agreements exist, where the carriers of interstate commerce have refused or neglected to voluntarily establish such through routes and joint rates over their connecting roads, this provision gives to Congress the power to establish such agreements by law, or else to substitute its will for the right to make such agreements, and to compel obedience to it by heavy penal enactments against the alleged delinquents. It gives to the government-ownership party the full sanction of Congress for all they claim. It does not compel the States to sell their railroads to the United States, nor can that measure of success ever reward their efforts to destroy the Constitution of the United States. If this bill becomes a law in its present

shape, those who are decrying the rights of the States will thank God for their firm seat in the Constitution of the country.

The effect is that the railroads are to be compelled to enter into agreements which the States that created them have refused to empower them to make, or failing to do so, are to be subjected to heavy penalties.

This view of this enactment condemns it as a flagrant violation of the Constitution of the United States. But it is in line with other provisions of this bill, all of which are predicated on the false assumption of power in Congress to control railroad corporations chartered by the States, by the vis major, and to the same extent as the States can control them when they engage in agreements with other railroads or navigation lines in the transportation of interstate commerce with the consent of the States that created them, or without such consent.

Using the text of the bill above quoted as illustrations of the false premises on which this measure is based, I will state my views and convictions in an effort, however vain it may be, to convince the Senate of the fatal mistake that was made in 1887 in laying the foundations of our present plan for regulating commerce among the States by the control of State railroads engaged in the transportation of such commerce.

The plan of 1887, which this bill is intended to enforce with drastic provisions, is far better than the present measure. In that plan the powers of the courts were invoked for the purpose of getting the aid of the judicial power to enforce all the important rulings of the Commission. In this effort there has been only a scant success. But scant success is better than a desperate effort to break down all constitutional barriers to a coveted triumph of might over right.

In the plan before the Senate the purpose is to transfer the judicial power into the hands of the national railroad commission, so that their rulings will at once have the sanction and authority of the judicial and legislative powers of the Government and the aid of its executive powers in the enforcement of its decrees. These features of this bill have necessarily met with the opposition—learned, able, and resolute—of great lawyers who have participated in the debate to defend the distribution of the powers of government among the Departments in pursuance of the Constitution. But neither measure presents the true issue, which is the right of Congress, in regulating interstate transportation of commerce, to prescribe the terms and conditions under which they are to be permitted to enjoy that privilege. A grant of such privilege and the definition of the terms on which it may be used is the necessary predicate for its control and for laws to punish its abuse. Until Congress has enacted a law to declare the policy of the United States as to the transporters of interstate commerce by State railroads, it is premature, unjust, and unlawful to punish them for exercising privileges that are lawful, which have been granted them by the laws of the States that created them.

Such a declaration by Congress is the necessary predicate of such regulation and punishment, because such transportation of commerce is lawful, as a part of the freedom of commerce, and the regulation of it by Congress is a restraint upon the freedom of commerce. Congress has the right to place just restraints upon the freedom of commerce to prevent abuses, but it has no right or power to compel those engaged in transportation to continue in the business. The writ of mandamus provided for in this bill will fail utterly to compel such service to the public. Conducting a business that is lawful can not be converted in a criminal pursuit until its unlawfulness is declared by statute, and such statutes can not be retroactive.

The power over carriers who transport interstate commerce depends largely, if not entirely, upon its rightful control of the routes of transportation.

If the route is dedicated to the service of the public, whether by law or with the consent of the owner, so that the use of the route ceases to be private property and becomes public property as to the free right of the people to use it for travel and transportation, such dedication places such route or highway within the power of the proper government for its control, preservation, improvement, protection, and for the regulation of its service of the public. How far any government may go in fixing the rates of compensation of common carriers transporting commerce for hire over such highways is not necessary to be considered in connection with the point I am trying to elucidate, which is that the dedication of the highway to public use by some lawful authority is the actual foundation of the right of the government to fix the rate charges that are prescribed to the carrier by statute.

If the route is private property, not dedicated to the service of all comers without reservation, the owner may use it at his will and on his own terms for the transportation of persons or their property, and no government can fix his charges, although the privilege he grants of traveling through his grounds or on his private road on payment of a fare is extended to all comers.

It is the private ownership of the route that excludes the Government from jurisdiction to regulate the rates of transportation over it without the consent of the owner. This distinction is obvious, in the power that Congress exercises over navigable waters within the limits of the United States, which are dedicated by our laws to the equal and free use of all the citizens of the United States.

There is no important particular relating to the rights and duties of the navigators of our waters, exterior or interior, and their vessels, machinery, equipment, outfit, and all else that pertains to navigation, transportation, or to cargoes and passengers that is not carefully provided for in our statutes by regulation and by fines, penalties, and forfeitures that includue owners, officers, and all employees, and all the property that is so used in the service of the public.

The only thing that is not provided for or regulated is the rates that these common carriers may charge for freights and passage. These are left to the mighty power of competition and the irresistible judgment of the courts of conscience, in which the Constitution requires that juries shall sit to represent the majesty of the people, who are the sovereign source of all laws and the final arbiter of all controversies.

All rates on water courses are left where all the laws leave them, to be controlled by competition, and if courts pass upon them, by the reasonableness of the rates.

Two grand competing lines of transportation in the United States perfectly illustrate the difference between highways that are dedicated to the use of the people of the United States by national law and highways that are dedicated to the use of the people of the respective States under the laws that create railroad corporations.

The Mississippi River, from its head of navigation to New Orleans and out to the Gulf of Mexico, is a route dedicated to national uses by the organic law. The strongly competitive route of railroad transportation from Boston to Galveston is not so dedicated to commerce among the States. If there is any part of this railroad route that is thus dedicated to national use or service it has not been done by national law, but it exists, if at all, by the agreements of State railroads with each other, and possibly, in some cases, by the tacit or express consent of the States that created them. If no such consent has been given, these agreements are all ultra vires and void. The States can repudiate them or confirm them at pleasure, but if the States are not bound to these agreements, they are a rope of sand.

On this railroad route are fifteen States, all having State railroad commissions that are organized under the provisions of State constitutions or laws and, in almost every case, under State constitutions. Besides these States, this great line of interstate transportation passes through the District of Columbia, with the consent of Congress, and without dedication by act of Congress to the use and service of the people of the United States, as routes of interstate commerce.

Does it not appear from these facts and conditions that Congress and these fifteen States have to make some dedication of these through routes to the use of the people of the United States before Congress can control them as it controls the navigation of the Mississippi River? Will any man be so bold as to say that the same power exists in Congress to control these State railroads, that own their own roadbeds and all their equipment under State charters, and the Mississippi River, the right of navigation on which belongs alike to all the people of the United States? Or will any be so reckless as to attempt to place the ownership of these railroads in the absolute control of Congress, or in the common ownership of the people, by a mere enactment of Congress and without due process of law?

No discussion is needed to show this fatal error, and I trust that the advocates of such a movement will not consider it offensive if I should say that no rational discussion is possible in respect of a proposition that is so manifestly absurd.

In this measure Congress is asked to declare that it now has as clear and as extensive power to legislate for the control of these interstate transporters of commerce over railroads, that are private property, as it has over the navigation of the Mississippi River, and as clear a right to compel obedience to its mandates. It has no such power and can not have it until the railroads, by hereafter engaging in transportation over continuous lines through the States, with the permission of Congress, have dedicated or submitted their lines to the control of Congress. It is like the case of a man engaging, as a partisan, in fighting in a war for the flag of his country. It matters not that he fights on fields of battle

with the consent of the commander of the forces, he is not a soldier and is not subject to military duty or discipline until he has enlisted in the army or has been forced in by conscription.

The purpose of this bill is to force the State railroads and the States that created them into subordination to the power and will of Congress by a process of conscription or condemnation to public service because they are voluntarily engaged in transporting interstate commerce. This can not be done by compulsion of law. They own their railroad lines, roadbeds, equipments, and charters, and these can not be taken or condemned by Congress to the public use of the people of the United States except by due process of law and upon making just compensation to them. What is the due process of law for such condemnation? It is simply the enactment of a law that after a fixed date any railroad that engages in interstate commerce, or in conducting interstate commerce, as in the case of the West Virginia coal roads operated by the owners of coal mines, shall be considered, regarded, and dealt with by Congress as if it had voluntarily dedicated its property to the use of the people of the United States as a public highway for that purpose and to every necessary extent to make the dedication effectual for the proper service of the public at large.

After such an enactment by Congress the railroads can enlist in the service of the country voluntarily, if they choose, or they can be forced to retire from the field of interstate transportation of commerce. Possibly after such an enactment by Congress the right to regard them as entering voluntarily into this line of business would become absolute and irrevocable, both as to railroad companies and to the States that created them, if they continue in the business. The act of conducting such transportation, after Congress has prescribed regulations for its conduct, will be consentive, not in invitum; and the distinction between such acts, as to the legislative power to control or punish them, is plain, and it is the criterion of the powers of government in changing methods of public service that are lawful and of common right into conditions that are forbidden. Where the existing right is made unlawful except under certain conditions it is the refusal to comply with the new conditions that gives to the Government the power to punish or to control by the exercise of the vis major—the power to compel obedience.

But the consideration of this question will in the end become unnecessary by reason of the state of facts that I will now present, which assure the harmonious action and cooperation of the Government of the United States and of the railroads and of the States that created them.

In presenting the facts on which I rely to support this very desirable situation, I will assume that the fifteen States that are spanned by connecting railroads between Boston and Galveston will earnestly desire that the railroads should maintain through routes of connections, so that cars loaded with freight at Boston can pass to Galveston without the delay of reloading them at each State line. That and many other like advantages as to passengers and freight would create a demand for the maintenance of such through routes that no State will willingly neglect. I need not speak of the advantages of such railway routes. I could not exaggerate them if I should attempt to do so, at least in the estimation of the people as to their value and importance.

Equally reluctant to yield the benefits of the security afforded by such employment of capital in the handling of the profits and other incidents of the control of long lines of transportation through fifteen of the richest States in the world, the few men who actually control these highways would long hesitate to yield the advantages of so great an investment. All the stockholders and the bondholders of the railroads would also be equally reluctant to part with the security for their investments in the capital stock and credit of these long lines of transportation.

It is impossible to lay down on the map of the world any long line of railroad that is so certain to yield a profit to investors or that will afford a greater prospect of future value in its manipulation. If it yielded only 3 per cent on the actual capital invested, the stock of nearly every railroad in such through route would be equal to the 3 per cent bonds of the United States, as a security for the investment of money in large sums. So that the States and the stockholders concerned in such connected lines are in harmony as to their continued operation, but, for reasons that become inharmonious, after the line of reasonable charges for freights is transcended, their interests become divergent.

This bill secures to the railroads, by the pledge of all the power of the Government, a remunerative income from freight and passenger receipts, upon the stocks of the company, at their face value, without regard to the actual cost or value of the investment in railroad property. At this point, and at the point of the reasonableness of the rates prescribed by a national railroad commission, and at the point of the right of trial by jury, of the reasonableness of the rates charged by the railroads, or by the national railroad commission, the interests of the stockholders of interstate lines diverge from and become hostile to the interests of the people of the States that chartered the railroads.

The people of the States that created these railroads will refuse to dedicate them to the general use of all the people of the United States, and to the control of Congress, in respect of interstate transportation, except upon terms that are just to them. They will refuse to contribute to the wealth of holding companies and monopolies at the expense of justice to themselves.

The States have all the necessary powers in their own hands to control the watering of stock and the monopolistic powers of holding companies. To prevent its own corporations from doing injustice to the country a State can impose legal restraints upon them that will hold them strictly, in their conduct to the demands of public justice.

The United States can not control the railroads in such matters, because they have no proprietorship in them. The States can control them, because they have such proprietorship, even to the extent of destroying their franchises and working their dissolution.

Neither the railroad corporations nor the power of the States over them can be dispensed with in holding them to the performance of the duty of transporting interstate commerce. When the corporations decline to perform such duty, the State having authorized and empowered them to do so, they are amenable to the forfeiture of their franchises by the action of the State that created them. This power to forfeit and destroy the charter rights and powers of these corporations can never be transferred to the United States except by purchase or condemnation.

I am not essaying to work out or to define these powers of the States and the railroad companies, but only to present certain features that show the interdependence of the corporations, and the States, and the Congress, in making compulsory the dedication of the railroad to the use of the public and to the control of Congress, in the transportation of interstate commerce. These powers, thus cooperating, furnish all the power that is needed and make its harmonious action perfectly assured, if Congress will deal justly with the subject and will cease to be arrogant in asserting powers that it can not constitutionally maintain.

The motives that control the owners of the railroads and the State governments are those of great profit and advantage, and it is strong enough to hold them to the general public service under all circumstances and conditions. They will never relinquish these advantages, even under the strictest regimen of control by Congress.

The reason that should influence Congress in adopting the logical and legal plan of excluding the railroads from transporting interstate commerce unless they comply with such terms and conditions as Congress shall impose is that the dedication of the railroads to general public uses for such transportation is voluntary, and the acceptance of the conditions should be voluntary. There should be no compulsory legislation, based upon assertions of powers that are denied and bitterly controverted, when a better result can be reached through powers that all admit and measures that are just.

After such acceptance, whether it is tacit or express, there is an end to questions as to the constitutional power of Congress to create a railroad commission, and as to whether the rates it shall prescribe are the exercise of legislative, judicial, or administrative acts, and whether they operate in present or in future, and are subject to injunction or revision by the courts. The acceptance of the terms of the act of Congress by entering into a business from which they are otherwise excluded concludes every question except the constitutionality of the law in which such conditions are prescribed or the abuse by the railroad commission of the act empowering them to fix rates of transportation.

The constitutionality of the act and the reasonableness of the freight rates imposed by the railroad commission are questions that no court can be prevented from considering and deciding when it has jurisdiction of any suit in which they arise. Equally true it is that any court that has such judicial power, derived from the Constitution, can not be limited in its plenary exercise. All such controversies disappear, under a statute that permits railroads to do business as carriers or transporters of interstate commerce, upon the conditions prescribed in the

act. Such conditions are imposed upon every official and every person who engages in Government employment or who accepts a license or privilege from the Government.

Especially is this true when the subject-matter of the privilege granted is exclusively within the power and subject to the control of the Government or is granted in consideration of a service which is to be rendered to the public.

Conceding that the transportation of goods for hire by a common carrier is commerce, within the meaning of the Constitution, as it is assumed to be in this bill, but which I do not believe, there can be no doubt that the regulation of that vocation or business is within the exclusive power of Congress, qualified only by such rights of common carriers as no legislature and no court can refuse to recognize. Under such powers, Congress can permit or prohibit the transportation of interstate commerce except upon such conditions as it may choose to impose, within the limits of the duty of regulation; but Congress can not use that power to destroy commerce or to hamper it with destructive conditions or to embarrass it with unjust discriminations against a State or any locality, such as making differentials in rates, or other conditions, based upon the final and exclusive judgment of a railroad commission.

Under the guidance of wisdom that seems to have been divinely inspired, and is our American conception, our Constitution provides that, in such cases, a State that complains of such injustice can be heard in the Supreme Court of the United States, exercising its original jurisdiction, for the correction of any wrong or for the restraint of the national railroad commission that unjustly deals with its people, and Congress can enact no law that can in any manner affect its plenary power to do justice, or to regulate the hearing, or to interfere with the execution of its decrees.

This broad and unequaled grant of judicial power that resides in the original jurisdiction of the Supreme Court has been overlooked by the great lawyers of the Senate in their masterly discussions of the appellate powers of the Supreme Court and the power of Congress to embarrass and limit its exercise in the matter of granting interlocutory injunctions.

That discussion, like the bill before the Senate, has had for its chief purpose the effort to clear away judicial obstructions to the unrestricted exercise of arbitrary and final authority of a national railroad commission in fixing rates for the transportation of interstate commerce, which demand is being resisted by other great lawyers with unflinching firmness.

That great discussion and the decision by Congress of the points thus presented will be in vain, as an answer to the complaint of a State on behalf of its railroad corporations or its people, made to the Supreme Court, in the exercise of its original jurisdiction. If the question has not been determined by Congress according to the right of the matter, that great court will annul the act in which the error is found.

Looking to this great council of state, discretion, and judgment, to which the Constitution has confided these powers, I have felt assured that in the outcome of all this great contention the powers of the States and their corporations and of Congress and the reviewing courts, if they are not banished from the arena, and the general welfare of the public will be made finally to work together for the good of the country by its unquestionable decrees.

In this proud faith, and in the sincere gratitude I have toward our fathers for creating the saving power of this great tribunal, I have listened without serious apprehension, but with painful interest, to our great lawyers who have investigated all the decisions of the Supreme Court as to its appellate jurisdiction.

If there was not left to us the original jurisdiction of the Supreme Court to which the country can appeal for safety, I would dread the consequences of these disputations when the settlement of them is left to the people at the ballot box, for which grand assize all this great contention in the Houses of Congress, led and guided by Cabinet and other counsels at the White House, is obviously intended as a preparation.

That great decree of the people, when it comes and is again expressed in Congress, will no more disturb the Supreme Court in its supreme original jurisdiction than Mount Sinai was disturbed by the thunders at its base when Moses delivered the twelve tables of the law to all the tribes of Israel.

The people will be glad of this final deliverance, and will thank God that our fathers were inspired with the wisdom to create this great tribunal for their safety and peace.

The true remedy for all the evils, existing and conjectured, in respect of the railroad situation as it is related to interstate commerce is an act of Congress that will impose conditions upon its transportation by railroads. It will be followed by all the courts as an adjustment of a complex legal and political situation that has arisen mainly from State legislation touching the business relations of their railroad corporations with the corporations of other States in an interval of time when Congress was making no adequate provision for the enormous growth of interstate commerce.

We are now aroused to a duty that has been neglected, and find that the field of exclusive jurisdiction that belongs to Congress is occupied by State corporations that have no right to control it by private agreement among themselves, authorized in some instances by acts of State legislatures all of which are ultra vires as against the rights of the United States.

The simple duty of Congress is to occupy that field and control it. This can be properly done by assuming the actual control and by prescribing the the terms upon which the State railroads shall hereafter continue to transport interstate commerce and to punish such as refuse compliance with the terms prescribed in the law.

I am not personally ambitious to frame such a statute. If I were I would find no occasion to go outside the language of this bill to find the terms and conditions which any State railroad should be compelled to accept as a part of the privilege it may hereafter enjoy of transporting interstate commerce. I would not adopt all the conditions of such acceptance that are attempted to be forced upon the railroads in this measure by the vis major that seems to be its reliance for the subjugation of State railroads and of the States that owe them the protection of law and of justice. Their purposes have not been evil, but the attractiveness of the great opportunities they have afforded capitalists have been seductive, and it has caused such abuses of their facilities of transportation to monopolists and holding companies that an indignant people rise against them and seek to destroy them.

I would deny to any railroad the privilege of interstate transportation whose stock is held, in a majority of its issue, by any railroad in another State or by any holding company.

The States would heartily indorse such a condition in the statute and would compel their railroad companies to conform to it, and would aid them by denying to stock so held all privilege of voting at meetings of stockholders. They might go further and declare that a nonresident stockholder should be ineligible to election or appointment as an officer or director of the company.

As to rates, rebates, and preferential allowances or discriminations, the conditions of the enactment found in this bill would be a safe guide that could not be questioned in any court, because the carrier is estopped from questioning them by continuing to transport interstate commerce under the permission of the act of Congress; except that, in the case of the denial of the constitutionality of the law or of the reasonableness of the rates he is compelled to accept or to pay, the carrier and the shipper alike should have free and unobstructed right to resort to the courts for redress.

I am only expressing in crude form some of the conditions I would vote to prescribe in such a law. I would not strain the powers of Congress nor cloud the powers given to a national railroad commission by attempting to make reformations in railroad rates by compulsion that can be more easily and justly made conditions of the law that the carrier can refuse to accept at the peril of going out of the business of transporting interstate commerce.

As to the injurious practices by railroads engaged in transporting interstate commerce, and domestic commerce as well, that are so justly complained of, the statute I suggest would furnish the lawful basis for their punishment.

One who accepts any public trust or public occupation for gain, under an act of Congress, may be indicted or informed against and punished for its abuse, and Congress can enact laws to enforce obedience to such an engagement.

Alabama stands pledged in her constitution and laws to prescribe rates of compensation to her railroads for all public service. I am ready to make good that pledge by my vote in the Senate, in relation to rates of compensation to be prescribed to railroad corporations engaged in the transportation of interstate commerce by act of Congress on like conditions.

But Alabama opens her courts to the judicial settlement of every complaint, by shipper or by railroad company, as to any rate that is unreasonable or oppressive. I must do my State the homage of following her lead in these solemn constitutional declarations, as to the debt of justice she owes to all who enter her courts with a plea for redress. I feel warranted in going further and in saying that Alabama has virtually accepted, for all her railroads that have connections or agreements with the railroads of other States, the right of such companies to regulate their rates of charges for the transportation of interstate commerce by agreement with each other. But she has not consented that Congress may change that agreement and yet hold her railroads to the duty of transporting interstate commerce,

in virtue of its obligations, on such terms as Congress may choose to impose.

She will not, probably, consent that Congress shall impose rates upon her railroads that are unjust, or invidious, or discriminative, or that are affected with the destructive powers of differentials, that may ruin her great industries, even if she is thereby cut off from through lines of transportation. Alabama will not consent that a national railroad commission shall have power so to adjust rates of interstate transportation as to insure a remunerative compensation to railroads engaged in that trade, and to pay profits to watered stock or to stocks held by monopolistic holding companies, and I will not vote for any such scheme to enrich those who are already responsible for the injustice that her people are suffering. Alabama will not enact laws that will be necessary in the infliction of such wrongs to her people.

I do not wish or intend to concede to Congress the power to control her railroads by such enactments as Congress has the right to exercise over vessels that ply the navigable water courses of Alabama, or to add to those powers the right to fix rates of transportation upon her railroads, when it has never enacted a law to fix freight rates on vessels of any description.

This historical fact is a powerful plea for the unrestricted right of fair competition in the carrying trade, whether by sea or land.

All have been engaged in the effort to frame a law in which a jury trial is abrogated as to any issue involved in the subject of rate making that relates to the reasonableness of a rate, or to a discrimination or a preference in rates, or as to any other matter where the conscience of the people could possibly find expression through their representatives in the jury box.

Questions of the reasonableness of charges by common carriers, or reasonable diligence in the performance of duty by all hired servants and in all forms of bailments, and by all public servants, can not be taken away from the decision of courts in which juries are an indispensable part of judicial power without a gross violation of the Constitution. Yet this bill is carefully prepared so that this wrong to the people will become a necessary result of the enactment.

Judges sitting in equity are empowered exclusively by this bill to try all questions of the reasonableness of rates, and of other conduct of the State railroads, and of the national railroad commission, and the people's tribunal of a jury is excluded from participation in such trials. The forum conscientiæ—the great court of conscience—is the final arbiter of all controversies that arise in all civilized countries.

Jurors are the chancellors of the people, selected to judge equitably on all questions of the reasonableness of the acts and conduct of men who are placed by law or by contract in positions of trust and responsibility where it is necessary or proper that a person so intrusted has any liberty of discretionary judgment or action. Jurors in such cases are provided for the purpose of deciding upon the reasonableness of such acts, because they are supposed to have correct judgment as to the natural equities that should weigh in arriving at just verdicts.

In the United States the Constitution takes care of the courts of conscience by enthroning their powers in the jury box, and it is in that tribunal that the people find their security for just treatment in the courts.

There are fixed elements of competition afforded to the people in our physical and commercial geography that will correct, as far as such a thing is possible, the present evils in our situation, and such as may be reasonably expected to arise in future.

The navigation of our northern lakes and of our Atlantic, Mexican Gulf, and Pacific coasts form a vast quadrangle that is intersected by other navigable water courses at frequent intervals, and supplies water transportation that virtually controls the interchange of commerce to the distance of hundreds of miles of country lying contiguous to these coast lines. The competitive power of these lines of navigation and their affluent water courses in the control of the cost of transportation of commerce is far in excess of that of every railroad that exists or will ever be built in the United States. This power—all of it—belongs to the people at large, and its control is lodged in Congress, with none to dispute its jurisdiction.

This power is greatly increased by the water courses that flow to the east and to the south from the Appalachian range of mountains, and to the west from the Rocky Mountain ranges.

Each navigable stream is an important factor, in competition with railroad transportation, within the entire area of its watershed, while the aggregate is startling in its magnitude.

When we come to the central empire of production and commerce included in the watershed of the Mississippi River, we find there the supreme power of competition planted within this great inner quadrangle as a citadel of unassailable strength, adding its forces to the competitive power of the outer quadrangle of lake and ocean coasts I have described.

The Mississippi River, reaching from the northern to the southern line of our exterior quadrangle of coast waters, passes through the middle of it and extends this competitive transportation almost to the outer limits of its watershed in all directions, which includes 1,240,050 square miles. It contains thirty-eight rivers that are being improved by the Government as navigable water courses and have already a navigable length of 13,261 miles that run through or border upon thirteen great States in the center of the Union.

These lines of river transportation divide our part of this continent in the center and hold a broad and powerful control over transportation that is competitive with all the railroads. None of them can escape this competition.

The combined competition of our water courses must hold in check and must control railroad transportation forever beyond the power of all combinations of monopoly to make it dominant over the commerce of the United States.

Another great line of intercoastal navigable waters is making steady progress toward completion on the Atlantic and Gulf coasts. It is not too early to discern with certainty that this line will become a powerful competitor with the railroads that are nearly parallel with these coasts. On the Gulf coast, Texas is leading in this great enterprise.

Railroad domination is only a short-lived incident of our commercial expansion that must yield the supremacy to the superior and permanent control of water transportation.

The railroads, under a proper system of river improvement, will become largely contributors to the transportation lines of the water courses that belong to the people. The wheat and corn fields of the Central and Western States when they were virgin soil paralyzed the production of those food supplies in the older States until they ceased to be commercially profitable and they almost abandoned the effort of competition in the markets. The great grain-growing areas are rapidly becoming smaller by division among a larger land-holding population, and are being kept up to nearly the standard of their earlier productiveness by the better farming of smaller landholders. In the meantime the wheat and corn growers of the older States are again producing crops at a profit for domestic and foreign markets, and the value of their crops is steadily increasing. Cheaper transportation has much to do with this returning prosperity.

So it is with the competition between the railroads and the rivers. Great capitalists have been booming railroad investments until they are beginning to find that river transportation and transportation by sea is cutting down rates and profits. They have had their day of great prosperity, and the people are beginning to look for the improvement of the lines of competitive transportation that belong to them. The tide is turning, and the water courses are furnishing power to manufacture much of the commerce that they transport to distant markets.

If the empire State of Texas will hasten the work upon the intercoastal channel from Brownsville to Donaldsonville, that her people are so earnestly engaged in opening; and if Alabama, Mississippi, and Florida will extend that channel to Tampa Bay, from the Mississippi River, a steamboat that can navigate Trinity River can visit interior ports over a distance of 25,000 miles, beginning at Brownsville, on the Rio Grande.

If such conditions existed (and they are in easy reach with less cost than the litigation we are incubating in this hot debate about the mysterious forces of interlocuory injunctions) the rights and interests of the States in cooperation with Congress would soon dispose of our real troubles with the railroads.

In that happy day we will all forget that we ever dreaded the competition of the monopolistic power of interstate railroads, and the stern advocates of the alleged rights of the people will cease to shudder with fear that some court will enjoin a decree of the national railroad commission, until its constitutionality can be determined by a final hearing, or until the Supreme Court can pass upon the question.

Such water competition in transportation as the people of the Gulf and Atlantic coasts are engaged in preparing to compel the railroads to cease from troubling, will soon dispense with the necessity for all the anguish we are suffering about interlocutory injunctions.

Within the watershed of the Mississippi River the lines of transportation that belong to the people are worth millions as a permanent source of wealth and as facilities for transportation, where the railroad lines are worth only thousands of dollars.

If Congress will do its duty even in a parsimonious way in the improvement of our water courses under scientific direc-

tion and practical methods, and will place river and harbor bills on a footing with post-office bills and Army and Navy bills as standing orders for the public service, the people will soon be snapping their fingers in the faces of the railroad monopolists as to their control over their industries, and Congress will be as reluctant to fix prices on the carriage of commerce by rail and water as it has been since the Constitution was ordained to fix prices on transportation by water, and peaceful competition will restore honesty and justice to their rightful authority.

If the money that has been spent and will be spent in the effort to control the railroads by legislation, under powers that are strenuously controverted and are at least doubtful, had been and should be applied or could be applied hereafter to the improvement of our navigation, the railroads would cease to do evil and would learn to do good.

I freely and regretfully admit that evils of great magnitude and of deplorable consequences exist in the monopolistic abuses of the rights and duties of railroad corporations that the States have created and have failed to properly control, and I am anxious to exercise all the powers of Congress in controlling and punishing the malefactors. But I am unwilling to have this duty embarrassed with protracted litigation, which a simple change in the attitude of Congress would readily prevent; and I revolt at the thought of making these wrongs a pretext for setting aside the courts and the Constitution, in order to hand this contest over to the manipulators of political campaigns, or to the keeping and control of those who are the enemies of the system of just protection to life, liberty, and property that our Constitution embodies, that our laws respect, and is the noble foundation on which our national reputation is built.

Truth, justice, obedience to law, patience in growth, and faith in our future, based upon the belief that a nation is blessed whose God is the Lord, will become the final and happy revelation of our splendid destiny.

I look for the best results when the States and the Federal Government, freed from jealousies, are recognized by all classes and sections as coworkers for the general welfare, and I know that their earnest cooperation is the true key that will unlock the tangle that this bill is about to make permanent and dangerous, if not destructive, to the welfare of the country.

EXECUTIVE SESSION.

Mr. KEAN. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were reopened, and (at 4 o'clock and 25 minutes p. m.) the Senate adjourned until to-morrow, Tuesday, April 10, 1906, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate April 9, 1906.

DISTRICT JUDGES.

Robert E. Lewis, of Colorado, to be United States district judge, district of Colorado, vice Moses Hallett, resigned.

Alfred S. Moore, of Pennsylvania, to be United States district judge, division No. 2, district of Alaska. A reappointment, his term expiring May 26, 1906.

MARSHAL.

William H. Darrough, of Indian Territory, to be United States marshal for the northern district of Indian Territory. A reappointment, his term expiring June 30, 1906.

RECEIVER OF PUBLIC MONEYS.

Harvey J. Ellis, of Alliance, Nebr., to be receiver of public moneys at Alliance, Nebr., vice William R. Akers, whose term will expire April 10, 1906.

PROMOTIONS IN THE ARMY.

Lieut. Col. Leven C. Allen, Sixteenth Infantry, to be colonel from April 5, 1906, vice Bubb, Twelfth Infantry, appointed brigadier-general.

Maj. Richard H. Wilson, Eighth Infantry, to be lieutenant-colonel from April 5, 1906, vice Allen, Sixteenth Infantry, promoted.

Capt. James A. Goodin, Seventh Infantry, to be major from April 5, 1906, vice Wilson, Eighth Infantry, promoted.

First Lieut. James B. Allison, Seventh Infantry, to be captain from April 5, 1906, vice Goodin, Seventh Infantry, promoted.

PROMOTIONS IN THE NAVY.

Lieut. Harley H. Christy to be a lieutenant-commander in the Navy from the 1st day of January, 1906, to fill a vacancy created in that grade by the act of Congress approved March 3, 1903.

Lieut. Noble E. Irwin to be a lieutenant-commander in the Navy from the 1st day of January, 1906, to fill a vacancy existing in that grade created by the act of Congress approved March 3, 1903.

Gunner Robert E. Simonson to be a chief gunner in the Navy from the 10th day of March, 1906, upon the completion of six years' service, in accordance with the provisions of the act of Congress approved March 3, 1899, as amended by the act of Congress approved April 27, 1904.

APPOINTMENTS IN THE NAVY.

Russel H. Davis, a citizen of Minnesota, to be a second lieutenant in the Marine Corps from the 14th day of March, 1906, to fill a vacancy existing in that grade on that date.

Midshipman Walter A. Smead to be an ensign in the Navy from the 2d day of February, 1906, to fill a vacancy existing in that grade on that date.

POSTMASTERS.

ALABAMA.

John A. Bingham to be postmaster at Talladega, in the county of Talladega and State of Alabama, in place of John A. Bingham. Incumbent's commission expired March 14, 1906.

William Joseph Leppert to be postmaster at Camden, in the county of Wilcox and State of Alabama. Office became Presidential January 1, 1906.

Margaret Miller to be postmaster at Tuscaloosa, in the county of Tuscaloosa and State of Alabama, in place of Margaret Miller. Incumbent's commission expired April 1, 1906.

Daniel V. Sevier, jr., to be postmaster at Russellville, in the county of Franklin and State of Alabama, in place of Daniel V. Sevier, jr. Incumbent's commission expired January 21, 1906.

Walter W. Simmons to be postmaster at Athens, in the county of Limestone and State of Alabama, in place of Seborn E. York. Incumbent's commission expired March 14, 1906.

CALIFORNIA.

Leander H. Miner to be postmaster at Ferndale, in the county of Humboldt and State of California, in place of Leander H. Miner. Incumbent's commission expires June 10, 1906.

COLORADO.

Oscar Allert to be postmaster at Louisville, in the county of Boulder and State of Colorado. Office became Presidential April 1, 1906.

CONNECTICUT.

George W. Buteau to be postmaster at Baltic, in the county of New London and State of Connecticut. Office became Presidential January 1, 1906.

William P. Leete to be postmaster at North Haven, in the county of New Haven and State of Connecticut, in place of William P. Leete. Incumbent's commission expires June 24, 1906.

FLORIDA.

Thomas W. Lundy to be postmaster at Perry, in the county of Taylor and State of Florida. Office became Presidential April 1, 1906.

ILLINOIS.

John Haig to be postmaster at Le Roy, in the county of McLean and State of Illinois, in place of John Haig. Incumbent's commission expires June 10, 1906.

Mark L. Harper to be postmaster at Eureka, in the county of Woodford and State of Illinois, in place of Mark L. Harper. Incumbent's commission expires June 30, 1906.

W. H. Mix to be postmaster at Byron, in the county of Ogle and State of Illinois, in place of Joseph Hunt, deceased.

INDIANA.

Bennett M. Grove to be postmaster at Liberty, in the county of Union and State of Indiana, in place of Bennett M. Grove. Incumbent's commission expires June 28, 1906.

IOWA.

William B. Arbuckle to be postmaster at Villisca, in the county of Montgomery and State of Iowa, in place of William B. Arbuckle. Incumbent's commission expires June 10, 1906.

KANSAS.

William Smith to be postmaster at Galena, in the county of Cherokee and State of Kansas, in place of William Smith. Incumbent's commission expires May 8, 1906.

KENTUCKY.

William H. Overby to be postmaster at Henderson, in the county of Henderson and State of Kentucky, in place of Andrew J. Worsham. Incumbent's commission expired March 13, 1906.

Robert R. Perry to be postmaster at Winchester, in the county of Clark and State of Kentucky, in place of Robert R. Perry. Incumbent's commission expired March 13, 1906.

Frank W. Stith to be postmaster at Latonia, in the county of Kenton and State of Kentucky. Office became Presidential April 1, 1906.

Frederick A. Van Rensselaer to be postmaster at Owensboro,

in the county of Daviess and State of Kentucky, in place of Frederick A. Van Rensselaer. Incumbent's commission expired March 13, 1906.

MARYLAND.

George M. Evans to be postmaster at Elkton, in the county of Cecil and State of Maryland, in place of William J. Smith. Incumbent's commission expires May 2, 1906.

MASSACHUSETTS.

Arthur Bliss to be postmaster at Andover, in the county of Essex and State of Massachusetts, in place of Arthur Bliss. Incumbent's commission expired March 1, 1906.

MICHIGAN.

Frank P. Dunwell to be postmaster at Ludington, in the county of Mason and State of Michigan, in place of William G. Hudson. Incumbent's commission expired March 5, 1906.

John W. Fitzgerald to be postmaster at Grand Ledge, in the county of Eaton and State of Michigan, in place of John W. Fitzgerald. Incumbent's commission expires May 21, 1906.

Calvin A. Palmer to be postmaster at Manistee, in the county of Manistee and State of Michigan, in place of Calvin A. Palmer. Incumbent's commission expired March 5, 1906.

Lester B. Place to be postmaster at Three Rivers, in the county of St. Joseph and State of Michigan, in place of Frank B. Watson. Incumbent's commission expires May 19, 1906.

Henry C. Minnie to be postmaster at Eaton Rapids, in the county of Eaton and State of Michigan, in place of Henry C. Minnie. Incumbent's commission expires May 9, 1906.

Kenneth E. Struble to be postmaster at Shepherd, in the county of Isabella and State of Michigan, in place of Kenneth E. Struble. Incumbent's commission expires June 30, 1906.

James A. Trotter to be postmaster at Vassar, in the county of Tuscola and State of Michigan, in place of James A. Trotter. Incumbent's commission expires June 19, 1906.

James H. Williams to be postmaster at Whitehall, in the county of Muskegon and State of Michigan, in place of James H. Williams. Incumbent's commission expires June 6, 1906.

David E. Wilson to be postmaster at Belding, in the county of Ionia and State of Michigan, in place of David E. Wilson. Incumbent's commission expires June 25, 1906.

MISSOURI.

Robert D. Cramer to be postmaster at Memphis, in the county of Scotland and State of Missouri, in place of Robert D. Cramer. Incumbent's commission expires April 10, 1906.

Henry Grass to be postmaster at Hermann, in the county of Gasconade and State of Missouri, in place of Henry Grass. Incumbent's commission expires April 10, 1906.

NEBRASKA.

Henry C. Booker to be postmaster at Gothenburg, in the county of Dawson and State of Nebraska, in place of Henry C. Booker. Incumbent's commission expired February 10, 1906.

Horace M. Wells to be postmaster at Crete, in the county of Saline and State of Nebraska, in place of Horace M. Wells. Incumbent's commission expires April 10, 1906.

NEVADA.

Henry J. Jones to be postmaster at Elko, in the county of Elko and State of Nevada, in place of Henry J. Jones. Incumbent's commission expires June 30, 1906.

NEW MEXICO.

Lucius E. Kittrell to be postmaster at Socorro, in the county of Socorro and Territory of New Mexico, in place of Lucius E. Kittrell. Incumbent's commission expires June 25, 1906.

NEW YORK.

Edgar S. Clock to be postmaster at Islip, in the county of Suffolk and State of New York, in place of Edgar S. Clock. Incumbent's commission expires June 10, 1906.

Fred Dakin to be postmaster at Millerton, in the county of Dutchess and State of New York, in place of Thomas Dye, resigned.

Walter C. Dolson to be postmaster at Kingston, in the county of Ulster and State of New York, in place of Walter C. Dolson. Incumbent's commission expires May 14, 1906.

Samuel D. Mulholland to be postmaster at Port Henry, in the county of Essex and State of New York, in place of Samuel D. Mulholland. Incumbent's commission expires June 24, 1906.

Lewis C. O'Connor to be postmaster at Geneseo, in the county of Livingston and State of New York, in place of Lewis C. O'Connor. Incumbent's commission expires May 27, 1906.

Henry Riley to be postmaster at Cornwall, in the county of Orange and State of New York, in place of Henry Riley. Incumbent's commission expires April 30, 1906.

Fred A. Wright to be postmaster at Glen Cove, in the county of Nassau and State of New York, in place of Fred A. Wright. Incumbent's commission expired April 1, 1906.

OHIO.

Thomas J. Davies to be postmaster at Barberton, in the county of Summit and State of Ohio, in place of Thomas J. Davies. Incumbent's commission expires April 25, 1906.

Robert S. Fulton to be postmaster at Germantown, in the county of Montgomery and State of Ohio, in place of Robert S. Fulton. Incumbent's commission expires June 9, 1906.

Willis C. Kohler to be postmaster at Kenton, in the county of Hardin and State of Ohio, in place of John L. Clark. Incumbent's commission expires June 30, 1906.

J. W. Orr to be postmaster at Piqua, in the county of Miami and State of Ohio, in place of John W. Morris. Incumbent's commission expires June 9, 1906.

James T. Pickering to be postmaster at Lancaster, in the county of Fairfield and State of Ohio, in place of James T. Pickering. Incumbent's commission expires June 24, 1906.

Ansel T. Simmons to be postmaster at Geneva, in the county of Ashtabula and State of Ohio, in place of Ansel T. Simmons. Incumbent's commission expires May 16, 1906.

OREGON.

Squire Farrar to be postmaster at Salem, in the county of Marion and State of Oregon, in place of Edward Hirsch. Incumbent's commission expires June 30, 1906.

PENNSYLVANIA.

Asa S. Beers to be postmaster at Bath, in the county of Northampton and State of Pennsylvania. Office became Presidential April 1, 1906.

Byron A. Weaver to be postmaster at Montoursville, in the county of Lycoming and State of Pennsylvania, in place of Byron A. Weaver. Incumbent's commission expired February 7, 1906.

SOUTH DAKOTA.

Henry S. Williams to be postmaster at Aberdeen, in the county of Brown and State of South Dakota, in place of Henry S. Williams. Incumbent's commission expired April 1, 1906.

TEXAS.

D. C. Bellows to be postmaster at Seymour, in the county of Baylor and State of Texas, in place of Jay M. Musser, resigned.

William Pilley to be postmaster at Wills Point, in the county of Van Zandt and State of Texas, in place of William Pilley. Incumbent's commission expires April 30, 1906.

George C. Ross to be postmaster at Wortham, in the county of Freestone and State of Texas. Office became Presidential January 1, 1906.

Henry L. Somerville to be postmaster at Richmond, in the county of Fort Bend and State of Texas, in place of Henry L. Somerville. Incumbent's commission expires April 30, 1906.

VERMONT.

Carlos C. Bancroft to be postmaster at Montpelier, in the county of Washington and State of Vermont, in place of Carlos C. Bancroft. Incumbent's commission expires June 30, 1906.

Minnie A. Benton to be postmaster at Saxtons River, in the county of Windham and State of Vermont, in place of Minnie A. Benton. Incumbent's commission expires May 8, 1906.

VIRGINIA.

Louis L. Whitestone to be postmaster at Culpeper, in the county of Culpeper and State of Virginia, in place of Louis L. Whitestone. Incumbent's commission expires June 10, 1906.

WISCONSIN.

William Case to be postmaster at Mauston, in the county of Juneau and State of Wisconsin, in place of William Case. Incumbent's commission expires June 19, 1906.

Henry H. Hartson to be postmaster at Greenwood, in the county of Clark and State of Wisconsin, in place of Henry H. Hartson. Incumbent's commission expires May 19, 1906.

Elisha W. Keyes to be postmaster at Madison, in the county of Dane and State of Wisconsin, in place of Elisha W. Keyes. Incumbent's commission expired March 5, 1906.

Henry G. Kress to be postmaster at Manitowoc, in the county of Manitowoc and State of Wisconsin, in place of Henry G. Kress. Incumbent's commission expires June 4, 1906.

WYOMING.

Frank E. Lucas to be postmaster at Buffalo, in the county of Johnson and State of Wyoming, in place of Wilbur P. Keays. Incumbent's commission expires June 24, 1906.

CONFIRMATIONS.

Executive nominations confirmed by the Senate April 9, 1906.

SECRETARY OF LEGATION.

Charles Richardson, of Massachusetts, now secretary of the embassy at Rio de Janeiro, to be secretary of the legation of the United States at Copenhagen, Denmark.

COLLECTOR OF CUSTOMS.

John M. Vogell, of Maine, to be collector of customs for the district of Castine, in the State of Maine.

POSTMASTERS.

CALIFORNIA.

George P. Snell to be postmaster at Del Monte, in the county of Monterey and State of California.

Frederick W. Turner to be postmaster at Loomis, in the county of Placer and State of California.

COLORADO.

James Wolfe to be postmaster at Eaton, in the county of Weld and State of Colorado.

IDAHO.

Daniel W. Price to be postmaster at Kellogg, in the county of Shoshone and State of Idaho.

William W. Dunn to be postmaster at Twin Falls, in the county of Cassia and State of Idaho.

ILLINOIS.

William S. Chittenden to be postmaster at Park Ridge, in the county of Cook and State of Illinois.

Martin A. L. Olsen to be postmaster at De Kalb, in the county of Dekalb and State of Illinois.

MAINE.

Winthrop C. Fogg to be postmaster at Freeport, in the county of Cumberland and State of Maine.

William Stackpole to be postmaster at Saco, in the county of York and State of Maine.

MICHIGAN.

Lewis Gifford to be postmaster at Davison, in the county of Genesee and State of Michigan.

Louisa Woessner to be postmaster at Stephenson, in the county of Menominee and State of Michigan.

MINNESOTA.

G. R. Hall to be postmaster at Plainview, in the county of Wabasha and State of Minnesota.

MISSOURI.

David R. Walker to be postmaster at Ozark in the county of Christian and State of Missouri.

NEW HAMPSHIRE.

Horace French to be postmaster at West Lebanon, in the county of Grafton and State of New Hampshire.

WASHINGTON.

King P. Allen to be postmaster at Pullman, in the county of Whitman and State of Washington.

WISCONSIN.

Henry Kloeden to be postmaster at Mayville, in the county of Dodge and State of Wisconsin.

WITHDRAWAL.

Executive nomination withdrawn April 9, 1906.

George L. Hart to be postmaster at Roanoke, in the State of Virginia.

HOUSE OF REPRESENTATIVES.

MONDAY, *April 9, 1906.*

The House met at 12 o'clock noon.

Prayer by Rev. E. HEZ SWEM, pastor of the Second Baptist Church, Washington, D. C.

The Journal of the proceedings of Saturday was read and approved.

MINORITY VIEWS ON IMMIGRATION BILL.

Mr. GARDNER of Massachusetts. Mr. Speaker, I ask unanimous consent that the minority may have the rest of the week to submit their views on the immigration bill now reported.

The SPEAKER. The gentleman from Massachusetts asks unanimous consent that the minority of that committee have the remainder of this week to submit its views on the immigration bill. Is there objection?

There was no objection.

URGENT DEFICIENCY BILL.

The SPEAKER laid before the House, without objection, the urgent deficiency bill with Senate amendments.

Mr. LITTAUER. Mr. Speaker, I move that the House disagree to the Senate amendments and ask for a conference.

The motion was agreed to.

The SPEAKER appointed as conferees on the part of the House Mr. LITTAUER, Mr. TAWNEY, and Mr. LIVINGSTON.

REAPPRAISEMENT OF LAND AT PORT ANGELES, WASH.

Mr. CUSHMAN. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 16954) providing for the reappraisement of certain suburban lots in the town sites of Port Angeles, Wash.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to cause the appraisement of the unappraised and the reappraisement of all unsold and undisposed-of suburban lots not reserved for public purposes in the town site of Port Angeles, Wash., and all of said lots so appraised and reappraised to be subject to sale at private entry only at such reappraised price.

The following amendments recommended by the committee were read:

In lines 4 and 5 strike out the words "the appraisement of the unappraised and."

In lines 7 and 8 strike out the words "appraised and."

Mr. PAYNE. Mr. Speaker, reserving the right to object, I would like to inquire what this bill is? As I caught the title of the bill it is for the reappraisement of certain lands heretofore set aside for sale. Why is a reappraisement wanted; to lower the price?

Mr. CUSHMAN. The gentleman is entirely correct. Mr. Speaker, this bill provides for the reappraisement of about 1,000 acres of land in the State of Washington. The town site of Port Angeles, in Washington, was land belonging to the Government; it was a Federal reservation. The main portion of that town site is not affected by this bill. Lying west of the main part of the city of Port Angeles is a tract of about 1,000 acres of land; that land was divided into 10-acre blocks in 1892, about fourteen years ago. These 10-acre blocks were appraised by the Government, and the appraisal was so high that in fourteen years only 5 blocks out of the original total of 166 blocks were taken by private entry. The Government desires that that land shall enter the hands of private settlers at a fair and reasonable price. This bill has been referred to the Public Land Department and favorably reported. All they ask is for a reappraisement of the remaining blocks, about 136 blocks representing about 1,000 acres.

Mr. PAYNE. As I understand it, the boom has not caught up to the price that was made in 1892?

Mr. CUSHMAN. There was no boom. This land was mere agricultural land, divided into 10-acre blocks, and the price of $100 an acre—over $1,000 for 10 acres of agricultural land—was placed upon some of it. Nobody would buy it at this figure. It is the wish of the citizens and the Government that there should be a reappraisement of these lands.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. CUSHMAN, a motion to reconsider the last vote was laid on the table.

TUITION FOR NONRESIDENT PUPILS IN DISTRICT OF COLUMBIA.

Mr. BABCOCK. Mr. Speaker, I call up the bill (S. 4302) to amend the provision in an act approved March 3, 1899, imposing a charge for tuition on nonresident pupils in the public schools of the District of Columbia.

The Clerk read the bill, as follows:

Be it enacted, etc., That the provision in the act entitled "An act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1900, and for other purposes," approved March 3, 1899, which reads: "That hereafter pupils shall not be admitted to or taught free of charge in the public schools of the District of Columbia who do not reside in said District, or whose parents do not reside or are not engaged in business or public duties therein," and so forth, be, and the same hereby is, amended so as to read as follows:

"That hereafter pupils shall not be admitted to or taught free of charge in the public schools of the District of Columbia who do not reside in said District, or who during such tutelage do not own property in and pay taxes levied by the government of the District of Columbia, or whose parents do not reside or are not engaged in business or public duties therein, or during such tutelage pay taxes levied by the government of the District of Columbia: *Provided*, That such pupils may be admitted to and taught in said public schools on the payment of such amount, to be fixed by the board of trustees, with the approval of the Commissioners of said District, as will cover the expense of their tuition and cost of text-books and school supplies used by them; and all payments hereunder shall be paid into the Treasury, one-half to the credit of the United States and one-half to the credit of the District of Columbia."

Mr. WILLIAMS. Mr. Speaker, I would like to have the gentleman from Wisconsin explain the purpose of this bill to the House.

Mr. BABCOCK. Mr. Speaker, the purpose of the bill is simply this: That people living here in the District who are nonresidents—not officially employed or engaged in the District, but residents of other States—must, if they send their children to

school, pay a reasonable charge for such education. That is all there is of it.

Mr. WILLIAMS. And they do not do it now?

Mr. BABCOCK. They do not.

The bill was ordered to be read a third time, was read the third time, and passed.

On motion of Mr. BABCOCK, a motion to reconsider the last vote was laid on the table.

CORRECTING TYPOGRAPHICAL ERROR IN ACT RELATING TO STREET PARKING IN DISTRICT OF COLUMBIA.

Mr. BABCOCK. Mr. Speaker, I call up the bill S. 4168.

The Clerk read as follows:

An act (S. 4168) to correct a typographical error in act approved July 1, 1898, entitled "An act to vest in the Commissioners of the District of Columbia control of street parking in said District.

Be it enacted, etc., That the act of Congress approved July 1, 1898, entitled "An act to vest in the Commissioners of the District of Columbia control of street parking in said District," be, and it is hereby, amended by striking out of paragraph 5 of section 2 of said act the words "Class B," and substituting therefor the words "Classes (a) and (b)."

Mr. WILLIAMS. Mr. Speaker, it is utterly impossible to understand what this bill means without an explanation.

Mr. BABCOCK. In a paragraph of a bill passed three years ago by an error of the Clerk it was numbered "B," when it should have been numbered "A and B." This simply makes a correction and does not affect the law.

Mr. WILLIAMS. What is Class A and what is Class B?

Mr. BABCOCK. Perhaps I should have said paragraph. The report is somewhat lengthy to read, but I will read what the Commissioners say and perhaps that will clarify it.

The Commissioners of the District of Columbia have to recommend, with reference to Senate bill 4168, Fifty-ninth Congress, first session, to correct a typographical error in act approved July 1, 1898, entitled "An act to vest in the Commissioners of the District of Columbia control of street parking in said District," which was referred to them at your instance for their report as to its merits, that it be modified as follows:

Line 6 strike out all after the word "amended."

Line 7 strike out the words "sentence in" and insert in lieu thereof the words "by striking out of;" same line, strike out the word "which."

Strike out the remainder of the bill and insert in lieu thereof the words "the words 'Class B,' and substituting therefor the words 'Classes (a) and (b).'"

A copy of the bill modified as herein proposed is herewith transmitted.

I do not understand it affects the law at all. It simply clarifies it and corrects an error of the printer; that is all.

Mr. WILLIAMS. Just a typographical error.

Mr. BABCOCK. That is all; yes, sir.

The bill was ordered to be read a third time, was read the third time, and passed.

On motion of Mr. BABCOCK, a motion to reconsider the last vote was laid on the table.

CONTRACTS WITH THE DISTRICT OF COLUMBIA.

Mr. BABCOCK. Mr. Speaker, I call up the bill H. R. 10074.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

A bill (H. R. 10074) in relation to contracts with the District of Columbia.

Be it enacted, etc., That in all cases where the Commissioners of the District of Columbia contract for work or material involving a sum not exceeding $500, it shall not be necessary to execute a formal written contract with bond; but no work capable of execution under a single contract, nor any purchase of material where the total expenditure involved is greater than $500, shall be subdivided or lessened for the purpose of reducing the sum of money to be paid therefor to less than that amount.

SEC. 2. That all laws or parts of laws inconsistent with the provisions thereof are hereby repealed.

The amendments recommended by the committee were read, as follows:

Line 5, insert after the word "necessary" the words "for said Commissioners."

Line 6, strike out the words "execute a formal written contract with bond" and insert in lieu thereof the words "require a bond with said contract."

Mr. TAWNEY. Mr. Speaker, I wish to ask the gentleman from Wisconsin a question in reference to this, reserving the right to object.

Mr. BABCOCK. Certainly.

Mr. TAWNEY. Does this relieve the Commissioners from the necessity of advertising for purchases of less than $500?

Mr. BABCOCK. I will say, Mr. Speaker, it relieves the Commissioners simply of taking bonds for contracts under $500. They are obliged to advertise and make a written contract, but under the present regulations these bonds and contracts all have to go to the Auditor in the Treasury Department, and it simply gets rid of a lot of red tape that is unnecessary in a contract for fifty or a hundred or two hundred dollars, usually performed by well-known and responsible contractors.

Mr. TAWNEY. I understand that there is no real necessity for a contract for the purchase of less than $500 or advertising for work at an expense of less than $500; but I also know the Departments here which are now limited to $100 are seeking to have that limitation extended to $500 and allow the purchase of supplies or anything they want up to the extent of $500 without advertising.

Mr. BABCOCK. This has nothing to do with the purchase of supplies at all. This applies principally to street work or contracts after they have been advertised and been submitted. The contracts have to be executed just the same and the contracts signed. That is a committee amendment, but it relieves them of demanding a bond, which the Commissioners say in the small amounts is entirely unnecessary.

Mr. TAWNEY. Does not relieve them of requiring the advertising?

Mr. BABCOCK. Not at all.

The amendments were agreed to.

The bill as amended was ordered to be engrossed and read a third time; was read the third time, and passed.

INSANE CRIMINALS IN THE DISTRICT OF COLUMBIA.

Mr. BABCOCK. Mr. Speaker, I call up the bill H. R. 4426.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

An act (S. 4426) to amend section 927 of the Code of Law for the District of Columbia, relating to insane criminals.

Be it enacted, etc., That section 927 of an act entitled "An act to establish a Code of Law for the District of Columbia," approved March 3, 1901, as amended by the acts approved January 31 and June 30, 1902, be, and the same is hereby, amended to read as follows:

"SEC. 927. INSANE CRIMINALS.—When any person tried upon an indictment or information for an offense is acquitted on the sole ground that he was insane at the time of its commission, that fact shall be set forth by the jury in their verdict; and whenever a person is indicted or is charged by an information for an offense, and before trial or after a verdict of guilty prima facie evidence is submitted to the court that the accused is then insane, the court may cause a jury to be impaneled from the jurors then in attendance on the court or, if the regular jurors have been discharged, may cause a sufficient number of jurors to be drawn to inquire into the insanity of the accused, and said inquiry shall be conducted in the presence and under the direction of the court. If the jury shall find the accused to be then insane, or if an accused person shall be acquitted by the jury solely on the ground of insanity, the court may certify the fact to the Secretary of the Interior, who may order such person to be confined in the hospital for the insane, and said person and his estate shall be charged with the expense of his support in the said hospital. The person whose sanity is in question shall be entitled to his bill of exceptions and an appeal as in other cases."

Mr. SULZER. Mr. Speaker, reserving the right to object, I would like to have the gentleman from Wisconsin give some information regarding this bill. What change does it make in the existing law?

Mr. BABCOCK. Mr. Speaker, I yield to the gentleman from Ohio [Mr. TAYLOR] who reported this bill and understands it thoroughly.

Mr. TAYLOR of Ohio. Mr. Speaker, the only change in the law is the insertion of the words "or information," in the tenth line, after the word "indictment;" and the words "or is charged by an information," in the thirteenth line, after the word "indicted." The original act remains intact, except for these two insertions. The point is this: Under the present law a man charged by indictment, or for a felony, can be tried on the question of his insanity. The jury may on the trial on the merits return a verdict of not guilty, but must find "not guilty because insane;" or, if the court thinks the man is insane, he may impanel a jury on the question to determine his sanity. This does not apply in the District code to misdemeanors, or where the charge is by information; and the object of this bill is to make it apply the same on a charge by information as by indictment. The Commissioners called the attention of the committee to the fact that there are a number of cases now pending where the charge is on information against parties who are really insane, and there is no procedure by which this question can be determined, as in the case of an indicted man. This is the only change in the law.

Mr. STEPHENS of Texas. I want to ask the gentleman with reference to the provision in the bill, I believe in the last section, providing that the Secretary of the Interior may order such a person to be confined in the hospital for the insane. I would like to know why the Secretary of the Interior should have charge of such a proceeding. After the party is found to be insane, then there is some sort of report to be made to the Secretary of the Interior, and he is to make an order in regard to this matter. Why should the Secretary of the Interior have control of this subject?

Mr. TAYLOR of Ohio. The Secretary of the Interior has charge of the Government Insane Hospital, and under the existing law all insane persons are, under the direction of the Secretary of the Interior, placed in the insane asylum.

Mr. SULZER. Where are these insane criminals sent?
Mr. TAYLOR of Ohio. To the Government asylum.
Mr. SULZER. St. Elizabeth's?
Mr. TAYLOR of Ohio. I suppose that is the one.
Mr. SULZER. That is the only one, is it not?
Mr. TAYLOR of Ohio. It is the only one I know of.
Mr. SULZER. There are serious charges against that institution that this House should investigate.
Mr. STEPHENS of Texas. Is it not the duty of the authorities at the insane asylum to receive these criminals without the action of the ministerial head of one of the Departments?
Mr. TAYLOR of Ohio. I understand that these all come under the charge of the Secretary of the Interior.
Mr. STEPHENS of Texas. It seems it is left to him to order these persons to be received?
Mr. TAYLOR of Ohio. That is the present law, and we did not seek to change that.
Mr. STEPHENS of Texas. He may order the prisoner to be confined?
Mr. TAYLOR of Ohio. In the hospital for the insane.
Mr. STEPHENS of Texas. I think that is a very unwise law.
Mr. TAYLOR of Ohio. It is the present law.
Mr. STEPHENS of Texas (continuing). That an Executive Department of this Government should control a prisoner of that kind. I think the courts ought to control. The mandate of the court should be that he be confined in the insane asylum and not on the dictation of any executive officer. I do not know of any executive officer of the Government I would not rather deprive of any rights than the present Secretary of the Interior, but when you give him the right to act in any of these matters he will arbitrarily refuse to carry out the laws of the land.
Mr. TAYLOR of Ohio. I am informed that the District of Columbia has not any insane hospital of its own, and that the only hospital located in the District is that under governmental control, and under the direction of the Secretary of the Interior. I presume that is why this provision is put in the bill.
Mr. STEPHENS of Texas. Then undoubtedly it would be impossible to have it changed.
Mr. TAYLOR of Ohio. That is the existing law, and we have not amended that feature of the law.
Mr. CRUMPACKER. Mr. Speaker, I understand from the statement of the gentleman, the only change the committee recommends in the existing law is to put trials by information upon the same basis as trials under indictment?
Mr. TAYLOR of Ohio. Exactly.
Mr. CRUMPACKER. Now, I assume that the defense of insanity can be made against charges presented by information just the same now as against those made by indictment?
Mr. BABCOCK. No.
Mr. CRUMPACKER. Now, the insanity of the accused does not need to be in the verdict in information cases.
Mr. TAYLOR. That is true.
Mr. CRUMPACKER. Without the verdict containing the statement that the defendant is acquitted on the ground of insanity?
Mr. TAYLOR of Ohio. Upon the sole ground of insanity.
Mr. CRUMPACKER. The sole ground of insanity. Now, on the question about the Secretary of the Interior confining insane criminals in public hospitals, that I understand is discretionary with him, and it is presumed that he exercises the power to confine insane criminals in hospitals where it is necessary for their treatment and for the protection of the public, but not as a punishment.
Mr. TAYLOR of Ohio. Not as a punishment.
Mr. BABCOCK. Absolutely none.
Mr. TAYLOR of Ohio. Of course not.
Mr. CRUMPACKER. It is a matter in relation to which he must inform himself and act for the benefit of the individual or for the benefit of society and determine whether the individual shall be committed to the hospital or not.
Mr. TAYLOR of Ohio. Exactly; and the only duty of the court after a verdict is rendered is to certify the fact of the verdict to the Secretary, for his discretion.
Mr. CRUMPACKER. You do not provide how the Secretary shall inform himself, of course, about the conditions.
Mr. TAYLOR of Ohio. Nothing beyond the fact that the original act, which we do not amend in that particular, provides that after this fact is certified to the Secretary he may order such person confined in a hospital, and if he has an estate the estate is chargeable with his support.
Mr. CRUMPACKER. Of course, that might possibly be construed to mean that he might do it as a sort of penalty?
Mr. TAYLOR of Ohio. It is not intended as such.
Mr. CRUMPACKER. It could not be?
Mr. TAYLOR of Ohio. It is to take care of persons charged with crime and found not guilty by reason of their mental condition.
Mr. WILLIAMS. As I understand this, when a man is charged with crime, and the jury acquits him on the ground of insanity, this machinery is called into operation, and the jury determines that he is insane, and the Secretary of the Interior can, if he chooses to, refuse to confine him in an asylum.
Mr. TAYLOR of Ohio. The language of the original act would appear to be discretionary, because it uses the words "he may."
Mr. WILLIAMS. Then do you not think it would be wise to send this bill back to the committee, and direct them to bring in a bill which will not leave to the Secretary of the Interior that discretion, if the proper court declares the man to be insane, that an executive officer of the Federal Government, with no duties in relation to the District of Columbia whatever, may or may not, in his discretion, confine him in an insane asylum?
Mr. BABCOCK. Mr. Speaker, if the gentleman will permit me, I do not believe it is safe to amend this bill in that way. I think the Secretary should have some discretion, as stated by the gentleman from Indiana. A man may be a dangerous insane criminal or the offense for which he is arrested may be simply a misdemeanor. Now, this legislation is brought in here because there are men confined in the jail in the District, and the authorities are powerless to deal with them. They have not been indicted, but arrested by the police on information, as I suppose the lawyers call it (for I am not a lawyer), and the judges of the police court of the District of Columbia have held that they are powerless to handle these cases because of that technical fact.
Mr. TAWNEY. Mr. Speaker, a point of order. Is the gentleman from Wisconsin now talking for the information of the House or just for the information of the gentleman from Mississippi? The House can not hear anything that is going on.
The SPEAKER. The House will be in order. The Chair awaits the pleasure of the galleries to cease conversation. [After a pause.] The Chair has discovered that he was mistaken as to the galleries. They seem to be in order, and the conversation seems to be on the floor. [Laughter.]
Mr. BABCOCK. Mr. Speaker, I did not intend to deny to the gentleman from Minnesota [Mr. TAWNEY] any information that I had; but I realized that when I was talking to the gentleman from Mississippi I was informing a very large part of the House. [Laughter.] Now, this is a very simple proposition, and I was endeavoring to explain that it was brought to the attention of the committee by one of the judges here, who said that they had at present three criminals confined in jail, concerning whom there was no law to proceed; that the men were insane; that they could not let them out because they were dangerous, and one of the judges came to me personally appealing for prompt action. He said: "Something must be done by Congress, because we can not send these men to the insane asylum and we have no authority to keep them in jail, and there should be some amendment to this law."
Now, all in the world that this bill does is to put a case that comes before the court on information in exactly the same status as one that comes before the court on indictment. That is all. It does not change the authority of the Secretary of the Interior. We have nothing to do with that, and as I said to the gentleman from Mississippi, I believe it would be dangerous to take that discretion away from him. We never have heard a complaint.
Mr. TAWNEY. Will the gentleman from Wisconsin state to the House what the practice has been under the existing law with respect to exercising the discretion which the law now vests in the Secretary? In other words, when a criminal has been adjudged insane, and his residence is in some State, has the Secretary ever sent that man to the State for confinement in an asylum in the State in which he resides, or does the Secretary send him to an asylum here in the District, and then charge the State, or can he under the law charge the State, with the expense of maintaining and treating him in an asylum here in the District of Columbia?
Mr. BABCOCK. Mr. Speaker, I can not answer that question in detail. The practice is the same here as in Maryland and other States. If a citizen of Maryland is confined here in the asylum, the State or the county must pay the expenses, or they must take the party away and take him where he belongs.
Mr. TAWNEY. That demonstrates the necessity for a discretion being vested somewhere, and it ought to be invested in an officer who has control and supervision over the asylum.
Mr. BABCOCK. As to the discretion of the Secretary, I never heard the question brought up. I understood that when

the decision of the court has been reached it has been sent to the Secretary, and it is a formal matter and is carried out. The party is sent to the asylum unless there is some special reason shown—that he is a resident of another State, or that he has relatives, or property, or friends who will take care of him in other places. But if you make it mandatory to send the prisoners there that would be all there would be of it; he would be put in the asylum, and you couldn't get him out.

Mr. CRUMPACKER. I understood the gentleman from Wisconsin say that there are prisoners in the jail who are insane who the judge of the court says can not be disposed of under existing law.

Mr. BABCOCK. Yes.

Mr. CRUMPACKER. There is certainly some provision for a civil inquisition to determine the sanity of a man; and if he is insane his commitment to the insane hospital, is there not? I assume that provision is made for the treatment of insane patients in jails and hospitals in the District of Columbia. Is there not?

Mr. BABCOCK. We have endeavored to pass little acts in relation to this very matter. The laws have not been complete here, and there has been very much embarrassment in handling insane people.

Mr. CRUMPACKER. I am sure there is provision in the District Code for a civil inquisition for examination into the condition of men who are suspected of being insane with a view to their treatment in the hospital; but here, as I understand, the judge of the court has not the power to make an inquiry and make an order for their commitment, but all he can do is to turn them out on the public and let the proper tribunal or magistrate, if they are so disposed to do it, take charge of the subject, and if not, he is turned at large.

Mr. TAYLOR of Ohio. There is a civil provision for taking care of the insane, but this is criminal law.

Mr. HOAR. Mr. Speaker, if I may be allowed, we have a law of this kind in Massachusetts. Where people are under indictment for an offense and are held in jail waiting for trial, we have a provision of law which is common to a great many States—that the judge of the court in which the indictment is pending has the right, or the officer who controls him, to transfer him to an asylum for treatment and examination. It is not necessary to have a jury, and to have the question of sanity tried.

Mr. TAYLOR of Ohio. It is in my State; it requires a jury in a criminal case.

Mr. HOAR. In my State he can be transferred without any trial to the asylum for examination. It is a simple matter, under which we operate without any difficulty. Of course, in the first part of the section, where people have been acquitted by a jury on the ground of insanity the civil provision applies, and there is no need to have the Secretary of the Interior or anybody else have discretion, because the superintendent of police or the court officer will make complaint to the civil authorities and have the man committed to custody if he has been acquitted by reason of insanity. That is the way we deal with it in the old-established State that I come from.

Mr. TAYLOR of Ohio. We have in Ohio a law quite similar to this, and it works well.

Mr. HOAR. Do you have to empanel a jury?

Mr. TAYLOR of Ohio. Yes.

Mr. HOAR. While the man is awaiting trial?

Mr. TAYLOR of Ohio. Yes. He can be tried as to his sanity before he is tried on the indictment.

Mr. HOAR. There is no reason for this where you have the habeas corpus provision.

Mr. TAYLOR of Ohio. There are many ways in which this matter might be handled, but it seems to me that this is a sensible and proper proceeding, and he did not see fit to amend the general law——

Mr. SULZER. Mr. Speaker, I desire a little information regarding this matter. What I wish to know from the gentleman on the District Committee who has reported this bill is this: Under whose jurisdiction is this insane asylum known as "St. Elizabeth's?"

Mr. TAYLOR of Ohio. Under the jurisdiction of the United States Government.

Mr. SULZER. Do the Commissioners of the District of Columbia have charge of it?

Mr. TAYLOR of Ohio. I understand not. I understand they contract, or make some arrangement, with the Secretary of the Interior to place these insane people in the asylum.

Mr. SULZER. Then the asylum is practically under the control or direction of the Secretary of the Interior?

Mr. TAYLOR of Ohio. That is my information.

Mr. SULZER. Does not the gentleman think that is a mistake—to have this asylum in the District of Columbia under the control of a member of the Cabinet? Should it not be under the control of the Commissioners of the District of Columbia or under the control of the Congress?

Mr. TAYLOR of Ohio. This asylum is used for men all over the United States, placed there by the United States Government.

Mr. SULZER. That makes no difference.

Mr. TAYLOR of Ohio. I am not prepared to state.

Mr. SULZER. I think it would be very much better, in order to have the law carried out, to have this asylum of St. Elizabeth's placed under the control of the District Commissioners or the Congress of the United States.

Mr. Speaker, I ask for a few moments to say something in regard to this matter.

The SPEAKER. Does the gentleman yield?

Mr. TAYLOR of Ohio. How much time does the gentleman desire?

Mr. SULZER. Only a few minutes.

Mr. TAYLOR of Ohio. I yield.

Mr. SULZER. Mr. Speaker, I wish to say a few words regarding the administration of this insane asylum known as "St. Elizabeth's." We have some knowledge from what we read in the newspapers, and I have some personal knowledge from what reputable citizens and doctors of the District of Columbia have told me of what is going on and has been going on for years in that asylum—of the abuses practiced there. I believe that the time is at hand when the House of Representatives should take some decisive action in regard to the control, the direction, and the management of St. Elizabeth's Insane Asylum. We know that all insane people, whether criminal or not, in the District of Columbia are sent to that asylum; and we know that there have been within the last few years a great many serious complaints made about the mismanagement of that insane asylum. I am informed that two resolutions have been introduced in this House and are now pending in the committee calling for an investigation of this asylum, and I believe that these atrocious charges which have been made in the public press, and to Members of Congress generally, ought to be investigated, and investigated without further delay. The people demand it. It is my belief from what I have been informed—and I have every reason to believe that the information is reliable and accurate and true—that the mismanagement of this asylum, so far as the treatment of the insane patients is concerned, is barbarous in the extreme. The cruelties and the outrages which have been inflicted and perpetrated on some of these unfortunate insane patients in that asylum are enough to make a reasonable human being shed tears of sadness. It is a disgrace to mankind.

I do not want to repeat here and now the terrible stories which have come to many of us regarding the torture, the inhumanity, the cruelty, the barbarism of the treatment of some of these poor afflicted insane patients in that insane asylum; but I do want to say that if these charges are true, or even half true, it is a terrible indictment, a terrible disgrace to the District of Columbia, to the people of this country, and a frightful reflection upon the Congress of the United States. I insist that the chairman and the members of the Committee on the District of Columbia should carefully consider this matter and the pending resolution before that committee for the investigation of that asylum and report it, so that we can speedily find out whether these asylum officials are guilty of these outrages, inhumanities, and barbarous cruelties. It is alleged that there is a system of graft in that institution which should be exposed, and the guilty officials prosecuted. This investigation must come. It can not be smothered much longer.

We have legislated in this country to prevent corporal punishment in our penal institutions. I am now, always have been, and always will be, opposed to the infliction of corporal punishment in penal institutions.

When I was a member of the legislature of the State of New York I had passed a law to prevent corporal punishment in the prisons of that State. The time has come, Mr. Speaker, when the people of the District of Columbia, when the people of this country, demand that these poor, unfortunate patients in St. Elizabeth's Insane Asylum shall be treated as human beings. We must do our duty, and do it now, in this matter. I protest against further delay. It is a disgrace to the Congress that we do not bring these offending officers before a committee of this House, put them on their oaths, and find out whether the charges made are true or not. We should act quickly and find out the truth. We should have an impartial investigation, let in the light, and get at the facts. Those who make the charges should be called to testify under oath, and the hearings should be open, and not behind closed doors. It is farcical

and a travesty on justice to permit these officials to investigate themselves and whitewash themselves. This House or a committee from it should conduct the investigation—no star chamber proceedings, no whitewashing, no favoritism. We want all the facts, and sooner or later we will get them, and when we do I believe they will bring the blush of shame to the cheeks of every humane man in our country. Let us have publicity regarding the control and management of St. Elizabeth's Insane Asylum. [Applause.]

The SPEAKER. The time of the gentleman from New York has expired.

Mr. TAWNEY. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman from Ohio yield to the gentleman from Minnesota?

Mr. TAYLOR of Ohio. I yield.

Mr. TAWNEY. Mr. Speaker, in reply to the gentleman from New York [Mr. SULZER], I wish to call the attention of the House to the fact that he commenced with the statement that certain conditions and practices are alleged to exist in St. Elizabeth's Hospital, but that he knew nothing about the truth of them and therefore he would not presume to say that they were true. He closed his speech, however, with a direct charge of the things that have appeared in the newspapers. St. Elizabeth's Insane Asylum is a governmental institution under the control of the Government. It takes care of the insane of the Army and Navy and of the District of Columbia. I want to say, regardless of whether these charges are true or false, that the administration of St. Elizabeth's Hospital, as shown by the records, is the most economic of any of the insane hospitals in the District of Columbia. The question of whether or not these charges are true is now being investigated. This is not the time, and there is no man in the House who has the information that would justify him in indulging in the criticism the gentleman from New York has indulged in, because there is no proof of these charges; they rest upon nothing but mere allegations.

Mr. COOPER of Wisconsin. The gentleman says an investigation is being conducted——

Mr. TAWNEY. I understand the board of managers are investigating——

Mr. SULZER. Investigating themselves.

Mr. TAWNEY. Are investigating these charges.

Mr. SULZER. Are investigating themselves.

The SPEAKER. To which one of the gentlemen does the gentleman from Minnesota yield?

Mr. TAWNEY. I yield to the gentleman from Wisconsin.

Mr. COOPER of Wisconsin. Does the gentleman from Minnesota say that the board of managers of the institution, which the gentleman from New York suggests have been derelict, are investigating themselves?

Mr. TAWNEY. I do not say that they are investigating themselves; I said they are investigating the charges that are made in the newspapers, or by individuals through the press, in regard to the management of that institution.

Mr. COOPER of Wisconsin. Will the gentleman permit one other question? Is there any law to-day which provides for an investigation or examination of these institutions regularly by any committee of Congress?

Mr. TAWNEY. There is no law of which I know.

Mr. COOPER of Wisconsin. Is there any law which requires anything like a systematic investigation of these institutions at stated intervals and public reports at any time by anybody?

Mr. TAWNEY. I know of no law which requires that to be done. This institution is under the control of the Government and under the immediate control of the Secretary of the Interior, and it is within his power, I presume, to order an investigation whenever he sees fit to do so. It is also within the power of this House, if it sees fit, to investigate and——

Mr. COOPER of Wisconsin. Mr. Speaker——

Mr. TAWNEY. Just a moment; but what I was saying was that until this House was in possession of the proof as to whether or not these charges are true it was hardly fair for a Member of the House to stand up here and assert they were true, and then indulge in criticising the management upon that basis, when he admits that he knows nothing as to the truth of these charges. The Committee on Appropriations is now preparing the sundry civil appropriation bill. That bill carries the appropriation for the maintenance of this institution, and the committee proposes, as far as it can with the time it has at its command, to go into the matter as far as it possibly can and investigate the management as thoroughly as possible.

Mr. COOPER of Wisconsin. Does not the gentleman think that there ought to be a law upon the statute books which would require regular examinations and reports to Congress by some committee of Congress, with authority to inquire into the facts?

Mr. TAWNEY. I think that would be a very good law, and the gentleman from Wisconsin can introduce a bill of that kind, and I will do what I can to assist in securing its passage.

Mr. COOPER of Wisconsin. I had always supposed, until I received the reply from the gentleman from Minnesota, that there was such a law.

Mr. TAWNEY. None except the general law, which gives to the Secretary of the Interior the power to make an investigation whenever, in his judgment, it was necessary.

Mr. COOPER of Wisconsin. My own judgment is that Congress, being itself primarily responsible, ought not to leave it to the discretion of any executive officer to investigate or not to investigate public institutions of this kind which are under its control. I am not making this statement because of what has been urged by the gentleman from New York, because I heard only the last two or three sentences of his remarks, but I am led to say this to the gentleman from Minnesota because of a charge which was made very recently by a highly respectable citizen of Washington concerning an alleged atrocious wrong perpetrated upon an inmate of an institution of this city, an investigation of which was hushed up for the sake of the people implicated. In my judgment Congress has been grossly derelict in not having long ago enacted a law requiring a rigid, impartial examination of these institutions, every one of them, once a year, by some committee of Congress, and an annual report of such examination to Congress.

The SPEAKER. The time of the gentleman has expired.

Mr. SULZER. Mr. Speaker, I ask for a few minutes. Will the gentleman from Ohio yield me a few minutes?

Mr. TAYLOR of Ohio. How long a time do you want?

Mr. SULZER. Three or four minutes.

Mr. TAYLOR of Ohio. I yield the gentleman five minutes.

The SPEAKER. The gentleman from Ohio yields the gentleman from New York five minutes.

Mr. SULZER. Mr. Speaker, just a few words. I desire to say I practically concur in what the gentleman from Wisconsin has just said—that the Congress of the United States has been derelict, most derelict, in its duty in regard to the management of the insane asylum known as "St. Elizabeth's." These horrible charges are made, and specifically made, by reputable citizens. They should be investigated. I say an official in an insane asylum that abuses and ill treats an insane inmate is a despicable scoundrel. The gentleman from Minnesota stated that I said these charges were true. I have every reason to believe they are true; but I did not state of my own knowledge that the charges were true. I said, and I repeat, that the people who make these charges are among the most reputable citizens in the District—some of them leading doctors; and that they want to come before a committee of the Congress and testify under oath to the horrible cruelties and barbarities which have been going on for several years in St. Elizabeth's. What did the committee state to these gentlemen who came here asking for this investigation?

The committee turned them over to the officials of the institution and these officials, I am informed, are now investigating themselves. What a farce! What a spectacle is presented by these officials charged with these barbarities, these inhumanities, these cruelties—what a spectacle, I say, is presented to the country—when the Congress allows them to investigate themselves! Just think of that. It is to laugh. It is exactly like the investigation which went on under the trustees of the great insurance companies in the city of New York. Under the management of the directors or the trustees of these insurance companies from year to year they investigated themselves, and then issued the reports to the policy holders and the public generally telling what honest men they were, how they had conserved the interests of the policy holders, and how safely and honestly everything was done and managed. At the next meeting of the board of directors some member would rise up and move to have the officials' salaries increased ten, twenty, thirty, forty, or fifty thousand dollars more a year. It was ridiculous, but it went on.

So I have no doubt that after these officials, or trustees, or directors, of St. Elizabeth's Insane Asylum get through investigating themselves they will send us their report on the same basis and along the same lines, and then the gentleman from Minnesota will make up the sundry civil bill and make an appropriation increasing their salaries a little more. I say, again, that we should bring these officers before a committee of the House, put them under oath, and confront them with their accusers, and get at the truth; and if we do that, we will show, in my opinion, a condition of affairs existing in that institution that will

bring the blush of shame to the face of every humane Member in Congress and cause the immediate enactment of laws that will forever prevent a repetition of these disgraceful barbarities. [Applause.]

The SPEAKER. The time of the gentleman has expired.

Mr. TAYLOR of Ohio. Mr. Speaker, this discussion has been interesting, but in no way reflects any light upon the merits of this bill, and I ask for a vote.

The bill was ordered to a third reading, read the third time, and passed.

FALSE FIRE ALARMS.

Mr. BABCOCK. Mr. Speaker, I call up for consideration the bill H. R. 14513.

The bill was read, as follows:

A bill (H. R. 14513) to prevent the giving of false alarms of fires in the District of Columbia.

Mr. BABCOCK. Mr. Speaker, this bill is reported by substitute, and I ask that the substitute only be read.

The SPEAKER. The gentleman from Wisconsin asks unanimous consent that the amendment by way of a substitute be read and omit the reading of the bill. Is there objection? [After a pause.] The Chair hears none.

The Clerk read as follows:

Strike out all after the enacting clause and insert:

"That it shall be unlawful for any person or persons to willfully or knowingly give a false alarm of fire within the District of Columbia, and any person or persons violating the provisions of this act shall, upon conviction, be deemed guilty of a misdemeanor and be punished by a fine not exceeding $100 or by imprisonment for not more than six months, or by both such fine and imprisonment.

"SEC. 2. That prosecutions for violation of the provisions of this act shall be on information filed in the police court by the corporation counsel of the District of Columbia or by any of his assistants.

"SEC. 3. That this act shall be in effect from and after its passage."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

CONDEMNATION OF LAND FOR STREETS.

Mr. BABCOCK. Mr. Speaker, I now call up for consideration the bill H. R. 17217.

The Clerk read as follows:

A bill (H. R. 17217) to amend an act entitled "An act to establish a code of law for the District of Columbia," regulating proceedings for condemnation of land for streets.

The Clerk proceeded to read the bill.

Mr. FITZGERALD. Mr. Speaker, a parliamentary inquiry. I wish to inquire whether it will be in time to raise the point of order that this bill is on the wrong Calendar after the reading of the bill?

The SPEAKER. The point of order can be raised at any time before consideration of the bill has begun.

Mr. FITZGERALD. I make the point of order now.

The SPEAKER. The gentleman from New York makes the point of order that this bill ought to be upon the Union Calendar. For what reason, the Chair will ask the gentleman.

Mr. FITZGERALD. It makes a charge upon the Federal Government, I understand, by providing one-half of the expenses of street condemnations shall be borne by the Federal Government.

Mr. BABCOCK. The bill makes no appropriation whatever of any kind.

The SPEAKER. If the gentleman has his eye upon the paragraph or section, will he be kind enough to call the Chair's attention to it?

Mr. FITZGERALD. The purpose of this bill, if I am correctly informed, is to make the Federal Government responsible for one-half of the cost of opening streets.

The SPEAKER. To what part of the bill does the gentleman refer?

Mr. FITZGERALD. Page 5, line 20.

The SPEAKER. Which is as follows:

If the total amount of the damages awarded by the jury and the cost and expenses of the proceedings be in excess of the total amount of the assessments for benefits, such expense shall be borne and paid equally by the United States and the District of Columbia.

Mr. FITZGERALD. Yes.

The SPEAKER. The Chair will hear the gentleman from New York.

Mr. OLCOTT. Mr. Speaker, this bill is merely to provide a proper method for street openings. It does, as the gentleman from New York states, provide—

If the total amount of the damages awarded by the jury and the cost and expenses of the proceedings be in excess of the total amount of the assessments for benefits, such expense shall be borne and paid equally by the United States and the District of Columbia.

But that is merely a method of proceeding, and does not make any direct appropriation.

The SPEAKER. Precisely.

Mr. CRUMPACKER. Is that the law already?

Mr. OLCOTT. There has never been any general law as to how the excess of expenses should be borne in connection with street openings. This bill merely follows the general act that the United States Government shall pay one half of the expenses of the city and the District of Columbia the other half. It is merely following the general law in reference to expenditures.

The SPEAKER. The Chair is inclined to be of the opinion that this legislation covered by the paragraph read by the Chair, to which the gentleman calls attention, does make a charge upon the Treasury, and that the bill should be upon the Union Calendar.

Mr. OLCOTT. Then I move that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of this bill.

The SPEAKER. The gentleman from New York moves that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole House on the state of the Union, Mr. CRUMPACKER in the chair.

The CHAIRMAN. The House is in Committee of the Whole on the state of the Union for the consideration of a bill of which the Clerk will report the title.

The Clerk read as follows:

A bill (H. R. 17217) to amend an act entitled "An act to establish a code of law for the District of Columbia," regulating proceedings for condemnation of land for streets.

Mr. OLCOTT. Mr. Chairman, I ask unanimous consent that the first reading of the bill be dispensed with.

The CHAIRMAN. The gentleman from New York asks unanimous consent that the first reading of the bill be dispensed with. Is there objection?

Mr. GILBERT of Kentucky. I object.

The CHAIRMAN. The gentleman from Kentucky objects. The Clerk will report the bill.

The Clerk read the bill.

The CHAIRMAN. The gentleman from New York [Mr. OLCOTT] is recognized for one hour, if he wishes that time.

Mr. OLCOTT. Mr. Chairman——

Mr. TAWNEY. Mr. Chairman, if the gentleman from New York will allow me to make a suggestion, he may, if he does not wish to occupy any time for general debate, ask that general debate be now closed, and proceed with the reading of the bill under the five-minute rule.

Mr. OLCOTT. As far as I am individually concerned I myself should be most gratified to do that, but I understood the gentleman from Tennessee [Mr. SIMS] to say that he wished to have some time for general debate.

Mr. SIMS. I wish some time for general debate.

Mr. OLCOTT. Mr. Chairman, it seems to me that I shall not want to occupy an hour in general debate, and if the gentleman from Tennessee will agree to half an hour on each side, that would be entirely satisfactory to me and sufficient for my purposes.

Mr. SIMS. Mr. Chairman, let the gentleman from New York use such portion of his time as he wishes. I wish to be recognized in my own right.

Mr. OLCOTT. Mr. Chairman, this bill is the result of a considerable amount of work that has been done in the Committee on the District of Columbia, through a subcommittee appointed for the specific purpose of establishing some method of procedure to be followed when property is taken for the extension or widening of streets. Heretofore each bill providing for a specific widening or extension has also made——

Mr. GILBERT of Kentucky. Mr. Chairman——

The CHAIRMAN. Does the gentleman from New York yield to the gentleman from Kentucky?

Mr. OLCOTT. Certainly, I yield.

Mr. GILBERT of Kentucky. I do not find in this bill any provision for serving actual notice upon the owners of the property, even though they reside here in the District of Columbia, unless they are the owners of the fee.

Mr. OLCOTT. Will the gentleman from Kentucky allow me to make a general statement, and then I will come to that with great pleasure?

Mr. GILBERT of Kentucky. Very well.

Mr. OLCOTT. As I said, Mr. Chairman, the method has seemed to us to be extremely cumbersome. When Congress decides to take any particular block of land to extend some street, it is necessary to discuss the method of procedure to be followed in that particular case. The result of that has been not

only unnecessary delay at the time the several bills have been under discussion, but has also necessitated each specific act to be unnecessarily examined by the corporation counsel as to the procedure to be followed.

This, of course, is an absurdity. It is entirely artificial, and sometimes the risk is run of the proceedings being illegal, because of the accidental omission of some essential in the specific act, when, if there were general sections in the code of procedure, the matter could be one of regular routine work, and it would leave to Congress only the necessity of passing a bill to determine upon the extension of a particular street, directing that the procedure be under the general code. The gentleman from Kentucky [Mr. GILBERT] has spoken relative to the matter of actual service. I would call his attention to section 491c.

Mr. GILBERT of Kentucky. That section makes no provision whatever for actual notice, although the owner may reside in the District of Columbia.

Mr. OLCOTT. That particular section provides first for advertisement in a particular manner, and then for service upon the owners of the fee, provided they are known, and also upon the tenants and occupants of the land. It may be impossible to know all the owners of the land to be taken, and it seemed to us that if anybody in the occupation of land as a tenant were served, he would give notice to the owner of the land himself.

Mr. GILBERT of Kentucky. I suggest to the gentleman that the owner of a life estate is entitled to notice before you take his property. The owner of a freehold estate living here in the city would be entitled to notice.

Mr. OLCOTT. That owner would unquestionably be known, and he would get personal notice in addition to the advertisement.

Mr. GILBERT of Kentucky. There is no provision for his being notified at all.

Mr. OLCOTT. The provision is that the marshal shall serve notice upon such owners of the fee of land to be condemned as can be found, and the tenants and occupants.

Mr. GILBERT of Kentucky. The gentleman does not attach sufficient force to the words "owner in fee." The owner in fee is a different individual from the owner of a life estate. A man may own an estate for life and at his death it goes to his children, and they perhaps are residing right here in the city of Washington and would receive no notice.

Mr. OLCOTT. I take it that if the owner of the fee is served, the owner of the life estate would probably get notice.

Mr. GILBERT of Kentucky. But the proceeding would be null and void; you are taking a man's private property without notice, without his day in court, without any compensation, without any opportunity to be heard, and devoting it to a public use, and you only serve notice on somebody else.

Mr. OLCOTT. No; we provide that notice shall be served upon the owner, the tenant, and occupant.

Mr. GILBERT of Kentucky. Your bill provides that you shall serve notice on the owner of the fee, but there is no other provision for notice on the owner of the life estate.

Mr. OLCOTT. It says upon the tenants and occupants of the same—meaning the land.

Mr. GILBERT of Kentucky. If the gentleman thinks that is sufficient notice, I am sure I wouldn't look at it as a sufficient notice at all. Suppose the gentleman owns an estate for life and notice is served upon his tenant. That is no service upon him.

Mr. OLCOTT. I believe that the provision is sufficiently broad, because I think if any tenant or occupant of the land was served, unquestionably the owner of the fee or life estate would be quickly notified, and it seemed to us that it was necessary to make some provision where we could not get the owners of all the interests in the land.

Mr. GILBERT of Kentucky. The gentleman thinks that by serving notice on one interested party, it would be sufficient notice on all interested parties?

Mr. OLCOTT. I think, on the contrary, that all the parties should be served if they can be found.

Mr. PAYNE. I would like to ask the gentleman, my colleague, a question.

Mr. OLCOTT. I will yield to the gentleman.

Mr. PAYNE. Why does the committee reverse the rule that has been practiced here for several years, that in passing special acts of this kind, requiring the difference to be paid by the District, and not half by the United States and half by the District?

Mr. OLCOTT. I would like to say in regard to that that we had a great deal of discussion relative to the compensation for the property and the expense being paid by the United States Government and the District of Columbia. It seemed to us that there was only one fair thing to do, and that was to follow the law as laid down in the act of 1878 for the payment of the expenses of this District.

Mr. PAYNE. This law is spoken of as something sacred and binding, having the force of a contract. One paper said that it was the constitution of the District of Columbia. Does the committee regard the act as so sacred that it can not be amended by Congress at any time under the circumstances?

Mr. OLCOTT. In reply to my colleague, I will say that the committee has quite a different idea of it. But they thought that this provision of the law was fair and that the District of Columbia was entitled to ask that this excess be paid one-half by the Government?

Mr. PAYNE. It would seem to me that the opening and use of streets is almost entirely for the benefit of the people residing in the District, and not for the benefit of the Government of the United States. I see that the report states it as an argument that the United States owns the fee of the streets. They take it in trust for the benefit of the people of the District, and I am unable to see why the rule that Congress has enforced for a number of years is not the correct rule, and the difference should be paid by assessments of the District and not divided between the District and the United States Government.

Mr. MORRELL. Will the gentleman from New York yield to me?

Mr. OLCOTT. I will.

Mr. MORRELL. I would like to ask the gentleman from New York [Mr. PAYNE] if he thinks it is quite fair for the taxpayers of the District, when the United States Government wants to open one of these great broad boulevards in conformity with the plan which was laid out by L'Enfant—if he does not think the United States Government should pay a portion of that expense?

Mr. PAYNE. I do not in the opening of streets. I do not see why the United States should pay a portion of that expense. I do not see why the city that is receiving so much benefit from the United States, the location of the Capitol, the half of all their expenses paid, should not at least contribute enough land to open these streets which are such a benefit to property. I can not see for the life of me why this total expense should not be assessed upon the land that receives the benefit of it, and in this city the benefit far exceeds the amount of land taken. I am willing that the Government should pay half of the expenses of this government here in the District of Columbia, and the District gets the best end of that bargain. The people of the District get the cheapest tax rate of any city in the United States and greatest benefit and the greatest street improvement and park improvement of any city in the United States. But it is the capital of the nation, of course.

Mr. OLCOTT. Mr. Chairman, I agree with my colleague from New York [Mr. PAYNE] in feeling that when the street openings affect a small section of the city practically all of the damage should be assessed against the abutting property; but I do feel that if it is right that the Government should pay half of the expenses, as was provided in 1878 in the general law, it is right that the expenses of any particular street opening or of the creation of any great boulevard should be borne equally by the Government and the District.

Mr. LILLEY of Connecticut. Does the gentleman from New York think it is right for the Government to pay half the expenses of the District?

Mr. OLCOTT. Yes; I certainly do.

Mr. LILLEY of Connecticut. Does the gentleman think that it is right for the Government to pay three-quarters under this provision?

Mr. OLCOTT. There is no provision that provides that.

Mr. LILLEY of Connecticut. In the first place, the District pays half of it and the United States pays half of that, and then the United States, as I understand it, pays half of that half. Does not the United States Government pay the additional expenses of running the government of the District?

Mr. BABCOCK. Only as appropriated by the Committee on Appropriations. The District revenues are turned into the United States Treasury and are separate and distinct from any other moneys. When the Committee on Appropriations appropriates, it may appropriate half out of that fund and half out of the fund of the United States.

Mr. LILLEY of Connecticut. I disagree with the gentleman from New York entirely that this Government should pay any part of the expenses, especially when the property in this District is not taxed at over one-half of its value.

Mr. OLCOTT. Of course if we are going into the whole question of the amount of taxes levied on the property of the District of Columbia, we will scarcely get through this bill to-day. I have very pronounced ideas in regard to that, and

believe that in the treatment that the Government affords to the District of Columbia the Government gets quite as much as the District receives.

As far as the rest of the bill is concerned, with the exception of the single clause to which the gentleman from Kentucky [Mr. GILBERT] has called attention——

Mr. GILBERT of Kentucky. Mr. Chairman, it is perfectly obvious that my point is well taken, and the gentleman is too good a lawyer to stand up here and argue to the contrary. I suggest that we strike out the words "of the fee of," in line 22, and let it be served upon all of the owners of course.

Mr. OLCOTT. Mr. Chairman, I would like to ask the gentleman if the only amendment he desires is the striking out of the words "of the fee?"

Mr. GILBERT of Kentucky. "Of the fee," so that the process shall be served upon the owners of the land.

Mr. OLCOTT. Mr. Chairman, I would say that the committee is perfectly willing to accept the amendment offered by the gentleman from Kentucky to strike out the words in line 22, and if he will offer it at the proper time when the bill is read for amendments we will make no objection whatever. I would suggest now, Mr. Chairman, that the gentleman from Tennessee [Mr. SIMS] occupy some of his time.

Mr. SIMS. Mr. Chairman, I shall discuss this measure in particular with reference to the amendment which I will offer at the proper time, striking out that part of the bill which provides that one-half of the excess of damage over benefits in any street-opening proposition shall be charged to the General Government. But, Mr. Chairman, I want to discuss, somewhat in a general way, the kind of government that we have here. It will be noticed that there is quoted in the report on this bill a letter from Mr. William G. Henderson, chairman of the committee on streets and avenues of the Washington Board of Trade. I will incorporate that letter in my remarks. The letter is a strong one. It is as follows:

WASHINGTON BOARD OF TRADE,
Washington, D. C., April 2, 1906.

DEAR SIR: As chairman of the committee on streets and avenues of the Washington Board of Trade, I beg leave to submit the following in advocacy of H. R. 17217, having reference to regulating proceedings for condemnation of land for streets. The bill indicates a most careful investigation and thorough familiarity with the subject and manifests an impartial treatment of the matter from both an equitable and legal point of view. In the first place, let me state that the title to the land for all streets and highways in the District of Columbia is vested absolutely in the United States and not in the District of Columbia, and not a single street or highway can be opened or extended unless Congress first authorizes it to be done.

The bill provides that land on each side of the street or highway opened, and other land benefited by the opening, shall be assessed for the actual benefits which it derives from the extension or opening, and that the cost and expenses in excess of the amount of the benefits actually derived by the property shall be borne and paid equally by the United States and the District of Columbia. This provision must appeal strongly to every fair-minded person. Inasmuch as Congress directs the opening or extension to be made and the United States takes absolute title to the land thus acquired and thereafter exercises absolute jurisdiction over it, the General Government should assume some portion of the expense and not place it wholly upon the District of Columbia, which acquires no title in the land condemned and has no control over it except to carry into effect the will of Congress as may be expressed from time to time by legislation.

When the present form of government was established Congress provided in the act establishing it that the United States and the District of Columbia should bear the expense share and share alike. This was done because the people were deprived of all power in the management and direction of the affairs of the District, and Congress took unto itself the power to direct what should be done, how it should be done, what money should be appropriated and how disbursed, and by whom disbursed. For some years in all legislation for the opening or extension of streets Congress provided for the expense to be paid one-half by the United States and one-half by the District of Columbia. The present bill, in recognition of the fact that no street can be opened without authority of Congress and that the title to the land when acquired vests in the United States, has fairly and justly provided that the United States and the District of Columbia shall equally bear the expense in excess of the benefits actually derived by the property along and adjacent to the extension or opening, which benefits actually derived shall be borne by said property.

The provision in the present bill as to the manner in which the expense of opening streets shall be borne and paid is preeminently fair and just and has been consistently urged by the Washington Board of Trade, and it is confidently believed that every member of your honorable committee, with a full understanding of the law and facts, will give his unqualified support to the provision. It is also believed that the Members of the House of Representatives, with full information on the subject, such as will be given to them by the members of the Committee on the District of Columbia, will recognize the fairness and justice of this and the other provisions contained in the bill mentioned. In any event, it is hoped and believed that the committee will act according to its convictions of right and justice, and if any amendment must be made leave it to be done on the floor of the House. As chairman of the committee on streets and avenues of the Washington Board of Trade, I desire to commend as a whole the provisions of the bill as drafted by your subcommittee and introduced by Mr. OLCOTT, of your committee. I have the honor to remain,

Very respectfully,

WM. G. HENDERSON,
Chairman Committee on Streets and Avenues of the Washington Board of Trade.

The board of trade has often expressed itself in favor of the United States Government paying one-half of the expenses of all street-opening propositions. I believe that the people of the District of Columbia who pay the taxes believe that they are a tax-burdened people, and very unjustly so, as they think, because they are denied all voice in imposing these burdens. And that is true. Without reading, I will insert as a part of my remarks the different forms of government that have prevailed in the District of Columbia since it became the Federal city. Until the year 1871 it was a municipality, and provided its own expenses by its own taxation, and up to that time the entire cost to the District of Columbia was about $43,000,000 for seventy-one years. Then a form of government was made and styled the "Board of Public Works," and that Board of Public Works, on account of vast undertakings of importance, ran the city in debt—piled up a large bonded indebtedness and almost impoverished the people.

In order to get relief a form of government was proposed in 1874, as I now remember, appointing three commissioners, who were to be receivers to wind up the insolvent city government, and in 1878 a bill was reported and passed, creating the present form of city government and called the "organic act," and in that organic act it was provided that one-half of all the expenses of the District of Columbia should be borne by the Federal Treasury. Now, there were cogent reasons for that at that time which do not exist now. The District of Columbia from the time of the civil war to 1871 was practically a military camp; was overrun by an influx of population which came here for that reason, and the burdens of the District were run up by conditions over which the people themselves had no control. The people here now seriously complain that the fact that the total expense of the street openings, where there are damages in excess of benefits received, are placed upon the people of the District, so it is in spirit and in fact a repeal of the organic act of 1878.

As for myself I am now ready, willing, and anxious to repeal the organic act of 1878. It will not do to undertake to run this capital for all time to come under the organic act. One-half of the expenses of the District of Columbia, as it will be managed under its present form of government, will in no distant day exceed ten or twelve or fifteen million dollars a year. I have no objection to the Government of the United States assuming its proper proportion of the burdens of the city, so far as they are enhanced or increased or made by its occupation as a capital, but beyond that what interest has the United States Government in the continued street extensions and improvement of this District? Another complaint is made by the citizens of the District as a body that the Government is continually buying up the present taxed area and turning it into an untaxed asset of the Government; that the taxed area is continually on the decrease; all of which is true. Why? The Government does occasionally have to have some property in addition to what it has.

Mr. LILLEY of Connecticut. Will the gentleman yield for a question?

Mr. SIMS. Certainly.

Mr. LILLEY of Connecticut. Is it not also true every time the Government buys up any tract in the District and makes a park of it that it enhances the value of the surrounding land many fold?

Mr. SIMS. Why, as far as my knowledge goes, that is true.

Mr. LILLEY of Connecticut. It enhances the balance of the property ten times as much as the whole property would have been before the Government took this part of the land for a park.

Mr. SIMS. I could not speak with reference to each particular purchase of the Government, but I want to state to the gentleman how these Government purchases come about. It is true some of the Government's purchases are made upon the initiative of the Government, like the library site, like the sites for the respective office buildings for the two Houses of Congress, like the municipal building site. But in nine cases out of ten the Government is petitioned to buy property. Some people somewhere, who own a large body of adjacent land, think that they ought to have a park, that there ought to be a Government reservation in that particular section of the city, and they come to the committee of this House and make a showing that they ought to have this park or to have this Government's benefit; that it is a benefit to it as a capital and that it is a benefit to it as a city, and cite the fact that land is getting to be more valuable every day and that the Government ought to buy this land before it goes up; and so, in nine cases out of ten, the acquirement of Government property here is insisted upon, encouraged, and brought about by the activities of the property

owners who are benefited, and there is a hardship in that, my friends. The people around where this improvement is made are benefited, but the taxpayers out at the other end of the capital, away off, are burdened. I want to read to you what gentlemen say about these things after it is done. We are now being petitioned, urged, and importuned to add on the south 100 acres to Rock Creek Park, and they are going virtually to give it to us by only accepting $428,000 for it, a little over $4,000 an acre, and without having examined the official record, I state what I see in the newspapers that it is assessed for taxation at only $180,000.

They are going to virtually contribute it to the Government for $428,000. On the other side of Rock Creek Park, of Sixteenth street extended, they want us to buy another large tract of land, because it is now cheap and will be high. Meridian Hill wants to bloom out and loom up as a great point of observation and have us buy 10 acres at the wee small sum of $60,000 an acre, thus withdrawing all these now taxed areas from taxation. Mr. Chairman, I wish to show you how this matter is discussed after we have yielded to these importunities and bought up lands that we do not need now, and nobody living knows when we will. But after it is done I want to read you how it is spoken of by the people who are talking about the cost of street openings. Now I read from an address by a very distinguished citizen of this District, Mr. Theodore W. Noyes, on page 14 of the document I hold in my hand. He says:

> It is to be remembered also in this connection that other American cities are steadily enlarging their boundaries and by direct annexation increasing from year to year by millions their assessed valuation, while in the case of the District of Columbia there is a steady reduction in the absolute amount of taxable real estate from year to year, corresponding to the condemnations made by the National Government in the Federal District and the nation's city for public purposes. For instance, in creating Rock Creek Park and the Zoological Park the Government took nearly 2,000 acres of land from the District's tax list and put them in the exempted column. A similar effect was produced, for further example, when valuable blocks of land were condemned as the sites for the Congressional Library building and the so-called "city post-office." Clearly where an increasing aggregate valuation is placed upon a decreasing property list the burden of assessment upon that property grows heavier and heavier with abnormal rapidity.

Mr. LILLEY of Connecticut. Is it not a further fact that taking this 2,000 acres for Rock Creek Park enhanced the value of the property around it, throughout Cleveland Park, Woodley Lane, and Chevy Chase, a great deal, and that its value for taxation is a great deal more now without Rock Creek Park than prior to the time of the Government taking Rock Creek Park, taking the value as a whole?

Mr. SIMS. I have no doubt that that is practically true, but not having examined the tax list before the purchase I can not state exactly how that is. The point I make is to show that these purchases made by the Government were at the urgent solicitations of the citizens of the District, and they then afterwards complained of taking from the taxable area the very identical property they induced the Government to buy. Now, that in the main is perhaps true. But I think before you put a tax burden upon the people of the District of Columbia that the people of the entire District should be consulted in so far as possible, and if they can not be consulted under the present form of government, let us have one by which they can be consulted. It is not right to buy up large areas of property in the District and exempt it from taxation. While it may increase the taxable property right around that particular locality, from that very fact it may draw investment from other sections of the District, and may to a corresponding degree decrease the value of the other sections.

Mr. LILLEY of Connecticut. Still in all other cities the cities themselves buy these parks and improve them; and, as I understand, the District does not pay any part of the purchase money for Rock Creek Park.

Mr. SIMS. I can not answer that question.

Mr. LILLEY of Connecticut. But the other cities buy the parks themselves and improve them, while the city of Washington does not.

Mr. SIMS. The point that I am making is that the complaint based upon the fact that we are continually absorbing this property for Government purposes is explained by the fact that they are constantly here importuning us to do so. Now, for the office buildings and the Library, all that has been upon Government initiative, for Government purposes, and the Government ought to share and should share a reasonable part of the operating expenses of the District, at least to the extent that it increases the burdens of the people; but, Mr. Chairman, let us see whether, compared with other cities, the people now are taxed unreasonably in the District.

Mr. JOHNSON. Before the gentleman goes to another branch of the subject, I would like to ask the gentleman if other cities, like New York, Pittsburg, Chicago, do not exempt Government property from taxation, and if the Government puts up its buildings or other improvements our property is taxed there?

Mr. SIMS. Why, absolutely not.

Mr. JOHNSON. There is a great clamor all over this country for us to put up Government buildings, and when they are completed the States exempt them from taxation.

Mr. SIMS. That is true, as the gentleman from South Carolina has said; but it is a fact that the State capital does not require to occupy so large an area of the city in which it is located for State capital purposes as this national capital does in this restricted area of the District of Columbia, so it is not entirely fair to compare this capital city to the capital cities of the States. What kind of a government have we? Let me read to you what a gentleman says who ought to know whereof he speaks. I read from the address of Hon. Henry B. F. Macfarland, president of the Board of Commissioners of the District of Columbia, in Everybody's Magazine for August, 1901:

> In form, the present government of the District of Columbia is an absolute autocracy, not legally responsible to the people. * * * Nor have the citizens of the District of Columbia the legal right to say who shall exercise the power of a Commissioner, nor how he shall do it, nor for what object. Theoretically, they have no voice in the selection of their servants or of their tasks, and no power to reward or punish them.

Now, again, in an address by the same gentleman, on District day at the Buffalo Exposition, on September 3, 1901, he says this:

> Twenty-three years' experience has proved that this is the ideal form of government for the District of Columbia. * * * The fact that it is an exception to all other governments in the United States, in that it provides for taxation without representation, and is autocratic in form grieves some good people in the District who care more for sentiment than for substance. * * * The government of the District of Columbia is, therefore, admittedly the best in the United States, because it is a government by the best citizens.

Maybe you would like to know who these best citizens are. One is the gentleman from whom I read; the other one is his distinguished associate, Mr. Harry West; the third is a distinguished military officer, Colonel Biddle, aided and assisted by Congress.

Now, this is held up as the best government on earth, because it is an autocracy and because it deprives the people of their right to say whether they shall be taxed or not, and how much. Is that a model of municipal government to hold up to the other cities of the country? Is not that a strange model of a government to be instituted in the city selected as the Federal city by George Washington himself, to represent the institutions of this free constitutional Republic? For seventy-one years they had a municipal government of their own making. Well, here is what it leads to. Those people who have pull and influence with the Senate and the House, those who have pull and influence with the Commissioners have a voice in shaping and running this best municipal government in the United States; and beyond that I am afraid there is very little indeed.

How about taxation? What do you suppose the personal tax in this city is, or what the tax is upon personalty? When I became a member of the District Committee there was, I think, no personal tax, unless you call license fees and such things personal taxes. Through the action of the Committee on Appropriations an amendment passed through Congress taxing tangible personal property, and the whole amount collected last year was about $600,000. Not a dollar in money in the District of Columbia pays a tax; not a share of stock in any company pays any tax; not a bond is taxed.

Mr. DAVIS of Minnesota. Are not mortgages taxed?

Mr. SIMS. Nothing but tangible property. Talk about a tax-ridden people, would you not love to exchange your locality for this in that respect? That is what a great many men have done.

Mr. LILLEY of Connecticut. Do not the trolley companies and the banks pay taxes?

Mr. SIMS. I will answer as to the street railway companies in a moment.

Mr. LILLEY of Connecticut. Do not the banks pay taxes?

Mr. SIMS. Yes.

Mr. LILLEY of Connecticut. And the gas company and other corporations?

Mr. SIMS. I will answer that in a few moments. But I say that not a share of stock is taxed; not a promissory note is taxed; no form of indebtedness is taxed; cash is not taxed. Gentlemen who have accumulated many millions of dollars in the way of bonds and stock securities have come to the District of Columbia to reap the income from those bonds and give none of it to the people among whom they live. Such men, of course, think this is the ideal government. What could be more ideal than to let them tax the whole country by means of their stocks and bonds and return none of it to the people among whom they live to help bear the burdens of good citizenship?

But show me the newspaper, show me the committee of citizens or the organizations thereof that have ever come to the District Committee at either end of this Capitol or to any other committee and asked us to put a tax upon this character of personal property.

Now, the gentleman has asked me about the street railway companies. I am going to give you some information on that. The street railway companies pay 4 per cent on the gross receipts and a tax upon their real estate ad valorem. That does not mean the tracks; that means the power houses and the stations. I want to say on that subject that here is one of the best operated, best maintained, best equipped electric railway companies in the city of Washington.

Mr. LILLEY of Connecticut. How long does the franchise of this company run?

Mr. SIMS. Until time shall be no more.

Mr. LILLEY of Connecticut. Is there any method of changing that 4 per cent on the gross receipts?

Mr. SIMS. There is a method.

Mr. LILLEY of Connecticut. Then let us do it.

Mr. SIMS. Every charter of any corporation in the District of Columbia that has ever been granted provides that the act providing for its creation may be altered, amended, or repealed at any time. Now, the Capital Traction Company's annual report, filed recently, shows that it has 40.69 miles of single track, equal to 20.34 of double track in the District of Columbia. I want to say to gentlemen that I have made some investigation as to the cost of construction of electric railways; I mean the cost of reproducing them. The gentleman will remember that this is not all underground trolley, but only the portion in the city; the portion in the suburbs is overhead trolley. We all know that for overhead trolley construction it does not cost anything like that for underground trolley. But for the sake of argument and to be absolutely fair, let us say that it is all underground trolley construction. According to the evidence before our committee heretofore you can reproduce every particle of the property in this company—and I have no feeling against it, for it is a good company and gives good service—you can reproduce every particle of the property at the present high price of materials and labor for less than $4,000,000, or not exceeding that.

What does the company owe? It has a bonded indebtedness of $1,080,000, on which it pays 4 per cent, and the bonds are worth above par. It has $12,000,000 in capital stock. Last year it paid 6 per cent on the capital stock and dividends—$720,000.

Mr. LILLEY of Connecticut. Equal to about 20 per cent on the capital stock.

Mr. SIMS. After paying all costs of equipment, construction, operating expenses, compensation, replacement, and otherwise. That stock sold, I see from a quotation on the market to-day, at $1.46, and you can't buy it at all for $1.50. If you can, you will make a good bargain.

The bonds and stock at cash value are to-day worth eighteen and a half million dollars. How much tax did they pay last year? The total tax paid last year was $72,223.87—speaking in round numbers, 40 cents on the hundred dollars of cash value, or 4 mills on the dollar. That is all the taxes they pay. If I am in error, it is because I do not understand the report.

Now, where is there a place in the United States where the total tax upon $100 cash value in any city does not exceed 40 cents? Does this look like overtaxation? Does it look like such a burden that it appeals to the tender mercies of Congress so that you will tax your own people at home to help pay one-half of the street extensions in the city of Washington? Who is to blame? Not the disfranchised people in this District, who have no voice in doing anything in the District. Congress passed this law. There is nothing wrong in the plan of taxing gross receipts if you will make them big enough.

Now, take from the $18,000,000 value $4,000,000, and what does the other $14,000,000 represent? The value of the franchise, which is repealable by Congress any day. Six per cent annually has been paid on the actual value and upon the franchise value. Who does the franchise value belong to?

Well, now, take the other company. This report is got up in such a way that I do not know that I fully understand it. I would be glad to be corrected if I am wrong. The report of the Washington Railway Electric Company says the capital is $15,000,000, paid in. The total amount of bonded debt is $12,617,000. The total cost of the property is $27,519,000. Now, that may not be the correct way of stating it, but that is the way they make their report. The bonds are worth par and over. The preferred stock is eight and a half million dollars and sells at 90 cents. The common stock of six and a half million sells at 40 cents, I believe. The market value, therefore, including bonds and stock, is about $22,000,000. Now, what taxes did this company pay last year? The tax was $43,022.28, as shown in the report. Is not that a wonderfully overtaxed corporation—$43,000 on $22,000,000 of value?

Mr. STEPHENS of Texas. Is that 4 per cent on the gross receipts?

Mr. SIMS. Yes; so I am informed.

Mr. STEPHENS of Texas. Then I understood the gentleman to state that there was nothing paid upon the power houses.

Mr. SIMS. Yes; they pay an ad valorem on that, and that is included in these taxes of the company reported as paid, as I understand it.

Mr. STEPHENS of Texas. How is it on the tracks?

Mr. SIMS. That 4 per cent covers that.

Mr. STEPHENS of Texas. I will ask the gentleman if it is not a fact under the law that the tracks of this company should be assessed as real estate?

Mr. SIMS. That makes no difference. Take the actual value and put a tax on it that is equal and just, it does not make any difference whether it is in the form of gross receipts or not. They are paying every dollar that this beneficent Congress makes them pay. The people of the District have no power to do anything except ask Congress to do something for them.

Mr. STEPHENS of Texas. If this roadbed and the steel, etc., used in the construction of the railroad becomes part of the realty—and it certainly is then a part of the realty—how can it escape taxation?

Mr. SIMS. The gentleman will simply have to read the law of Congress, and then he will see how it is done.

Mr. LILLEY of Connecticut. Would it not be a great deal fairer way to tax it on its actual market value?

Mr. SIMS. Yes. But what is anybody in the District going to do about it? They are disfranchised; they have no voice in saying what the burdens should be or who shall bear them or what corporations shall pay.

Mr. YOUNG. Has the gentleman any remedy to propose for this evil?

Mr. SIMS. Yes; but I will propose that later in my remarks. Now, further, let us compare the taxes here with the taxes in other States. Take, for instance, Tennessee. Tennessee taxes lands upon their market value, ascertained for what they would sell, one-third in cash, one-third in one year, and one-third in two years credit, and the whole amount has to go in. Personal property embraces everything, tangible and intangible, with an exemption of $1,000 to each taxpayer. If I have stock in a corporation the corporation is taxed upon the value of the corporation, whatever it may be, either above or below the stock of the corporation, and I, as an individual stockholder, must pay on the stock. You may call it "double taxation," but that is the way they do it there. These millions of dollars of stock in these railway companies which I pointed out to you—because the gentleman asked me about the street railways—costs the individual owners not one cent of taxes.

Mr. LILLEY of Connecticut. Will the gentleman tell me whether the steam railroads in the District of Columbia pay any taxes?

Mr. SIMS. Yes; they do, I think; but I have not the amount at my hand now. I am familiar with the street railways, simply because they have been before our committee so often. Now, as to what the banks are taxed, I could not speak. I do not know what it is, and therefore I will not undertake to state. I only speak of these things because I know of them. I am not blaming anybody for paying only 4 per cent on gross receipts. If they were only paying 1 per cent I would not blame them; but the people who own these shares, who live in the District of Columbia, pay not a cent on them, as they are not taxed. The people here pay nothing on bonds, and yet they talk about being a tax-burdened people. Mr. Chairman, I have told the committee about the way the people are taxed and assessed in Tennessee. Everything is included in personal property—notes, mortgages, and choses in action. If I bring a suit in the courts of Tennessee to enforce the collection of a note or to foreclose a mortgage, and it is shown by the defendant that I have not paid the tax upon that note or upon that mortgage, at once I go out of court, I am outlawed, and I have to pay all costs of the suit up to that time, and the court impounds the evidence of debt and assesses me according to law with the penalties and interest, and until I pay I can not go ahead with my suit. But the court can go ahead and collect so much as will be necessary to pay these obligations which I have sought to avoid. Now, when you compare the taxes that the people have to pay here with the taxes that the people have to pay elsewhere, how do you suppose it appears to me that these are a tax-burdened people? I would rather, however, pay the taxes that the people have to in the States than to surrender every right of self-government, as the people here do. The gentleman asked

me about the gas company. I can find no report of the gas company to the Government, and I do not know whether it makes one or not. Therefore I can not state what tax it pays. I will only assume that the taxes of the corporations are generally about the same, that the taxes on the real estate are about the same, except, as far as I have investigated, the small property owner pays more in proportion to the market value of his holding that the large property owner does.

Mr. LILLEY of Connecticut. He always does.

Mr. SIMS. But how is he going to help that? The tax assessor is not responsible to the small property owner. He is appointed, and he looks to the appointing power and nowhere else, and the small property owner must pay or leave.

Mr. STEPHENS of Texas. Will the gentleman yield for a question?

Mr. SIMS. Certainly.

Mr. STEPHENS of Texas. I would like to ask the gentleman whether or not the electric light and telephone companies doing business in this city pay any taxes, and if so, how much?

Mr. SIMS. Oh, they pay taxes, but as I have not the report here I can not speak exactly. I can not tell about that. But the gentleman asked what my remedy would be. I assume by reason of this being the capital of the United States that there is an additional burden put upon the people they would not have to bear if the capital was not situated here; but on the other hand there is a benefit growing out of that fact which would not exist if the capital was not here. For instance, I do not know whether there would be any city here at all. Georgetown was here in its infancy, but I do not know whether there would be any city at all, and it is not necessary to Washington as a city simply to have these great avenues; but it is very becoming to a national capital, and I think the Government of the United States in every instance where it gets and demands more in the way of maintenance and construction ought to pay a just and reasonable amount, but not half, because if it was equitable to pay half in 1878 with a city now perhaps three times the population it was then, with a board of trade now inviting manufacturing concerns to come into the District of Columbia, what will the taxes be in the future, what will the Government's burdens be if we keep on paying one-half? It will be limited only by the limit of the future, which no man can foresee. Now I say, Mr. Chairman, it is equitable and just that the Government help maintain the great avenues and great thoroughfares that make it distinctively a capital city, but it had better pay taxes on every foot of public property here at the same assessment and the same rate of taxes that the other property does than to go on as it is going.

It looks exceedingly unjust to the people of the District of Columbia that Congress shall with its iron hand say you shall open a certain street, where the damages far exceed the benefits, and then say that the citizen shall pay all of the damages. There has been nothing of that kind done since I have been on the committee. The city government has had to go in debt and borrow money from the National Government on account of street extensions, where the damages far exceeded the benefits. But suppose we do pay one-half of all the damages in excess of the benefits on street-opening propositions? The jurors of the District of Columbia are the people who live here, and naturally the tendency will be, and you can not help it, for we are all human, to make the damage exceed the benefit, especially when only one-half of it is coming out of the city taxpayers and all the rest out of the Government. Now, if some gentlemen or people want a street opened the people of the District know that they have got to pay the excess of damages over benefits. They are thus interested in coming to Congress to defeat the bill, to prevent its passage; but whenever the Government of the United States has to pay one half the other half will be so light and the benefit of the street opening so great that every street-opening proposition will be advocated practically by every man in the city of Washington. Is not that true? Now, to keep it like it is, and require the amount of damages in excess of benefits to be paid by the District of Columbia, will at least be a check upon the opening of streets that are unnecessary, or where they are sought simply to enhance some outlying property. Take Sixteenth street. As shown by the gentleman from Pennsylvania [Mr. MORRELL], the damages exceeded the benefits by over $600,000. Why? A bill was passed through Congress by some means, I do not know what nor how, that those who contributed the land for Sixteenth street should not be assessed for damages.

The District of Columbia to-day is groaning under that burden. That went to the benefit of the individual landowners. Suppose the Government had to pay it. They would all be encouraged, every one of them. Now I say, let us give these people local self-government—municipal government. They had it for seventy-one years, from the time the Government was created. Simply because the Constitution vested jurisdiction in Congress is no reason why they can not have a municipal government, because they have already had it. That form of government was inaugurated almost upon the birth of the Constitution, the birth of the Government itself, and certainly they did understand the limitations intended to be imposed by the jurisdiction of the General Government in this District, which was simply meant to exclude the jurisdiction of the States ceding the land embraced in this District.

Mr. GILBERT of Kentucky. May I ask the gentleman a question?

Mr. SIMS. Certainly.

Mr. GILBERT of Kentucky. Is there any considerable percentage of the population of this city clamoring for a local municipal government?

Mr. SIMS. I want to say, so far as my knowledge goes, all the common people are in favor of it, and none of the so-called "best citizens," referred to by Commissioner Macfarland in the report of his address I have just read, seem to favor it.

Mr. GILBERT of Kentucky. Do they want to be burdened with those enormous taxes that confront the citizenship in other cities all over the country? Are they tired of these exemptions from taxes; because there are no citizens in the United States that are not taxed two or three times as much as the property holders are here. Now, do they want a municipality of their own, so as to pay taxes like Chicago, New York, Baltimore, and everywhere else?

Mr. SIMS. I think the large majority, if left to a vote, would say they are in favor of an independent municipal government, regardless of burdens. When this city gets to be one of 500,000 or 1,000,000 population, how are you going to run it through the District committees? Why, every man who has ever served on that committee knows if he gives his duties upon that committee proper attention, he has got to neglect everything else. I came here to represent my constituents, and you come here to represent yours, but you have got to neglect them if you become a representative of the people of the District on that committee. Consequently Members, as a rule, do not, and can not, give their duties on that committee such attention as will thoroughly acquaint them with conditions existing here so as to legislate for the best and most intelligent results. It can not be done. From the very nature of things it is impossible. This was foreseen when the present form of government was created—I mean the act of 1878—and was not intended to be permanent. Why should you or I pay for the education of the children of the District? They do not pay to educate yours. We are taxed to educate our own children. Another thing: By reason of depriving these people of self-government, and governing through Congress, every reformer, real or imaginary, sane or insane, practical or impracticable, or crank is trying to help to shape legislation for this District. They come here by letters, by petitions, and in person from every direction. They want to tell us how to have the best sanitation here, how to have the best school laws, how to do everything better than we do; while the people of the District of Columbia seem to have no more voice than the most distant constituents of any Member of the House.

Why, we have a school bill in this committee, and through the patience and patriotism of the gentleman from Pennsylvania [Mr. MORRELL] hearings were given to people who never had and never will have a child in the schools of the District of Columbia. Patiently, much time has been given to people from outside of the District of Columbia by Mr. MORRELL's subcommittee—much more than those in it—in order to tell them just what to do with the public schools of this District. The people ought to pay their public school taxes and run their public or common schools in their own way, as they do in Tennessee, in Kentucky, and all of the States, so far as my knowledge goes. It is impracticable to properly govern the city through Congress as it is done now through its committees. The ever-increasing burden of the Government demands that we should give them self-government as a matter of interest to the United States and to the people of this District as a matter of right and justice. Home rule should be in practice in every city of the United States, in every State and every Territory. Every platform I can remember, of either national party, for a long time has demanded that appointments in the Territories should be made from people who live in the Territories.

Mr. GILBERT of Kentucky. Suppose the General Government should want to open up an avenue for public purposes, and we should have that independent municipal government that you are talking about, and there should be a conflict between Congress and the municipal government. Would not that involve much confusion?

Mr. SIMS. Congress will always be supreme under the Constitution.

Mr. GILBERT of Kentucky. Congress should always exercise paramount authority?

Mr. SIMS. It should be supreme, but I have gone off from the line I wanted to discuss. Where do the officers to run the District government or the judges to sit in the District courts come from? I am not going to criticise the present Administration specially, or any other Administration, for they have all done alike. You are a lawyer. Suppose you were born and brought up in the District of Columbia. You are an able lawyer; you have studied the judicial system of the District, and you are acquainted with the people and their institutions. There is a vacancy in one of the courts. Will you be appointed? Possibly; not probably. A man from some State will be appointed—perhaps a man who can not longer be elected to the United States Senate or House of Representatives by the votes of his own people will be installed in the District of Columbia as a judge to determine and try the rights of the people here, to whom he has no allegiance nor ever can have.

The Commissioners of the District of Columbia have many times asked that we pass some sort of civil-service law applicable to the District of Columbia. We do not do it, and the Commissioners necessarily can not do otherwise than appoint many people to office simply because Senators and Representatives urge it and ask for it. They appoint many people who are not citizens of the District, who are brought here from the States to give them an opportunity to educate themselves or to do something else.

Where is there a city in the Union that would stand anything like that? If the majority of the people in this District do not want any other form of government, if they want to continue to be decitizenized, I am willing that they should go on; not willing either, but less unwilling. But I think this capital city should be a model of republican institutions as well as a model of boulevards and buildings. When a foreigner comes here, a philosopher, teacher, or great thinker, show him the streets and buildings, show him everything except a disfranchised citizenship. If you do that he will not go home thinking any better of republican institutions as administered in the seat of government of the greatest Republic on the face of the earth.

I have no criticism to make of the present Commissioners. They are doing as well as they can. They are living under limitations. Why, suppose you want to get a report here as to whether any particular regulation is working well or not. Where are you going to get it? You must get it from officers who are appointed, and they always try to please the appointing power. We try to please our appointing power. Our constituents appoint us. We listen to their voice, and the people here who are appointed to municipal office listen to the voice of the power that appoints them.

I do not want to take up any further time. The House has been very patient; but this amendment ought to be stricken out, as a prevention of the unnecessary opening of streets, as a check against it; put the burden on the whole people of the District of Columbia, or those who pay taxes. I ought not to say the whole people.

Another thing about taxation here. There is no poll tax, no kind of a capitation tax. That, I suppose, is just. When you politically decapitate them or, as a gentleman sitting by me says, dehorn them, I suppose they ought not to pay a head tax. But other people, who live where they have independence and manhood and wills of their own, do have to pay a poll or capitation tax.

While I fully appreciate the weight of the argument made by the distinguished gentleman whose letter I include, and the argument made by Mr. Theodore W. Noyes, and made by many other distinguished people, they are taxed without their consent, taxed without representation. We, the Congress, voted to give to two railroad companies some $3,000,000 in cash, one-half of which had to be paid by the District of Columbia, and not a citizen was ever consulted about it. The people of the District of Columbia were loaded with an obligation, a pure contribution to two great railroad companies, and the people could not open their mouths. They must pay it. I do not blame them for dodging taxes. I do not blame them for wanting the least possible burden of taxes, because the burden is put on them without their consent. But let them rise up like men. They are perhaps the best average of citizenship in the United States, so far as intelligence goes. Let them demand that they have a share in their own government, and then let us give it to them.

Mr. GAINES of Tennessee. I should like to ask my friend a question.

Mr. SIMS. Certainly.

Mr. GAINES of Tennessee. This relates to another matter. My observation has been that out on the edge of town the streets are smooth and well paved and have very few, if any, holes in them, while right down in the heart of the town, on Pennsylvania avenue, there are a great many holes in the pavement. I should like to know why the streets are worse in the heart of the town than out on the edge?

Mr. SIMS. Of course, the Commissioners have charge of all that. Why some pavements are better than others is a question I can not answer.

Mr. GAINES of Tennessee. On Pennsylvania avenue I noticed a dozen holes inside a radius of 20 yards.

Mr. SIMS. They are hampered by another committee in the House. They can not get appropriations except as the Committee on Appropriations give them. It may be that they can not make all the necessary improvements because of lack of money.

Mr. GAINES of Tennessee. They certainly ought to stop the holes in the central part of the city first.

Mr. SIMS. I am afraid my friend is most interested in the holes in the streets nearest to him. That is the way it is with most of us.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. OLMSTED having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had insisted upon its amendments to the bill (H. R. 17359) making appropriations to supply additional urgent deficiencies in the appropriations for the fiscal year ending June 30, 1906, and for prior years, and for other purposes, disagreed to by the House of Representatives, had agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. HALE, Mr. ALLISON, and Mr. TELLER as the conferees on the part of the Senate.

The message also announced that the Senate had passed without amendment bill of the following title:

H. R. 20. An act to change and fix the time for holding the circuit and district courts of the United States for the middle district of Tennessee; in the southern division of the eastern district of Tennessee, at Chattanooga, and the northeastern division of the eastern district of Tennessee at Greeneville, and for other purposes.

The message also announced that the Senate had passed the following resolution; in which the concurrence of the House of Representatives was requested:

Senate concurrent resolution No. 22.

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, authorized and directed to cause to be made an examination and survey of Long Cove, the approach thereto, Cape Jellison Harbor and the waters leading thereto, between Cape Jellison and Sears Island, Penobscot Bay, Maine.

CONDEMNATION OF LAND FOR STREETS.

The committee resumed its session.

Mr. OLCOTT. Mr. Chairman, I will yield to the gentleman from Iowa [Mr. HEPBURN] such time as he desires.

Mr. HEPBURN. Mr. Chairman, it occurs to me that some of the gentlemen who have participated in discussing the subject to-day and on other occasions have an improper conception of this capital city, of the purposes of the Government in establishing it, and in its government. We have this city of Washington because of this section of the Constitution:

To exercise exclusive legislation in all cases whatsoever over such District (not exceeding 10 miles square) as may by cession of particular States and the acceptance of Congress, become the seat of Government of the United States.

It was not the purpose of those who framed this Government to establish the capital at any of the cities then existing. There were, perhaps, reasons for that that came to them from across the Atlantic. It was the purpose of the fathers to have a new location, to have a city entirely under the control of the Government that should be a Federal city. It has never been the policy of this Government to strive to make it a manufacturing city or a commercial city or to make it anything else than a Federal city—the seat of government.

Every man that comes to this city comes with the full knowledge of that fact—that he is not to exercise the same rights of citizenship and to participate to the same extent in self-government here that under the Constitution and laws he might in other localities. But when he comes here he comes voluntarily, surrendering that portion of the rights that in another locality he might have. He recognizes the fact that it is within the power of the Federal Government to make the government of this city what it chooses to make it; and when that is under-

stood it seems to me very much of the difficulty that is in the minds of gentlemen ought to be removed.

The General Government has made this city what it is. When we began participation in equal parts in meeting the expenditures of the city it was a mere, meager, unkempt, undesirable country town. It is the expenditure of the Federal Government that has made it the most beautiful of cities. Until now, under this law it is an asylum, in a large degree, for gentlemen of large means who want to avoid the full measure of taxation that would belong to them and fall upon them in other localities. Our laws are peculiar. I believe that the government in this city for the purpose for which it was intended—a Federal city—is the best that can be devised. I speak of the system. I am not an admirer of the administration. I do not believe that two newspaper men and an Army officer are the three best men that could be selected to administer a government like this.

I take a great pride in the oratorical abilities, so frequently displayed in all parts of the country, of these gentlemen that now control the destinies of this city, under the law, but I would appreciate very much higher that administrative ability that would give to the people decent streets than I do this higher measure of oratory so often exemplified.

Mr. FASSETT. In the northeast.

Mr. HEPBURN. No; I would not say in the northeast, but the streets are everywhere disagreeable and unworthy of this great capital city, and not at all in harmony with the large sums that are from time to time appropriated.

Now, Mr. Chairman, whenever there is an extension of the streets in this city its benefit comes not to the people of the whole country who have pride in the Federal city, but it is in the interest of certain particular gentlemen. It is, to my mind, entirely proper that these gentlemen should meet the full expense of such extension. There is no man who has been here for a long time but what knows scores of men that have accumulated large wealth through the opening of the streets.

It is a very extensive and remunerative industry in this city, and you will find many localities, many streets paved, with sewers, with lights, extending out into the country that have not been utilized for the location of homes on their borders. There are streets enough now, if they were compactly built upon, to meet the expansion of the population that will probably be here during the next twenty years; but gentlemen want, in order to make available their outlying property, the power to locate highways. It is right that they should have them, but it is also right that they should meet the expenses, and not the people in distant parts of the country be compelled to contribute.

While I am speaking of the matter, in reply to suggestions I have often heard here that these people are overtaxed, I want to suggest that, in my judgment, there is not a city in the Union where property escapes taxation to anything like the same extent as here. The personal property is almost entirely exempt, undervaluation of property bringing the 1½ per cent of rate down to, in my belief, less than three-quarters of 1 per cent upon a full and fair valuation.

I know of properties here that are assessed at less than one-third of the price that the owner asks for them. I know of properties here that the Government has acquired title to recently and has been compelled to pay under appraisement similar to those authorized in this bill three times the assessed value, and if the price at which the Government was compelled to pay for them is a fair value, then that property was taxed only 50 cents on the $100. Where do you find such taxation anywhere else? Yet there is always complaint about the burdens imposed upon the people of this city by the United States. I take as much pride in this capital city as any other man. My people feel that they have an interest in it, because it is the capital city, and they do not object to legitimate expenditures for its adornment. They want it to be the most beautiful capital in the world, as I believe it is destined to be, but at the same time they feel that the people here should bear their full proportion of the expenditure.

On a 25 per cent valuation of the property, the people in the town where I now live pay 79 mills, a rate equal to nearly 2 per cent upon the actual value. The farm lands of the county in which I live pay at least 1½ per cent upon the valuation of the farms. Therefore I think that these clamors about the rights of the people here to self-government and to the impositions that are put upon the taxpayers of this city are all unwarranted and unjust. They have no foundation in fact. I do not like that provision in this bill which requires that the Government of the United States should pay any portion of the sums that may be required to secure street extension. If for no other reason, I think it ought to be borne by the citizens of this District for the reason that the assessments are made by the citizens of this District. I do not want a new incentive on their part for the spoliation of the Federal Government. I think the fact of the expenses paid by the Federal Government often induces additional and unjust valuations to be made that would not be made or would not be tolerated by the people of the city if it were known that the people of this District alone had to bear the burdens that are imposed. Therefore I think that is a most unjust provision in this bill, and I hope that it will be rejected. [Applause.]

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

The committee informally rose; and Mr. GREENE having taken the chair as Speaker pro tempore, a message, in writing, from the President of the United States was communicated to the House of Representatives by Mr. BARNES, one of his secretaries, who also informed the House of Representatives that the President had approved and signed bills of the following titles:

On March 28:

H. J. Res. 117. Joint resolution extending the time for opening to public entry the unallotted lands on the ceded portion of the Shoshone or Wind River Indian Reservation in Wyoming;

H. R. 15583. An act to authorize the Madison Bridge Company to construct a bridge across the St. Francis River in St. Francis County, Ark., at or near the town of Madison, in said county and State; and

H. R. 15848. An act authorizing the sale of timber on the Jicarilla Apache Indian Reservation for the benefit of the Indians belonging thereto.

On March 29:

H. R. 12845. An act to consolidate the city of South McAlester and the town of McAlester, in the Indian Territory.

On March 30:

H. R. 13842. An act to amend an act entitled "An act to incorporate the Eastern Star Home for the District of Columbia," approved March 10, 1902;

H. J. Res. 127. Joint resolution to correct abuses in the public printing and to provide for the allotment of cost of certain documents and reports; and

H. J. Res. 128. Joint resolution to prevent unnecessary printing and binding and to correct evils in the present method of distribution of public documents.

On March 31:

H. R. 125. An act regulating the retent on contracts with the District of Columbia;

H. R. 4463. An act to amend section 2 of an act entitled "An act to provide for the appointment of a sealer and assistant sealer of weights and measures in the District of Columbia, and for other purposes;"

H. R. 4470. An act to amend an act entitled "An act to provide for the appointment of a sealer and assistant sealer of weights and measures in the District of Columbia, and for other purposes," approved March 2, 1895;

H. R. 14467. An act for the relief of Maj. George E. Pickett, paymaster, United States Army; and

H. R. 14813. An act to amend an act approved March 1, 1905, entitled "An act to amend section 4 of an act entitled 'An act relating to the Metropolitan police of the District of Columbia;' approved February 28, 1901."

On April 2:

H. R. 6216. An act granting an increase of pension to Stephen D. Hopkins; and

H. J. Res. 11. Joint resolution for the publication of eulogies delivered in Congress on Hon. John W. Cranford, late a Representative in Congress.

On April 3, 1906:

H. R. 5954. An act to authorize the Secretary of the Treasury to issue duplicate gold certificate, in lieu of one lost, to Lincoln National Bank, of Lincoln, Ill.

On April 5, 1906:

H. R. 14808. An act to authorize the Choctawhatchee Power Company to erect a dam in Dale County, Ala.; and

H. R. 16671. An act permitting the building of a dam across the St. Joseph River near the village of Berrien Springs, Berrien County, Mich.

CONDEMNATION OF LAND FOR STREETS.

The committee resumed its session.

[Mr. OLCOTT addressed the committee. See Appendix.]

Mr. OLCOTT. Mr. Chairman, I call for the reading of the bill.

The Clerk read as follows:

Be it enacted, etc., That the act of Congress entitled "An act to establish a code of law for the District of Columbia," approved March 3, 1901, be, and the same is hereby, amended by incorporating therein the following, to be known as "subchapter 1 of chapter 15."

CONDEMNATION OF LAND FOR STREETS.

SEC. 491a. Whenever land is needed by the Commissioners of the District of Columbia for the opening, extension, widening, or straightening of any street, avenue, road, or highway in the District of Columbia, authorized by Congress, the said Commissioners may institute, in the supreme court of the District of Columbia, sitting as a district court, by petition, a proceeding in rem for the condemnation of the land needed.

With the following amendments:

In lines 9 and 10 strike out the words "by the Commissioners of the District of Columbia;" and in line 1, page 2, after the word "Commissioners," insert the words "of the District of Columbia."

The CHAIRMAN. The question is on agreeing to the amendments.

The question was taken; and the amendments were agreed to.

The Clerk read as follows:

SEC. 491c. The said court shall cause public notice of not less than twenty days to be given of the institution of such proceeding, by advertisement in three daily newspapers published in the District of Columbia, which notice shall warn and require all persons having any interest in the proceeding to appear in court at a day to be named in said notice, and to continue in attendance until the court shall have made its final order ratifying and confirming the award of damages and the assessment of benefits by the jury herein provided for; and in addition to such public notice said court shall cause a copy of said notice to be served by the United States marshal for the District of Columbia, or his deputies, upon such owners of the fee of the land to be condemned as can be found by said marshal or his deputies within the District of Columbia, and upon the tenants and occupants of the same.

With the following amendments:

In line 25, on page 2, and in lines 1 and 2, page 3, add the words "the said court shall appoint a guardian ad litem for any person interested in the proceedings who may be under disability."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken; and the amendment was agreed to.

Mr. GILBERT of Kentucky. Mr. Chairman, I renew the motion which I made to strike out, in line 22, page 2, the words "of the fee."

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Kentucky.

The Clerk read as follows:

Page 2, line 22, after the word "owners' strike out the words "of the fee."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken; and the amendment was agreed to.

The Clerk read as follows:

SEC. 491d. After the return of the marshal and the filing of proof of publication of the notice provided for in the preceding section said court shall cause a jury of five experienced, judicious, disinterested men, who shall be freeholders within the District of Columbia, not related to any person interested in the proceeding and not in the service or employment of the District of Columbia or of the United States, to be summoned by said marshal, to which jury the court shall administer an oath or affirmation that they are not interested in any manner in the land to be condemned, and are not related to the parties interested therein, and that they will, without favor or partiality, and to the best of their judgment, ascertain the damages each owner of land to be taken may sustain by reason of the opening, extension, widening, or straightening of said street, avenue, road, or highway, and the condemnation of the land needed for the purpose thereof, and to assess the benefits resulting therefrom as hereinafter provided.

Mr. HEPBURN. Mr. Chairman, I move to strike out the last word for the purpose of asking the gentleman who has charge of this bill what property will be taken into account when a highway or a street is being opened—only those parts that are touched, immediately affected by the opening, or will those parts somewhat remote be affected?

Mr. OLCOTT. Mr. Chairman, in answer to the gentleman from Iowa [Mr. HEPBURN] I would state that section 491d expressly provides that the jury shall assess benefits against the abutting lands and also may determine all other lots, pieces, or parcels of land which they shall conclude will be benefited by the opening. The jury has the right to determine other lots than those immediately abutting that will be benefited by the proceedings.

Mr. HEPBURN. So that it might be possible to take into account all of the lots that would be upon a block, for instance, although not immediately abutting upon the street?

Mr. OLCOTT. That was so expressly provided in section 491d.

Mr. GAINES of Tennessee. I find in this section 491d, in line 5, that the jury is to be composed of "five experienced, judicious, and disinterested men." Five is a jury. In the next paragraph, line 6, I find that the majority of them—that is, a majority of the jury of five; that is, three or four of the five men—can go along and take a man's property, which is permissible, I believe, under the adjudications of the Supreme Court. Now, I want to reaffirm my protest.

Mr. OLCOTT. In answering the gentleman's question, I would say it is true a majority can determine, but the finding of the jury must be confirmed and ratified by the court, and the party whose property is taken has the right to appeal, and a new jury can be had if he is not satisfied, and until a final ratification and confirmation by the court the property can not be physically and absolutely taken.

Mr. GAINES of Tennessee. Where do you find that in the bill?

Mr. OLCOTT. The provision is made for an appeal from the district court to the circuit court of the District, and a motion can also be made to set aside and vacate the award of the jury, in which case the judge of the district court appoints an entirely new jury to take the matter up for consideration.

Mr. GAINES of Tennessee. How many are there on that jury?

Mr. OLCOTT. Five again.

Mr. GAINES of Tennessee. Five again? Now, Mr. Chairman, away back in the history of the District of Columbia we had a regular jury of twelve men, no more and no less, and if I mistake not the history of one of the cases, the jury—a majority of them—undertook to return a verdict, and on appeal the verdict was set aside because the whole jury had not agreed. While I yield to the gentleman that under the adjudications you can have this jury of five, but if there is any wisdom in twelve in trying an ordinary damage suit for cutting off a man's leg or when you dig down the grade of a street or when you pull down a man's house, I do not see the wisdom, Mr. Chairman, of having a jury of five, with three or four to agree practically, when the verdict of that jury is to take the fee for the land or take the owner's entire right. He is entirely dispossessed. Mr. Chairman, I simply rose for the purpose of again reannouncing the safe and serious proposition that when a man's property to taken under the Stars and Stripes that it ought to be taken by the old-fashioned jury of twelve men, "no more and no less." There is a mysterious wisdom, as it were, in twelve jurors, and we have clung to it, and every State, certainly in the South, I believe, and almost throughout the country, have with unremitting devotion clung to the jury of twelve, and to quote Judge Harlan's words in one of our District cases here, with which the Chair is perfectly familiar—the Callan case, and the Thompson case from Utah, and in a series of cases—he uses the words "twelve jurors, no more and no less;" and I do not see, Mr. Chairman, the wisdom of having five jurors taking the property under the law of eminent domain from the widow and the orphan or the rich man or where the man has a little hut, which is all he has, nevertheless it is his, for if we ourselves would preserve the spirit of our institutions, we should give the citizen the benefit of all the wisdom there is or can be about the old-fashioned jury of twelve, no more and no less.

Mr. SIMS. May I suggest to my friend this is not a constitutional jury?

Mr. GAINES of Tennessee. I understand it is an appraisement board, but you call it a jury; but you may call it a bumblebee or a mocking bird or what not—it simply goes and takes a man's piece of property and hands him so much money, and he must take that or he gets nothing. You can call that a jury, or you can call it what you please. I tell you whenever that is done it will crush out one of the most righteous and one of the soundest principles of the Constitution that ever throbbed in that sacred instrument.

The CHAIRMAN. The gentleman's time has expired.

Mr. GAINES of Tennessee. Mr. Chairman, I want to say a few words more—say about three minutes—in order to answer the question of my colleague here.

The CHAIRMAN. Is there objection to the gentleman's request? [After a pause.] The Chair hears none.

Mr. SIMS. Mr. Chairman, I want to ask my colleague and friend from Tennessee if it is not the fact in Tennessee we have only three to five for a similar purpose?

Mr. GAINES of Tennessee. The fact they do wrong in my State at a time when I can not control in doing that wrong and making the wrongdoers do right does not teach me here to do what I think is wrong, or fail to do something which, I might say, would make my friend and colleague and the balance of us do right.

Mr. SIMS. I will say further, Mr. Chairman, this does not disturb the right of trial by jury.

Mr. GAINES of Tennessee. My friend from New York stated to me a few moments ago it was the same little jury of five.

Mr. SIMS. You are mistaken. I said the court could set aside the first finding and appoint another jury, and upon the finding of that jury you can appeal to the court and have a jury of twelve.

Mr. GAINES of Tennessee. Is that mentioned particularly in the bill? Where is that in the bill?

Mr. JOHNSON. It is in the law.

Mr. GAINES of Tennessee. Does the gentleman know that it is in the law?

Mr. JOHNSON. It is in the general law of the District.

Mr. GAINES of Tennessee. I am satisfied I am not going to convince this committee that it is doing this wrong, for it has been doing it so long it has almost become a part of the political condition of Congress. Now, my friend from New York to my left [Mr. FITZGERALD] says on this appeal it is still a jury of five. Why, gentlemen, why do you trench on that old bulwark of American liberty, of twelve jurors, no more and no less? Why will you continue to do that when you know in your sober judgment in your own State in the trial of any other kind of cases you demand a jury of twelve in the circuit or trial courts? Mr. Chairman, while I dislike to discuss the question, I have whenever I have had the opportunity for a number of years declared that it is part of my religion, and next to the best part of it, to preserve the integrity of a "jury of twelve, no more no less," when a man's property is to be taken away from him, whether he is black or white, no matter whether the property taken is a mansion or a humble log cabin, they ought to have a jury of twelve. Then I say if there is any virtue in a jury of twelve there is only five-twelfths in five. I protest, Mr. Chairman, against this invasion of the principle that hovers around a jury of twelve men, no more no less.

Mr. FITZGERALD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

In line 12, page 3, after the word "condemned," insert "or in land within a proposed area of assessment for benefits, which shall be prepared and submitted to the court with the petition."

Mr. FITZGERALD. Mr. Chairman, this bill provides that when a jury has been selected the court shall then administer an oath or affirmation that they are not interested in any manner in the land to be condemned. This amendment provides that this oath shall be administered to them, that they shall not be interested in any land within the proposed area of assessment, and that the proposed area of assessment shall be prepared and submitted with the petition by whoever initiates the proceeding. The object of the amendment is very clear. It is not rare that persons other than those who own the land to be condemned are assessed for benefits, and under this proposed law, as it stands, the owner of adjacent property, which necessarily would be assesed for benefits, could sit on the jury, and in that way there would be no doubt that the damages would always exceed the assessment for benefit.

Mr. OLCOTT. I will say to the gentleman from New York that it is perfectly impossible to attempt to determine what the area will be, and make a juror swear that in some circumscribed area the land to be opened up does not secure any improvements.

Mr. FITZGERALD. Mr. Chairman, in ordinary street openings it is well known by experience that property within at least a certain distance will be assessed for benefits. Why should not the engineer's office, in making out its plats of the land to be condemned, also, as done in the practice with which the gentleman from New York is familiar, make out the proposed area of assessments, and that nobody owning land within that district should sit as a juror.

In appointing the jurors this proposed law does not prevent freeholders within a very restricted area of the land to be condemned from sitting on the jury to assess the damages for benefits. There may be a great tract of land on a street to be opened—not through the land, but along the land—and under this bill the owner of that tract, which necessarily would be assessed for a large portion of the benefits—the owner of that land could sit on this jury and determine how much his land should be assessed for those benefits. If the gentleman prefers, let him put in here that no owner within a certain distance of the land to be condemned shall sit on the jury; but surely some provision should be here to prevent the owner of property that necessarily should pay a part of the burden from determining how much his property should bear of the burden.

Mr. OLCOTT. Mr. Chairman, I will say in regard to the statement of the gentleman from New York that there is provision in this bill for the removal of any juryman upon proof to the judge that he is not a proper person. The jury determines the area of assessment. In view of the fact that the judge has such absolute control of the jury and can remove a juror upon objection to him, I am disinclined to accept the amendment of my friend from New York.

Mr. FITZGERALD. I wish to call the attention of my colleague to this fact: A tract of land may be owned by a corporation, and a stockholder in that corporation or a member of any owning syndicate might be summoned to sit on this jury, and unless he were examined in advance, it would be impossible to determine the fact at any time that he had an interest in the land. I hope the committee will adopt this amendment.

Mr. OLCOTT. I call for a vote, Mr. Chairman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. FITZGERALD].

The amendment was rejected.

Mr. GAINES of Tennessee. Will my friend from New York, who has the bill in charge, show me where in the bill there is provision for a jury of twelve and for an appeal on the merits of the case? Does the case go up on its merits, or simply on pure questions of law?

Mr. OLCOTT. The gentleman has asked me to point out pretty nearly all the sections of the bill. The first question I think he asked is relative to the jury, and that is found in section 491e.

Mr. GAINES of Tennessee. I am trying to find out where you give the right of appeal, to try the case on its merits before a jury of twelve.

Mr. OLCOTT. We do not give any right to try before a jury of twelve. It is a jury of five. We merely allow, upon objections being filed within twenty days after the return of the verdict, an appeal to be taken from the judge of the district court to the circuit court. We have first given the right to the judge of the district court to vacate and set aside the findings of the first jury.

Mr. SULZER. Mr. Chairman, will the gentleman allow me to ask him a question?

Mr. OLCOTT. Certainly.

Mr. SULZER. I should like the gentleman from New York to tell us the necessity for this great innovation upon the law. Why should a man's property be taken away from him without just compensation or without legal proceedings or without giving him his day in court? I believe this bill in its present form is unconstitutional.

Mr. OLCOTT. Mr. Chairman, my colleague from New York is, by virtue of a series of questions, putting in the RECORD his well-known ideas on all subjects that affect the people. But let me say in regard to that——

Mr. SULZER. Will the gentleman tell us why he wants to make this great change in the present law?

Mr. OLCOTT. The gentleman from New York knows perfectly well that in the city which he honors there is a provision for condemnation proceedings in street openings, and for a hearing by a commission of three. I have no doubt the gentleman has frequently served as one of those commissioners.

Mr. SULZER. I beg to correct the gentleman. I never was appointed on a commission and never served as a commissioner in one of these preceedings in the city of New York.

Mr. OLCOTT. I presume that the people of the State of New York are holding the gentleman for nomination to the highest honor in the gift of the people of that State. But I will say that there is no innovation in this. In every State of the Union, so far as I know, there are similar proceedings to this one that we are trying to enact into law to-day. In some States I know they have seven on the jury, and in some States I think they have nine, but I think the number never exceeds nine. In the State of New York, as I say, the number of commissioners is three, and they try the case without the presence of a judge.

Mr. SULZER. There is the right, however, of appeal to the courts.

Mr. BABCOCK. If the gentleman from New York will yield to me, this is not a new provision. It is one that has been worked under here in the District for fifteen years, and I would ask the gentleman from New York or the gentleman from Tennessee to cite one single case where an injustice has been done under this law. This is merely a putting on the statute book in general form of laws that have been passed by this House more than fifty times; yes, more than a hundred times.

Mr. SULZER. Did not several people from the District of Columbia appear before your committee and protest against this bill?

Mr. BABCOCK. No, sir; not a man, not a soul.

Mr. SULZER. Well, several people are objecting to it now.

Mr. GAINES of Tennessee. I desire to reply to my friend's question.

Mr. BABCOCK. Just wait a minute.

Mr. GAINES of Tennessee. The gentleman has asked a question.

Mr. BABCOCK. Just wait a minute. Let me answer the gentleman from New York. Not only was there not a soul appeared against this bill, but every man who has had to do with these proceedings—the judges, the Commissioners, the Dis-

trict officers—have all commended this bill in the very highest terms. They say "That is right, put it on the statute books. That is what we want."

Mr. GAINES of Tennessee. Mr. Chairman, I ask the indulgence of the committee that I may have two minutes.

The CHAIRMAN. The gentleman from Tennessee asks that he may address the committee for two minutes. Is there objection?

There was no objection.

Mr. GAINES of Tennessee. I want to say to the gentleman from Michigan that I do not know of any injustice——

Mr. BABCOCK. Mr. Chairman, I want to know who the gentleman is talking to. I have great regard for the State of Michigan, but I don't want to be called a Michigander. [Laughter.]

Mr. GAINES of Tennessee. I beg the gentleman's pardon. Mr. Chairman, my colleague a few minutes ago said that we had the same kind of law as this in Tennessee. I take issue with the gentleman unless this bill allows a final trial on the merits in a court and before a jury of twelve. As to the number of jurors composing the jury of view my recollection is not clear.

Mr. BABCOCK. Now, Mr. Chairman, right there. The gentleman from Tennessee, a distinguished lawyer, comes here and talks about his "recollection" in regard to legal matters. We want to know the facts. Doesn't the gentleman know whether the jury is composed of ten or twelve or fourteen?

Mr. GAINES of Tennessee. If the gentleman from Wisconsin will wait a moment, that is exactly what I am going to do. The gentleman is anxious for information, but gives me no chance to give it. My recollection as to the jury of view is not clear. It may be five, but the litigants can agree to this under the statute. But I am sure the right of appeal to the circuit court or a trial de novo before a jury of twelve is always allowed. There the court and a jury of twelve act—exactly the kind of a law I have fought for here for several years. I recall a noted case, Alloway *v.* Nashville. A jury of view appointed or was agreed on allowed about $9,000 for land to be used for a reservoir site. An appeal was taken and a trial de novo had, and a jury of twelve in the circuit court allowed about $12,000 damages or compensation, and the Supreme Court affirmed the latter finding, the landowner appealing from each verdict. But when a court and twelve jurors passed on the facts, their judgment "stuck." This was a full, fair, and wide open constitutional chance for both sides to set up their rights. That is what I want. No man's property should be taken without the solemn verdict of twelve men, and the laws of Tennessee gave it to him. That is the kind of law we have in Tennessee, where we respect not only the Constitution, but the vital principles of it and the sacred rights of property.

Mr. BABCOCK. But the gentleman from Tennessee has not told us the number that constituted the condemnation jury. [Laughter.]

The Clerk, proceeding with the reading of the bill, read as follows:

SEC. 491e. The court, before accepting the jury, shall hear any objections that may be made to any member thereof, and shall have full power and authority to pass upon any such objections, and to excuse any juror or cause any vacancy in the jury, when empaneled, to be filled; and after the jury shall have been organized and shall have viewed and examined the land and premises affected by the condemnation proceeding they shall proceed, in the presence of the court, to hear and receive such evidence as may be offered or submitted on behalf of the District of Columbia and by any person or persons having any interest in the proceeding. When the hearing is concluded, the jury, or a majority of them, shall return to the court, in writing, their verdict, setting forth the amount found to be due and awarded to the owners of the land to be condemned as damages by reasons of said opening, extension, widening, or straightening of said street, avenue, road, or highway, under the provisions hereof, and the lots, pieces, or parcels of land benefited by said opening, extension, widening, or straightening, and the amounts of the assessments for the benefits against the same.

Mr. GAINES of Tennessee. Mr. Chairman, I move to strike out in line 6, page 4, the words "or a majority of them."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 4, line 6, strike out the words "or a majority of them."

Mr. GAINES of Tennessee. Now, Mr. Chairman, I say in all candor, and with all the seriousness with which I can speak, that if there is any virtue in one juror, there is twelve times as much in twelve jurors. If there is any virtue in three men, there is more in five men. Yet three can take property under this law. If there is any virtue in five men, we should not trench upon it and make it less possible to have all the wisdom of the five. There should be twelve jurors to take away the property of any man, and he should have always the right of challenge.

Mr. OLCOTT. The committee, Mr. Chairman, is unwilling to accept the amendment.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Tennessee.

The question was taken; and the amendment was rejected.

The Clerk read as follows:

SEC. 491g. That of the amount found to be due and awarded as damages for and in respect of the land to be condemned for said opening, extension, widening, or straightening, plus the costs and expenses of the proceeding, such amount shall be assessed by the jury as benefits, and to the extent of such benefits against the lots, pieces, or parcels of land on each side of the street, avenue, road, or highway to be opened, extended, widened, or straightened, and against any and all other lots, pieces, or parcels of land which the jury may find will be benefited by the opening, extension, widening, or straightening, as the jury may find said lots, pieces, or parcels of land will be benefited; and in determining the amounts to be assessed against said lots, pieces, or parcels of land the jury shall take into consideration the respective situations and topographical conditions of said lots, pieces, or parcels of land, and the benefits and advantages they may severally receive from the opening, extension, widening, or straightening of the street, avenue, total amount of the assessments for benefits, such excess shall be road, or highway. If the total amount of the damages awarded by the jury and the costs and expenses of the proceedings be in excess of the total amount of the assesments for benefits, such excess shall beborne and paid equally by the United States and the District of Columbia.

Mr. SIMS. Mr. Chairman, I offer an amendment, which I send to the Clerk's desk.

The Clerk read as follows:

Amend line 20, page 5, by striking out the word "equal" and the words "United States and the;" so that it will read "and paid by the District of Columbia."

Mr. MORRELL. Mr. Chairman, I desire to offer the following as an amendment to the amendment of the gentleman from Tennessee.

The Clerk read as follows:

Page 5, line 16, strike out, after the word "highway," all down to and including the word "Columbia," in line 21, and substitute the following: "Hereafter no streets shall be opened unless the amount of the assessment of benefits shall equal the amount of damages."

Mr. MORRELL. Mr. Chairman, in the different investigations I have made concerning the opening of streets in the District of Columbia my attention has been particularly called to the assessment of benefits. Bills have been presented and passed, each specifically requiring that the amount of benefits should equal the amount of damages. There have been instances—not one, but several—where that has been absolutely disregarded by the jury—or, I might say, the finding of the jury disregarded under the discretionary power given the Commissioners—with the result that the excess of damages has been put upon the taxpayers at large of the District.

Now, we are framing a general law—a law that is to take the place as far as possible of special legislation. Therefore, to my mind, we ought to have a provision which will prevent indiscriminate opening of streets simply for the benefit of speculators in property, and that no street should hereafter be opened except where the necessity is so great that the assessment of benefits would equal the assessed damages. If it becomes necessary that the Government should have a street opened, then we can have a special act passed for that purpose, but I think it is very unwise, as we are now passing a general law, that there should not be a provision in it such as is embodied in my amendment—namely, that no street shall hereafter be opened unless the amount of assessment for benefits shall equal the amount of damages assessed.

Mr. OLCOTT. Mr. Chairman, I will say, in answer to the gentleman from Pennsylvania [Mr. MORRELL], that if a provision of that character is put in this general law it might prevent the city of Washington condemning land for the purpose of creating any wide boulevards. We can easily imagine a condition of affairs where one of the streets will be widened for the purpose almost entirely of beautifying the city at a cost largely in excess of the benefit to abutting property owners. I hope the gentleman will not press the amendment.

Mr. GILBERT of Kentucky. Mr. Chairman, I would suggest merely that the question raised by the gentleman from Pennsylvania [Mr. MORRELL] raises a judicial, not a legislative, question. Congress can not possibly anticipate the terms, conditions, and circumstances under which a proceeding of this nature should hereafter be instituted. It is a question to be addressed to the court, not to the legislative department of the Government.

Mr. BABCOCK. Mr. Chairman, I want to say just a word. I am in full accord with the statement made by the gentleman from Kentucky [Mr. GILBERT]. Now, there are no two cases that are alike. In four out of five of the bills passed by Congress provision is made that the benefits assessed shall equal the damages awarded, but, as my colleague from New York [Mr. OLCOTT] says, there may be a case of a wide boulevard, or a condition where you take 75 per cent of a man's lot or something

of that kind where it would absolutely nullify this act; and what this committee is seeking to do is to put something on the statute books that will be simple, that will be equitable, that will be just, and easily worked out by the courts.

Now, I desire to say here in explanation, that three of the ablest members of the District Committee have spent three months on this bill with the officials of the Government and the District Commissioners and all interested, and I believe that this is as near a perfect measure as a bill can be. I think that the amendment offered by the gentleman from Pennsylvania [Mr. MORRELL] would be a dangerous one, and I believe that if the gentleman himself would give it careful consideration, under the cases I could call to his attention now, that he would withdraw the amendment and not ask for a vote upon it.

Mr. MORRELL. Mr. Chairman, I would like to ask the gentleman who are most benefited in these wide boulevards which have been referred to? Is not the abutting property enhanced in value in proportion with the width of the street?

Mr. BABCOCK. I would say to the gentleman that as a rule the general public is benefited by the opening of a wide boulevard. We have had a condition in a special bill, that the gentleman well knows of, in which Sixteenth street was the subject of consideration. That was an unjust measure. That was pressed through as an amendment on another bill, whereby the people were permitted under that bill to donate the right of way through valuable property and thus be relieved from assessments for benefits, putting the burden on the District. We seek to avoid any such thing as that.

Mr. MORRELL. That is just exactly what I am seeking to avoid. In that case of Sixteenth street, which the chairman has mentioned, there were damages to the extent of $729,952, and all the benefits that were assessed were $108,000. In other words, there was a difference of $600,000 which came out of the pockets of the taxpayers of the District of Columbia, in spite of the fact that the bill specifically stated that the damage should equal the amount of assessment for benefits.

Mr. BABCOCK. That bill did not state that.

Mr. MORRELL. Oh, yes; it did.

Mr. BABCOCK. Oh, I beg the gentleman's pardon. That bill provided that the people who came in and donated a right of way should be relieved of any assessment for benefits, and in the case of that street the tracts of land were benefited many hundreds of thousands of dollars, and the value of donations only a few thousand dollars. It was an unjust measure.

The CHAIRMAN. The Chair is of opinion that the amendment by the gentleman from Tennessee [Mr. SIMS] has precedence, the amendment proposed by the gentleman from Tennessee being in the nature of a substitute. The question is on the amendment offered by the gentleman from Tennessee.

Mr. TAWNEY. Mr. Chairman, I would like to have the Clerk again report the amendment.

The CHAIRMAN. Without objection, the Clerk will again report the amendment.

There was no objection, and the Clerk again reported the amendment.

Mr. MADDEN. Mr. Chairman, I rise to a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MADDEN. Mr. Chairman, I understood the Chair to say that the first amendment to be voted on will be the one offered by the gentleman from Tennessee [Mr. SIMS].

The CHAIRMAN. That is the statement of the Chair.

Mr. MADDEN. I had the impression the first one would be the one offered by the gentleman from Pennsylvania.

The CHAIRMAN. The amendment proposed by the gentleman from Pennsylvania is in the nature of a substitute, and under the rules it is in order first to perfect the text by acting upon such amendments as may be proposed before acting upon a proposed substitute.

Mr. BABCOCK. Mr. Chairman, I would like to make a statement for a moment.

The CHAIRMAN. The gentleman from Wisconsin asks unanimous consent to make a brief statement. Is there objection? [After a pause.] The Chair hears none.

Mr. BABCOCK. The proposed Sims amendment does this: It provides that the District shall bear the entire burden of any street opening that Congress may see fit to order.

Mr. TAWNEY. Will the gentleman permit an interruption right there? My impression is the Sims amendment provides that the District of Columbia shall pay merely the amount of damages in excess of the benefits that accrue to the abutting property owners.

Mr. BABCOCK. Oh, certainly.

Mr. TAWNEY. For that reason I am in favor of it.

Mr. BABCOCK. The Sims amendment relieves the General Government from contributing any part to the expense of street openings.

Mr. TAWNEY. No; I will state it does not relieve the General Government, because there is no obligation on the part of the General Government to pay any part of the expense now, but it prevents saddling on the General Government that obligation.

Mr. SMITH of Iowa. Will the gentleman permit a question?

Mr. BABCOCK. Certainly.

Mr. SMITH of Iowa. As I understand it, under existing law, as it has been held for many years, the expense of extending streets, aside from the benefits, has been paid wholly by the District. The bill you have here before the committee provides for the Government paying half of it, so that, in place of this being a question of whether we are going to saddle the whole expense on the District, it is a question of whether we are to saddle half the expense that has always been borne by the District on the Government of the United States. Is not that a true statement?

Mr. BABCOCK. Well, the gentleman's statement is all right, but he has too many "saddles" in it.

Mr. SMITH of Iowa. I used the gentleman's own expression.

Mr. BABCOCK. No; the distinguished chairman of the Appropriations Committee used the word "saddle." Now, let me make this clear. Heretofore, in most of the bills—in all the bills practically that have been passed lately—we have provided that the benefits must equal the damages or else the street would not be opened. In that case neither the District nor the General Government would be called to pay anything. In a number of street-opening bills passed in previous Congresses provision was made that not less than one-half of the amount of damages should be assessed as benefits, the excess of damages over the benefits to be borne by the District. Now, this bill provides that excess of damages over benefits shall be paid one-half by the General Government and one-half by the District, and there is no "saddle" in it at all.

Mr. SMITH of Iowa. I would like, Mr. Chairman, to ask the gentleman one more question.

Mr. BABCOCK. Certainly.

Mr. SMITH of Iowa. Is it not a fact that on a bill in the last Congress that the gentleman from Wisconsin had before the House, on a report of a committee of conference this very question arose, and this House has repeatedly voted that this cost of extending streets shall be paid by the District of Columbia and no part by the United States?

Mr. BABCOCK. The gentleman is absolutely correct, as he most always is.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Tennessee.

Mr. SIMS. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. SIMS. I simply wish to say the amendment has been so thoroughly explained by the three gentlemen who have just spoken that I will not take up any time further to explain it.

The question was taken; and the amendment was agreed to.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Pennsylvania.

Mr. TAWNEY. Can we have that reported?

Mr. MORRELL. Will the Chair have the amendment again reported?

The CHAIRMAN. The Clerk will report the amendment.

The amendment was again reported.

The question was taken; and the amendment was rejected.

The Clerk read as follows:

SEC. 491b. The said court shall appoint a guardian ad litem for any person interested in the proceeding who may be under disability, and to hear and determine any objections or exceptions that may be filed to the verdict of the jury and to vacate and set said verdict aside, in whole or in part, when satisfied that it is unjust or unreasonable, in which event the court shall cause a new jury of five experienced, judicious, disinterested men, who shall be freeholders in the District of Columbia, not related to any person interested in the proceeding and not in the service or employment of the District of Columbia or of the United States, to be summoned, who shall proceed to ascertain the damages or assess the benefits, or both, as the case may be, in respect of the land as to which the verdict may be vacated, as in the case of the first jury: *Provided*, That if vacated in part, the residue of the verdict as to the land condemned or assessed shall not be affected thereby: *And provided further*, That the objections or exceptions to the verdict shall be filed within twenty days after the return of the verdict to the court.

The amendments recommended by the committee were read, as follows:

Page 5, strike out all commencing with the word "The," in line 22, down to and including the word "to," in line 24, and insert in lieu thereof the words "The said court shall."

Page 5, line 25, strike out the word "the" and insert the word "any."

Page 6, line 1, insert after the word "and" the words "shall have power;" also strike out the word "said" and insert the word "any."

The amendments were agreed to.

The Clerk read as follows:

SEC. 4911. When the court shall have finally ratified and confirmed the verdict of the jury and condemned the land needed for the opening, extension, widening, or straightening of the street, avenue, road, or highway, the amounts of money found to be due and awarded to the owners of the land condemned shall be paid to such owners by the disbursing officer of the District of Columbia from moneys advanced to him by the Secretary of the Treasury, upon requisitions of the Commissioners of said District, as provided by law.

The amendments recommended by the committee were read, as follows:

Page 6, line 18, strike out the word "the" where it appears before the word "jury" and insert "a;" also strike out the words "and condemned" and insert in lieu thereof the word "condemning."

The amendments were agreed to.

The Clerk resumed and concluded the reading of the bill.

Mr. OLCOTT. Mr. Chairman, I ask unanimous consent to offer an amendment in line 15, page 8, striking out the first "of."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

In line 15, page 8, strike out the word "of;" so it will read "any of the owners, etc."

The amendment was agreed to.

On motion of Mr. OLCOTT, the committee rose; and the Speaker having resumed the chair, Mr. CRUMPACKER, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 17217, had made sundry amendments thereto, and had instructed him to report the bill to the House with the recommendation that the amendments be agreed to and the bill as amended do pass.

The SPEAKER. Is a separate vote demanded on any of the amendments? If not, they will be considered in gross.

The question was taken; and the amendments were agreed to.

The bill as amended was ordered to be engrossed and read a third time; and it was read the third time, and passed.

On motion of Mr. OLCOTT, a motion to reconsider the last vote was laid on the table.

CHILD LABOR IN THE DISTRICT.

Mr. BABCOCK. I now present for consideration the bill (H. R. 17838) to regulate the employment of child labor in the District of Columbia.

The bill was read at length.

Mr. FITZGERALD. Mr. Speaker, I desire to reserve the point of order that this bill is improperly on the House Calendar.

The SPEAKER. The gentleman will state his point of order.

Mr. FITZGERALD. This bill provides a charge upon the Treasury, and it should be upon the Union Calendar.

The SPEAKER. The gentleman makes the point of order, as the Chair understands, to the last section.

Mr. FITZGERALD. On page 7.

The SPEAKER. Section 10.

Mr. FITZGERALD. Yes.

The SPEAKER (reading):

SEC. 10. That the Commissioners of the District of Columbia are hereby authorized to appoint two inspectors to carry out the provisions and purposes of this act, at a compensation not exceeding $2,100 per annum.

The Chair will hear the gentleman upon this point of order.

Mr. MORRELL. I would say, Mr. Speaker, in discussing the point of order raised by the gentleman from New York, that this provision in section 10 does not specifically appropriate any money. That is done by the Appropriation Committee.

Mr. FITZGERALD. But the rule is that if a bill directly or indirectly makes a charge on the Treasury it should be on the Union Calendar, and it is not necessary that the bill should appropriate the money.

Mr. MORRELL. Well, then, Mr. Speaker, I move that this bill be considered in the House as in Committee of the Whole.

The SPEAKER. That can only be done by unanimous consent.

Mr. MORRELL. I ask unanimous consent.

The SPEAKER. The Chair will say, on the point of order, that the Chair understands the gentleman from New York makes the point of order that this bill should be on the Union Calendar. The Chair will sustain the point of order. Now the gentleman from Pennsylvania asks unanimous consent that the bill be considered in the House as in Committee of the Whole House, under the five-minute rule. Is there objection?

Mr. FITZGERALD. Reserving the right to object, does the gentleman intend to permit discussion and an opportunity to amend, if it is desired?

Mr. MORRELL. To amend the bill? Oh, certainly.

Mr. FITZGERALD. Under the rules of the House every single Member has a right to offer any amendment to this bill if the rule be insisted on. Now, unless the gentleman from Pennsylvania assures the House that he will yield to any Member who desires to offer an amendment, I shall object to his request.

The SPEAKER. The Chair will state to the gentleman from New York that if the bill is considered in the House as in Committee of the Whole House on the state of the Union, it would be read by paragraphs as in Committee of the Whole for amendments under the five-minute rule.

Mr. FITZGERALD. Then I have no objection.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The Clerk will proceed to read the bill by sections.

The Clerk read as follows:

SEC. 3. That no child under 14 years of age, if employed by day, and no child under 16 years of age, if employed by night, shall be employed, permitted, or suffered to work in any of the establishments or occupations named in sections 1 and 2 unless the person or corporation employing him procures and keeps on file and accessible to the inspectors authorized by this act and the truant officers of the District of Columbia an age and schooling certificate, and keeps two complete lists of all such children employed therein, one on file and one conspicuously posted in the building in which such children are employed.

Mr. FITZGERALD. I move to strike out the last word for the purpose of getting some information. I wish to know how many truant officers there are in the District of Columbia.

Mr. MORRELL. I am not absolutely sure in regard to the question of number. I think there are two or four.

Mr. FITZGERALD. Well, which?

Mr. MORRELL. I say I am unable to answer the gentleman whether there are two or four. Perhaps, being on the Committee on Appropriations, the gentleman may remember.

Mr. FITZGERALD. I supposed that the gentleman reporting this bill would know, because the line provides in addition to the truant officers of the District that two inspectors provided by this act shall perform the duties. What I desire to know is, why it is necessary to create two new places in the District of Columbia. My experience on the Committee on Appropriations has led me to the belief that there is no very great necessity for increasing the employees in the District of Columbia; and unless the gentleman in charge of the bill can give some very good reason for these two inspectors I shall move to strike out of this bill all reference to these inspectors, so that it can be ascertained whether it will not be possible for the truant officers already authorized to perform the duties imposed by this act.

Mr. MORRELL. In answer to the gentleman, I would like to say, Mr. Speaker, the bill for compulsory education also puts additional duties upon truant officers, and it was considered necessary by the committee, which gave the bill very careful consideration, heard testimony in regard to it, spent many hours listening to argument as to what was necessary to make the law effective; and, after considering these matters, we decided that two inspectors at the small salary of $1,000 were necessary.

Mr. FITZGERALD. One thousand two hundred dollars, the bill provides.

Mr. MORRELL. I accept the correction, and I sincerely trust that the gentleman will realize that we would not want to put in these inspectors unless it was deemed absolutely necessary by the committee.

Mr. FITZGERALD. Can the gentleman state how many of these truant officers there are, so that the House may be able to judge whether the committee's opinion was well grounded or not?

Mr. MORRELL. I have been informed by a gentleman near me that there are not, as we were informed, any truant officers, but probation officers who, with the officers of the board of children's guardians, perform truant duties, and it was therefore necessary to provide for these inspectors to properly carry out the provisions of the bill.

Mr. TAWNEY. Will the gentleman permit a question?

Mr. MORRELL. Certainly.

Mr. TAWNEY. Are there any truant officers now employed in the District of Columbia?

Mr. MORRELL. Not as such.

Mr. TAWNEY. Whether they are employed as such, are there any District employees charged with the ordinary duties that pertain to truant officers?

Mr. MORRELL. No, sir; there are not.

Mr. TAWNEY. Is there any officer or employee who is charged with the duty of looking after children who do not attend school regularly?

Mr. MORRELL. There is a board of children's guardians.

This board exercises the only supervision that there is over children in the District.

Mr. TAWNEY. We recently passed a juvenile-court bill?

Mr. MORRELL. Yes.

Mr. TAWNEY. It provides for a number of officers who are to look after children.

Mr. MORRELL. We provided for two, a man and a woman.

Mr. TAWNEY. And you have provided here for two inspectors?

Mr. MORRELL. Yes.

Mr. TAWNEY. If there is any necessity at all for an officer of this kind, do you think two inspectors could cover this city effectively?

Mr. MORRELL. The committee did not want to be extravagant in what they suggested in the bill, but they thought, particularly as the doing away with child labor in the District of Columbia was a new proposition, that these officers would be sufficient to carry out the purposes of the bill; but if they were not found sufficient, why, then, after a trial had been given them additional ones could be provided.

Mr. TAWNEY. What is the nature of the duties of these inspectors that they should be paid $1,200 a year?

Mr. MORRELL. They are to visit the places where children are employed and see that they are not employed in violation of the provisions of the act. They are to look the children over, to inspect their school certificates, to see whether the provisions of this bill are being carried out, and then if they find violations to report them.

Mr. GRAHAM. As I understand these officials are to take the place of the factory inspectors in Pennsylvania?

Mr. MORRELL. Yes.

Mr. GRAHAM. We have factory inspectors in the State of Pennsylvania who perform similar duties.

Mr. MORRELL. Yes.

Mr. FITZGERALD. I move to strike out, in lines 12 and 13, the words "the inspectors authorized by this act." I wish to say a word or two about that, and then the gentleman can reply.

Mr. MORRELL. If that amendment should prevail, it would practically make the provisions of this bill of no effect. If you have a law providing that certain things shall be done and certain abuses corrected, unless you have somebody who is actually detailed to see whether the provisions of the law are carried out the law at once becomes of no effect.

Mr. TAWNEY. The gentleman's committee a few days ago reported a bill to increase the salaries of policemen. I should like to ask him if the policemen can not see that this law is enforced?

Mr. FITZGERALD. I should like to give my reasons for this amendment, and then the gentleman from Pennsylvania may oppose it if he wishes.

Mr. TAWNEY. If the gentleman will permit me, I should like to ask one question of the gentleman from Pennsylvania.

Mr. FITZGERALD. This is taking up my time.

The SPEAKER. The time of the gentleman from New York has expired.

Mr. FITZGERALD. I suggest that I first offered a pro forma amendment, and now I offer an amendment to strike out certain words in the bill.

The SPEAKER. Precisely; but the time of the gentleman opposing the pro forma amendment has not expired. As soon as it does, the gentleman from New York can be recognized.

Mr. SULZER. I ask unanimous consent that the gentleman from New York, my colleague, have five minutes.

The SPEAKER. The time of the gentleman from Pennsylvania has now expired. The gentleman from New York offers an amendment, which will be reported by the Clerk.

The Clerk read as follows:

On page 2, in lines 12 and 13, strike out the words "the inspectors authorized by this act."

Mr. FITZGERALD. I have moved to strike out the language "the inspectors authorized by this act." I also intend to move to strike out the section authorizing the two inspectors to be appointed by the Commissioners.

I had hoped that the gentleman reporting this bill would be able to inform the House how many officers would be authorized to enforce the provisions of this act. My recollection is—I may be in error, but the committee reporting the bill evidently has no better information—my information is that there are three truant officers now authorized by law. Whoever is familiar with legislation to prevent child labor knows that the time when inspectors are most necessary is during the vacation months of the year. The three truant officers have nothing to do during the vacation period, so that with the inspectors authorized by this bill, during the time when inspectors are necessary to enforce this act, there will be five inspectors available. This bill, if it becomes a law, will go into effect before the summer vacation, and the truant officers now authorized by law will be available for this work. If, after the summer vacation is ended, between that time and the assembling of Congress, it is found that the truant officers can not do this work, it will be an easy matter to set forth the reasons to Congress at that time, and to obtain whatever additional help is necessary.

My experience is that there are a number of inspectors in the District government obtained in just this way, upon bills creating new duties, which could very will be cut off from the pay roll, without any harmful effect on the District government; and I hope that the House will at least give the three truant officers, now performing not very onerous duties, an opportunity to demonstrate whether they can perform the work outlined in this proposed legislation before they authorize the additional inspectors provided in this bill.

I say after careful investigation that I am convinced that the best thing this House can do is to go very slowly in authorizing new employees in the District of Columbia.

Mr. CRUMPACKER. May I suggest to the gentleman the fact that in creating the juvenile court we have given authority to appoint two additional probation officers to assist the gentlemen in doing this very work?

Mr. FITZGERALD. I thank the gentleman from Indiana. The law which has just gone into effect provides for a probation officer at $1,500 a year and an assistant at $900 a year.

Mr. TAWNEY. Will the gentleman permit me to ask him a question?

Mr. FITZGERALD. Certainly.

Mr. TAWNEY. Is it not also a fact that the places where these children will be employed are in the factories and in the stores—large establishments here in the city—and that policemen of the city are constantly present during the working hours in such places, and would it not be competent, as a part of their duty, to see that this law is, as all other laws are, enforced in their immediate district, and could not the policemen report any violation to the proper prosecuting authorities, which they might find in their respective districts?

Mr. FITZGERALD. Not only that; if this law be enacted, the proprietors of these establishments will exercise, as they do in all other places, the utmost care in requiring these certificates to be furnished before they will employ children below the proper age, and the number of places in the District of Columbia is very small where the violations would take place. It is not a great manufacturing place, it is not a great commercial city, and to put on two additional inspectors at this time is absolutely indefensible.

Mr. MORRELL. Mr. Chairman, I am informed by the clerk of the Committee on Appropriations that there are no such officers in the District as truant officers. Now, I am perfectly willing, in view of that information, to apologize for having been wrongly informed, and I am willing in view of that information to have the words "truant officers" stricken out.

Mr. FITZGERALD. Will the gentleman yield for a question?

Mr. MORRELL. But I do think that to strike out the provision which provides for the inspector, and thereby absolutely take away the life of this bill, would be an act of folly. The legislation then, particularly if there are no truant officers, becomes null and void, and I am quite sure that my friend from New York will not want to go on record as being opposed to a bill for the protection of child labor.

Mr. FITZGERALD. I wish to call the attention of the gentleman to the fact that I am not trying to take the life out of the biil. I am only trying to cut off the unnecessary patronage that is created in the bill.

Mr. MORRELL. Let me ask the gentleman a question. If the inspectors are done away with, then the only two officers that can possibly perform the duties are the probation officers attached to the juvenile court.

Mr. FITZGERALD. Three truant officers.

Mr. MORRELL. Attached to the juvenile court.

Mr. FITZGERALD. No; they are not attached to the juvenile court; the two probation officers are only attached to the court.

Mr. MORRELL. But there are no truant officers, as I have just stated to the gentleman.

Mr. FITZGERALD. Why does the gentleman put truant officers in his bill if there are none? My recollection is that there are three truant officers.

Mr. MORRELL. Mr. Speaker, the gentleman can not have heard what I have just said, that I was just informed by the clerk of the Committee on Appropriations that there were no truant officers in the District, and I apoligized to the gentleman

for putting in the bill something in regard to which I was misinformed. Now, I am quite willing to have the words "truant officers" taken out of the bill, but, as I say, I can not subscribe to having the inspectors taken out of the bill, which would practically make the bill of no effect.

Mr. FITZGERALD. Mr. Speaker, I would suggest to the gentleman that if his information is so inaccurate, it would be much better to move to recommit his bill until he could find out what the provisions in it mean and why they are there.

Mr. BABCOCK. The information comes from the clerk of the Committee on Appropriations.

Mr. FITZGERALD. My recollection has been confirmed by a member of the District Committee, who states that he recalls in the hearings before the gentleman's committee it was stated that there were three truant officers; so, under this conflicting recollection of different Members, I would suggest that it would be better to take back this bill and let the gentleman reporting it find out accurately what the facts are.

Mr. MORRELL. Mr. Speaker, the gentleman referred to was probably, like myself, misinformed, and therefore I think that the criticisms of the gentleman from New York [Mr. FITZGERALD] are a little severe, and perhaps more severe than he intends to make them, for the reason that this committee gave a great deal of time to listening to all of the evidence that was brought before the members of the committee in regard to the provisions of this bill. The committee has not acted hastily in the matter, and when the provision for truant officers was put in the bill we were informed that there were such officers.

Mr. TAWNEY. Mr. Speaker, will the gentleman permit a question?

The SPEAKER. Does the gentleman yield?

Mr. MORRELL. Yes.

Mr. TAWNEY. I would ask if the gentleman's committee considered the advisability of imposing specifically on the policemen the duty of inquiring as to whether or not this law was or was not obeyed by the citizens of the District?

Mr. MORRELL. I will say, in answer to the gentleman, that the committee went into that very thoroughly.

Mr. TAWNEY. The gentleman has recently reported and passed a bill here increasing the salaries of policemen of this city. Why could they not discharge this duty in conjunction with their regular duties as policemen?

Mr. MORRELL. For the reason, Mr. Speaker, that in every case where that was suggested by the committee to those who came before the committee and who were thoroughly acquainted with the child-labor proposition, they said that wherever it had been tried it had proved absolutely useless, that the policemen had other duties to attend to, and that they were often persuaded for this or the other reason not to make the report as full as it should be; it was for that reason that those two officers, as I said before, were put into the bill, and I sincerely trust the committee will allow them to remain.

Mr. MADDEN. Mr. Speaker, will the gentleman from Pennsylvania yield for a question?

The SPEAKER. The time of the gentleman from Pennsylvania has expired. The gentleman has no time in which to yield to the gentleman from Illinois, but the gentleman from Illinois may be recognized in his own time.

Mr. MADDEN. Mr. Speaker, I believe that there are already employed by the District three truant officers, and in addition thereto there are two juvenile-court officers, whose duty it is to look after the character of work sought to be imposed on the inspectors which are to be provided for in this bill. It seems to me that with the small number of children between the ages of 14 and 16 to be employed in the institutions of the District these five men would be amply able to do all the supervisory work required. The creation of the two additional places simply places an additional expense upon the taxpayers of the District and upon the Federal Government.

The disposition of the District government is, as I have discovered from a very careful investigation, to increase the number of men employed regardless of whether or not they are necessary. It seems to me, therefore, that we can not be too careful in our efforts to prevent an extravagant management of the affairs of the District. If the truant officers are qualified to do the work of inspection required under this bill, then surely there is no need for the employment of further inspectors, and I sincerely hope that the amendment of the gentleman from New York [Mr. FITZGERALD] will prevail. I notice too, Mr. Speaker, that the first section of the bill provides that no one shall be employed during the day who is less than 14 years of age, and that no one less than 16 years of age shall be employed during the night; but in the third section of the bill it says that if children less than 14 years of age are employed, or that if children less than 16 years of age are employed, the inspectors shall have jurisdiction. These two sections seem to be in conflict.

Mr. SULZER. Would it not be better to make the limit 16 years all around?

Mr. MADDEN. Sixteen years it seems to me is an age before which no child should be allowed to be employed anywhere.

Mr. SULZER. I agree with the gentleman from Illinois [Mr. MADDEN], and I would like to see this bill amended so that the age would be made 16 years.

Mr. MADDEN. Not only in the factories and in the workshops of the District of Columbia, but on the floor of this House. I believe that no child who ought to be at school should be employed here.

Mr. CAMPBELL of Kansas. Mr. Speaker, will the gentleman yield?

Mr. MADDEN. I do.

Mr. CAMPBELL of Kansas. Would the gentleman object to a boy carrying newspapers after school hours before he was 16 years of age?

Mr. MADDEN. I would object to the employment of any child of less than 16 years of age during school hours.

Mr. CAMPBELL of Kansas. I mean would you object to his carrying newspapers after school hours?

Mr. MADDEN. No.

Mr. CAMPBELL of Kansas. That is what the committee had in mind when that provision was drawn.

Mr. MADDEN. It does not make itself very clear to me.

The SPEAKER. The gentleman from New York offers an amendment, which the Clerk will again report.

The Clerk read as follows:

Page 2, lines 12 and 13, strike out "the inspectors authorized by this act and."

The question was taken; and the Chair announced that the noes appeared to have it.

On a division (demanded by Mr. FITZGERALD) there were—ayes 10, noes 35.

So the amendment was rejected.

The Clerk read as follows:

SEC. 4. That an age and schooling certificate shall be approved only by the superintendent of public schools, or by a person authorized by him, in writing, who shall have authority to administer the oath provided for therein, but no fee shall be charged therefor.

Mr. CRUMPACKER. Mr. Speaker, I move to strike out the last word to get some information about this bill. Will the gentleman in charge of the bill inform me whether a man, for instance, who runs a mercantile establishment may, after school hours, employ one of his own children to assist him about the institution?

Mr. MORRELL. Well, I should think, Mr. Speaker, in answer to that question, that in view of the provisions of this bill that would be in the discretion of the parent of the child.

Mr. CRUMPACKER. It would be in the discretion of the parent, the gentleman says. This bill, it seems to me, substitutes government in large measure for the proper and legitimate functions of parentage. We have gone almost everywhere with government, but it seems to me that this bill carries it a little beyond what is reasonable. I want to know whether the parent could require his own child under 14 years of age to do certain errands and certain kinds of proper work after school hours?

Mr. MORRELL. In answer to the gentleman I do not think it was the intention of the bill to be as drastic as that in any way, shape, or form. I might say in regard to the general proposition of child labor that there are to-day in forty-one States of the Union child-labor legislation, and that we are just following on in the order which has been adopted in those States.

Mr. CRUMPACKER. That may be true enough, but it does not alter the character of this kind of legislation. This section takes away from the parent and vests in the school superintendent the power to issue school certificates and age certificates. It practically takes away all control the parent has over the child in certain lines.

Mr. TAWNEY. Will the gentleman from Indiana permit me to suggest the matter is exactly in line of the legislation we are enacting now for the control of families in the District of Columbia?

Mr. CRUMPACKER. True, as the gentleman has said, but there is too much government in this country, altogether too much government. I believe, as a rule, it is better for children to be properly employed, even children under the age of 16 years, than to be idle. I believe that proper laws ought to be enacted to prevent the abuse of chidren under 16 years of age and of chidren under 21 years of age, for that matter, in fac-

tories and sweat shops, but I do not believe that the Government ought to practically supersede the fathers and mothers of the country in the direction and control of their children, and I do not know where we are going to stop. If we establish government in the home and appoint inspection officers to look after the children, and superintendents of schools and other public functionaries to act as guardians for them, and bestow upon those functionaries the absolute and exclusive power of deciding when and where they shall be employed, of issuing certificates respecting age, date of birth, and education, I have wondered what the end will be, and how much of filial gratitude there will be upon the part of the young man when he reaches his majority and knows that the father and the mother that gave him life reared and educated him under compulsion of law and under the espionage of official inspectors, truant officers, and other agents of the Government.

I believe it is going altogether beyond anything that is required to correct the abuses that are practiced in factories, sweat shops, and mercantile institutions of the country. This section requires a certificate of age and of school attendance to be made, not by the father, not by the mother, not by the guardian, but by the superintendent of the school. I think it is wrong. I am in favor of the right kind of a law to prevent the employment of children of tender years in hard and hurtful service, but I say this, that idleness brings more injury, more harm to the boys and girls of the country as a rule than wholesome employment. We can do more harm in legislating indolence and idleness into the youths of the country than we can do good by unwisely making the law supersede the natural duties of parentage. Children should not be abused in any manner, and they should be protected against any kind of labor that retards their proper growth, either mentally, morally, or physically, but the natural control of the parent over the child should not be taken away except where the public good imperatively demands it.

Mr. MORRELL. I would like to suggest to the gentleman from Indiana, Mr. Speaker, that the law in Indiana does not allow girls to do any work under the age of 18, and boys under the age of 16 years, under the child-labor law in Indiana, which is very much like the bill submitted.

Mr. CRUMPACKER. I find that this bill prohibits the working of boys under the age of 14 and girls under the age of 16. Perhaps I misunderstood the gentleman. He says that the law of Indiana prohibits the working of boys under the age of 16 and girls under 18.

Mr. MORRELL. Yes.

Mr. CRUMPACKER. I did not know we had such age limits in the State of Indiana, but there is no occasion for that kind of legislation in the District of Columbia, where there are no industries of any importance.

Mr. SULZER. I would like to ask the gentleman if he is in favor of child labor in the District of Columbia?

Mr. CRUMPACKER. The right kind of labor.

Mr. SULZER. What do you call the right kind?

Mr. CRUMPACKER. Doing proper services for their mothers and fathers when school is not in session.

Mr. SULZER. They can do that anywhere.

The SPEAKER. Does the gentleman from Indiana withdraw the pro forma amendment?

Mr. CRUMPACKER. I do.

The Clerk read as follows:

SEC. 7. That whoever employs a child or whoever having under his or her control a child and permits such child to be employed, in violation of sections 1, 2, 3, or 9 of this act, shall, for such offense, be fined not more than $50; and whoever continues to employ any child in violation of any of said sections of this act, after being notified by an inspector authorized by this act, or a truant officer of the District of Columbia, shall, for every day thereafter that such employment continues, be fined not less than one nor more than twenty dollars. A failure to produce to an inspector authorized by this act, or a truant officer of the District of Columbia, an age or schooling certificate or list required by this act shall be prima facie evidence of illegal employment of any person whose age and schooling certificate is not produced or whose name is not so listed. Any corporation or employer failing to produce an age or schooling certificate in violation of section 5 of this act shall be fined not less than five nor more than twenty dollars. Every person authorized to sign the certificate prescribed by section 5 of this act who knowingly certifies to any false statement therein shall be fined not more than $50.

Mr. SHERLEY. Mr. Speaker, I would like to ask the gentleman in charge of the bill a question about two provisions that I do not understand and that seem to be in conflict. On page 5, line 10, the bill provides "a failure to produce to an inspector authorized by this act or a truant officer of the District of Columbia an age or schooling certificate or list required by this act shall be prima facie evidence of illegal employment," etc. Then, in lines 15, 16, 17, and 18, it says: "Any corporation or employer failing to produce an age or schooling certificate in violation of section 5 of this act shall be fined not less than $5 nor more than $20." I do not understand how in one instance it shall be prima facie proof of guilt, and in the next few lines the failure shall be sufficient to warrant the imposition of a fine.

Mr. MORRELL. Why, the first paragraph is what shall constitute guilt.

Mr. TAWNEY. Prima facie evidence.

Mr. MORRELL. Prima facie evidence.

Mr. TAWNEY. And the other conclusive.

Mr. MORRELL. And the other provides the penalty.

Mr. SHERLEY. In one instance it provides that it is prima facie evidence and the other the failure to produce is sufficient to incur the penalty. It does seem, from reading it hastily, that you are making here rules of evidence that are in conflict.

Mr. MORRELL. That was the thought of the committee. If the gentleman thinks it too strong, why the committee will be glad to receive any suggestions that he might make in the shape of an amendment.

Mr. SHERLEY. I have simply glanced at it; but it did seem so crude to me that I thought there must be some explanation why it should be in this form.

Mr. MORRELL. That was the thought of the committee that framed the bill, and they put in these words.

Mr. SHERLEY. If the gentleman will permit a suggestion, it seems to me that lines 15 to 18 should be stricken out and in lieu thereof simply put in a provision saying that any person convicted of a violation of the foregoing provision shall be fined such an amount. As it is now it is unintelligible.

Mr. SIMS. Would it not be better to strike out that provision commencing in line 10:

A failure to produce to an inspector by this act, or a truant officer of the District of Columbia, an age or schooling certificate required by this act shall be prima facie evidence of the illegal employment of a person whose age and schooling certificate is not produced or whose age is not so listed.

It will be better to strike that out and leave the other in.

Mr. SHERLEY. No; for this reason: You are making a failure to produce that in evidence absolutely conclusive as to a person's guilt; and you would make it much too drastic. What you ought to do is to strike out the lines making a beginning with the word "any," in line 15, down to the conclusion of the sentence.

Mr. MORRELL. Will the gentleman offer his amendment so that the committee can hear it?

Mr. SHERLEY. If you will give me a minute; or we can return to this paragraph with the understanding that I have an opportunity to offer an amendment.

Mr. MORRELL. Yes. I will ask the Clerk to read.

The SPEAKER. One moment. As the Chair understands, section 7 is passed without prejudice and with the right to return. If there be no objection, it will be so ordered.

The Clerk read as follows:

SEC. 8. That inspectors authorized by this act and the truant officers of the District of Columbia shall visit the factories, workshops, mercantile establishments, stores, business offices, telegraph offices, restaurants, hotels, apartment houses, clubs, theaters, halls, and bowling alleys in the District of Columbia and ascertain whether any minors are employed therein contrary to the provisions of this act, and they shall report any cases of such illegal employment to the superintendent of public schools and the corporation counsel of the District of Columbia. Inspectors authorized by this act and the truant officers of the District of Columbia shall require that the age, schooling certificates, and lists of minors employed as specified in this section shall be produced for their inspection.

Mr. MADDEN. Mr. Speaker, I desire to offer an amendment to section 8.

The Clerk read as follows:

Amend section 8, page 6, line 1, after the word "alleys," by adding the words "and the Senate and House of Representatives."

Mr. MADDEN. Mr. Speaker, if there be any necessity for limiting the age of boys who are to be employed in the factories, stores, and workshops, that necessity exists equally as to those who are employed in the Senate and the House of Representatives. I believe that every boy less than 16 years of age ought to be in school, and I am firmly convinced that many of the children on the floor of this House ought to be under the guardianship of their parents or the guardianship of some one else rather than to be here. There is no reason why this law should not apply with equal force to children in every kind of employment in the District if it is a good law.

Mr. MORRELL. Mr. Speaker, the committee propose to accept the amendment of the gentleman.

The amendment was agreed to.

Mr. MADDEN. Now, Mr. Speaker, I wish to go back to section 2, to ask to include employment in the House and Senate in that section.

Mr. MORRELL. I ask unanimous consent that permission be granted to do that.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

On page 1, line 9, after the word "alley," insert "or the Senate or House of Representatives."

The amendment was agreed to.

The Clerk read as follows:

SEC. 10. That the Commissioners of the District of Columbia are hereby authorized to appoint two inspectors to carry out the purpose of this act, at a compensation not exceeding $1,200 per annum.

Mr. FITZGERALD. Mr. Speaker, I move to strike out the word "two," in line 1, page 7, and to insert the word "one."

The SPEAKER. The gentleman from New York offers an amendment which will be reported by the Clerk.

The Clerk read as follows:

On page 7, line 1, strike out the word "two" and insert the word "one."

Mr. FITZGERALD. Mr. Speaker, this is not a very drastic amendment. It provides for one inspector instead of two. The report of the committee itself calls attention to the fact that this legislation is preventive rather than remedial, because the opportunity for the use of child labor in the District of Columbia is minimized by the fact that there are few mills and factories and no mines within the District. If more than one inspector is required, it will be very easy to provide for the additional ones required at the next session of Congress. This amendment only takes one inspector from the bill; and I repeat that I am convinced, from an examination of the appropriation bill for the District, that there are many inspectors provided for different purposes in just this way who are absolutely unnecessary for the proper administration of the District Government. I have no interest in this except I believe that the District Committee has not shown the necessity for two inspectors for this purpose, and I hope the House will at least cut off one of those proposed.

Mr. MORRELL. I trust that the amendment of the gentleman will not be agreed to.

Mr. BABCOCK. I ask for a vote.

The question was taken; and on a division (demanded by Mr. FITZGERALD) there were—ayes 7, noes 20.

Mr. FITZGERALD. I suggest that we should have more Members to legislate, and I make the point of order that there is no quorum present.

The SPEAKER. The Chair will count.

Mr. PAYNE. Mr. Speaker, I ask the gentleman to withhold for a moment his point of no quorum.

Mr. FITZGERALD. I will withdraw it if gentlemen will get up and vote this unnecessary inspector out of the bill.

POST-OFFICE APPROPRIATION BILL.

Mr. PAYNE. Mr. Speaker, I understand the gentleman to withdraw his point for a moment.

The gentleman from Indiana [Mr. OVERSTREET] is anxious to make an arrangement about the debate on the Post-Office appropriation bill. Of course that can not be done in the absence of a quorum.

Mr. OVERSTREET. Mr. Speaker, my attention was diverted for the moment. If the gentleman will withhold his point, I ask unanimous consent that the House meet at 11 o'clock to-morrow and on Wednesday for the purpose of continuing the general debate on the Post-Office appropriation bill.

The SPEAKER. The gentleman from Indiana asks unanimous consent that the House meet at 11 o'clock on to-morrow and on Wednesday for the purpose of continuing the general debate on the Post-Office appropriation bill. Is there objection?

There was no objection.

SPANISH CLAIMS COMMISSION.

The SPEAKER laid before the House the following message from the President of the United States; which was read, ordered to be printed, and referred to the Committee on the Judiciary:

To the Senate and House of Representatives:

There is herewith transmitted, for the information of the Congress, a communication from the president of the Spanish Treaty Claims Commission relative to the progress and condition of the business of that Commission. From this report it is clearly apparent that the work of the Commission is proceeding with due care and reasonable expedition. The Spanish Government is now courteously furnishing the evidence from its archives and officials which is indispensable to give complete information concerning the transactions upon which the claims before the Commission are founded.

I recommend the passage of a law limiting and fixing the fees of attorneys in cases where awards are made in favor of claimants; and also that the question whether a right of review by the Supreme Court of the decisions of the Commission should be given by means of writs of certiorari be decided at the present session of Congress.

THEODORE ROOSEVELT.

THE WHITE HOUSE, *April 9, 1906.*

LEAVE OF ABSENCE.

Mr. WEBBER, by unanimous consent, obtained leave of absence for twenty days, on account of sickness in family.

Mr. BRADLEY, by unanimous consent, obtained leave of absence for one week, on account of illness in his family.

CHILD LABOR IN THE DISTRICT OF COLUMBIA.

Mr. FITZGERALD. Mr. Speaker, I withdraw the point of no quorum.

The SPEAKER. The yeas are 7 and the nays are 29. The noes have it, and the amendment is rejected. Section 7 was passed with the privilege of returning to the same.

Mr. SHERLEY. Mr. Speaker, I move to strike out, on page 5, line 15, the words beginning with the word "any" and ending with the word "dollars" in line 18.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

On page 5, lines 15 to 18, strike out the words "any corporation or employee failing to produce an age or schooling certificate, in violation of section 5 of this act, will be fined not less than $5 nor more than $20."

Mr. MORRELL. Mr. Speaker, we accept that amendment.

The question was taken; and the amendment was agreed to.

Mr. OLMSTED. Mr. Speaker, I desire to ask the gentleman in charge of the bill a question. Beginning at line 18, it says "every person authorized to sign the certificate prescribed by section 5 of this act, who knowingly certifies to any false statement therein shall be fined not more than $50." Now, section 5 does not authorize anybody to sign a certificate.

Mr. MORRELL. I think it does.

Mr. OLMSTED. Whom?

Mr. MORRELL. Section 5 says that—

An age and schooling certificate will not be approved unless satisfactory evidence is furnished by duly attested transcript of the certificate of birth or baptism of such child, or other religious record, or the register of birth or the affidavit of the parents or guardian or custodian of a child——

Mr. OLMSTED. Whose certificate is that?——

Mr. MORRELL (continuing)—

which affidavit must be taken before the officer issuing the employment certificate, who is hereby authorized and required to administer such oath, and who shall not demand or receive a fee therefor.

Mr. OLMSTED. Yes; it says that no age or school certificate shall be approved, except under certain conditions, and it provides who may take the affidavit of the parents if the certificate is not produced, but it does not authorize anybody to make the certificate, and consequently the penalty in section 7 does not apply to anybody. It does not state who is authorized to make the certificate from the register of birth or from any other religious record.

Mr. MORRELL. It would be the superintendent of schools or whoever issues the certificate, and then follow the provisions of the certificate.

Mr. OLMSTED. I merely wish to call attention to the fact that there is nothing in section 5 that authorizes anybody to make the certificate, therefore the penalty will not hurt anybody.

The bill was ordered to be engrossed and read a third time; and it was read the third time, and passed.

On motion of Mr. MORRELL, a motion to reconsider the last vote was laid on the table.

GREAT COUNCIL OF IMPROVED ORDER OF RED MEN.

Mr. BABCOCK. Mr. Speaker, I ask consideration for the bill (S. 3292) to incorporate the Great Council of the United States of the Improved Order of Red Men.

The SPEAKER. This bill was reported at a prior session.

The bill was ordered to be read a third time; and it was read the third time, and passed.

On motion of Mr. BABCOCK, a motion to reconsider the last vote was laid on the table.

ENROLLED BILL SIGNED.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill of the following title; when the Speaker signed the same:

H. R. 10480. An act for the relief of certain settlers upon land within the indemnity limits of the present St. Paul, Minneapolis and Manitoba Railway Company.

The SPEAKER announced his signature to enrolled bill of the following title:

S. 5521. An act to authorize the Tyronza Central Railroad Company to construct a bridge across Little River in the State of Arkansas.

SENATE CONCURRENT RESOLUTION REFERRED.

Under clause 2 of Rule XXIV, the following Senate concurrent resolution was taken from the Speaker's table and referred to its appropriate committee, as indicated below:

Senate concurrent resolution No. 22:

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, authorized and directed to cause to be made an examination and survey of Long Cove, the approach thereto, Cape Jellison Harbor and the waters leading thereto, between Cape Jellison and Sears Island, Penobscot Bay, Maine—

To the Committee on Rivers and Harbors.

ENROLLED BILLS.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States, for his approval, the following bills:

H. R. 8891. An act granting an increase of pension to Josephine Rogers;

H. R. 13151. An act granting an increase of pension to Christopher C. Harlan;

H. R. 12286. An act granting relief to the estate of James Staley, deceased; and

H. R. 11026. An act to authorize the counties of Holmes and Washington to construct a bridge across Yazoo River, Mississippi.

THE EDES HOME.

Mr. BABCOCK. Mr. Speaker, I call up the bill (S. 4046) to incorporate the Edes Home, which I send to the desk and ask to have read.

The Clerk read as follows:

Be it enacted, etc., That George L. Nicolson, Albion K. Parris, R. Douglas Simms, Robert D. Weaver, Archibald Greenlees, Edward F. Looker, and George A. King, all residents of that portion of the city of Washington, in the District of Columbia, which, on the 10th day of February, A. D. 1895, constituted the city of Georgetown, in the said District, and their successors, from the aforesaid portion of the said city of Washington, to be supplied in the manner hereinafter directed, be, and they are hereby, created and declared to be a body politic and corporate in the District of Columbia, by the name, style, and title of "The Edes Home," and by that name to have perpetual succession, to contract and be contracted with, to sue and be sued, to implead and be impleaded, and to erect and forever maintain and support, in the said portion of the said city of Washington, a home for aged and indigent widows residing, or to reside, within the said portion of the said city of Washington; and the said home shall be forever exempt from the control of any particular religious sect or persuasion.

SEC. 2. That the said corporation may acquire, take, receive, invest, reinvest, and dispose of property of every nature whatever for the use and benefit of the said home, and all property held by the said corporation for such use and benefit shall, while and as long as so held, be free from any tax, burden, or assessment, laid or to be laid by the United States or under any authority emanating therefrom.

SEC. 3. That the said corporation shall have power to adopt a common seal, and to break and alter the same at pleasure; to supply vacancies occurring in the membership of the said corporation from male persons residing or to reside within the said portion of the said city of Washington; to appoint a president, secretary, treasurer, and such other officers as the said corporation may deem necessary, and define the duties and fix the compensations or emoluments of such president, secretary, treasurer, and other officers; to determine how many and what particular persons of those qualified for admission into the said home shall be actually received therein; to exclude at pleasure from said home any person who shall have been admitted thereto as an inmate thereof; to make, ordain, establish, and execute all such ordinances and by-laws, not inconsistent with the provisions of this act, as the said corporation may deem needful in the interests of the said home; and to provide for the abrogation, alteration, or amendment of any of said ordinances or by-laws, whether by a majority, for the time being, of the members of the said corporation or by a fixed number or proportion exceeding a majority of the whole number of members of which the said corporation may lawfully consist, but the provision in such latter case shall itself be first adopted by the like fixed number or proportion exceeding a majority of the whole number of members of which the said corporation may lawfully exist.

SEC. 4. That the said corporation shall cause to be printed and published on three successive days, Sunday exclusive, of the month of May in each and every year, in some morning newspaper printed and published in the said city of Washington and possessing the largest or next largest general circulation therein, a true and correct statement, under the seal of the said corporation and attested by the signatures of the majority, for the time being, of the members of the said corporation, setting forth the number of widows residing in the said home, as free inmates thereof, at the date of such statement, and the number departed therefrom, through death or other cause, since the publication of any next previous like statement by the said corporation; the real estate belonging unto the said corporation, and the approximate value thereof; the approximate aggregate value of all stocks, bonds, notes, or other choses in action owned by the said corporation; the amount of cash held by the said corporation at the date of the statement; the total receipts, as well as the total disbursements of the said company since the publication of any next previous like statement by the said corporation, and the total outstanding liabilities of the said corporation.

SEC. 5. That in case the said corporation shall fail or neglect to cause to be printed and published such statement aforesaid in manner aforesaid, then, upon every such failure or neglect, each and every member of the said corporation consenting to or conniving at such failure or neglect shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be fined not less than twenty nor more than two hundred dollars. And in case the said corporation, its members, officers, or agents shall cause to be printed and published in any newspaper any false or fraudulent representation touching any of the particulars required to be embraced in such true and correct statement aforesaid, every member, officer, or agent of the said corporation knowingly consenting either to the fabrication and concoction of such false or fraudulent statement or to the printing or publication thereof shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be fined not less than five hundred nor more than five thousand dollars or be imprisoned in some penitentiary for not less than one year nor more than five years, or both, at the discretion of the trial court.

SEC. 6. That this act shall be and remain at all times subject to repeal, alteration, or amendment by the Congress of the United States.

Mr. OLCOTT. Mr. Speaker, I offer the following amendment on behalf of the committee.

The Clerk read as follows:

At the end of line 9, page 2, strike out the comma and insert a period; and strike out lines 10 and 11, down to and including the word "held," and insert in lieu thereof the following: "The property held by said corporation actually and exclusively used and occupied for the home provided for in section 1 of this act shall, so long as said property is so exclusively used and occupied."

Mr. SHERLEY. Mr. Speaker, I would like to ask the gentleman in charge of the bill what reason there is for this special act of legislation?

Mr. OLCOTT. Mr. Speaker, I would say in regard to that matter that the property that is to establish this home for the benefit of widows was left by a resident of Georgetown. It seems that the general law does not provide for the filing of any reports by corporations of this character, and the executors of the will whereby this money was left determined that they ask for the formation of a corporation that would be under the direct supervision of the Government and whose special charter would compel the filing of certificates of annual reports, so that any disturbances as to the principal funds——

Mr. SHERLEY. Why did not the committee see fit to amend the general law? If it is a good thing to have annual reports of institutions of this kind, why did not the committee amend the general law?

Mr. OLCOTT. I have no doubt that such a bill will be offered later.

Mr. SHACKLEFORD. Mr. Speaker, how much is the estate, I would ask the gentleman from New York, that is to be incorporated?

Mr. OLCOTT. The residuary estate is $225,000.

Mr. SHACKLEFORD. Will the gentleman yield to me for a moment?

Mr. OLCOTT. Certainly; I yield to the gentleman.

Mr. SHACKLEFORD. Mr. Speaker, this is another one of those bills where we are called upon here in the House on the moment to grant articles of incorporation to a company. What are the powers that we give to that company? Nobody can understand, in the manner they are passed here, what powers we are conferring upon that corporation. I, for one, am opposed to this, as I have been opposed heretofore to all other grants of this kind. What may be contained in the provisions of this bill nobody can tell, and how much we may hereafter be embarrassed by what we do now in this respect no man can foresee.

All incorporations ought to be granted in the strictest and most guarded manner. All of our State legislatures have seen proper to adopt general laws containing many wise provisions for the regulation of corporations, and requiring that every corporation having a charter shall conform to the general standard; but here in Congress we simply take hold of the crank and grind them out by the thousands, according to the whim or the judgment of the particular person who drafts the bill. Somebody wants to give a grandiloquent title to a corporation of some character, and he or she hunts up a Member of Congress, and the bill is introduced granting a special charter which differs from others, so that there is no standard. There is doubt in my mind as to whether the proper limitations are contained in these charters, and what we shall find ourselves subsequently involved in, as I said a while ago, no man can tell. Whatever is to be done ought to be done according to a general standard. Therefore, Mr. Speaker, I hope that this bill will fail.

Mr. DALZELL. Mr. Speaker, it seems to me that this bill ought not to be passed without an opportunity for some debate, such an opportunity as we are not to have at this time of the day.

Mr. BABCOCK. Mr. Speaker, they are waiting for the building—the executors.

Mr. PAYNE. Well, I think they can wait a couple of weeks longer.

Mr. SHACKLEFORD. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. SHACKLEFORD. Would it be in order to move to adjourn at this time?

Mr. PAYNE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; and accordingly (at 5 o'clock and 6 minutes p. m.) the House adjourned until to-morrow, at 11 o'clock a. m.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred as follows:

A letter from the Secretary of the Treasury, transmitting a response to the inquiry of the House as to expenses of the Spanish Treaty Claims Commission and the amount of payments under awards—to the Committee on the Judiciary, and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Secretary of War submitting an estimate of appropriation for the construction of a sea wall at Fort Screven, Ga.—to the Committee on Appropriations, and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Secretary of War submitting an estimate of appropriation for relief of Thomas Hughes—to the Committee on Claims, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. GARDNER of Massachusetts, from the Committee on Immigration and Naturalization, to which were referred the bills of the House H. R. 176, 456, 4534, 4548, 5370, 6017, 8422, 8423, 8425, 8459, 8460, 9337, 11020, 12319, 13369, 14602, 15086, 16553, and 16557, reported in lieu thereof a bill (H. R. 17941) to regulate the immigration of aliens into the United States, reported the same without amendment, accompanied by a report (No. 3021); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. LACEY, from the Committee on Indian Affairs, to which was referred the bill of the House (H. R. 10133) to provide for the annual pro rata distribution of the annuities of the Sac and Fox Indians of the Mississippi between the two branches of the tribe, and to adjust the existing claims between the two branches as to said annuities, reported the same with amendment, accompanied by a report (No. 3022); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. DIXON of Montana, from the Committee on the Public Lands, to which was referred the bill of the House (H. R. 14410) to amend an act approved August 3, 1894, entitled "An act concerning leases in the Yellowstone National Park," reported the same without amendment, accompanied by a report (No. 3023); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. SMITH of California, from the Committee on the Public Lands, to which was referred the bill of the House (H. R. 17127) to provide for the subdivision and sale of certain lands in the State of Washington, reported the same without amendment, accompanied by a report (No. 3024); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. GARDNER of Massachusetts, from the Committee on Immigration and Naturalization: A bill (H. R. 17941) to regulate the immigration of aliens into the United States—to the Union Calendar.

By Mr. FASSETT: A bill (H. R. 17942) defining wine, artificial, and carbonated wines; for preventing adulteration, misbranding, and imitation of wines; for imposing a tax upon and regulating the sale of artificial wines; for regulating interstate traffic and foreign trade therein, and for other purposes—to the Committee on Ways and Means.

By Mr. COCKRAN: A bill (H. R. 17943) to purchase the original painting of Gen. Philip H. Sheridan on his favorite horse Rienzi, known as "Sheridan's Ride"—to the Committee on the Library.

By Mr. SPIGHT: A bill (H. R. 17944) to authorize the construction of a bridge across Tallahatchie River, Tallahatchie County, Miss.—to the Committee on Interstate and Foreign Commerce.

By Mr. GLASS: A bill (H. R. 17945) authorizing the Borderland Coal Company to construct a bridge across Tug Fork of Big Sandy River—to the Committee on Interstate and Foreign Commerce.

By Mr. GILLETT of California: A bill (H. R. 17946) providing for the reclamation of lands in the Sacramento and San Joaquin valleys, in the State of California—to the Committee on Irrigation of Arid Lands.

By Mr. JENKINS: A bill (H. R. 17947) to amend first subdivision of section 629 of the Revised Statutes of the United States—to the Committee on the Judiciary.

By Mr. LITTLEFIELD: A bill (H. R. 17948) restricting in certain cases the right of appeal to the Supreme Court in habeas corpus proceedings—to the Committee on the Judiciary.

By Mr. MOON of Pennsylvania: A bill (H. R. 17949) providing for the acceptance by the United States Government of the Old Flag House, tendered by the American Flag House and Betsy Ross Association—to the Committee on Public Buildings and Grounds.

By Mr. HEPBURN: A resolution (H. Res. 395) providing for an additional annual clerk to the Committee on Interstate and Foreign Commerce, in lieu of the per diem clerk now authorized—to the Committee on Accounts.

By Mr. RODENBERG: A resolution (H. Res. 396) authorizing the Doorkeeper of the House to appoint a clerk in the House document room—to the Committee on Accounts.

By Mr. WILLIAMS: A resolution (H. Res. 397) asking information of the President of the United States concerning the prosecution of certain officers now or heretofore in the consular service of the United States—to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. ADAMSON: A bill (H. R. 17950) granting an increase of pension to James W. Hager—to the Committee on Invalid Pensions.

By Mr. AIKEN: A bill (H. R. 17951) granting a pension to Elizabeth A. Hodges—to the Committee on Invalid Pensions.

By Mr. BROWNLOW: A bill (H. R. 17952) granting a pension to certain East Tennesseans engaged in the secret service of the United States during the war of the rebellion—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17953) granting an increase of pension to Thomas J. Bowser—to the Committee on Invalid Pensions.

By Mr. BURKE of Pennsylvania: A bill (H. R. 17954) transferring Lieut. F. R. Kenney from the Artillery Corps to the Quartermaster-General's Department with the rank and pay of captain—to the Committee on Military Affairs.

By Mr. BYRD: A bill (H. R. 17955) for the relief of Thomas P. Burnham, administrator of the estate of Dr. J. Burnham, deceased, of Scott County, Miss.—to the Committee on War Claims.

By Mr. DIXON of Indiana: A bill (H. R. 17956) granting an increase of pension to John Shinolt—to the Committee on Pensions.

By Mr. DUNWELL: A bill (H. R. 17957) for the relief of certain customs inspectors of the port of New York—to the Committee on Claims.

By Mr. FLOYD: A bill (H. R. 17958) granting an increase of pension to Alexander Dixon—to the Committee on Invalid Pensions.

By Mr. GILBERT of Kentucky: A bill (H. R. 17959) for the relief of the estate of Robert G. Carlisle, deceased—to the Committee on War Claims.

By Mr. GLASS: A bill (H. R. 17960) granting a pension to William H. Patterson—to the Committee on Invalid Pensions.

By Mr. HERMANN: A bill (H. R. 17961) granting a pension to Mary C. Wells—to the Committee on Invalid Pensions.

By Mr. HINSHAW: A bill (H. R. 17962) granting an increase of pension to George P. Sealey—to the Committee on Invalid Pensions.

By Mr. HOUSTON: A bill (H. R. 17963) for the relief of N. B. Rees, of Bedford County, Tenn.—to the Committee on Claims.

By Mr. LACEY: A bill (H. R. 17964) granting a pension to Robert C. Payne—to the Committee on Invalid Pensions.

By Mr. LEVER: A bill (H. R. 17965) for the relief of August J. Roos—to the Committee on Claims.

By Mr. NEEDHAM (by request): A bill (H. R. 17966) granting an increase of pension to Adelaide McConnell—to the Committee on Invalid Pensions.

By Mr. PUJO: A bill (H. R. 17967) granting a pension to David Siess—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17968) to remove the charge of desertion and grant an honorable discharge to Frank Stutes—to the Committee on Military Affairs.

Mr. RYAN: A bill (H. R. 17969) granting an increase of pension to Charles Walrod—to the Committee on Invalid Pensions.

By Mr. SPARKMAN: A bill (H. R. 17970) granting a pension to Lizzie Goshorn—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17971) granting an increase of pension to James G. Wall—to the Committee on Pensions.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of bills of the following titles; which were thereupon referred as follows:

A bill (H. R. 1420) for the relief of John Nay—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 17584) granting an increase of pension to James White—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 17889) for the relief of heirs of Jasper N. Martin—Committee on Invalid Pensions discharged, and referred to the Committee on Claims.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk, and referred as follows:

By the SPEAKER: Petition of the National Association of Railway Commissioners, for enlargement of the powers of the Interstate Commerce Commissioners in railway-rate fixing—to the Committee on Interstate and Foreign Commerce.

By Mr. ADAMSON: Petition of the Atlantic and Birmingham Construction Company, for an appropriation to continue Government test of structural material—to the Committee on Appropriations.

By Mr. BANNON: Petition of Cuyahoga Lodge, No. 20, Brotherhood of Boiler Makers and Iron-ship Builders, for the Merchant Marine Commission shipping bill—to the Committee on the Merchant Marine and Fisheries.

By Mr. BARTLETT: Petition of the Elbert County Medical Society, of Elberton, Ga., for the pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Macon News, of Macon, Ga., for removal of the tariff duties on wood pulp and news print paper—to the Committee on Ways and Means.

By Mr. BATES: Petition of the National Council of Women, for bills H. R. 4462 and 6001, relative to a child-labor law for the District of Columbia—to the Committee on the District of Columbia.

Also, petitions of the Powers-Weightman-Rosengarten Company, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. BENNETT of Kentucky: Petition of the Sorosis Club of New York, for bills S. 50 and H. R. 4462 (child labor in the District of Columbia)—to the Committee on the District of Columbia.

Also, petition of the Licking Valley Company, for bill H. R. 15257—to the Committee on the Post-Office and Post-Roads.

Also, petition of the National Council of Women of the United States, for bills S. 50 and H. R. 4462 (child-labor bills)—to the Committee on the District of Columbia.

By Mr. BONYNGE: Petition of citizens of Colorado, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. BROWN: Petition of citizens of Wisconsin, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. BURLEIGH: Petition of Highland Grange, No. 354, of North Penobscot, Me., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. BURNETT: Petition of the National Council of Women of the United States, for bills S. 50 and H. R. 4462—to the Committee on the District of Columbia.

Also, petition of the International Association of Master House Painters and Decorators of the United States and Canada, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. BUTLER of Tennessee: Petition of the Sumner County Medical Society, for the pure-food bill—to the Committee on Interstate and Foreign Commerce.

By Mr. BYRD: Paper to accompany bill for relief of Thomas P. Burnham—to the Committee on War Claims.

By Mr. COOPER of Wisconsin: Petition of the Foster & Williams Manufacturing Company, of Racine, Wis., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. DENBY: Petition of several hundred citizens of the State of Michigan, for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

Also, petition of citizens of Detroit, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. DOVENER: Paper to accompany bill for relief of James Darrah—to the Committee on Invalid Pensions.

By Mr. DUNWELL: Petition of the National Council of Women of the United States, for bills S. 50 and H. R. 4462—to the Committee on the District of Columbia.

Also, petition of the National Metal Trades Association, for the Gallinger shipping bill—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the Sorosis Club, of New York, for bills S. 50 and H. R. 4462 (child labor in the District of Columbia)—to the Committee on the District of Columbia.

By Mr. FLOYD: Paper to accompany bill for relief of Henrietta Hull—to the Committee on Invalid Pensions.

By Mr. FOWLER: Petition of the Cosmos Club, of Elizabeth, N. J., for scientific investigation of the industrial condition of women—to the Committee on Appropriations.

Also, petition of Local Union No. 151, American Federation of Musicians, of Elizabeth, N. J., for bill H. R. 8748 (equalization of musicians' pay)—to the Committee on Naval Affairs.

Also, petition of Iron Molders' Union No. 365, of Plainfield, N. J., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of Integrity Council, No. 163, Daughters of Liberty, of Cranford, N. J., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of H. U. Florey et al., for bill H. R. 15442—to the Committee on Immigration and Naturalization.

By Mr. HAMILTON: Petition of citizens of Hartford, Mich., for relief of landless Indians in California—to the Committee on Indian Affairs.

Also, petition of citizens of Bangor, Me., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. HASKINS: Petition of Green Mountain Council, No. 5, of Newport Center, Vt., Daughters of Liberty, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. HAYES: Petition of Division No. 265, Amalgamated Association of Street and Electric Railway Employees, of San Jose, Cal., against bill H. R. 12973, for modification of the Chinese-exclusion law—to the Committee on Immigration and Naturalization.

Also, petition of the Federated Trades Council of Sacramento, Cal., for a fair trial for Charles Moyer, W. D. Haywood, and G. A. Pettibone—to the Committee on the Judiciary.

By Mr. HEFLIN: Paper to accompany bill for relief of W. R. Hall—to the Committee on War Claims.

By Mr. HEPBURN: Petition of ladies of the Presbyterian Church of Greenfield, Iowa, on the subject of polygamy, for a constitutional amendment abolishing polygamy—to the Committee on the Judiciary.

By Mr. HOUSTON: Paper to accompany bill for relief of N. B. Rees—to the Committee on Invalid Pensions.

By Mr. JAMES: Paper to accompany bill for relief of estate of T. J. Pritchett—to the Committee on War Claims.

By Mr. JENKINS: Petition of citizens of the District of Columbia, that jurisdiction of the circuit courts of the United States, under section 629 of the Revised Statutes of the United States, shall be extended to controversies between them and the citizens of the States—to the Committee on the Judiciary.

By Mr. KELIHER: Petition of the Sorosis Club and National Council of Women in the United States, for legislation against child labor in the District of Columbia—to the Committee on the District of Columbia.

By Mr. KENNEDY: Paper to accompany bill for relief of Evan Wyman—to the Committee on Invalid Pensions.

By Mr. LEVER: Paper to accompany bill for relief of Minnie C. O'Connor—to the Committee on Pensions.

Also, paper to accompany bill for relief of Sallie E. Blanding—to the Committee on Pensions.

By Mr. LINDSAY: Petition of the National Council of Women of the United States, favoring bills S. 50 and H. R. 4462 and 6001, relative to child labor in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of the Powers-Weightman-Rosengarten Company, for bill H. R. 17453—to the Committee on Ways and Means.

Also, petition of the Empire Repair Company, for bill H. R. 5821 (pilotage)—to the Committee on the Merchant Marine and Fisheries.

By Mr. LITTAUER: Paper to accompany bill for relief of William M. Harris—to the Committee on Invalid Pensions.

By Mr. MOON of Tennessee: Paper to accompany bill for relief of W. L. Tyler—to the Committee on Invalid Pensions.

By Mr. PUJO: Paper to accompany bill for relief of Mary A. Riley—to the Committee on Pensions.

By Mr. SULLIVAN of New York: Petitions of the Fay & Bowen Engine Company, the Henry & Wright Manufacturing Company, the Northern Engineering Works, the General Compressed Air House Cleaning Company, the Peerless Motor Car Company, and Coe's Wrench Company, against the metric system (bill H. R. 8988)—to the Committee on Coinage, Weights, and Measures.

Also, petition of the Weller Manufacturing Company, against the metric system (bill H. R. 8988)—to the Committee on Coinage, Weights, and Measures.

Also, petition of the National Metal Trades Association and the Merchant Marine League of the United States, for the Gallinger shipping bill (S. 529)—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the Woman's Sixteenth Street Improvement Association, for the Meridian Hill Park—to the Committee on the District of Columbia.

Also, petition of E. K. Whitehead, of Denver, Colo., against the time increase on cars in the shipment of live stock—to the Committee on Interstate and Foreign Commerce.

Also, petition of J. M. Peters, for the pure-food bill, relative to certain modifications of the same—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Typothetæ of New York City, against the anti-injunction bill—to the Committee on the Judiciary.

Also, petition of the National Druggists, against the pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of Mrs. James Henry Parker, president of New York Chapter, United Daughters of the Confederacy for a national military park of battlefields around Petersburg, Va.—to the Committee on Military Affairs.

Also, petition of the National Metal Trades Association, for the Gallinger shipping bill—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the National Council of Women of the United States, for bills S. 50 and H. R. 4462 and 6001 (child-labor bills, District of Columbia)—to the Committee on the District of Columbia.

Also, petition of the Powers-Weightman-Rosengarten Company, for bill H. R. 17453—to the Committee on Ways and Means.

By Mr. TAYLOR of Ohio: Petition of J. C. McCoy, of the Woman's Relief Corps, No. 56, for bill H. R. 14419—to the Committee on Invalid Pensions.

By Mr. WILEY of Alabama: Petition of the Baltimore Times, against Government printing names and addresses on stamped envelopes—to the Committee on the Post-Office and Post-Roads.

SENATE.

TUESDAY, *April 10, 1906.*

Prayer by the Chaplain, Rev. EDWARD E. HALE.

The Journal of yesterday's proceedings was read and approved.

CHAPLAIN FOR WASHINGTON BARRACKS.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting a letter from Right Rev. Henry Y. Satterlee, D. D., bishop of Washington, suggesting the advisability of the appointment of a chaplain for Washington Barracks, D. C., at which post is stationed a battery of engineers who are without any provision for religious service or teaching; which, with the accompanying paper, was referred to the Committee on Military Affairs, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed the following bills:

S. 3292. An act to incorporate the Great Council of the United States of the Improved Order of Red Men;

S. 4168. An act to correct a typographical error in act approved July 1, 1898, entitled "An act to vest in the Commissioners of the District of Columbia control of street parking in said District;"

S. 4262. An act to amend the provision in an act approved March 3, 1899, imposing a charge for tuition on nonresident pupils in the public schools of the District of Columbia; and

S. 4426. An act to amend section 927 of the Code of Law for the District of Columbia, relating to insane criminals.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 10074. An act in relation to contracts with the District of Columbia;

H. R. 14513. An act to prevent the giving of false alarms of fires in the District of Columbia;

H. R. 16954. An act providing for the reappraisement of certain suburban lots in the town sites of Port Angeles, Wash;

H. R. 17217. An act to amend an act entitled "An act to establish a Code of Law for the District of Columbia," regulating proceedings for condemnation of land for streets; and

H. R. 17838. An act to regulate the employment of child labor in the District of Columbia.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the Vice-President:

S. 5521. An act to authorize the Tyronza Central Railroad Company to construct a bridge across Little River in the State of Arkansas; and

H. R. 10480. An act for the relief of certain settlers upon land within the indemnity limits of the present St. Paul, Minneapolis and Manitoba Railway Company.

PETITIONS AND MEMORIALS.

Mr. FRYE presented a petition of Merrymeeting Grange, Patrons of Husbandry, of Bowdoinham, Me., praying for the enactment of legislation to remove the duty on denaturized alcohol; which was referred to the Committee on Finance.

Mr. NELSON presented a petition of Merwin M. Carleton Camp, No. 4, Minnesota Society, Army of the Philippines, of St. Paul, Minn., praying for the enactment of legislation to provide special medals for all officers and enlisted men who served beyond the time of their enlistment to help suppress the Philippine insurrection; which was referred to the Committee on Military Affairs.

Mr. PLATT presented a petition of sundry citizens of Wyoming County, N. Y., praying for the removal of the internal-revenue tax on denaturized alcohol; which was referred to the Committee on Finance.

He also presented a petition of Empire Council, No. 28, Junior Order United American Mechanics, of Greenport, N. Y., and a petition of Loyal Council, No. 75, Daughters of Liberty, of New York, N. Y., praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

Mr. PENROSE presented a memorial of McKees Rocks Division, No. 201, Order of Railway Conductors, of McKees Rocks, Pa., remonstrating against the passage of the so-called "Hepburn railroad rate bill;" which was ordered to lie on the table.

He also presented petitions of the Village Improvement Association, of Doylestown; of the Woman's Culture Club of Connellsville; of Harmonia Circle, of Lebanon, and of the Teachers' Club of Carlisle, all in the State of Pennsylvania, and of the Wheaton Club, of New York City, N. Y., praying that an appropriation be made for a scientific investigation into the industrial conditions of women in the United States; which were referred to the Committee on Education and Labor.

He also presented petitions of Mountain Echo Council, No. 134, of Hazleton; of Barbara Fritchie Council, No. 84, of Shenandoah, and of Colonel T. M. Bayne Council, No. 103, of Bellevue, all of the Daughters of Liberty, in the State of Pennsylvania, praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

Mr. DILLINGHAM presented petitions of the Woman's Christian Temperance Union of Danville, of John S. Brown, of Brattleboro, and of W. G. Eastman, of Washington, all in the State of Vermont, praying for the enactment of legislation to remove the duty on denaturized alcohol; which were referred to the Committee on Finance.

He also presented petitions of the Woman's Club of White River Junction; of the Shakespeare Club, of Lyndonville; of the Woman's Club of Brattleboro; of the Woman's Club of Lyndonville, and of the Progressive Club, of Rutland, all in the State of Vermont, praying that an appropriation be made for a scientific investigation into the industrial conditions of women in the United States; which were referred to the Committee on Education and Labor.

Mr. BURKETT presented petitions of sundry citizens of White Cloud, Kans., praying for the enactment of legislation to authorize the issue of patents in fee simple to the allottees

of the Sac and Fox Indians in that State; which were referred to the Committee on Indian Affairs.

He also presented a petition of sundry citizens of Santee, Nebr., praying for the enactment of legislation to remove the duty on denaturized alcohol; which was referred to the Committee on Finance.

Mr. ELKINS presented a petition of Lewis Wetzel Lodge, No. 355, Brotherhood of Railroad Trainmen, of Parkersburg, W. Va., praying for the enactment of legislation to restrict immigration, and also for the passage of the so-called "anti-injunction bill;" which was referred to the Committee on Immigration.

He also presented an affidavit to accompany the bill (S. 5428) granting a pension to Lucretia L. Flick; which was referred to the Committee on Pensions.

REPORTS OF COMMITTEES.

Mr. KEAN, from the Committee on Claims, to whom was referred the bill (S. 5560) for the relief of Matthew J. Davis, reported it without amendment, and submitted a report thereon.

Mr. DILLINGHAM. In behalf of the Committee on Immigration, I report back adversely the joint resolution (H. J. Res. 132) permitting the waiving of the alien immigration law in the case of Fannie Diner, which came over from the House of Representatives. I move that the joint resolution be postponed indefinitely.

The motion was agreed to.

Mr. BURKETT, from the Committee on Claims, to whom was referred the bill (S. 171) for the relief of the Omaha National Bank, reported it with amendments, and submitted a report thereon.

JUVENILE COURTS.

Mr. PLATT, from the Committee on Printing, reported the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That there be printed and bound in cloth for the use of the State Department 1,000 copies of the report on "Children's Courts in the United States," House Document 701, Fifty-eighth Congress, second session, with additional pages giving a revised list of the States which have adopted juvenile courts and probation laws.

PUNISHMENT FOR HAZING AT NAVAL ACADEMY.

Mr. PLATT, from the Committee on Printing, to whom was referred the following concurrent resolution of the House of Representatives, reported it without amendment, and it was considered by unanimous consent, and agreed to:

Resolved by the House of Representatives (the Senate concurring), That there be printed 5,000 copies of the hearings before the subcommittee of the Committee on Naval Affairs of the House of Representatives, Fifty-ninth Congress, at the United States Naval Academy, Annapolis, Md., on the subject of hazing at the Naval Academy, with accompanying report, 3,500 copies for the House of Representatives and 1,500 for the Senate.

USELESS PAPERS IN THE EXECUTIVE DEPARTMENTS.

Mr. PETTUS. From the Joint Select Committee on the Disposition of Useless Papers in the Executive Departments, I submit a report to accompany House Document No. 593, relative to the disposition of useless papers in the Treasury Department, and ask that it be printed.

The VICE-PRESIDENT. The report will be printed.

BILLS INTRODUCED.

Mr. PENROSE introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 5607) granting an increase of pension to George R. Holt; and

A bill (S. 5608) granting an increase of pension to Joseph Andelfinger.

Mr. PENROSE introduced a bill (S. 5609) for the relief of Annie E. White Shipp and the heirs of Patrick White; which was read twice by its title, and referred to the Committee on Claims.

Mr. GALLINGER introduced a bill (S. 5610) relative to the conveyance of certain land in the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. RAYNER introduced a bill (S. 5611) granting a pension to Elizabeth B. Preston; which was read twice by its title, and referred to the Committee on Pensions.

Mr. CLARK of Montana introduced a bill (S. 5612) granting a pension to Hannah Geneva Miller; which was read twice by its title, and, with the accompanying papers, referred ot the Committee on Pensions.

Mr. FLINT introduced a bill (S. 5613) for the relief of Solon Bryan; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

Mr. BURROWS introduced a bill (S. 5614) for the relief of the widow of Harrison S. Weeks; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. McENERY introduced a bill (S. 5615) for the relief of Adolph Hartiens; which was read twice by its title, and referred to the Committee on Claims.

Mr. MONEY introduced a bill (S. 5616) authorizing a license and permit to the Corinth and Shiloh Electric Company to construct a track or tracks through the Shiloh National Park, and to operate electric cars thereon; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Military Affairs.

He also introduced a bill (S. 5617) for the relief of the estate of R. H. Hoffman; which was read twice by its title, and referred to the Committee on Claims.

Mr. BACON introduced a bill (S. 5618) for the relief of the estate of Frances Richardson, deceased; which was read twice by its title, and referred to the Committee on Claims.

Mr. WARNER introduced a bill (S. 5619) for the relief of Mary Christopher, heir of Lowell G. Spaulding, deceased; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

He also introduced the following bills; which were severally read twice by their titles, and, with the accompanying papers, referred to the Committee on Pensions:

A bill (S. 5620) granting an increase of pension to Jacob Reichard;

A bill (S. 5621) granting an increase of pension to Frederick Buehrle;

A bill (S. 5622) granting an increase of pension to John Dixon;

A bill (S. 5623) granting an increase of pension to Nicholas M. Hawkins; and

A bill (S. 5624) granting an increase of pension to Rees J. Lewis.

Mr. ELKINS introduced a bill (S. 5625) for the relief of Nancy Shiflett and Malinda Curtis, heirs of Mariah Dodrill, deceased; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Claims.

He also introduced a bill (S. 5626) for the relief of J. B. Johnson; which was read twice by its title, and referred to the Committee on Claims.

He also introduced a bill (S. 5627) for the relief of Alexander P. Hart, heir of Joseph Hart, deceased; which was read twice by its title, and referred to the Committee on Claims.

Mr. McCREARY introduced a bill (S. 5628) granting a pension to Joel Sparks; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 5629) for the relief of Sarah K. T. Baker; which was read twice by its title, and referred to the Committee on Claims.

He also introduced a bill (S. 5630) to correct the military record of William Riley; which was read twice by its title, and referred to the Committee on Military Affairs.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. FLINT submitted an amendment proposing to fix the compensation of the United States district attorney for the southern district of California at $4,500 per annum, intended to be proposed by him to the sundry civil appropriation bill; which was referred to the Committee on the Judiciary, and ordered to be printed.

He also submitted an amendment proposing to fix the compensation of the United States marshal for the southern district of California at $4,000 per annum, intended to be proposed by him to the sundry civil appropriation bill; which was referred to the Committee on the Judiciary, and ordered to be printed.

He also submitted an amendment proposing to appropriate $200,000 for the removal of the quarantine station at San Diego, Cal., etc., intended to be proposed by him to the sundry civil appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. PENROSE submitted an amendment proposing to increase the compensation of the messenger in the office of the Assistant Quartermaster, Marine Corps, Philadelphia, Pa., from $840 to $1,200 per annum, intended to be proposed by him to the naval appropriation bill; which was referred to the Committee on Naval Affairs, and ordered to be printed.

Mr. ELKINS submitted an amendment proposing to appropriate $12,500 for indexing public documents, bills, and hearings during the sessions of the Senate, intended to be proposed by him to the legislative, executive, and judicial appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

REGULATION OF RAILROAD RATES.

Mr. MALLORY. I submit a proposed amendment to the rate bill, which I ask may lie on the table and be printed.

Mr. GALLINGER. Let it be read, Mr. President.

The VICE-PRESIDENT. The proposed amendment will be read at the request of the Senator from New Hampshire.

The amendment was read and ordered to lie on the table and to be printed, as follows:

After the word "jurisdiction," at the end of line 9, on page 11, strike out the period and insert a comma in its place and add the following: "and pending any original suit or proceeding, in a court of competent jurisdiction, to modify or suspend said order, by any person whose rights are affected by said order, the rate, regulation, or practice prescribed thereby shall remain in full force and effect, until adjudged unlawful by a final decree or judgment rendered in such suit or proceeding."

THE ISLE OF PINES.

Mr. MORGAN. I ask to have reprinted a paper which I hold in my hand, being "The Isle of Pines (Caribbean Sea), its situation, physical features, inhabitants, resources, and industries," with maps prepared in the Office of Insular Affairs, War Department, and printed at the Government Printing Office.

There being no objection, the order was agreed to, as follows:

Ordered, That the pamphlet entitled "The Isle of Pines (Caribbean Sea), its situation, physical features, inhabitants, resources, and industries," be reprinted.

ABATEMENT OF NUISANCES IN THE DISTRICT OF COLUMBIA.

Mr. PETTUS. I desire to withdraw the motion I entered yesterday evening for a reconsideration of the vote by which the bill (H. R. 4461) to provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District, and for other purposes, was passed.

The VICE-PRESIDENT. The Senator from Alabama withdraws the motion entered by him to reconsider the vote by which House bill 4461 was passed, and the bill stands passed.

POST-OFFICE SUPPLIES AND MAIL MATTER.

The VICE-PRESIDENT. The Chair lays before the Senate a resolution coming over from yesterday, which will be stated.

The SECRETARY. Senate resolution No. 114, by Mr. CLAY, calling upon the Postmaster-General for certain information regarding the weight of mails, etc.

Mr. HANSBROUGH. I offer the following amendment, to come after the word "Departments," in line 10:

Also what were the receipts for the last fiscal year from mail of the second class and the approximate cost to the Government of carrying the same.

I have consulted with the Senator from Georgia, and he agrees to accept the amendment.

Mr. CLAY. I accept the amendment.

The amendment was agreed to.

The resolution as amended was agreed to.

HOUSE BILLS REFERRED.

The following bills were severally read twice by their titles, and referred to the Committee on the District of Columbia:

H. R. 10074. An act in relation to contracts with the District of Columbia;

H. R. 14513. An act to prevent the giving of false alarms of fires in the District of Columbia; and

H. R. 17217. An act to amend an act entitled "An act to establish a code of law for the District of Columbia," regulating proceedings for condemnation of land for streets.

H. R. 16954. An act providing for the reappraisement of certain suburban lots in the town sites of Port Angeles, Wash., was read twice by its title, and referred to the Committee on Public Lands.

H. R. 17838. An act to regulate the employment of child labor in the District of Columbia was read twice by its title.

Mr. GALLINGER. While the bill relates to the District of Columbia, it is a matter dealing with the question of labor, and, as the Committee on the District of Columbia has a great number of bills before it, I move that the bill be referred to the Committee on Education and Labor.

The motion was agreed to.

REGULATION OF RAILROAD RATES.

Mr. TILLMAN. I ask that the unfinished business be laid before the Senate and proceeded with.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission.

Mr. BAILEY. Mr. President——

Mr. CLAPP. Will the Senator from Texas yield to me for a moment?

Mr. BAILEY. Certainly.

Mr. CLAPP. I desire to give notice that at the conclusion of the remarks of the Senator from Texas I shall ask leave to call up the conference report on the bill (H. R. 5976) to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory, and for other purposes.

Mr. BAILEY. Mr. President, when I first asserted on the floor of the Senate that Congress possesses the power to prevent Federal courts from suspending by preliminary injunction the orders of the Interstate Commerce Commission, most of those who challenged that assertion attempted to draw a distinction between the power of Congress over proceedings in equity and the power of Congress over proceedings at law, and they contended that there was some peculiar sanctity about the equity power of even an inferior Federal court which removes it beyond legislative limit and control.

It was an easy task to expose the fallacy of that contention, and I could answer all that was urged in its behalf by simply repeating the plain language of the Constitution. Every intelligent layman could readily be brought to understand that, as the judicial power is extended to all cases in "law and equity" in the same clause of the same sentence, and in exactly the same words, the power over the one must, by every rule of sound construction, be exactly the same as the power over the other. I did not for one moment apprehend that many intelligent men could be misled by that shallow and unfounded distinction; but it is nevertheless a great satisfaction to know that it has now been completely and unconditionally abandoned. The Senator from Wisconsin [Mr. SPOONER] in the course of his speech repudiated it in the most explicit terms when he said:

I agree that, so far as the power of Congress over the inferior courts of the United States is concerned, there is probably no distinction between the courts of equity and the courts of law. I do not see that there is. If the Congress can destroy one, directly or indirectly, I see no reason why it might not destroy the other.

Thus, Mr. President, I am relieved from the necessity of consuming the time of the Senate in discussing this distinction between the power of Congress over proceedings in equity and the power of Congress over proceedings at law, although in the beginning of this controversy that seemed to be the point of main reliance on the part of those who differed with me.

The Senator from Wisconsin [Mr. SPOONER] has also conceded, and in that concession the Senator from Pennsylvania [Mr. KNOX] has joined him, that I am right, and that I am sustained by an unbroken line of decisions rendered by the Supreme Court of the United States in declaring that all inferior Federal courts derive their jurisdiction from the laws of Congress and not from the Constitution. Both of those distinguished Senators, however, insist that there is a vital distinction between the judicial power of the Government and the jurisdiction of its courts, and upon that distinction they predicate their entire argument.

In order that the Senate may know that I have not misunderstood and that I have not misstated the position of those Senators, I will read the very words in which they tender the issue between us. The Senator from Wisconsin states it thus:

My proposition is: That when the Congress confers *jurisdiction* upon the inferior courts of the United States over any one of the cases or controversies enumerated by the Constitution the judicial power *ex necessitate rei* goes with it, including the instrumentalities which inhere in the jurisdiction and are necessary to its efficient exercise.

The Senator from Pennsylvania [Mr. KNOX], approving the distinction made by the Senator from Wisconsin [Mr. SPOONER], restates it in a no less definite form, as follows:

I am constrained, however, to say that, in arriving at a correct solution of this question, it is necessary to have constantly in mind the distinction between the judicial power of the United States and the jurisdiction of the Federal courts, as prescribed by the Constitution and laws of the United States.

Mr. President, I do not belong to that class of men who think they can answer every distinction made by their opponents in debate by inveighing against the advocate's habit of drawing distinctions. In fact, sir, I rather delight in the mental exercise of satisfying my own mind, and of trying to satisfy the minds of those who hear me, that things which are similar are not necessarily identical, and, in my opinion, no mental quality is more valuable than that which enables us to perceive and to point out just and proper distinctions.

But, sir, I must confess that the lawyers' subterfuge of continually striving to—

Distinguish and divide
A hair 'twixt south and southwest side.

has gone far toward justifying the complaint so often uttered by the Senator from South Carolina [Mr. TILLMAN] and others like him against what they are pleased to call the endless and confusing wrangles of the lawyers. I recognize the right of those who ought to be guided by our knowledge of the law to complain when we bewilder them with useless refinements instead of leading them into "the gladsome light of jurisprudence."

If, however, the Senator from Wisconsin and the Senator from Pennsylvania have succeeded in establishing a distinction

between the judicial power of the Government and the jurisdiction of its courts as those terms are involved in this debate, they have rendered the Senate and they have rendered the country a valuable service, and I hasten to acknowledge that they are entitled to the credit of having been the first to understand and to apply that distinction to a matter of this kind.

But, sir, if I can demonstrate, as I believe I can, that the distinction which they have invented has no relation to the question which we now have under consideration, their best friends must realize that they have made a grave mistake in creating a doubt as to the constitutional power of Congress to do that which all men admit in justice and in reason ought to be done.

JUDICIAL POWER AND JURISDICTION.

At certain times and under certain circumstances it is entirely proper to speak of judicial power rather than of jurisdiction. When the fathers came to establish this Government and to divide it into legislative, executive, and judicial departments, they aptly selected the term "judicial power" to describe the capacity of the new Government to hear and determine all of the cases and controversies subject to its decision. It is also true that ordinarily and correctly we use the term jurisdiction to describe the power which Congress has authorized the courts of its creation to exercise. In this sense, but only in this sense, there is a distinction between judicial power and jurisdiction.

What is judicial power? It has been so often defined by text writers and by the courts that it is our own fault if we permit ourselves to be confused about its meaning. The Senator from North Carolina [Mr. OVERMAN] read to the Senate one of the clearest and most accurate definitions of judicial power that can be found in the books, but, instead of relying on it, I shall accept the definition proposed by the Senator from Wisconsin. The definition which he gives is taken from the work of Judge Miller on the Constitution, and I do not think it subject to any fair objection.

Certainly the Senator from Wisconsin can not object because the passage which I intend to use is precisely the one which he has used, and I shall use it in exactly the same connection. In fact, sir, the Senator from Wisconsin prefaced his quotation from Judge Miller with the same question which I am now asking. "What," said he, "is the judicial power of the Constitution?" and then he proceeds to answer his own question with the following quotation. Pretermitting that part of it which is unnecessary and coming to the precise point which the Senator sought to emphasize, Judge Miller said:

It—

The judicial power—

is the power of a court to decide and pronounce a judgment and carry it into effect between persons and parties who bring a case before it for decision.

This quotation from Judge Miller is not essentially different from the definition of all other respectable authorities. They all concur in saying that judicial power is the power to hear and decide, the power to pronounce a judgment and to carry that judgment into effect.

What is jurisdiction? "The power to hear and determine a cause is jurisdiction," said the Supreme Court of the United States in the case of the United States *v.* Arredondo. Mr. Bailey, in his excellent work entitled "The Jurisdiction of the Courts," defines it as

the power to hear and determine the subject-matter in controversies between parties to a suit, and to adjudicate or exercise any judicial power over them. Bracton defines jurisdiction to be the authority to judge or to declare the law between parties brought into the courts. It was said by Ryan, Chief Justice, in Pierce, 44 Wisconsin, that this definition has never been bettered and probably never would be, and is of universal authority.

Bouvier, in his great work, which is accepted as authoritative by every court in the land, defines jurisdiction—

to be the power to hear and determine a cause, the right of a judge to pronounce a sentence of the law on a case or suit brought before him acquired by or through due process of law.

These are almost the same words in which Judge Miller defines judicial power, and there is absolutely no difference between them in principle or in effect. I could multiply these definitions until I had exhausted the patience of the Senate and they would all tend to establish that there is no distinction between the judicial power of the Government and the jurisdiction of its courts when those terms are considered with reference to a proposition like the one now before the Senate.

But, Mr. President, suppose I admit that there is a distinction between the judicial power of the Government and the jurisdiction of its courts even with respect to a question like the one under debate, that distinction, sir, so far from supporting the position of the Senators from Wisconsin and Pennsylvania, must produce upon any unbiased mind precisely the opposite effect. They describe the right of the Government to hear and determine disputes as its judicial power, and they describe the jurisdiction of its courts as the right which Congress has conferred upon those courts to hear and determine certain cases. They confess that the court has no power to act in any given case until Congress has authorized it to do so, but they insist that when Congress has given a court the power to act at all, the Constitution then gives it the power to act beyond the limit of the law and up to the limit of the Constitution.

To state it in another way, they contend that while the court can do nothing without the authority of Congress, yet when Congress gives it authority to do anything, it then has the right to do everything which, under the Constitution, Congress might authorize it to do. It is difficult to believe—although I must believe it, because both Senators have argued that it is true—that intellects like those of the Senators from Wisconsin and Pennsylvania can embrace a doctrine so obviously fallacious. Even under their distinction between the judicial power and jurisdiction, judicial power is the whole power of the Government to hear and determine cases, while jurisdiction is only so much of that power as Congress has conferred upon the courts; and yet these distinguished Senators declare that when Congress confers jurisdiction, which is less than judicial power, it confers by necessary implication judicial power, which is more than jurisdiction. That is an absurdity in logic as well as in law.

I have long been familiar with the rule of construction which holds that when we confer the larger power, we include, by necessary implication, the smaller power; but it was reserved for the Senators from Wisconsin and Pennsylvania to declare the novel and dangerous rule that when we confer the smaller power we include the larger power by necessary implication. If that reasoning, sir, is rorrect, and if it is to become a rule of action in this country, we must not only rewrite our law books but we must revise our school books as well. Our professors must hereafter teach our children, not the old rule, that the whole includes all of its parts, but must teach them this new rule, that every part includes the whole. It will not be easy, Mr. President, to persuade the people of this country to accept such a process of ratiocination, and it finds no sanction anywhere except in the speeches delivered by the Senator from Wisconsin and the Senator from Pennsylvania; while an abundant and a conclusive refutation of it can be found in the legislation of Congress and in the decisions of our highest court.

LEGISLATIVE PRECEDENTS.

The judiciary act of 1793 affirmed the power of Congress to do what I am now proposing. That act denied what is now called "the inherent power of the court to issue injunctions," and it prohibited the granting of any injunction without notice to the adverse party or his attorney. That act also prohibited the issuance of any injunction, with or without notice, preliminary or final, to restrain proceedings in State courts; and that, Mr. President, with a slight modification, has been the law of this Republic from its earliest days. It is still the law, and it is found in the Revised Statutes of the United States as section 720. It reads:

SEC. 720. The writ of injunction shall not be granted by any court of the United States to stay proceedings in any court of a State, except in cases where such injunction may be authorized by any law relating to proceedings in bankruptcy.

The Senator from Wisconsin sought to evade the force of that legislative precedent by citing certain decisions, where the Supreme Court of the United States had sustained the right of inferior Federal courts to issue injunctions. I do not charge that the Senator from Wisconsin intended to be uncandid with the Senate, but I do say that the citation of those cases in support of the argument which he was then making, and the language which he employed, was well calculated to mislead all who were not familiar with the facts in those particular cases. After quoting section 720, which I have just read to the Senate, the Senator from Wisconsin declared:

But the Supreme Court of the United States has decided more than once that, notwithstanding this plain prohibition to prevent friction between the courts of the United States and of the States, it possesses power to enjoin proceedings in the State courts *not in bankruptcy*, where such injunction is essential to the protection and exercise of its jurisdiction and to the giving effect to its decrees.

The Senator from Wisconsin italicized the words "not in bankruptcy," so as to show that the cases to which he referred were not within the exception of the act. To say that, "notwithstanding this plain prohibition," the courts had granted the injunction, might mean that the Supreme Court had held that injunctions could be granted contrary to the provisions of that law, and this would seem to imply a doubt as to the constitutional power of Congress over the subject. As a matter of fact, the Supreme Court neither expressed nor intimated any such opinion. The court did not cast by way of any sugges-

tion the shadow of a doubt upon the power of Congress to enact that law; and it simply held that Congress had not intended to cover such cases as the one at bar.

In order to make it plain that I am not mistaken about this I beg to read from the first of these cases exactly what the court did say; and as the other cases were decided upon the authority of the first, what applies to this of course applies to both of the others. Did the court doubt the power of Congress to pass a law forbidding injunctions to stay proceedings in State courts? Listen:

The prohibition in the judiciary act against the granting of injunctions by the courts of the United States touching proceedings in State courts has no application here. The prior jurisdiction of the court below took the case out of the operation of that provision.

Thus the court by every fair inference and intendment affirmed the power of Congress to forbid the issuance of an injunction, preliminary or final, in cases where, without the statute, it would have been competent for the Federal courts to have enjoined the proceedings.

That is not the only instance in which Congress has asserted this power. We have now, as a part of the Revised Statutes, section 3224, which reads as follows:

SEC. 3224. No suit for the purpose of restraining the assessment or collection of any tax shall be maintained in any court.

Does anybody doubt that the courts might, upon a bill alleging precisely what they will allege against the Commission rate—that the complainants' property was about to be taken without due process of law—enjoin such action in the absence of that statute? But will any lawyer say that, in the face of that statute, the court can issue an injunction?

The Senator from Wisconsin smiles as though he dissents. It is well for him to smile now, for he will quit smiling before I am through with this argument.

Mr. SPOONER. Yes; I know. That does not surprise me, for I have already read it in the newspapers. But what I rose to call the attention of the Senator to was this, that this is a provision in the internal-revenue tax law, and if the Senator will read the concluding section he will find that in the very same act Congress provides an adequate remedy at law.

Mr. BAILEY. And we are going to do the same thing in this act.

Mr. SPOONER. If the Senator will permit me, as I do not mean to interrupt him often——

Mr. BAILEY. The Senator is welcome to interrupt me.

Mr. SPOONER. The Senator will find that to be a proceeding to all intents and purposes against the Government because it is in relation to the collection of a tax, and the power of Congress over it is largely plenary. But when the Government is sued in the matter of taxation, it is obviously true that is a question for the Government to say.

Mr. BAILEY. Mr. President, that argument will not answer, because the very fact that they incorporated this provision in the law shows that they understood that an officer of the Government could be restrained by injunction except for that provision.

It is true that immediately following this provision Congress has provided for a way in which the citizen may recover or escape unjust taxation by applying to the Commissioner of Internal Revenue, and from him on to the court; and so we have provided for a way to determine what is a just railroad rate by applying to a commission of experts authorized to settle that matter; and all we want to do is to keep the courts off of that commission until the courts have heard all the facts and are ready to decide the case. That is a less extreme exercise of the power to prevent an injunction than that embodied in section 3224.

INJUNCTION AGAINST WORK OF A COMMISSION FORBIDDEN.

But, Mr. President, that is not the only case. I have here a section taken from the act of 1898, and it may surprise some Senators that such a law could have passed the Congress without being understood. What will the Senator say to this? This is a provision in the act of 1898 allowing certain appeals from the United States courts in the Indian Territory directly to the Supreme Court of the United States.

Appeals shall be allowed from the United States courts in the Indian Territory direct to the Supreme Court of the United States to either party, in all citizenship cases, and in all cases between either of the Five Civilized Tribes and the United States involving the constitutionality or validity of any legislation affecting citizenship, or the allotment of lands, in the Indian Territory, under the rules and regulations governing appeals to said court in other cases: *Provided*, That appeals in cases decided prior to this act must be perfected in one hundred and twenty days from its passage; and in cases decided subsequent thereto, within sixty days from final judgment; but in no such case shall the work of the Commission to the Five Civilized Tribes be enjoined or suspended by any proceeding in, or order of, any court, or of any judge, until after final judgment in the Supreme Court of the United States.

That act was passed upon by the Supreme Court of the United States, and the lawyers in that case did not think to raise this question about the power of Congress to restrain the injunctive process of the courts.

Mr. SPOONER. Will the Senator allow me to ask him a question?

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from Wisconsin?

Mr. BAILEY. With great pleasure.

Mr. SPOONER. Does the Senator from Texas contend that any part of the judicial power of the United States was vested in the courts of the Indian Territory?

Mr. BAILEY. I do not; but that act does not limit the power of the courts in the Indian Territory alone; it limits every court to which a limitation by Congress can apply. It says "by *any proceeding* in, or order of, *any court* or any judge until after final judgment in the Supreme Court of the United States."

Mr. KNOX. Mr. President——

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from Pennsylvania?

Mr. BAILEY. I do.

Mr. KNOX. May I ask the Senator a question?

Mr. BAILEY. Certainly.

Mr. KNOX. Did not the Supreme Court of the United States, in upholding the constitutionality of that law, this being the Dawes Commission act, as I understand——

Mr. BAILEY. Yes.

Mr. KNOX. Decide in Stevens *v.* Cherokee Nation that the reason why that proceeding was permissible, or the qualifications upon the proceeding was permissible, was because it was not dealing with any vested rights belonging to anyone else, but was dealing with a matter over which Congress had the supreme and dominant control, and therefore it was within the power of Congress to make any regulation affecting this remedy of appeal that it saw fit.

Mr. BAILEY. The statement of the Senator from Pennsylvania does not meet my contention. The court held that the various acts of Congress committing certain matters to the decision of the Dawes Commission in the first instance, and afterwards to the courts of the United States for the Indian Territory, was constitutional, because they were dealing with a matter over which Congress had plenary power. But that does not go to the question as to the power of Congress to forbid the obstruction of its laws by the injunctive processes of its courts, as was done in the section to which I have just called the attention of the Senate.

Mr. KNOX. Mr. President——

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from Pennsylvania?

Mr. BAILEY. I do.

Mr. KNOX. I think, however, that the Senator will find that what I have stated in relation to the decision of the court is correct; that it was based upon the ground that no vested rights were being interfered with by the act of Congress. I am perfectly familiar with the case and perfectly familiar with the statute which was construed by the case, and I discarded it as worthless because I have always been of the opinion that the territorial courts could not exercise any part of the judicial power of the United States; that it is not competent for Congress to vest any part of the judicial power of the United States in the territorial courts, and therefore Congress may do as it pleases with its processes and with its practice and with its jurisdiction.

Mr. BAILEY. I do not intend to be drawn away from the point I have under discussion by that suggestion because it only goes to the question as to the power of Congress to pass the antecedent laws. The Supreme Court held in the Stevens *v.* Cherokee Nation case that this act only authorized it to consider the constitutionality of the prior laws. The Supreme Court, in passing upon the constitutionality of those prior laws, upheld them upon the ground indicated by the Senator from Pennsylvania, but in this very act that authorizes it to determine the constitutionality of former acts, Congress inserted this limitation upon the injunctive processes of the courts.

It does not say that the courts in the Indian Territory shall not have the power, but it says—

In no such case shall the work of the Commission to the Five Civilized Tribes be enjoined or suspended by *any proceeding* or order of *any court*.

That is as broad as the universe, or certainly as broad as Congress can make it. I repeat that the lawyers, although assailing the constitutionality of the whole scheme of legislation, did not think it worth their while to say that this act was unconstitutional because it limited the power of the courts to issue an injunction. An injunction against what? Not against a

State proceeding, but an injunction against a Federal commission—the Dawes Commission to the Five Civilized Tribes.

THE ANTI-INJUNCTION BILL.

But, Mr. President, while we have no instance in which the Congress has more directly asserted the power than this, we have a more recent instance as to the opinion of the Senate. I have here a bill reported to the Senate by Senator Hoar on May 23, 1902, and substantially the same bill passed the House of Representatives by a practically unanimous vote. This bill was reported to the Senate without a protest from any member of the Judiciary Committee. Beginning in the seventh line of the bill as it passed the House and the sixth line as it was reported to the Senate, we find this language:

Nor shall any restraining order or injunction be issued with relation thereto.

That bill came to the Senate with the unanimous approval of the Judiciary Committee of this body, at the head of which then stood the Senator from Massachusetts, Mr. Hoar, and next to him on the Republican side stood the Senator from Connecticut, Mr. Platt. The Democratic membership of the Senate was represented on that committee by the Senator from Georgia [Mr. BACON], the Senator from Alabama [Mr. PETTUS], the Senator from Washington [Mr. TURNER], the Senator from Texas [Mr. CULBERSON], and the Senator from Kentucky [Mr. BLACKBURN].

Mr. ALDRICH. Mr. President——

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from Rhode Island?

Mr. BAILEY. I do.

Mr. ALDRICH. Justice to the memory of Senator Platt of Connecticut requires me to say that he did not join in that report.

Mr. BAILEY. The Senator is mistaken about the bill. He doubtless refers to what was known as the Hill bill.

Mr. ALDRICH. I am not mistaken about the bill. I remember perfectly well this bill and its history, and the Senator from Connecticut, although he may not have made a minority report, did not join in the favorable report on that bill. He was distinctly opposed to it at all times and everywhere.

Mr. BAILEY. I do the memory of the late Senator from Connecticut greater honor than does his friend and neighbor, the Senator from Rhode Island [Mr. ALDRICH]. Knowing him as I did, I am confident that, if he had believed that bill contrary to the Constitution, he would have filed a minority report, if only in a word. The Senator from Connecticut was opposed to what was known as the old anti-injunction bill or the bill providing for a trial by jury in certain cases of contempt.

WRIT OF HABEAS CORPUS LIMITED.

Mr. President, the right to issue the writ of habeas corpus has been limited. Congress has not only asserted its power to deny to the courts the right to issue injunctions, both preliminary and final, but Congress has asserted its power to abridge the right of the courts to issue even the great writ of liberty. The provision relating to the writ of habeas corpus is contained in the first judiciary act. It provides:

That all the before-mentioned courts of the United States shall have power to issue writs of scire facias, habeas corpus, and all other writs not specially provided for by statute which may be necessary for the exercise of their respective jurisdictions and agreeable to the principles and usages of law. And that either of the justices of the Supreme Court, as well as judges of the district courts, shall have power to grant writs of habeas corpus for the purpose of an inquiry into the cause of commitments: *Provided*, That writs of habeas corpus shall in no case extend to prisoners in goal unless where they are in custody under or by color of the authority of the United States, or are committed for trial before some court of the same, or are necessary to be brought into court to testify.

There Congress asserts its power to abridge the right of the court to issue the great writ of liberty, a writ so sacred in the history of our race that the Constitution makers deemed it worth their while to write it in the Constitution that it should never be suspended "unless when in case of rebellion or invasion the public safety may require it." Yet in the face of that provision the first Congress that assembled under the Constitution, a Congress composed in part of the very men who had written that guaranty against its suspension into the charter of our liberties—provided that it should not be issued except in certain cases. That remained the law for nearly eighty years, and until the act of the 5th of February, in 1867, when Congress extended, as it might have done in the beginning, the privilege of that great writ to men held under any jurisdiction contrary to the Constitution, the laws, or the treaties of the United States.

The Senator from Wisconsin does not forget one of the most famous cases in the annals of our judicial history, which arose out of the act of February 5, 1867. William H. McArdle was the editor of a Mississippi newspaper, and a man with the courage of his convictions. He had denounced in unmeasured terms the misdeeds of the reconstruction government there, for which he was arrested by a military tribunal and charged with an offense against the reconstruction acts of Congress. He sued out a writ of habeas corpus before the circuit judge. The circuit judge decided against him and remanded him to the custody of the military authorities. From that judgment of the circuit court he appealed to the Supreme Court of the United States, where he was met with a motion to dismiss the appeal. Upon elaborate argument the Supreme Court of the United States denied the motion to dismiss the appeal, and the case was then argued upon its merits. Between the argument and the decision it became apparent that the Supreme Court would discharge McArdle from the custody of the military authorities; and in that state of the case, when the jurisdiction of the Supreme Court had attached on appeal, when the case had been argued twice, first upon a motion to dismiss the appeal and again upon its merits, Congress passed an act repealing the appellate jurisdiction of the Supreme Court given by the act of February 5, 1867. The President of the United States vetoed the repealing act of Congress, but Congress passed it over the President's veto, and the Supreme Court of the United States was compelled to dismiss the McArdle appeal for want of jurisdiction.

The Senator from Wisconsin in a colloquy with the Senator from Maryland said this is the chaos of anarchy for which we are contending. If he wants an example of anarchy he will find it in the McArdle case. Argued, and practically decided, Congress prevented the judgment of the court from being put into a legal form by repealing the authority under which the court had heard the case.

WRIT OF MANDAMUS LIMITED.

Mr. President, not only has Congress asserted its right to limit the power of the court in issuing this great writ of liberty, but it has also asserted its right, in the section which I have read, to control the courts in the issuance of all other writs known to the common law. The Senator will find there that Congress authorized the courts to issue writs of mandamus in certain cases, and then he will find the decisions of the courts in which they hold that they could issue writs of mandamus in no other cases. What is the writ of mandamus? The Senator from Wisconsin has told the Senate what it is, and I want to use not only the quotation which he makes from the court, but his own words as well. The Senator says:

The writ of mandamus at the common law was a high prerogative writ.

And so it was.

It has become in later years—

Said he, and then he follows with a quotation from the books—

more and more assimilated to an ordinary remedy to the use of which the parties are entitled as of right. It was in this sense that Taney, Chief Justice, characterized it in modern practice as nothing more than an action at law between the parties. It is still an extraordinary remedy at law in the same sense that injunction is in equity.

The Senator says there is no difference between the power of Congress over courts of law and courts of equity. The Senator says the writ of mandamus is to the law what the writ of injunction is to equity. I point him to the law of Congress restraining the issuance of the writ of mandamus according to its wisdom, and I shall later point him to the decisions of the court in which so great a judge as Marshall himself has said that the writ of mandamus could only issue in accordance with the statutory provision of Congress.

RIGHT TO PUNISH CONTEMPT LIMITED.

Mr. President, Congress has exercised its power over a still more essential function of the court; I do not say inherent, because there are no inherent powers in Federal courts. The duty of the Federal courts is not to make the law, but to obey it as Congress has made it. I will not occupy my time in discussing that question, because the Senator from Mississippi [Mr. MCLAURIN] in his speech on yesterday left nothing further to say upon it.

Congress has exercised the right to abridge the power of all Federal courts to punish for contempt. If there is one power more fundamental and more essential to a court than all others, it is the power to punish for contempt. Judge Field said in the case of Ex parte Robinson that it is inherent; that the very creation of the court conferred upon it the power to punish for contempt; and yet Judge Field sustained in that very case the right of Congress to abridge that power.

The Senator from Wisconsin and no other Senator will assail the act of 1831. The Senator from Wisconsin and no other Senator will impeach the wisdom or the justice of that act. It grew out of an abuse of its power by an inferior court, an abuse that so far as the debates show was confined almost exclusively to Judge Peck, of Missouri. He exercised in an ar-

bitrary and outrageous manner the summary power to punish an attorney of his court for contempt, for which he was impeached. He was not convicted, but his misbehavior left such an impression upon the fair-minded and liberty-loving men in both House of Congress that the act of 1831 was the result of his misconduct.

If Congress, when one judge abuses his power to punish for contempt, can limit and restrict that power, in God's name can it be said that Congress has no power to restrict the right of injunction when it has been abused by so many Federal judges?

The Senator from Pennsylvania is of course familiar with the decision which he will permit me to call to his attention. It is a decision rendered at the Pennsylvania circuit by Judge Baldwin, under the act of 1831, and here is what the learned Justice said about the power of Congress in that respect:

As this is an inferior court, within the provisions of the Constitution, it is created by the laws with such powers—

Not jurisdiction, but—

with such powers only as Congress has deemed it proper to confer, among which is this, "and to punish by fine or imprisonment, at the discretion of said courts, all contempts of authority in any cause or hearing before the same." (I. Laws U. S. 63, act of 1789.)

The act of 1831 must be taken to be the declared construction of this and all other laws, limiting its operation in the manner prescribed and as generally considered. Congress is to this court what the Constitution is to the Supreme Court, their acts must be construed on the same principles and operate as constitutional amendments which is to give such construction to the original act, as if the jurisdiction had never been given.

Justice Baldwin held in that case, as Justice Field held in the later case, that the act of 1831, limiting and defining contempts of court, and abridging the right of the court to punish in many cases, was a valid and constitutional exercise of power.

The Senator from Wisconsin, after referring to the Robinson case decided by Judge Field, then calls the attention of the Senate to the Debs case, and says the court declared in that case that the power to punish summarily is inherent. The court did say that, just as the court had said the same in the Robinson case, and still the court sustained the act of 1831.

When the decision in the Debs case was made, the country believed that the judges were exercising—I will not say usurping, but I will say that the judges were exercising—a dangerous and an arbitrary power which might be abused to the injury of the citizens' liberty, and immediately following that decision bills were introduced in both Houses of Congress to protect the public against the exercise of such a power in the hands of a single man.

The bill in the Senate was introduced and managed by Senator Hill of New York. That bill passed this body without a division, and but one man lifted his voice in opposition to it. That was the Senator from Connecticut, Mr. Platt, and yet time and again he declared that he was not opposed to the principle of the bill, but protested that it was being pressed for passage in the closing hours of the session, when only a bare quorum of Senators were in the city. He moved to postpone it to the next session, and his motion was voted down by a vote of 30 to 1. Then followed a call of the Senate, in order to establish the presence of a quorum, and when a quorum appeared that bill was passed through this body without a division.

As it was first reported from the Judiciary Committee it divided all cases of contempt into direct and indirect. It allowed the court to punish summarily the direct contempts, but it provided that indirect contempts should be tried by a jury upon the application of the offender and in the discretion of the court. In the open Senate they struck out, without division, that part of the bill which left it to the discretion of the court whether the offender should be tried by a jury, and passed the bill with the right of trial by jury made absolute upon the demand of the accused. Thus, Mr. President, the Senate, by a practically unanimous vote, and without a minority report from the committee, passed, without a division in the Senate, a bill depriving the Federal courts of the power to punish for certain contempts and committing that great and, as Judge Field calls it, inherent power to the juries of the country.

Mr. President, a melancholy reflection follows the reading of this debate. It reminds us of the certainty of death and the uncertainty of politics. Of the Senators who participated in that discussion, all have passed from among us save one. The great Senator who opposed it has been gathered to his fathers. The great Senator who championed it, in the shifting fortunes of parties, has retired from the public service. One after another they have gone—some have returned to private life, while some have followed each other to "where beyond these voices there is peace." The only one left who participated in that debate is the Senator from Georgia [Mr. BACON], and on that occasion I rejoice to say he was contending for the right of Congress to limit the power of the courts.

But, Mr. President, if the legislative history of the country affords an abundant justification for the amendment which I have offered, the decisions of the courts are still more conclusive. Before I proceed to examine the decisions upon that question, however, I desire to review the cases which have been cited by the Senator from Wisconsin and the Senator from Pennsylvania. The Senator from Wisconsin cites as the first case upon which he relies an extract from Judge Story's opinion in the famous case of Martin *v.* Hunter's Lessee.

JUDGE STORY'S ESSAY.

I need not tell the Senator from Wisconsin, and I need not tell other Senators, that the extract which he quotes was foreign to the question decided in that case. The point at issue there was not the power of the court to act independently of or contrary to what Congress had provided, because Congress had incorporated into the first judiciary act the very power which the court then sought to exercise.

That case is familiar history. It is one of the celebrated causes. An appeal came from an inferior Virginia court, through the supreme court of that State, to the Supreme Court of the United States. The Supreme Court of the United States reversed the decision of the supreme court of Virginia; but the supreme court of Virginia declined to execute the mandate of the Supreme Court of the United States, and in its order declining stated that the appellate jurisdiction conferred by the judiciary act upon the Supreme Court over judgments of the highest courts of the States was in derogation of the Constitution. The point at issue in that case was not whether Congress must give all the power which it could give to the Federal courts, but whether Congress could give the power which it had given.

In that state of the case, Judge Story delivered the opinion which contains the famous essay which the Senator from Wisconsin read. An essay is all it is. It had no relation to the question to be decided in that case. But the distinguished jurist indulged himself in a habit which was all too frequent with him of incorporating his political tenets into his judicial opinions.

The Senator from Wisconsin says that although there was a dissenting opinion in that case, there was no dissent from the point which Judge Story announced in the portion of the opinion which he quoted. The Senator from Wisconsin is a great lawyer; he is an accurate student; but even great Homer sometimes nods, and the Senator from Wisconsin erred most grievously in that statement. There was a dissent in that case from the very doctrine which he quotes from the opinion of Judge Story.

Perhaps the Senator from Wisconsin, being so familiar with the doctrine, did not think it worth his while to closely read the opinion again before invoking it, for otherwise it could not have escaped him that Justice Johnson did dispute the very proposition of Judge Story which the Senator from Wisconsin quotes as authority for his position. And what makes the Senator's oversight more remarkable still is that when Judge Story came to write his book on the Constitution, he undertook to answer the very criticism which Justice Johnson had made in the dissenting opinion which he delivered in the case of Martin *v.* Hunter's Lessee.

The Senator from Wisconsin also quotes from the opinion of Justice Baldwin in Ex parte Crane to sustain his view that Congress can not choose but confer upon Federal courts all the powers which the Constitution permits it to confer. The Senator from Wisconsin said:

It is said by Mr. Justice Baldwin in Ex parte Crane—

"Though the courts of the United States are capable of exercising the whole judicial power as conferred by the Constitution, and though Congress *are bound to provide by law for its exercise in all cases to which that judicial power extends*, yet it has not been done, and much of it remains dormant for the want of legislation to enable the courts to exercise it, it having been repeatedly and uniformly decided by this court that legislative provisions are indispensable to give effect to a power to bring into action the constitutional jurisdiction of the Supreme and inferior courts."

Here, Mr. President, the Senator from Wisconsin fell into another serious lapse for which I am justified in criticising him. When he cited that opinion he cited it in a way to lead any lawyer in the world to suppose that he was reading from the opinion of the court, and yet that extract is from a dissenting opinion. Chief-Justice Marshall delivered the opinion of the court in that case, and this quotation of the Senator is from a dissenting opinion. But waiving all question about that mistake, which I am sure was unintentional, I can not comprehend what comfort the Senator from Wisconsin can find in the extract from this dissenting opinion which he has read. It is true that Justice Baldwin does say that "Congress is bound to provide by law for its exercise in all cases to which that judicial power extends." The Senator prints that statement in italics, strangely overlooking the fact that in the same sentence Justice Baldwin says this has not been done and adds that "much of

it remains dormant for want of legislation to enable the courts to exercise it." This is exactly what I am contending. I maintain that all of the judicial power of the Government remains dormant so far as the inferior courts are concerned until legislation enables them to exercise it.

I shall have occasion to refer to this extract again when I come to show that the courts have always ignored this new and fine distinction between judicial power and jurisdiction, but for the present I pass to the paragraph in that opinion which immediately follows the one quoted by the Senator from Wisconsin, and in which Justice Baldwin frankly declares that the opinion which he expresses about the duty of Congress is not the opinion of the court. Here it is:

> These principles remain unquestioned. They have long been settled, as the judicial exposition of the Constitution, on solemn argument and the gravest consideration; and they are binding on all courts and judges. I shall ever be found among the last to oppose my opinion in opposition to the results of the deliberate judgment of the highest tribunal when thus formed.

The Senator from Wisconsin gave the Senate the benefit of Judge Baldwin's opinion upon the political duty of Congress to invest the court with the whole judicial power of the Government, but he neglected to give the Senate the benefit of Judge Baldwin's admission that the court had not held the same view of the question which he expressed. I do not intend in saying this to insinuate that the Senator from Wisconsin designed to mislead the Senate. My opinion is that he did not himself read the entire opinion carefully.

Another case which the Senator from Wisconsin relies on is the Wheeling Bridge case, in 13th Howard. The Senator quotes a part of the opinion and then he indicates very properly by stars the omission of a part. I want to supply that omission. I want to rub out those stars and write in their place the words of the court.

The Senator read down to "observed," which is the close of a paragraph, and then he omits this:

> In Robinson *v.* Campbell (3 Wheat., 222), it is said: "The court, therefore, think that, to effectuate the purposes of the legislature, the remedies in the courts of the United States are to be at common law or in equity, not according to the practice of State courts, but according to the principles of common law and equity, as distinguished and defined in that country from which we derive our knowledge of those principles."

Mark the admission "that to effectuate the purpose of the legislature" those principles were adopted.

The Senator from Wisconsin omits other matter which could properly be omitted, and concludes his quotation from this opinion in these words:

> Under this system, where relief can be given by the English chancery, similar relief may be given by the courts of the Union.

Above that and next to it is this sentence:

> By the act of Congress of 1828, proceedings at law, in the courts of the United States, are required to conform to the modes of proceeding in the State courts; but there is no such provision in regard to courts of chancery.

Under the act of Congress the law proceedings must conform to the proceedings of State courts, but as no such provision was made in respect to equity, they follow the proceedings of the chancery court of England. The Senator admits that there is no difference between the power of Congress over law and equity. Therefore when the court in this very opinion says that Congress, in the exercise of its power, had conformed the proceedings in courts of law to the proceedings in the several States, it asserts that Congress might have done the same as to proceedings in equity, and it was only because it had failed to include courts of equity in the statute that they were left to administer their justice according to the chancery system of Great Britain.

A DANGEROUS DOCTRINE.

The Senator from Wisconsin, in his eagerness to exalt the courts above the Congress, has announced the most dangerous doctrine ever heard within the four walls of this Senate. He has approved the old obiter dictum in the case of Calder *v.* Bull, where Judge Chase declared that the courts are not limited by constitutions in supervising the action of legislatures, and that they may hold a law void, not because it violates a Constitution, but because it contravenes the court's idea of natural right and justice.

I will ask the Secretary to read this passage from the Senator's speech at length, because I regard it as the most perilous preachment which has been delivered from a seat in the Senate for well-nigh a century.

The VICE-PRESIDENT. The Secretary will read as requested.

The Secretary read as follows:

> Now, Mr. President, that brings me to the Senator's question. There are restrictions in the Constitution upon the exercise by Congress in this particular class of cases, I think, upon the power to restrain courts of equity from issuing interlocutory injunctions. After the adoption of the Constitution, amendments to it were adopted which restrict in many ways the power of Congress as it was conferred by the Constitution itself. Among others is the fifth amendment, which is as follows:
>
> "No person shall be held to answer for a capital or otherwise infamous crime unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces or in the militia when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself; nor be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use without just compensation."
>
> Without that amendment, Mr. President, I should doubt if private property could be taken for public use without just compensation. I do not think it required a constitutional provision to prevent the Congress from enacting a law taking the property of one man and vesting it in another, because that would be violative of fundamental principles which underlie government and which are an essential and vital part of the social compact as we know it.
>
> In a decision of the Supreme Court long ago, the opinion being delivered by Mr. Justice Chase, and being one of great learning, it is declared that, without constitutional restriction, there are acts so abhorrent to natural equity and to every sane man's sense of justice that, although not prohibited by written constitutions, they can not be lawfully done. (See Calder *v.* Bull, 3 Dallas, 387.)

Mr. BAILEY. Mr. President, the opinion to which the Senator refers was delivered upon a controversy that did not involve the disquisition on natural rights which Judge Chase wove into that opinion. Judge Chase himself in beginning this very dissertation admits that the case before the court did not present that question. He introduced the very part of the opinion to which the Senator refers with this statement:

> Whether the legislature of any of the States can revise and correct by law a decision of any of its courts of justice, although not prohibited by the constitution of the State, is a question of very great importance, and not necessary now to be determined; because the resolution or law in question does not go so far.

But he follows that admission that the question was not in the case with an elaborate discussion of the duty of the court in protecting the natural rights of man. There were three opinions read in that case, the one by Judge Chase, another by Judge Patterson, and a third by Justice Iredell, who in my humble opinion has been surpassed in learning, in wisdom, and in patriotism by very few who have served in that exalted station. There can be no comparison between Chase and Iredell. It will be recalled that Chase had so little regard for the rights of men that he was called to the bar of the Senate to answer impeachment charges for the oppressive and arbitrary manner in which he insulted and abused the attorneys of his court.

Justice Iredell, replying to this very argument of Judge Chase, denied it in the most explicit terms and held the true doctrine that the legislative body has the power to do anything not forbidden, in the case of the State, by the constitution and anything permitted, in the case of the General Government, by the Constitution.

I shall not read the passage from the opinion of Justice Iredell in which he combats the argument of Judge Chase because the Senator from Wisconsin did not read the deliverance of Judge Chase. The fact, however, that the Senator from Wisconsin has given the sanction of his name to this dangerous heresy calls for more than a mere reference to it.

The most elaborate consideration that has been given to that subject by any court or by any text writer within my knowledge will be found in Sedgwick's very excellent work on the Constitution and Statutory Construction. For more than 20 pages he examines the question. He reviews the early English cases, in which it was held that the courts might hold a law of Parliament void because they thought it contrary to natural justice. He also reviews the earlier State cases in this country, and this is his conclusion:

> That it is the right and duty of the judiciary to repress and confine the legislative body within the true limits of the law-making power; but that they have no right whatever to set aside, to arrest, or nullify a law passed in relation to a subject within the scope of the legislative authority on the ground that it conflicts with their notions of natural right, abstract justice, or sound morality.

Judge Cooley, in his work on Constitutional Limitations, expresses the same conclusion:

> We have elsewhere expressed the opinion that a statute can not be declared void on the ground solely that it is repugnant to a supposed general intent or spirit which it is thought pervades or lies concealed in the Constitution, but wholly unexpressed, or because, in the opinion of the court, it violates fundamental rights or principles, if it was passed in the exercise of a power which the Constitution confers. Still less will the injustice of a constitutional provision authorize the courts to disregard it, or indirectly to annul it by construing it away. It is quite possible that the people may, under the influence of temporary prejudice, or a mistaken view of public policy, incorporate provisions in their charter of government infringing upon the proper rights of individual citizens or upon principles which ought ever to be regarded as sacred and fundamental in republican government; and it is also possible that obnoxious classes may be unjustly disfranchised. The remedy for such injustice must be found in the action of the people themselves, through an amendment of their work when better counsels prevail. Such provisions, when free from doubt, must receive the same construction as any other.

Lewis, in his work on Eminent Domain, lays down the same doctrine. Referring to the early cases in which it had been held that the States or the General Government would have no power to apply private property to public use without making just compensation, he lays down the doctrine thus:

The idea, however, that the legislature of a State is restrained by limitations which are not to be found in the written Constitution is not founded upon any sound legal or philosophical principles. The later authorities and the better reasoning are against such a view.

Just exactly why the Senator from Wisconsin desired to revive that old conflict of opinion I am not able to see. Is there a settled determination in this country to give to the courts a power which the Constitution intended to lodge with Congress? Is there a deliberate purpose not only to permit but to invite the courts of this country to assume to themselves the right to determine what are the principles of natural right and justice against solemn legislative enactments? I impute no such motive to the Senator from Wisconsin, and yet I must be permitted to say that the time was never so unfortunate as now for the revival and indorsement of such a doctrine. For thirty years the people of this country have been accustomed to seeing the courts exercise arbitrary and extraordinary power; and a new generation of lawyers has come to the bar, who think it treason and who call it anarchy to restrain those powers.

Mr. President, I have no hesitation in saying that if this Government was organized upon a principle which allows one man to abuse or misuse his power and yet denies Congress the right to restrain him, it was founded upon a false principle. I yield to no man in my respect for the courts. To me the judge is a nobler character than the soldier. To me the patient man who, with a clear mind, a brave heart, and clean hands, holds the scales of justice in even balance, is a mightier force for progress and civilization than any warrior who ever rode to victory or death. The judge, patiently deciding the law as the lawmaking power has made it, is to me an inspiration and an example. But if we are to invest the courts with the power not to declare the law as we have made it, but to declare it in opposition to our will, and as it reposes in their own hearts and minds, then, sir, they must in the end reduce all departments of this Government to an absolute dependence on their power.

This is the first Government in the history of the world which ever organized a judiciary department and gave it the power to annul everything that the other departments might do. God knows, that is power enough for any small body of men to exercise. To vest them with the right to judge whether we have kept our oaths to obey the Constitution when we made the law is power enough to give to even that great tribunal without inviting it to look beyond the Constitution and assume our duty to defend and guard the natural rights of men. We are ninety, chosen by the very elect of all the people. They are nine, who receive their appointment from a single man, ratified and confirmed by us. I would not trench upon their power; but I would hold myself unworthy of my station here if I should yield to them a power which the Constitution has confided to Congress.

RIGHT OF EMINENT DOMAIN.

As if to make a specific application to this very case of his doctrine that the court is above both the Constitution and the laws, the Senator from Wisconsin affirms that this Government could not take private property and apply it to a public use without making a just compensation to the owner, even without the fifth amendment to the Constitution. Fortunately I am not left to answer this announcement of the law with such poor arguments as I can deduce from the nature of our Government. Upon this difference of opinion I appeal again to the highest court in all the land and I rest the issue upon their decision. That very question came before the Supreme Court in the case of Boom Company *v.* Patterson, reported in 98 U. S. Justice Field, who delivered the opinion, speaking to this very point, laid down the law as follows:

The position of the company on this head of jurisdiction is this: That the proceeding to take private property for public use is an exercise by the State of its sovereign right of eminent domain, and with its exercise the United States, a separate sovereignty, has no right to interfere by any of its departments. This position is undoubtedly a sound one, so far as the act of appropriating the property is concerned. The right of eminent domain—that is, the right to take private property for public uses—appertains to every independent government. It requires no constitutional recognition; it is an attribute of sovereignty. The clause found in the constitutions of the several States providing for just compensation for property taken is a mere limitation upon the exercise of the right.

The next was a Wisconsin case, reported in 109 U. S., 513, under the style of U. S. *v.* Jones, and the opinion could not be more directly in point. That part relating to this particular question is as follows:

The position of the counsel of the United States in the court below, as we understand it, was substantially this: That the power vested in the Federal Government to take private property for the public uses of the United States is, in its nature, exclusive, and its exercise by any State is therefore prohibited as completely as though the prohibition were expressed in terms; that the power can not, therefore, be delegated to the State of Wisconsin; that the ascertainment of the compensation is involved in the exercise of the power as a necessary part of it, in as much as there can be no lawful taking until compensation is made, and that the act of Congress transferring to the State board and State court the function of ascertaining the value of the property taken and the amount of compensation to be made is therefore invalid.

There is, in this position, an assumption that the ascertainment of the amount of compensation to be made is an essential element of the power of appropriation; but such is not the case. The power to take private property for public uses, generally termed the right of eminent domain, belongs to every independent government. It is an incident of sovereignty, and as said in Boom *v.* Patterson, 98 U. S., 106, requires no constitutional recognition. The provision found in the fifth amendment to the Federal Constitution, and in the constitutions of the several States, for just compensation for the property taken, is merely a limitation upon the use of the power. It is no part of the power itself, but a condition upon which the power may be exercised. It is undoubtedly true that the power of appropriating private property to public uses vested in the General Government—its right of eminent domain, which Battel defines to be the right of disposing in case of necessity and for the public safety of all the wealth of the country—can not be transferred to a State any more than its other sovereign attributes; and that, when the use to which the property taken is applied is public, the propriety or expediency of the appropriation can not be called in question by any other authority. But there is no reason why the compensation to be made may not be ascertained by any appropriate tribunal capable of estimating the value of the property. There is nothing in the nature of the matter to be determined which calls for the establishment of any special tribunal by the appropriating power. (United States *v.* Jones, administrator, and others. In error to the supreme court of the State of Wisconsin. U. S. Reports 109, pp. 518–519.)

Mr. President, the Senator from Pennsylvania [Mr. KNOX] though less elaborate, was not less in error on this question than the Senator from Wisconsin [Mr. SPOONER]. In all the authorities which he quotes, except the Michigan case, it is simply the expression of a text-book writer upon the law as it exists and not upon the law as it could be made by Congress. The Michigan case itself does not decide this contention in favor of the Senator from Pennsylvania. I call the Senator's attention to that case, and he will find that the syllabus, after announcing the points which are decided by the court, then states that certain propositions deducible from Judge Campbell's opinion, thus practically saying that they are merely the dicta of the judge.

If the Senator from Pennsylvania, with his great industry and legal attainments, had looked a little closer home, he could have found a case more in point. In 69 Pennsylvania State Reports the question of the power of the legislature to distribute the judicial power of the Pennsylvania constitution arose. It seemed to be so obvious that a district attorney refused to execute the law. The matter finally reached the supreme court of that State, and I direct the attention of the Senator from Pennsylvania to this declaration in the opinion:

The constitution having neither defined nor limited the jurisdictions of the courts named in the constitution—

My recollection is that the constitution of Pennsylvania not only provided by name for a supreme court, but provided by name for certain inferior courts as well, and therefore the case is all the stronger:

The Constitution having neither defined nor limited the jurisdictions of the courts named in the Constitution, or of those to be afterwards established, the power to create new courts and new law judges carried with it the power to invest them with such jurisdictions as appear to be necessary and proper.

Now, let us see how the Pennsylvania judge distinguishes between jurisdiction and judicial power. He has used the word "jurisdiction" in the line which I have just read, and then goes on:

And to part and divide the judicial powers of the State so as to adapt them to its growth and change of circumstances—

is within the power of the legislature. Not to give jurisdiction, and let jurisdiction give judicial power; but the Pennsylvania court says it is competent for the legislature *to part and divide the judicial power* of that State; and its constitution in that respect was stronger than our own, because it named, in addition to the supreme court, certain inferior courts which were to be established.

The Senator from Pennsylvania quotes from certain text-book writers as to what the law of equity jurisprudence is, but he seemed to forget that those text-book writers in every case but one were discussing the law as it is; and the law is as it is because Congress has made it so. If the Senator will consult the case of Robinson against Campbell, in 3 Wheaton, he will find that very question discussed. I believe I will take a moment to show the Senator why it is that text-book writers lay down the law as they do. In almost a page of the opinion in Robinson against Campbell the court discusses the equity law of the United States:

It is material to consider whether it was the intention of Congress by these provisions to confine the courts of the United States in their

mode of administering relief to the same remedies, and those only, with all their incidents, which existed in the courts of the respective States. In other words, whether it was their intention—

Whose intention? Not of the Constitution, but of the Congress—

In other words, whether it was their intention to give the party relief at law, where the practice of the State courts would give it, and relief in equity only when, according to such practice, a plain, adequate, and complete remedy could not be had at law. In some States in the Union no court of chancery exists to administer equitable relief. In some of those States courts of law recognize and enforce, in suits at law, all the equitable claims and rights which a court of equity would recognize and enforce; in others all relief is denied, and such equitable claims and rights are to be considered as mere nullities at law. A construction, therefore, that would adopt the State practice in all its extent, would at once extinguish, in such States, the exercise of equitable jurisdiction. The acts of Congress have distinguished between remedies at common law and in equity, yet this construction would confound them. The court, therefore, think that to effectuate the purposes of the legislature the remedies in the courts of the United States are to be at common law or in equity, not according to the practice of State courts, but according to the principles of common law and equity, as distinguished and defined in that country from which we derive our knowledge of those principles.

That case involved the question whether they should administer equitable relief in the State according to the State practice, and as some of the States had no equitable relief then it became a vastly important one. Through all of that decision the object of the court was, to ascertain the intention of the Congress. Their final conclusion was that they would best conform to that intention by a certain construction of the law, and they followed that. Now, if Congress had no power to make it otherwise, it would have been a waste of time to argue that the law should be construed one way or the other. If the judicial power is what the Senator from Pennsylvania and the Senator from Wisconsin assert it to be, then the Congress has no power to prescribe the law for courts of equity, and therefore it was a waste for the court to consider that question.

But, Mr. President, happily the Senator from Pennsylvania, with that felicity which characterizes the really great lawyer, finally reduces the whole question to a single sentence. Here is where he makes the crucial test, and I accept it as decisive in this debate. He says:

Congress can clearly say *when* the judicial power operating through the circuit courts shall speak, but not *how* it shall speak.

That is exactly my own opinion, and I could not have stated it more concisely. I am willing to leave with the court the right to say how it shall decide these cases; and I only ask Congress to say when it shall decide them. I do not say—and it would be a nullity if Congress were to so say in any statute—that the courts shall decide these cases for the Commission or for the railroads. I ask Congress to exercise no power like that because I know that to be a judicial power. I only ask Congress to say that the courts shall not decide these cases at all until it is ready to decide them right, and, according to the Senator from Pennsylvania, that is a legislative power. I am willing to write it in the law that Congress disclaims the power to say how the court shall decide any case, provided that it also be written that the court shall not decide a case under this law at all until it is ready to decide it right. Does the Senator from Pennsylvania agree to that? If so, probably we can find a way out of this perplexing situation.

Mr. KNOX. Mr. President——

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from Pennsylvania?

Mr. BAILEY. Certainly.

Mr. KNOX. Does the Senator from Texas desire me to answer now or at some future time? It would probably impinge too much on the Senator's time if he should pause for me to answer at present.

Mr. BAILEY. Perhaps, Mr. President, I transgress the proprieties of debate when I invite the Senator by name to answer me.

Mr. KNOX. Then I consider the invitation withdrawn.

Mr. BAILEY. I would of course yield to the Senator for that purpose or for any other purpose.

The Senator from Pennsylvania attaches so much importance to the difference between "when" and "how" that he italicizes both words. I agree with him that it is not competent for Congress to say *how* the court shall decide the case. I only ask him to agree with his own speech and say that it is competent for Congress to say *when* the court shall decide it.

The Senator from Pennsylvania proposes another test by which to settle this question, and upon which I am willing to submit it. He says:

A correct solution of the question mooted is to be arrived at only by keeping in mind the fundamental difference between the jurisdiction of a court and the judicial power which operates and extends over the matters of which it has jurisdiction, which power is itself the life of the court. The creator and life giver of the whole judicial system is the Constitution, and not Congress.

I will confess my error in this argument if I can not show by many decisions that "the creator and life giver" of inferior courts is Congress and not the Constitution. Will the Senator from Pennsylvania confess his error if I do show that? I trust he will be governed by a test which he has himself proposed.

Mr. President, leaving the incidental questions which the Senators from Wisconsin and Pennsylvania have raised, I return now to the decisive question between us—to the distinction between judicial power and jurisdiction; and I pledge myself to produce the authority of eminent text writers and numerous decisions from our highest court which will establish beyond all doubt that such a distinction has no basis in our law when considered in reference to this question. But before I proceed with that, I desire to call the attention of the Senate to the fact that the Senator from Wisconsin, the Senator from Pennsylvania, and other Senators seem to have misconceived the authority under which the inferior courts of the United States are established. They seem to think that Congress establishes those courts under the judiciary clause of the Constitution and under the power implied in the declaration that—

The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish the power to establish courts.

But, sir, if these Senators will turn to the section of the Constitution which enumerates the powers of Congress, they will find amongst those enumerated powers this:

The Congress shall have power to constitute tribunals inferior to the Supreme Court.

And yet the Senators seem to think that though Congress had the power to pass the law constituting these inferior tribunals, it would have no power to repeal it. I declare, without the slightest hesitation, that Congress can repeal every law on the statute book establishing a tribunal inferior to the Supreme Court of the United States, because every such tribunal was established under this power.

The Senator from Wisconsin says it would be anarchy to do so. I hardly think I would characterize it by a term so strong as that, for there would still be left State courts in which men could vindicate their constitutional and legal rights. I remember that almost the first act of Jefferson's Administration was to repeal what was known as the "midnight judge's law." They repealed the act of the Adams's Administration which created seventeen additional United States judges, and turned them adrift without an office and without a district. Whether Congress could deprive those judges of their right to compensation after they had been appointed is another question; but that it could repeal the act creating their offices and defining their districts is absolutely beyond all question.

It will not do to urge that a power does not exist because it might be abused. The Senator from Wisconsin will not deny that Congress has the power to declare war; and if it were to declare war to-day against every nation in the world, however wrongful the exercise of that power would be, the constitutionality of it would be indisputable. If Congress, without sufficient cause, should declare war against every nation on the globe, the people of this land would scourge us from the high places which we had disgraced—would withdraw from us the great trust we had betrayed; and still the reckless act declaring war against all nations would be the law of the land until repealed.

The Congress of the United States can, by its proper vote, repeal every criminal law upon the statute book. To do so would approach dangerously close to anarchy, but no man could successfully contend that the repealing act was beyond the power of Congress. Mr. President, as every inferior court of the United States was created by an act of Congress they can all be destroyed by an act of Congress, and their jurisdiction, or, if you choose to use the other term, their judicial power, can be limited by an act of Congress. The power to create and the power to destroy must, in the nature of things, include the power to limit and control.

But, sir, I need not detain the Senate with an inquiry as to whether or not Congress can destroy these courts. However conclusively I may think that can be established by argument, it has never been before the courts, and I prefer to confine myself to the cases which have been decided.

THE TEXT-BOOKS AGREE.

Before going to the decisions of the courts I want to read from the text writers on this subject. Their opinions are uniform. First, I want to read from Judge Story, whose opinion in the Martin case the Senator from Wisconsin described as illuminating. Judge Story himself thought well of that opinion, and he incorporated an extended extract from it in his work on the Constitution of the United States—wonderful piece of argumentation, to write an opinion and include in it an essay,

then write a book and include in it the opinion containing the essay, thus having the essay to support the opinion and the essay to support the book—and yet within three pages of where Judge Story ended his quotation from the old case of Martin *v.* Hunter's Lessee, he uses these words:

The Constitution has wisely established that there shall be one Supreme Court, with a view to uniformity of decision in all cases whatsoever belonging to the judicial department, whether they arise at the common law or in equity, or within the admiralty and prize jurisdiction, whether they respect the doctrines of mere municipal law, or constitutional law, or the law of nations. It is obvious that if there were independent supreme courts of common law, of equity, and of admiralty, a diversity of judgment might, and almost necessarily would spring up, not only as to the limits of the jurisdiction of each tribunal, but as to the fundamental doctrines of municipal, constitutional, and public law. The effect of this diversity would be that a different rule would or might be promulgated on the most interesting subjects by the several tribunals; and thus citizens be involved in endless doubts, not only as to their private rights, but as to their public duties. The Constitution itself would or might speak a different language, according to the tribunal which is called upon to interpret it; and thus interminable disputes might embarrass the administration of justice throughout the whole country. But the same reason did not apply to the inferior tribunals. Theses were, therefore, left entirely to the discretion of Congress as to their number, their jurisdiction, and their powers.

"It was left," says Judge Story, "entirely to the discretion of Congress as to the number, the jurisdiction, and the power of the inferior courts." What is the power of a court? Judicial power, of course. They tell us that the courts can exercise no other; and I agree to that. Therefore, when Judge Story talks about leaving the powers of the court to the discretion of Congress he means, and could only mean, judicial powers.

Here is Cooley's small but very excellent work on the "Principles of Constitutional Law." What does he say?

But, although the Constitution extends the power—

Not the jurisdiction, mark you—

But, although the Constitution extends the power to cases specified it does not make complete provision for its exercise, except in the few cases of which the Supreme Court is authorized to take cognizance. For other cases it is necessary that courts shall be created by Congress, and their respective jurisdictions defined; and in creating them Congress may confer upon each so much—

Jurisdiction? Oh, no.

So much of the judicial power of the United States as to its wisdom shall seem proper and suitable, and restrict that which is conferred at discretion.

It seems as if he might have foreseen that some mind would be so subtle as to invent the distinction upon which the Senators from Wisconsin and Pennsylvania are now insisting.

Mr. HALE. Will the Senator allow me to interrupt him?

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from Maine?

Mr. BAILEY. Will the Senator allow me to finish this quotation? It is only 3 lines more.

Mr. HALE. Yes.

Mr. BAILEY. Judge Cooley continues:

In doing so it may apportion among the several Federal courts all the judicial power of the United States, or it may apportion a part only, and in that case what is not apportioned will be left to be exercised by the courts of the States.

Now I yield to the Senator from Maine.

Mr. HALE. I have listened with great interest, and I think with profit, to the fundamental proposition of the Senator from Texas, that as to inferior courts established under the law, Congress must have the same power with reference to their action and with reference, if need be, to their abolition that it had in creating them. My mind runs with the Senator upon that point. I do not accept the doctrine of the inviolability of an inferior court created by Congress under the Constitution as being beyond all control by Congress afterwards; otherwise the provision that Congress shall establish inferior courts must be limited to the one Congress that establishes those courts. I believe that the power to regulate and control their processes, their life even, rests with Congress. In that I agree with the Senator.

I rose mainly to get light upon a larger question. I enjoyed the conservative argument of the Senator upon his cardinal proposition; I did not fully enjoy his impassioned declaration and the setting, to use his own language, of the ninety men here against the nine men of the Supreme Court; and I wish to ask the Senator, without seeking to commit him to any proposition upon what is, I believe, the overshadowing and overmastering question in connection with this subject—the final jurisdiction of the court—whether, in any way, what he has said is to be considered as committing himself against the broadest final review by the courts of all questions under the Constitution and laws that arise in any given case? I go with the Senator in the preliminary stage that we may limit and control and adjust the operations of the inferior courts, but I hope that the Senator, in arraying, as I thought he did, in very eloquent and impassioned language, the nine men against the ninety, did not mean to be considered as in any way committing himself against the broadest final review under the Constitution and law by the Supreme Court.

Mr. BAILEY. Mr. President, the Senator from Maine misunderstood, though it must have been my fault, what I meant by contrasting the ninety with the nine. I was only insisting that the judgment of ninety men with intellect and character enough to be chosen Senators upon any question of natural right and justice is to be preferred over the judgment of any nine men. That was the whole purpose for which I made that comparison, and before I conclude I shall express myself upon the other question raised by the Senator from Maine.

My friend, the Senator from Wisconsin, quoted Judge Miller, whose reputation he said had added to the just fame of the Supreme Court of the United States. I concur in that eulogy of Justice Miller, and I hope the Senator from Wisconsin will accept the doctrine of his book. Judge Miller says, on page 335 of his work on the Constitution of the United States:

Therefore it was that immediately after the organization of the Government Congress did create courts, define their constitution, and regulate their administration. It is, however, a noteworthy fact that up to within a very few years a large body of this judicial power—

Not jurisdiction—

a large body of this judicial power which is within the control of Congress under these provisions of the Constitution was vested in no court at all, and consequently could not be exercised by a Federal court.

Judge Miller says that a large part of the *judicial power* was not vested by Congress in any court, and, therefore, that a large part of the *judicial power* could not be exercised by any court.

That doctrine goes further than I have gone, though not further than I am perfectly willing to go. I am only asserting that the courts can not proceed in the face of a prohibition. Judge Miller, Judge Cooley, and Judge Story all assert they can not proceed without the permission of Congress.

Curtis, in his Commentaries, lays down the same doctrine:

So, also, it has been held that the circuit courts in the several States have no power to issue a mandamus to an officer of the United States, although a mandamus is a common-law process to compel the performance of an official duty.

The Senator from Wisconsin declares that a mandamus is the same to the common law that an injunction is to a court of equity; and he is correct. Mandamus is the arm of the common law, just as injunction is the arm of a court of equity. Curtis says:

So, also, it has been held—

And he might have added it has been held repeatedly—

that the circuit courts of the several States have no power to issue a mandamus to an officer of the United States, although a mandamus is a common-law process to compel the performance of an official duty. But, at the same time, it appears also to have been held that the authority to issue this writ is within the scope of the judicial power of the United States; that it has not been communicated to the circuit courts in the several States, but that it is possessed by the circuit court for the District of Columbia as a court of general common-law powers.

I shall refer later on to the very cases in which it was so held, in one of which Chief Justice Marshall delivered the opinion of the court.

Finally, I have here Conkling's work on the United States courts, and the doctrine is not stated anywhere more accurately than it is in this work.

The principle is this: That the circuit courts possess no powers—

Not jurisdiction—

except such as both the Constitution and the acts of Congress concur in conferring upon them.

Nothing could be more accurate than that. The circuit courts can exercise no power not conferred by Congress. Congress can confer no power not authorized by the Constitution. Therefore the statement that the Congress and the Constitution must concur in conferring the power.

"In other words, to enable them to act in any given case, it is not sufficient that such case falls within the scope of the judicial power of the United States, as declared in the Constitution, unless jurisdiction over it has been conferred by some act of Congress. Nor, on the other hand, is it sufficient that the case is thus embraced within some legislative act, unless it also appears that it belongs to one of the classes or descriptions of cases enumerated in the Constitution.

This important doctrine, though under one of its aspects, particularly, it has been strenuously contested, is now definitely settled upon the most stable basis.

He lived and wrote before the Senators from Pennsylvania and Wisconsin had delivered their remarkable speeches.

THE SUPREME COURT DECIDES.

Mr. President, I come now to the decisions of the court, and before presenting the cases on which I rely I will recur for a moment to the case of ex parte Crane for the purpose of showing that this attempted distinction between judicial power and jurisdiction is not more clearly negatived in any of the cases

than it is in the very extract which the Senator from Wisconsin read from the opinion of Justice Baldwin in that case. It will be remembered that I called especial attention to the fact in another connection that the Senator from Wisconsin had printed in italics Justice Baldwin's declaration that "Congress is bound to provide by law for its exercise in all cases to which that judicial power extends." It will also be remembered that I emphasized for another purpose that in the very same sentence, a part of which the Senator from Wisconsin has emphasized by italics, Justice Baldwin admits that Congress had not provided by law for the exercise of the judicial power to its utmost limit, and he added that "much of it remains dormant for the want of legislation to enable the courts to exercise it." In every line which the Senator from Wisconsin quoted from that opinion it is made manifest that Justice Baldwin did not take into acount any distinction between jurisdiction and judicial power.

The first case directly on this point is that of Turner *v.* Bank of North America, reported in 4 Dallas, and decided by Chief Justice Ellsworth, who, as I now recall, was a member of the committee which framed the first judiciary act, and was also, I believe, a member of the convention which framed the Constitution. While this case was being argued at the bar, one of the counsel pursued precisely the same line of argument that has been pursued by the Senator from Wisconsin and the Senator from Pennsylvania. It was a Pennsylvania lawyer of great distinction and scholarship who tried to impose upon the court in that day the same doctrine which the Senator from Pennsylvania is striving to impose upon the Senate in this day. Mr. Rawle said:

> It is, then, to be remarked that the *judicial power* is the grant of the Constitution; and Congress can no more limit than enlarge the constitutional grant.

Rawle insisted that "the judicial power is the grant of the Constitution." While he was making that argument, Judge Chase interrupted him, and the reporter incorporates this interruption of Judge Chase in a footnote:

> The notion has frequently been entertained that the Federal courts derive their *judicial power* immediately from the Constitution, but the political truth is, that the disposal of—

What? Jurisdiction? No.

> But the political truth is that the disposal of the judicial power (except in a few specified instances) belongs to Congress. If Congress has given the power to this court, we possess it, not otherwise; and if Congress has not given the power to us, or to any other court, it still remains at the legislative disposal.

Judge Chase did not say that the courts possess only such *jurisdiction* as Congress has conferred, but he distinctly says that the courts can exercise only such *judicial power* as Congress has given them. Rawle was not arguing that jurisdiction was conferred by the Constitution. The argument at bar and the interruption from the bench were upon the question of the judicial power of the Constitution. That interruption was afterwards repeated and approved by the court.

I will next read to the Senate an extract from the opinion of Chief Justice Marshall in the Bollman case. My friend the Senator from North Carolina [Mr. OVERMAN] brought this case to the attention of the Senate, but it will bear repeating. This was a case in which Bollman and Swartwout were charged with treason and were incarcerated in a prison of the District of Columbia. The lawyers in that case had made this same argument, that the Federal Courts derive their power to issue a writ of habeas corpus from the Constitution. Chief Justice Marshall, in delivering the opinion of the court, uses this language:

> Courts which originate in the common law possess a jurisdiction which must be regulated by the common law until some statute shall change their established principles.

Judge Marshall there recognizes the power of the law-making department to change even the established principles of a court existing under the common law:

> But courts which are created by written law, and whose jurisdiction is defined by written law, can not transcend that jurisdiction. It is unnecessary to state the reasoning on which this opinion is founded, because it has been repeatedly given by this court, and with the decisions heretofore rendered on this point, no member of the bench has, even for an instant, been dissatisfied. The reasoning from the bar in relation to it may be answered by the single observation, that for the meaning of the term "habeas corpus," resort may unquestionably be had to the common law.

The attorney had argued that if he did not go to the common law, he would not be able to determine what a writ of habeas corpus meant.

Chief Justice Marshall was answering that when he said:

> The reasoning from the bar, in relation to it, may be answered by the single observation that for the meaning of the term "habeas corpus" resort may unquestionably be had to the common law. But *the power to award the writ by any of the courts of the United States must be given by written law.*

Will Senators contend that Congress can not restrain the right to issue an injunction, which is a mere writ to preserve a property right, and yet admit the power of Congress to deny the right of the court to issue this great writ of liberty? The Senators from Wisconsin and Pennsylvania say that Congress can not deny the court the right to issue an injunction, but Marshall said that the court can not issue even the great writ of habeas corpus unless authorized to do so by the written law of Congress. He does not, either, overlook the fact that the Constitution provides against its suspension, because in the second paragraph from the one which I have read he declares that the every statute which he was construing was written by men then Members of Congress who had served as members of the convention that had denied the power to suspend the writ of habeas corpus except in cases when the public safety might require it. Yet he proceeds:

> To enable the court to decide on such question the power to determine it must be given by written law. The inquiry, therefore, on this motion will be, whether by any statute, compatible with the Constitution of the United States, the power to award a writ of habeas corpus in such a case as that of Erick Bollman and Samuel Swartwout has been given to this court.

Chief Justice Marshall says that the courts can not award the writ of habeas corpus without statutory authority. The Senators from Wisconsin and Pennsylvania say Congress can not deny the right to issue a preliminary injunction.

I have shown that the court has decided that a writ of habeas corpus can not be issued without the authority of Congress. I now propose to show that it has also decided that a mandamus can not be issued without the authority of Congress. Here is the case of McIntire *v.* Wood, decided in 7 Cranch, in which the court says:

> This court is of opinion that the circuit court did not possess the power to issue the mandamus moved for.

And then, after discussing it, they finally conclude in these words, and I invite particular attention to this expression:

> But although the *judicial power* of the United States extends to cases arising under the laws of the United States, the legislature have not thought proper to delegate the exercise of that power to its circuit courts, except in certain specified cases.

Senators say that Congress has no right to deprive the courts of such a power; but this case says that the courts have no right to exercise it unless Congress has delegated it to them. The question there was the right of a citizen to a writ of mandamus to compel an officer of the United States to perform what was claimed to be a clerical duty. But the court did not inquire whether it was the duty of the officer or not, and said it was excluded from that inquiry because the right to issue the writ of mandamus did not fall within any statute.

In the Bank of Columbia *v.* Oakley (4 Wheaton) occurs this expression, to which I invite attention:

> The forms of administering justice and the duties and powers of courts as incident to the exercise of a branch of sovereign power, must ever be subject to legislative will, and the power over them is inalienable, so as to bind subsequent legislatures.

Not only is it subject to the legislative will, but it must forever remain so.

The next case is McClung *v.* Silliman, reported in 6 Wheaton, and it is the case of McIntire *v.* Wood under a different style. The court in that case said:

> Both the argument of counsel, and the opinion of the court, distinctly show that the power to issue the mandamus in that case was *contended for as incident to the judicial powers of the United States.* And the reply of the court is that though, argumenti gratia, it be admitted that this controlling power over its ministerial officers would follow from vesting in its courts the *whole judicial power of the United States*, the argument fails here, since the legislature has only made a partial delegation of its judicial powers to the circuit courts.

They tried to procure the writ of mandamus in the case of Wood *v.* McIntire in one way and failed. They went back and brought an action in the State court, and the new case finally reached the Supreme Court of the United States, and was disposed of in an opinion which asserts that, although under the judicial power as defined in the Constitution the award of a mandamus in that case could have been authorized, it had not been authorized by any statute and therefore the court had no power to issue it.

The next is the case of Kendall *v.* The United States in 12 Peters. Here the courts says:

> The result of these cases—

They had discussed the cases of McIntire *v.* Wood, of McClung *v.* Silliman, and the old case of Marbury *v.* Madison, which involved the right of the Supreme Court to issue a mandamus as an exercise of original jurisdiction—

> The result of these cases, then, clearly is that the authority to issue the writ of mandamus to an officer of the United States, commanding him to perform a specific act required by a law of the United States, is within the scope of the *judicial powers* of the United States under the Constitution. But that the whole of *that power has not been com-*

municated by law to the circuit courts, or, in other words, that it was then a dormant power, not yet called into action and vested in those courts.

The next case is that of Cary *v.* Curtis, 3 Howard. The Senator from Wisconsin paid me the poor compliment of saying that although I used this case in the original argument, he could see nothing pertinent either in the question decided or in the opinion. I beg his attention while I read it again. Here is the language:

Secondly, in the doctrines so often ruled in this court, that *the judicial power of the United States*, although it has its origin in the Constitution, is (except in enumerated instances, applicable exclusively to this court) dependent *for its distribution and organization, and for the modes of its exercise, entirely upon the action of Congress*, who possesses the sole power of creating the tribunals (inferior to the Supreme Court) for the exercise of the judicial power, and of investing them with jurisdiction, either limited, concurrent, or exclusive, and of withholding jurisdiction from them in the exact degrees and character which to Congress may seem proper for the public good.

They use the words "judicial power" and "jurisdiction" there, as they do in nearly all the cases, as synonymous. If they use the words "judicial power" in the first part of the sentence, for the sake of avoiding a repetition of the same words the next time they use the word "jurisdiction," and if they use the word "jurisdiction" first, for the sake merely of the literary excellence of the opinion, they then use the different words "judicial power" in the second expression. But they use them interchangeably and as synonyms. Further on the court said:

Perfectly consistent with such an admission is the truth, that the *organization of the judicial power, the definition and distribution of the subjects of jurisdiction in the Federal tribunals, and the modes of their action and authority have been, and of right must be, the work of the legislature.* The existence of the judicial act itself, with its several supplements, furnishes proof unanswerable on this point.

The court in this opinion further declares—

The courts of the United States are all limited in their nature and constitution—

You can not find broader words of limitation on a court than these—

and have not the powers inherent in courts existing by prescription or by the common law.

The Senator from Pennsylvania, in the course of his speech, contends that Congress can not deprive inferior Federal courts of what he calls "their inherent function of a court of equity." That is the first objection which he makes to the amendment that I had the honor to offer. Here are his words:

It is not my purpose, Mr. President, to discuss at length the proposition involved in the amendment proposed by the junior Senator from Texas, which raises the question of the power of Congress to prevent the circuit courts of the United States from exercising what I deem to be an inherent function of a court of equity.

Justice Daniel says in this Carey *v.* Curtis opinion that the courts of the United States have no inherent power. Chief Justice Marshall declares the same thing, in effect, in the Bollman case; and I will show that the same doctrine was expressly approved in Fink *v.* O'Neil.

The next case was Sheldon *v.* Sill, and there the court uses this language:

It must be admitted that if the Constitution had ordained and established the inferior courts, and distributed to them their respective powers, they could not be restricted or divested by Congress. But as it has made no such distribution, one of two consequences must result—either that each inferior court created by Congress must *exercise all the judicial powers* not given to the Supreme Court, or that Congress, having the power to establish the courts, must define their respective jurisdictions.

Again I invite the attention of the Senate to the fact that the words "judicial power," the words "the power of the court," and the word "jurisdiction" are used here as perfectly synonymous.

The first of these inferences has never been asserted—

The learned justice had not heard or read the speeches of the Senators from Wisconsin and Pennsylvania when he made that declaration—

and could not be defended with any show of reason, and if not the latter would seem to follow as a necessary consequence. And it would seem to follow, also, that, having a right to prescribe, Congress may withhold from any court of its creation jurisdiction of any of the enumerated controversies. Courts created by statute can have no jurisdiction but such as the statute confers.

Now, listen!

The Constitution has defined the limits of the judicial power of the United States, but has not prescribed how much of it shall be exercised by the circuit courts. Consequently the statute—

The statute—

which does prescribe the limits of their jurisdiction can not be in conflict with the Constitution unless it confers powers not enumerated therein.

Except that I am unwilling to impose upon the patience of the Senate, I would read at length from the argument of counsel in this case. Those lawyers made much the same argument to the court which these Senators are now making to the Senate, and at the risk of being tedious I will repeat a brief extract from their argument.

This judicial power, therefore, to take cognizance of this case, is, by the Constitution, vested in the circuit court, and the plaintiff claims the constitutional right to have his controversy with Mr. Sheldon, living in Michigan, decided by that court. Congress has said, by the provision above referred to, that there are certain controversies between citizens of different States which the United States courts shall not take cognizance of; yet the judicial power of the court extends to them by the Constitution, and citizens of the different States have the right to have that power exercised in their controversies. Where does Congress get the power or authority to deprive the courts of the United States of the judicial power with which the Constitution has invested them? Congress may create the courts, but they are clothed with their powers by the Constitution, and we submit that the provision of the act of Congress materially conflicts with the provisions of the Constitution and is void.

To all of which the court replied then exactly as I am replying now; and again I call attention to the fact that in one place they speak of judicial power, while in another they say "how much of it;" and then in the conclusion they use the word "jurisdiction," plainly referring to the same power of the court as in the expressions which had preceded.

If there could be any doubt on that point, that doubt is removed on the next page of the same opinion where they quote with approval the interruption of Judge Chase in the case of Turner *v.* The Bank of North America and say:

But the court said: "*The political truth is, that the disposal of the judicial power* (except in a few specified instances) *belongs to Congress, and Congress is not bound to enlarge the jurisdiction of the Federal courts to every subject, in every form which the Constitution might warrant.*"

Next, Mr. President, is the Sewing Machine case, and the language of that is just as explicit as it is in the other cases which I have quoted. It declares that—

Circuit courts do not derive their judicial power directly from the Constitution.

The Senator from Wisconsin called particular attention to the statement of the court in the Sewing Machine case that the judicial power has its *origin* in the Constitution. The court said the same thing in Cary *v.* Curtis; and the same is true of all Federal power. If the President of the United States is commanded by a statute to perform a duty, he does not derive his power to act from the Constitution, though that be the source of all Federal power. He derives his power from the statute. Of course, if the statute is repugnant to the Constitution, he may refuse to obey it, and his defense is not that he derives his power from the Constitution, but that the Constitution limits the power of Congress and that Congress in passing that statute had transcended the limits of its power. No governmental power can be exercised by any public officer in this country, except by the President in several instances, unless that power is conferred by statute. All Federal power has its origin in the Constitution, but the Constitution would, in many instances, be a dead letter unless Congress breathed into it the breath of life.

In 1873 Congress passed a law, a very extraordinary law in some respects, looking to the protection of the Government against the Union Pacific Railroad. The constitutionality of that act was assailed upon several grounds and sustained by the court in an opinion, during the course of which they use these words:

The question for decision is, therefore, squarely presented to us, as it was to the circuit court, whether, by the aid of that statute, and within the limits of the power it intended to confer, this bill can be sustained under the general principles of equity jurisprudence.

We say, "by the aid of that statute," because it is conceded on all sides that without it the bill can not stand. The service of compulsory process on a party residing without the limits of the district of Connecticut, who is not found within them, is expressly forbidden by the general statute defining the jurisdiction of the circuit courts. Parties and subjects of complaint having no proper connection with each other are grouped together in this bill, and they, by the accepted canons of equity pleading, render it multifarious. This and other matters of like character which are proper causes of demurrer are fatal to it, unless the difficulty be cured by the statute.

When we recur to its provisions, which are said to authorize these and other departures from the general rules of equity procedure, counsel for the appellees insist that it is unconstitutional, not only in the particulars just alluded to, but that it is absolutely void as affecting the substantial rights of defendants in regard to matters beyond the power of Congress. (United States *v.* Union Pacific R. R. Co., 98 U. S. Reports, pp. 601–602.)

Then follows matter not especially material here, and the court, coming again to this question, says:

The same article declares, in section 1, that this "power shall be vested—

And that is the judicial power—

in one Supreme Court and in such inferior courts as the Congress may, from time to time, ordain."

The discretion, therefore, of Congress as to the number, the character, the territorial limits of the courts among which it shall distribute this *judicial power is* unrestricted except as to the Supreme Court.

I will reread this last sentence:

The discretion, therefore, of Congress as to the number, the character, the territorial limits of the courts among which it shall distribute this *judicial power is* unrestricted except as to the Supreme Court.

And they held this statute which was contrary to the practice and proceedings in equity to be valid in that respect.

I want now to call the attention of the Senate to the case of Fink *v.* O'Neil. That case declares—indeed, decides—that the courts of the United States have no power to issue executions on their judgments except such power be given by the laws of Congress. The court had the power—the jurisdiction, if you prefer it—to read the pleadings, to examine the witnesses, to hear the argument of counsel, to render a judgment, and yet it required an act of Congress to authorize it to execute its own judgment by final process. Will the Senator from Wisconsin and the Senator from Pennsylvania insist that the right to issue a preliminary injunction is more essential to the nature and the constitution of a court than the right to issue a final execution? Its judgment would be a barren right, or as Justice Mathews correctly said, "a right without the means of vindication," unless the court could issue its final process, and yet in the face of that decision which solemnly declares that in the absence of Congressional authority the court has no power to execute its final judgment, these Senators contend that Congress is incompetent to require the court to suspend all judgment until it is ready to render a final one.

That opinion asserts that the court could not render any judgment at all without a statute enabling it to do so, and they held in that very case that the Congressional limitation upon the power to issue an execution defeated a sovereign right. The court said—and the court did not need to say that in order to give every Senator here to know that it is true—that the statute of exemptions could not prevail against the sovereign. But as the court had no power to issue execution at all, except in conformity with the law of Congress, that law of Congress destroyed the right of the sovereign to disregard this privilege of the citizen. And so the effect of that decision, as well as the words of that opinion, is with those who believe that Congress can limit the right to issue an injunction. The court declared that unless they issued execution in accordance with the law of Congress they had no power to issue it at all; but it had not then been advised of this new doctrine promulgated by the Senator from Wisconsin and the Senator from Pennsylvania to the effect that whenever a court has jurisdiction of any case it may issue any writ necessary to the efficient exercise of that jurisdiction notwithstanding the law of Congress.

It is a safe rule of construction to say that if you give a court the power to do a thing you include whatever power is necessary to the doing of that thing. That, however, is included, not under any constitutional command, but under a rule of construction as old as statutes and which Congress has the power to overrule by express enactment. The court in the case of Fink *v.* O'Neil goes further than I have gone and further than it is necessary for me to go in this argument. There the court declares that without the statute it could not execute its own judgment; yet the power to execute its judgment is a most essential power in all courts; there is reason to regard it as more essential even than the power to punish for contempt, because the court might proceed without that power. It would be as turbulent, perhaps, as a barroom on occasions, but in this American Republic and among these enlightened people, if the courts were powerless to punish for contempt, the self-respect of those who attend their sessions would generally preserve their order. But, Mr. President, if after hearing the witnesses, after applying the law, and after pronouncing its judgment, the court had no power to execute that judgment, it would be impotent indeed. It would be useless, it would be a mockery, it would be a burlesque upon civilization to give courts the right to adjudicate controversies and then prevent them from enforcing their adjudication, and Congress will never commit such an act of folly. But the court correctly says in this case of Fink *v.* O'Neil that unless Congress has authorized them to issue the execution they are powerless to do so. Why? Now listen:

> For, as was said by Mr. Justice Daniel, in Cary *v.* Curtis, "the courts of the United States are all limited in their nature and constitution, and have not the power inherent in courts existing by prescription or by the common law."

Mr. President, I can safely vest the power of Congress to forbid inferior Federal courts to issue preliminary injunctions, upon the existence of a statute as old as this Government and on the authority of an unbroken line of decisions of the Supreme Court, speaking through its greatest justices and its greatest Chief Justice. What Marshall has said none of us need apologize for saying, for in spite of my different convictions in politics, in spite of the fact that I believe he nationalized this Republic where the fathers intended only to federalize it, in spite of the fact that I do not agree with a single political opinion which he ever expressed from the bench or during his brief political career, I accord to him the honor of being first among all the Chief Justices of this Republic, and I believe his was the greatest legal mind that ever illuminated the judicial history of this or any other country. With him to sustain my contention, and with a long line of his illustrious associates declaring that these inferior Federal courts possess no power except what the laws of Congress have conferred upon them, I may well be content with my opinion though no other Senator should agree with me.

When Marshall says that the great writ of habeas corpus, beneath whose protecting care only can the citizen stand secure, can not issue except it be authorized by an act of Congress, Mr. President, I may be excused for saying that Congress has the power to deny to an inferior court the right to issue a preliminary injunction. When Marshall says that the writ of mandamus, a writ as ancient as that of injunction—and upon the authority of the Senator from Wisconsin I may be permitted to add as necessary to a court of law as the writ of injunction is to a court of equity—when Marshall and his associates say that without authority from Congress the Federal courts can not issue that writ I must be pardoned if I therefore infer that against the command of Congress a Federal court can not issue a preliminary injunction. When I see that Congress has prohibited Federal courts from issuing injunctions, may I not insist that it shall again prohibit them in a case of vast importance to the people?

If it were a doubtful power I would not invoke it; if it were a strained construction of the Constitution I would not plead for it, but if it is a power which Congress possesses, let us see what reason there is to exercise it.

NO ATTACK UPON THE COURTS.

Senators on the other side seem to think that because we insist that the judgment of the Commission shall stand until after a full investigation we imply a distrust of all the courts. Distrust of the capacity of all courts for this work, yes; distrust of the integrity of all courts, no. I trust may of our courts implicitly; but some of them I do not trust at all. Some of them I know have abused their power; and as we can not leave the power with those who will not abuse it and take it from those who will abuse it, it becomes necessary to take it from all in order to prevent its abuse by any.

Let us see how much of force and justice there is in this argument that we are attacking the courts. A court is presumed to be learned in the law, and a man who is very learned in the law is seldom very learned in any other specialty. I believe it was Lord Eldon who, when a friend inquired of him how he could make his ward a great lawyer, answered, in the language of Milton, "'Teach him 'to scorn delights and live laborious days.'" The observance of that rule has been found necessary from my Lord Eldon's time to this in order to make a great lawyer; and no man ought to be made a judge until after he has made himself a great lawyer.

Take one man of high character and great ability and put him on the bench, thus making it his duty to devote his days and nights to a study of the law. Then take another man of equal character and ability and put him on a railroad commission, and make it his duty to study railroad rates. The judge will have many cases to try, a multitude of law books to read, and endless papers to examine. If all of that be well done, he will have no time for an examination into the justice and fairness of railroad rates. The railroad commissioner, a man of character and ability equal to that of the judge—and if we can not get commissioners equal to some of our Federal judges, God save the Republic—will devote himself to the study of railroad rates, while the judge is pursuing through dusty volumes the science of the law. Who will be the best qualified at the end of three years to fix a railroad rate—the judge, who the more he knows about the law the less he will be apt to know about the railroads, or the railroad commissioner, who has been studying railroad rates instead of law? It is certain that the judge would be the best qualified to decide the law, and it is equally as certain that the commissioner would be best qualified to establish a railroad rate. I do not believe there is a Senator in this body—and I know there is not a Senator who ought to be a member of this body—who will contend that the judge would be better prepared than the commissioner for that work; and if there is anybody here who believes it, I want to warn him that there is nobody elsewhere who believes it. But notwithstanding the superior qualification of the commissioner over the judge for the task of fixing railroad rates, we recognize that under the Constitution the commissioner's work must at last be subject to the judge's scrutiny; and we only demand that the judge shall not be permitted to set aside, without a thorough inquiry, what the commissioner has done with infinite care and labor.

They tell me that great injustice may be inflicted on the railroads under my proposed amendment, and I answer that a greater injustice may be inflicted upon the people unless my

amendment or some other like it is adopted. Suppose the Commission fixes a rate, and a Federal court suspends it by preliminary injunction. Then suppose at the end of two years the courts finally adjudge that the rate fixed by the Commission was a proper one. What is the result? During those two years 10,000 American citizens have been compelled to pay the railroads more than a just compensation for their service. Of course every one of those citizens can go into their court and sue the railroad for the excess, and the proponents of this measure as it stands seem to think that is sufficient. But they seem to forget that if we deny the courts the power to suspend the Commission's rate, and it shall finally be decided that the Commission's rate was too low, the railroad can recover the deficiency just as the shipper can recover the excess. It is, sir, a poor rule which will not work both ways.

Under my plan, if the Commission's rate should be condemned, the railroad would be compelled to sue ten thousand shippers in order to recover the deficiency, while under the bill as it came from the House, if the Commission's rate should be suspended by a preliminary injunction and then finally sustained, ten thousand shippers would be compelled to sue the railroad in order to recover the excess. Is it worse that the railroad should be required to sue ten thousand shippers than that ten thousand shippers shall be required to sue the railroad?

As a matter of practical convenience the railroad can very much more easily sue 10,000 people than 10,000 people can sue the railroad, because the railroad has its established legal staff; it has its records to show what every man paid, and what every man ought to have paid, and that is the exact measure of its damage. On the other hand, the citizen has no regular legal staff. He has been compelled to pay the excessive freight to the merchant, who paid it first, and then charged it to his customer. The consumer who has really paid it would have no standing in court, because there was no contract or relation between him and the carrier. He would have to go to the merchant, and the merchant would have to go to the carrier. But wholly aside from this consideration I marvel at a course of reasoning which leads men to believe that it is more unjust for the railroad to sue 10,000 people than for 10,000 people to sue the railroad.

This brings me, Mr. President, to the question of the Senator from Maine [Mr. HALE], and when I have answered that I am through with this long and tedious speech. I do not believe that the courts are the best tribunals in which to settle this question, but I know that under the Constitution we can not deny a common carrier the right to a trial in the courts. I am not so sure, however, that such ought to be the law. I say that because the books contain many decisions which hold that when the railroad wants to condemn a citizen's property in order to construct and operate its line it has the right to do so, and the award of the commissioners appointed upon its application may be made final. It has frequently been held that such a proceeding is according to the due process of law, and that the ascertainment by those commissioners of the just compensation which the law requires is conclusive, or can be made conclusive, upon all parties.

I know that this doctrine has not been universally accepted, and, from intimations in the opinions of the Supreme Court, I do not believe they would accept it in its application to this question. But I confess myself utterly unable to understand the rule of law which permits three commissioners to finally decide the value of my property when the railroad wants to take it, and denies that the award of five commissioners can be conclusive as to the value of the railroad's service when I want to use it.

The truth is, and the truth must always remain, that from the power and right of the railroad to condemn my property for its use results my right to condemn the service of the railroad to my use. The railroad comes to my homestead, consecrated by a thousand associations of mother and father, of wife and children, and mocks me when I talk about the sweet and tender memories of my childhood and plead with them to go another way. They tell me that private interest and private sentiment must yield to this great public convenience; and when I refuse to agree with them upon the compensation, they apply to the county judge, and he appoints, in many of the States, three commissioners to view the premises and assess the value of my land. I plead with those commissioners; but they read me the cold, unfeeling letter of the law, and tell me that private property shall not stand in the way of public progress and convenience. They find that I am entitled to so much. If I am dissatisfied, they tell me to appeal to the court, and I appeal, but pending that appeal they pay me what the three commissioners have awarded me, and they enter upon my land, tear down my fences, or, if it obstructs their way, they raze my house, and I must litigate with them in the courts the question of whether they have paid me enough for my property.

I have in mind—and I am permitted to make a statement from my professional experience, as the Senator from Wisconsin did from his—I have in mind one case where the owner of a splendid farm said "Keep out of this bottom and build on the table-land, and you can have the right of way for nothing." They said it would cost $3,000 to change the location of their line, and upon the mere consideration of the cost refused to make the change. The railroad offered $1,000 for the right of way, and the owner demanded $5,000. Under this disagreement commissioners were appointed, and these commissioners assessed the damages at only $1,500. In that state of the case the railroad paid the owner of the land the $1,500—and if he had not been willing to accept it they could have deposited it in the court—tore down his fences, and built their railroad through his farm. He appealed to the court, and when the case was tried a jury of his countrymen said the damages were $5,000. How did the owner of the farm obtain the additional $3,500? He obtained his judgment against the railroad, and collected it like other judgment creditors.

I would charge the commission with the duty of allowing to the railroad a just compensation for its service. Of course some men say that is too indefinite, but, Mr. President, it is not more indefinite than the words "just and reasonable," because the words "just and reasonable" mean, and they must be construed by the court to mean, the same as "just compensation." The Senator from Wisconsin argued with great force—and that is one part of his speech with which I agree—that we are limited by the fifth amendment to the Constitution in dealing with this question. As the fifth amendment provides that "private property shall not be taken for public use without just compensation," I thought it best for the statute to follow the language of the Constitution. Not only is it the language of the Federal Constitution, but out of the forty-five State constitutions it is the language of twenty-nine. I believe that there are but three State constitutions which do not provide either for "just" or "adequate" compensation. There is not a single constitution that provides for the taking of private property at a "just, reasonable, and fairly remunerative price." If you strike out the words "fairly remunerative" I would not contend a moment for the difference between a "just and reasonable rate" and "a rate that affords a just compensation," because they are the absolute equivalents of each other. I propose that the railroads shall have just compensation for their service, and I demand that the people shall have proper service for the just compensation which they are compelled to pay.

I open the door of the court and authorize any railroad or any person dissatisfied with any rate or regulation established by the Commission to go into the court and allege that the Commission have not fixed a rate which allows a just compensation, or that they have not established a practice or regulation which is just and reasonable. I give the court the power to hear and determine that question, and I only provide that what the Commission has done shall remain effective until they have proved that what the Commission has done is wrong.

Mr. HALE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from Maine?

Mr. BAILEY. I do.

Mr. HALE. As the Senator in passing was referring to what may be a practical question of delay, I wanted to suggest to him whether the feature of preference if given in these cases, as it is now given by law to a certain class of cases, in the consideration finally of the subject by the court, would not to a great degree remove the objection of delay and yet not improperly precipitate the action of the court.

Mr. BAILEY. That is true, and I attempted to cover it, and it is just as much in favor of the railroads as it is in favor of the railroad commission.

Mr. HALE. Precisely.

Mr. BAILEY. In other words, the fact that the railroad can get an early decision reduces the injustice which may be wrought against it if the order of the commission is unjust.

Mr. HALE. Undoubtedly.

Mr. BAILEY. I have sought to reduce the injustice both ways.

Mr. HALE. Now, if the Senator will not consider——

Mr. BAILEY. Will the Senator permit me to add a word just here?

Mr. HALE. Certainly.

Mr. BAILEY. One of the very purposes, aside from its intrinsic justice, that I had in mind when I incorporated this provision in the amendment is to force the railroads to favor an early trial, and that is the only way to do it—to make it to

their interest. Perhaps that would be true of all others as well as of the railroads.

Mr. HALE. Now, if the Senator will allow me, I want to say that this day has been most profitably spent, and that the thorough discussion by the Senator from Texas of the particular feature which he has so much at heart and what he has said later with reference to the final adjudication of all questions by the courts, have tended more to disentangle this subject and to secure, I will not say an immediate, but a near beneficent result than anything that has taken place.

The debate has all been most able and illuminating. I think—and I speak with some hesitation, because I know that great lawyers in the Senate will not agree—that the Senator's argument as to the power of inferior courts and their liability to be considered and controlled by Congress can not be countervailed. That great lawyers here will take the other view I have no doubt. I believe that that is the law. But that is a minor question.

The final question has been stated by the Senator from Texas better than I can state it. It is that after the Commission has passed upon a question and it is taken, without undue delay and with the right of injunction limited by Congress, to the courts, the court shall consider all the questions. The Senator is right in saying——

Mr. ALDRICH. The circuit court.

Mr. HALE. Finally the Supreme Court—that is, if it gets so far as that. The Senator is right in saying whether it shall be "just compensation" or "just and reasonable" or any other term, is not of importance; that the court will settle it all and will finally decide.

I look out of this controversy—I have not taken much part in it—hopefully to this general result. The Commission will be strengthened. I think it ought to be. I find no fault personally with it, but I think it is better, in the view the Senator has expressed, that we should have as good men upon that Commission as there are on the circuit courts or even on supreme courts. I think, out of this we will get a strengthened Commission. I will vote that its decision shall not be interfered with by injunction until it reaches the final court; and then I believe the Senate will agree to the proposition that that review by the court shall be of the broadest and most ample kind. That the Senator has largely contributed to this beneficent result is to me very plain.

Mr. BAILEY. Mr. President, it is gratifying, of course, to have the approval of the Senator from Maine, and to know that he agrees with me upon this most stubbornly contested point. This discussion may not be without some value, and perhaps it is a fortunate circumstance that the people of the United States should again have their attention directed to the power of their representatives as well as to the power of their courts.

My great regret is that I have not been able to agree with some lawyers in this body whose judgment upon a question of law I have been in the habit of receiving with perfect confidence. We go to the books for an answer to each other, and yet—and I say it in no spirit of flattery, Mr. President—I would as soon accept the deliberate, unbiased, and matured opinion of the Senator from Wisconsin or the Senator from Pennsylvania as to accept the opinion of any text writer whom I have quoted here to-day. Knowing their great accomplishments and their great learning in their profession, it was a matter of profound surprise to me when I found that both had taken a position never before successfully maintained in Congress or before the courts.

The contention that Federal courts derive their powers from the Constitution is not a new one. It has been pressed upon our highest court by the ablest lawyers who have ever practiced before that great tribunal, but it has always been rejected. I am compelled to belive that those Senators expressed their opinions without due consideration, and now they hate to yield. I will not call it stubbornness. I am willing to call it intellectual firmness. You know, Mr. President, the difference between firmness and stubbornness is that our enemies describe the same quality as stubbornness which our friends describe as firmness. I am constrained to believe that the Senator from Wisconsin and the Senator from Pennsylvania having committed themselves to this theory are defending it with all the power they possess; and if any two men in the Senate or any two men at the American bar can successfully defend it, they can.

And yet, sir, much as I regret my difference with them, it has been a matter of sincere satisfaction to me that so many who at first denied my proposition have now assented to it. When I first announced it in the Senate, rather in an incidental way, I had no thought of the clamorous dissent that was so soon to assail me on every side. I do not know exactly, nor is it material that I should say, when I first learned that Congress possessed this power, but if I had not been so absolutely sure of my position the first time I went into the cloakroom I would have fled from it as from a pestilence, because I was met on every side with a demand for authorities and for argument. It is, however, creditable alike to the intellectual candor and to the intellectual strength of the Senate that so many Senators, upon an investigation of the question, have renounced their first opinion and have accepted the law as it has been written by the Congress and construed by all the courts for a century or more.

WHERE THIS LEGISLATION LEADS.

Mr. President, I do not believe that this legislation will lead to the end which some men fear. I believe that its ultimate effect will be to promote a better understanding between the railroads and the people. I believe that when it has made the railroads do the people justice, the people will feel less resentful toward the railroads; and we shall consider these questions with more of reason and less of passion. It will take the railroads out of politics, and we will hear no more about railroad Senators. I want to see the railroads and every other corporation driven from the politics of this Republic. They have no place in the politics. They are organized for profit and can cherish no patriotic purpose. Politics are for men of flesh and blood, made in the image of their God, and not for corporations, which are the mere creations of the law.

And now, Mr. President, if we can pass this bill, amended as it ought to be, with the concurrence of all Senators, I would feel that the political millenium had almost come. I would feel that the railroad and the shipper could work together in peace and with a good will toward each other. I would feel that we could bury the big stick and the pitchfork in a common grave. [Laughter.] I would feel that we are approaching a new era in this devoted land where men are to be judged by how they act and what they think, rather than by what they own; when intellect instead of fortune shall be the measure of our esteem, and when an honest fame shall be the goal toward which our ambitious youth will toil and hope.

Mr. President, I am one of those who believe that such a time may come. Of course I am not so simple-minded as to dream that the old bucolic days of small fortunes and great contentment will ever come again to bless the land, but I do believe in the coming of a better day than this, when the poor man who knows that he is just and honest will feel that he is happier in his condition than his more prosperous neighbor whose riches have been corrupted through injustice.

I pray for the time to come when we shall have a new and loftier standard to guide our children; when we shall teach them that justice is better than power, and lead them into the ennobling faith that truth shall conquer falsehood in every home where peace abides and in every land where men are free. Under the influence of higher ideals and more unselfish aspirations all hate and envy will vanish from our minds, and the only evil thought which still must vex us will be the malice which the bad shall forever feel toward the good. When conduct instead of fortune is made the rule by which we judge all men, then every boy in this fair land, no matter how humble his parentage or how limited his opportunity, will feel the thrill of hope, and the carpenter's son will know that if only he is just and brave and honest he will be more respected than the son of any millionaire who ever wasted his father's fortune in idle dissipation or soiled his father's name by gross excesses.

Mr. President, I apologize to the Senate for the length at which I have spoken; I thank the Senators for their long and patient attention, and I am done. [Applause in the galleries.]

APPENDIX.

Amendment intended to be proposed by Mr. BAILEY to the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission, viz: Beginning after the word "what" in line 19, on page 10, strike out all down to and including the word "prescribed" in line 5, on page 11, and insert the following:

A rate or charge which shall afford a just compensation to the carrier or carriers for the service or services to be performed and a regulation or practice which shall be just and reasonable. The rate or charge, regulation or practice so determined and prescribed shall be the only lawful rate or charge, regulation or practice, and the carrier or carriers shall not thereafter demand or collect any other rate or charge or follow any other regulation or practice.

Amendment intended to be proposed by Mr. BAILEY to the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission, viz: Insert the following:

Any carrier, or person, or corporation, party to such complaint, and dissatisfied with the rate or charge, regulation or practice so established and prescribed, may file a bill against the Commission in any circuit court of the United States for the district in which any portion of the line of the carrier or carriers may be located, alleging that such rate or charge will not afford a just compensation for the service or

services to be performed, or that the regulation or practice is unjust and unreasonable; and if upon the hearing the court shall find that such rate or charge will not afford a just compensation for the service or services to be performed, or that the regulation or practice is unjust and unreasonable, it shall enjoin the enforcement of the same: *Provided, however*, That no rate or charge, regulation or practice prescribed by the Commission shall be set aside or suspended by any preliminary or interlocutory decree or order of the court. Said proceedings shall have precedence over all other cases on the docket of a different character, and the court shall have power to make orders to secure the attendance of persons from any part of the United States, and the existing laws relative to evidence and proceedings under the acts to regulate commerce shall be applicable. Either party to said proceeding shall have the right to appeal directly to the Supreme Court of the United States, and such appeal shall have precedence in said Supreme Court over all other cases of a different character pending therein.

Mr. ELKINS submitted an amendment intended to be proposed by him to the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission; which was ordered to lie on the table and be printed.

FIVE CIVILIZED TRIBES.

Mr. CULLOM. I move that the Senate proceed to the consideration of executive business.

Mr. CLAPP. I hope the Senator will withhold that motion.

Mr. CULLOM. I am informed that the Senator from Minnesota is very desirous of disposing of a conference report, and I therefore ask leave to withdraw the motion for an executive session.

The VICE-PRESIDENT. The Senator from Illinois withdraws the motion for an executive session.

Mr. CLAPP. Mr. President, I desire first to submit a question as to the parliamentary status of the conference report on the bill (H. R. 5976) to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory, and for other purposes. I understood until this morning that the objection made by the Senator from Missouri at the time the report was withdrawn still stood.

Mr. TILLMAN. Will the Senator from Minnesota yield to me for a moment?

Mr. CLAPP. Certainly.

Mr. TILLMAN. I submit to the Senator that, after the hours of strain which we have been under (I feel very much fatigued from just following the Senator from Texas, and it must be the same with others), I do not believe he can dispose of the report to-night, and it would be a favor to all of us if he would consent to an executive session. The report is going to excite considerable debate.

Mr. CLAPP. Several Senators have expressed a desire that the Senate should get through with this report, but if it is the sense of Senators, I will gladly put it over until to-morrow morning. I ask unanimous consent that it be taken up at the close of the morning buisness to-morrow.

Mr. TILLMAN. I will be very glad to have that done.

The VICE-PRESIDENT. The Chair is prepared to respond to the Senator's inquiry as to the parliamentary status.

Mr. CLAPP. I should like to learn the status.

The VICE-PRESIDENT. The Chair understands that the Senator from Minnesota, as chairman of the conferees on the part of the Senate, has the right to withdraw the conference report in the absence of the yeas and nays having been ordered.

Mr. CLAPP. I did withdraw it.

Mr. CULLOM. I move that the Senate proceed to the consideration of executive business.

Mr. CLAPP. I understand now that we have a unanimous consent agreement that it is to be taken up at the close of the morning business to-morrow.

Mr. CULLOM. The Senator can call it up without asking unanimous consent.

Mr. ALLISON. I merely desire to ask one question. I understand that the report was withdrawn; that the conferees have met again, and are now ready to report.

Mr. CLAPP. We are.

Mr. ALLISON. Therefore I can see no question about the status of the report.

The VICE-PRESIDENT. The Chair understands that the report has not been withdrawn.

Mr. CLAPP. I formally withdraw the other report, and submit this one. I ask that it may be published in the RECORD, so as to appear in the morning.

The VICE-PRESIDENT. The report will be received, and will be printed in the RECORD.

The report is as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 5976) to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 3, 8, 14, 15, 16, 28, 29, 44, and 59.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 4, 6, 7, 9, 10, 11, 12, 13, 17, 22, 23, 24, 25, 30, 31, 32, 33, 34, 35, 36, 37, 39, 40, 42, 47, 49, 50, 51, 52, 53, and 57; and agree to the same.

Amendment numbered 2: That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment as follows:

Strike out the word "ninety," in the first line on page 2, and insert in lieu thereof the word "sixty."

Strike out the word "ninety," in the fourth line of page 2, and insert in lieu thereof the word "sixty."

And the Senate agree to the same.

Amendment numbered 5: That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment as follows: Strike out the words "or freedmen," on line 16 of page 2; and the Senate agree to the same.

Amendment numbered 18: That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment as follows: Insert after the word "heirs," in line 24 on page 5, the following: "and in case any allottee shall die after restrictions have been removed, his property shall descend to his heirs;" and the Senate agree to the same.

Amendment numbered 19: That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment as follows: Insert after the word "contests," in line 10 of the sixth page, the following: "pending before the Commissioner to the Five Civilized Tribes or the Department of the Interior;" and the Senate agree to the same.

Amendment numbered 20: That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with an amendment as follows: Strike out all of section 6, commencing with line 11 on page 6, down to and including line 2 on page 8, and insert in lieu thereof the following:

"SEC. 6. That if the principal chief of the Choctaw, Cherokee, Creek, or Seminole tribe, or the governor of the Chickasaw tribe, shall refuse or neglect to perform the duties devolving upon him, he may be removed from office by the President of the United States, or if any such executive become permanently disabled, the office may be declared vacant by the President of the United States, who may fill any vacancy arising from removal, disability, or death of the incumbent, by appointment of a citizen by blood of the tribe.

"If any such executive shall fail, refuse, or neglect, for thirty days after notice that any instrument is ready for his signature, to appear at a place to be designated by the Secretary of the Interior and execute the same, such instrument may be approved by the Secretary of the Interior without such execution, and when so approved and recorded shall convey legal title, and such approval shall be conclusive evidence that such executive or chief refused or neglected after notice to execute such instrument.

"*Provided*, That the principal chief of the Seminole Nation is hereby authorized to execute the deeds to allottees in the Seminole Nation prior to the time when the Seminole government shall cease to exist."

And the Senate agree to the same.

Amendment numbered 21: That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment as follows:

Insert after the word "auction," in line 11 on page 9, the following: "or by sealed bids;" and the Senate agree to the same.

Amendment numbered 26: That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment as follows: Insert after the word "retaining," in line 9 on page 12, the following: "tribal educational officers, subject to dismissal by the Secretary of the Interior, and;" and the Senate agree to the same.

Amendment numbered 27 (incorrectly printed 21): That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment as follows:

Insert after the word "five," in line 14 on page 14, the following: "and all such taxes levied and collected after the thirty-first day of December, nineteen hundred and five, shall be refunded."

Insert after the word "shall," in line 22 on page 14, the words: "wilfully and fraudulently."

Insert after the word "punished," in the second line on page 15, the following: "by a fine not exceeding five thousand dollars or by imprisonment not exceeding five years, or by both such fine and imprisonment."

And the Senate agree to the same.

Amendment numbered 38: That the House recede from its disagreement to the amendment of the Senate numbered 38, and agree to the same with an amendment as follows:

Strike out the words "Secretary of the Interior is," in line 21 on page 17, and insert in lieu thereof the following: "principal chief of the Choctaw Nation and the governor of the Chickasaw Nation are, with the approval of the Secretary of the Interior."

Strike out the words "his direction," in line 24 on page 17, and insert in lieu thereof the following: "the direction of the Secretary of the Interior."

And the Senate agree to the same.

Amendment numbered 41: That the House recede from its disagreement to the amendment of the Senate numbered 41, and agree to the same with an amendment as follows: Strike out from lines 19, 20, and 21 on page 19, the words "upon the dissolution of the tribal governments of the Choctaw, Chickasaw, Cherokee, Creek, and Seminole tribes;" and the Senate agree to the same.

Amendment numbered 43: That the House recede from its disagreement to the amendment of the Senate numbered 43, and agree to the same with an amendment as follows: Strike out the words "one hundred and sixty," in line 3 on page 21, and insert in lieu thereof the following: "forty;" and the Senate agree to the same.

Amendment numbered 45: That the House recede from its disagreement to the amendment of the Senate numbered 45, and agree to the same with an amendment as follows:

Strike out the words "and the same may be pleaded by such party defendants as a counterclaim or set-off," in lines 6 and 7 on page 23.

Strike out the word "amount," in line 7 on said page, and insert in lieu thereof the word "balance."

Insert after the word "such," in line 9 on page 23, the words "tribe or."

And the Senate agree to the same.

Amendment numbered 46: That the House recede from its disagreement to the amendment of the Senate numbered 46, and agree to the same with an amendment as follows: Strike out all of section 19 commencing with line 11 on page 23 down to and including line 12 on page 25 and insert in lieu thereof the following:

"SEC. 19. That no full-blood Indian of the Choctaw, Chickasaw, Cherokee, Creek, or Seminole tribes shall have power to alienate, sell, dispose of, or encumber in any manner any of the lands allotted to him for a period of twenty-five years from and after the passage and approval of this act, unless such restriction shall, prior to the expiration of said period, be removed by act of Congress; and for all purposes the quantum of Indian blood possessed by any member of said tribes shall be determined by the rolls of citizens of said tribes approved by the Secretary of the Interior: *Provided, however*, That such full-blood Indians of any of said tribes may lease any lands other than homesteads for more than one year under such rules and regulations as may be prescribed by the Secretary of the Interior; and in case of the inability of any full-blood owner of a homestead, on account of infirmity or age, to work or farm his homestead, the Secretary of the Interior, upon proof of such inability, may authorize the leasing of such homestead under such rules and regulations: *Provided further*, That conveyances heretofore made by members of any of the Five Civilized Tribes subsequent to the selection of allotment and subsequent to removal of restriction, where patents thereafter issue, shall not be deemed or held invalid solely because said conveyances were made prior to issuance and recording or delivery of patent or deed; but this shall not be held or construed as affecting the validity or invalidity of any such conveyance, except as hereinbefore provided; and every deed executed before, or for the making of which a contract or agreement was entered into before the removal of restrictions, be and the same is hereby declared void: *Provided further*, That all lands upon which restrictions are removed shall be subject to taxation, and the other lands shall be exempt from taxation as long as the title remains in the original allottee."

And the Senate agree to the same.

Amendment numbered 48: That the House recede from its disagreement to the amendment of the Senate numbered 48, and agree to the same with an amendment as follows: Insert after the words "period of," on line 23 of page 25, the words "more than," and strike out the words "or more" where they occur in said line; and the Senate agree to the same.

Amendment numbered 54: That the House recede from its disagreement to the amendment of the Senate numbered 54, and agree to the same with an amendment as follows: Strike out the word "shall," in line 23 on page 27, and insert in lieu thereof the word "may;" and the Senate agree to the same.

Amendment numbered 55: That the House recede from its disagreement to the amendment of the Senate numbered 55, and agree to the same with an amendment as follows:

Strike out the words "electric railway," in line 4 on page 29.

Insert the word "purchase" after the word "condemnation," in line 24 on page 29.

Insert after the word "act," in line 11 on page 30, the following: "*Provided*, That the purchase from and agreements with individual Indians, where the right of alienation has not heretofore been granted by law, shall be subject to approval by the Secretary of the Interior."

Strike out the words "electric railway," in line 12, page 30.

Insert after the word "Tribes," in line 9 on page 31, the following: "Whenever any such dam or dams, canals, reservoirs and auxiliary steam works, pole lines, and conduits are to be constructed within the limits of any incorporated city or town in the Indian Territory, the municipal authorities of such city or town shall have the power to regulate the manner of construction therein, and nothing herein contained shall be so construed as to deny the right of municipal taxation in such cities and towns."

And the Senate agree to the same.

Amendment numbered 56: That the House recede from its disagreement to the amendment of the Senate numbered 56, and agree to the same with an amendment as follows:

Strike out lines 13 to 25, inclusive, on page 31, all of page 32, and lines 1 to 5, inclusive, on page 33, and insert in lieu thereof the following:

"SEC. 26. That in addition to the powers now conferred by law, all municipalities in the Indian Territory having a population of over two thousand, to be determined by the last census, taken under any provision of law or ordinance of the council of such municipality, are hereby authorized and empowered to order improvements of the streets or alleys or such parts thereof as may be included in an ordinance or order of the common council, with the consent of a majority of the property owners whose property as herein provided is liable to assessment therefor for the proposed improvement; and said council is empowered and authorized to make assessments and levy taxes, with the consent of a majority of the property owners whose property is assessed, for the purpose of grading, paving, macadamizing, curbing, or guttering streets and alleys, or building sidewalks upon and along any street, roadway, or alley within the limits of such municipality, and the cost of such grading, paving, macadamizing, curbing, guttering, or sidewalk constructed, or other improvements under authority of this section, shall be so assessed against the abutting property as to require each parcel of land to bear the cost of such grading, paving, macadamizing, curbing, guttering, or sidewalk, as far as it abuts thereon, and in the case of streets or alleys to the center thereof; and the cost of street intersections or crossings may be borne by the city or apportioned to the quarter blocks abutting thereon upon the same basis. The special assessments provided for by this section and the amounts to be charged against each lot or parcel of land shall be fixed by the city council or under its authority, and shall become a lien on such abutting property, which may be enforced as other taxes are enforced under the laws in force in the Indian Territory. The total amount charged against any tract or parcel of land shall not exceed twenty per centum of its assessed value, and there shall not be required to be paid thereon exceeding one per centum per annum on the assessed value, and interest at six per centum on the deferred payments.

"For the purpose of paying for such improvements the city council of such municipality is hereby authorized to issue improvement script or certificates for the amount due for such improvements, said script or certificates to be payable in annual installments and to bear interest from date at the rate of six per centum per annum, but no improvement script shall be issued or sold for less than its par value. All of said municipalities are hereby authorized to pass all ordinances necessary to carry into effect the above provisions, and for the purpose of doing so may divide such municipality into improvement districts."

Insert after the word "taken," in line 18 on page 33, the words "within sixty days."

Strike out all of page 34 and lines 1 and 2 of page 35.

And the Senate agree to the same.

Amendment numbered 58: That the House recede from its disagreement to the amendment of the Senate numbered 58, and

agree to the same with an amendment as follows: Strike out lines 14 to 20, inclusive, on page 35, and insert in lieu thereof the following:

"That the tribal existence and present tribal governments of the Choctaw, Chickasaw, Cherokee, Creek, and Seminole tribes or nations are hereby continued in full force and effect for all purposes authorized by law, until otherwise provided by law, but the tribal council or legislature in any of said tribes or nations shall not be in session for a longer period than thirty days in any one year: *Provided*, That no act, ordinance, or resolution (except resolutions of adjournment) of the tribal council or legislature of any of said tribes or nations shall be of any validity until approved by the President of the United States: *Provided further*, That no contract involving the payment or expenditure of any money or affecting any property belonging to any of said tribes or nations made by them or any of them or by any officer thereof, shall be of any validity until approved by the President of the United States."

And the Senate agree to the same.

Change the numbering of the last section of the bill to read "Sec. 29."

MOSES E. CLAPP,
P. J. MCCUMBER,
FRED T. DUBOIS,
Managers on the part of the Senate.

J. S. SHERMAN,
CHARLES CURTIS,
JNO. H. STEPHENS,
Managers on the part of the House.

EXECUTIVE SESSION.

Mr. CULLOM. I renew the motion that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were reopened, and (at 4 o'clock and 45 minutes p. m.) the Senate adjourned until to-morrow, Wednesday, April 11, 1906, at 12 o'clock meridian.

CONFIRMATIONS.

Executive nominations confirmed by the Senate April 10, 1906.

DISTRICT JUDGE.

Robert E. Lewis, of Colorado, to be United States district judge, district of Colorado.

POSTMASTERS.

ALABAMA.

Margaret Miller to be postmaster at Tuscaloosa, in the county of Tuscaloosa and State of Alabama.

INDIAN TERRITORY.

James R. Young to be postmaster at Ada, in District Sixteen, Indian Territory.

NEW YORK.

Volney I. Cook to be postmaster at Belfast, in the county of Allegany and State of New York.

George Realy to be postmaster at Hancock, in the county of Delaware and State of New York.

OHIO.

W. Sherman Hissem to be postmaster at Loudonville, in the county of Ashland and State of Ohio.

Mary Sivalls to be postmaster at Woodville, in the county of Sandusky and State of Ohio.

Enoch S. Thomas to be postmaster at Jackson, in the county of Jackson and State of Ohio.

PENNSYLVANIA.

William J. Peck to be postmaster at Pittston, in the county of Luzerne and State of Pennsylvania.

Bernard Wendell to be postmaster at Lyndora, in the county of Butler and State of Pennsylvania.

HOUSE OF REPRESENTATIVES.

TUESDAY, *April 10, 1906.*

The House met at 11 o'clock a. m., and was called to order by its Chief Clerk, Mr. WILLIAM J. BROWNING.

The CHIEF CLERK. Gentlemen of the House of Representatives, in the temporary absence of the Speaker, will some one nominate a Member to act as Speaker pro tempore?

Mr. LOUDENSLAGER. Mr. Clerk, I nominate Hon. JOHN DALZELL, of Pennsylvania, to act as Speaker pro tempore.

The CHIEF CLERK. Mr. DALZELL has been nominated. Are there any other nominations?

There were no other nominations. The question was taken; and Mr. DALZELL was unanimously elected Speaker pro tempore.

The Journal of the proceedings of yesterday was read and approved.

POST-OFFICE APPROPRIATION BILL.

On motion of Mr. OVERSTREET, the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 16973—the Post-Office appropriation bill—Mr. SHERMAN in the chair.

Mr. MOON of Tennessee. Mr. Chairman, I yield forty minutes to the gentleman from South Carolina [Mr. JOHNSON].

Mr. JOHNSON. Mr. Chairman, on page 22 of the bill now under consideration there is a provision which I should have contented myself with voting to strike out but for the fact that numerous letters, resolutions, and petitions have been sent to me asking me to support it. These petitions, letters, and resolutions come from people whose friendship I prize, whose good opinion I value, and whose judgment I would respect in any matter if they understood the facts. I have taken some occasion to investigate the merits of this provision in the bill, and I wish to state my reasons for opposing it, notwithstanding the sentiment of many of the people who have honored me in favor of it. There are, Mr. Chairman, 200,965 miles of railway in the United States over which the mails are transported at an average cost to the United States of $198.20 per mile per year. From 1885 to 1890 the policy was inaugurated of voting special appropriations for special facilities. The argument of the Postmaster-General at that time was that by granting a special appropriation for two or three years the natural increase in the mails would soon be such that the pay would equal the former pay and the subvention combined. I find on page 269 of the report submitted to Congress, December, 1890, these words:

> If, at the end of two years, all of the special allowance is withdrawn each of the roads will still be receiving for mail transportation more than was allowed by the combining of the regular and special compensation at the inception of the special service.

Under this policy some fifteen or twenty lines received special-facility pay, but from all of them except two the special pay was withdrawn several years ago.

For the fiscal year ending June 30, 1893, when these special appropriations from here to New Orleans were first provided, the compensation of the road from Washington to Atlanta was $383,750.87. The special appropriation over and above the regular allowance provided by law from here to Atlanta was about $80,000.

According to the argument of the Post-Office Department, upon which these special appropriations were made, when the mail had increased in volume enough to amount to about $80,000 more than the regular pay amounted to in 1903 that $80,000 more than the regular pay amounted to in 1893 that that it has been continued until now, and I find for the fiscal year ending June 30, 1905, the Southern road received between Washington and Atlanta $883,451.60, exclusive of the subsidy, an increase over the regular pay when this special appropriation was first provided of $499,700.73. The mail had grown in volume until the regular pay had doubled and almost trebled what is was when the special appropriation was made, and yet we find in this post-office bill for the next fiscal year a provision for $142,728.25 for special mail facilities between Washington and New Orleans. I want to say, Mr. Chairman, that I do not go into a frenzy at the word "railroad" or "corporation." I realize that railroads and other corporations have played a conspicuous part in the progress and the industrial development of this country. I realize that in the years to come, as we go on growing and expanding, the railroads and the corporations will be important factors. I know of no more reason, because some corporations have misbehaved themselves and violated the laws of the land, that a man should make war upon all corporations than I do that because some men have violated the laws of God and man we should make war upon all humanity. Therefore what I shall say to-day is not out of a spirit of unfriendliness to the Southern Railroad or any other corporation, but it is in obedience to what I believe is my duty as a Representative after a full investigation of the facts. There are a good many gentlemen here from the South who have been the earnest supporters of this provision in the appropriation bill. I want to say to those gentlemen that whether they change their votes or not I want them henceforth to change the line of their argument. I am tired of hearing it repeated on the floor of this House that the country between here and New Orleans is too sparsely settled, that the volume of mail is too light, to justify the railway company in furnishing fast mail trains.

That, Mr. Chairman, is a slander upon the splendid section

along the main line of the Southern Railroad. The territory between here and Atlanta has grown more rapidly and more marvelously than almost any other section of country in the last fifteen years. As was stated by the gentleman from North Carolina [Mr. WILLIAM W. KITCHIN], our cotton mills have increased from $65,000,000 to $225,000,000. The output of our mills has increased from $1,000,000,000 to $1,750,000,000. The mail transported between here and Atlanta has increased from 1893 to 1906 two and a half fold, and yet gentlemen from southern districts stand in the American House of Representatives and plead for this special appropriation upon the ground that our country is too sparsely settled and too poor to command these facilities. Probably these gentlemen have not looked into the facts. It involves an interminable amount of work, Mr. Chairman, but I took the trouble to go through the report of the Second Assistant Postmaster-General of the railway mail pay of every railroad in the United States. I have jotted down upon this paper every road and every section of road between the two great oceans where the railway pay amounts to more than $500 a mile.

I want to call the attention of New England Representatives to this remarkable fact: Sparsely settled New England, with slow ox-going trains, I presume, has not a railroad in all her borders that receives as many dollars per mile for transporting United States mail as the Southern Railroad receives from Washington to Danville, Va. There are only four roads in the New England States whose pay—that is, for the transportation of mail and rent of railway postal cars—exceeds $500 per mile per year!—only four roads in New England that earn over $500 a mile per year for transporting the mails! Here they are: From Portland to Bangor, 38 trips a week, $734.53 per mile; from Portland to Boston, 63 trips a week, $1,052.03 per mile; from Boston to Albany, N. Y., 92 trips a week, $1,693.89 per mile; Boston to New York City, 137 trips a week, $1,737.37 per mile.

Sparse New England! Why do you not come and ask for special mail facilities. Your people do not furnish mail enough on any road in all your borders to pay over $500 a mile, except the four lines which I have read; and the line from New York to Boston, which receives $1,737.37 a mile, makes 137 trips a week. I want now to call your attention to this poor and sparsely settled section between Washington and Danville, Va.—238 miles, 33 trips a week, $1,592.11 per mile. Thirty-three trips a week bring to that corporation $1,592.11 a mile, while the road from New York to Boston, with 137 trips a week, only gets $1,737.37 per mile per year.

Mr. ESCH. What is the mileage between New York and Boston, in order that we may get a more correct idea of your comparison? Will you give us the mileage? You gave it between Washington and Danville.

Mr. JOHNSON. The mileage from New York to Boston is 230 miles—$1,737.37 per mile for 137 trips per week.

Here is another poor railroad that it seems to me on account of sparse population and poor people might come to Congress asking for additional pay. From New York to Philadelphia—90 miles—the Pennsylvania road receives $5,319.54 per mile, and makes 294 trips a week, 42 trips a day. The friends of this road running through the sparse and poor country of Virginia delight to justify the railroads in furnishing its patrons fast mail trains.

The impression has been created in my district that if this appropriation were withheld by Congress, the special mail and express train, known as "97," would be taken off. Many people in that section believe that this special appropriation pays that particular train. They do not know that No. 97 gets the regular pay provided by law for carrying the mail as do other trains, and one-half of this special appropriation in addition. They seem to have the idea that it is paid for exclusively by this appropriation, and if this special appropriation were withdrawn we would lose the train. I want to call attention to the fact that this special appropriation began July 1, 1893, and this mail train, No. 97, between Washington and Atlanta was not put on that road until November 2, 1902. Our people appreciate a special mail train, but I want to call attention to the fact that exclusive mail trains are not a rarity in this country. There are many exclusive mail trains, and they run for the regular pay provided by law.

I call attention to the fact that the Iron Mountain and 'Frisco and Katy systems together are both running exclusive mail trains from St. Louis to Fort Worth, Tex., and neither one of these roads receives anything like as much per mile as the Southern receives between Washington and Atlanta.

How did this provision get in this bill? The Post-Office Department did not include it in the estimates. There is no evidence in the record in support of it or any request for it.

Now, my position is this: If the regular pay provided by law is inadequate to compensate the Southern Road for the service it performs, the burden of proving that fact is upon the railroad. If my friend from Mississippi [Mr. WILLIAMS] desires to take himself out of the general rules of law that govern all other men, he must show special circumstances that would justify such exemption. So, then, if the regular pay provided by law is inadequate compensation for the service that railroad company is performing, the burden of proof is on it to show that fact, and when it does that it can get my vote, because I believe in paying individuals and corporations fair compensation for service rendered.

Mr. WILLIAMS. To interrupt my friend from South Carolina a moment, his reference to me a moment ago might be misleading in this—that it might leave the inference that I was a supporter of this special-train payment.

Mr. JOHNSON. I never thought so for a moment. I was simply using my friend to state a proposition of law.

Mr. WILLIAMS. I have always voted against it, and always will. [Applause.]

Mr. JOHNSON. Mr. Chairman, the burden is not only upon that road to show that the regular pay provided by law is inadequate, but there is only one legitimate way to show it, and that is to appear before the proper committee of this Congress. What would you think of a judge who would base his decree, not upon sworn evidence found in the record, but upon a statement furnished by some unauthorized person in the lobby of a hotel? So there is but one way for this railroad to make this showing, and that is by going before the committees of this House and putting their testimony in the record, in order that every man may judge for himself as to its sufficiency.

I do not know whether the regular pay provided by the act of 1879 is excessive or not. I have good reasons for believing that it is ample. One of those reasons is negative and the other is positive. The positive reason is that the railroads all compete for the mails, and are anxious to get every pound of mail they can. The negative reason is that they have great influence in this country, and if the regular pay is inadequate they would make that fact known.

Now, Mr. Chairman, lacking time to read it, I want to print this table in the RECORD with my remarks, showing all the roads in the United States whose compensation exceeds $500 a mile for transporting the mails. I want you gentlemen from sparsely settled New England to examine this table. Only four roads in all your borders furnish mail enough to pay the railroads over $500 a mile. I want the Representatives from the magnificent Commonwealths of Indiana, Ohio, Wisconsin, and Illinois to see how few of the roads in their sparsely settled and poor communities furnish mail enough to amount to $500 a mile. Then I want you to run your eye down the line over the road that runs through the magnificent garden spot of this great continent—from Washington to New Orleans—and see how much mail our poor people furnish the railroad company. There is not a railroad in Mississippi that makes $500 a mile. The Illinois Central, from Memphis to New Orleans, comes under the $500 mark; yet all over this country they have splendid train facilities, they have splendid mail facilities, and the roads are competing for the work. Only two lines in the United States receive one cent in excess of the pay provided by law. These are Washington to New Orleans and Kansas City to Newton. The amount of subsidy from Washington to New Orleans is $142,758.25; Kansas City to Newton, $25,000. So, as I said before, if any of my southern friends continue to plead for this appropriation, I hope that henceforth they will not slander the South by representing that the quantity of mail furnished is inadequate to justify the same quick dispatch that other communities enjoy.

Just to give you an idea of how rapidly we grow—we are growing while all the other parts of the world sleep—I call your attention to the fact that at the last weighing period the natural increase between here and Danville was about $55,000. The figures that I am going to put in the RECORD are the figures that obtained on the 30th of June, 1905. On the 1st day of July, 1905, there was a readjustment from here to Danville, so that hereafter, instead of getting $301,000, they will receive $356,728.98 plus $77,000 car rentals, making $433,728.98. The natural increase in the volume of mail from here to Danville amounted to $55,000. And yet some of you friends here overlook the fact that we are growing marvelously and rapidly. I rejoice in the prosperity of that section. I rejoice in the prosperity of this same Southern road, which finds its business so heavy that it is now engaged in double-tracking from Washington to Atlanta. Does that look like there is not much business along its line? [Applause.]

Now, Mr. Chairman, I had intended to direct attention to two

other matters in the bill, but I see my time is out and I will take occasion under the five-minute rule to discuss them.

Mr. MOON of Tennessee. I yield two minutes more to the gentleman.

Mr. JOHNSON. I want to call attention to the manner in which sentiment was created in my district in favor of this subsidy. It is published in a reputable paper, but I do not know who furnished the information. The paper certainly had no desire to deceive the public, and so I am laying no charge against the paper:

SOUTH A UNIT FOR SUBSIDY—STORM OF PROTEST AT THREATENED REMOVAL OF FAST MAIL.

When the matter of the special appropriation comes up in the House of Representatives shortly strong opposition will materialize among the eastern Republicans. The meat in the cocoanut seems to be the fact that it is not a desire to save the Government the $200,000 per year, but to divert this sum to the West for the same purpose.

Mr. BURLESON. Did I understand the gentleman to say that this was a reputable paper?

Mr. JOHNSON. Yes, sir.

Mr. BURLESON. Does the gentleman vouch for its truthfulness?

Mr. JOHNSON. I said the paper had no desire to deceive the public.

Mr. BURLESON. That statement is made under a misapprehension of the facts.

Mr. JOHNSON. Somebody has attempted to deceive my people by charging that you want to take this appropriation away from the South and give it to the West. I find no part of this bill that provides for subsidies except the two lines heretofore referred to and they do not need it. I hope the provision will be stricken from the bill. [Applause.]

The table referred to is as follows:

Rate per mile per year for transportation and rent of railway post-office cars, June 30, 1905.

Terminal points.	Distance.	Trips per week.	Rate per mile.
	Miles.		
Portland to Bangor	135	38	$734.53
Portland to Boston	108	63	1,052.03
Boston to Albany	202	92	1,693.89
Boston to New York	230	137	1,737.37
New Haven to Springfield	62	85	1,055.32
New York to Buffalo	439	107	4,091.69
New York to Philadelphia	90	294	5,319.54
Pittsburg to Philadelphia	353	92	3,681.12
Pittsburg to Cumberland	150	39	527.76
Philadelphia to Washington	137	178	2,360.78
Baltimore to Grafton	294	62	1,178.44
Richmond to Quantico	81	49	701.92
Richmond to Weldon	82	31	553.15
Washington to Quantico	24	55	701.92
Grafton to Parkersburg	103	30	890.84
Atlanta to Chattanooga	136	21	537.57
Atlanta to Montgomery	171	24	$658.31
New Orleans to Montgomery	318	27	551.26
Nashville to Chattanooga	151	29	578.61
Chicago to Cedar Rapids	219	47	1,011.92
Chicago to Burlington	205	68	2,390.68
Cincinnati to Kankaka	250	33	704.90
Chicago to Davenport	182	57	601.23
Chicago to East St. Louis	280	42	651.88
Chicago to Carbondale	308	48	648.80
Chicago to Milwaukee	85	67	2,361.79
Chicago to Kansas City	454	28	622.48
Detroit to Chicago	284	57	655.77
Milwaukee to La Crosse	197	29	1,904.07
Minneapolis to La Crosse	141	27	1,601.87
Burlington to Pacific Junction	200	82	1,614.14
St. Louis to Kansas City	282	34	1,608.42
Do	276	37	689.17
St. Louis to Granite City	9	----	666.04
Tower Grove to Kirkwood	7	35	1,150.97
St. Louis to Texarkana	489	42	798.41
Pacific Junction to Ogden	1,003	25	1,324.02
Cincinnati to Nashville	299	36	665.14
Cincinnati to Huntington	161	26	550.26
Chicago to Pittsburg	468	53	1,559.62
Elyria to Millbury	74	52	3,836.47
Xenia to Richmond, Ind	57	30	658.13
Cleveland to Cincinnati	263	45	914.98
Columbus to Cincinnati	119	44	838.95
Columbus to Indianapolis	187	36	1,848.58
Galion, Ohio, to East St. Louis	465	37	619.45
Toledo to East St. Louis	433	36	849.20
Toledo to Dayton	143	35	457.35
Cincinnati to Dayton	59	64	588.35
Cincinnati to Parkersburg	195	34	848.00
Pittsburg to Columbus	190	63	2,870.81
Toledo to Elkhart	133	46	1,489.04
Buffalo to Chicago	540	60	3,197.69
Indianapolis to East St. Louis	238	42	1,954.80
Cincinnati to East St. Louis	335	34	701.47
Chicago to Milwaukee	85	58	659.84
San Francisco to Ogden	833	26	975.09
Washington to Danville	238	33	1,592.11
Danville to Charlotte	142	43	1,500.58
Charlotte to Atlanta	266	25	1,022.62

Fractions of miles omitted.
Fractions of trips omitted.

Mr. RANDELL of Texas. Mr. Chairman, some time ago I introduced in this House a bill (H. R. 13943) entitled—

A bill prohibiting the giving and receiving of free passes or transportation of person or property, or frank or franking privilege, or money, or other thing of value by any railroad, steamboat, express, telegraph, or telephone company to or by a Senator or Representative in Congress or any judge or justice of any United States court, and providing penalties therefor, and for other purposes.

The provisions of the bill are as follows:

Be it enacted, etc., That hereafter it shall be unlawful for any railroad company, steamboat company, express company, or telegraph or telephone company to give to any Senator or Representative of the Congress of the United States, or to any judge or justice of any court of the United States any free pass or transportation of person or property, or frank, franking privilege, or money, or other thing of value; and any such company violating any of the provisions of this section shall be punished by fine of not less than $100 nor more than $5,000 for each such offense; and any officer or agent of such company or companies who shall violate any provision of this section shall be punished by fine not to exceed $5,000 or by imprisonment in the penitentiary for not less than six months nor more than two years, or by both such fine and imprisonment.

SEC. 2. That if any Senator or Representative in the Congress of the United States or any judge or justice of any court of the United States shall receive from any railroad company, steamship company, or express company, telegraph or telephone company any free pass or transportation of person or property, or any frank or franking privilege, or gift of money, or other thing of value, he shall be deemed guilty of a high misdemeanor, and on conviction thereof shall be punished by fine not to exceed $1,000 or by imprisonment not to exceed one year, or by both such fine and imprisonment, and shall forever be barred from holding office under the Government of the United States.

It was referred to the Judiciary Committee, which is presided over by its distinguished chairman, the gentleman from Wisconsin [Mr. JENKINS]. The subcommittee to which it was referred reported it back, with some amendments, to the Judiciary Committee with a favorable recommendation.

My heart was glad, for it then seemed at last that the bill would be reported to the House, and that we would have an opportunity to enact this most important legislation and dispel the cloud of distrust and suspicion that hangs over and about us; but alas—

The best laid schemes o' mice and men
Gang aft a-gley.

We were doomed to disappointment. This promising child of honest reform—this young David, predestined to smite in the forehead the Goliath called "Graft" and behead the armed champion of corporation Philistines—was foully dealt with, and is now being strangled by the chairman, aided and abetted by a number of his Republican colleagues on the Judiciary Committee. And, strange to say, by some unknown and perhaps unknowable means, even the Republican members of the subcommittee, notwithstanding the indorsement contained in the favorable recommendation, are assisting in the assassination of their own offspring. Ascertaining that the committee, or rather the Republican end of it, was determined in its opposition, I went to the Speaker, stated the facts, and asked that he recognize me in order that I might get the matter before the House for its action. His reply was, "I can do

Thus it stands. The Speaker is all powerful; the chairman nothing for you."

dominates the committee; the Republican machine dictates legislation; the people's representatives are not even allowed to vote on this important measure. Why is this? The popular will all over the country calls for legislation on this subject. The Speaker of this House professes to be against the issuance of passes. The chairman of the Judiciary Committee openly admits that there ought to be legislation on the subject. Yet they have done nothing, and evidently do not intend to do anything.

The bill is intended to strike at the root of a widespread and vicious custom. It does not regulate commerce, interstate or otherwise; nor does it attempt to regulate railroad corporations, nor companies engaged in the transmission, by wire, of public or private dispatches. The object sought is, and the effect of the measure will be, to divorce the legislative and judicial departments of our Government from the "blandishments," gifts, and privileges continually offered to them by those seeking special favors in the making of our laws and in the interpretation thereof by the courts. Also, if, as has been claimed, these corporations are forced by threats, or fear, to make gifts, or extend valuable favors and privileges, to the servants of the people, then, in that event, the bill is intended to give, and will give, relief from such outrage, and will abolish and strike down such nefarious practice.

It may be asked, What is the need for this legislation? It is not required by the Constitution. Our forefathers did not contemplate its necessity. This Government has existed more than a hundred years without it. Yes; that is all true. But it is also true that the framers of the Constitution recognized the principle contained in this bill, a principle that is fundamental

and vital, one that is the essence of every code of religion, morals, or law, namely, absolute loyalty to one creed, one master. "No man can serve two masters." "Ye can not serve God and Mammon." You can not be faithful to the people and adhere to their oppressors.

Article I, section 9, of the Constitution provides:

No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them, shall without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foregin state.

Thus it will be seen that the builders of the Constitution fully understood the weakness of human nature and the danger to the country of "Greeks bearing gifts." The danger then was from without and not from within. The danger now is from within and not from without. [Applause.] The founders of this Government feared the influence of foreign interest and expressly guarded against it. Their action was wise and salutary. The railroad, telegraph, and other corporations, which now threaten every industry by their monopolistic combinations, were not then in existence. Had they been, those old patriots, who won our liberty by the sword and protected it by law, would have erected adequate barriers against corporate aggression. As it was, they made and handed down to us the framework of a splendid government, in which justice, freedom, equality were cardinal virtues and basic principles.

It became our duty by inheritance to follow up their work and to rightly solve the problems that necessarily confront us in the progress of our civilization.

In order to do this we must be like them—honest, vigilant, true to the people, consecrated to the task. We should not only strive to do right, but should also avoid the appearance of evil.

Mutual respect and confidence should unite the people and their public servants. How can the people respect you and confide in you when the great corporations are on such good terms with you that they give you as much or more in value as you receive from the Government?

Railroad passes are given to the Congress and the courts without limit; telegraph franks are unstintingly furnished to them; express companies are equally liberal; sleeping-car companies also keep pace with the procession. (These last were, by mistake, left out of my bill, but will be inserted by amendment.) Gentlemen say these are only courtesies extended to public officials. We all know better than to believe that. I do not think the proponents of that theory feel very comfortable in the conclusion. The official with his pockets full of franks and passes says, "It is only a courtesy;" then everybody laughs, and some sneer.

I tell you, Mr. Chairman, and gentlemen, it does not lie in the mouth of a man whose pockets are filled with passes and franks to say that it is no slur upon his honor when the records of public meetings, political conventions, and legislatures of the States—when the writings of the best thinkers and the best moral teachers in the country, those who are acquainted with political science and political ethics—are brimful of charges of corruption, both in the intent of the parties who give these favors and as to the returns for these favors by many of those who receive them. That man who holds on to a part of the fruits of a robbery has no right to say that he is free from suspicion. Let every man clear his own skirts, and then he is in a position to judge of a subject that may concern him and his fellows. [Applause.] Therefore, I say, let the Congress of the United States silence the tongue of slander as to its Members innocent of such improprieties, and stop the wrongdoing of any who may be guilty by placing upon the statute books a law along these lines laid down by our forefathers.

A large majority, I fear, of our Senators and Members of the House, and the judges of the Federal courts, in the last ten or fifteen years, have accepted these favors; and have accepted them to the amount of great pecuniary value. When a man receives that which is equivalent to money, it is a very short step for him to get to the point when he is willing to receive the money itself. Suppose the system goes on and every Member is accorded so many passes and so many franks; that the number and amount of same should be governed by their value; suppose each one would get $500 worth allowed to him on application? How soon would it be when, instead of applying for the passes, they would simply make a commutation of the whole allowance and, as you do your stationery account, wind it up by taking out the whole amount in cash?

And that system could grow up and would be recognized and unblushingly practiced on the very same plan, by the very same means and gradations, that the present system of receiving favors and gifts from the corporations has been built up. I have made the statement that this was a matter wherein many men were guilty. I wish to read you the opinion of some men of high standing on this subject so that you, those of you who have not thought about the matter, who have been busy on other things, who are not perhaps fully awake to the seriousness of the situation, may know where we stand. Hon. Joseph H. Choate, a man honored by the nation, who was president of the constitutional convention in New York in 1894, after receiving a letter from the vice-president of the Pennsylvania Railroad in reference to abuses of this kind, said, in a public speech in that convention, among other things, this:

I confess that the letter that was written to be used here, by the vice-president of the Pennsylvania Railroad, opened my eyes to the magnitude of this evil, which has been so justly denounced by many of my fellow-delegates. I shall not add to their withering words in that respect.

Now listen:

I have made some inquiries since the receipt of that letter, and have reason to believe that a similar state of things exists in the State of New York as was depicted to me as existing in the State of Pennsylvania.

The letter referred to was read to the convention and placed on record as a public document. It is, in part, as follows:

[Document No. 42. Communication from T. J. Brooks, second vice-president of the Pennsylvania Railway, relative to passes.]

PENNSYLVANIA LINES WEST OF PITTSBURG,
OFFICE OF THE SECOND VICE-PRESIDENT,
Pittsburg, Pa., July 20, 1894.

Hon. JOSEPH H. CHOATE,
President Constitutional Convention, Albany, N. Y.

DEAR SIR: A few days ago I learned from an item in the newspaper that your convention is considering the question of prohibiting the issue of passes to public officials within the State of New York.

I desire to avail myself of the use of your honored name in presenting this letter to the committee to whose consideration that subject is committed.

* * * * * * *

I have seem the evils of the pass system grow from very small beginnings to what I regard as now very great and deplorable proportions. I have tried to persuade officials of other railroad companies to follow my example, and I have endeavored to persuade the legislature of Ohio, in which State I have always lived, on different occasions to pass prohibitory laws on this subject, but in each instance and always without avail.

There was a time when public officials were content to receive occasionally a trip pass for themselves. They have learned to ask for passes for themselves, for members of their families, and for political adherents and others. They not only ask for passes good over lines which are controlled by the officers to whom they apply, but they ask for passes over connecting lines to distant and remote parts of the country, good at all seasons of the year. They not only ask for trip passes for themselves and friends, but they ask for annual passes for themselves and friends; and no matter how many passes may be granted to a single individual, if a single request be refused the enmity of that official is aroused and his vengeance exercised if he has an opportunity so to do.

I have known a member of the Supreme Court of the United States to apply for free transportation the money value of which in a single instance was between $200 and $300. Governors of States, United States Senators, Members of the House of Representatives, members of every department of State government from the governor to the janitor, ask and expect to receive these favors.

* * * * * * *

I have seen other railroad companies issue these passes without stint to persons in all grades and stages of public life and receive a direct pecuniary benefit therefrom, and have seen those benefits withheld from our company because I did not do as other men did in the granting of passes.

An officer of a rival railroad company recently told me that he had taken the entire board of tax commissioners of a certain State, with their families and certain friends, from a large inland city to Fortress Monroe and Washington and back home, furnishing the comforts of a Pullman car, free transportation, and all expenses of the journey, and receiving, as he said, as a direct reward therefor a reduction on the appraisement of the property of the company he represented equivalent to many thousand dollars a year.

* * * * * * *

A pass over a railroad is the equivalent of money, and few men in civilized society are above the temptation of receiving it. In very many instances railroad companies receive a direct pecuniary equivalent of the pass which they give. In other cases the public officials who receive passes quietly enjoy the saving of money which the passes afford them and discharge their duties impartially as between the railroad company and the public precisely as if the passes had not been given.

I regard the tendency of the system pernicious in the extreme. The difference between the giving a thing of money value and money itself to a public official is slight. If railroad officials and public officials become accustomed to the giving and receiving of things of value, the official character of the recipient being the only consideration thereof, the conscience of both railroad officials and public officials becomes demoralized and corrupted, and men on both sides soon learn that money might as well be given as passes for the purpose of controlling the action of public servants.

I have always thought that the practice of railroad companies in giving these passes to servants of the public was, and is, one important factor of the distrust and denunciation in which the common people indulge against railway corporations. It certainly needs no argument to prove that free transportation is a thing of money value, and that these passes, given to men in public life, who, in the exercise of their public functions, are required to pass upon the rights of railroad companies, as between railroad companies and the public, are given for a consideration, and, no matter what the forms or terms of courtesy on which those passes are given, the selfish and improper motive is always apparent.

* * * * * * *

Within the last few years blackmailing legislators have been introducing bills for the taxation of sleeping-car companies, express companies, and telegraph companies. The result is that passes are being issued by these various organizations in greater or less number, and

telegraph passes can now be found in the pockets of nearly all members of the legislature in all the important States.

I hope the constitutional convention of the great State of New York will set a noble example on this subject. If they can be made to realize the evils and the evil tendencies of the free-pass system as it now exists I am certain they will do so.

Yours, respectfully,

J. T. BROOKS,
Second Vice-President.

What do you now think of this matter? Are the bounties so lavishly given to the Congress and the courts mere courtesies? The testimony in that letter and in the statement of Mr. Choate are enough to bring a blush of shame to the cheek of any self-respecting man. Look at the picture! Legislators, judges, our Supreme Court! Away with such a system. How dare any man stand in the way of this reform? Why can the servants of the public not keep their hands out of the flesh pots of corporate corruption? They get their salary, mileage, and pay for all needed expense, and many of them then turn to the trusts they have denounced in their districts during the campaign and ask for and receive gifts of great value.

If such practices began in innocence, they have long since outlived that condition. They have grown as class legislation has grown. They increased as the trusts have increased. They have become sullenly defiant as the monopolies have become defiant. As these gratuitous emoluments and moneyed favors have broadened and swelled in volume and value, so have the law-making and judicial officers of the Government drifted away from old landmarks and deserted from their service to the country. Passes, franks, and other favors have been effectively used as powerful persuaders; and, Mr. Chairman, a system of persuasion so strong that it will override the constitutional obligation of the elected trusted servants of the people is certainly very powerful and dangerous.

I wish now to speak, not in the spirit of criticism, nor from the standpoint of being "more righteous than thou." I do not wish to say anything against our sister States. But take the State of Pennsylvania, for instance. They have a constitutional provision in that State against the issuance of free passes to public servants.

Mr. KLINE. No.

Mr. RANDELL of Texas. The gentleman from Pennsylvania says "No." I will read from the records of the constitutional convention of the State of New York, from the speech of a distinguished member, Mr. Nicoll. The proposition was to prescribe penalties in the constitutional provision prohibiting free passes to officials of the State. Some advocated a provision denouncing free passes, but leaving the penalty to the legislature. Mr. Nicoll contended that it was advisable to direct by the constitution that such offenders should be punishable by fine and imprisonment, and also be forever barred from holding office. That was his contention, and in support of that he says:

> There is no reason why the State of New York should repeat the experience of the State of Pennsylvania, where they have a similar provision, and where every public officer rides on passes, notwithstanding.

Mr. KLINE. No; they do not.

Mr. RANDELL of Texas. The reason they do not is because the railroads have recently taken away their passes. Their power in Pennsylvania is so great they have grown independent, and now show the contempt they have long felt for the politicians and public officials of Pennsylvania. I take Pennsylvania as only an instance. I was showing the strength of this system in that practically solid Republican State. The Constitution says that public officers shall not ride on passes, and, merely because there is no law making a penalty, it has been overridden by the people who hold the offices in that State, and would continue to be overridden were it not that the railroads, drunk with power and nauseated with disgust, have kicked them out and taken away their much-loved passes! What an object lesson for patriots to study!

As I am speaking on the power of this system, let us take the Democratic State of Texas. Here we find another object lesson. The last four Democratic platforms of that State have declared for an antifree-pass law. The last four legislatures were elected solidly Democratic, and yet the law has not been passed by any one of them, because their pockets are full of passes and their hearts full of desire for privilege. What other reason can be assigned? It is not altogether a question of whether you are a Democrat or a Republican. It is the system based on a power that appeals to the selfishness and greed of man that I am fighting. It is a system that has grown up so broad, so great, and so shameless that it is a national disgrace. What effect does it have? It debauches the public service and poisons the fountains of justice.

If any corporation asking special legislation should give money to any Member and it was known, that would be considered a disgrace, and would suggest crime. We have a law against bribery. The law against bribery denounces the doing or not doing some specific official act for pay. But is not a gift with intent to influence the Congress or the court a bribe in conscience? You may employ a lawyer by the case or by the year. You may bribe an officer as to one thing or as to everything. Bribery is specific. Gifts are general—the same in principle. A man that receives $500 in money from the Pennsylvania Railroad, for instance, would be looked upon as a bribe taker, but the man who receives $5,000 worth of privileges that are equal, exactly equal, to money itself, is considered a respectable gentleman; and by himself, perhaps, it is considered that he does not violate any of the amenities or any of the proprieties of his official position.

The time has come in the history of this country when, not foreign powers, but people who are part of our own Government, those corporations, those monopolies, those institutions that have been built up on special privilege and wish to run this country (and many say they are running it), are sustaining this system. There is no question about the fact. These people pay your way to your homes, and from your home to your convention, and pay the way of your friends and supporters to the conventions. The men who will vote for measures for the railroads and the other corporations that they want to favor can get passes, franks, etc., without limit. The companies give to all who will receive, and they get a return for it. Do they not? Our laws and decisions fully answer the question.

When some of the Members of this House who were riding upon passes voted for the Esch-Townsend bill in the Fifty-eighth Congress their passes on the January following were refused them because they voted against the will of the railroads. This is true, according to the statement that was openly and notoriously published all over the United States, and never, so far as I know, has been denied. I believe it to be a fact, because there has not been a denial. That shows not only, I think, to every man in this House, but to everyone in this country that the railroads are seeking to influence and control your action as servants of the people by the system of valuable gifts. The giving and receiving of such gifts ought to be denounced by law, the offenders put in the penitentiary and prohibited from holding public office.

Any man who will receive a favor, knowing that the intention is to corrupt him (no matter how incorruptible he may think himself), ought not to occupy a position of honor or trust, representing the people in a popular government. [Applause.] We should put the stamp of disapproval on this system and blot it out by law.

I appeal to every patriotic Member (and I hope that includes nearly all in this House) to work as a unit to force the passage of this bill. Why should the Speaker, by his power; why should the Republican machine in this body; why should the chairman of this committee and some of the Republican members of it, control our action? Why should they refuse to let this salutary measure be voted on, which is in the interest of the people and for the honor of the Congress and the courts.

In this connection I will cite the testimony of some other prominent men. The following are extracts from a recent publication by Col. R. E. Cowart, of Dallas, Tex.:

> It is all wrong. It is simply infamous. * * * These free passes are granted by the railroads for important business, political, and commercial reasons. It is the most powerful weapon they have. A friend of mine recently related to me a conversation he heard in 1886 between Governor Throckmorton, of Texas; Governor Brown, of Tennessee, and the late Col. George Noble, who was then general superintendent of the Texas and Pacific Railroad. They were discussing the civil war, when Governor Brown remarked that our civil war was unavoidable, and could not have been prevented any more than could the French revolution. Colonel Noble begged leave to differ, and said that if a great popular upheaval like the French revolution were to break out now, and the Government would give him control of all the railroads in the nation and allow him to issue all the free passes he desired, he would guarantee under heavy bond to suppress the revolution in three weeks.
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> There is a climate of opinion and morality. A hundred years ago lotteries were used by the churches to raise money for different purposes. In fact, morality is largely relative. In England the King, all the royal family, lords and commons, nobility, gentry, and middle classes, everybody in every official rank and condition in society, pays his or her way on the railroads. Such a thing as a free pass is unknown. A judge in England who would accept a free pass from a railroad and then try a case in which that railroad was interested, would be driven in disgrace from the bench. There is no such acute sense of judicial propriety here and among us. In Washington last winter it was jokingly told that when one of our United States supreme judges was tendered an annual pass by one of the railroads he became very much offended and said, indignantly, that he would not receive it in the form it was issued to him. The railroad official who had brought the pass, anxious to please him, asked him in what form he would take it. The learned judge replied that it ought to be amended and that they should insert in it that the pass was for him and his family. "Do that and I will accept it." It was done.

Hon. B. Q. Evans, in a newspaper article, last December, among other things on this subject, said:

With the fight that has been going on in this State between the people and the railway companies over the proposition that a law should be passed prohibiting railway companies from giving passes to public officials, and with the victories won by the railway companies by the means of the free pass and the lobby over the people, each victory only emphasizes the necessity for the law. And with this contest going on it is no more an open question in Texas as to what the purpose is that a railway company has in giving a pass to public officials. It used to be thought that it was given as a mere matter of courtesy to the officials, and all men tried to reason with themselves that this was the purpose and have justified themselves in accepting them; but the only purpose that a railway company has in giving a pass to an official is for the purpose of influencing his official conduct. Will any man deny this?

Mr. GAINES of Tennessee. Mr. Chairman, may I ask the gentleman a question?

Mr. RANDELL of Texas. Yes.

Mr. GAINES of Tennessee. Was there not a vote on your bill in the committee? And if so, what was the vote; and who voted for it, and who against it?

Mr. RANDELL of Texas. No Democrat voted against it. Some Republicans voted for it. Not knowing exactly how far it is proper for me to state what occurred in the committee, I will not undertake to do so.

Mr. GAINES of Tennessee. It has been published in the papers that the committee stood 6 and 6.

Mr. RANDELL of Texas. I heard that on the outside and I guess that is true.

Mr. GAINES of Tennessee. The Democrats present all voted for it, and two Republicans?

Mr. RANDELL of Texas. I heard that on the outside, and am sure it is true. This committee is hung up and can not act. The chairman of the committee and the Speaker of the House will not permit us to untie the knot that binds the committee. They are tied up.

Mr. GAINES of Tennessee. Will the gentleman allow me to propound another interrogatory?

Mr. RANDELL of Texas. Certainly.

Mr. GAINES of Tennessee. You have spoken about the railroads giving passes voluntarily. Is it not a fact that sometimes the railroads feel as though they were practically held up and had to give the passes to buy their peace?

Mr. RANDELL of Texas. There are honest men, no doubt, in the railroad business——

Mr. GAINES of Tennessee. Yes.

Mr. RANDELL of Texas. Who scorn the very idea even of being the instruments of corruption in giving out these passes. They would like to see legislation stopping this infamy.

Mr. GAINES of Tennessee. Exactly.

Mr. RANDELL of Texas. But I do believe, in all candor, that the great majority of the political agents of the corporations of the country do not want to see any such legislation. They have too much power as the result of it to willingly give it up. They get out of it, no doubt, many millions of dollars every year, and the men who receive these favors only get proportionately a very small part of the swag in this robbery.

Mr. GAINES of Tennessee. One more question and then I am done. Is it not also a fact, adjudged in the case, I think, of the Boston and Maine road, a case that was pending before the Interstate Commerce Commission, that a newspaper had passes; and when it criticised that railroad company the company immediately demanded the return of the passes? Does not that appear in the record in that case?

Mr. RANDELL of Texas. I understand that to be the fact, and that is only one of numerous cases of that sort.

Mr. GAINES of Tennessee. So the press is rather muzzled by these passes, too.

Mr. RANDELL of Texas. I think there is great need for immediate action. Our national and State legislatures, courts, and executive departments; our lines of transportation and facilities for public news; our revenues and disbursements; our political parties and party conventions; the election of our public officials; yea, even the supply of the necessaries of life are the things sought to be controlled by this modern system of incorporated wealth. Look to your homes! Can manhood longer hesitate?

Pass this bill, and all needed legislation along this line will be assured. The fountain source of law will be disinfected and purified; the noisome vapors and poisonous fog that now envelop us will pass away; the legislative and judicial atmosphere will be cleared; the unobstructed sunlight of conscience will illumine the path of duty, and the Congress, rehabilitated with a correct and lofty comprehension of the proprieties to be observed by the servants of the people, will justly consider and properly enact effective laws on this subject for the government of all public officials. Nay, more; by the exercise of the power of Congress—the performance of its duty to the people—to regulate interstate commerce we will, in conjunction with the States within their jurisdiction, secure for all the people equal rates for passenger fare in the whole country. The ordinary rates are, for common people, 3 cents per mile. The average rate is about 2 cents per mile. If the rate was fixed at 2 cents per mile, and everybody was compelled to pay alike, the immense increase in travel resulting from the decreased rate would be of great benefit to the public and would also produce a greater revenue to the railway companies. The right way is the best way, and the best way is to compel every man to pay for what he gets. [Applause.]

Mr. GILLESPIE. Mr. Chairman——

The CHAIRMAN. The time of the gentleman has expired.

Mr. GILLESPIE. Mr. Chairman——

The CHAIRMAN. The gentleman from Tennessee [Mr. MOON] is in charge of the time on that side. To whom does the gentleman from Tennessee yield?

Mr. MOON of Tennessee. I yield one more minute to the gentleman from Texas [Mr. RANDELL].

Mr. RANDELL of Texas. Mr. Chairman, in the few seconds allotted to me, I wish to reiterate: Let every man pay for what he gets. Any other system is unjust, dishonest, impolitic, and must ultimately result in public calamity. Let us call a halt on this practice that builds up a favored class at the expense of the industrious masses. Let us cease to dishonor our institutions by the methods of favoritism and graft, and return actually and practically to that fundamental principle of popular government, "Equal rights to all, special privileges to none."

I appeal to the patriotic element in Congress to unite in the effort to pass this bill. Why should the Speaker and the Republican machine and the Judiciary Committee enslave us and trample on the rights of the people? They shall not prevent this legislation! It is coming, and that soon. The minions of graft, greed, and political trickery have had their day. Retribution is at hand. The people are becoming aroused; and woe to the man, or set of men, who stand in the way of their wrath. The patriots in every Congressional district should see to it that no man, whether he be Democrat or Republican, is returned to this House who has the disposition to fill his pockets with gifts from the coffers of the trusts. Yea, they should scorn to send here a representative who is so lost to honesty, propriety, and decency that he will stoop to receive anything by reason of his official position from anyone, save from the people whose servant he is.

Some of those in absolute power here now may be so well intrenched in their district by the influence of the corporations and the money they corruptly contribute that it will be impossible to defeat them. God pity such districts. They disgrace American citizenship. But, rest assured, the great mass of American manhood will rise in its might and hurl from power the betrayers of their country. Let honest and capable men be sent to Congress—real old-fashioned patriots—whose prime purpose is to serve the Republic; and they will faithfully and efficiently solve all the problems of legislation. God speed the day when our laws shall be made in purity and justice, interpreted in wisdom, and executed in honor. [Continued applause.]

Mr. RANDELL of Texas. Mr. Chairman, I request that the RECORD be extended and the documents to which I have referred be printed.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

[Mr. BARTLETT addressed the committee. See Appendix.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. CURTIS having taken the chair as Speaker pro tempore, a message from the Senate by Mr. PARKINSON, its reading clerk, announced that the Senate had passed bills of the following titles; in which the concurrence of the House of Representatives was requested:

S. 5498. An act granting additional lands from the Fort Douglas Military Reservation to the University of Utah;

S. 4256. An act for the relief of the Alaska Short Line Railway and Navigation Company's railroad;

S. 3245. An act creating the Mesa Verde National Park; and

S. 1344. An act for the relief of John M. Burks.

The message also announced that the Senate had agreed to the amendment of the House of Representatives to the concurrent resolution (S. C. Res. 15) providing for the printing of certain papers and documents of the Navy Department, relating to the efficiency of various coals used by United States vessels for steaming purposes, etc.

The message also announced that the Senate had passed without amendment bills of the following titles:

H. R. 4461. An act to provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District, and for other purposes;

H. R. 15328. An act to approve certain final proofs in the Chamberlain land district, South Dakota; and

H. R. 8717. An act for the relief of Jacob Pickens.

The message also announced that the Senate had passed the following resolution with amendments, in which the concurrence of the House of Representatives was requested:

House concurrent resolution No. 26.

Resolved by the House of Representatives (the Senate concurring), That there be printed 5,000 copies of the hearings before the subcommittee of the Committee on Naval Affairs of the House of Representatives, Fifty-ninth Congress, at the United States Naval Academy, Annapolis, Md., on the subject of hazing at the Naval Academy, with accompanying report, 3,500 copies for the House of Representatives and 1,500 for the Senate.

POST-OFFICE APPROPRIATION BILL.

The committee resumed its session.

Mr. MOON of Tennessee. I yield to the gentleman from Pennsylvania [Mr. MORRELL].

[Mr. MORRELL addressed the committee. See Appendix.]

Mr. MOON of Tennessee. Mr. Chairman, I yield an hour, or so much thereof as he may use, to the gentleman from North Carolina [Mr. SMALL].

Mr. SMALL. Mr. Chairman, the gentleman from Georgia who has just taken his seat has given an interesting illustration of what some people please to call the autocratic power exercised by the Third Assistant Postmaster-General, relating to the admission to the mails as second class of certain periodicals. He has shown that that official is certainly impartial upon the tariff in that he has admitted the American Economist and a free-trade journal, one advocating extreme protection and the other free trade; but he has also shown that this official is coldly impervious to the rural sentiments and the refined religious instructions contained in the Union News, published in Georgia. I doubt not this power is exercised arbitrarily in many instances.

Mr. Chairman, I wish to make some comments upon the bill before the House—the post-office appropriation bill. This is the first session in which I have had the honor to serve as a member of the Committee on Post-Offices and Post-Roads. It gives me great pleasure to state that that committee has given of intelligence and zeal and loyalty and industry to the consideration of that important bill all that the subject deserves, and they have omitted no source of information which would enable them to reach a just and wise conclusion in formulating the items which go into this great appropriation bill.

This bill carries the aggregate sum of more than $191,000,000, distributed through the departments of the Postmaster-General and the several (four) Assistant Postmasters-General. Mr. Chairman, I shall not attempt to discuss every feature of this bill; but I desire to make, first, a few comments upon the item for railway mail pay, an item comprising less than two lines, yet carrying an aggregate appropriation of $43,000,000.

There has been much discussion in the press regarding this subject, much of misinformation and of wrongful comment, while some journals have exhibited careful study and intelligent conclusion.

The original statute upon which the railway mail pay is based was passed in 1873, and except two amendments we have the same statute in force to-day. Between 1873 and 1878 there was, first, a horizontal reduction of 10 per cent, and then another horizontal reduction of 5 per cent, and with these two exceptions our railway mail pay is graduated upon the same statute to-day.

Some years ago a postal commission was appointed by Congress, which made its report in 1900, and while there were some differences among the members of that commission, yet they all substantially agreed in the conclusion that the pay for transportation of mail by rail was not grossly excessive. In my opinion, having attempted to give some study to the question—and it is a most intricate one—and as the ranking minority member of the committee, Mr. MOON, well said, there appears to be no adequate information in the reports of the Post-Office Department which would enable one to reach a satisfactory conclusion on the subject—I say that, in my opinion, it does seem to me that while upon the short roads—the roads carrying a slight amount of mail matter—the compensation is not too great, yet upon those railways intersecting the centers of congested population, with large traffic, connecting large cities and carrying a large quantity of mail matter, that the amount of pay graduated under this statute is excessive and ought to be reduced in the interest of economical administration. This is as far as I would like to go at this time upon this question of railway mail pay and as far as my information and study will justify me.

Mr. Chairman, we hear much about the deficit in the administration of the Postal Department and particularly in its relation to second-class mail matter.

I could give what are said to be some interesting figures relating to second-class mail matter. For the fiscal year 1905 the deficit in round numbers was fourteen and one-half million dollars. While a modern and constantly improved and expeditious service is of the first consideration, yet it is advisable when practicable to wipe out or reduce as far as possible this postal deficit. Unquestionably the greatest item in this deficit arises from carrying the second-class mail matter, consisting of daily newspapers and other periodicals, which are carried at the rate of 1 cent a pound. The best information obtainable—that is, for 1904—shows that of the total weight of mail carried, 67 per cent consisted of second-class matter, which yielded less than 4 per cent of the total revenue of the Department. During that year the mails carried amounted to 912,000,000 pounds in the aggregate, not including Government matter, at a cost of 16⅔ cents per pound. The deficit for that year was about $9,000,000. Of the total amount of mail matter, 610,000,000 pounds was second class, and that cost in round numbers $101,000,000, while the revenue from it was less than $6,000,000, making a net loss on second-class mail matter of $95,000,000.

On the other hand, the revenue during the same year from first-class mail matter—letters—was $107,000,000, while the cost of carrying first-class matter was $18,000,000, making a net profit on first-class matter of $89,000,000.

In other words, first-class matter constituted 12 per cent of the total weight carried and produced 78 per cent of the total revenue. This large weight of second-class matter has a direct relation to the railway mail pay. The large quantity of mail forwarded by the Government under the penalty privilege, consisting not only of departmental mail and documents, but departmental equipment, adds largely to the weight of mails carried by rail. In addition to that the franking privilege adds another large burden to the weight of the mails. Railroads are paid not for space, but for weight, and under the statute the amount is calculated on the basis of tonnage per mile. It is therefore self-demonstrative that if the weight of mail carried by the railroads could be reduced, the amount to be paid to railroads would necessarily decrease, and the deficit would be minimized.

The chairman of this committee, in making the opening remarks when this bill was presented, called attention to certain provisions by which it is hoped that the aggregate amount of bulky mail carried shall be reduced in the future, and thereby means may be found of reducing the railway mail pay. He referred to the provision that between the 1st day of July, 1906, and the 31st day of December a record is to be kept of all second-class mail carried free and all second-class mail admitted under the cent per pound rate, and all matter carried under penalty privilege, and all under the franking privilege; that before the next quadrennial weighing in the four great subdivisions of the country there would be withdrawn from the mails all matter now being forwarded by the Department, and it would be carried by freight, so that during the weighing period the weight carried should be reduced by that extent. He referred to that section by which it is proposed to prohibit the Department, under the penalty privilege, from sending any package in the mails weighing substantially more than 4 pounds, limiting them in the use of the mails in the forwarding of equipment to the use which is permitted to ordinary citizens in delivering to the mails packages weighing 4 pounds or less. I believe that if the House shall find it its pleasure to adopt these several provisions in this bill that it will result in a great saving of weight, and therefore in a decided saving to the Government in the payment for railway mail transportation.

I wish to make some brief comments, Mr. Chairman, upon the question of rural free-delivery service.

This is one of the latest improvements in our postal service and has accomplished a result so educational and beneficent as to have enlisted the approval of the country and the gratitude of the rural sections. This service has come to stay, and should receive the continued support of Congress and the cordial encouragement of the Department. This service has had a phenomenal growth. It may be said to have had its beginning on October 1, 1896, less than ten years ago; but its growth was very slow in the early years. For instance, in 1898 there were only 148 routes in operation and in 1899 only 391 routes. In 1903 the number of routes had increased to 15,119. In 1905 the number was 32,055, while on March 1, 1906, the number of routes in existence was 35,031. There are evidences accumulating that the present Postmaster-General and his Fourth

Assistant are applying conditions which not only make it more difficult and tend to minimize the number of new routes established, but also to discontinue or give a triweekly service to many routes now in existence. I regard this disposition of the Department as unwarranted and without the sanction of Congress and contrary to public sentiment. I am in hearty sympathy with the opinion expressed by the gentleman from Tennessee [Mr. MOON], who has had long experience on this committee, that entirely too much discretion is vested in the Department. The function of this Executive Department is to administer the law and to carry out the will of Congress. Not a single existing route should be discontinued. If any route is poorly patronized, then an investigation should be made with a view to changing the route or of adding to it, and thereby increasing the amount of mail matter handled; but under no conditions should the patrons of any route who have come into the enjoyment and appreciation of this service have its benefits ruthlessly taken from them by the action of the Department. My district has already felt the force of this new policy, and in the past several weeks notice has been received of the discontinuance of one route and on another route that the service had been changed from daily to triweekly. As illustrating that this committee entertained a generous attitude toward this service, it may be stated that the appropriation contained in the bill is slightly in excess of $3,000,000 more than the appropriation for the current fiscal year.

Mr. LIVINGSTON. Before the gentleman leaves that I want to ask if he does not agree with this suggestion: That the more sparsely settled the country and the fewer the people who live in a given section where these mail routes go is a better reason for their continuance?

Mr. SMALL. In answer to the gentleman, Mr. Chairman, I would say that within reason, depending upon the distance they are from any existing post-office, I do believe the gentleman is right; that we should not consider the expense, but that it is the right of every citizen to demand that the service of the Post-Office Department should be extended to him.

Mr. LIVINGSTON. Now, if the gentleman from North Carolina will pardon another suggestion. If he has read a recent article of the Fourth Assistant Postmaster-General he will find he says in traveling through New England recently he discovered that the routes dissipated melancholy, lessened suicide, and that the per cent of lunatics going to the asylum had been decreased wherever in these sparsely settled sections of the country these mail routes went; that they had been lessened from 5 to 12 per cent.

Mr. SMALL. I have no doubt, Mr. Chairman, of the truth which the gentleman illustrates. I have no doubt that among the beneficent results of the rural free-delivery service to those engaged in agriculture is that fact that it brightens home life, and that it does tend and must tend to prevent the repetition of those physical and mental troubles which accompany loneliness, so often the bane of rural life.

I wish to call attention to another contemplated change in this service. Since the rural free-delivery service was established, investigations connected with same have been conducted by what are now known as "rural agents," under the jurisdiction of the Fourth Assistant Postmaster-General, and immediately under the control of the general superintendent of the rural free-delivery service. On December 1, 1905, by order of the Postmaster-General, the rural agents and the division superintendents were taken from the Fourth Assistant Postmaster-General and placed under the immediate supervision of the chief post-office inspector, Mr. Vickery. I have always thought that investigations of rural free-delivery service should be made by a distinct class of agents, and not by post-office inspectors, who have numerous other duties. The rural agent requires special fitness. He comes in contact with the good people who live on the farms, and it is important that he should make a favorable impression. He should not only be loyal to his duty, but he should be pleasant and agreeable in discharging it, and besides he should be willing to undergo discomfort if his duty so required.

The post-office inspectors, as a rule, visit mostly the towns and very seldom get away from the railroads. They are unfitted to make successful investigations of rural service. Now, this bill proposes, under the provision for post-office inspectors, to abolish the positions of rural agent and make the present 143 rural agents and 7 division superintendents post-office inspectors. The plea made by the Department, who recommend this change, is that the inspectors may even now be detailed to investigate the rural service and that the duties of the rural agents will be enlarged. I regard the change as distinctly injurious to the rural free-delivery service, and I shall offer an amendment to the bill to strike out this provision and retain the office of rural agents as a distinct and separate force in that service. I warn Members who wish to extend the rural service that they must meet this undercurrent of opposition to the end that Congress shall assert its prerogative and that gradually the rural service may be extended throughout the country.

I wish to discuss, Mr. Chairman, another item in this bill. It is a provision substantially similar in terms to that which has been contained in the post-office appropriation bill for more than ten years, except that the amount has been from time to time reduced. The two paragraphs are as follows:

For necessary and special facilities on trunk lines from Washington to Atlanta and New Orleans, $142,728.70: *Provided*, That no part of the appropriation made by this paragraph shall be expended unless the Postmaster-General shall deem such expenditure necessary in order to promote the interest of the postal service.

For continuing necessary and special facilities on trunk lines from Kansas City, Mo., to Newton, Kans., $25,000, or so much thereof as may be necessary: *Provided*, That no part of this appropriation shall be expended unless the Postmaster-General shall deem such expenditure necessary in order to promote the interest of the postal service.

During the six years I have served in this House I have voted for this provision for reasons which seemed satisfactory to me and which were in accord with my sense of public duty. This is the first session I have had the honor to serve as a member of the Committee on the Post-Office and Post-Roads, and I felt that it was incumbent upon me to give this matter even more careful consideration; and I was prepared, if need be, to vote differently at this session, if further investigation had led me to a different conclusion. My own constituency derives no immediate benefit from this expedition of the mail. The eastern section of North Carolina where I reside is, perhaps, 200 miles from the main line of the Southern Railway, and the mail for my section is brought by another trunk line. I am therefore fitted to have given unbiased consideration to the subject, both in a representative and individual capacity.

While heretofore voting for this measure, I have been content to listen to the discussions, which, however, have not always been instructive, and to abide by my own judgment, and have not heretofore entered into any public discussion of the question. There is a division of opinion in my State as to the advisability and the necessity of these appropriations. So far as I am advised, most of the newspapers in the territory served by this mail route favor the same, as do the industrial and commercial centers through which it passes. One newspaper, the News and Observer, published at my State capital, having a large circulation and exercising a great influence, and with whose editor I have had a life-long acquaintance and friendship, vigorously and insistently opposes these appropriations as being unnecessary and undemocratic. One of my distinguished colleagues, with whom I claim friendship and for whom I have great respect, through whose district this great trunk line passes—Hon. W. W. KITCHIN—several days ago spoke for more than an hour in opposition; spoke with great vigor, and, I regret to say, appeared to exhibit some feeling upon the subject. The distinguished gentleman from Tennessee, the ranking minority member of the Post-Office Committee, Hon. JOHN A. MOON, delivered his annual anathema against these appropriations. The House had come to look upon the philippics of this gentleman upon this subject as one of the perennial entertainments during the consideration of this bill. I am not yet ready to submit to party excommunication, even at the hands of such distinguished partisans, and I shall be so ungracious as to refuse to admit that these and the few other gentlemen who are annual opponents and entertainers upon this question are the only specimens of robust integrity in this House. By reason of all these circumstances it occurred to me as necessary to abandon my modesty and give some reasons for the necessity of and benefit from this service and to maintain the integrity of that part of the membership of this House which has heretofore supported these items.

You would never realize that there was any item for special facilities under consideration except from Washington to New Orleans. The provision for special facilities from Kansas City to Newton, Kans., appears to have been eliminated from the discussion. Although there are three distinct lines of railroads between Washington and New Orleans, between whom the appropriation is equitably divided, one hears mentioned the name of the Southern Railway only. There appears to be some magic and infectious quality about this name which causes the hair of some gentlemen to rise and to arouse their anger.

The two items are in many respects similar in purpose and necessity, but I shall follow the illustrious example which has

been set me and refer more particularly to the mail service between Washington and New Orleans.

This is not a new proposition, either in its specific application or as an illustration of the consistent efforts of Congress and the Department to improve the mail service. The primary consideration in the transportation of mails is quick and efficient service, while the net profit from the operation has always been, and should continue to be, a secondary consideration. From the time when the mails were carried on horseback along bridle paths, over bad roads, and across unbridged creeks, the Post-Office Department, with the approval and encouragement of Congress, has from time to time utilized improved and quicker methods of conveyance, and for inland distribution the railroad furnishes to-day the most expeditious movement. Obviously there never has been and never will be any arbitrary rule by which compensation for transporting mails by any known method and schedule can be fixed and determined in advance as applicable to any given service. It has always been the custom and is the rule to-day that if the Department wishes the mails carried by an unusually quick schedule a special contract and special compensation must be made therefor. It frequently happens by reason of existing conditions that the schedules offered are sufficiently attractive without extra compensation. Some of the factors which enter into this result are density of population, heavy passenger and express traffic, and, perhaps more than all, competitive conditions. There was a time when extra compensations for unusually fast schedules were paid to many railway lines in the country, but the development of the above and other conditions and the refusal of railway companies to permit the Department to control the schedules have gradually eliminated all except the two provided for in the bill. So that it is not an unusual condition which confronts us.

There were no appropriations for special railway facilities in the South until about 1880, when Congress made an appropriation, and the Department contracted for an improved schedule from Boston, via New York and Washington, and thence, via the Atlantic Coast Line and the Plant System, to Jacksonville and Tampa, and later by steamer to Habana. The extra amounts then paid were very much larger than those contained in this bill. The appropriation for these special facilities, via these lines, continued until June 30, 1893. Neither Congress nor the Department discontinued the same. It was brought about directly by the refusal of the Atlantic Coast Line longer to permit the Post-Office Department to control its schedules for trains, this road giving notice some months in advance of its intention to abandon its contract. In the meantime a demand arose, particularly from the section between Atlanta and New Orleans, for an improvement upon the existing unsatisfactory schedule for the transportation of mail from the North. This resulted in an appropriation by Congress, under which a contract was made for special train facilities between New York and New Orleans, via the Pennsylvania Railroad to Washington and the then Richmond and Danville system from Washington to Atlanta, and connecting lines to New Orleans. This arrangement continued until June 30, 1902, prior to which time the Pennsylvania Railroad voluntarily declined to renew its contract and to permit the Department to control its schedule. Since that time the item in each appropriation bill has been the same as in the bill under consideration.

The question arises, Ought this House to continue the appropriation for these special facilities, or ought it to discontinue it? I propose to consider briefly a few facts in connection with the merits of the case.

The retention of the existing mail schedule, as embodied in the contract between the Department and the railroads, made possible by this appropriation, is a benefit to all the section lying between Washington and New Orleans, including the sections traversed by the many lateral diverging lines. I assume no man of intelligence and fairness will deny this proposition. My colleague from North Carolina admitted this. Every Representative whose district is affected will acknowledge the benefit. I also assume that no Member of this House, regardless of section, would willfully impair this splendid mail service. Therefore this brings us directly to the question, Is this appropriation necessary for the maintenance of the existing mail schedule? Let us pursue this query.

It is well known that the Post-Office Department, under the law and the regulations, does not, in forwarding mail by railroads, attempt to fix or regulate the schedules of trains. Every Member who is informed on the subject, and particularly those gentlemen who claim to have given exhaustive study to the question, should know this. And yet no one has had the candor to admit the fact. It is said that the law requires the railroads to carry the mail with "reasonable expedition and dispatch," but these general terms will cover any schedule within reason which the railroad thinks it is prudent or safe or profitable to arrange for its trains. In other words, it is the universal custom that the railroads prepare the schedules and put on the trains and notify the Department, and then the Department decides whether or not it will send mail by that particular train. If this appropriation should be defeated, the Department would be practically without power to compel the railroad companies between Washington and New Orleans to adopt any particular schedule, but it would forward the mail by such train and by such schedules as these railroads under all the conditions choose to adopt.

Mr. WILLIAM W. KITCHIN. I also undertook to show that this train No. 97 was a necessity and the result of increased traffic, and that it was greatly profitable without this special appropriation; that the line was profitable, and that the system was profitable. Now, does the gentleman think that it has ever been the theory of the Government to aid any enterprise except one which was unprofitable in itself?

Mr. SMALL. I understand what the gentleman is after.

Mr. WILLIAM W. KITCHIN. Now, if this train is necessary, is running upon a natural schedule, the growth of a natural development, and is profitable, how can the gentleman argue that this special appropriation is necessary for its continuance?

Mr. SMALL. The gentleman is simply repeating the best part of his speech made the other day. I think I can satisfactorily answer the same. Now, Mr. Chairman, I want to answer one part of the question asked by my colleague from North Carolina [Mr. WEBB]. I challenge the gentleman to find in the hearings where the Second Assistant Postmaster-General in the hearings before the committee made any such statement as the gentleman alleges was made by him.

Mr. WEBB. Now, in reply to that challenge I think I ought to be heard.

Mr. SMALL. I would be glad if the gentleman would refer to it in the book of hearings.

Mr. WEBB. I didn't say that I got it from the hearings. I asked the gentleman if he was not aware that the Postmaster-General had said what I said. I have the letter here in which he used the language which I quoted to the gentleman, and if the gentleman will allow me, I will read the paragraph. It is very brief.

Mr. SMALL. I decline to yield for that purpose. The gentleman said the Second Assistant Postmaster-General.

Mr. WEBB. No; I beg the gentleman's pardon, I said the Postmaster-General.

Mr. SMALL. We did not have the Postmaster-General at any hearing before our committee.

Mr. WEBB. This letter——

Mr. SMALL. I decline to yield, Mr. Chairman. We had before the committee the Second Assistant Postmaster-General, who has charge of the schedules of the railway-mail trains. I knew he had not given expression to any such statement as the gentleman attributed to him.

Mr. WEBB. This letter that I have is countersigned by the Second Assistant Postmaster-General, Mr. Shallenberger.

Mr. SMALL. The gentleman can get time, and if he wants to quote anything from the Postmaster-General in opposition to the extension of these mail facilities to the South, he is at liberty to do so in his own time, but I can not yield to him now.

Gentlemen in this discussion have said that the withdrawal of this appropriation would make no difference, and that the Southern Railway and its connecting lines would maintain the same schedule. I believe they modestly admit that they are not in the confidence of the traffic managers and that they speak without authority and merely by inference. Is it fair to infer that the Southern Railway would continue its train No. 97, consisting of four mail cars and one express car from Washington to Atlanta, and with the same schedule, if it could get the same compensation without doing so, particularly when it runs, in addition, two other through trains from Washington to New Orleans each day? I have no means of knowing the intentions of railroad companies, although some gentlemen may be informed, but I take it to be a fair inference that the railroads will not voluntarily enter into an agreement with the Department and permit the Department to fix its schedules, and will not voluntarily continue to run a mail and express train from Washington to Atlanta—at least, not on a schedule of 41 miles per hour, including all stops. At any rate, I am not willing, as a Representative and member of this committee, whose duty it is to see that the mails are carried to every part of this great country with the utmost expedition—I am not willing to take the chances of depriving that splendid section of the South from the enjoyment of its existing mail facilities.

Mr. WILLIAM W. KITCHIN. If the gentleman has any in-

formation of that kind, I would like to know what it is; if he has any direct expression from them.

Mr. HAY. Will the gentleman yield to me?

Mr. SMALL. I will yield to the gentleman from Virginia.

Mr. HAY. Upon that point I wrote to the vice-president of the Southern Railway Company to know whether the train would be kept on and the schedule maintained if this subsidy were taken away. I have his reply, and I will send the letter to the Clerk's desk to be read.

The Clerk read as follows:

SOUTHERN RAILWAY COMPANY,
OFFICE OF THE FIRST VICE-PRESIDENT,
Raleigh, N. C., April 5, 1906.

Hon. JAMES HAY,
House of Representatives, Washington, D. C.

DEAR SIR: Yours of April 4, stating that it had been repeatedly stated that the fast mail now run on the Southern road from Washington to New Orleans would be run and the present schedule maintained whether the appropriation carried in the appropriation bill was given or not, and you ask me to let you know whether or not this statement is correct.

No, sir; the statement is not correct. We could not afford to run this train without the appropriation. We will not run the train on the present schedule or at the present speed or with the present connections, nor exclusively as a mail-train, any longer than when the time expires under the terms of the contract with the Post-Office Department unless the appropriation is continued.

Yours, very truly,

A. B. ANDREWS,
First Vice-President.

Mr. SMALL. Mr. Chairman, I am very glad to have been interrupted by the gentleman from Virginia, because that furnishes some information in this discussion.

I remember to have heard a distinguished gentleman, residing in a Congressional district in the State of Georgia, represented by a distinguished Member who has always supported this appropriation, say less than a week ago, upon a visit to the city of Washington, that if necessary, and if it was the only condition upon which these mail facilities could be continued, he could go about in that district and raise $40,000 for the purpose of continuing them.

Mr. WEBB. May I ask the gentleman a question?

Mr. SMALL. Certainly.

Mr. WEBB. You suggest that the advantage to be received from this extra appropriation is the right to control the schedule. Now, the Southern Railway has seven passenger trains leaving here every day, one leaving here at 7.35 a. m.; No. 97, leaving at 8 a. m; another at 10.51 a. m., and another at 11.15 a. m. Now, can you suggest a different schedule which would please the railroad better than those it now has for these south-bound trains?

Mr. SMALL. The gentleman may be trying to please the railroads, but I am trying to please the people of these great southern States, and this splendid section, who are entitled to a continuance of the great mail facilities they are enjoying.

Mr. WEBB. Mr. Chairman, just one word more. The gentleman's suggestion was that the railroads ought to be paid for making these schedules leaving here in the morning. I contend that they made the schedules which were most suitable for the carrying of their necessary traffic south, and that they ought not to be paid for doing what their traffic demands that they should do.

Mr. SMALL. Has the gentleman finished his remarks?

Mr. WEBB. Just a moment further. I want to ask the gentleman if he is aware that the Postmaster-General says that the withdrawal of this special-facility pay causes no apprehension in his mind that the mail facilities would be crippled?

Mr. SMALL. I will say in the first place, in answer to the gentleman, Mr. Chairman, that I have not the confidence of the traffic managers of the Southern Railway or the other railways in the through line between Washington and New Orleans. I do not know what would be convenient or inconvenient to them in fixing the schedule of trains. The gentleman says that there are seven——

Mr. WEBB. Just one word there. The point I want to get at is, Have you ever heard the Southern Railway complain against the schedules that they now run out of Washington? That is the point I am getting at. In other words, ought they to be paid for making these schedules, which we contend are the most suitable for them for the carrying of their traffic?

Mr. SMALL. As I stated, Mr. Chairman, and repeat, I have no means of knowing what would be agreeable or disagreeable to the railroads.

Mr. RICHARDSON of Alabama. Mr. Chairman, will the gentleman from North Carolina allow me to suggest to him, in answer to his colleague, that the Post-Office Department unquestionably controls the time of the principal train, No. 97, because it requires a connection to be made at New Orleans with the Pacific train that leaves New Orleans at 11.45 in the morning; and in order to do that this train, 97, has to leave at 8 in the morning, and the distance of 1,144 miles can not be accomplished in less than 41 miles an hour.

Mr. HARDWICK. Mr. Chairman——

The CHAIRMAN. Does the gentleman from North Carolina yield to the gentleman from Georgia?

Mr. SMALL. Provided this is not extended too long.

Mr. HARDWICK. I understood the gentleman to make some statement about a gentleman from Georgia going around getting a popular subscription for the continuance of this subsidy, or whatever you want to call it. Would the gentleman mind telling us who that gentleman was; or would it be embarrassing to the gentleman? He has seen fit to quote him to the House.

Mr. SMALL. There were several gentlemen from the State of Georgia here a few days ago. It might embarrass them to state who they were, but I will state who the Member was. The statement was made in the presence of the gentleman from Georgia [Mr. ADAMSON], and he agreed that the statement was true, and agreed with them as to the value of this expedited mail service to his district. I believe I am violating no confidence in making the statement.

Mr. HARDWICK. Mr. Chairman——

The CHAIRMAN. Does the gentleman from North Carolina yield?

Mr. SMALL. Just for a question.

Mr. HARDWICK. Who was the gentleman who made the statement that he would go around and get $50,000? Was he a Member of Congress?

Mr. SMALL. He was not, but he was a distinguished citizen of Georgia, who has the respect and confidence of the entire State, but whose name I am not at liberty to quote.

Mr. LEVER. How much was he willing to contribute himself?

Mr. SMALL. I take it that that is a question which adds nothing to the dignity of this discussion.

Mr. WILLIAM W. KITCHIN. Mr. Chairman——

The CHAIRMAN. Does the gentleman yield to his colleague?

Mr. SMALL. Certainly.

Mr. WILLIAM W. KITCHIN. As the gentleman is, no doubt, going to answer my argument, I wish to ask him if these are not the differences: I undertook to show that the only special facility involved in this appropriation was the attempted persuasion of the railroads by its use to keep their schedules which they themselves have made.

Mr. SMALL. I yielded to the gentleman for a question. But, Mr. Chairman, I said I was glad that the gentleman from Virginia had interrupted me and caused this letter to be read, because it sets at rest the statements which I have heard repeated in this House, not only at this session but at previous sessions in which gentlemen have said no authorized official of the Southern Railroad had given expression to the idea that if this special appropriation was withdrawn that these schedules would not be continued. I hope that statement will set these doubts at rest and——

Mr. STANLEY. Mr. Chairman, will the gentleman yield?

Mr. SMALL (continuing). And that the letter written will be taken for what it is worth and give confidence to Members of the House——

Mr. WILLIAM W. KITCHIN. My colleague perhaps refers to the statement I made in my speech?

Mr. SMALL. I had others in mind.

Mr. WILLIAM W. KITCHIN. There is nothing in that letter which contradicts the position I took in my speech. I said it might result in putting on other coaches. I do not understand that Colonel Andrews said that they would take off the train, but that the train will not run as an exclusively mail train and on the present schedule. I presumed they might put on other coaches and even then it would be only eighteen minutes later in getting to Charlotte if it made the speed of No. 31.

Mr. SMALL. I yield now to the gentleman from Kentucky.

Mr. STANLEY. As I understand, and I want simply to ask the question, the gentleman argues that this appropriation enables the people along certain points of the Southern Railroad to enjoy exclusive and peculiar benefits not enjoyed by the inhabitants of the United States upon other railroads, and that these exclusive benefits should be continued to these persons if a subsidy is not forthcoming——

Mr. SMALL. Oh, I have given expression to no such sentiment and no such idea, Mr. Chairman. I have not given expression to any such sentiment as that.

Mr. STANLEY. Will the gentleman answer this question? Is it true that the people——

Mr. SMALL. The gentleman must have wanted to get in the word "subsidy," which has not been mentioned heretofore.

Mr. STANLEY. I do not care, a rose by any other name would smell as sweet; I would call it "steal."

Mr. SMALL. Undoubtedly you would. That would befit the gentleman's idea of the dignity of this debate.

Mr. STANLEY. Debate never gets too dignified to denounce a wrong.

Mr. SMALL. I object, Mr. Chairman, to the gentleman making a speech; I yielded for a question.

Mr. STANLEY. And I meant to ask one very courteously.

Mr. SMALL. Well, I thought you had finished asking your question, and I said I had given expression to no such sentiment. If the gentleman has another question I will yield to him.

Mr. STANLEY. I would like to know, with all courtesy, whether it is true or not that the people along the Southern Railroad by virtue of this appropriation do receive peculiar benefit not received by other persons along other roads which do not receive these peculiar and special appropriations which the gentleman says are not a subsidy.

Mr. SMALL. That is a question, Mr. Chairman, of departmental and postal ethics, which I leave to the distinguished and learned gentleman from Kentucky to solve for himself. I have introduced no such idea into this discussion.

Mr. STANLEY. Nor have you contradicted the fact.

Mr. SMALL. I said that no intelligent man would deny the benefits accruing to the South from existing mail schedules. There are three through trains between Washington and New Orleans, which run via the Southern Railway to Atlanta, via the Western Railroad of Alabama from Atlanta to Montgomery, and via the Louisville and Nashville Railroad from Montgomery to New Orleans. The total distance is 1,144 miles. Train No. 35 leaves Washington at 11.15 a. m., eastern time, and arrives at New Orleans at 8.15 p. m. the following day, central time. This train consumes thirty-four hours' running time, and averages 34 miles per hour, including all stops. This train connects with the Southern Pacific Railway for all Texas points and southern California by train which leaves New Orleans at 9 p. m.

Train No. 37 leaves Washington at 10.45 p. m., eastern time, and arrives at New Orleans at 7.15 a. m. on the second morning, central time. The time consumed by this train is thirty-three running hours, and the train makes an average of 35 miles per hour, including all stops. These were the two great mail trains through the South, which received the special appropriation, until November 2, 1902, when there was a demand made by the Post-Office Department, as well as by the public, for a faster train. This resulted in the inauguration of an independent and faster train, known as "No. 97." This train carries no passengers between Washington and Atlanta, but consists of four mail cars and one express car. Between Atlanta and New Orleans, where the number of mail cars necessary are reduced, two passenger cars are attached, as I understand. This train leaves Washington at 8 a. m., eastern time, each morning in the year, and arrives at New Orleans at 11.15 a. m., central time, the following day. The time consumed is twenty-eight hours, and this train makes an average of 41 miles an hour, including all stops. At New Orleans train No. 97 connects with the Sunset Limited, which makes fast time via Houston, San Antonio, and El Paso to San Francisco, making possible the expedition of the mail through Texas and southern California and all connecting lines. The Post-Office Department absolutely controls the schedules of these three trains—Nos. 35, 37, and 97—as the records of that Department disclose.

Mr. WEBB. Mr. Chairman——

The CHAIRMAN. Does the gentleman yield?

Mr. SMALL. For a question.

Mr. WEBB. You say they control 37, 97, and 35?

Mr. SMALL. That is correct, as the gentleman can ascertain by inquiry of the Department.

Now I yield to the gentleman from North Carolina.

Mr. WILLIAM W. KITCHIN. The gentleman says that the Department has some special control over train 35. Of course, the gentleman is aware that No. 35 gets no part of this special appropriation. Now, by what law or authority do they exercise any special control over train No. 35?

Mr. SMALL. In answer, Mr. Chairman, I will say I have not made inquiry to know whether this special appropriation is divided between certain trains or the portion in which it is divided.

Mr. WILLIAM W. KITCHIN. But the hearings——

Mr. SMALL. But it all goes to the railroad company; it goes to operate these three trains, and I take it it is not a material matter as to whether it is divided beween any trains, but the question is whether the Department, by its contract, controls the schedules of each of those three trains, as I have said.

Mr. WILLIAM W. KITCHIN. I submit, however, the gentleman ought to know these facts, because they are in the hearings, where they say train 35 gets none of it, and the whole subsidy is divided between trains 37 and 97; that no part of it goes to train 35.

Mr. SMALL. Train No. 97 arrives in New Orleans in the forenoon instead of at night, thereby practically saving one day. These trains cover parts of the States of Virginia, North Carolina, South Carolina, and with their connecting lines, particularly at Atlanta, cover the States of Georgia, Alabama, Mississippi, and Louisiana. Train No. 97 expedites the mail along its main line between Washington and New Orleans from six to twelve hours and to San Francisco twenty-four hours. Many of the connecting lines, particularly at Atlanta, serve outlying sections twenty-four hours earlier. There is one special and gratifying advantage upon the connecting lines, particularly at Atlanta, in that by this train No. 97 these connecting trains may leave Atlanta at midnight in time to reach most of the post-offices on their lines so that the rural free-delivery routes may serve their patrons on the same day, thus saving large rural sections twenty-four hours in the delivery of their mail.

It has been urged that the Southern Railway enjoys large gross and net earnings. I shall not detain the House to state the financial conditions of this company. This information can be obtained from a number of reputable sources. But it is pertinent to ask, How does this affect the question at issue? Will any gentleman have the temerity to state that the Post-Office Committee in reporting these items were actuated by the desire to benefit the Southern Railway or any other railroad? Will any gentleman insult the integrity of this House by stating that the numerous Members who have supported this proposition were actuated by any such motive? I pause for a reply.

Even the distinguished gentleman from Tennessee [Mr. MOON], who, in a spirit of invective, referred to this House as a "degraded body," will not claim that any such motive dominates the advocates of this appropriation. My distinguished colleague from North Carolina has been endeavoring to ascertain how much express matter is carried by train No. 97, and in the absence of information he has constructed an attractive estimate of profits from this source. He has also made an estimate of the cost of running this train. Surely he is qualifying himself as an expert on railroad operation, and is inviting upon himself the danger of becoming a railroad official and of being swallowed by the octopus. The glowing picture is not complete.

Mr. WILLIAM W. KITCHIN. I think that a gentleman ought to know something about the cost and earnings of that train before he undertakes to vote on the question.

Mr. SMALL. We should have been favored with the financial status of the several other railroads upon which this expedited mail is carried. In truth, gentlemen should know that the poverty or prosperity of these several roads has nothing to do with the merits of this proposition. The primary object is to secure the maintenance of this quick mail service between Washington and New Orleans, and this appropriation is the only sure guaranty of its continuance. If the profit and the net earnings of these several lines of railway would justify Congress in the enactment of a law compelling these roads to adopt and maintain these schedules, or even faster schedules, then I would be in favor of such a law. Has one of the gentlemen in opposition introduced any bill and come before the committee by which such a result may be accomplished? Not one has done so. Gentlemen know that the object of the committee and the House is to secure expedition in the mails, and not to benefit any particular railroad.

It has been further contended that the Southern Railway is overcapitalized. This is undoubtedly a prevailing economic evil, and such a statement may be true for all that I know, and I shall be glad to join with the gentlemen at any time in any movement which seeks to remedy this evil and to restore in actual practice one of the basic principles of corporate law—that all the outstanding capital stock of a corporation shall be represented by money or property of equal value, but this does not affect the proposition.

It has been urged that the several lines between Washington and New Orleans already receive sufficient compensation under the statutory method of computing railway mail pay to justify these roads in maintaining the present mail schedule. This question of railway mail pay, as I have stated, is an intricate subject, and I feel quite sure that there are some inequalities in the adjustment of pay under the present statute, but whether these roads are receiving a sum in excess of the value of the service rendered these gentlemen do not know, and it can only be determined by careful investigation, which has not been made. There is one thing, however, which is known, or should

be known, and that is, under the statute for adjusting railway mail pay there is no authority to compel a railroad to carry the mail by any arbitrary schedule fixed by the Department.

But it is further contended that if this great section traversed by the main line of these routes and their branches is entitled to this fast mail service, then it is the duty of the Southern Railway to maintain it. Mind you, no mention is made of any other railroad. This statement involves the very extreme of altruism. It costs more money to run fast trains; it is more expensive to run special mail trains. Yet these gentlemen, if they were railroad officials, would disburse this additional money and without increased compensation for doing so. I am inclined to agree with them in the academic proposition which they lay down, but they know that it is improbable and impracticable and adds nothing of value to the discussion.

There is one argument in opposition, however, which is considered invulnerable—that is, that this is a subsidy, and however wicked Republicans may vote on this question, that no Democrat can support it. How the changes have been rung on this word "subsidy." It is a term which has become more unpopular in recent years. A subsidy is pecuniary aid given for the promotion of a private enterprise from which some real or supposed public benefit will result. This is the popular and correct acceptation of the term, and the unpopular feature lies in the proposition to take money out of the public Treasury to foster one enterprise or industry, even though some good may indirectly result. The term has absolutely no application to these items of appropriation, and it is used simply for the purpose of prejudicing this House and the country. The object here is to expedite the mails, and not to benefit any railroad companies. Its opponents know this is true, but they do not admit it. If it is maintained that Congress provides appropriations for the administration of its Postal Department, which in many instances greatly exceed the revenue received from the particular feature of administration, then this appropriation bill is full of subsidies.

Let me mention a few. It is estimated by the Department that the net loss on every rural free-delivery route in the country is $300 per annum. On the 1st day of March, 1906, there were 35,031 rural routes, making a total loss to the whole country on this service of $10,509,300. Of course gentlemen will not call this a subsidy, because it would not be popular to do so. The committee have increased the appropriation for rural carriers in this bill by more than $3,000,000, and this increase will have the approval of the House. I hope this rural service will continue to grow and expand until every agricultural community in the country may enjoy the expedition of the mail which this rural service affords.

This bill carries an apropriation of $22,000,000 for city letter carriers, and under the law every city having more than 10,000 population, or whose post-office has a revenue of more than $10,000, may have city delivery. The only purpose of this large expenditure is for the convenience of the dwellers in the city, to have the mail brought to their homes instead of compelling them to go to the post-office for same. And yet, merely for the sake of convenience and with no adequate revenue to offset it, we are expending this large sum.

There was appropriated for the current fiscal year $500,000 for the transmission of mails by pneumatic tubes. This bill increases the appropriation to $900,000. I think we are going too rapidly in this direction, but the cities are demanding its extension. Pneumatic tubes only expedite the mail about thirty minutes, and have been installed in comparatively few cities.

These two items for appropriations for special facilities expedite the mails to hundreds of thousands of people from six hours to more than a day; yet gentlemen have inveighed for hours against these facilities for the South and have not uttered one word of criticism against the pneumatic-tube service. [Applause.]

If gentlemen wish another conspicuous illustration of so-called "subsidies," let me call their attention to the amounts appropriated to our foreign ocean mail service under the act of March 3, 1891. There are eight of these ocean mail routes, and to each steamship line forming the service an amount is paid greatly in excess of the amount of the full sea and inland postage thereon, with one exception, and that is the route from New York to Southampton, which yields a profit. I will call attention to a few of these routes:

Route No. 37: New York to Maracaibo; 26 trips; mileage paid at 66⅔ cents	$44,142.80
Amount at full sea and inland postage thereon	8,033.76
Excess of cost	36,109.04
Route No. 69: New York to Tuxpan; 52 trips; mileage paid at $1 per mile	130,629.00
Amount of full sea and inland postage on mails conveyed	23,738.24
Excess of cost over revenue	106,890.76
Route from San Francisco to Tahiti: 10 trips; distance one way, 4,212 statute miles; mileage paid at $1 per mile	$42,120.00
Amount of full sea and inland postage	1,153.28
Cost in excess of revenue	40,966.72

I will not give the details of the other routes. The total aggregate of excess of cost of this ocean-going service over the amount of revenue received is $462,597.64.

Tuxpan is a maritime town of Mexico, having a population of about 5,000, and is situated on a river about 5 miles from the Gulf of Mexico. It is 2,500 miles from New York.

Tahiti is a small narrow island, 32 miles long, and is one of the Society Islands in the Pacific Ocean. It is under French control, and is said to produce fine tropical fruits. It is populated by a few missionaries who have converted a part of the native population.

Surely we have overlooked Tuxpan and Tahiti. The steamship companies transporting the mail on these two routes alone receive an aggregate of $147,000 in so-called "subsidies." I beg to call the attention of other distinguished gentlemen who have not yet made speeches in opposition to these appropriations, to this bald and wicked subsidy for carrying the mails to Tahiti. Surely these gentlemen must also have overlooked this iniquity. Surely those gentlemen in opposition to these two items should not have overlooked this ocean service, and I call their attention to this and I ask them if they are in favor of Tuxpan and Tahiti and not the Crescent City of New Orleans. [Loud applause.]

It is an oversight for which I can find no possible explanation. Surely gentlemen are not actuated by motives of unfriendliness toward the Southern Railway or railroads in general. Perish such a profane idea. Surely no gentleman who has vigorously expressed denunciation of these special facilities has been speaking to "buncombe," has been seeking to acquire popularity at home. Surely no gentleman is seeking political preferment or promotion by these onslaughts upon the fast-mail appropriation. Each one would have us believe he is actuated by the purest and most unselfish motives and from a spirit of legislative integrity, and I for one have no disposition to destroy this illusion.

Mr. Chairman, I hold in my hand a newspaper clipping, which originally appeared in the New York Sun, and was copied by the Raleigh News and Observer. It contrasts the commercial, industrial, and financial condition of the South of to-day with the South of twenty-five years ago. It is a marvelous and eloquent story of growth and progress. I shall ask leave to insert it in the RECORD. Transportation is the life of trade, and quick mail service is the very lifeblood of commerce and progress. Before any Member votes to deprive this splendid section of this existing mail service, let him consider if he is acting justly by these people.

I concede to every Member honesty of purpose and legislative integrity. I impugn the motives of no man. If any Member holds that these appropriations are unnecessary, he will vote to strike them out, but if he believes they are necessary and constitute the only sure guaranty of the continuance of this fast mail to the Crescent City and to southern California, then he ought to vote for their retention. [Applause.]

Mr. Chairman, I believe that the highest ideal for a Member of this House is to form a plan more or less elaborate, as his opportunities and his ability may warrant, for some form of legislation which shall benefit his State and his country, and that he ought to follow his ideal insistently and loyally. I believe it is the duty of a Member to bring to his constituents and to his State whatever of benefits he may from the administration of this great Government. I believe it is the duty of a Member to find something to encourage, and not to criticise; to help build, and not destroy. I do not subscribe to the doctrine credited to John Randolph of Roanoke, that it was the highest duty of a legislator to oppose, obstruct, criticise, and defeat all legislation. This policy has no appropriate place in this age. I believe in the policy of progression. I believe that an improved and expeditious mail service is the right of every citizen, and of every section of our common country. [Loud applause.]

The article referred to is as follows:

WONDERFUL GROWTH.

Until twenty-five years ago the South had hardly begun to crawl after the losses and disaster caused by war and reconstruction. It then began to branch out into new industries and to expand the old industries, and the growth has been truly wonderful. The people who have wrought so well have hardly paused long enough to contemplate what they have done with comparatively little capital and not much industrial skill. Here is a compact statement of how the South has prospered, the figures contrasting conditions twenty-five years ago and now, taken from the New York Sun:

From $257,000,000 invested in capital for factories to $1,500,000,000; increase, $1,243,000,000.

From $457,000,000 yearly value of products of factories to $1,750,000,000; increase, $1,293,000,000.
From $21,000,000 capital invested in cotton mills to $225,000,000; increase, $204,000,000.
From $313,000,000 annual value of cotton crop to $680,000,000; increase, $367,000,000.
From 225,000 bales of cotton used in the southern cotton mills to 2,163,000; increase, 1,938,000 bales.
From $39,000,000 yearly lumber products to $250,000,000; increase, $211,000,000.
From 397,000 tons of pig iron produced to 3,100,000 tons; increase, 2,703,000 tons.
From $261,000,000 yearly value of exports abroad to $555,000,000; increase, $294,000,000.
From $660,000,000 yearly value of farm products to $1,750,000,000; increase, $1,090,000,000.
From 20,600 miles of railroad to 60,000 miles; increase, 39,400 miles.
From 179,000 barrels of petroleum produced to 42,495,000; increase, 42,316,000 barrels.
From 45 cotton mills to 780; increase, 735 mills.
From $800,000 capital invested in cotton oil mills to $54,000,000; increase, $53,800,000.
From 667,000 spindles in cotton mills to 9,205,000; increase, 8,538,000 spindles.
From 211,377 tons of phosphate mined yearly to 1,087,429; increase, 876,061 tons.
From 397,776 tons of coke produced yearly to 6,244,185; increase, 5,846,409 tons.
To crown it all, from $3,051,000,000 assessed property valuation to $6,500,000,000, or an average increase of $3,449,000,000 a year for the twenty-five years.

Mr. OVERSTREET. I yield to the gentleman from Massachusetts.

Mr. LOVERING. Mr. Chairman, the railroad rate bill, which is to-day occupying so much of the attention of Congress and the public, is probably one of the most important measures which has been considered for many years.

As establishing a principle it is doubtless entitled to all the attention it is receiving, but as a practical matter when compared with the free-alcohol bill in point of a money consideration, or of the benefit to all of the people, it pales into insignificance.

With or without rate legislation I have little doubt that the railroads will be brought to dealing justly with the shippers, and the amount of money involved and the amount of money changing hands will not be very different in either case.

Free denatured alcohol will play a more important part in our industries and in the economy of daily living than any other agent or instrumentality.

Since we are all constantly receiving urgent letters and petitions from our constituents urging the enactment of legislation which will permit the use, free of tax, of grain or ethyl alcohol for industrial purposes, which has been made unfit for use as a beverage before passing from the custody of the Government, I would like to state my views on a phase of that question which I believe has been entirely overlooked, and which in my judgment demands the serious consideration of Congress at this time.

While the use of untaxed alcohol in manufacturing processes would unquestionably result in a very large extension of our domestic and foreign trade, and create employment for thousands of workmen where none exists at present, that side of the subject appears to be comparatively insignificant when we consider the adaptability of alcohol as a lighting and heating agent and as a motor fuel for farm engines, motor boats, etc.

I made it my duty to attend the recent hearings on this subject before the Committee on Ways and Means, and was especially impressed with the statements of the representatives of the builders of internal combustion engines, both with respect to the growing scarcity of gasoline, and the enormous development of that industry consequent on the general demand for such engines from the farmers in all sections of the country.

For instance, Mr. Capen, the representative of the Detroit Chamber of Commerce, testified that the manufacturers of that city alone will produce in 1906 enough of such engines to consume 200,000 gallons of liquid fuel per day, equal to a possible yearly consumption of, say, 60,000,000 gallons. Mr. Warnes, of the International Harvester Company, testified that it would be conservative to estimate that in the near future the internal-combustion engines in use in the United States will have a fuel-consuming capacity of 3,000,000 gallons per day, or nearly 1,000,000,000 gallons annually. Mr. Goebbels, of the Otto Gas Engine Works, of Philadelphia, which is a branch of the German works of the same name, testified that his company are now turning out each year, at Philadelphia, liquid-fuel engines aggregating 12,000 horsepower, which, when run on an everage of eight hours per day, have a fuel-consuming capacity of 6,000,000 gallons annually. He further stated that if untaxed denatured alcohol is granted by Congress, it would be conservative to estimate that the total number of engines his company would build each year would have a liquid fuel consuming capacity of 15,000,000 gallons annually. If any doubt existed in the minds of the committee as to the practicability of alcohol as a motor fuel for stationary engines, it was certainly dispelled by Mr. Goebbels.

The paper submitted by Prof. Elihu Thomson, of the General Electric Company, Lynn, Mass., and read at the hearings by my colleague from the Seventh Massachusetts district, contains most valuable data, very clearly and ably expressed, as to the utility of alcohol as a motor fuel, based on actual experiments. Professor Thomson refers to the recent experiments by his company, undertaken with the view of demonstrating the application of the internal-combustion engine to the propulsion of railway cars on short lines as feeders to the main lines. I quote the following from his statement:

> In this case an ordinary passenger railway car is equipped with a power compartment at one end, in which power compartment there will be installed an engine of, say, 200 horsepower of the internal combustion or explosion type. The growth of such a system is liable to be hampered in the near future by the cost of gasoline as a fuel, and the difficulties of using kerosene are still quite considerable. Especially is the exhaust likely to be offensive. In this case alcohol, which could be produced in unlimited amount, could be substituted.

It is, of course, impossible to estimate what the consumption of liquid fuel will be in that direction in the future, but it will certainly amount to many millions of gallons.

Ex-Governor Bachelder, of New Hampshire, master of the National Grange, testified that the National Board of Underwriters had announced that there are now in use in this country about 800,000 gasoline stoves and heaters. I am informed on reliable authority that the number of such stoves is now very much larger, exceeding possibly 1,500,000.

The active interest manifested in this subject by practically all the builders of internal-combustion engines in the country, when considered in connection with the statements of their representatives at the recent hearing, is, to my mind, conclusive evidence that the quantity of gasoline obtained from domestic petroleum is now far less than the demand for that form of liquid fuel, and unless an alternative fuel in the form of untaxed denaturized alcohol is given them by Congress the industry will be confronted by a very grave situation in the near future.

Not only is it believed that the present supply of gasoline is inadequate to meet the present demand, but there is at hand convincing evidence to show that the supply is rapidly decreasing. It is, perhaps, not generally known that gasoline in commercial quantities can only be obtained from petroleum having a paraffin base. This grade of petroleum is said to be chiefly obtained in Pennsylvania, West Virginia, Ohio, and Indiana, but especially in Pennsylvania and West Virginia. The petroleum deposits of Louisiana, Texas, and California have, I am informed, almost entirely an asphaltic base, and hence do not supply sufficient gasoline or kerosene to be a factor in arriving at the total quantity produced. The Kansas, Indian Territory, and Oklahoma fields, while yet undeveloped, are said to yield very little gasoline. The Wall Street Journal in its issue of February 12 compares the yield of petroleum in Pennsylvania, Ohio, and Indiana in 1905 with that obtained in 1904, as follows:

State.	1905.	1904.	Decrease.
	Barrels.	*Barrels.*	*Barrels.*
Pennsylvania	28,043,987	30,316,329	2,272,342
Indiana and Ohio	18,944,537	21,392,895	2,448,358

Computing each barrel at 42 gallons, this is a falling off in 1905, compared with 1904, of 198,269,400 gallons of that grade of petroleum from which kerosene and gasoline are obtained.

Commenting on these figures, the Journal said in part:

> The feature of the year has been the falling off in the production of the Pennsylvania, Indiana, and Ohio fields, which produce the high-grade paraffine product. The consumption of oil in Pennsylvania the past year exceeded the production by 3,000,000 barrels, and Pennsylvania is now a steadily declining factor. Of a total production of crude oil in the United States the past year of 115,000,000 barrels, the Texas and California fields contributed 75,000,000 barrels, but the bulk of this product is unfit for illuminating purposes and is largely consumed as fuel.

The total quantity of benzine, naphtha, gasoline, etc., obtained from the crude oil in the United States in 1904 (based on official figures) is reported in the New York Tribune of February 16 as being 5,811,289 barrels, which at 42 gallons per barrel would be equal to 244,074,138 gallons. Of that quantity there were exported, according to official figures, 24,989,422 gallons, leaving for home consumption 219,084,716 gallons. The quantity of illuminating oil (kerosene) produced in 1904 is reported in the same article as being 27,588,654 barrels, equal to 1,158,623,468 gallons, computing each barrel at 42 gallons. Of that quantity 761,358,135 gallons were exported, leaving 397,265,333 gallons for home consumption.

The Tribune article also contains some interesting statistics

comparing the production of petroleum in other countries with that of the United States, which have a most important bearing on the proposed legislation providing for untaxed denatured alcohol. I quote the following:

The total production (of the world) for 1904 (crude petroleum) was 9,303,000,000 gallons, of which 4,916,000,000 were credited to the United States. Russia, the greatest rival in this trade, produced 3,650,000,000 gallons. The balance (1,266,000,000) was distributed among Austria, Java and Sumatra, Roumania, British India, Japan, Canada, and Germany.

The exportation of illuminating oil, or kerosene, is also much greater from the United States than from Russia, American crude oil giving a much larger percentage of illuminating oil than does that of Russia. The total quantity of refined illuminating oil exported from Russia in 1904 was 455,000,000 gallons, and from the United States 761,000,000 gallons, or nearly double the quantity. Russian exports go largely to southwestern Europe, northern Africa, and southern and eastern Asia, while western Europe, eastern Asia, Oceania, and North and South America are the most important markets of the United States.

Of the total exports of the United States in 1904, 201,000,000 gallons went to Great Britain, 117,000,000 gallons went to Germany, 112,000,000 gallons went to the Netherlands, 41,000,000 gallons went to Belgium, 24,000,000 gallons went to France, 74,000,000 gallons went to other European countries, 70,000,000 gallons went to China, 39,000,000 gallons went to Japan, and 24,000,000 gallons went to Hongkong.

It is clear from the foregoing that Europe and Asia must continue to depend largely on the United States for their supplies of illuminating oil, naphtha, benzine, gasoline, etc. If we are forced to consume these petroleum products at home it will seriously affect the volume of our export trade, and since the price is practically fixed by the world's demand, our own people would then be forced to pay very much higher prices than at present.

It can not be successfully denied that our deposits of that grade of petroleum from which kerosene and gasoline are produced are diminishing at an alarming rate, and that the enormous development now going on in the motor industry will result in creating a demand for liquid fuel which can not be supplied from petroleum distillates.

The estimates made of the quantity of liquid fuel which will be required in the near future for lighting, heating, and internal-combustion engines have been shown to be considerably in excess of 1,000,000,000 gallons. To supply that demand, conceding that all our kerosene and the lighter distillates are consumed at home, we have 1,158,623,468 gallons of kerosene and 244,074,138 gallons of lighter distillates, or a total of 1,402,697,606 gallons.

I have not undertaken to submit my views on this important subject without first consulting the United States Geological Survey. The chief of the division of that Department in charge of petroleum statistics, Professor Day, stated that the present demand for that grade of gasoline suitable for use in internal-combustion engines was now far in excess of the supply, and that the manufacturers of such engines in the near future would be seriously hampered unless some liquid fuel, such as alcohol, could be obtained at reasonable cost.

I am also informed on reliable authority that our manufacturers of agricultural implements are now finding it difficult to sell the farmers agricultural machinery requiring power, owing to the scarcity of fuel to run the engines; and I am also informed that the farmers are very much disinclined to purchase the so-called "gasoline engines," in view of the approaching famine in fuel.

My esteemed colleague from North Dakota, in testifying on this subject before the Committee on Ways and Means, said: "Now, right in my town the Standard Oil Company has a distributing point and large tanks. They don't keep gasoline of high grade fit for use in gasoline engines. I have three gasoline engines and know."

The Standard Oil Company are not at fault. They would, I am sure, gladly supply gasoline of the grade required for motor use, but the simple truth is they can not possibly supply the demand, which is constantly increasing.

In order to properly comprehend the magnitude of the subject it is necessary that some attention should be paid to the quantity of commercial alcohol this country is capable of furnishing for light, heat, and power purposes. As you all know, alcohol can be abundantly produced from all staple grains. It can, I believe, be obtained more cheaply in large quantities from Indian corn than other farm products.

Our corn crop for the last year is said to be, in round numbers, 2,750,000,000 bushels. It was absolutely established at the hearing by competent witnesses that at least 2.6 gallons of alcohol testing 94 per cent could be produced on an average by the larger distilleries from a bushel of corn. The corn crop of last year would therefore yield, if converted into 94 per cent alcohol, 7,150,000,000 gallons of alcohol, which is 2,234,000,000 gallons more than the total quantity of crude petroleum produced in the United States in 1904. The difference between the corn crop of 1904 and that of 1905 is said to be, in round numbers, 250,000,000 bushels. If converted into 94 per cent alcohol, it would yield 650,000,000 gallons. If we compare this quantity with the quantities of kerosene and gasoline consumed in the United States for 1904 (616,350,049 gallons), it would be seen that the difference between the corn crop of 1905 and that of 1904 would produce 33,649,951 gallons of 94 per cent alcohol in excess of the total quantity of kerosene and gasoline now annually consumed in this country.

At this time, when our farmers are threatened with the loss of an important foreign market for their surplus corn and meats, the enactment of this legislation would be doubly welcome, as it would provide new domestic markets for at least as much corn as is now exported, or used in feeding cattle for export. To the corn grower it would certainly be as satisfactory to sell his product for use in this country as to sell it for export, or to be used in producing meat for the export trade. And while I am in favor of every effort being made by Congress to keep open foreign markets for our farm products, I think it is still more important that we should open up the large additional domestic markets which would be made possible by giving our farmers an opportunity to supply this valuable material for lighting, heating, and motor fuel purposes.

In this connection I wish to direct attention to the statement made by Dr. H. W. Wiley, of the Department of Agriculture, in testifying before the Committee on Ways and Means on February 8. Referring to the benefits to the farmers which would result from the removal of the internal-revenue tax from nonpotable alcohol, he said:

The farmer can grow any amount of starch and sugar that may be wanted for any purpose in the world. There is no limit to the amount of sugar and starch which the farmers of this country can grow, and not a pound of starch or sugar takes one element of fertility from the soil.

This, it seems to me, is a view of the subject which is of very great importance to our farmers. Eminent scientists have for some time past been pointing out the wastefulness of our system of exporting to foreign countries, in the shape of grain or meats, the fertile constituents of our soil. By furnishing domestic markets for our surplus corn crops we will keep in this country those elements of fertility which are essential to the welfare of our agricultural interests, and will prevent a further extension of the process of soil exhaustion which is manifest in many sections of the country.

Free alcohol will stimulate many industries that have hitherto languished, and will give new birth to many more that have never been able to live in this country, owing to the high cost of alcohol.

The chairman of Ways and Means in reporting the bill to the House has made a most excellent report, in which he has given a list of many important industries that will be benefited by free alcohol. But there is one industry that I desire to bring to your notice. It is the manufacture of artificial silk. It requires about one and a half gallons of alcohol to make a pound of artificial silk; with the tax this means a cost of about $1 per pound, whereas with free alcohol it should be made for 65 to 75 cents per pound. I have here for your inspection several samples of artificial silk made with alcohol and cotton. It is a nitrocellulose product, and in point of luster outshines real silk and is useful for many purposes.

Mr. GILBERT of Kentucky. Where is it made?

Mr. LOVERING. It is made in France. Now, Mr. Chairman, I do not indulge in idle dreams; I do not expect any miracles to be wrought by this legislation; but this much can be said, that if our coal mines should peter out and our oil wells dry up and our forests be burned down this country would still not want for a cheap agent for heat, light, and power. [Loud applause.]

Mr. OVERSTREET. I yield to the gentleman from Alabama [Mr. RICHARDSON].

Mr. RICHARDSON of Alabama. Mr. Chairman, when this Post-Office bill was first brought up for consideration before the House it was not my purpose nor my desire to submit any remarks for the consideration of the committee. And in what I have to say I shall certainly, as I am always disposed to do at all times and under all conditions in life, accord to every gentleman who has spoken on the subject of "special facilities for trunk lines" the same credit for honesty, sincerity, and uprightness of purpose that I claim for myself. Every gentleman on the floor of this House is entitled to that, and no less than that; and every gentleman who enjoys the distinguished honor and privilege of being a Member of this great body of the House of Representatives accords to every other gentleman that meed of praise.

It is not my purpose, Mr. Chairman, to undertake to discuss the postal policy of our Government. Suffice it for me to know, as I have been informed, that fully 85 per cent of the mails of our country are transported by railroads. The Government

owns no railroads, owns no facilities by which it can expedite the mails that it desires to carry to and among the people throughout the country. The express company is in the same condition; therefore the Government is compelled to look to these railroads for accommodation and for the privilege and opportunity and make some arrangement with them for serving and expediting the mails of the people. It is therefore proper, and it is necessary for us when we enter upon the consideration of this question to proceed upon the theory and the basis that the railroads are entitled to a fair, just, and remunerative compensation for the services they render. No other standard, just and fair, can possibly be erected than that. I think, Mr. Chairman, when we come to consider such subjects as this, we ought not to overlook the real true theory which the Government has in view in the transportation of the mails.

I dare say that there is not a gentleman on the floor of this House who will contend for a moment that we expect to make money out of the postal service. Indeed, I can go one step further, and say, not as a member of the Post-Office Committee, for I am not a member of it, but simply reflecting the ordinary sentiments of a layman citizen, that the post-office affairs of the country are not and can not be conducted, on the beneficent lines intended, upon the usual standards of business principles. Why is that? The objects of the postal system would be defeated. Take the revenue that the Government derives from letters—about 90 cents, by sale of stamps—by the pound, and then look at the amount the Government derives as revenue from the transportation of second-class postal matter, newspapers and magazines. Only $6,000,000 comes from that source as revenue, while the Government pays out over thirty-three millions for it. Is that in accordance with business principles? Why, no. If business principles governed the policy of the Post-Office Department, the Government would raise the postal charges on second-class mail.

But the purpose of the Government is to aid and educate the people, to disseminate useful and valuable literature, to send papers, books, and everything that will elevate the moral standard of the people and foster a better citizenship and give them the opportunity to become acquainted with public matters, and teach them and inspire them with religious feelings and other lofty sentiments, which they acquire through newspapers, tracts, and other publications and periodicals, and to do this in the cheapest and most expeditious manner to them. I was surprised to hear some of the gentlemen who took part in this debate say, or rather suggest, that the rate for the transportation of second-class mail matter ought to be doubled or trebled. What does that mean? The rate is 1 cent now. We derive $6,000,000 from it as an annual revenue. Double it and it is $12,000,000. Treble it and it is $18,000,000, absolutely wiping out the deficit in the Post-Office Department.

I say here in my place as a Representative on this floor that in my judgment the Government can not exercise its bounty more generously than to put the very lowest postal rate that it can upon newspapers and periodicals. [Applause.] Why is that so? How will you draw the discrimination? Take the home paper, the paper that is issued at the end of each week. It goes to the homes of the people. It reaches the masses of the people. It is the friend of the people; they are fond of it—look forward to its coming. It is a welcomed visitor, and great numbers of the people of a county hardly read any other paper except the weekly home paper. The great city dailies are not frequent visitors to many of their homes. It is these weekly papers that furnish a pleasing source of communication with the people of different sections of the same county, telling their neighbors and their friends of their sorrows and joys in a way that the great daily papers can never do. It is the home paper that supports all the public enterprises by appealing to the pride of its subscribers. Without the support and sympathy of the home weekly paper but few enterprises can be made a success. It stands for purity, morals, and religion. It stands for the schools and education.

Mr. Chairman, I am sorry that I do not see the gentleman from North Carolina [Mr. WILLIAM W. KITCHIN] in his seat. I was very much pained when I heard the remarks he made the other day about criticisms that had been and were being passed upon him by the people of his own State, by the newspapers, and by some in his own district, with the gentle hints that his people desired him to support the appropriation for the fast mail from Washington to New Orleans; and it occurred to me, Mr. Chairman, judging from the spirit of the gentleman's speech, that if we accept the truth of the old adage, that "The force of the shot is determined by the fluttering of the birds," certainly those North Carolina newspapers must have criticised him with a good deal of vigor, because he manifested a great deal of fervor in the argument he was making on these "special facilities for trunk lines." That spirit, Mr. Chairman, is growing throughout the South.

I have never heard the gentleman from North Carolina, my worthy good friend [Mr. WILLIAM W. KITCHIN], make anything else than a logical, substantial, good speech on any subject he undertakes to make one on. He made a good, ingenious speech the other day, a strong speech; but his foundations and his premises were all wrong, and therefore the superstructure that he built will tumble and fall.

Why, it is a new theory that he recommends here. Suppose a man had a farm of 100 acres and was raising so much product. Some of it was poor and some of it was very fertile. Do you suppose that he would take the 10 acres that was very fertile and raise a bale of cotton an acre to make an estimate on for what all the balance would produce? Why, no; he would make a general or average estimate. The gentleman from North Carolina did not do that. You would have thought from reading his speech, and any gentleman who will take it and read it in the RECORD would believe that the special facilities were in force only from Washington to Lynchburg and Danville and Charlotte, N. C.

Mr. Chairman, I have made as careful examination as I can make, and I do not want to make any statement in this matter except it is based on facts. It doesn't amount to anything to state what the railroad has made—$1,400,000—out of the Government. If it makes that amount, it makes it by the law and by contract. It performs the service and the Government pays for it, as the law provides. It cuts no figure in this discussion at all. That is a mere appeal against a corporation. That is a favorite pastime with some of our friends. I have undertaken to ascertain the facts as thoroughly as I can in answer to the guessing bee engaged in by the gentleman from North Carolina [Mr. WILLIAM W. KITCHIN] and my friend from Minnesota [Mr. STEENERSON].

What is the question before the House about this southern fast mail, this appropriation that is necessary in order to secure the continuation of the special mail train between Washington and New Orleans, a distance of about 1,137 miles? I think it is important, Mr. Chairman, to have the exact understanding as to what the question really is. The language in the post-office appropriation bill is "for necessary and special facilities on trunk lines from Washington to Atlanta and New Orleans, $142,728.75." In order, Mr. Chairman, that there may be no misunderstanding I read from the RECORD extracts showing the basis of the arguments of both the gentlemen from North Carolina [Mr. WILLIAM W. KITCHIN] and the gentleman from Minnesota [Mr. STEENERSON]:

Mr. WILLIAM W. KITCHIN. But taking things as they are, I propose to show that No. 97 is a train of great profit to the railway company, exclusive of the subsidy. I presume that it carries the same proportion of the mail from Danville to Charlotte as from Washington to Danville. In a letter replying to an inquiry from me, General Shallenberger, the Second Assistant Postmaster-General, on February 23, 1906, said that at the last quadrennial weighings it was computed that No. 97 carried 35 per cent of the whole weight of mail between Washington and Danville, and that 35 per cent was 45,183 pounds.

Now, Mr. Chairman, No. 97 therefore gets 35 per cent of the transportation mail pay. The entire regular mail-transportation pay from here to Charlotte is, exclusive of car rents, $525,974.52, and 35 per cent thereof, which goes to No. 97, is $184,091.08, to which add the rental of the three post-office cars to Charlotte, $28,521, and we have a total of regular pay for No. 97 from here to Charlotte of $212,612.08; and, of course, it gets large pay from Charlotte to Atlanta, but not as much per mile as from here to Charlotte. There is not so much mail handled between those two places as from here to Charlotte, and there is not as much from Danville to Charlotte as from here to Danville. To this must be added what No. 97 receives from the express company, for it is a mail and express train. We know that a carload of express is much heavier than a postal carload of mail, perhaps three times as great, as the postal cars must have racks and plenty of space for the clerks to conveniently distribute the mail. But suppose the Southern's No. 97 only collects from the express company one-fourth of what it collects from the Government, which would be $53,153.02, then it earns from here to Charlotte, exclusive of the subsidy, $265,765.10, while its part of the subsidy from here to Charlotte is $23,767.50. With these facts staring one in the face, can he contend that a train that otherwise earns $265,765.10 will be discontinued if the subsidy is withdrawn?

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Another fact, for the year ending June 30, 1904, being the last year for which I have been able to get the statistics on this point, the average earnings of the Southern's passenger trains in Virginia, North and South Carolina, and these earnings include passenger, mail, and express, were less than 99 cents for each mile such trains ran, while the average earnings of train No. 97 from here to Charlotte, exclusive of the subsidy, according to figures above stated, are $1.91 for each mile run, or nearly double the general average.

Mr. STEENERSON. They told me that Monday was the lightest day for mail, and that on other days of the week they had two storage cars in that train, three R. P. O. cars, and an express car. Until it reaches Atlanta it carries no passengers, but when it reaches Atlanta passenger cars are attached, and instead of running 42 miles an hour it comes down to 35 miles, the ordinary speed for a passenger train. Now, then, that condition of the mails, with 40,000 pounds in the two storage cars and 10 tons in the three R. P. O. cars, makes 60,000 pounds in the three cars—30 tons of mail. They probably had 50 tons including the express car. Assuming that they get the lowest price—which is not correct; but I will assume now they get the price on the

densest route, 6 cents per ton per mile—if they had 50 tons they get $3 per train mile, whereas the cost of operating a railroad train of that class was $1. If, therefore, the Southern Railroad carries mail from Washington to New Orleans in storage cars and R. P. O. cars, with an average load of 10 tons per car in the train, they receive in weight pay alone three times what it costs to run it.

The gentleman from North Carolina put the sum of what the train (No. 97) earns at $1.91 for each mile. Both speeches are based upon "ifs," conditions, suppositions, and presumptions, as shown by the above sample extracts. The gentleman from North Carolina says, "I presume that it (No. 97) carries the same proportion of the mail from Danville to Charlotte as from Washington to Danville." A most violent presumption. And yet on that "presumption" he figured out the earnings of that train to be $265,765.10.

Mr. STEENERSON says "they probably had 50 tons, including the express car," and "assuming that they got the lowest price." It was upon vague and indefinite probabilities and assumptions that these two gentlemen based their conclusions. It is not an appropriation to the Southern Railway; it is not an appropriation for special mail trains to Lynchburg, 171 miles, nor a special train to Danville or to Charlotte, but for a special mail train to New Orleans, a distance of 1,137 miles. The people of Alabama, where I have the pleasure to live, are not at all interested in any fast mail train to Lynchburg or to Danville or to any point that merely affects North Carolina, as the gentleman from North Carolina [Mr. WILLIAM W. KITCHIN] seems to think. What we are interested in is to have the present fast mail service to New Orleans continued, and I think I will be able to show that this service is of the greatest advantage to the business interests of the States of Alabama, Mississippi, Louisiana, and Texas.

Another thing, Mr. Chairman: This subject has been discussed mainly in the way of opposing the Southern Railway, but there are three roads that have to be consulted before this fast mail service to New Orleans can be carried out. We have to consider the Louisville and Nashville road from Montgomery to New Orleans, and the Western Railway of Alabama from Atlanta to Montgomery. They are a part of this line. This special-facility compensation amounts to $125 per mile, so that the Louisville and Nashville line, which is about 300 miles long, is interested to the extent of thirty-seven or thirty-eight thousand dollars. Now, this 1,137 miles of the road between here and New Orleans has more than one mail route; it comprises five different mail routes, over various routes carrying different weights of mail. In the Post-Office Department an average railway mail route is about 140 miles. Some of them carry as much as 100,000 pounds a day, and some of them do not carry 35,000 pounds a day. None of this extra compensation of $142,728.75 is paid to any railroad where the trains that perform the service are over five minutes late in arriving at the destination on any one of these five different routes.

Mr. WILLIAM W. KITCHIN. Mr. Chairman, will the gentleman permit an interruption? From what statistics does the gentleman read? I have just come in.

Mr. RICHARDSON of Alabama. My information was derived from the Post-Office Department and other sources.

Mr. WILLIAM W. KITCHIN. What train do you regard as a counterpart of train 97? Which one of the trains coming north do you regard as the counterpart of train 97?

Mr. RICHARDSON of Alabama. Do you suppose the train remains in New Orleans? Do you think a fair estimate can be made of the cost of a train which is simply estimated one way?

Mr. WILLIAM W. KITCHIN. The gentleman understands this—that 97 only runs one way?

Mr. RICHARDSON of Alabama. No; I understand that it comes back.

Mr. WILLIAM W. KITCHIN. And I gave the figures taken from the Post-Office Department and my own estimate of the express from here to Charlotte. Has the gentleman any information that will contradict the figures that I gave?

Mr. RICHARDSON of Alabama. Yes, sir; I think I have reliable figures which will contradict the basis of your calculations, and I will furnish them.

Mr. WILLIAM W. KITCHIN. I would be glad if the gentleman will call my attention to any figure which he thinks is inaccurate.

Mr. RICHARDSON of Alabama. I have pointed them out in your speech.

Mr. WILLIAM W. KITCHIN. April 6? I challenge the gentleman to point to one incorrect statement and figure in that speech.

Mr. RICHARDSON of Alabama. Now, I am giving you the result of a statement that I carefully prepared.

Mr. WILLIAM W. KITCHIN. I ask the gentleman to find any inaccurate statement in the figures which I gave.

Mr. RICHARDSON of Alabama. You said this, in addition to what I have already quoted from your speech:

Another fact: For the year ending June 30, 1904, being the last year for which I have been able to get the statistics on this point, the average earnings of the Southern's passenger trains in Virginia, North and South Carolina—and these earnings include passenger, mail, and express—were less than 99 cents for each mile such trains ran, while the average earnings of train No. 97 from here to Charlotte, exclusive of the subsidy, according to figures above stated, are $1.91 for each mile run, or nearly double the general average.

Why did you not make the estimate not from here to Charlotte, N. C., but from here to New Orleans, where the train ends?

Mr. WILLIAM W. KITCHIN. I stated why in my speech the other day; I only had an hour for a speech and I did not get through then.

Mr. RICHARDSON of Alabama. And I have only thirty minutes.

Mr. WILLIAM W. KITCHIN. You can not deny the accuracy of any figures you read there.

Mr. RICHARDSON of Alabama. And I say in the presence of this House I want to challenge their figures. I have officially a statement of the facts. I got it from a careful entry, Mr. Chairman, as to the amount of express matter which the gentleman, in his estimate the other day, said amounted to $53,000. I got a careful estimate, and I am assured upon reliable authority that the express matter carried on that particular train is insignificant. Why is it insignificant? It is absolutely through express; there is no messenger on that train, and what little express it has goes through to New Orleans, and the report is that it is insignificant; yet on the guesses and "ifs" of the gentleman from North Carolina, he makes the estimate of the express on that train valuable to the amount of $53,000.

The reason why I have called particular attention to what is the exact question is that the gentleman from North Carolina [Mr. WILLIAM W. KITCHIN] and others have discussed it as if it were a proposition for fast mail train from Washington to Lynchburg, or from Washington to Charlotte, for the benefit of the Southern Railway, and they have, by examining only the conditions between Washington and Lynchburg, or Washington and Charlotte, got what seems to me a wrong impression of this question. Anyone familiar with railroad matters in the South knows that the 171 miles from here to Lynchburg is not only the most profitable of the whole 7,000 miles in the Southern Railway system, but is the most profitable business route of any 171 miles south of the Potomac or Ohio rivers, not only for mail, but for freight, passengers, and express. This is the very throat of the Southern Railway system. All of its through business from the entire North and the cities of the North of every character is poured over this 171 miles, so that the earnings upon the short distance of the route are undoubtedly heavy.

Now, the gentleman from North Carolina and the gentleman from Minnesota [Mr. STEENERSON], in discusing this subject, have practically ignored the fact that this is a service to New Orleans, but have selected out of this entire mileage of 1,137 miles the one mail route from here to Lynchburg, or to Charlotte, over which all the mails of this railroad system are carried, as if the weight and the earnings upon the line from here to Lynchburg or to Charlotte were typical of the mail business and the mail earnings of this entire line, when, in fact, it is a very condensed and concentrated traffic and not in any sense typical, and to undertake to call attention to that dense traffic conveys, it seems to me, a totally misleading idea of the situation that confronts our people in Alabama and Mississippi and Louisiana and Texas, who get the chief benefit from this appropriation.

There is undoubtedly a very heavy mail starting out from Washington, although not more than one-half as heavy as the gentleman from Minnesota [Mr. STEENERSON] guessed there was from looking on the outside of the train one Monday morning—that is, the fast mail train No. 97. Does all of that mail go to New Orleans? By no means, nor does the half of it go to New Orleans, nor the third of it; but the train itself and all the expenses of the train do go clear to New Orleans, and must come back to Washington; and no fair-minded man would think of estimating what it earns except by considering the proposition as being one from Washington to New Orleans and back to Washington.

At Lynchburg the mail for all that portion of Virginia west of Lynchburg, and in addition thereto all of the mail for the State of Tennessee, is put off the train.

At Danville all mail for southern Virginia and northern North Carolina is put off.

At Greensboro the mail for eastern and southeastern North Carolina, including the city of Wilmington, all leaves train No. 97.

At Charlotte all mail for the State of South Carolina, except

the northern portion; all mail for southern Georgia, including the city of Savannah, and all of the mail for the State of Florida, except five counties in western Florida.

At Atlanta practically all of the Georgia mail is put off; also all of the mail for central and northern Alabama and Mississippi, to be forwarded via Birmingham and Meridian to Shreveport.

So that, Mr. Chairman, this is a rapidly diminishing tonnage, and it is manifestly very unfair to confine our attention to theoretical estimates of earnings of trains between Washington and Lynchburg, or Charlotte, as these gentlemen have thought proper to do.

Now, I do not agree with the extreme guesses on the weight or earnings of mail that is carried on this train (No. 97) between Washington and Charlotte, made by the gentlemen from North Carolina and Minnesota, and I do not think they are important for this reason.

From the records of the Post-Office Department I have calculated the exact earnings which these railroad companies receive for performing this service from Washington to New Orleans, as it is being performed—the round trip. There is no other fair way to consider it. The cars that start from Washington on No. 97 go through to New Orleans, and they come back from New Orleans to Washington. While the Post-Office Department divides this $142,728 (or at the rate of $125 per mile of railroad), nominally between the two trains going south—that is, trains No. 97 and No. 37—the service is only half performed, for the trains must come north with a very light load of mail, and the true way to find a just conclusion is to learn what is the average earnings per train mile in this service conducted both ways, as it is, and must be conducted. These records show that the average mail earnings (that includes the weight and the postal-car pay, but not this appropriation pay), is for the one train, No. 97, for its round trip, 65½ cents per train mile, and for the other train, No. 37, for its round trip, 54 cents per train mile from Washington to New Orleans and back again to Washington.

But suppose we take the actual figures of earnings of the train No. 97 alone—one way. It runs from Washington to New Orleans, a distance of 1,137 miles, every day in the year, which is 415,000 miles yearly, and receives from the Government for what is called the "weight compensation" for carrying the mails, $342,953, and for postal-car pay, $53,760, or a total mail pay of $396,714 yearly.

At Atlanta at midnight a coach is attached to the train which runs to New Orleans. The total passenger earnings on this train between Atlanta and New Orleans last year were $53,000.

Adding this to the mail-pay earnings, the entire earnings of train No. 97 from all sources amounts to $449,714 a year, which, divided by the 415,000 train miles which this train runs every year, makes its actual official earnings $1.08 per train mile. That does not sound much like $3 per train mile that was guessed at by the gentleman from Minnesota just from looking at the outside of the cars one Monday morning, nor the extravagant guessing as to earnings of the gentleman from North Carolina. My figures are official, and I can safely challenge their contradiction.

I made a very careful inquiry as to the amount of express matter carried on this train No. 97. Statistics are not kept, but I am assured upon reliable official authority that the express carried on that particular train is insignificant.

Now, is $1.08 per train mile excessive? I hold in my hand the last official and printed report of the Southern Railway for the year ending July 1, 1905.

This report shows the average earnings per train mile of every train operated over the 7,200 miles of the Southern road, including thousands of miles of branch lines, as $1.53 per train mile.

Will not every fair-minded man agree that an expensive train of this character ought to earn at least as much as the average of all the hundreds of trains that run over the road?

This appropriation amounts to 17 cents per train mile, and if it is added, then train No. 97 will earn for the Southern Railway $1.25 per train mile, which is 28 cents per train mile less than the average earnings of all the trains on the Southern Railway, passenger, freight, and mixed.

I further read from this same printed report that is filed with the Interstate Commerce Commission that the operating expenses of the Southern Railway last year were $1.12 per train mile. To this should be added 36 cents for interest and fixed charges, making the actual cost $1.48 per train mile—that is, this train No. 97, the special mail train from Washington to New Orleans, this very heaviest mail train, now earns just $1.08 per train mile from all sources, and if we make this appropriation it will earn $1.25 per train mile, while the average train-mile cost of all trains over the Southern Railway is officially known and stated to be $1.48.

If we make this appropriation the train will not then earn within 23 cents of the average cost of operating all their trains, and this train, because of the high average rate of speed (41 miles an hour) is the most expensive train they run because it makes all other trains stand aside and give it the right of way.

I am not a railroad man, Mr. Chairman, but I can state that I would never operate an expensive train like this over 1,137 miles of railroad at an average speed of 41 miles an hour unless I could get back at least approximately the average cost of trains over my railroad, and they can not do that here including interest and fixed charges into 23 cents per train mile, even if we make this appropriation.

The same old inquiry comes up here, of course, whether that railroad is actually losing money on this business, because it does not get back its average cost.

I can answer that best, I think, by reading and indorsing what the gentleman from Iowa [Mr. HEDGE] said on that point in his most excellent speech published in the RECORD of April 5:

> The postal car, carrying only two or three tons of mail, earns less for the railroad than its ordinary passenger coach; the special mail train, run at thundering speed, earns less than the actual average cost of its passenger-train service. Shall we from this conclude that the roads are carrying the mails at a loss? No; that does not appear to me a reasonable conclusion. In the average train-mile cost of passenger service on the Pennsylvania was included 38 cents for "interest and fixed charges." These would continue about the same if the road carried no mails. In this average train-mile cost are included all the items of maintenance of the roadway, station service, clerks, superintendence, and many others which would go on practically undiminished if no fast mail trains were operated.
>
> Railroads undoubtedly accept and are glad to get many lines of business which pay less than the average cost of operation per car or per train. There is some profit to them if they can earn from the particular traffic something beyond the actual cost to them of handling that traffic. The mails are a necessity to the people and the people are the customers of the railroad.
>
> The Government, in this respect, is fortunate in finding this machine to command; more fortunate far, in my opinion, than if it owned the machine itself, with all its responsibilities and risks. The railroads seem willing to accept the business at the existing rates and to comply as to apartment cars and postal cars and special trains with the exacting and expensive wishes and requirements of the Post-Office Department, and I doubt if there are many railroad managers who know exactly whether they are making money on the business or not. What should be the attitude of Congress? I believe that there are few Members of this House who are not willing for the Government to pay the railroads for carrying the mails not only that proportion of expense which is properly chargeable to this class of their traffic, but such additional expense as they necessarily incur in according to us unusual space in cars and extraordinary facilities in speed, and we are also willing to pay the proportional share of a fair return upon the capital invested. Some of the roads are probably being thus compensated at the present time, but I doubt if many of them are, if the truth was known, so urgent have been the demands of the public for greater frequency and promptness in the mail service and judging from the evidence before the Wolcott Commission and the opinions of men who know how the business is conducted.

And right here, Mr. Chairman, an injustice might be done to the officials responsible for the policy of these railroads by the insinuation that because their mail earnings from here to Charlotte are good, or because their general business is better than it was in the period of depression a few years ago, that they would be unpatriotic if they declined to operate these special mail trains through to New Orleans, even at a loss. I can not agree with this view. Upon that principle we might ask them to run the trains for nothing. It is their duty to endeavor to make each class of their traffic self-sustaining, and no customer can fairly ask them to perform a service that yields returns below the average cost of operating the road, including interest, taxes, and other fixed charges.

They say, and, so far as I know, they speak truly, and as the actual official statements of earnings show that the weight of the mails over this whole through line—Washington to New Orleans—is so light that, including the necessary expense for the return of the cars to Washington, practically empty, many of them, they can not possibly get out of the business, at the rates fixed by law, enough money to meet the average cost of operation and fixed charges. If that is true, it seems a plain proposition that if the public wants this special service it ought to be willing to pay for it.

This is not a matter that the Southern Railway could handle alone if it tried. This train would be of little value unless it reached New Orleans to connect with the Southern Pacific. But between Atlanta and New Orleans the weight of mails is less than one-third the weight from Washington to Lynchburg, and the roads west from Atlanta will not join in the through service by special trains unless they can receive more than the pay provided in the general law.

When they decline to cooperate the whole scheme fails, and I therefore regard it as unjust to hold officials of the Southern road responsible if this service is discontinued.

The question of its value to the roads between Atlanta and New Orleans is equally important with that between Washington and Charlotte, and is really the main question, as it affects the people of Alabama, Mississippi, Louisiana, and Texas.

The facts as to the actual earnings of these three roads from this service make it seem unjust to stigmatize this appropriation as possessing the offensive features of a "subsidy" in the sense of a gratuity—the granting of a gift—something for nothing.

It is no more a "gratuity" than the earnings per train mile of $1.56 that are paid to some northern roads for special mail trains compared with the total $1.25 per train mile which train No. 97 will receive if we make this appropriation. Why are they paid $1.56 per train mile? Because they have the weight of mail to carry.

Why do we not give them special compensation for running special trains? Because the tonnage they receive gives them a fair compensation. Give these southern roads anything like their tonnage and they will, I suppose, be "delighted" to conduct business in the same way.

Is it not a mistaken idea that these roads are going to lose money if we fail to make this appropriation and they discontinue these trains? Will there not be the same weight of mails to carry? Will they not require the same number of postal cars? Somebody must do this business, and there is nobody else who can do it except these companies.

They will simply carry the mails upon slower trains, and if my judgment as a layman is of any value, they will make more net money than to receive this appropriation and continue to perform the service as they are now doing.

Why do the people of Alabama and the business men of all that region of country west and south of Atlanta so much desire the special service to which this appropriation is applied?

It is not because fast mail trains are run in the North, nor from any feeling of mere pride, but because, with their connections, these trains have proved of the greatest benefit to our people in ways which only men engaged in actual business can appreciate and understand. Many other trains are scheduled to connect with these. For instance, upon the arrival of train No. 97 in Atlanta another train was immediately put on and run to Birmingham, and through this and its connections many towns and cities in Alabama and Mississippi are undoubtedly served with mail twelve to twenty hours earlier than they would be otherwise, and in like manner the benefits of this service are felt all over the South.

The gentleman from North Carolina [Mr. WILLIAM W. KITCHIN] stated in his speech that the time schedules and the speed of train No. 97 are not regulated by the Post-Office Department.

He is mistaken. He does not know the facts.

The Post-Office Department requires this train to start from Washington immediately after the arrival of the important through mails from Boston and New York. This makes it leave here at 8 a. m.

The Department also requires it to connect with the "Sunset Limited" of the Southern Pacific at New Orleans, which leaves that city the next morning at 11.55.

To make this time the train No. 97 must run an average of 41 miles an hour. This is faster than the time on any other single-track road in the United States for the same long distance.

The Post-Office Department, therefore, does regulate the time schedule and the speed of train No. 97, as it does of all fast mail trains in this country.

I have, Mr. Chairman, presented what I believe to be the plain facts on this proposition to secure an appropriation that simply means to expedite mails in certain sections of the South.

Mr. Chairman, I admit that I regret that when we come here earnestly asking our northern friends to come to our aid and help us in securing an appropriation violative of no sound principle or policy, that certain people of the South believe is of great advantage to them from purely a business standpoint, that southern Representatives rise in their seats and denounce it as a "steal," and call it "robbing the Treasury;" call it "an octopus."

I tell you, Mr. Chairman, that such fiery and unreasonable and unjustifiable denunciations of Federal aid for the good of the people such as we have heard in this debate in some portions of the South some years ago met with some response, but it is not true now. The gentleman from North Carolina has heard the ominous mutterings of his own people. The South is growing—growing not only in the development of its agricultural and mineral resources, but in broadness of views. It has felt the impetus of activity and business and wealth and prosperity.

Mr. LIVINGSTON. It has got it largely from the rural free delivery that comes off this train.

Mr. RICHARDSON of Alabama. Yes; a great deal is due to free delivery, and I tell you, Mr. Speaker, that the Southern people who know what benefit this fast mail has brought them will have but little patience with the public man who stands here in his place, and for some dreamy, shadowy, aesthetic views of the doctrine of equal rights to all and special favors to none or the tenets of a political party, withholds from his people an appropriation of vast benefit to them and for the public good. [Loud applause.] I say that time is now past in all parts of the South, and 'tis well for us that it is gone.

Ah, Mr. Chairman, I am surprised at the assaults that are made upon this appropriation. It is nothing but an appropriation. Gentlemen are mistaken when they say that it is a gift—a donation to the Southern Railroad. It, sir, is a donation to the people for their interests and for the public good. Why do these railroads desire to hold it? It is an advertisement for the Southern Railroad. It associates them with the power and the privileges of the Government. I have shown you the figures that show that this 97 train, that gives Alabama, Mississippi, Texas, and Louisiana all these great benefits, actually runs and earns less than any other regular train over this 7,000 miles of railroad. Trains stand at Atlanta and other points awaiting the arrival of train 97—the fast mail train—and at once leave in different directions carrying mail to the people at distant points fourteen to twenty hours earlier than they would otherwise get it. At Montgomery and Mobile the same thing occurs, and yet 'tis facetiously, yea, luridly, denounced a "subsidy," an octopus, robbing the Treasury. I say that I am surprised at gentlemen who indulge in such pyrotechnics.

The time was, not long since, when there was vociferous denunciation in the South of Federal aid in the way of internal improvements. But the South, Mr. Chairman, happily is passing away from those feelings and views. Where are the gentlemen who to-day will stand up here and denounce Federal aid of internal improvements? Here we come before you and ask you simply and plainly that out of a bill that carries $190,000,000 there be paid the sum of $142,000 to aid the people in disseminating useful knowledge and assisting the business men of that section.

Mr. ADAMSON. Will the gentleman tell the committee how much it expedites the mail?

Mr. RICHARDSON of Alabama. It expedites it from twelve to twenty hours. Collaterally, it carries its benefits a hundred miles away from the trunk line, which is paid. It is of great advantage to towns a hundred miles from the main trunk line. Through free rural delivery this fast mail reaches thousands of the masses of the people and gives them the benefit of their papers and letters many hours in advance. Yet they say, "Oh, it is a subsidy; it is an octopus which is about to destroy and devour the people." I can see it, with its slimy tail and serpentine coil, as they describe it. They—the gentlemen who are so earnest in their opposition—declare with uplifted hands and writhing features that we are putting our unholy hands into the sacred precincts of the Treasury and robbing it, when we are simply asking these northern friends of ours to come to our aid and help us upon that which is absolutely a business proposition in every respect. [Applause.]

Mr. OVERSTREET. Does the gentleman from Tennessee [Mr. MOON] desire to use some of his time now?

Mr. MOON of Tennessee. I yield to the gentleman from Arizona [Mr. SMITH].

Mr. SMITH of Arizona. Mr. Chairman, while we are in Committee of the Whole on the state of the Union, and taking a broad view of the whole country, I think it is not inappropriate at this particular time to allude to the present status of the statehood bill for a moment. I shall not say now what I expect to say later on in that connection, but take the floor for the purpose of reading in this presence a poem written by an Arizona lady, touching the joint statehood bill. I think it is worthy the time of the House to hear it.

ARIZONA.

[By Sharlot M. Hall, of Dewey, Ariz.]

No beggar she in the mighty hall where her bay-crowned sisters wait,
No empty-handed pleader for the right of a free-born State;
No child, with a child's insistence, demanding a gilded toy,
But a fair-browed, queenly woman, strong to create or destroy;
Wise for the need of the sons she has bred in the school where weaklings fail,
Where cunning is less than manhood, and deeds, not words, avail;
With the high, unswerving purpose that measures and overcomes,
And the faith in the farthest vision that builded her hard-won homes.

Link her, in her clean-proved fitness, in her right to stand alone—
Secure for whatever future in the strength that her past has won—
Link her, in her morning beauty, with another, however fair?
And open your jealous portal and bid her enter there
With shackles on wrist and ankle, and dust on her stately head,
And her proud eyes dim with weeping? No! Bar your doors instead,
And seal them fast forever! but let her go her way—
Uncrowned if you will, but unshackled, to wait for a larger day.

Ay! Let her go barehanded, bound with no grudging gift,
Back to her own free spaces where her rock-ribbed mountains lift
Their walls like a sheltering fortress—back to her house and blood;
But we of her blood will go our way and reckon your judgment good.
We will wait outside your sullen door till the stars you wear grow dim
As the pale dawn stars that swim and fade o'er our mighty canyon's rim.
We will lift no hand for the bays ye wear, nor covet your robes of state—
But ah! by the skies above us all, we will shame ye while we wait!

We will make ye the mold of an empire here in the land ye scorn,
While ye drowse and dream in your well-housed ease that States at your nod are born.
Ye have blotted your own beginnings, and taught your sons to forget
That ye did not spring fat fed and old from the powers that bear and beget.
But the while ye follow your smooth-made roads to a fireside safe of fears
Shall come a voice from a land still young, to sing in your age-dulled ears
The hero song of a strife as fine as your fathers' fathers knew,
When they dared the rivers of unmapped wilds at the will of a bark canoe—

The song of the deed in the doing, of the work still hot from the hand;
Of the yoke of man laid friendlywise on the neck of a tameless land.
While your merchandise is weighing, we will bit and bridle and rein
The floods of the storm-rocked mountains and lead them down to the plain;
And the foam-ribbed, dark-hued waters, tired from that mighty race,
Shall lie at the feet of palm and vine and know their appointed place;
And out of that subtle union, desert and mountain flood,
Shall be homes for a nation's choosing, where no home else has stood.

We will match the gold of your minting, with its mint stamp dulled and marred
By the tears and blood that have stained it and the hands that have clutched too hard,
With the gold that no man has lied for—the gold no woman has made
The price of her truth and honor, plying a shameless trade—
The clean, pure gold of the mountains, straight from the strong, dark earth,
With no tang or taint upon it from the hour of its primal birth.
The trick of the money changer, shifting his coins as he wills,
Ye may keep—no Christ was bartered for the wealth of our lavish hills.

"Yet we are a little people—too weak for the cares of State!"
Let us go our way! When ye look again, ye shall find us, mayhap, too great.
Cities we lack—and gutters where children snatch for bread;
Numbers—and hordes of starvelings, toiling, but never fed.
Spare pains that would make us greater in the pattern that ye have set;
We hold to the larger measure of the men that ye forget—
The men who, from trackless forests and prairies, lone and far,
Hewed out the land where ye sit at ease and grudge us our fair-won star.

"There yet be men, my masters," though the net that the trickster flings
Lies wide on the land to its bitter shame, and his cunning parleyings
Have deafened the ears of Justice that was blind and slow of old.
Yet time, the last Great Judge, is not bought, or bribed, or sold;
And Time and the Race shall judge us—not a league of trafficking men,
Selling the trust of the people, to barter it back again;
Palming the lives of millions as a handful of easy coin,
With a single heart to the narrow verge where craft and statecraft join.

Mr. RICHARDSON of Alabama. I ask unanimous consent to extend my remarks in the RECORD.

There was no objection.

Mr. SMALL. Mr. Chairman, I make the same request.

There was no objection.

Mr. MOON of Tennessee. Mr. Chairman, I yield to the gentleman from Tennessee [Mr. SIMS].

Mr. SIMS. Mr. Chairman, in some remarks I made yesterday on a bill before the House pertaining to the District of Columbia I quoted what I then had before me from an address delivered by the Hon. Henry B. F. Macfarland before the Buffalo Exposition and also a quotation from an article in Everybody's Magazine. The quotation that I gave was one that I took from a publication that I had, and I gave it in full as far as I had it, but it was not all that he said on the subject, and he has called my attention to the fact that the partial quotation was not entirely just to him. He has sent me his address in full before the Buffalo Exposition, and I include same as part of my remarks. It is a splendid presentation of the Commissioner's view of the present form of the government of the District of Columbia, and I ask every Member of the House to read same carefully.

Mr. Chairman, it was not my intention to be understood as criticising the Commissioners. I said once before in the House when discussing the present form of government that if I was asked to name three gentlemen for Commissioners I should name the three gentlemen who now hold those positions. My complaint is with the form of government and not with the Commissioners. The difficulties I complain of are inherent, and not the result of the present administration. I am unconditionally for home rule for the District of Columbia, and under the present form of government it can not be had; therefore I am in favor of such a change as will give the people of this District complete control of local municipal affairs.

The CHAIRMAN. The gentleman from Tennessee asks unanimous consent to print in the RECORD the speech which he indicates. Is there objection?

There was no objection.

The speech is as follows:

"THE DISTRICT OF COLUMBIA."

The capital of the United States of America brings greeting to-day to the Pan-American Exposition of the first year of the twentieth century. The District of Columbia, home of the United States Government, seated in the city planned by Washington, and which bears his name, offers its congratulations to the managers of this exposition, and to the men and women of Buffalo who made it possible, upon the success which they have achieved. Congratulations have come, or will come, from every State in the Union, from every one of our sister republics, and from the Dominion of Canada, but none, we flatter ourselves, can be more significant than those which come from the official heart of the United States of America, where the feelings of all the people of our Union are gathered up and expressed together. The District of Columbia is highly honored in having this day set apart by the exposition for its benefit, but it can make some return in delivering to the exposition the essence of the good will and felicitations of our country. Indeed, as the oldest republican capital on this continent, it may, without presumption, claim the honor to speak at least for all its younger relatives, the capitals of the republics south of us, including the youngest republic of this hemisphere, Cuba, which comes into independence with the opening of the twentieth century. George Washington was the example of the heroes who liberated and founded those republics, and they naturally looked, and looked not in vain, to the capital which he founded for that sympathy and support which they could not hope for in any other capital the great world round. In the city of Washington, in the District of Columbia, they found what they had a right to expect—recognition and consideration, without condescension or intimidation, courtesy as disinterested as is ever found among men. They misread history who see in the dealings of the United States of America with the other republics of this hemisphere anything inconsistent with the character of the elder brother. From the time that they established their independence the earlier republics had the friendship of the earliest republic, and it has been almost always generously shown in considerate ways.

It was in the District of Columbia that John Quincy Adams, following out George Washington's thought, formulated the principle which President Monroe announced, and to which his name was given. It has never been invoked except for the benefit of this continent, and it will never be employed for the wanton injury of any power beyond the seas, much less to the damage of any country between the Atlantic and Pacific. It is a doctrine of peace and not of war, except as war may sometimes be necessary to gain peace and it can never be rightfully used except on this basis. To keep the peace of this continent has always been a desire of our country.

It was in the District of Columbia that John Quincy Adams and Henry Clay, in eloquent language, first set forth the noble principles of the relations which the United States desired with the new-born republics, in their efforts to secure representation of the United States at the first Congress of American Republics at Panama—efforts which, though injured by partisan opposition, were crowned with success, although it came too late to be of practical importance. It was in the District of Columbia that, after the lapse of more than half a century, another Congress of American Republics, greater than that of Panama, as the republics themselves had become greater, met, upon the invitation of the United States of America, and drew together the States of North and South America in closer ties than they had ever known before. It was at the opening of that congress, the precursor of this exposition and of the congress which is about to meet in the City of Mexico, that Secretary Blaine expressed the deep thought of the American people when he said:

"We believe that hearty cooperation, based on hearty confidence, will save all American states from the burdens and evils which have long and cruelly afflicted the older nations of the world.

"We believe that a spirit of justice, of common and equal interest between the American states, will leave no room for an artificial balance of power like unto that which has led to wars abroad and drenched Europe in blood.

"We believe that friendship, avowed with candor and maintained with good faith, will remove from American states the necessity of guarding boundary lines between themselves with fortifications and military force.

"We believe that standing armies, beyond those which are needful for public order and the safety of internal administration, should be unknown on both American continents.

"We believe that friendship and not force, the spirit of just law and not the violence of the mob, should be the recognized rule of administration between American nations and in American nations."

Arbitration as a means of preventing war has been prominent in the gospel of our country, and it was with peculiar satisfaction that we heard Secretary Blaine say, in closing the Pan-American Congress of 1889, in Washington:

"If, in this closing hour, the conference had but one deed to celebrate, we should dare call the world's attention to the deliberate, confident, solemn dedication of two great continents to peace and to the prosperity which has peace for its foundation. We hold up this new Magna Charta which abolishes war and substitutes arbitration between the American republics as the first and great fruit of the International American Conference. That noblest of Americans, the aged poet and philanthropist, Whittier, is the first to send his salutation and his benediction, declaring:

"'If, in the spirit of peace, the American conference agrees upon a rule of arbitration which shall make war in this hemisphere well-nigh impossible, its sessions will prove one of the most important events in the history of the world.'"

The District of Columbia has been the scene of many other efforts and negotiations having the same objects as the Pan-American Congress of 1889.

It has also been the scene of many efforts and negotiations, in part successful, intended to secure closer and more cordial relations between the United States and our great neighbor on the north, who must be included, as here, in any real Pan-American project. In spite of all that selfish politicians, prompted by no less selfish business men,

have done to keep the United States and the Dominion of Canada apart, they have inevitably, under natural laws that can not be affected by treaties or enactments, been brought closer together in personal and commercial intercourse, which now makes the very thought of war between them seem, even here, near the battle grounds of the war of 1812, incredible if not impossible. It was the treaty of Washington, preeminently entitled to that name, which, providing for the greatest arbitration of history between two of the greatest nations of history, proclaimed the international principles of the United States and removed the last real danger of war with Great Britain which we shall ever see.

Peace on earth among men of good will, peace with honor, though not peace at any price—this is and has always been the choice of the American people, who do not love war for war's sake, and who do not thirst for its conquests or its glories. That brotherhood of men which is only possible because of the fatherhood of God is dear to them. That friendliness for all other nations, without entangling alliances with any of them, which George Washington preached, has been the heart of the people's desire ever since, even when the war spirit rose high or when actual war was on. Nothing is further from the truth than any representation of the United States as an Uncle Sam going around with a chip on his shoulder, making faces at foreigners and breathing out threatenings against them. On the contrary, the disposition of the United States is to endure patiently as long as possible whatever wrongs may be put upon it, and to seek a remedy by peaceful means. And it is less and less disposed to brag and bluster as it attains greater power and therefore greater self-respect. This very exposition, like those which have preceded it, manifests the spirit of the American people, devoted to the competitions of peace. Proud of its Army and Navy, proud of their achievements and those of the citizen soldiery supplementing the regular forces, it looks upon them as a means of defense and not of offense, and for the exceptional emergencies and not the ordinary life of the nation.

Nowhere is the national or the international feeling of the United States of America so strong or so clearly expressed as in the District of Columbia, where the representatives and the citizens of all the States and Territories meet and contribute to the population; where the National Government carries on its operations; where the President, through the Secretary of State, conducts the negotiations respecting its foreign relations with the ambassadors and ministers of all the other governments who are permanently resident in Washington. The very purpose of the founders of the District of Columbia was to make it national, and even cosmopolitan—removed from local and provincial feelings and influences—and its development has more and more gratified their desire.

It will be remembered that the far-seeing genius of George Washington first perceived the necessity for such a capital. He had seen the Revolutionary capital and that of the Confederation which followed the Revolution moving about from place to place in ephemeral and undignified fashion; he had seen the Congress of the Confederation flee from its place in Philadelphia in 1783 before the onslaught of a mob of the ill-requited soldiers of the Revolution. He had determined then that the people of the United States needed not only a more perfect union, but a more perfect capital in a Federal district, which would give it security and sanctity it could not have in any place temporarily loaned by one of the States. Other men began to see it, too. It was felt that the dignity as well as the safety and therefore the perpetuity of the National Government that was to come into being with the new Constitution demanded that it should have a seat of its own, under it own authority, and where it could not be encroached upon by any disturbing influences. Accordingly, in the Constitution of 1789 provision was made for a Federal district 10 miles square, over which Congress should have exclusive jurisdiction. Then came the consideration in Congress of the important question of where the Federal district should be placed. Naturally, different sections and different States desired it. It was seen that it could not be given to New England or to the extreme South, but every State in between considered itself eligible, and most of them tried to get it, offering in some cases even their State capitals for the national use. The contest in Congress over the selection of a place became excited and at times so bitter that some felt that the break-up of the Union, which all feared as possible before its thin ties could be made unbreakable, might come over the placing of the Federal district. Congress made several tentative selections and one, in Pennsylvania, that was apparently definitive, but all were reconsidered, and it seemed as though the controversy might go on indefinitely when the famous compromise was reached by which the South got the Federal district, in consideration of its acquiescence in the desire of the North for the assumption by the nation of the Revolutionary debts of the States. It was as natural as it was admirable that the choice of the precise location for the Federal district on the Potomac River, for 100 miles from Williamsport southward, was left to George Washington, who knew the whole region thoroughly and was more interested in the success of the plan than any other man, for he had not only the eye of the surveyor but the eye of the seer, and selected a site only with regard to its beauty, its convenience, and its adaptability, but to the future of the nation. It was well that he was also intrusted with the preparation of the Federal city within the Federal district, for he laid it out, with the assistance of Thomas Jefferson, the leader of the other school of statesmen, and of the surveyors, L'Enfant and Ellicott, with the eye of faith which saw the United States of to-day as no other man of his time began to see it.

It is hard to realize now that no one saw then as Washington did the United States of a century later, bound together in a Union that can not be broken, a mighty nation, spread not only across the continent but across the seas, and whose future greatness no man can limit. Washington thought with breadth and depth that distinguished him from the other fathers of this Republic, and nowhere does this appear more clearly than on the map of the Federal city, as Washington called it, although inevitably it was called by his name by everyone else, and finally by Congress. As we look at that plan, whose scope and detail are now admired by the greatest experts as the best possible for the purpose, we see Washington's confidence in the future of the nation which he had brought into the world. It is difficult for us to realize how puny that nation appeared to foreigners; how weak and unpromising to many of its own citizens; so that the magnificent project of Washington for the Federal city seemed to them, alike in its unparalleled grandeur and symmetry, a thing for ridicule. The serene Washington, who faced laughter as he faced cannon, did not change his project, which is still the working plan for the city of Washington to this day. Washington not only selected the site of the Federal district and planned the Federal city, but he also directed the arrangements under which Maryland and Virginia gave to the United States the jurisdiction over the territory for the District of Columbia, as Congress called the Federal district in memory of Columbus, and personally conducted the negotiations with the nineteen owners of the land, mostly cut up into farms, on which the city of Washington was to be built. He included on the Maryland side of the Potomac, in the larger portion of the District, 69 out of the 100 square miles, the city of Georgetown, founded by Scotch and English in 1751, and on the Virginia side of the Potomac his own home town of Alexandria, both towns then ambitious and hopeful of commercial greatness, which Washington himself sought to bring to them by the Chesapeake and Ohio Canal, designed to connect the East with the country beyond the mountains, then called the West. But the Federal city he placed on the map between Rock Creek, the eastern boundary of Georgetown, on the west, and the Anacostia River on the east, with the Potomac as the southern boundary. The National Government was poor as well as weak. It could not afford to buy out the original proprietors. It could not afford to put up the necessary buildings for its own use. Therefore, in the decade from 1790 to 1800, given to Washington for the preparation of the national capital, he had to arrange with the owners to make them stockholders, in a sense, in the national city, by securing their donations of more than half of the land to the National Government, in consideration of the enhanced value which would accrue to the land which they kept. Then, with ample reservations of land for avenues, streets, and parks, some of the rest was sold on the Government account as building lots to raise funds for buildings in connection with appropriations of money made by Maryland and Virginia. Washington, who in this formative period had to overcome many difficulties, at last, just before his untimely death in 1799, saw his work so well done that it could not be undone, and derived from it a pleasure which nothing else except his successes in the Revolution and in the adoption of the Constitution had yielded to him.

But although the Federal district had been established and the Federal city had been laid out on paper, the general appearance of the farms that stretched from the low hills in the north of the District down to the fishing hamlets on the shore of the Potomac, showed very little change when, in 1800, the National Government slowly removed from Philadelphia to Washington. The Executive Mansion, which was of the same size, but not of the same color as to-day, and the old Capitol building, one-third the size of that of to-day, were the only important new structures, although buildings for the small Executive Departments of that time had been constructed and a number of dwelling houses, with a few small hotels and boarding houses. Pennsylvania avenue was rather plainly marked as a road between the Capitol and the Executive Mansion, and a few other avenues and streets in the southern and central portion of the young city were traced through the groves and pastures in a similar way.

The population of Washington in the year 1800, when the National Government had become established in it, was less than 4,000, Georgetown having less than 3,000, Alexandria nearly 5,000, while there were nearly 3,000 in the rest of the District. The total population of the District was 14,093, including 2,072 slaves.

The National Government was a small body of men, and its business was comparatively small in amount. The nation itself was felt to be still an experiment, and it was not regarded as certain that there would continue to be a National Government or a national capital. Chief Justice Marshall, however, took his seat on the Supreme Bench in February, 1801, and began, in that masterly series of decisions, to draw out of the new Constitution the powers for a mighty National Government, which could never be broken except by revolution. While that great statesman in the robes of a jurist was thus carrying George Washington's ideas into practical and permanent effect, the National Government continued to be so poor that it was not able to build up and improve the Federal city as Washington had intended. And even as the nation grew in wealth and power, and larger measures of both came to the National Government, it continued to leave the improvement of the city of Washington, and all the rest of the District of Columbia, practically to the people who lived in it. For seventy years Congress did not give the District of Columbia even a form of government, although Washington was given what Georgetown and Alexandria had of municipal government by mayor and councils. In that time Congress spent $90,000,000 in constructing buildings and other conveniences for the business of the Government in the District of Columbia, but, with what seems like neglect of the interests of the capital, it left the burden of general improvements and the maintenance of the local governments largely to the inhabitants of the District. It was not, perhaps, intentional neglect. It was undoubtedly caused at first by the comparative poverty of the National Government, and afterwards the very conditions resulting prevented that pride and interest which ought to have been taken in the national capital.

Then, too, it was not until after the civil war that it was finally settled that the national capital would not be moved from the District of Columbia. It had hardly been established there before agitation for its removal began; first, on the part of those who were dissatisfied with it as a place of residence, and, afterwards, by those who desired for other places the honor and advantage of having the national capital. As the expansion of the country, begun by Washington and Jefferson, proceeded westward over the Alleghenies and beyond the Mississippi, and it became apparent that it might go on until the Pacific was reached, the men of the West began to murmur because the national capital was on the eastern edge of the continent, and communication with it was slow and difficult. The railroad and the telegraph were removing the only substantial reason for a change, when the civil war made a change impossible by hallowing the District of Columbia with the sentiments of sacrifice and glory. It had not been improved as Washington desired. The city of Washington had not been made beautiful. It was still unkempt and neglected in its general aspects, but great armies of the best and bravest of the North and South had fought to possess it, and many thousands of them had poured out their life-blood for it. The hundreds of thousands of men who marched through it to the battlefields all around it felt a new interest in it, and those who survived and returned to their homes all over the Union communicated that interest to their relatives and friends.

In these days of travel it is hard to realize how few Americans had visited Washington before the war, and therefore how dim and shadowy the national capital seemed to the people of the country. But the national capital, like the National Government, became intensely real and intensely precious to the men and women whose dear ones went to battle for it, and after the success of the Union armies had given a new meaning to both the Government and the capital the suggestion of giving the Government a new home met only with ridicule. The greatest captain of the war, the general of the triumphant armies,

shared the new interest in the old capital, for which he had probably cared very little, like most of his fellow-citizens, before the war. When General Grant became President of the United States in 1869, he came into close official relations with the District of Columbia, and it was easy for the leader of its more progressive citizens, a remarkable man whose vigor and ability impressed General Grant, to enlist his support for an effort to carry into effect the long-neglected plans of George Washington for the District of Columbia. Fortunately for the District, its natural leader and the large majority of both Houses of Congress were of the same political party as the President of the United States, and that party, which also controlled the Supreme Court, still had the confidence of the majority of the people as the savior of the Union. This made it possible to do in a very short time remarkable work for the betterment of the District of Columbia. First of all, it was given a government. Congress, under the Constitution, had legislated for it in a haphazard way for the most part, although it had given it a judicial system at the beginning of the century and a metropolitan police system at the beginning of the civil war. But in 1871 it gave the District a territorial form of government, with a governor, appointed by the President, and a legislature and a delegate in Congress, elected by the people, who still retained the right of suffrage which they had formerly exercised in voting for the municipal officers of the cities in the District. Alexandria had been lost to the District when Virginia took back, in 1846, the strip of territory which it had donated on the south side of the Potomac, and in 1871 the cities of Washington and Georgetown gave up their municipal governments, and from that time on they have had no other government than that of the District of Columbia, so that the city of Washington, which now comprehends also the former city of Georgetown, is the only city in the world which has no government of its own.

The government of the District of Columbia, controlled by the one masterful spirit, proceeded to improve the city of Washington by opening up, grading, and paving avenues and streets all over it according to Washington's plan. The valleys were filled up with the hills. The work was done on a grand scale, and all over the city at once, so that when it had once been begun it was easier to go on and finish it than to try to undo it. Suddenly and generally the plowshare of progress was driven roughly but skillfully in all sections of the city. Naturally there was bitter and ardent protest from property owners who preferred the old conditions to the increased taxation of the new. But for the time being the new force at work was irresistible, and before it could be checked it had started the new Washington and had made it impossible to go backwards. All that the reactionary forces could do, aided by a political change in Congress and the panic of 1873, was to halt the march of improvement and change the form of government.

Although the charges of corruption and thievery, which were so freely made, were not established in the Congressional investigation that followed, and though the general results of what was done under the Territorial government were accepted as on the whole beneficial, although it took years to make some see it, the taxpayers of the District generally were satisfied by their experiences that they wanted no more of the electoral franchise under the apparently unchangeable condition of universal manhood suffrage, and therefore they induced Congress, in 1874, to provide for the government of the District without suffrage by a temporary board of three Commissioners, which was to prepare the way for a permanent government by Commissioners. At the same time Congress was brought to acknowledge for the first time its financial obligations to the District of Columbia in view of the fact that the title to more than one-half of the real estate was in the United States, and the National Government was receiving the full benefit of all municipal services. Congress promised that, under the new government by Commissioners, it would pay half the expenses of the District, the other half to be paid by the citizens who had theretofore borne the whole burden. Congress also, in consideration of the authority it had given the Territorial government to borrow money for the extraordinary expenses of improvement, gave the guaranty of the United States for the payment of the principal and interest of the bonds issued on that account. In fulfillment of its promises, Congress, in 1878, passed the act which the Supreme Court of the United States has termed "the constitution of the District of Columbia," giving it a permanent government by three Commissioners, to be appointed by the President of the United States, who exercise all the executive power and to whom is also delegated a certain legislative authority to make regulations enforcible by penalties for the public safety, health, and comfort—a unique grant to an executive government. In the same act runs the provision for the division of the expenses of the District of Columbia half and half between the United States and the District of Columbia. Twenty-three years' experience has proved that this is the ideal form of government for the District of Columbia. This is attested by the fact that there is no probability that it will be materially changed at any time in the future. The fact that it is an exception to all other governments in the United States in that it provides for taxation without representation, and is autocratic in form, grieves some good people in the District who care more for sentiment than for substance, and grieves others who would like to take advantage of the untoward conditions which the restoration of the suffrage would inevitably produce. But the people of the District of Columbia generally believe that they have the best form of government possible for them, and if any serious attempt were made to change it, it would be overwhelmingly defeated. They know that the absence of partisan politics in the District of Columbia has made its government purely a matter of business, and that it has been carried on with absolute honesty, with conspicuous efficiency and economy, and in accordance with its official motto, "Justitia omnibus." There has been no suspicion of maladministration, of corruption, or of blackmail. The Commissioners and the other officers of the government of the District of Columbia invariably have had the confidence and support of all that is best in the community. Under the organic act of 1878, two of the Commissioners are to be residents of the District of Columbia, and the third is to be an officer of high rank in the Army Corps of Engineers, the civilians serving for three years, the engineer commissioner having no fixed term, but, as a rule, serving for a shorter period. Under the unwritten law of custom, the President always chooses the civilians from different political parties, and one of them has always been a lawyer, though the law requires only that they shall be residents of the District. Their recommendations of legislation and appropriations are the basis for the annual action of Congress, and Congress, through its committees, consults the Commissioners about all measures affecting the District, and commonly follows the advice of the Commissioners. The annual budget of the Commissioners amounts now, in round numbers, to about $9,000,000, which has to be appropriated in detail by Congress, half from the National Treasury, half from the District revenues, and all the accounts of the District, because of the national participation, are audited not only by the auditor of the District, but by the United States Treasury Department. Accounts that pass such scrutiny could not long be dishonest, even if there were dishonest men in the government of the District.

This unique government would not have been continued and would not have been succesful had it not been in fact more responsive to public opinion than any other in North or South America. Self-government of the most direct and effective character is the possession of the people of the District of Columbia. The President has always chosen as Commissioners men whose character and abilities gave them the support of their fellow-citizens, and the Commissioners and Congress have always welcomed every expression of the public will. The government of the District of Columbia is therefore admittedly the best in the United States, because it is a government by the best citizens, with partisan politics, the professional politician, and the municipal jobber absolutely eliminated. The District of Columbia desires to exhibit at the Pan-American Exposition its form of government as its best and most characteristic product, which can not be duplicated for honesty and efficiency. Under this government it is becoming the most beautiful capital in the world and has doubled its population and wealth.

In the celebration, on the 12th of last December, of the centennial anniversary of the founding of the District of Columbia the speeches at the Executive Mansion and at the Capitol showed that the District of Columbia had held its own in the progress of the nineteenth century. It had not become the "commercial emporium" of the first order for which George Washington hoped, any more than it had become the home of the national university of which he dreamed and for which he made a large bequest. Yet it has an economic and commercial development which surprises even its own inhabitants with every census, and it has room and special facilities, without endangering the peculiar advantages of Washington as a residence city, for the large expansion of manufacturing enterprises, while it has become a university center with 2,500 collegiate students, and, besides its colleges, posseses those great mines for scientific research, the Government libraries and collections with a million volumes and thousands of scientific treasures, which are now to be made more accessible than ever to the graduate student.

But the distinction of the District of Columbia lies in the fact that it is more than a commercial or a collegiate center—more, even, than a place of scientific research. It is the national capital, the home of the National Government, the official residence of the President, his Cabinet, the Supreme Court, the Congress, and the ambassadors and ministers of all the other governments of the world accredited to the United States. This is, and ought to be, and always will be, its distinctive glory. It had this at its beginning a hundred years ago, when President John Adams announced formally to Congress the transfer of the seat of government to its borders. Even then it had that fine society, which it has always had since, and that noble life, full of interest and culture, of high pursuits and great affairs. It has not the most polyglot population, but it has the most cosmopolitan interests in the United States. All the Presidents except George Washington, and all their Cabinet officers, all the Chief Justices from John Marshall down, and all their associates in the Supreme Court, all the Vice-Presidents since Jefferson, all the Senators and all the Representatives since the Fifth Congress, all the ambassadors and ministers of foreign governments since 1800, all the great officers of the Army and Navy, and many of our most eminent scientists have been residents of the District of Columbia and have contributed to its society, always distinguished for its refinement and culture, not only the honor of their presence, but the riches of their minds. More important still, the public men have done their great deeds and spoken their great words, making in large measure the history of our country, in the District of Columbia. Simply to recall the names of men whose biographies are that history will give you a true conception of the wealth and greatness of the District of Columbia, which claims them, their speeches and their actions at their best as its own. Each of them is claimed by some State, possibly as it proudest boast, but all of them belong to the District of Columbia, where they lived out their greatness in word and in deed.

The intelligent American, visiting Washington for the first time, sees not only that it is beautiful for situation and beautiful in itself, with its splendid avenues and streets, its parks and trees, its noble buildings and handsome residences, but that it is majestic and impressive in its memories and associations. He sees it peopled with our leaders in the century whose progress this exposition celebrates. In the Executive Mansion, in the Capitol, on Pennsylvania avenue, he walks in the footprints of the greatest men we have known, and he sees at every turn reminders of their lives and their work. The Washington Monument, towering above all similar structures in the world, is a symbol not only of the great and pure founder's life, but of the life of the city which he founded, in its greatness and simplicity, in its high aspirations and in its separation from mercenary considerations. We need no Westminster Abbey while we have Washington to preserve to us that which can not be wrought into marble or bronze, the very spirit of the best that was in our statesmen and heroes, and in performing this high office it rises in simple grandeur above the marts of the money makers and the gatherings of the factories.

From the windows of the Washington Monument, 500 feet above the ground, and almost in the center of the original District of Columbia, one can survey almost its entire extent without a glass. It is a small State, though not so small as Athens or as Rome. It is smaller than any other political division of the United States, although it has more population than six of the States—Delaware, Idaho, Montana, Wyoming, Utah, and Nevada—and than any of the Territories. It is not rich in money, as riches go to-day, though it is not poor, as riches went but yesterday. But it is wealthy in the common wealth of greatness, intellectual and spiritual, in good government, good society, outward beauty and inward grace, noble men and noble memories, and a glorious history. It stands supreme, far above the terrible waves of materialism, for intellectual and spiritual achievement, for high thinking and fine living, and for those ambitions which can not be satisfied with sordid gains or sensuous pleasures. Its voice sounds even above the clamor of the market places to remind us of men who were too busy to make money and too patriotic to seek selfish ends, and who gave to their country what other men gave to themselves. It tells the youth of the country that there is something better than selfishness, and summons them with the irresistible call of duty to the unselfish life of patriotic endeavor.

From the calm height of the Washington Monument men and things below appear in proper proportion; they are seen through the distance of space, as through the distance of time, and with the serene eye of history. True and relative values appear. We see, too, how out of all the wrongs and all the difficulties and all the dangers of the

past, even through the mighty agonies of the civil war, the nation has been led constantly into a larger place and to better things.

Looking westward, up the beautiful reaches of the Potomac, curving toward the sunset, we remember that George Washington rode there, looking with the eye of the first great American expansionist beyond the horizon, beyond the Blue Ridge and the Alleghenies, to that promised land which he sought to have us occupy, and we remember how, step by step, in spite of all obstacles and all discouragement and all defeats, the idea of Washington has been carried out until his principles, represented by his flag, have been spread over the islands of the sea in the uttermost parts of the earth, far beyond his farthest dream. As we look to the southward, toward Mount Vernon, where he lived and died, and yet still lives, we think how his ideal of republican freedom, his example as a Revolutionary patriot, brought a score of republics into being south of us, and how his teachings made the United States the protector and the friend of every one of them, without making the United States the enemy of any other country. Then, when we turn to the eastern windows, looking out to the hills beyond which lies the Atlantic Ocean we see the influence of Washington and his example in the Republic of France, in the republican aspirations of other European countries, in the democracy which is the real government of Great Britain. We see his doctrine of peace keeping by arbitration, first set forth in treaty form under his direction by John Jay in the famous treaty with England, then denounced and since admired, enthroned at The Hague by all the world, and we see that his humane and enlightened maxims of government, national and international, once innovations are now commonplaces. Pessimism seems out of place, optimism seems natural, as we reflect in the city of Washington upon the achievements of the nation of Washington under the principles of Washington. Clouds cover the zenith, rain even falls from their darkness, but the sun, shining over Arlington, where lie men who died that the Republic might live, arches the Capitol with a glorious rainbow, beautiful reminder of the covenant of God with his people.

So, as we stand here in this "Rainbow City," looking out over our country and the world, facing the new occasions which have brought new duties, frankly admitting that with unsolved problems at home we must solve even great problems abroad, realizing that we have been brought with the suddenness and completeness of Providence into leadership among the nations, with all the responsibility and all the peril, as well as all the privileges and opportunities that it involves, we shall not be cowards who falter. We will not blink our shortcomings, our difficulties, or our dangers, but we will remember the wonderful way in which we have been brought through greater trials and tribulations and the good which we have been enabled to do for ourselves and for all mankind, even in the recent past—in China as in the dominions of the sea. We do not shut our eyes to the clouds and darkness over us or even to the rain falling upon us, but we see shining through it the rays of the sun of righteousness; we see beyond it the rainbow of the promises of God. We hear His voice saying to us, "Only do right, be strong and of good courage, go forward in the way of my commandment." We are persuaded that if we obey, in spite of everything that may oppose us, in spite of our own faintness and faults, we shall come off conquerors and more than conquerors through Him that hath loved us.

Mr. MOON of Tennessee. Now, Mr. Chairman, I yield thirty minutes to the gentleman from Kentucky [Mr. HOPKINS].

Mr. HOPKINS. Mr. Chairman, a few days ago * * * occupied the floor of this House for more than an hour in an apparent effort to answer a speech previously made by me on the subject of restrictive immigration. So far did the gentleman fail to present any argument either to sustain his own position or refute the one taken by myself, that not one single line or sentence of his speech can be construed as casting any light on this important subject. If the gentleman had been a professional pilot, he could not have more successfully steered around every point at issue, and if it were not for the fact of glaringly false statements made by him reflecting on the intelligence of my people and on the honor and integrity of the courts of my State, I would not dignify his effort with a reply.

But there is method in my friend's madness. From a trustworthy source in this city I am advised that one-half of the men engaged in marine immigration transportation living in the whole city are in his district. Mr. GARDNER of Massachusetts said the other day that our greatest obstacle in passing a restriction bill would come from the ship companies, who would die in the last ditch rather than have the magnificent profits they are now making out of transporting immigrants both ways across the ocean curtailed. * * * who had been brought to New York by one of the steamship companies, but was refused admission and ordered to be deported more than two weeks ago.

Section 2 of the act of March 3, 1903, provides that no idiot, pauper, or person likely to become a public charge, shall be admitted.

Section 11 provides that the master or owner of the vessel bringing such person shall transport them together with an attendant back to the country from which they were brought.

Section 13 provides that the commanding officer of each vessel bringing immigrants shall take an oath before an immigration officer at the port of entry to the effect that he has caused the surgeon of the vessel to make a physical and oral examination of each of said aliens, and that from the report of said surgeon and that from his own investigations he believes that no one of said aliens is an idiot, a pauper, or likely to become a public charge. This unfortunate woman is such a pronounced blank that Commissioner-General Sargent told me that the sores on her legs showed she had been manacled; that she shrank from the light, indicating that she had been kept in darkness, and that she did not eat with her hands, but thrust her mouth into her plate to eat. * * * Now, who is the beneficiary of this resolution? It is not the poor unfortunate idiot, who will have to be placed in an asylum wherever she goes. No; it is the ship company, who will have to transport her and an attendant back to Europe at their own cost. And it is the master of the ship, who brought her in violation of the law, and has the crime of her perjury hanging over his head for swearing that she was not an idiot, a pauper, or likely to become a public charge.

* * * * * * *

Mr. BENNET of New York. Mr. Chairman, will the gentleman from Kentucky yield for a question?

The CHAIRMAN. Will the gentleman from Kentucky yield to the gentleman from New York for a question?

Mr. HOPKINS. I have only thirty minutes, and must decline to yield.

* * * * * * *

In giving the reasons why he was opposed to the bill fixing a $5 head tax, was because, he said: "It is paid by the steamship companies." He then says:

If there ever was a bill that should have been labeled "A gift to foreign steamship companies," it is that bill. Who pays this head tax? The law says it is a lien on the steamship, and the steamship company pays it. How does it pay it? Why, of course, in the end the money does not come out of the funds of the steamship company, but it is put on the ticket, and there is but one price for tickets.

In one breath the gentleman tells us the steamship company pays the head tax; in the next breath he tells us that they do not, that they add it to the price of a ticket and the immigrant pays it. Then he says the bill should be labeled "For the benefit of foreign steamship companies." Now, let me sum up just for one minute and show you how this bill will hurt them. My friend says there is but one price on tickets now, and that it includes the present head tax of $2. When the tax is increased to $5 the ship companies will either have to raise their passage $3 or lose $3 on each passenger. Of course they will not lose the $3, which would have aggregated more than $3,000,000 last year. But they will add it to the price of every ticket, which will to some extent lessen the number of tickets sold and thereby curtail their profits; and these are the true reasons why they are exerting their influence to defeat this bill. I give my friend credit for making one important admission, but I won't say he did it intentionally. He says:

We want to keep out the man who comes only for a few months' stay to earn money and return home with it, and that a head tax will not affect him at all, that it simply means that he will have to make arrangements not only to get the money to pay his fare across the ocean, but to pay the additional $3, which will be deducted from his first week's or month's earnings.

Can anything be stronger than this admission that people are being brought here in violation of the contract-labor law?

* * * he pretends to find fault with me for making an insinuation against the people of the great city of New York, which I deny doing. On the contrary, I, like every other patriotic citizen, should be proud of this great metropolis of our country, filled, as it is, with its hundreds of thousands of devoted, loyal, and patriotic citizens, who daily contribute their unselfish aid to the widening and extending of her field of usefulness. But, like every other community, either large or small, she has her bad men, her dark side, her trials, and her troubles. Many of these I can justly refer to, because they are, in my judgment the offspring of the very evil against which I spoke, and the result of our foreign immigration, while others I will refer to have no such connection and had better be left unsaid, and would be if I did not think it necessary to expose and show up the effort of the gentleman in its true light.

Mr. Chairman, the gentleman's labored effort reminds me of the Missouri negro's speech made in the campaign last fall. Being a Democrat myself, I have a right to repeat the story. The old darky was speaking away as hard as he could, and when he came to refer to the Democratic platform he raised his voice and shouted: "Fellow-citizens, the Dimmercratic platform is like a Mother Hubbard, it kivers everything and touches nary a pint." Now, that is like the gentleman's speech, long enough and loose enough to cover everything, but touches not a single point. [Laughter and applause.]

He says that 30.6 per cent of the voters of the country in which I live can neither read nor write, which is not true.

Mr. BENNET of New York. Mr. Chairman, I demand that the gentleman's words be taken down.

The CHAIRMAN. The Official Reporter will report the words used by the gentleman from Kentucky.

Mr. SMITH of Kentucky. Mr. Chairman, I rise to a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. SMITH of Kentucky. My point is that if the gentleman from New York had any objection to any remarks used by the

gentleman from Kentucky he should have made his objection at the time as to the remarks just immediately preceding.

The CHAIRMAN. The words must be taken down at the time. The gentleman is correct.

Mr. CLARK of Missouri. Mr. Chairman, can this kind of proceeding take place in Committee of the Whole House on the state of the Union?

The CHAIRMAN. Certainly. The words can be asked to be taken down in Committee of the Whole House. That is part of the general debate.

Mr. OVERSTREET. Mr. Chairman, is it in order, the gentleman from Kentucky having lost his place on the floor, for another gentleman to take his place until this question is decided?

The CHAIRMAN. No; it is not. The Reporter informs the Chair that he has not been taking down the remarks of the gentleman from Kentucky for the reason that the gentleman from Kentucky informed him that his remarks were in manuscript and that there was no need of reporting them. If the gentleman from Kentucky will permit the Chair to see the manuscript, the question can be determined.

Mr. CLARK of Missouri. Mr. Chairman, I rise to a point of order.

The CHAIRMAN. The Chair will hear the gentleman from Missouri in a moment. The clause to which the attention of the Chair has been called does not present any language that is out of order. The Chair was not listening to the gentleman from Kentucky, and does not know what were the exact words used, but this section to which his attention has been called as being the words is not out of order.

Mr. PAYNE. Will it be in order for the gentleman from New York to state the words as he understood them?

Mr. SMITH of Kentucky. Oh, no.

The CHAIRMAN. If the gentleman from Kentucky was reading from his manuscript, and if this is the clause which the gentleman read to which the attention of the Chair has been called, it is not out of order.

Mr. BENNET of New York. I ask unanimous consent to make a statement as to what the gentleman did say.

Mr. SMITH of Kentucky. Oh, I object.

The CHAIRMAN. It is not a question of unanimous consent, but the gentleman from New York [Mr. BENNET] raises the question that the language presented to the Chair is not the language that was used and to which he objected.

Mr. PAYNE. Mr. Chairman, I submit that the words should be reported to the committee.

The CHAIRMAN. The Chair is attempting to ascertain what the words actually used were to which the gentleman from New York objected.

Mr. PAYNE. Then let them be reported to the committee, and then the gentleman from New York can raise the question.

The CHAIRMAN. The Clerk will read the words to which the attention of the Chair has been called.

The Clerk read as follows:

Mr. Chairman, the gentleman's labored effort reminds me of the Missouri negro's speech made in the campaign last fall. Being a Democrat myself, I have a right to repeat the story. The old darky was speaking away as fast as he could, and when he came to refer to the Democratic platform he raised his voice and shouted: "Fellow-citizens, the Democratic platform is like a Mother Hubbard, it kivers everything and touches nary a pint." Now, that is like the gentleman's speech, long enough and loose enough to cover everything, but touches not a single point.

Mr. BENNET of New York. Mr. Chairman, I certainly would not have objected to any such statement as that, and that was not the language that was being used at the time I objected.

Mr. KEIFER. Mr. Chairman, if the language was taken down by the stenographer we would accept it, but the gentleman from New York says that that is not the language to which he objected at all, and therefore we are entitled to ascertain in the best way we can, which is by the testimony of those who heard it. The stenographer was not acting officially at all. He does not pretend to have been taking down the speech, as the gentleman was reading it, and we are put at the mercy of the gentleman who had the floor when he says that those are the exact words, and I think we are entitled to have other testimony. We have not heard from the gentleman who was making the speech, and he does not say that that was his language and the sole language used at the time.

Mr. OVERSTREET. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman from Indiana will state his parliamentary inquiry.

Mr. OVERSTREET. In the event that the stenographer should report the wrong language to which objection has been made, is there any way by which the correct language could be ascertained?

The CHAIRMAN. It is proper for the committee to ascertain whether or not the report of the stenographer is correct.

Mr. OVERSTREET. Would it be in order for any Member who happened to be listening, and feels he knows what the language was, to state to the committee what it was to which objection was made?

Mr. SMITH of Kentucky. That clearly could not be——

Mr. OVERSTREET. I would like to have my question answered by the Chair.

The CHAIRMAN. The Chair thought he answered the parliamentary inquiry. The gentleman will state it again.

Mr. OVERSTREET. I asked if some one who happened to be giving attention at the time the point was made, and heard the language used to which objection was made, could make any statement relative to what it was?

The CHAIRMAN. The Chair thinks the matter can be gotten at from the report, if the gentleman from Kentucky will give the Chair his attention for one moment. The sentence immediately following that indicated by the stenographer is apparently the sentence to which the gentleman from New York objected, and the probabilities are that the gentleman from Kentucky had read one more sentence than the stenographer indicated to the Chair he had read. Now, can the gentleman from Kentucky tell the Chair whether that is so or not?

Mr. HOPKINS. I do not know to what sentence the Chair alludes.

The CHAIRMAN. The Chair will read the next sentence [reading]:

He says—

Referring to the gentleman from New York—

that 30.6 per cent of the voters of the country in which I live can neither read nor write, which is not true.

Had the gentleman given utterance to that statement?

Mr. HOPKINS. Yes, sir; and I stand by it. [Applause on the Democratic side.]

The CHAIRMAN. Is that the language to which the gentleman from New York objects?

Mr. BENNET of New York. Except it was paraphrased considerably. He said the statement of the gentleman from New York, without any qualification whatever, made during his speech——

The CHAIRMAN. The Chair will hear the gentleman from New York.

Mr. BENNET of New York. The language was that the statement made by the gentleman from New York was not true, and that I regarded as unparliamentary language.

Mr. WILLIAMS. Well, there is no infallibility resting in the mind of the gentleman from New York.

Mr. GAINES of Tennessee. Mr. Chairman, I have heard that for nine years in Congress. [Laughter.]

Mr. WILLIAMS. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman rise? The Chair is ready to rule.

Mr. WILLIAMS. If the Chair is ready to rule—I was going to rise for the purpose of stating there was nothing unparliamentary at all in that language. A statement may be said——

The CHAIRMAN. The Chair was about to so rule. [Applause.]

Mr. WILLIAMS. A statement may be said to be untrue without attributing falsehood to the maker of the statement; that would be attributed only when the maker knows that it was untrue.

Mr. OVERSTREET. Regular order!

The CHAIRMAN. The Chair rules that the language is not unparliamentary, and the gentleman from Kentucky will proceed; and as five minutes of the gentleman's time has been consumed in this discussion, he will be given credit for that much time.

Mr. HOPKINS. Mr. Chairman, I am not at all surprised at the gentleman's effort to close my mouth and prevent me from further exposing his position. The people of his district who are in favor of restrictive immigration have been lead until the last few weeks to believe he was in favor of such a bill, and he is excusable for trying to take shelter behind the claim of insulted dignity, or a breach of parliamentary etiquette to shield himself from the searchlight of truth, and thereby if possible ward off their indignation.

I hold in my hand a letter from the commissioner of common schools of my county, dated March 23, 1906, who is now serving his fifth year, in which the following language is used:

The statement made by Mr. BENNET that 30.6 per cent of the voters of this county could neither read or write came like a peal of thunder from a clear sky. Knowing every man as I do in the county, his business and environments, I did not think I could be mistaken about this matter, so I began at once to investigate it. I went to the office where the assessors lists made last fall are on file and took them up one by

one to see how many of them bore the original signatures of the voter, and I found that less than 15 per cent of them had not signed their own names, and these were principally the older men of our county. You will recall that our law requires every taxpayer to sign and swear to an affidavit as to his taxable property.

While among the older men of the county there is a higher rate of illiteracy than the younger ones, there is a good reason for it. Being a thinly settled country, with a total population of 11,256 in 1890, spread out over 387 square miles of territory, in many instances a school district would have to be 3 or 4 miles in length in order to contain pupils enough to establish a school. Under these circumstances education made the most surprising advancement, as shown by the census of 1900. In 1890 12.6 per cent of the children between 10 and 14 years of age were illiterate. In 1900 it was reduced to 8 per cent. In 1890 13.3 per cent between the ages of 15 and 19 years were illiterate, while in 1900 this was reduced to 9.5 per cent. This is a much better showing than exists right here in Washington, when we consider that the Government of the United States pays one-half of all the cost of conducting the schools, and where there are magnificent educational institutions embracing less territory than would be embraced in ten school districts in my county, if we are to believe what William H. Baldwin, of the civic center, said before the House Committee on the District of Columbia on the 16th day of last month, that there were only two cities in the country which had a greater percentage of illiteracy than the city of Washington, which was 8.6 per cent. This is not referred to to cast any reflection on our capital city.

From 1890 to 1900 the population of my county increased from 11,256 to 15,556, and is now at least 20,000, without any foreign immigration. In the little town where I live, with not more than 800 inhabitants, two splendid colleges have been built and opened in the last three years, and have a joint attendance of over 600 students.

The largest one, with more than 500 students, is entirely a home enterprise.

Mr. Chairman, the gentleman's reference to the illiteracy of the people of my county is not only unjust, but is in bad taste, when he has to come to us to get competent teachers for the high class of institutions of learning of which he boasts.

If my friend will give me his attention, I will tell him that a young man whose name is Marion J. Mayo, who was born, reared, and taught school in my county for several years, is now employed to teach mathematics his second year in the High School of Commerce, at 155 West Sixty-fifth street, New York City; that he is a young man strictly self-made, and that when examined by your board for license to teach was awarded the highest rate of anyone examined with him. He is but one of a large number of his type which we have contributed to other States, and you may well be proud of him.

Eight of the sixteen counties comprising my district are underlaid with rich beds of coal, which are being developed, and my people do not want to see the same conditions recur among them as exist in Pennsylvania and some parts of West Virginia, where the native American has been driven out by the Slav, the Pole, and the Hungarian, whose habits, customs, and manner of living is so far below the American standard that no American can compete with them or cares to live among them. These people have literally taken the coal fields of Pennsylvania, and the constant influx of more of them has turned them toward West Virginia, until last summer the governor of that State was asked by the Immigration Restriction League of Boston, who were trying to solve the problem of distribution of immigrants, if any more labor was needed in his State, to which he answered no; that they had an abundance.

Mr. Chairman, I thought I had made my position clear on this subject; but as some persons do not seem to understand it, I want to make it clear, which is this: That in addition to the classes already excluded, I would refuse admission to all assisted immigrants except the closest of kin—those so weak, either physically or mentally, as to endanger them becoming public charges, those who can not read some language, and all those who have not sufficient money to enable them to select their own location and take care of themselves until they can secure employment.

Turning again to the speech of my friend, who, without any excuse or justification gave a covert thrust at the judiciary of Kentucky and then turns to laud the courts and judges of his own State. I regret he has dragged this subject into this debate. I have always had the highest opinion of the judiciary of his State, and hope that I may always continue to have, for in the main it is of a high type of excellence and purity. It is to our judiciary that we must look for a just and honest enforcement of our laws and thereby secure the protection guaranteed by the Constitution of our lives, liberty, and property. As long as the courts are pure, and administer justice with clean hands, the people will respect them, and as long as this condition exists no harm can come to the Republic, but a corrupt judiciary will soon lose the respect of the people who, realizing that their rights are no longer protected, will take the law into their own hands and pandemonium will reign supreme.

I want to ask my friend, whom I understand to be an elder in the Presyterian Church, if he does not think it would be better, more charitable and Christian-like, to acquaint himself with the evils which exist in his household and try to correct them rather than to smirch the reputation of an unoffending neighbor. You say your judges are upright, your courts are pure, your laws are enforced, and life and property are safe. If this be true, why did Mr. Vandusen, who was appointed by the Department of Justice to investigate the innumerable frauds growing out of the naturalization of foreigners use this language in his report made last July:

> After a study of all the contributing causes of naturalization frauds and giving each due weight, I am fully convinced that the largest contributing factor is to be found in the judges of the courts dealing with naturalization matters.

And, referring to New York, he said:

> The Federal courts still maintained the same loose methods as previously followed in such cases and in some cases permitted, if they did not actually instigate, professional promoters of naturalization to openly solicit naturalization business for such courts, many of these promoters actually sending out circular letters and postal cards to aliens in which their headquarters were given as the Federal building in which the court was located. The Federal building, and in some cases the clerk's office, were overrun with these "agents" who would almost come to blows over the possession of the alien applicant. Schools of instruction for aliens were openly held in the Federal building by these agents, who read the stereotyped questions put to aliens in the clerk's office, and the answers thereto were dinned into the memory of the alien until, parrot-like, he could give the correct answers if the questions were put in the stereotyped order, but was hopelessly lost if the continuity of the questions was varied. Conditions of this nature grew into a public scandal in New York and Brooklyn in 1898 and 1899, and led the State election authorities to interfere because of the patent frauds being perpetrated.
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> In New York City during October, 1891, about 7,000 naturalization certificates were isssued, mostly by one judge, who examined each applicant and his witnesses and signed his orders at the rate of two a minute. In one of the district courts of the United States the clerk was in the habit of swearing a lot of applicants and issuing certificates to them, no judge at all being present, and in another of the New York courts thousands of Italians were naturalized through an interpreter.
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> On the trial of a clerk of a New York court it was proven that he sold naturalization certificates made out in blank, with forged signatures, at from $5 to $10.

It has been recently established that there are 50,000 fraudulent naturalization papers held in New York City alone; that agencies exist for the disposition of them; that a recent investigation has disclosed that one of these has sold 4,000 and another 2,000 in 1903.

The State superintendent of elections in New York stated in 1904 that probably $600,000 was made in the preceding year in the sale of fraudulent naturalization certificates, and that 100,000 had been sold in that State.

It is also charged that one-fourth of the Italians employed in the street-cleaning department obtained their positions by means of fraudulent naturalization papers. I am informed that under the municipal regulations of New York City preference is given to the citizen laborer in all public works, which is largely the cause why some of the aliens are willing to secure citizenship at any cost and by any kind of means.

The deputy superintendent of elections of the State recenly said that from 10 to 30 per cent of all the naturalization papers held by Italians in the State were fraudulent.

Mr. Chairman, these are but some of the reasons why I said to the gentleman from New York [Mr. BENNET] that if, as he said, the Italian was an average of the citizenship of his city, I should not go there to find a model citizenship.

Turning again to his eulogy on his courts, I am reminded that but a short time ago the attention of the country was attracted to his city by the trial of a very remarkable libel suit growing out of the publication of a periodical styled "Fads and Fancies," and intimately associated with another of the same unsavory reputation called "Town Topics," against which my friend Mr. COCKRAN, of New York, has now pending in this House a resolution looking to its exclusion from the mails.

The many sensational features growing out of this trial are too well remembered to need to be rehearsed again. It is only necessary to recall the fact that this publication was charged to be a "blackmailer and assassin of private character," and on this ground defense was made; the issue was tried and this plea was sustained by the verdict of the jury. In this trial a judge of one of the courts of New York City was shown to be in the employ of at least one of these publications, which created such a feeling that the district attorney, Mr. Jerome, and other prominent men of the city have asked his removal. The following clipping from the New York Daily World of the 16th of this month speaks for itself:

Justice Joseph M. Deuel again presided yesterday in the court of special sessions. Associated with him on the bench were Justices Olsted and McKean. Again there was the same old rumor afloat about the criminal court-house that Judge Deuel had intended to resign from his office. But his friends say there is no truth in the rumor.

District Attorney Jerome, Edward M. Shepard, and James W. Osborne, acting as citizens, having asked the appellate division of the supreme court to remove Judge Deuel from office on the ground that he violated the charter in that he worked for a salary for Town Topics, while at the same time drawing a salary from the city as a justice of the court of special sessions.

This judge was cited before the bar association to show cause why he should not be expelled because he was unworthy to associate with. Knowing that he would be expelled, he resigned from its membership.

The gentleman, without any justification, intended to cast a thrust at the judiciary of my State when he had read a clipping stating that County Judge Hargis, of Breathitt County, had been indicted for murder and that Curtis Jett, who had committed murder in Breathitt County more than two years ago, was still at large and untried. These statements have no bearing nor throw any light on the propriety or impropriety of restricting immigration. They only prove one thing, and that is that the gentleman is as ignorant of conditions which obtain in Kentucky as he is to those at home, if he meant to tell the truth when he said that—

I can walk through any street in New York City at any hour of the day or night and as long as I pay attention to my own business I will walk through in safety.

By the comparison which the gentleman has made, I am forced against my own will to refer to statements made by the public press of his own city, and not from sources 400 miles from New York, where he says only the sensational occurrences are published. But before referring to these facts I want to say that when Judge Hargis heard of the indictment against him he went into court and surrendered himself into custody and demanded a speedy trial, which has been fixed for an early date. In the country we only have three terms a year in each county of from one to three weeks each. As to Curtis Jett, he was arrested very soon after the murder of which he was accused and immediately put on trial, convicted, and sentenced to the penitentiary for life, where he is now and has been for nearly two years.

To the honor of our courts and for the benefit of my friend from New York [Mr. BENNET] I will explain to him the full history of the case against Jett which he refers to to cast reflection on the courts of Kentucky. Jett was indicted for the murder of a man by the name of Marcum and also a man by the name of Cockrell. He was put on trial for the murder of Marcum and convicted as above stated. At the following term of court he was taken out of the penitentiary and tried on the other charge and found guilty and sentenced to be hung. From this judgment he appealed to the Court of Appeals where, upon hearing, this last judgment was reversed and case remanded for retrial in the lower court. A few weeks ago he was taken back to the lower court to be again tried on this second charge. Instead of this case furnishing grounds for censuring the court, it presents a most extraordinary case of vigilence and persistency in upholding the law. [Applause.]

How does this statement compare with conditions in your own city, as shown in the following article taken from the New York Journal of the 16th of March, 1906?

Thirty-six persons, charged with murder, are in the Tombs to-day awaiting trial. Some of these have been locked in cells awaiting trial more than seven months. Eighty persons convicted of various crimes are in the Tombs awaiting to be taken into court and sentenced. With these and other prisoners charged with crimes of various degrees and awaiting trial, the Tombs is crowded to overflowing.

Because the prison is packed with persons whose cases are awaiting disposition it has been necessary to "double up" in many of the cells, placing two prisoners in each cell.

Never before since the new prison has been completed has there been such crowded conditions, and never before in the history of the Tombs, old or new, have there been so many persons charged with murder awaiting trial.

In the boys' prison there are eighty boys whose cases are awaiting disposition. This is 20 per cent more than ever before.

Although there are thirty-six persons in the Tombs to-day awaiting trial for murder, under normal conditions, the court and prison officials say, there should not at this time of the year be more than ten or a dozen.

In this review the statement is made that in the boys' prison there are eighty boys waiting for trial, which is 20 per cent more than ever before. I wonder how many of these belong to my friend's Sunday-school class! [Loud applause.] What has become of your juvenile court which you said you had had for five years, and that it had worked so well that this House copied it for the city of Washington only last week? Another striking feature of this article which is too long to insert it all is the large number of Italians and other foreigners among the murderers.

Referring to the discovery of the body of an Italian in Morris Canal, with his throat cut and his body riddled with bullets and a large stone around his neck, which was identified by the son of the Italian banker, John Bozuffi, who was kidnaped some two weeks ago and kept in a dungeon for a week, during which time they demanded of his father $20,000 for his release—the dead man was the one left to guard the boy, but through some neglect of his the boy escaped and they lost their booty, which so enraged them that they murdered their pal and threw his body in the canal—the New York Journal of the 16th instant says:

Nowhere in mountain fastness or forest recess is there a more cruel, bloodthirsty, or daring band of brigands than that now known to exist in this city for the purpose of kidnaping, blackmail, and murder.

To this band are now attributed many of the mysterious crimes that have stirred the police, including those of the several men found slain in different parts of the city, their bodies mutilated with knife and bullet wounds.

On the same day, and taken from a New York daily, is an article which relates to a condition of crime so horrifying that even abduction and murder lose their terror. I would not refer to it here if it were not for the fact that it throws more light on the kind of people we already have in the South and reminds our northern friends, who have spent so much time in heaping abuse on that section for its treatment of the negro, that your wives and daughters are not safe from their lustful desires even in the heart of the great city of New York. This is what it says:

More evidence of the infamous traffic in white girls, conducted, it is alleged, by the negro Spriggs and his confederates, was laid before the grand jury to-day by Assistant District Attorney Murphy, and new indictments are believed to be in preparation as a consequence. The men whom the district attorney is seeking to bring within the pale of the law now that he has R. H. Spriggs in jail are the white decoys and professional abductors whom Spriggs, it is charged, employed. Evidence is also being heard, it is rumored, which incriminates several policemen and police officials formerly stationed in the precinct where Spriggs had his headquarters.

Fifty girls, employed in factories and stores of the Tenderloin and lower west side, have disappeared within the short space of three months, and, according to the information given to the police by their parents and friends, most of them are now said to be held in captivity and suffering untold tortures at the hands of the negro dealers in white slaves.

Although the raids made by the district attorney's office over the heads of the police have uncovered numerous dens of iniquity not only in the dark corners of the metropolis, but within the very heart of the city, amid the glare and glitter of Broadway, hundreds of negro clubs are allowed to run in full blast. These clubs, where the white women meet the negroes, are the main feeders of the white-slave market.

As a result of the alleged protection of the Tenderloin dives, Commissioner Bingham yesterday transferred twenty-six patrolmen from that precinct to other parts of the city. Another shake up is expected in the Charles Street Precinct, in which were located several of the Spriggs dens.

While the southern people, surrounded in many places by large numbers of these people with but small protection, have sometimes had to take the law in their own hands and make examples of some to terrify others, for which they have each times been most bitterly arraigned by those who knew least about the situation, be it said to their honor that no southern man, official or private, has ever been accused of failing to defend the virtue and chastity of our women from the assaults of brutal assailants. Why were these twenty-six patrolmen changed from this district if they were doing their duty? Is it not a reflection on them, that they were guilty of criminal neglect or knowingly winking at crime?

A gentleman living in New York and in close touch with public affairs, in a letter written on the 22d of this month, on the subject of foreign immigration, used these words:

In a night walk from Madison Square to Rutgers Square only last week I counted eighteen curbstone socialistic and anarchistic orators damning the laws of the country and cursing the courts. Night after night they are listened to by the populace, and the lawless population is growing faster than any public institution can instill the law-abiding instincts.

To him I am indebted for the following statement:

LIST OF MAFIA MURDERS UNPUNISHED IN NEW YORK AND ENVIRONS SINCE 1904.

Felice Aurienna, shot, Grand and Mulberry, August, 1904.
James L. Hussey, shot, 351 East Thirteenth, November, 1904.
Caligiro Saloco, shot at home, 225 Third street, April 15, 1904.
Giovanni Domando, shot at home, 64 Franklin, October 10.
Guiseppe Catania, grocer, found at Bay Ridge, throat cut.
Stranger, Caligostro Bank, June, 1904.
Batisti Fondiero, First avenue and One hundred and seventeenth street, January 1, 1905.
Michele Degiobani, Bushwick and Johnson avenues, December 16, 1904.
Macola Derosa, 68 Adams, January 10, 1904.
Allio Salvatore, Columbus H., November 18, 1904.
Antonio Prinze, 5 James street, December 4, 1904.
Antonio Finetierrie, January 23, 1905, Van Brunt street.
Dominico De Phillipo, Shore Road, December 30, 1905.
Stranger, found East New York, December 8, 1904.
Giovanni Vitale, Fourteenth avenue, Astoriam, September 11, 1905.
Giovanni Barbarino, 168 Columbia Place, July 19, 1905.
Francesco Puglio, July 20, 1905.
Giovanni Guzzito and brother, July 2, 1905, Tuckahoe.
Stranger, Long Island Railroad yard, September 25, 1905.
Gennaro Colonna, One hundred and eighty-ninth street, September 5, 1905.

Guiseppe Ledato, One hundred and eighty-ninth street, September 5, 1905.
Spechano de Luiram, 334 East Sixty-third, October 9, 1905.
Gaetano Costa, 861 Fourth avenue, Brooklyn, October 11, 1905.
Stranger, October 14, 1905, North Eighth and Driggs.
Twelve cases of buildings being blown up by dynamite, ten of them tenements and two in Mr. BENNET'S district.
Six cases of kidnapping for ransom, 40 cases of murderous assault, and over 700 cases of extortion that were made public, which means as many thousand that were never heard of.

The reasons for murders being unpunished are that Italians either befriend the criminals or remain silent through fear, knowing the American police can not protect them from secret vengeance.

In the whole United States in a similar time nine officers of the law and magistrates have been assassinated by the Mafia, whose total crimes of record are over 5,000, against which only thirty-two punishments are recorded, and many of these being convictions for carrying concealed weapons, the only unlawful act that could be proved against men believed to have committed murder, and that because when arrested they were armed.

This is only offered in answer to the claim that life and property are safer in New York than in Kentucky, and most of them being reported at the time my friend was making his speech.

Now, I want to read you an extract from the official report of Magistrate Wahle, president of the board of magistrates of New York City for 1905:

There was an increase of arraignments in that year of 18,388, which is entirely due to aliens from southeast Europe. That there is an actual decline in the number of arraignments of native-born immigrants from northern and western Europe. Nevertheless, crime was increasing at a startling rate, and there were 2,450 more arrests for felony in New York City in 1905 than in 1904.

In other words, 2,151 fewer American-born defendants were held for trial and confined in 1905 than in the year 1904. A comparative reduction in the number of persons held or confined who were born in Ireland, Germany, or France, and there is an increase in the number of persons held or confined born in Italy of 1,455, and an increase of 2,463 in the number of those born in Russia, and an increase of 608 of the number of those born in Greece.

Doctor Darlington, president of the board of health of New York City, last June made a special investigation of the push-cart business, under direction of Mayor McClellan, in which he says:

I have heard the assertion that immigrants were necessary to carry on our public works—build railroads, dig canals, and the like. But it seems to me that the immigrants who are coming in now do not come for that purpose and will not do that sort of work. No; they prefer to become push-cart peddlers and to live in poverty in our cities, breeding disease and crime. They occupy the streets belonging to the city—streets for which the taxpayers have paid heavily. They interfere with traffic and break the laws of sanitation which are necessary for the preservation of the public health.

The prevalence of smallpox in New York City in 1902 was clearly traceable to these foreign conditions. And in 1903 foreign immigrant children spread trachoma in the public schools of Manhattan, affecting not less than 10 per cent of all the children, which cost many thousands of dollars to stamp out. The prevalence and spread of fourteen out of the nineteen epidemics of smallpox which have occurred in Chicago since 1863 are due to foreign immigration.

Last year in New Orleans, during the yellow-fever scourge, the presence of the Italian was the only problem which could not be reached or controlled. They lived in haunts and dives and could not be induced to observe any sanitary regulations. When the health officers of the city had exhausted every means in their power, they sent the priests to plead with them, but this was of no avail. When one of their number would happen to be stricken, they would conceal the fact, not even calling a doctor. In one instance one of these men died of yellow fever in the outskirts of the city. Instead of burying his body like civilized people, they dumped it into an open well to furnish food for the mosquitoes with which to inoculate the rest of the community. Can there be any wonder why the South does not want any more of these people?

My friend says they have strikes in New York, but that they are always orderly and peaceful and never attended with violence. This, like his other statements, won't bear the searchlight of truth. Let us take what the New York Herald of the 11th of March, 1906, says:

ATTACKS UPON PROPERTY BY DYNAMITE AND OTHERWISE.

November 28: Derricks wrecked in American Can Building, Tenth avenue and Fifteenth street.
December 7: Derricks wrecked and machinery destroyed in Altman Building, Fifth avenue and Thirty-fourth street.
December 19: Dynamite bomb hurled into nonunion employment agency, No. 7 East Fourteenth street.
December 22: Hoisting machinery damaged in Altman Building.
January 9: Dynamite bomb thrown into Bliss Building, in East Twenty-third street.
February 1: Dynamite bomb exploded in Child's Foundry, Kingsland avenue, Brooklyn.
February 24: Three men caught in act of exploding 13 pounds of dynamite in Bliss Building, East Twenty-third street.
March 5: Rovitch Brothers' Foundry destroyed by explosion, One hundred and thirty-sixth street and Madison avenue.

This article takes up each one of the cases and describes them in detail. It is too long to insert it all. I have only used that part referring to the attempt to destroy the Bliss Building.

With this great daily paper recounting in detail where one after another of these great property owners have to keep special private guards over their property day and night to save it from destruction at the hands of the dynamiter, why the gentleman should make the statements he does I can not understand. With this long list of outrages committed in three months, chargeable to a single strike, where would the list end if I should recount them all for even one year back?

My friend boasts of the great wealth of his city, which I admit you have. But when I recall the facts brought out in recent investigations showing how large sums of it got there, and am further reminded that it is the center of all the unlawful trusts and combines which now fester the body politic, and how large sums of these ill-gotten gains have been used for corruption and debauchery, I am content to say we do not covet such wealth; we would rather be honest than rich. [Applause.]

I have listened in vain for my friend to mention two good things which we all recognize he has in New York, and these are the United States Senators from his State. Perhaps the following clipping taken from the New York Daily World of the 16th of March, 1906, may explain his silence.

But after second thought I will not read it, as it would be more charitable not to do so, although it comes from a member of the Republican county committee of New York.

The gentleman says that the highest scale of wages are paid in New York, and even in the sweat shops the average wages were $20 per week.

Let us see what others say on this subject. Hall, in his work on immigration, says (on p. 68):

As a matter of fact, we know that at all times an appreciable per cent of labor is unemployed, and at certain times a large per cent, and it can not be assumed that immigrants coming in vast numbers to a strange land will at once or continuously be employed in the occupation for which they are fitted, or that they receive the average wages in those occupations. Indeed, we know that directly the opposite is true. We know that the proprietors of the sweat shops pay starvation wages, and that the padrone supplies laborers at from 25 to 60 per cent less than current wages of unskilled labor. We know that because of the congestion in cities recent immigrants have greatest difficulty to obtain employment at all, and that the often repeated demand of the labor organization for further restrictions is due not only to increased competition, but to the competition of those who are willing to cut wages.

On page 134:

The wages paid by the sweater are from one-quarter to one-half those formerly obtained by independent workmen. From the fact that attics, tenements, and cellars are used for shops, and because of the low wages paid, the sweater is able with foot power to compete with the machine power of the factory.

His day's work is not numbered by hours, but alone by the test of physical endurance.

The sweat shop is where the cheap articles of clothing are made, which work is now done almost entirely by Jews. Before the advent of machinery and the great overflow of pauper immigrant labor, each one of which has helped to reduce the cost of production and as a natural consequence reduced wages, the English, Irish, and other native-born Americans did this work, for which they received good wages and lived only as American workingmen do.

The following extract from the report of Hebrew charities of New York City not only paints a sad picture of the sweat-shop conditions and how it leads to destroyed health, want, poverty, and finally to public dependency, but says that it is essentially the problem of our immigration:

No matter how earnestly we labor to care for the Jewish poor in our city our burdens are being constantly increased by the thousands who come from Europe each year in our midst. It is worth noting in passing that, comparatively speaking, few of these newly arrived immigrants come to us for assistance until they have been in New York for a year or two. Either they have sufficient means of their own to bring them to America and to support them for a period after arrival or they have been sent for by relatives who are able to give them assistance for some time. But the evil conditions of the houses and the deteriorating influences of the sweat shops of the great ghetto soon work havoc among these people, and after an interval of two or three years they come to us in numbers for relief.

A condition of chronic poverty is developing in the Jewish community of New York that is appalling in its immensity. Forty-five per cent of our applicants, representing between 20,000 and 25,000 human beings, have been in the United States over five years, have been given the opportunities for economic and industrial improvement which this country affords, yet, notwithstanding all this, have not managed to reach a position of economic independence.

Two thousand five hundred and eighty-five of the new applicants, representing 7 per cent of the Jewish immigration to the United States during the year, found it necessary to apply at the office of the United Hebrew Charities within a short time after arrival. It must be remembered, furthermore, that the Hebrew charities does not represent the entire Jewish poverty and dependence that exists in New York City.

The problem of the care of the Jewish poor in the city of New York is essentially the problem of the immigrant, and as such it passes beyond merely local lines.

I want to call your attention to what the present commis-

sioner of immigration at New York City and his predecessor say of the character of the present immigration In Commissioner Williams's report for the year ending June 30, 1903 (which is contained in the annual report of the Commissioner-General of Immigration for 1903), is to be found the following quotation:

A strict execution of our present laws makes it possible to keep out what may be termed the worst element of Europe. Without a proper execution of the same, it is safe to say that thousands of additional aliens would have come here last year. But these laws do not reach a large body of immigrants, who, while not of this class, are yet generally undesirable, because unintelligent, of low vitality, of poor physique, able to perform only the cheapest kind of manual labor, desirous of locating almost exclusively in the cities, by their competition tending to reduce the standard of living of the American wage-earner, and unfitted mentally or morally for good citizenship. It would be quite impossible to accurately state what proportion of last year's immigration should be classed as "undesirable." I believe that at least 200,000 (and probably more) aliens came here who, although they may be able to earn a living, yet are not wanted, will be of no benefit to the country, and will, on the contrary, be a detriment, because their presence will tend to lower our standards; and if these 200,000 persons could have been induced to stay at home, nobody, not even those clamoring for more labor, would have missed them. Their coming has been of benefit chiefly, if not only, to the transportation companies which brought them here.

On June 19 last Hon. Robert Watchorn, the present commissioner of immigration at New York, and it should be borne in mind that the commissioner at New York handles about 80 per cent of the present alien immigration, spoke as follows at an immigration conference held at the rooms of the Board of Trades and Transportation, 203 Broadway, New York City:

I do not agree with some of the speakers here this afternoon that the law as it now stands is all that it ought to be. I think that there are people coming into this country to-day who ought not to come in. But I think the law is inadequate to keep them out as it now stands. What is needed, in my opinion, is a drastic law which shall state specifically what is desirable and what is not desirable.

About a year ago the United Garment Workers, of New York City, about 70 per cent of whom are foreign born, by referendum vote passed strong resolutions and petitioned Congress to pass a law restricting immigration. Their official organ, The Weekly Bulletin of Clothing Trades, edited by J. W. Sullivan, is constantly advocating the passage of such a law, and he made the strongest speech made before the New York Civic Federation at its meeting held last June in favor of restrictive immigration.

The following extract from the speech made by Cyrus L. Sulzberger at a meeting of the United Hebrew Charities of New York on the 19th of last month appeared in his paper on the 23d day of March, 1906. Mr. Sulzberger is a very wealthy and philanthropic Jew, living in my friend Mr. BENNET'S district, where there is so much boasted wealth and splendid wages paid, according to Mr. BENNET'S statement. This is only a part of what he said:

Twelve hundred mothers and their 3,000 children are starving to death in New York on the munificence of the Jewish community.

It was easy enough to move your hearts when the stories of atrocities began to come from Russia, but what was that compared to our daily massacres, our continued slaughter of the innocents? They do things more kindly in Russia. There they kill a child in three days. Here we take years to kill it by slow starvation, and this in the richest Jewish community that ever was gathered together in the world.

There are 700,000 Jews in New York, and only 4,000 who contribute to the Hebrew charities. There are 600 pensioners on our lists, and we distribute among them $40,000 a year—$70 apiece. Do you wonder that the mothers become consumptive and the fathers become consumptive, and the children die? And there are 40,000 others for whom you haven't given us one cent.

Mr. Chairman, these conditions, which form only a part of the evils arising from our foreign immigration system, are not confined to New York alone, but they exist in all of the large cities where foreign immigrants have formed congestion. One of the inspectors called as a witness before the Industrial Commission testified that after two days' inspection of the sweat shops of Philadelphia he had found such filth, vice, suffering, and actual starvation that he was unable to continue his investigation.

Robert Hunter, in his work on poverty, says that in 1903 there were 60,463 families evicted for nonpayment of rent in the borough of Manhattan, which was 14 per cent of the entire number, while there were only 20 per cent of evictions in 1897. This last date was the hardest business year we ever had, while 1903 is the best, and does not show a good sign of good wages.

Hall, in his work on immigration, says that in 1902 15 per cent of all workers in New York were idle, and more than half of them from lack of work and not from strikes or sickness; that there were only 20 per cent idle in 1897.

Mr. Chairman, in a former speech before this House I dwelt at length on the methods pursued by the Austro-Hungarian Government in inducing emigration to the United States, basing my remarks largely on the report of Special Immigration Inspector Marcus Braun, who, it will be remembered, caught Government officials at Budapest rifling his mail, which he resented, as a consequence of which he was arrested and fined. In the investigation of this affair our Minister to Austria, Hon. Bellamy Storer, at Vienna, sided with the Austro-Hungarian Government, and through his efforts brought about the resignation of Mr. Braun under a cloud upon his character, which was brought about by the foreign government with the purpose of throwing discredit on his report.

In a special dispatch from New York to the Washington Post March 21 it is stated that the recall of Mr. Storer is due to the efforts of his wife to entagle our Government through President Roosevelt in foreign church matters. It will be remembered that Mr. Braun pointed out in his report that that Government was attempting to use the influence of the church to control their immigrants in this country. Mr. Braun has demanded of the State Department a full investigation of the whole affair, and it is strongly hinted that still greater surprises are in store than those brought out in his report, and that he will be vindicated there is no doubt. The case sounds very much like the old story of the devil, the woman, and the apple.

I now want to briefly refer to some more of the reasons going to show why we are getting such a large number of Italian immigrants. Italy, being among the oldest civilized countries, is overpopulated, and, together with the islands of Sicily, Sardinia, and Elba, has a total area of 110,684 square miles—a little more than twice the size of the State of New York—with a population of 32,449,754 in 1901, which is 293 persons to the square mile, ranking third in this respect to the countries of Europe. Of this number 20 per cent own all the land, while 40 per cent are tenants, and the remaining 40 per cent are laborers, whose daily wages run from 16 to 40 cents a day. Her public debt is more than two and a half times as large as that of the United States and is $81.10 per capita of her population. Forty-two and one-half per cent of her revenues is required to pay the interest on the public debt and 23½ per cent is required to sustain her army and navy.

To meet these enormous expenses the highest rate of tax is collected, from which nothing is exempt, and it is said that the peasant tenant is taxed from 25 to 50 per cent of his income. Under these conditions is it strange that one of the most serious questions the Government has to meet is how to provide for and control her subjects to keep them loyal and prevent uprising, especially among the lower classes? One of these plans is to encourage emigration, which is being systematically carried out to such an extent that for a number of years past her annual emigration has exceeded 500,000 souls. To encourage and facilitate this enormous movement the Government has established an emigration department, which differs from our Bureau of Immigration, whose chief object is to look after those who seek to come into our country. Their object is to send them out.

Of the 506,000 emigrants from Italy in 1904 the greater majority of those leaving northern Italy went to other countries of Europe, Australia, and South America, while 67 per cent of the whole number—coming to America, and chiefly from southern Italy—came to the United States. The recent discussions of the question of restrictive immigration in this country has caused such alarm in Italy that in 1903 the minister of public instruction proposed to the emigrant department to establish schools for the purpose of preparing emigrants for entry in our ports in the event that an educational qualification should be prescribed here.

Acting on this suggestion the emigration department immediately appropriated 50,000 lire, which added 450 to the 3,000 schools already established to give instructions to illiterates in the evenings and on Sundays. Seventy of these newly opened schools were at Avellino, where the percentage of illiteracy was 73.9; and 62 of them at Teramo, where the percentage was 74.9. The department has prepared a chart of the United States for special use in these schools. This chart gives the number of Italians living in each State, and the proportion of Italians to the other population. By special marks it indicates the cities where the largest Italian population is, and where the Italian consuls reside, together with much more of like information. Mr. Chairman, I assert that no general leading an invading hostile army ever took greater precaution to map out and plan his campaign than the Italian Government has planned against the United States, and is daily carrying into execution.

The emigration department of Italy, like Austria-Hungary, is exerting all its power to retain its control over its subjects while in this country, and insure their return when they have earned enough money to return home and add it to the wealth of the Kingdom. I have already said that an imperial commissioner of the Government made the voyage on

every ship leaving an Italian port carrying immigrants to this country, whose duty it was to coach the immigrants and teach them how to answer the questions asked at our ports to enable them to enter, and to urge them not to become American citizens, but to remain loyal to the mother country.

They have made the Bank of Naples the authorized agent of the emigration department for the transmission of the money of the immigrants. Through this bank in 1904 passed 125,133 drafts from the United States, totaling 22,000,000 lire, and not less than 30,000,000 went through other channels.

They have subsidized the Society for Italian Immigrants of New York 35,000 lire, and the Italian Benevolent Institute of the same place 25,000 lire.

So greedy are they of the profit and benefits which they are deriving from the immigration business that the department of emigration complains against the number of prepaid tickets sent from this country to Italy. In 1904 there were 57,745, and in the first five months of 1905 there were 45,881 of these prepaid or assisted immigrants from Italy alone. How many of these were in violation of the contract-labor law is unknown, but doubtless most of them.

Mr. Chairman, under this system we have seen the Italian population grow in New York City until there are more Italians there than in any city in Italy except Naples, Milan, and Rome. Indeed it has assumed such proportions that it is proudly pointed to from home, where they are called "our colonies," and propositions have been made in Roman Parliament to give them representation. It has been asserted that "Little Italy," in New York, contributes more to the tax rolls of Italy than the poorer provinces in Sicily or Calabria.

My much-esteemed friend, Mr. GOLDFOGLE of New York, injects this amusing statement into the speech of Mr. BENNET:

That immigrant classes found in New York City in the congested portions and elsewhere are perfectly peaceable and law-abiding—anxious to learn and to assimilate with the citizenship of New York.

I am extremely fond of my friend Mr. GOLDFOGLE, whose many virtues and amiable qualities I should love to see inherited and handed down to future generations, but my feelings are mingled with amusement and disappointment when I refer to this biography and find no reference to age or family relations, which means that he is a bachelor, and his gray locks plainly tells that he has long since passed the day when he is willing to tell his age, and it makes no difference how anxious the foreigners, made up of Italians, Poles, Turks, Slavs, etc., are to assimilate with the citizens of New York, they will have to excuse my venerable friend from anything more than offering friendly suggestions. [Laughter and applause.]

The following extract from the report of the commissioner-general of emigration of Italy, made in 1904, presents the strongest arguments why they are largely undesirable:

Despite the admittedly progressive improvement in our emigrants, they are still considered in some respects by Americans as little desirable. They are mostly day laborers and peasants, an active and useful element, but considered unstable and not susceptible of being assimilated; the proportion of those unable to read and write among our emigrants is still high. The Italians, moreover, tend to crowd in the great urban centers where they live a life apart, with habits of possibly too great economy in contrast with the habits of Americans.

It is also an admission that they come for temporary stay and live and act with but one view, and that is to make and save all the money they can and return home with it. This is further shown by the large number of men over women who come from Italy. In 1905, out of 221,479 immigrants, there were only 38,761 females. In 1904, Italian immigrants numbered 193,296. The same year 129,231 returned to Italy. Mr. Emil Boas, general manager of the Hamburg-American line of steamships, is authority for the statement that in 1904 575,000 immigrants passed through Ellis Island into New York, and that 322,000 departed from the same port. Six hundred and ninety-three thousand entered through four Atlantic ports and 359,000 departed. If you want any stronger proof than that contained in the statement of the Italian emigration commissioner "that the Italians crowd in the slum centers, living to themselves in a way as to present too great a contrast with the habits of Americans," go down to Purdy's court, which is within 500 feet of this Hall, and within 100 feet of the Peace Monument, and you will see a veritable Italian huddle, where as many as a dozen of these people live in a single room. Within a stone's throw of the southwest corner of the Botanic Garden are three other such settlements, in which there is not a comfort of life to be seen.

The Italian laborers, which represent 80 per cent of those who come from Italy, have become so inoculated with the padrone system that when they go out to seek employment they do not ask employment, but offer to buy it by offering a money consideration. I want to read a letter received by me from Mr. H. R. Fuller, who is a representative of the brotherhoods of railroad engineers, firemen, conductors, and trainmen, which is as follows:

206 DELAWARE AVENUE, NE.,
Washington, D. C., March 17, 1905.

Hon. F. A. HOPKINS, M. C.,
Washington, D. C.

DEAR SIR: With regard to the objectionable class of immigrants who are coming to our shores and the disadvantage to which an American workman is put in competing with them in the labor market, I would respectfully call your attention to one important feature which, in the discussion of this subject, seems to have been lost sight of, and that is that many of these foreign laborers (principally Italians) in seeking employment offer a money consideration for a job.

These offers of money are often accepted by foremen, and in addition to this there are many cases where these laborers pay their foremen a monthly stipend in order to hold their positions. I recall one instance where a division of railroad was divided between two road supervisors. It was the aim of one of these men to employ none but this class of laborers, while on that part of the road in charge of the other man all classes were employed. An investigation was made by the management, and it was found that the man whose employees were of this particular class was collecting amounts from them monthly.

The American workman feels that he is worthy of his hire and will not submit to such practice, and to compel him to compete under such conditions and at the same time rear and educate his family is putting him at a disadvantage.

Yours, truly,
H. R. FULLER.

Mr. Chairman, in the light of all these threatening menaces to our laboring people is it any wonder that their representatives come here by the hundreds to beseech Congress and the President to relieve them from such unjust and unfair competition? Nor is it any wonder that their influence is being made felt to such an extent that one of the leaders on the other side of the aisle has importuned the majority leader to secure the passage of a restrictive measure or that he will be defeated in the coming election.

Mr. Chairman, this evil is growing every day. While the whole country was surprised at the high figures our immigration registered last year, those figures will be largely outnumbered this year, showing a still greater contrast between the home builders of the north and the birds of passage of southern Europe. During the first eight months of this fiscal year there was an increase of nearly 4,000 over the number entering during the corresponding period for last year. There was an increase of more than 53,000 Italians, and a decrease of 47,000 immigrants from northern Europe for the same period. At the same rate of gain the immigration from Italy will reach 300,000 this year, almost one-third of the entire immigration. That this is the result of the systematic work of the foreign governments, the steamship companies, the padrone, and the contract-labor pirates no one can doubt for one minute if they will only take the trouble to investigate. Standing on the wharf at Castle Garden in New York last Saturday during the landing from a single ferryboat load of immigrants, I saw Italian padrone agents culling out the Italians and corralling them in a corner until they had gotten together more than 200 men and a dozen women, where they were kicked and shoved about like cattle by these agents until everyone else had passed out and the way was clear, when the sign to move was given. With one agent to lead and the other to bring up the stragglers, they marched to the padrone headquarters, where they are hired out to such firms or persons as will pay the padrone the best price for them, which in the end is taken from their wages. The padrone gets a fee of from $3 to $5 from each Italian for securing him a job and $2 from the employer for furnishing the laborer. After they get out from under the control of the padrone they make their own contracts, and when it is remembered that they came from a country where the daily wage is from 15 to 30 cents it is not strange that they are willing to buy their jobs.

Mr. Chairman, I could recount many more of the evils of our present immigration system, but have not the time. And in closing I want to say that the laboring people of this country are thoroughly alive to the dangers which threaten their homes and know full well in whose hands the corrective influences are held, and the man or party that turns a deaf ear to their pleas for justice will live to regret it. [Loud applause.]

Mr. HOPKINS. I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. OVERSTREET. I yield thirty minutes to the gentleman from Minnesota [Mr. BEDE].

Mr. BEDE. Mr. Chairman, I do not desire at this time to make any extended remarks upon the bill which is now before the House, further than to say that since coming to Congress I have always voted for the appropriation for a fast mail from New York to New Orleans, on the ground that it is a good thing for the southern people to read the northern papers at the earliest practicable time. [Laughter.] I do not know but the

purpose of that fast mail has been attained. The exhibition of spirit and character shown on the floor to-day, from the delegation from North Carolina and other Southern States, indicates to me that they have equaled, if they have not surpassed, their northern brethren. However, because of the somewhat depressed commercial conditions of the South, I think it may be well for us to continue this appropriation a few years longer and give our southern brethren the benefit of the doubt. [Laughter.]

Now, Mr. Chairman, I offer this resolution, which I ask the Clerk to read, and shall use it as the basis of my remarks.

The CHAIRMAN. If there be no objection, the resolution will be read as a part of the gentleman's remarks.

The Clerk read as follows:

Whereas under a joint resolution of Congress of date of March 1, 1845, entitled "Joint resolution for annexing Texas to the United States," the republic of Texas was admitted into the Union of States; and

Whereas under the terms of said joint resolution it was provided that "new States of convenient size, not exceeding four in number, in addition to said State of Texas, may hereafter, by the consent of said State of Texas, be formed out of the Territory thereof, which shall be admitted under the provisions of the Federal Constitution, thus entitling said State, upon proper action being taken, to a representation of ten Senators in the United States Senate; and

Whereas a sentiment is manifesting itself at this time in said State of Texas in favor of exercising said privilege of subdivision in accordance with the right she possesses under the terms of said act of Congress; and

Whereas the suggestion is being offered that the said State of Texas be subdivided by projecting from Austin, the capital of said State, lines to the border limits thereof, making four lesser States—to wit, North Texas, South Texas, East Texas, and West Texas—said States to have one chief executive and lieutenant-governor in common, each to be apportioned into Congressional districts in accordance with its population, and be provided with a legislative body consisting of a house of representatives, to be presided over by a lieutenant-governor, who shall reside within the limits of the particular State and be chargeable with the enforcement of its law, which house of representatives, acting in conjunction with a general State senate, to be composed of an equal number of senators elected from each of said four States and presided over by the chief lieutenant-governor, elected at the same time and in the same manner as the chief executive, shall make all laws for the administration and government of said lesser States, and each of said houses of representatives, acting with the general State senate, to be authorized to elect two citizens, residents of the particular State, possessing proper qualifications to represent the same in the Senate of the United States: Now, therefore, be it

Resolved, That the Judiciary Committee be, and same is hereby, requested to advise the House whether the proposed subdivision of said State of Texas hereinbefore outlined would be in any sense violative of the constitutional provision which guarantees to each State a republican form of government, and, further, whether same would be a division of said State in compliance with the terms of said joint resolution of March 1, 1845, which would entitle said four States to elect eight Senators to represent said States in the Senate of the United States.

Mr. BEDE. Mr. Chairman, this may seem a novel proposition, but it is not such. Texas stands alone among the States of the Union. She holds a unique place in history. Within a single century she has paid allegiance to five flags—that of Spain, of Mexico, of the Republic of Texas, of the Confederacy, and now for a second time she stands beneath the flag—

Whose stripes have streamed in glory,
To foes a fear, to friends a festal robe,
And spread in rythmic lines the sacred story
Of freedom's triumph over all the globe.

[Applause.]

And long before she dreamt of the Lone Star of her own Republic of Texas, before Mexico had broken away from Spain or the flag of Spain had reached the Rio Grande, her soil had been dominated by the tricolor of France. She has had her own declaration of independence, her own constitution, and when she came to us it was as a sister republic and not as a dependent territory. She came on the condition that she might, in her own right, divide herself into five States and send ten Senators here to Washington. She came to us with a history of her own. She came a sovereign, singing her own national hymn, and with the glory of the Alamo as a halo about her head.

Some may say that States must be admitted on an equality. They never have been admitted on an equality in the history of our Union. You can not make Texas and Rhode Island equal. You can not make New York and Delaware equal, except in the legal sense of sovereignty. In the old days we admitted free States and we admitted slave States, and the very enabling act that admitted the Republic of Texas provided that the States formed out of the territory north of the Missouri Compromise line should be free, and all formed out of the territory south of the compromise line should be free or slave as their people might determine.

So we see that States have been admitted into this Union not on an equality, and the whole question that I submit to the Judiciary Committee is, What is a State and what is a republican form of government? I hear—I do not know how true the statement may be, and I do not want to say that anybody would state an untruth on this floor, after the experience we have just had [laughter]—but I have heard it said on this floor that the States of Ohio and Pennsylvania, and certain other great States, owed allegiance to some bosses in those States before they owed it to the Republic of the United States. And, if that be true, why may not Texas subdivide herself into four States, have a central government, a governor over all, and lieutenant-governors in the four several States, and elect eight United States Senators? There is nothing about it, in my judgment, unconstitutional, but there are a great many things which are constitutional that this Congress isn't going to do. I understand that perfectly well. It would be entirely constitutional for us to come in here to-morrow morning and admit Oklahoma to the Union, but we are not going to do it just because it would be constitutional. It would be constitutional for us to cease to compel Arizona and New Mexico to come in together, but we are not going to do that right away, it seems to me, from the history of affairs in this House. [Laughter.]

I have been pleased to find the allegiance of the delegation from Texas to her own Lone Star State holding itself with an unfaltering trust even when the other brethren of the South had come over and supported the Federal quarantine bill. They stood up in a solid phalanx of sixteen and voted for Texas rather than for Uncle Sam. I rather like such sweet devotion, for their great State is big enough for an empire or republic of its own. [Applause.] It reminded me of an incident which occurred in Duluth a few years ago when a pretty little Scandinavian girl who had recently come over from her native land and had learned something of our language, but who had not learned all of our ways, attended church. The minister, in keeping with his custom, stood at the door, and as the audience passed out shook hands and said a kind word to each. He asked the girl her name and where she lived, and then, thinking only of his pastoral duty, added, "I will call on you in a few days," when she exclaimed, "Oh, but I have got a feller already." [Laughter.]

And so Texas has a "fellow" already. She is a wonderful Commonwealth, and her people can scarcely have a greater love for any outside power than they have for their local government. But I remember when to tell a man to go to Texas was just like telling him to go to the other place. [Laughter.] I remember when Texas was a synonym for hell, and now it is almost as populous—and two Senators are not enough to represent such a country as that. [Great laughter and applause.]

There is now an attempt within Texas herself to subdivide the State for local governmental purposes into north Texas, east Texas, south Texas, and west Texas. The whole State, with its 262,000 square miles, is too big for the practical purposes of government. The farmers of north Texas are mostly native Americans and believe in prohibition of the liquor traffic. The people of southern Texas are largely of European extraction and want their beer. North Texas has land worth up to $100 an acre. The people there put the assessment very low and can meet their local obligations; and so the farmers of south Texas who have low-priced land complain constantly against the farmers of north Texas, and there are criminations back and forth because of the wonderful difference of conditions between the north and the south. Southern Texas raises cotton, sugar, rice, tobacco, and protectionists. [Laughter.] They have a Member of Congress in this House who voted against the Philippine tariff bill this winter because his people believe in protecting home industry. Western Texas raises cattle and is engaged in mining and also believes in protection. There is in this House a Member from western Texas who voted for the Dingley bill because western Texas believes in protection. Eastern Texas has fruit farmers and truck gardeners who are low-tariff people. They want drainage laws and legislation preventing anyone from holding large tracts of land.

Out in the western part they want irrigation and they want laws passed for large holdings. So you have the prohibitionists in the north and the liberal thinkers in the south, you have fruit growers in the east and miners and stock raisers in the west, and thus the State of Texas, although bound together by the glory of the Alamo and the history of its republic, is on the verge of dividing up into subordinate States in order to have a better local government. Yet, in spite of the experience of Texas—and this is the real moral of my remarks—this House proposes to compel Arizona and New Mexico to get together and make another State just as great as that of Texas, whose people would in future be constantly criminating each other. And so I hold that we should, in acting reasonably upon this question, make into a single Commonwealth only a sufficient area within which the people may have common interests, in which there shall not be bickering or backbiting, nor quarreling over taxes or the rates of assessment upon similar forms of property, and in which the people may have a common interest and stand together in all their affairs.

Some have complained that there are not folks enough out in Arizona. There will be folks enough out there in a few years. Plans are now formed for the irrigation of 600,000 acres of arid land, and in many cases irrigated land supports one person to the acre. I predict that in the next twenty years a half million people will go into the State of Arizona, and if they have half a million people added to what they have now they will surpass the population of the average State east of the Mississippi River. If you should admit Oklahoma as a single State, if you should permit Texas to organize herself into a little republic of four States, if you should admit Arizona and New Mexico separately, you would then have west of the Mississippi River twenty-five States, with fifty Senators. East of the Mississippi River there are twenty-six States, with fifty-two Senators, so that the West must always be outnumbered by the Senators from the East, and yet in the future history of our country the territory west of the Mississippi River, twice and a half times as great as that in the East, will double in population that of our eastern brethren.

I am therefore asking for more Senators from the West. I know they will not immediately represent as many folks as Senators from the great States of the East, but, gentlemen, I feel that the Senators, the members of the upper House of Congress—where there is real deliberation, as is being exhibited now upon the rate bill—should be so distributed over our continental area as to come in contact with all the different environments of this great Republic, for it is environment that shapes the conduct of men in public life. You have six States in New England, 61,000 square miles, and twelve Senators. Does anyone doubt that if the little State of Rhode Island were tacked onto Massachusetts the Bay State would not have something to say about the policy of the consolidated Commonwealth? Does anyone believe that if New Hampshire and Vermont and Maine and Connecticut were to be hitched onto Massachusetts it would not change somewhat the policy of the men who represent those States? For this reason I feel that we should so divide the territory of the West that the Senators should come in contact with every different environment and not throw all into one Commonwealth, where the greatest interest can control all.

Oh, I hear it said that the Senators are bad folks. I do not know whether it is against the rules of this House to speak well of the Senate or not [laughter and applause], but I am going to make that attempt. I began to speak well of the Senate once before while I was on my feet, but either my time expired or I was called to order. There are some complaints that the Senators of the West do not represent enough people, and are therefore lacking in character, but I say to you that I would rather leave my political rights in the keeping of a Member of either House of Congress hailing from the Rocky Mountains and representing nothing but the sunset than to one standing in the shadow of a trust company and representing the unearned increment. [Applause.] Some gentlemen upon this floor would have us believe that the people of Arizona do not know their initiative from their referendum [applause], but all that the friends of that Territory ask is that these people may have the right to vote upon the propositions which so greatly affect them, thus shaping in some measure their own destiny, while demonstrating their fitness for self-government and their knowledge of affairs.

Now, what is the matter with the United States Senate, that some do not wish its numbers increased? I hold that there are to-day in the Senate men of just as high character and just as great ability as have ever sat in that House. If there is anything wrong, the wrong comes up from the people. The wrongs complained of are the result of the expensiveness of politics. If a man gets into a county office or a city office he is reached every time there is a subscription paper going around. A man getting a salary of $1,000 to $5,000 in a political office is presumed to subscribe to every charitable purpose on the same basis as a millionaire. The cause of wrong in the upper places in our Government, whether local or national, comes clear up from the bottom, the graft beginning with the garden seeds, and going up through our institutions to the top. If we want to make a United States Senator honest, if we want to make city officials honest, we must appeal to the American people to assist in making public life less expensive to them. [Laughter.]

How can we expect a United States Senator to maintain an Administration family of ten children on a salary of $5,000 a year and then subscribe from ten to a hundred dollars to some purpose every time he turns around? [Renewed laughter.] So, if there be evils in our public life, the evils do not begin at the top; they begin at the bottom, and it is up to the American people to remove the cause. If they want good government in Philadelphia and good government in Cincinnati they must not make political life expensive. It is all right to say that if a man can not afford the burdens he ought to get out of political life; but what is the logical result of such a course? It is to drive all poor men out of public life and to drive rich men into all public places within the gift of the people.

So I think I am getting at the very meat of the thing, so far as wrongdoing in public life is concerned, when I lay the blame at the door of the people themselves. They are not willful in this; it is mere thoughtlessness. They have not studied this problem, so it is due to some one to speak out, and, as usual, the duty falls on me.

My district is a little different from that of the rest of you. There is not another man in it who could be induced to come to Congress, because under Republican prosperity everybody is making so much money that no one is willing to quit the game. So they induced me to come and in a feeble way to represent them temporarily in this House. [Laughter.] They know also that if I had anything to give I would turn it over to them without asking, and so they have not tempted me in any way. I have no complaint to make about my own people. But I know how expensive it is to sit in the other House, and I have declined to go there on that account. [Great laughter.] How often has every man in the hearing of my voice heard it said, when some man aspired to the United States Senate: "How can he afford to go there? He is a poor man, is he not?" It should not be so in this country, that a poor man is excluded from any political office because of the burden imposed in holding it. I want to see it so that a poor man can come to Washington and lead the "simple life" and represent the people of the United States and make as good a Senator as any millionaire. And we shall do that "when the burdens are rolled away." [Laughter.] Just here I see my friend from Michigan [Mr. WM. ALDEN SMITH] looking at me and wondering just how expensive it is. [Great laughter.] I will give him a bill of particulars privately a little later on.

But I wish to read this one paragraph, a paragraph that was in the organic act making a Territory of Arizona. It says:

> That said government shall be maintained and continued until such time as the people residing in said Territory shall, with the consent of Congress, form a State government, republican in form, as prescribed in the Constitution of the United States, and apply for and obtain admission into the Union as a State on an equal footing with the original States.

That is in the original organic act creating the Territory of Arizona, and surely this House understands the obligation of a contract.

But again and again it is said that you can not raise folks enough out in Arizona to support a State government and two United States Senators. Why, gentlemen of the committee, if I were in Arizona I could take a street sprinkler and go out before breakfast and make a bigger oasis than all the agricultural lands in any of the States of New England. [Laughter.] Yet those States are prosperous and well governed. Arizona is going to have large tracts of irrigated lands, she is going to have vast mining interests, she is going ultimately to have manufacturing interests, and when finally admitted as a single State she will be one of the best Commonwealths in the Union. [Applause.]

I am merely making this talk to-day, Mr. Chairman, to have the country know that the statehood bill has not been entirely overlooked. I know that there is a conference committee at work upon it, but they have not told me what they are doing, and I want to know if they are going to bring back to this House an agreement and let Oklahoma with her 2,000,000 people come in. I want to know if they are going to make it possible to give free schools to the more than 100,000 children in the Indian Territory who are now schoolless.

I seldom fall into poetry, Mr. Chairman, and I am not a singer, but I have thought that if we do not admit Oklahoma to the Union a citizen of that Territory might well adapt the words of the old negro melody and say:

> My canoe is under water,
> And my banjo is unstrung;
> I am tired of living any more.
> My eyes shall look downward,
> And my song shall be unsung,
> While I stay on the Oklahoma shore.

[Laughter.]

Why, Oklahoma has to-day the same population as the original thirteen States had when they formed the Union, and yet we hesitate about admitting her. She has almost the population that overcame the onslaughts of the British Empire, and yet we hesitate about giving admission and statehood to that people who have been so patient.

But I shall not weary you. There are others to speak, and my time has almost expired. I merely wish to place myself on record and let the people of the West know where I stood while the conference committee was at work. [Laughter.]

And I hope that some day you will look a little more seriously upon the resolution which I introduced here this afternoon. You may think you can not form States in that way and admit them into the Union, but on a little reflection you will find such action is wholly within the Constitution of the United States. It is up to Texas to say, after we have given her permission, whether she will accept it or not, because she has the right now to divide into five States and come here with ten Senators. I have sometimes wondered how the people of this beautiful capital city would feel to see ten stalwart Texans with sombreros on their heads, their pants in their boots, and their guns in their belts, marching on Washington with the firm determination to blow out the gas. [Laughter.]

But, Mr. Chairman, I love the people of the South, and because I love them I am going to vote for their old subsidy, without thinking much more about it. [Laughter.] I am still going to send the daily papers there as fast as I can. And here, too, let me add that I am glad most of the Democrats have taken my advice of two years ago and have come over and voted for most of the Republican measures. I am glad that they made the election of the President so unanimous in 1904, in accordance with my request. [Laughter.] I owe them a great deal for accepting my advice, for I have given so much advice that has never been accepted by anyone else. And, in conclusion, I wish to say to my good brethern of the four States of Texas and all the South that I shall never weary of telling, in the words of one of our own sweet verse writers, Mr. Nesbitt, the story of—

Your flag and my flag and how it flies to-day,
In your land and my land and half a world away;
Rose red and blood red, its stripes forever gleam,
Snow white and soul white, the good forefathers' dream;
Sky blue and true blue, with stars that gleam aright,
The gloried guidon of the day, a shelter through the night.

Your flag and my flag, and oh, how much it holds!
Your land and my land secure within its folds;
Your heart and my heart beat quicker at the sight,
Sun kissed and wind tossed, the red and blue and white;
The one flag, the great flag, the flag for me and you,
Glorified all else beside, the red and white and blue.

[Prolonged applause.]

Mr. MOON of Tennessee. I yield to the gentleman from New York [Mr. TOWNE]. [Applause.]

Mr. TOWNE. Mr. Chairman, a bill will shortly be reported to this House making an appropriation in furtherance of the celebration, on and near the waters of Hampton Roads, in the State of Virginia, of the landing at Jamestown, May 13, 1607, of the first permanent English-speaking colony on this hemisphere. This object, sir, seems to me so worthy and important that I propose to give brief expression to some of the considerations that, in my opinion, justify the Government in participating in this commemoration. The sanction of Congress has indeed already been given to the enterprise by the act of March, 1905, in pursuance whereof all the great nations of the earth have accepted the invitation issued by the President of the United States to be represented there through their naval and military establishments.

It would be difficult, sir, to overestimate the significance of the event which it is thus proposed to celebrate. To be sure, the philosophy of our day, which has embraced in one generalization the law that rules mollusk and man, nature and nations, dust and doctrines, exhibits past events as so related in cause and effect that, strictly speaking, it is illogical to assign more importance to any one occurrence than to any other, the chain of causation being no stronger than its weakest link; and yet there is in some phenomena so dramatic a demonstration of their office as to make an exceptional appeal to the imagination. They sum up a long progress, or they mark so plainly the effect of unsuspected causes as to seem to be themselves the origin of a new departure. They have furnished opportunity to genius. If Charles I had not tried to rule England without a Parliament, Oliver Cromwell would not have been immortal. If the stamp act had never been passed, George Washington would have lived and died a plain Virginia planter. Such events have consecrated places to imperishable glory. I have stooped in the thick green grass of an English meadow and patted the turf with my hand because on a certain day, nearly seven hundred years before, it had seen the leagued barons and commonalty of England force from the necessities of a tyrannous king the priceless guaranties of Magna Charta. How many Americans have stood with bared heads and hearts devout in that severe, ungarnished old chamber in Philadelphia, finding it richer in suggestion than any august palace in the world, because its walls once echoed to the birth cry of the Republic, and heard our patriot fathers pledge their lives, their fortunes, and their sacred honor to the holy dangers of a just rebellion! In a similar spirit shall we turn our steps, in the May time of another year, toward the little island in the river James, peopled now only by memories, but dedicated forever to the respect and homage of mankind by its association with the advent upon this continent of those heroic souls who, three hundred years ago, braved the perils of the sea to raise their altars in a wilderness—

And be the fair beginning of a time.

The sublimest epic in human annals is the story of this continent since that October day in 1492 when the "inspired Genoese" first beheld with his physical vision the solid land of that "western world" he had so often visited in dreams. He had, though unsuspectingly, found a new world indeed—a theater for the unwinding of the great human drama whose preparatory action seemed to have exhausted the energies of the old. The history of Europe may be viewed in three parts—the process whereby the Roman Empire came into being, the story of that Empire to its fall, and the process whereby modern nations were formed out of its fragments. But here was a world that knew neither Rome nor fuedalism. Here the earth was cumbered with no débris of outworn institutions. The stage was empty. The settings indeed were waiting—richer, more varied, more bountiful in soil and product than any preceding stage had known. With the arrival of the first settlers at Jamestown the action of the drama commenced, and certainly no more momentous circumstance has ever been celebrated in this country than that which is the subject of this proposed observance.

The World's Fair at Chicago commemorated the discovery of America. But if that discovery had not been followed by the settlement of the New World by men of the right blood—heirs of the noblest traditions of civil liberty—no one can say by how many centuries the progress of mankind toward its ultimate goal must have been lengthened. At Philadelphia, in 1876, we marked with appropriate ceremony the completion of the first century of our national independence. But if the history of the thirteen colonies had not been made by precisely the men that did make it, the American Revolution would have been an impossibility. The Adamses, James Otis, George Washington, Patrick Henry, and Thomas Jefferson contended for nothing that had not been guaranteed to all English colonies in America as early as Gilbert's patent of 1578, renewed to Raleigh in 1584, in which the settlers were solemnly promised "all the privileges of free denizens and persons native of England, in such ample manner as if they were born and personally resident in our said realm of England."

The grantor of this patent, Elizabeth, the ablest and most virile of the Tudors, was fated not to see it in actual operation. When the settlement at Jamestown was made she had been dead four years, leaving in that splendid region stretching from Labrador to Florida not one English colonist, and aside from the annals of four unsuccessful expeditions to its shores, bequeathing to it nothing but the name which linked it forever with the pride and glory of England's virgin Queen.

But this central idea of the ancient patent was destined to prove an important factor in the political history of America. The great contest between absolutism and representative government which signalized the sixteenth and seventeenth centuries in England had its analogue in the colonies, not less interesting and even more pregnant with influence upon the development of governmental institutions. Here the same struggle was made for the same liberties. Here the same arguments were addressed to the same object. Here the same appeals were made to the same ancient rights and immemorial traditions. For a hundred and fifty years the minds of men were more occupied with the fundamental principles of government than ever before in the history of the world. From their vantage point of observation 3,000 miles away the thoughtful leaders of America studied the momentous events that were passing in Europe, subjected them to examination in the light of the lessons of history and the commentaries of the great institutional writers, and compared them with their own contemporary experiences. The result was the development of a race of political thinkers. No other conditions can be imagined that would have produced the generation that gave us the Declaration of Independence, the essays of the Federalist, and the Constitution of the United States. I think it may safely be said that you may scan the entire field of history in vain in an attempt to find, not in one small community of less than 3,000,000 souls, but in all the world, a single generation that can furnish, in equal number and abilities, men to compare with George Washington, John and Samuel Adams, Thomas Jefferson, Alexander Hamilton, James Madison, John Jay, Patrick Henry, and John Marshall.

To the splendid fruitage of men and measures of this period the Old Dominion furnished a fertile soil. Massachusetts, the home of the town meeting, of the small farm, of the village community, and Virginia with her county system of government, her large plantations, and her manorial population, had much in

common in their experiences with Crown and Parliament. Hand in hand they opposed a common resistance to a common tyranny. Without their combined leadership there could have been no union among the colonists, no revolution, no independence, no constitution. If the local democracies of New England offered the initial resistance to British tyranny, it was the hand of a great Virginian that formulated the justification of that resistance. At Boston James Otis declared that taxation without representation is tyranny. At Williamsburg Patrick Henry proclaimed that death is preferable to the loss of liberty. If Massachusetts produced in Samuel Adams the "organizer of the Revolution," Virginia furnished in George Washington the successful leader of its armies. If its first blood was shed upon the bosom of the old Bay State, it was upon the battlements of a Virginia fortress that were planted the banners of its final victory. [Applause.]

At Jamestown, on the 30th of July, 1619, assembled the first representative legislative body on this continent. From then till 1776 the House of Burgesses witnessed a great part of the parliamentary development out of which were to spring the institutions of the United States of America and, indirectly, the regenerative political movements elsewhere that have constituted the chief interest of the history of the world for a century and a quarter. One of the landmarks of the English constitution is the Petition of Right, passed by Parliament and assented to by King Charles I in June, 1628, whose most important provision was that "no freeman be required to give any gift, loan, benevolence, or tax without common consent by act of Parliament." Yet the House of Burgesses was even more jealous of the "immemorial rights of Englishmen" than was the British Parliament itself, for the substance of the Petition of Right is found in a statute of Virginia antedating it by nearly five years, which enacted that the governor should not "lay any taxes or imposts upon the colonists, their lands, or commodities otherway than by the authority of the General Assembly, to be levied and employed as the said General Assembly shall appoint." [Applause.]

This was an affirmation that, under the general prerogative of the Crown, the House of Burgesses was coordinate with Parliament, possessing for Virginia the same legislative capacity as that exercised by Parliament over the internal concerns of England. This doctrine was proclaimed by James I in a special message to Parliament, to the effect that the government of the colonies was the business of the King and the Privy Council, with which the Lords and Commons had nothing to do. At various times this same principle was declared in nearly every one of the other colonial legislatures. In 1774 Edmund Burke wrote that "by most solemn compacts" the Crown had erected the various colonies "into separate civil systems, with all the powers of distinct legislation and government; * * * distinct States dependent on the Crown, but not on the Parliament of England." The denial of this venerable and accepted constitutional doctrine by the English Parliament was the very point on which our forefathers made the Revolution turn—a doctrine embodied in the patent of Elizabeth, asserted by James I, admitted by Burke and Chatham, repeatedly announced by the legislative assemblies of the colonies, and by none with more frequency or emphasis than by the Virginia House of Burgesses.

This is not the place to recite with any particularity the history of that legislative body. But every American is proud of it. Time and again it was dissolved by royal governors for passing measures designed to enlarge political freedom and for expressing sympathy with the patriots of Massachusetts and others of the colonies. It was in the doorway of the House of Burgesses, which then sat in Williamsburg, that the young lawyer Thomas Jefferson was leaning one day in May, 1765, when Patrick Henry, the "forest-born Demosthenes," who seemed, as his listener has recorded, to speak as Homer wrote, thundered against the misgovernment of England that immortal philippic which, thrilling his hearers with patriotic fervor and arousing the heroic resistance of the colonists, has steeped the spirits of four generations of Americans in the inspiring eloquence of liberty. [Applause.] It was the burgesses who first appointed a committee of correspondence and recommended to the other colonies the appointing of similar committees, whose work was of such incalculable benefit to the Revolution in the period just preceding the outbreak of hostilities. It was the burgesses also who, in the very first year after the Declaration of Independence, and under the leadership of its author, struck from under the fabric of a landed aristocracy the buttresses of primogeniture and entail.

Much has been said, sir, at various times on the theme of Cavalier and Puritan; much fanciful analogy has passed for sociology, and much interesting legend has been recounted for history. It is undoubtedly true that the early settlers of Virginia were preponderantly of those who in England had been on the side of royal prerogative and established church, while the colonizers of Massachusetts were mainly "Parliament men" and of the reformed religion. But in each case there was a considerable minority infusion that served to modify the complexion of the body politic and to prepare the way for a mutual understanding and cooperation when, in the fullness of time, such a consummation should be demanded by a destiny they were as unable to foresee as they were powerless to resist it. Subjected to practically the same necessities of self-regulation, oppressed by the same tyranny, exploited and outraged by the same blundering policies of the ruling classes of England, they both were slowly but surely molded into the inexorable elements of a great democratic state. In the fervent words of that great southron, Henry W. Grady, who, alas, like Lycidas, "is dead and hath not left his peer:"

> Neither Puritan nor Cavalier long survived as such. The virtues and good traditions of both happily still live for the inspiration of their sons and the saving of the old fashion. But both Puritan and Cavalier were lost in the storm of the first Revolution, and the American citizen, supplanting both and stronger than either, took possession of the Republic bought by their common blood and fashioned to wisdom, and charged himself with teaching men government and establishing the voice of the people as the voice of God.

Ah! Mr. Chairman, in a day when the minds of people are chiefly occupied with statistics of wealth and area and power, it is well for us to remember what, after all, constitutes at once the source and the guaranty of true national glory. In the light of the inspiring history of the last three hundred years we may read the answer to the poet's question:

> What constitutes a state?
> Not high-raised battlement or labored mound,
> Thick wall or moated gate;
> Not cities proud with spires and turrets crowned;
> Not bays and broad-armed ports,
> Where, laughing at the storm, rich navies ride;
> Not starred and spangled courts,
> Where low-browed baseness wafts perfume to pride;
> No; men, high-minded men.
>
> Men who their duties know,
> But know their rights, and knowing, dare maintain,
> Prevent the long-aimed blow,
> And crush the tyrant while they rend the chain;
> These constitute a state.

[Applause.]

"Three hundred years" seems a long time as we speak the words; yet in the life of nations it is but a little while. "Why," said Thoreau, speaking of the time that had elapsed since creation, according, I suppose, to Bishop Upshur's Chronology, "why, sixty old women like Nabby Kettle, taking hold of hands, would span the whole of it. They would be but a small tea party, but their gossip would make universal history." There are five Members of this House that could clasp hands and unite the settlement of Jamestown with this proposed celebration. The present Senators from two of the States in the Union could compass the interval with ten years to spare. Three hundred years! From the birth of Christ to the persecution of Diocletian. From the battle of Hastings to the expedition of the Black Prince in aid of Peter the Cruel. From the discovery of the Cape of Good Hope to the treaty of Campo Formio. Never has a period of similar duration witnessed such transformation and such progress as that whose close is to be so appropriately commemorated at Jamestown in May of the coming year; in military organization and equipment, in naval architecture and armament, and in the whole domain of industry, it would be impossible to cite a parallel. Nor could there be found a place in all America so apt to an impressive demonstration of this marvelous change as the fair domain of old Virginia. [Applause.]

If, sir, it be true, as Goethe says, that no man deserves liberty who will not win it day by day anew, those who dwell upon that sacred soil must feel their long inheritance of sacrifice to be a dedication to the noblest ideals of citizenship. That soil, sir, was fertilized in the cause of civilization by the blood of the early colonists and their savage foes. In that cause it has produced an abundant harvest of historic deeds. Upon that soil were fought the last battle of the Revolution, which established our nationality, and the last battle of the civil war, which preserved it. There our foreign military visitors may view the scenes of some of the most memorable performances in the long history of war. At Yorktown, in the finishing blow of the contest for independence, Washington concluded one of the most brilliant of those achievements that have given him rank among the illustrious captains of history. Scarcely second to the New Jersey campaign, which Frederick the Great pronounced the greatest campaign of the century, was that magnificent strategy which kept Clinton shut up in New York until the American Army, swinging loose from its base, fairly hurled itself 500 miles upon the beleaguered Cornwallis. [Applause.]

Time would fail, sir, if I were to attempt a mere recital of that long series of battles, sieges, and military exploits in which, from Bull Run to Appomattox, the best blood of North and South reddened in common sacrifice the fields of old Virginia, expiating together a national error and cementing the half-sundered bonds of union in a nationality stronger than before, which, please God, shall be henceforth forever as safe from dissension within as it is secure against assault from without. [Applause.]

A reunited country finds at last a common heritage in the memories of Gordon and Sheridan, Longstreet and Sherman, Lee and Grant. The heroes of Cold Harbor and Fredericksburg in blue and gray clasp fraternal hands at their memorial bivouacs. If any rancor long survived from the fierce clash of passions in that fratricidal strife, it disappeared when the imperious voice of Columbia ordered from this hemisphere the mediæval tyranny of Spain and Americans of North and South rallied once again under the banners of the Republic against a foreign foe. [Applause.] There could be no stronger evidence of final peace than was afforded recently when that great cavalry leader of the South, whose youth was so unreservedly devoted to his section, whose middle life was absorbed in conscientious service in this House, whose age found him again in the saddle, but under the Stars and Stripes, and whose dearest wish it had been that he might die in a Federal uniform, was laid to rest, with tributes of affection from all his countrymen, upon the storied heights of Arlington.

This peace, sir, let no man disturb. The contest between the sections bequeathed to the South a problem of greater importance, of greater delicacy, of greater difficulty, than any other people have yet been compelled to solve in all the history of the world. That solution it must be left to them to find and to apply. [Applause.] They bear its chief burden. They dwell among its dangers. They have the experience necessary to deal with it. He would be but a poor champion of his country's peace, or even of the welfare of those whose cause he claimed to espouse, who should, by untimely interference and unskillful meddling, be responsible for raising a spirit that he could not

But, sir, if the soil of Virginia be rich in association, the waters are scarcely less so. When the proudest ships of all the great navies of the world are lying off Hampton Roads they will be near the spot where, in March, 1862, occurred an event which revolutionized naval warfare and determined the type of all subsequent naval construction. Since the memorable battle between the *Merrimac* and the *Monitor* scarcely a wooden ship of war has been built, and every vessel at the celebration will be only visiting the home of its ancestors. A greater change in the construction, equipment, armament, and operation of fighting ships has taken place in that interval of forty-four years than had occurred between that time and the battle of Lepanto, in 1571. The transition in type and effectiveness has probably been greater than between Lepanto and the fight at "sea-girt Salamis," 480 B. C. A Macedonian phalanx would be no more helpless against a company of American sharpshooters armed with Krag-Jörgensen rifles than would Spain's "invincible Armada," which threatened the very existence of England in 1588, before a modern battle squadron. Indeed, I believe that one ship like the *Alabama* or the *Oregon* could annihilate, substantially without harm to itself or crew, in one action in the open sea, all the vessels that Don John and the Turks brought together at Lepanto, the Spanish Armada, and all the naval forces at the command of both North and South in the civil war.

It will be an inspiring and awesome spectacle—that naval parade in the Virginia waters. The world will never have seen before such gathered potency of havoc on the sea. The boast of the British navy will be there, proud in its defense of a realm on which the sun never sets, an empire comprising quite one-fifth part of all the earth, calm in the confidence inspired by its heroic traditions and by its numerical strength in ships and men, but chastened, let us hope, to some extent by the recollections of the Revolution and the war of 1812. [Applause.] The pride of the navy of France will be there, second in statistical rank, and conscious of its ancient association in a common cause with us. There shall float the noble ships of Germany, bristling with their Kaiser's purpose and ambiguous of prophecy. There, too, shall wave the pennant of old Spain, suggestive of a glory that once enthralled two hemispheres, still sore from the merciful wound our destiny compelled us to inflict, but largely comforted by the consciousness of new-found and promising national impulses. Italy will be represented there by vessels worthy to recall her splendid past when the Roman triremes swept the Mediterranean, or the "Queen of the Adriatic" collected tribute over a thousand leagues of sea. The flags of Norway and Sweden shall bring to mind the moving legends of the northern ocean, of the valorous deeds of the restless Vikings, and of that dauntless Lief Ericsson, who, five centuries before Columbus, was the first—

> To sail beyond the sunset and the baths
> Of all the western stars.

There, too, the breezes shall unfurl the standards of the Rising Sun, and the trophied monsters of great Togo's fleet shall seem like the emanations of a conjuror's dream, so little a while ago it is since Perry, with every cannon port of his flagship closed and with an open Bible resting above the Stars and Stripes draped over the capstan head, knocked at the door of isolated, feudal, and oriental Japan. Russia, defeated, humiliated, will not let us forget her former friendship, but will send to Hampton Roads war ships both reminiscent of the navy she has lost and also, let us hope and believe, prophetic of a new navy that shall represent, not the aggressive programme of a military autocracy, but the self-contained and national policy of a great people soon to be clothed in the full panoply of self-government. [Applause.] The ensign of Holland will be no stranger on the waters of the western world, recalling the age of her maritime prosperity and power, when the Dutch, the "carriers of the ocean and the harvesters of the sea," founded New Netherlands upon the Hudson, and when stout old Van Tromp, with a broom at his masthead, plowed the English Channel and harried the river Thames.

And, sir, above the finest ships that ride in that magnificent harbor Old Glory shall unfold [applause]; the emblem of the most powerful and most peaceful people in the world. Ship for ship, gun for gun, man for man, let me ask, not in idle boasting, but in very truth, where is the navy to compare with the Navy of the United States? Indeed, regard being had for the modern character of our vessels, their condition of fitness and preparedness, and the alertness, initiative, and drilled skill of the man not only "behind the gun," but also behind the machinery, there are men, far better qualified to speak on the subject than I am, who believe that our Navy could encounter to-day, with reasonable hope of victory, any other navy on the seas. And, I may add, if this sentiment were universally entertained it would constitute the strongest imaginable guaranty of the world's peace. [Applause.]

An American may well be forgiven, sir, if he grow somewhat unrestrained in speech when the subject is the Navy. Short as our history is, it has witnessed deeds in war upon the sea, and on our Great Lakes and rivers, which for bravery and heroism may challenge comparison with any recorded in all the crowded annals of the past. Greater daring no mortal man ever exhibited than did Decatur under the walls of Tripoli, Cushing in destroying the *Albemarle*, or Hobson and his companions at the mouth of Santiago Harbor.

Nor need we fear when the long roll of great sea captains is to be called. England, to be sure, draws heavily on the immortals with her Drake, and Hawk, and Jervis, and Hood, and Rodney, and Nelson; but even in such company there will be found place for Barry, for John Paul Jones [applause], and Lawrence, and Perry, and Farragut, and Dewey, and Schley. [Applause.] We, too, can quote as mottoes of duty the sayings of our naval heroes. Nelson, at Copenhagen, when Admiral Parker signaled a retreat, exclaimed: "Damn the signal! I am blind in one eye and can not see it." Said Farragut at Mobile: "Damn the torpedoes! Full speed ahead." Nelson's last words at Trafalgar, "Thank God, I have done my duty," are not so well known as the dying Lawrence's admonition, "Don't give up the ship." Long after the establishment of universal peace, when navies shall have ceased to vex the bosom of the sea, men will repeat the words of John Paul Jones, when, amid the wreckage and the dead and dying on the deck of his sinking ship, he answered the demand of the captain of the *Serapis* to surrender. "Surrender!" he exclaimed, "I have just begun to fight."

But no change has been more marked in these three hundred years than that which has taken place in the industry of the Old Dominion. In addition to the revolution in the useful arts, due to the development of the natural sciences, and especially of steam and electricity, which has been inconceivably beyond all precedent, but in which Virginia and the South have participated as a matter of course with the rest of the world, that section has undergone a succession of changes peculiar to itself of surpassing interest in manner, incident, and results. This phenomenon would repay extensive treatment, but must not long detain us upon this occasion. The specialization in products like tobacco, cotton, and sugar, under the application of servile labor had built up what Grady has called "a splendid and chivalric oligarchy," with attendant economic implications

wholly at variance with the general tendencies and progress of society elsewhere. When the civil war was ended chaos fell upon the South. The tattered and shattered heroes who stacked their useless arms before the magnanimous victor of Appomattox, turned from the wreck of their separatist dream to a disrupted and disorganized society, to wasted fields and ruined towns burdened with hopeless debt, to bankrupt business, blighted homes, and exhausted energies.

But the men and women of the South were made of the stuff that surmounts even impossibilites. If ever vindication be needed for the American character, for its moral resilience, its fundamental stability, its resistless energy, its practical capacity, its unconquerable courage, that vindication will be found in the record, without precedent or parallel, which exhibits the social and material conquests made by the Southern States since the civil war; indeed, mainly within the last twenty-five years. [Applause.] Within this time the railroad mileage of the South has grown from 20,600 to over 60,000, or about 200 per cent; the assessed valuation of property from $3,050,000,000 to $6,500,000,000, or more than 100 per cent; the annual value of farm products from $660,000,000 to $1,750,000,000, or 166 per cent. Exports have increased from $261,000,000 to $555,000,000; manufactured products from $457,000,000 to $1,750,000,000, an increase of 80 per cent greater than even the tremendous gain in farm values; the cotton crop from $314,000,000 to $680,000,000; the number of barrels of petroleum produced from 179,000 to 42,500,000. In 1880 the South had invested in cotton mills $21,000,000; to-day $250,000,000. These mills then used 225,000 bales of cotton as against 2,225,000 used to-day.

Meantime the yearly manufacture of pig iron has grown from 397,000 tons to about 3,500,000 tons, and the coal mined from 6,000,000 tons to more than 70,000,000 tons. The South to-day has about $30,000,000 more invested in cotton mills than the entire country had in such investment in 1880, although its population is some eight millions less than the total population of the country at that time. It produces annually $60,000,000 worth more of lumber than did the whole United States in 1880.

These figures, startling as they are, do not exhibit fully the phenomenal advance of the Southern States in wealth and industrial independence. To-day that progress is in midcareer. No man dare put estimated limits to it; but I believe it safe to say that we are not yet at its flood tide, and that for the next generation at least the development of the South is to be the characteristic feature of our national history.

Sir, when the citizens of the various sections of our common country shall meet next year at Jamestown, it will be to survey a most amazing record of accomplishment. The little settlement of 1607 grew into a populous and prosperous colony. The colony was reborn as a State in the first great federal, representative republic in the history of the world, whose liberties Virginians did more to define and achieve, and whose government Virginians did more to frame and establish, than any other men. Setting an example to her sister colonies, Virginia early conveyed to the common interest her claims to that vast northwestern region out of which so many other Commonwealths have since been carved and admitted into the Union of States, after having been dedicated by solemn compact through the efforts of her great son, Thomas Jefferson, to freedom, morality, and education forever.

That Union spread southward to the Mexican border and westward to the Pacific Sea. It has grown in population, wealth, influence, and power until it is recognized all round the globe as the most potent force at work upon the fortunes of mankind. Its institutions have re-formed the governments of the world. They have three times occasioned fundamental political changes in the English Parliament. They have caused five hundred written constitutions to be made and modeled on our own. They have confederated Italy and Germany and amalgamated the British Empire. They have set up legislative assemblies over all Europe. They have spread trial by jury, religious toleration, freedom of the press, and liberty of speech. They have invaded the custom-bound isolation of the Orient and set up a constitutional system in Japan. They have initiated the movement for self-government in Russia that henceforth can not be defeated or seriously impeded until the voice of the Russian people shall have become supreme in the control of their own affairs.

Impressed with these reflections, sir, it will not be difficult for Americans to rededicate themselves to those great fundamental and characteristic principles of liberty and justice on which their past glory has been reared, on which their present prosperity and power depend, and on which their future security and progress must be builded. Graver problems remain, indeed, than any yet so triumphantly solved—questions of international safety, of domestic peace, of industrial righteousness. I believe it is only by undertaking their solution in the old-fashioned serious, honest, liberty-loving, justice-doing American spirit that we may hope to achieve results answerable to our past and responsive to our high destiny.

Let us, therefore, when the spring shall come again, gather in old Virginia about the earliest altar erected to our civic worship in this brave New World, and there, Americans all, take upon our lips again the holy natal vows of our peculiar nationality, strong in the hope and resolute in the purpose that, in the words of John Adams to Thomas Jefferson, "Our pure, virtuous, public-spirited, federative Republic shall last forever, govern the globe, and introduce the perfection of man." [Loud applause.]

Mr. OVERSTREET. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. SHERMAN, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 16953—the Post-Office appropriation bill—and had come to no resolution thereon.

ENROLLED BILLS SIGNED.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

H. R. 11129. An act granting an increase of pension to Thomas J. Lindsey;

H. R. 11536. An act granting an increase of pension to James D. Hudson;

H. R. 20. An act to change and fix the time for holding the circuit and district courts of the United States for the middle district of Tennessee, in the southern division of the eastern district of Tennessee at Chattanooga, and the northeastern division of the eastern district of Tennessee at Greeneville, and for other purposes;

H. R. 8717. An act for the relief of Jacob Pickens;

H. R. 15328. An act to approve certain final proofs in the Chamberlain land district, South Dakota; and

H. R. 4461. An act to provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District, and for other purposes.

The SPEAKER announced his signature to enrolled bill of the following title:

S. 535. An act to amend and reenact section 1 of charter 27 of volume 27 of the United States Statutes at Large, being "An act to provide for a term of the United States circuit and district courts at Evanston, Wyo.," approved May 23, 1892.

SENATE BILLS REFERRED.

Under clause 2, of Rule XXIV, Senate bills of the following titles were taken from the Speaker's table, and referred to their appropriate committees as indicated below:

S. 5498. An act granting additional lands from the Fort Douglas Military Reservation to the University of Utah—to the Committee on Military Affairs.

S. 1344. An act for the relief of John M. Burks—to the Committee on Claims.

S. 3245. An act creating the Mesa Verde National Park—to the Committee on the Public Lands.

S. 4256. An act for the relief of the Alaska Short Line Railway and Navigation Company's Railroad—to the Committee on the Public Lands.

LEAVE OF ABSENCE.

Mr. KLINE, by unanimous consent, was granted leave of absence for ten days, on account of important business.

ORDER OF BUSINESS.

Mr. OVERSTREET. Mr. Speaker, I ask unanimous consent that general debate on the Post-Office appropriation bill close at 4 o'clock to-morrow, except that the gentleman from New York [Mr. COCKRAN] may have one hour, from 2 to 3 o'clock on Thursday, to address the committee as in general debate.

The SPEAKER. The gentleman from Indiana asks unanimous consent to close general debate on the post-office appropriation bill at 4 o'clock to-morrow, and adds thereto the request that on Thursday next, from 2 to 3 o'clock, the gentleman from New York [Mr. COCKRAN] may address the committee as in general debate. Is there objection?

There was no objection.

Mr. OVERSTREET. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

Accordingly (at 5 o'clock and 22 minutes p. m.) the House adjourned until to-morrow, at 11 o'clock a. m.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred as follows:

A letter from the Secretary of War, transmitting a letter from the bishop of Washington requesting the appointment of a chaplain at Washington Barracks and recommending the same—to the Committee on Military Affairs, and ordered to be printed.

A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination of St. Croix River, Minnesota and Wisconsin—to the Committee on Rivers and Harbors, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. WANGER, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the Senate (S. 4250) to further enlarge the powers and authority of the Public Health and Marine-Hospital Service and to impose further duties thereon, reported the same with amendment, accompanied by a report (No. 3161); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. THOMAS of North Carolina, from the Committee on the Library, to which was referred the bills of the House H. R. 178 and 7094, reported in lieu thereof a bill (H. R. 17983) providing for the erection of a monument on Kings Mountain battle ground commemorative of the great victory gained there during the war of the American Revolution, on October 7, 1780, by the American forces, accompanied by a report (No. 3162); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. CURTIS, from the Committee on Indian Affairs, to which was referred the bill of the House (H. R. 12710) permitting the St. Louis, San Francisco and New Orleans Railroad Company (formerly the Arkansas and Choctaw Railway Company), the St. Louis and Oklahoma City Railroad Company, the St. Louis, Oklahoma and Southern Railway Company, and the Oklahoma City and Western Railroad Company, and each or either of them, to sell and convey their railroads and other property in the Indian Territory to the St. Louis and San Francisco Railroad Company, and for other purposes, reported the same without amendment, accompanied by a report (No. 3158); which said bill and report were referred to the House Calendar.

Mr. BARTLETT, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the House (H. R. 17945) authorizing the Borderland Coal Company to construct a bridge across Tug Branch of Big Sandy River; reported the same without amendment, accompanied by a report (No. 3159); which said bill and report were referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. DIXON, of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 98) granting an increase of pension to Doris F. Clegg, reported the same without amendment, accompanied by a report (No. 3025); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 230) granting an increase of pension to Alfred Woodin, reported the same without amendment, accompanied by a report (No. 3026); which said bill and report were referred to the Private Calendar.

Mr. FULLER, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 450) granting an increase of pension to James Flynn, reported the same without amendment, accompanied by a report (No. 3027); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 487) granting an increase of pension to William Sprouse, reported the same without amendment, accompanied by a report (No. 3028); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 518) granting an increase of pension to William T. Godwin, reported the same without amendment, accompanied by a report (No. 3029); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 524) granting an increase of pension to Lestina M. Gifford, reported the same without amendment, accompanied by a report (No. 3030); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 558) granting an increase of pension to Abijah Chamberlain, reported the same without amendment, accompanied by a report (No. 3031); which said bill and report were referred to the Private Calendar.

Mr. FULLER, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 657) granting an increase of pension to Mary J. Reynolds, reported the same without amendment, accompanied by a report (No. 3032); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 674) granting an increase of pension to Thomas A. Agur, reported the same without amendment, accompanied by a report (No. 3033); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 835) granting an increase of pension to John W. Scott, reported the same without amendment, accompanied by a report (No. 3034); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 914) granting an increase of pension to Edwin R. Hardy, reported the same without amendment, accompanied by a report (No. 3035); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 920) granting an increase of pension to Abraham S. Brown, reported the same without amendment, accompanied by a report (No. 3036); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 1162) granting an increase of pension to Nelson Cook, reported the same without amendment, accompanied by a report (No. 3037); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 1352) granting an increase of pension to Michael Scannell, reported the same without amendment, accompanied by a report (No. 3038); which said bill and report were referred to the Private Calendar.

Mr. KELIHER, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 1376) granting a pension to Adam Werner, reported the same without amendment, accompanied by a report (No. 3039); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 1377) granting an increase of pension to John R. Brown, reported the same without amendment, accompanied by a report (No. 3040); which said bill and report were referred to the Private Calendar.

Mr. KELIHER, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 1398) granting an increase of pension to Edmund Morgan, reported the same without amendment, accompanied by a report (No. 3041); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 1406) granting an increase of pension to Moses Hill, reported the same without amendment, accompanied by a report (No. 3042); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 1407) granting a pension to John McCaughen, reported the same without amendment, accompanied by a report (No. 3043); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 1884) granting an increase of pension to Frederic W. Swift, reported the same without amendment, accompanied by a report (No. 3044); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 1953) granting an increase of pension to Charles M. Benson, reported the same without amendment, accompanied by a report (No. 3045); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 1962) granting an increase of pension to Julia Baldwin, reported the same without amendment, accompanied by a report (No. 3046); which said bill and report were referred to the Private Calendar.

Mr. KELIHER, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 1975) granting an increase of pension to Mary E. Dugger, reported the same with amendment, accompanied by a report (No. 3047); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 2050) granting an increase of pension to Jotham T. Moulton, reported the same without amendment, accompanied by a report (No. 3048); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 2094) granting an increase of pension to Rodney W. Torrey, reported the same without amendment, accompanied by a report (No. 3049); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 2287) granting an increase of pension to James V. Pope, reported the same without amendment, accompanied by a report (No. 3050); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 2507) granting an increase of pension to William Wheeler, reported the same without amendment, accompanied by a report (No. 3051); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 2549) granting an increase of pension to George W. Boyles, reported the same without amendment, accompanied by a report (No. 3052); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 2568) granting an increase of pension to Noah C. Fowler, reported the same without amendment, accompanied by a report (No. 3053); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 2670) granting an increase of pension to Marie J. Spicely, reported the same without amendment, accompanied by a report (No. 3054); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 2689) granting an increase of pension to Alonzo M. Bartlett, reported the same without amendment, accompanied by a report (No. 3055); which said bill and report were referred to the Private Calendar.

Mr. KELIHER, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 2733) granting an increase of pension to Charles Crismon, reported the same without amendment, accompanied by a report (No. 3056); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 2745) granting an increase of pension to Zerelda N. McCoy, reported the same without amendment, accompanied by a report (No. 3057); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 2772) granting an increase of pension to Charles H. Niles, reported the same without amendment, accompanied by a report (No. 3058); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 2790) granting an increase of pension to William J. Millett, reported the same without amendment, accompanied by a report (No. 3059); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 2795) granting an increase of pension to John Albert, reported the same without amendment, accompanied by a report (No. 3060); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 2832) granting a pension to Susan Penington, reported the same without amendment, accompanied by a report (No. 3061); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 2952) granting an increase of pension to William A. Gipson, reported the same without amendment, accompanied by a report (No. 3062); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 3024) granting an increase of pension to David S. Trumbo, reported the same without amendment, accompanied by a report (No. 3063); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 3182) granting an increase of pension to Walter Lynn, reported the same without amendment, accompanied by a report (No. 3064); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 3252) granting an increase of pension to David F. Crampton, reported the same without amendment, accompanied by a report (No. 3065); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 3298) granting an increase of pension to John B. Ashelman, reported the same without amendment, accompanied by a report (No. 3066); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 3300) granting an increase of pension to Lorenzo D. Huntley, reported the same without amendment, accompanied by a report (No. 3067); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 3303) granting a pension to Harriett B. Summers, reported the same without amendment, accompanied by a report (No. 3068); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 3465) granting an increase of pension to John G. Vincent, reported the same without amendment, accompanied by a report (No. 3069); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 3493) granting an increase of pension to Thomas Reed, reported the same without amendment, accompanied by a report (No. 3070); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 3525) granting an increase of pension to Robert G. Harrison, reported the same without amendment, accompanied by a report (No. 3071); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 3598) granting an increase of pension to Charles D. Brown, reported the same without amendment, accompanied by a report (No. 3072); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 3812) granting an increase of pension to Truman R. Stinehour, reported the same without amendment, accompanied by a report (No. 3073); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 3821) granting an increase of pension to Henry Wilhelm, reported the same without amendment, accompanied by a report (No. 3074); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 3834) granting an increase of pension to Robert McCalvy, reported the same without amendment, accompanied by a report (No. 3075); which said bill and report were referred to the Private Calendar.

Mr. FULLER, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 3843) granting an increase of pension to Rollin T. Waller, reported the same without amendment, accompanied by a report (No. 3076); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 3984) granting an increase of pension to Sarah E. Yockey, reported the same without amendment, accompanied by a report (No. 3077); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 3985) granting an increase of pension to Matilda E. Nattinger, reported the same without amendment,

accompanied by a report (No. 3078); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 3996) granting an increase of pension to David Morehart, reported the same without amendment, accompanied by a report (No. 3079); which said bill and report were referred to the Private Calendar.

Mr. HOPKINS, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4088) granting an increase of pension to Charles E. Chapman, reported the same without amendment, accompanied by a report (No. 3080); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 4102) granting an increase of pension to John A. Broadwell, reported the same without amendment, accompanied by a report (No. 3081); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4110) granting an increase of pension to Absalom Wilcox, reported the same without amendment, accompanied by a report (No. 3082); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 4186) granting an increase of pension to Samuel G. Roberts, reported the same without amendment, accompanied by a report (No. 3083); which said bill and report were referred to the Private Calendar.

Mr. HOPKINS, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4247) granting an increase of pension to Carrick Rutherford, reported the same without amendment, accompanied by a report (No. 3084); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 4258) granting an increase of pension to James F. Hackney, reported the same without amendment, accompanied by a report (No. 3085); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4279) granting an increase of pension to Fannie E. Malone, reported the same without amendment, accompanied by a report (No. 3086); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4315) granting an increase of pension to Elizabeth A. Vose, reported the same without amendment, accompanied by a report (No. 3087); which said bill and report were referred to the Private Calendar.

Mr. KELIHER, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4360) granting an increase of pension to John P. Dunn, reported the same without amendment, accompanied by a report (No. 3088); which said bill and report were referred to the Private Calendar.

Mr. HOPKINS, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4432) granting an increase of pension to James Dreury, reported the same without amendment, accompanied by a report (No. 3089); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 4440) granting an increase of pension to Joseph Kauffman, reported the same without amendment, accompanied by a report (No. 3090); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4520) granting an increase of pension to Albert L. Callaway, reported the same without amendment, accompanied by a report (No. 3091); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4548) granting a pension to Hannah E. Wilmer, reported the same without amendment, accompanied by a report (No. 3092); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4556) granting an increase of pension to William Jandro, reported the same without amendment, accompanied by a report (No. 3093); which said bill and report were referred to the Private Calendar.

Mr. KELIHER, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4557) granting an increase of pension to John R. McCrillis, reported the same without amendment, accompanied by a report (No. 3094); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4622) granting an increase of pension to Isaiah McDaniel, reported the same without amendment, accompanied by a report (No. 3095); which said bill and report were referred to the Private Calendar.

Mr. KELIHER, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4650) granting an increase of pension to Thomas McDonald, reported the same with amendment, accompanied by a report (No. 3096); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 4675) granting an increase of pension to Fannie P. Norton, reported the same without amendment, accompanied by a report (No. 3097); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4683) granting an increase of pension to William McCann, reported the same without amendment, accompanied by a report (No. 3098); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4785) granting an increase of pension to Nehemiah M. Brundege, reported the same without amendment, accompanied by a report (No. 3099); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 4786) granting an increase of pension to George W. Coughanour, reported the same without amendment, accompanied by a report (No. 3100); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4797) granting an increase of pension to Jacob Franz, reported the same without amendment, accompanied by a report (No. 3101); which said bill and report were referred to the Private Calendar.

Mr. KELIHER, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4826) granting an increase of pension to Sarah Agnes Earl, reported the same without amendment, accompanied by a report (No. 3102); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 4834) granting an increase of pension to Octave Counter, reported the same without amendment, accompanied by a report (No. 3103); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4917) granting an increase of pension to Alfred B. Chilcote, reported the same without amendment, accompanied by a report (No. 3104); which said bill and report were referred to the Private Calendar.

Mr. KELIHER, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4972) granting an increase of pension to Sarah E. Hull, reported the same without amendment, accompanied by a report (No. 3105); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 4986) granting an increase of pension to Alfred Beham, reported the same without amendment, accompanied by a report (No. 3106); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5016) granting an increase of pension to Charles G. Polk, reported the same without amendment, accompanied by a report (No. 3107); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5074) granting an increase of pension to James I. Mettler, reported the same without amendment, accompanied by a report (No. 3108); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 5079) granting an increase of pension to Andrew J. Hunter, reported the same without amendment, accompanied by a report (No. 3109); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5121) granting an increase of pension to James H. Haman, reported the same without amendment, accompanied by a report (No. 3110); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5172) granting an increase of pension to John M. De Puy, reported the same without amendment, accompanied by a report (No. 3111); which said bill and report were referred to the Private Calendar.

Mr. CALDERHEAD, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5244) granting an increase of pension to Horace A. Gregory, reported the same without amendment, accompanied by a report (No. 3112); which said bill and report were referred to the Private Calendar.

Mr. KELIHER, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5287) granting an increase of pension to John M. Prentiss, reported the same without amendment, accompanied by a report (No. 3113); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5323) granting an increase of pension to Newton G. Cook, reported the same without amendment, accompanied by a report (No. 3114); which said bill and report were referred to the Private Calendar.

Mr. CALDERHEAD, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5324) granting an increase of pension to Peter Sloggy, reported the same without amendment, accompanied by a report (No. 3115); which said bill and report were referred to the Private Calendar.

Mr. FULLER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17384) granting an increase of pension to William Warnes, reported the same without amendment, accompanied by a report (No. 3116); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 17683) granting an increase of pension to John Hoch, reported the same without amendment, accompanied by a report (No. 3117); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17385) granting an increase of pension to James S. Ruby, reported the same with amendment, accompanied by a report (No. 3118); which said bill and report were referred to the Private Calendar.

Mr. HOPKINS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17684) granting an increase of pension to Joseph M. Hays, reported the same with amendment, accompanied by a report (No. 3119); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17781) granting an increase of pension to Frank M. Parker, reported the same with amendment, accompanied by a report (No. 3120); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17650) granting an increase of pension to Hugh F. Ames, reported the same without amendment, accompanied by a report (No. 3121); which said bill and report were referred to the Private Calendar.

Mr. CALDERHEAD, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17700) granting an increase of pension to A. T. Mitchell, reported the same with amendment, accompanied by a report (No. 3122); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17671) granting a pension to Sarah A. Thompson, reported the same without amendment, accompanied by a report (No. 3123); which said bill and report were referred to the Private Calendar.

Mr. FULLER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 14827) granting an increase of pension to William K. Stewart, reported the same with amendment, accompanied by a report (No. 3124); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16972) granting a pension to Harriet L. Morrison, reported the same with amendment, accompanied by a report (No. 3125); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17028) granting an increase of pension to L. D. Hartwell, reported the same with amendment, accompanied by a report (No. 3126); which said bill and report were referred to the Private Calendar.

Mr. FULLER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 14839) granting an increase of pension to James McManus, reported the same with amendment, accompanied by a report (No. 3127); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15102) granting an increase of pension to William H. Ryckman, reported the same without amendment, accompanied by a report (No. 3128); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16186) granting an increase of pension to William T. A. H. Boles, reported the same with amendment, accompanied by a report (No. 3129); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 14728) granting an increase of pension to William Cartwright, reported the same with amendment, accompanied by a report (No. 3130); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15495) granting an increase of pension to Job B. Sanderson, reported the same with amendment, accompanied by a report (No. 3131); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15058) granting an increase of pension to Enoch Rector, reported the same without amendment, accompanied by a report (No. 3132); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 17118) granting an increase of pension to John Burke, reported the same with amendment, accompanied by a report (No. 3133); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16724) granting an increase of pension to James S. Burgess, reported the same with amendment, accompanied by a report (No. 3134); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16536) granting an increase of pension to Cyrus S. Case, reported the same with amendment, accompanied by a report (No. 3135); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 12653) granting a pension to Sarah Adams, reported the same with amendment, accompanied by a report (No. 3136); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 12842) granting an increase of pension to William J. Drake, reported the same with amendment, accompanied by a report (No. 3137); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 13622) granting a pension to Mary Cochran, reported the same with amendment, accompanied by a report (No. 3138); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 13469) granting an increase of pension to Michael Davy, reported the same with amendment, accompanied by a report (No. 3139); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 10473) granting an increase of pension to John B. Gerard, reported the same with amendment, accompanied by a report (No. 3140); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 11367) granting an increase of pension to Manning Abbott, reported the same with amendment, accompanied by a report (No. 3141); which said bill and report were referred to the Private Calendar.

Mr. FULLER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 13047) granting an increase of pension to Walter Saunders, reported the same with amendment, accompanied by a report (No. 3142); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 9812) granting an increase of pension to Joseph B. Newbury, reported the same without amendment, accompanied by a report (No. 3143); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 1151) granting a pension to Valentine Bartley, reported the same with amendment, accompanied by a report (No. 3144); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 9442) granting

a pension to Dora C. Walter, reported the same with amendment, accompanied by a report (No. 3145); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 9829) granting an increase of pension to William J. Thompson, reported the same with amendment, accompanied by a report (No. 3146); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 9556) granting an increase of pension to Thomas C. Jackson, reported the same with amendment, accompanied by a report (No. 3147); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 7902) granting an increase of pension to Eugene Orr, alias Charles Southard, reported the same with amendment, accompanied by a report (No. 3148); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 9791) granting an increase of pension to Amelia E. Grimsley, reported the same with amendment, accompanied by a report (No. 3149); which said bill and report were referred to the Private Calendar.

Mr. CALDERHEAD, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 3738) granting an increase of pension to Daniel Baughman, reported the same with amendment, accompanied by a report (No. 3150); which said bill and report were referred to the Private Calendar.

Mr. FULLER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 6919) granting an increase of pension to Joseph A. C. Curtis, reported the same with amendment, accompanied by a report (No. 3151); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 5274) granting an increase of pension to William T. Brannon, reported the same with amendment, accompanied by a report (No. 3152); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 3430) granting a pension to Peter M. Culins and conferring the rank of captain, reported the same with amendment, accompanied by a report (No. 3153); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 1547) granting an increase of pension to William A. Olmsted, reported the same with amendment, accompanied by a report (No. 3154); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 8820) granting a pension to Inez Talkington, reported the same with amendment, accompanied by a report (No. 3155); which said bill and report were referred to the Private Calendar.

Mr. HOPKINS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 1567) granting an increase of pension to Edward Duffy, reported the same with amendment, accompanied by a report (No. 3156); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 9034) granting an increase of pension to Mary F. McCauley, reported the same without amendment, accompanied by a report (No. 3157); which said bill and report were referred to the Private Calendar.

Mr. PRINCE, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 8375) for the relief of John B. Ford, reported the same with amendment, accompanied by a report (No. 3163); which said bill and report were referred to the Private Calendar.

ADVERSE REPORTS.

Under clause 2 of Rule XIII, adverse reports were delivered to the Clerk and laid on the table, as follows:

Mr. PARKER, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 14218) authorizing the appointment and retirement of Charles Chaillé-Long with the rank of brigadier-general, United States Army, reported the same adversely, accompanied by a report (No. 3160); which said bill and report were ordered laid on the table.

Mr. PRINCE, from the Committee on Military Affairs, to which was referred the bill of the Senate (S. 2054) authorizing the Secretary of War to place the name of Joseph F. Ritcherdson on the rolls of Company C, One hundred and twenty-second Illinois Volunteer Infantry, and issue him an honorable discharge, reported the same adversely, accompanied by a report (No. 3164); which said bill and report were ordered laid on the table.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. KENNEDY of Nebraska: A bill (H. R. 17972) to extend the time for the construction of a bridge and approaches thereto across the Missouri River at or near South Omaha, Nebr.—to the Committee on Interstate and Foreign Commerce.

By Mr. GILLETT of California: A bill (H. R. 17973) making appropriations for survey of irrigation works in California—to the Committee on Appropriations.

By Mr. STANLEY: A bill (H. R. 17974) relating to punishment for contempt in Federal courts—to the Committee on the Judiciary.

By Mr. HENRY of Texas: A bill H. R. 17975) in relation to contempts of court—to the Committee on the Judiciary.

Also, a bill (H. R. 17976) in relation to granting restraining orders and injunctions—to the Committee on the Judiciary.

By Mr. KENNEDY of Nebraska: A bill (H. R. 17977) for the establishment of a general depot of the Quartermaster's Department of the United States Army at Omaha, Nebr.—to the Committee on Military Affairs.

By Mr. LEE: A bill (H. R. 17978) to grant to S. W. Divine and associates the right to build an electric railway through Chickamauga Park—to the Committee on Military Affairs.

By Mr. PEARRE: A bill (H. R. 17979) to provide for the examination and license of all telegraph operators engaged in handling block signals and telegraphic train orders affecting the movement of trains on all railroads engaged in interstate commerce in the United States—to the Committee on Interstate and Foreign Commerce.

By Mr. ANDREWS: A bill (H. R. 17980) amending act of Congress approved April 28, 1904 (33 Stat. L., p. 556), entitled "An act for the relief of small-holding settlers within the limits of the grant to the Atlantic and Pacific Railroad Company in the Territory of New Mexico"—to the Committee on the Public Lands.

By Mr. McGUIRE: A bill (H. R. 17981) to ratify and confirm the act of the legislative assembly of the Territory of Oklahoma passed in the year 1901, authorizing the board of county commissioners of Kay County, Oklahoma Territory, to change the course of Spring Creek—to the Committee on the Territories.

By Mr. KINKAID: A bill (H. R. 17982) to grant to Charles H. Cornell, his assigns and successors, the right to abut a dam across Niobrara River on the Fort Niobrara Military Reservation, Nebr., and to construct and operate a trolley or electric railway line and telegraph and telephone line across said reservation—to the Committee on Military Affairs.

By Mr. THOMAS of North Carolina, from the Committee on the Library: A bill (H. R. 17983) providing for the erection of a monument on Kings Mountain battle ground commemorative of the great victory gained there during the war of the American Revolution on October 7, 1780, by the American forces—to the Union Calendar.

By Mr. MOON of Pennsylvania: A bill (H. R. 17984) to provide a code of penal laws for the United States—to the Committee on Revision of the Laws.

By Mr. BURTON of Delaware: A bill (H. R. 17985) to amend an act of Congress approved the 16th of January, 1883, entitled "An act to regulate and improve the civil service of the United States"—to the Committee on Reform in the Civil Service.

Also, a bill (H. R. 17986) to provide for the improvement of the Broad Kill River, Delaware—to the Committee on Rivers and Harbors.

By Mr. JONES of Washington: A bill (H. R. 17987) making an appropriation for the improvement of the mouth of the Columbia River—to the Committee on Rivers and Harbors.

By Mr. CRUMPACKER: A joint resolution (H. J. Res. 134) authorizing the construction and maintenance of wharves, piers, and other structures in Lake Michigan, adjoining certain lands in Lake County, Ind.—to the Committee on Rivers and Harbors.

By Mr. RODENBERG: A resolution (H. Res. 398) directing the Doorkeeper of the House to appoint a clerk in the House document room—to the Committee on Accounts.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. ADAMS of Wisconsin: A bill (H. R. 17988) granting

a pension to Edward G. Hausen—to the Committee on Pensions.

By Mr. AIKEN: A bill (H. R. 17989) granting an increase of pension to Elizabeth Hodges—to the Committee on Pensions.

By Mr. ANDREWS: A bill (H. R. 17990) to enable the President to restore Second Lieut. Henry Ossian Flipper, United States Army, to duty, his former rank, and status in the United States Army—to the Committee on Military Affairs.

By Mr. BROWNLOW: A bill (H. R. 17991) granting a pension to Mary Hallenbock—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17992) to grant pensions to the East Tennessee bridge burners—to the Committee on Invalid Pensions.

By Mr. BURNETT: A bill (H. R. 17993) granting a pension to Sarah A. Mason—to the Committee on Invalid Pensions.

By Mr. CAMPBELL of Ohio: A bill (H. R. 17994) granting a pension to Metcalf A. Bell—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17995) granting a pension to Cora Mollenkop—to the Committee on Invalid Pensions.

By Mr. CUSHMAN: A bill (H. R. 17996) granting an increase of pension to Alonzo Wells—to the Committee on Invalid Pensions.

By Mr. DARRAGH: A bill (H. R. 17997) granting an increase of pension to Jacob Sonders—to the Committee on Invalid Pensions.

By Mr. HITT: A bill (H. R. 17998) granting an increase of pension to John Mehaffery—to the Committee on Pensions.

By Mr. KLINE: A bill (H. R. 17999) granting an increase of pension to Samuel Yehl—to the Committee on Invalid Pensions.

By Mr. LACEY: A bill (H. R. 18000) granting a pension to Nancy S. Nelson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18001) granting an increase of pension to Dudley L. Haywood—to the Committee on Invalid Pensions.

By Mr. LINDSAY: A bill (H. R. 18002) granting an increase of pension to Reginald Richley—to the Committee on Invalid Pensions.

By Mr. LITTLEFIELD: A bill (H. R. 18003) granting an increase of pension to Alvin A. Carter—to the Committee on Invalid Pensions.

By Mr. MUDD: A bill (H. R. 18004) for the relief of Frederick A. Holden—to the Committee on War Claims.

By Mr. RHODES: A bill (H. R. 18005) granting a pension to Emily Compton—to the Committee on Pensions.

Also, a bill (H. R. 18006) granting an increase of pension to Martha J. Bass—to the Committee on Pensions.

By Mr. RIXEY: A bill (H. R. 18007) to authorize the appointment of Acting Asst. Surg. Julian Taylor Miller, United States Navy, as an assistant surgeon in the United States Navy—to the Committee on Naval Affairs.

By Mr. SCROGGY: A bill (H. R. 18008) for the relief of Annie E. White Shipp and others—to the Committee on Claims.

Also, a bill (H. R. 18009) granting an increase of pension to James J. Butler—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18010) to correct the military record of William T. Matingley—to the Committee on Military Affairs.

By Mr. STANLEY: A bill (H. R. 18011) granting a pension to Sarah A. Harl—to the Committee on Pensions.

By Mr. SULLIVAN of New York: A bill (H. R. 18012) granting an increase of pension to Francis McCoy—to the Committee on Invalid Pensions.

By Mr. WEEKS: A bill (H. R. 18013) granting a pension to Benjamin F. Lawrence—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18014) granting an increase of pension to Elbridge P. Boyden—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18015) granting an increase of pension to Estus W. Harback—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18016) granting an increase of pension to Arthur N. Jewett—to the Committee on Invalid Pensions.

By Mr. CALDERHEAD: A bill (H. R. 18017) granting an increase of pension to David Upham—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18018) granting an increase of pension to David Evans—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18019) granting an increase of pension to Milton A. Griffith—to the Committee on Invalid Pensions.

By Mr. KAHN: A bill (H. R. 18020) for the relief of Snare & Triest—to the Committee on Claims.

By Mr. SMITH of Kentucky: A bill (H. R. 18021) granting an increase of pension to William Petit—to the Committee on Pensions.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of bills of the following titles; which were thereupon referred as follows:

A bill (H. R. 9513) granting an increase of pension to Gertrude Steelman—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 10177) granting a pension to Elizabeth Kohler—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 15032) granting a pension to Milton Diehl—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 17391) granting an increase of pension to William J. Du Wers—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 17855) granting an increase of pension to Harriett E. Miller—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 17951) granting an increase of pension to Elizabeth A. Hodges—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 17285) for the relief of Second Lieut. Gouverneur V. Packer, Twenty-fourth United States Infantry—Committee on Military Affairs discharged, and referred to the Committee on Claims.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ACHESON: Petition of the State Federation of Pennsylvania Women, for forest reservations in the White Mountains and the Southern Appalachian chain—to the Committee on Agriculture.

Also, petition of the Woman's Club of Beaver, for forest reservations in Minnesota (the Morris law)—to the Committee on Agriculture.

Also, petition of the executive council of the American Federation of Labor, against bill H. R. 5281 (pilotage)—to the Committee on the Merchant Marine and Fisheries.

By Mr. ADAMS of Pennsylvania: Petition of the National Council of Women of the United States, for bills S. 50 and H. R. 4462 (child-labor bills)—to the Committee on the District of Columbia.

By Mr. ADAMS of Wisconsin: Petition of the Northwestern Manufacturing Company, and the Fuller & Johnson Manufacturing Company, of Madison, Wis., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. AIKEN: Paper to accompany bill for relief of Elizabeth A. Hodges—to the Committee on Pensions.

By Mr. ALEXANDER: Petition of Miss Alice Austin Howard et al., of Buffalo, N. Y., for a pure-food law—to the Committee on Interstate and Foreign Commerce.

Also, petition of Alice Austin Howard, against free seed distribution by the Government—to the Committee on Agriculture.

Also, petition of the Woman's Educational Industrial Union of Buffalo, N. Y., for an appropriation to investigate the industrial condition of women—to the Committee on Appropriations.

Also, petition of Rochester Lodge, No. 681, Brotherhood of Railway Trainmen, of Rochester, N. Y., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. BARCHFELD: Petition of the Henry C. Patterson Company, for bill H. R. 5281 (pilotage)—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the American Humane Association, against lengthening the time for retention of live stock in cars in transit—to the Committee on Interstate and Foreign Commerce.

Also, petition of Dr. J. C. Wilson, earnestly favoring the adoption of the metric system—to the Committee on Coinage, Weights, and Measures.

Also, petition of the Powers-Weightman-Rosengarten Company, for consideration of bill H. R. 17453—to the Committee on Ways and Means.

Also, petition of the Baltimore and Philadelphia Steamboat Company, against bill H. R. 17129 (on a patented article)—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Pittsburg Steel Construction Company and the Alexander Laughlin Company, against the anti-injunction bill—to the Committee on the Judiciary.

Also, petition of F. G. Crow and J. C. Singleton, for bill S. 4357 and on Howell naturalization bill (H. R. 15442)—to the Committee on Immigration and Naturalization.

Also, petition of the Sorosis Club of New York, for bills S. 50 and H. R. 4462—to the Committee on the District of Columbia.

By Mr. BATES: Petition of Dr. J. C. Wilson, of Philadelphia, for the metric system—to the Committee on Coinage, Weights, and Measures.

Also, petition of the Henry C. Patterson Company and Charles Este, of Philadelphia, Pa., for bill H. R. 5281 (the pilotage bill)—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the Baltimore and Philadelphia Steamboat Company, against bill H. R. 17129 (relative to a patented article)—to the Committee on Interstate and Foreign Commerce.

By Mr. BELL of Georgia: Paper to accompany bill for relief of Maggie Carroll—to the Committee on Pensions.

Also, paper to accompany bill for relief of Aquilla Williams—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of Jasper N. Martin—to the Committee on Military Affairs.

By Mr. BENNETT of Kentucky: Petition of the Licking Valley Company, for bill H. R. 15257 (previously referred to the Committee on the Post-Office and Post-Roads)—to the Committee on the Judiciary.

By Mr. BUCKMAN: Petition of citizens of Stowe, Minn., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. BURKE of Pennsylvania: Petition of the Sorosis Club of New York, for bills S. 50 and H. R. 4462—to the Committee on the District of Columbia.

Also, petition of the Pittsburg Steel Construction Company, against the anti-injunction bill—to the Committee on the Judiciary.

Also, petition of the Powers-Weightman-Rosengarten Company, for consideration of bill H. R. 17453—to the Committee on Ways and Means.

Also, petition of Robert D. McElvany, against liquor selling in all Government buildings—to the Committee on Alcoholic Liquor Traffic.

Also, petition of the Baltimore and Philadelphia Steamboat Company, against bill H. R. 17129 (relative to a patented article)—to the Committee on Interstate and Foreign Commerce.

Also, petition of Alexander Laughlin & Co., against anti-injunction bill—to the Committee on the Judiciary.

Also, petition of the Henry C. Patterson Company, for bill H. R. 5281 (pilotage)—to the Committee on the Merchant Marine and Fisheries.

Also, petition of A. N. Frazer, of Ben Avon, Pa., against liquor selling in Soldiers' Homes, Government buildings, etc.—to the Committee on Alcoholic Liquor Traffic.

Also, petition of Dr. J. C. Wilson, favoring the metric system—to the Committee on Coinage, Weights, and Measures.

By Mr. BURLEIGH: Petition of citizens of Maine, for a parcels-post law—to the Committee on the Post-Office and Post-Roads.

By Mr. BURNETT: Paper to accompany bill for relief of John Watts—to the Committee on Invalid Pensions.

By Mr. CAMPBELL of Ohio: Paper to accompany bill for relief of Metcalf A. Bell—to the Committee on Invalid Pensions.

Also, petition of Cuyahoga Lodge, No. 20, Brotherhood of Boiler Makers and Iron-ship Builders, of Cleveland, indorsing the Merchant Marine Commission shipping bill—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the National Council of Women held in Toledo, Ohio, indorsing bills S. 50 and H. R. 4462 and 6001—to the Committee on the District of Columbia.

By Mr. DAVIDSON: Petition of N. P. Neilson et al., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of the Cleveland (Wis.) Pea Canning Company, against section 7 of the pure-food bill—to the Committee on Interstate and Foreign Commerce.

By Mr. DUNWELL: Petition of the New York Board of Trade and Transportation and J. M. Peters, for an amendment to the pure-food bill—to the Committee on Interstate and Foreign Commerce.

By Mr. ESCH: Petition of citizens of Eau Claire, Wis., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. FORDNEY: Petition of citizens of Fairgrove, Mich., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. GILL: Paper to accompany bill for relief of estate of Samuel Hooper—to the Committee on War Claims.

By Mr. GRAHAM: Petition of the Henry C. Patterson Company, of Philadelphia, for the pilotage bill (H. R. 5281)—to the Committee on the Merchant Marine and Fisheries.

Also, petition of J. M. McElnany et al., for relief of the landless Indians of California—to the Committee on Indian Affairs.

Also, petition of the Baltimore and Philadelphia Steamboat Company, against bill H. R. 17129 (on a patented article)—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Powers-Weightman-Rosengarten Company, for consideration of bill H. R. 17453—to the Committee on Ways and Means.

Also, petition of the Sorosis Club of New York City, for bill S. 50 or H. R. 4462—to the Committee on the District of Columbia.

Also, petition of the Pittsburg Steel Construction Company and Alexander Laughlin & Co., against the anti-injunction bill—to the Committee on the Judiciary.

By Mr. GRANGER: Petition of the Westerly (R. I.) Ministerial Association, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. HAMILTON: Petition of Berrien County Pomona Grange, No. 1, of Michigan, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. HITT: Petition of Local No. 340, American Federation of Musicians, for bill H. R. 8748, for equalization of pay of musicians—to the Committee on Naval Affairs.

By Mr. HOAR: Petition of Worcester Grange, No. 22, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of citizens of Massachusetts, for investigation of affairs in the Kongo Free State—to the Committee on Foreign Affairs.

By Mr. HOWELL of New Jersey: Paper to accompany bill for relief of Pierson Hendrickson, jr.—to the Committee on Invalid Pensions.

Also, petition of Pride of Monmouth Council, Daughters of Liberty, of Red Bank, N. J., and Liberty Council, Daughters of Liberty, of Perth Amboy, N. J., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of E. B. and W. A. C. Earl, of Elizabeth, N. J., for modification of the pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of Job Scott, of Mantua, N. J., and the Tietjen and Lang Dry Dock Company, for the anti-compulsory pilotage bill (H. R. 5281)—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the Philadelphia Watch Company, for bill H. R. 14604, relative to stamping of gold, silver, and other alloyed articles—to the Committee on Interstate and Foreign Commerce.

Also, petition of E. Prichard, of New York City, favoring the House committee report No. 2118, if anything of pure-food legislation—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Valney G. Bennett Lumber Company, of Camden, N. J., for bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

Also, petition of Pride of Merchants' Home Council, No. 61, Daughters of Liberty, of Jamesburg, N. J., and Flag Council, Daughters of Liberty, of Freehold, N. J., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. HOWELL of Utah: Petition of the Amalgamated Association of Street and Electric Railway Employees of America, Division No. 381, against bill H. R. 12973 (modification of Chinese-exclusion law)—to the Committee on Foreign Affairs.

By Mr. HUBBARD: Petition of citizens of Osceola County, Iowa, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. JENKINS: Petition of the Outlook, of Centuria, Wis., against the tariff on linotype machines—to the Committee on Ways and Means.

Also, petition of citizens of Dunn, Wis., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. KINKAID: Petition of citizens of Nebraska, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. KNOWLAND: Petition of the Sacramento Federated Trades Council, against the action of the authorities of Colorado in denying Moyer, Haywood, and Pettibone the rights of American citizenship—to the Committee on the Judiciary.

By Mr. LITTLEFIELD: Petition of citizens and Grange organizations of the State of Maine, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. RUPPERT: Petition of the National Council of Women, held in Toledo, Ohio, indorsing bills S. 50 and H. R. 4462 and 6001—to the Committee on the District of Columbia.

Also, petition of the National Metal Trades Association, favoring the passage of the shipping bill—to the Committee on the Merchant Marine and Fisheries.

By Mr. RYAN: Petition of the National Council of Women of the United States, favoring regulation of labor in the District of Columbia—to the Committee on the District of Columbia.

By Mr. SCOTT: Petition of the Southern Branch of the National Military Home, for enactment of commutation law for members of such homes—to the Committee on Military Affairs.

By Mr. TIRRELL: Petition of citizens of South Lancaster, Mass., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of many citizens of New York and vicinity, for relief for heirs of victims of *General Slocum* disaster—to the Committee on Claims.

Also, petition of the Molly Pitcher Council, Daughters of Liberty, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of the Danforth Chemical Company et al., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of J. H. Johnson et al., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. VAN WINKLE: Petition of Onward Council, No. 19, Daughters of Liberty, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of Job Scott, of Montana, N. J., for anticompulsory pilotage bill (H. R. 5281)—to the Committee on the Merchant Marine and Fisheries.

Also, petition of E. B. & W. A. C. Earl, for modification of the pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Tietjen & Lang Dry Dock Company, against compulsory pilotage and for bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the Philadelphia Watch Company, for bill H. R. 14604, relative to spuriously stamped articles of merchandise—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Volney G. Bennett Lumber Company, of Camden, N. J., for bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

By Mr. WEBB: Paper to accompany bill for relief of Mrs. Florence Tilton—to the Committee on Pensions.

By Mr. WELBORN: Petition of citizens of Sedalia, Mo., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. WOOD of New Jersey: Petition of Coe's Wrench Company and the Weller Manufacturing Company, against the metric system—to the Committee on Coinage, Weights, and Measures.

Also, petition of the Sorosis Club of Washington, D. C., of the National Council of Women, favoring bill H. R. 4462 (the child-labor bill)—to the Committee on the District of Columbia.

Also, petition of H. S. Case, of Trenton, N. J., for bill H. R. 15442—to the Committee on Private Land Claims.

SENATE.

WEDNESDAY, *April 11, 1906.*

Prayer by the Chaplain, Rev. EDWARD E. HALE.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. NELSON, and by unanimous consent, the further reading was dispensed with.

The VICE-PRESIDENT. The Journal stands approved.

TWO HUNDREDTH ANNIVERSARY OF BIRTH OF BENJAMIN FRANKLIN.

The VICE-PRESIDENT. Pursuant to the concurrent resolution of Congress accepting the invitation of the American Philosophical Society, of Philadelphia, Pa., to attend the two hundredth anniversary of the birth of Benjamin Franklin, the Chair appoints Mr. LODGE, Mr. KEAN, Mr. BURKETT, Mr. SUTHERLAND, Mr. FOSTER, and Mr. LATIMER as the committee on the part of the Senate.

USELESS PAPERS IN THE EXECUTIVE DEPARTMENTS.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, transmitting a letter from the Auditor for the Treasury Department relative to useless documents, papers, etc., on the files of the Treasury Department, and requesting that certain telegrams referred to in the letter from the Auditor be included with the schedules heretofore transmitted to Congress; which was read.

The VICE-PRESIDENT. The Chair appoints as members on the part of the Senate of the Joint Select Committee on the Disposition of Useless Papers in the Executive Departments the Senator from Alabama, Mr. PETTUS, and the Senator from New Hampshire, Mr. GALLINGER. Without objection, the communication and accompanying papers will be printed and referred to the joint select committee.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had agreed to the amendments of the Senate to the bill (H. R. 12843) to amend the seventh section of the act entitled "An act to establish circuit courts of appeals and to define and regulate in certain cases the jurisdiction of the courts of the United States, and for other purposes," approved March 3, 1891.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the Vice-President:

S. 535. An act to amend and reenact section 1 of chapter 27 of volume 27 of the United States Statutes at Large, being "An act to provide for a term of the United States circuit and district courts at Evanston, Wyo.," approved May 23, 1892;

H. R. 20. An act to change and fix the time for holding the circuit and district courts of the United States for the middle district of Tennessee, in the southern division of the eastern district of Tennessee at Chattanooga, and the northeastern division of the eastern district of Tennessee at Greeneville, and for other purposes;

H. R. 4461. An act to provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District, and for other purposes;

H. R. 8717. An act for the relief of Jacob Pickens;

H. R. 11129. An act granting an increase of pension to Thomas J. Lindsey;

H. R. 11536. An act granting an increase of pension to James D. Hudson; and

H. R. 15328. An act to approve certain final proofs in the Chamberlain land district, South Dakota.

PETITIONS AND MEMORIALS.

Mr. MARTIN presented petitions of Weems Council, No. 100, of Weems; of Ideal Council, No. 71, of Norfolk; of Grove Council, No. 40, of Howards Grove; of May Council, No. 31, of Richmond; of Peninsula Council, No. 125, of Hampton; of Fairmont Council, No. 70, of Fairmont; of Hallwood Council, No. 150, of Hallwood; of Washington Memorial Council, No. 2, of Norfolk; of Massanutten Council, No. 68, of Toms Brook, and of Enterprise Council, No. 9, of Richmond, all of the Junior Order of United American Mechanics, in the State of Virginia, praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

Mr. MORGAN. I present a resolution of the legislature of the State of Illinois, passed May 5, 1903, which I ask to have read and that it lie on the table.

There being no objection, the Secretary read as follows:

Whereas more than 300 American citizens now residents of the Isle of Pines, said American citizens owning more than one-half of the total territory of said island, have memorialized Congress for relief from the present government of the said Isle of Pines, and are praying that the islands be retained by the Government as a part of the territory of the United States; and

Whereas the United States Government continued the present government of the said Isle of Pines as a de facto government to formulate a new and better government for the island until the island of Cuba was turned over to the Cuban Government; and

Whereas the Isle of Pines was ceded to the United States Government by Spain, and the Platt amendment omitted the said Isle of Pines from the proposed constitutional boundaries of Cuba, and the Secretary of War for the United States has placed the Isle of Pines within the constitutional boundaries of Cuba contrary to the wishes of the Americans there resident; and

Whereas the said 300 American citizens are colonists from the United States, who have built permanent homes and made other improvements on said Isle of Pines in the reasonable belief that it was to continue to be territory of the United States, and such American citizens are entitled to the protection of the United States Government and desire to live under the flag of this country: Therefore, be it

Resolved by the senate of the forty-third general assembly (the house concurring herein), That it is the sense of the general assembly of the State of Illinois that the said Isle of Pines be permanently retained as territory of the United States.

Resolved further, That the secretary of the senate and the clerk of the house be, and they are hereby, instructed to forward to the United States Senators and Congressmen from Illinois a copy of these resolutions.

Adopted by the senate May 5, 1903.

Concurred in by the house May 7, 1903.

Mr. MORGAN. I move that the resolution be printed as a document, and that it lie on the table.

The motion was agreed to.

Mr. KITTREDGE presented a petition of Camp Rahskopf of the National Society of the Philippines, of Aberdeen, S. Dak., praying for the enactment of legislation providing special medals to all officers and enlisted men who served beyond their legal enlistment for the war with Spain; which was referred to the Committee on Military Affairs.

Mr. PENROSE presented a petition of the East End Woman's Christian Temperance Union, of Pittsburg, Pa., praying for the

enactment of legislation to prohibit the sale of intoxicating liquors in the Territories of the United States; which was ordered to lie on the table.

He also presented a memorial of the congregation of Christ's Evangelical Lutheran Church, of Milton, Pa., remonstrating against the enactment of legislation providing for an extension of time in the interstate transportation of live stock; which was referred to the Committee on Interstate Commerce.

Mr. WARREN presented a petition of sundry citizens of Wheatland, Wyo., praying for the removal of the internal-revenue tax on denaturized alcohol; which was referred to the Committee on Finance.

REPORTS OF COMMITTEES.

Mr. KEAN, from the Committee on Claims, to whom was referred the bill (S. 5151) for the adjudication of the claim of Henry A. V. Post by the Court of Claims, reported it without amendment, and submitted a report thereon.

Mr. McCUMBER, from the Committee on Pensions, to whom was recommitted on February 27, 1906, the bill (S. 1604) to amend the act of March 2, 1903, increasing the pensions of those who have lost limbs or been totally disabled in them in the military or naval service of the United States, reported it without amendment, and submitted a report thereon.

ALLOTMENTS TO NATIVES OF ALASKA.

Mr. NELSON. I am directed by the Committee on Public Lands, to whom was referred the bill (S. 5537) authorizing the Secretary of the Interior to allot homesteads to the natives of Alaska, to report it favorably with amendments, and I ask for its present consideration.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The amendments of the Committee on Public Lands were, in line 11, to strike out the word "forever;" in the same line, after the word "nontaxable," to insert "until otherwise provided by Congress;" and in line 13, after the word "right," to strike out the words "over any other claimant;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior is hereby authorized and empowered, in his discretion and under such rules as he may prescribe, to allot not to exceed 160 acres of nonmineral land in the district of Alaska to any Indian or Eskimo of full or mixed blood who resides in and is a native of said district, and who is the head of a family, or is 21 years of age; and the land so allotted shall be deemed the homestead of the allottee and his heirs in perpetuity, and shall be inalienable and nontaxable until otherwise provided by Congress. Any person qualified for an allotment as aforesaid shall have the preference right to secure by allotment the nonmineral land occupied by him not exceeding 160 acres.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

LAND IN JOHNSON COUNTY, WYO.

Mr. CLARK of Wyoming. From the Committee on Public Lands I report back favorably, without amendment, the bill (H. R. 16521) directing the Secretary of the Interior to sell and convey a certain parcel of land to Johnson County, Wyo., and I ask for its immediate consideration.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

Mr. HEYBURN. There is an obvious mistake in the bill. It says "north of" in describing. The word "of" should be stricken out.

Mr. CLARK of Wyoming. I did not notice it in the reading of the bill.

Mr. HEYBURN. It is merely a mistake in the construction of the bill.

Mr. CLARK of Wyoming. Will the Secretary please read the description?

The VICE-PRESIDENT. The Secretary will read as requested.

The Secretary read as requested, the entire bill being as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to sell and convey to the county of Johnson, in the State of Wyoming, for a poor farm, the following-described tract of land, to wit: The northeast quarter of the northwest quarter and the north half of the northeast quarter of section 8, and the northwest quarter of the northwest quarter of section 9, in township 50 north of range 82 west, upon the payment by the said county of the sum of $1.25 per acre for the said lands.

Mr. HEYBURN. It says "north of." The word "of" should come out.

Mr. CLARK of Wyoming. Is not that correct?

Mr. HEYBURN. No; it is not correct.

Mr. CLARK of Wyoming. There is a comma after the word "north," is there not?

Mr. HEYBURN. No; the ranges run the other way.

Mr. CLARK of Wyoming. I ask leave to insert a comma after the word "north," in line 9; so as to read "in township 50 north, of range 82 west."

The VICE-PRESIDENT. That correction will be made.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

REGULATION AS TO SPONGES.

Mr. BACON. From the Committee on Foreign Relations I report back with an amendment, in the nature of a substitute, the bill (S. 4806) to prohibit the use of diving apparatus in the taking of sponges, and I submit a report thereon. I ask for the present consideration of the same.

The Secretary read the amendment of the Committee on Foreign Relations, which was to strike out all after the enacting clause and insert:

That from and after the passage of this act it shall be unlawful to land, deliver, cure, or offer for sale at any port or place in the United States any sponges taken by means of diving or diving apparatus from the waters of the Gulf of Mexico or Straits of Florida: *Provided*, That sponges taken or gathered by such process between October 1 and May 1 of each year in a greater depth of water than 50 feet shall not be subject to the provisions of this act.

SEC. 2. That every person guilty of a violation of this act shall for each offense be liable to a fine of not less than $100 or more than $500, which fine shall be a lien against the vessel on which the offense was committed. And every vessel used or employed in violation of this act shall be liable to a fine of not less than $100 or more than $500 or forfeiture, and shall be seized and proceeded against by process of libel in any court having jurisdiction of the offense.

SEC. 3. That any violation of this act shall be prosecuted in the district court of the United States of the district wherein the offense was committed.

SEC. 4. That it shall be the duty of the Secretary of Commerce and Labor to enforce the provisions of this act, and upon his request the Secretary of the Treasury and the Secretary of the Navy may employ the vessels of the Revenue-Cutter Service and of the Navy, respectively, to that end.

The VICE-PRESIDENT. Is there objection to the present consideration of the bill just read?

There being no objection, the bill was considered as in Committee of the Whole.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title of the bill was amended so as to read: "A bill to regulate the landing, delivery, cure, and sale of sponges."

LANDS IN MONTANA.

Mr. CARTER. From the Committee on Public Lands I report back with an amendment the bill (H. R. 17135) providing that the State of Montana be permitted to relinquish to the United States certain lands heretofore selected and select other lands from the public domain in lieu thereof, and I ask unanimous consent for its present consideration.

The Secretary read the bill; and, there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The amendment of the Committee on Public Lands was, on page 3, after line 6, to insert:

SEC. 2. That subject to rules and regulations to be prescribed by the Secretary of the Interior, the owner in fee simple or a claimant under any general or special law of the United States, of any land included within the limits of the Red Rock Lakes reservoir site, in the State of Montana, as the said reservoir is now or may hereafter be approved by the Secretary of the Interior, the lands described in the preceding section being a part of said reservoir site, may at the option of the owner or claimant relinquish or convey such land included in said reservoir site to the United States and personally select in lieu thereof an equal area of the nontimbered public lands of the United States subject to homestead entry and situated in the State of Montana, and such owner or claimant shall be placed in the same relation as to the United States to the title, possession, and right of possession of the lieu land thus selected as such owner or claimant sustained to the land relinquished at the time the relinquishment was made.

Change section 2 to section 3.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

BILLS INTRODUCED.

Mr. KITTREDGE introduced a bill (S. 5631) granting an increase of pension to Isaac M. Howard; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. ALLEE introduced a bill (S. 5632) for the relief of Samuel S. Weaver; which was read twice by its title, and referred to the Committee on Claims.

He also introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 5633) granting a pension to Joseph Hastings;

A bill (S. 5634) granting a pension to Harvey P. Hastings; and

A bill (S. 5635) granting an increase of pension to John Sheridan (with accompanying papers).

Mr. PENROSE (by request) introduced a bill (S. 5636) providing for the adjudication of the claim of the Philadelphia and Reading Coal and Iron Company by the Court of Claims; which was read twice by its title, and referred to the Committee on Claims.

He also introduced a bill (S. 5637) granting an increase of pension to Margaret Himmel; which was read twice by its title, and referred to the Committee on Pensions.

Mr. WARREN introduced a bill (S. 5638) to regulate the sale of fuel to commissioned officers on the active list of the United States Army; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. FORAKER introduced a bill (S. 5639) to provide for the erection of a public building at San Juan, P. R.; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

Mr. McCUMBER introduced a bill (S. 5640) granting an increase of pension to Clinton B. Wintersteen; which was read twice by its title, and referred to the Committee on Pensions.

Mr. LODGE introduced a bill (S. 5641) granting an increase of pension to John W. Fletcher; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. McENERY introduced a bill (S. 5642) for the relief of the heirs of the late Richard Terrell; which was read twice by its title, and referred to the Committee on Claims.

Mr. ALLISON introduced a bill (S. 5643) granting a pension to Nelly Peck Smith; which was read twice by its title, and referred to the Committee on Pensions.

Mr. MARTIN introduced a bill (S. 5644) granting an increase of pension to Thomas D. Adams; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Claims:

A bill (S. 5645) for the relief of the estate of Jacob Cook, deceased;

A bill (S. 5646) for the relief of Luther H. Potterfield; and

A bill (S. 5647) for the relief of Mary E. Macgregor (with an accompanying paper).

Mr. BULKELEY introduced a bill (S. 5648) to amend section 12 of the act approved February 2, 1901, "An act to increase the efficiency of the permanent military establishment of the United States;" which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. BERRY introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Claims:

A bill (S. 5649) for the relief of the heirs of William M. West, deceased;

A bill (S. 5650) for the relief of the estate of John Holleman, deceased;

A bill (S. 5651) for the relief of the estate of John Jones, deceased;

A bill (S. 5652) for the relief of the heirs of Mrs. D. J. Booth, deceased;

A bill (S. 5653) for the relief of Shadrach H. Wren;

A bill (S. 5654) for the relief of the estate of William McCreight, deceased;

A bill (S. 5655) for the relief of the estate of Nathan P. English, deceased;

A bill (S. 5656) for the relief of the heirs of Alfred Mullins, deceased (with an accompanying paper); and

A bill (S. 5657) for the relief of Lee Robbins (with an accompanying paper).

Mr. BERRY introduced the following bills; which were severally read twice by their titles, and, with the accompanying papers, referred to the Committee on Pensions:

A bill (S. 5658) granting an increase of pension to Nancy Pruit; and

A bill (S. 5659) granting an increase of pension to William I. Brewer.

Mr. PILES introduced a bill (S. 5660) for the relief of Capt. William N. Hughes; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Claims.

Mr. CULBERSON introduced a bill (S. 5661) authorizing and directing the Secretary of the Treasury to pay to the heirs of Peter Johnson certain money due him for carrying the mail; which was read twice by its title, and referred to the Committee on Claims.

Mr. CLAY introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Claims:

A bill (S. 5662) for the relief of Matthew McDaniel; and

A bill (by request) (S. 5663) for the relief of the estate of Solomon Landis, deceased (with an accompanying paper).

Mr. NEWLANDS introduced a bill (S. 5664) to authorize the United States Government to participate in the international exposition to be held at Milan, Italy, during the year 1906, and to appropriate money in aid thereof; which was read twice by its title, and referred to the Select Committee on Industrial Expositions.

AMENDMENT TO POST-OFFICE APPROPRIATION BILL.

Mr. PERKINS submitted an amendment proposing to increase the appropriation for the transmission of mail by pneumatic tubes or other similar devices to $1,201,265.84, so as to include San Francisco among the cities where such service shall be used, intended to be proposed by him to the post-office appropriation bill; which was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

DISPOSAL OF TIMBER ON PUBLIC LANDS.

Mr. PILES submitted an amendment intended to be proposed by him to the bill (S. 5327) to provide for the disposal of timber on public lands chiefly valuable for timber, and for other purposes; which was ordered to lie on the table and be printed.

REGULATION OF RAILROAD RATES.

Mr. HEYBURN. I submit an amendment to the rate bill and ask that it be read.

The VICE-PRESIDENT. The Secretary will read the proposed amendment.

The Secretary read as follows:

Amend section 9 of said act by striking out therefrom the following words: "but such person or persons shall not have the right to pursue both of said remedies, and must in each case elect which one of the two methods of procedure herein provided for he or they will adopt;" so that the section will read as follows:

"SEC. 9. That any person or persons claiming to be damaged by any common carrier subject to the provisions of this act may either make complaint to the Commission as hereinafter provided for, or may bring suit in his or their own behalf for the recovery of the damages for which such common carrier may be liable under the provisions of this act, in any district or circuit court of the United States of competent jurisdiction. In any such action brought for the recovery of damages the court before which the same shall be pending may compel any director, officer, receiver, trustee, or agent of the corporation or company defendant in such suit to attend, appear, and testify in such case, and may compel the production of the books and papers of such corporation or company party to any such suit; the claim that any such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such witness from testifying, but such evidence or testimony shall not be used against such person on the trial of any criminal proceeding."

The VICE-PRESIDENT. The proposed amendment will be printed and lie on the table.

APPALACHIAN AND WHITE MOUNTAINS FOREST RESERVES.

Mr. BRANDEGEE. On March 9 I reported from the Committee on Forest Reservations and the Protection of Game the bill (S. 4953) for the purpose of acquiring national forest reserves in the Appalachian Mountains and White Mountains, to be known as the "Appalachian Forest Reserve" and the "White Mountain Forest Reserve," respectively. I now submit a written report to accompany the bill, and ask that 2,500 additional copies of the report, with accompanying map, be printed for the use of the Senate.

There being no objection, the order was agreed to, as follows:

Ordered, That 2,500 additional copies of Report No. 2537, to accompany the bill (S. 4953) for the purpose of acquiring national forest reserves in the Appalachian Mountains and White Mountains, to be known as the "Appalachian Forest Reserve" and the "White Mountain Forest Reserve," respectively, with the accompanying map, be printed for the use of the Senate.

Mr. BRANDEGEE. As to the bill (S. 4953) for the purpose of acquiring national forest reserves in the Appalachian Mountains and White Mountains, to be known as the "Appalachian Forest Reserve" and the "White Mountain Forest Reserve," respectively, there is such a widespread interest in its provisions that the printed number of copies has become exhausted. I ask that 1,000 additional copies of the bill be printed.

There being no objection, the order was agreed to, as follows:

Ordered, That 1,000 additional copies of the bill (S. 4953) for the purpose of acquiring national forest reserves in the Appalachian Mountains and White Mountains, to be known as the "Appalachian Forest

Reserve" and the "White Mountain Forest Reserve," respectively, be printed for the use of the Senate.

COAL ON PUBLIC LANDS.

Mr. NEWLANDS. On the 29th ultimo I introduced a bill (S. 5441) authorizing the President to reserve coal and lignite underlying public lands for future disposal, and asked that it lie on the table subject to my call. I now move that the bill be referred to the Committee on Public Lands.

The motion was agreed to.

MONONGAHELA RIVER BRIDGE.

Mr. PENROSE. I ask unanimous consent for the present consideration of the bill (H. R. 9324) to authorize the Fayette Bridge Company to construct a bridge over the Monongahela River, Pennsylvania, from a point in the borough of Brownsville, Fayette County, to a point in the borough of West Brownsville, Washington County.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported from the Committee on Commerce with an amendment, on page 5, to add a new section, as follows:

SEC. 6. That any bridge built under this act and subject to its limits shall be a lawful structure, and shall be recognized and known as a post route, upon which also no higher charge shall be made for the transportation over the same of the mails, troops, and munitions of war of the United States than the rate per mile for the transportation over the railroads or public highways leading to said bridge, and it shall enjoy the rights and privileges of other post-roads in the United States.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

STATEHOOD BILL.

Mr. TELLER. Mr. President, my colleague [Mr. PATTERSON] has been called home and will be gone for two or three weeks. He asks to be relieved from further service upon the conference committee on the statehood bill and that some one be appointed in his place.

The VICE-PRESIDENT. Without objection, the junior Senator from Colorado [Mr. PATTERSON] will be excused from further service as a conferee on the part of the Senate upon the statehood bill. The Chair appoints in his place the Senator from Nevada [Mr. NEWLANDS].

SOUTHERN JUDICIAL DISTRICT OF TEXAS.

Mr. CULBERSON. I ask unanimous consent for the present consideration of the bill (H. R. 12863) to create a new division of the southern judicial district of Texas, and to provide terms of court at Victoria, and for other purposes.

The Secretary read the bill; and, there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported from the Committee on the Judiciary with amendments.

The first amendment was, on page 1, line 4, after the word "Refugio," to insert the words "Aransas, San Patricio;" so as to read:

That the counties of Bee, Calhoun, Dewitt, Goliad, Jackson, Live Oak, Refugio, Aransas, San Patricio, and Victoria shall constitute a division of the southern judicial district of Texas.

The amendment was agreed to.

The next amendment was, in section 3, on page 2, line 8, after the word "civil," to strike out the words "or criminal;" and in line 9, after the word "pending," to insert "or any criminal offense committed;" to as to make the section read:

SEC. 3. That all civil process issued against persons resident in the above-named counties and cognizable before said courts shall be issued out of and made returnable to said courts at Victoria, and that all prosecutions against persons for offenses committed in any of said counties shall be tried in said courts at Victoria: *Provided*, That no civil cause begun and pending or any criminal offense committed prior to the passage of this act shall be in any way affected by it.

The amendment was agreed to.

The next amendment was, in section 4, page 2, line 15, after the word "business," to strike out the semicolon, insert a period, and to strike out the remainder of the bill, in the following words:

Provided, That suitable rooms and accommodations shall be furnished for holding of said courts, at said place, free of expense to the Government of the United States.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

REGULATION AS TO SPONGES.

Mr. TALIAFERRO. I ask unanimous consent for the consideration of the bill (S. 4805) to prohibit aliens from taking or gathering sponges in the waters of the United States.

The Secretary read the bill; and, there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported from the Committee on Foreign Relations with an amendment, on page 1, line 9, after the words "United States," to strike out the comma and the words "within one marine league of any of the coasts, bays, creeks, rivers, or harbors of the United States;" so as to read:

That it shall be unlawful for any person not a citizen of the United States, or who has not declared his intention to become a citizen of the United States in the manner provided by law, to gather, take, or attempt to gather or take, any sponges of any kind or species whatsoever, in any of the waters of the United States, or in any of the waters within the jurisdiction of the United States.

The amendment was agreed to.

Mr. TALIAFERRO. I propose certain amendments, which I send to the desk and ask the Secretary to read them.

The VICE-PRESIDENT. The amendments proposed by the Senator from Florida will be stated in their order.

The SECRETARY. On page 1, line 4, after the word "States," strike out all down to and including the words "by law," in line 6, and insert "either as principal, agent, or employee;" so as to read:

That it shall be unlawful for any person not a citizen of the United States, either as principal, agent, or employee, etc.

The amendment was agreed to.

The SECRETARY. On page 2, line 20, after the word "Labor," strike out all down to and including the words "United States," in line 24, and insert "shall have the power to authorize any officer or agent of the Department of Commerce and Labor, and, through the Secretary of the Treasury, any officer of the customs service or of the Revenue-Cutter Service, and, through the Secretary of the Navy, any officer of the Navy;" so as to read:

SEC. 4. That the Secretary of Commerce and Labor shall have the power to authorize any officer or agent of the Department of Commerce and Labor, and, through the Secretary of the Treasury, any officer of the customs service or of the Revenue-Cutter service, and, through the Secretary of the Navy, any officer of the Navy to search and seize any foreign vessel and arrest any person violating, etc.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

EUNICE TRIPLER.

Mr. BURKETT. I ask unanimous consent for the present consideration of the bill (S. 3820) for the relief of Eunice Tripler.

The VICE-PRESIDENT. The bill will be read for the information of the Senate.

The Secretary read the bill.

The VICE-PRESIDENT. Is there objection to the present consideration of the bill?

Mr. CULLOM. Has that bill been reported by a committee, Mr. President?

The VICE-PRESIDENT. It has been reported by a committee.

Mr. CULLOM. By what committee, if I may ask?

The VICE-PRESIDENT. The bill was reported by the Committee on Claims. Is there objection to its present consideration?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Claims with an amendment, in line 5, after the words "sum of," to strike out "ten" and insert "three;" so as to make the bill read:

Be it enacted, etc., That there be paid to Eunice Tripler, widow of Surg. Charles S. Tripler, United States Army, out of any money in the Treasury not otherwise appropriated, the sum of $3,000, for services by the said Charles S. Tripler in his lifetime in preparing, superintending, and directing the publication of a manual for the use of medical officers of the Army of the United States: *Provided*, That payment of the above sum shall be a bar to any further claim against the Government for the use of the book herein referred to.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

PATENTS TO LAND FOR CEMETERY PURPOSES.

Mr. KITTREDGE. I ask unanimous consent for the present consideration of the bill (H. R. 9165) authorizing the Secretary of the Interior to issue patent to the Scandinavian Evangelical

Lutheran Little Missouri River congregation to certain lands for cemetery purposes.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the Secretary of the Interior to issue patent to the Scandinavian Evangelical Lutheran Little Missouri River congregation, for cemetery purposes, to the following-described land, to wit: The southwest quarter of the southwest quarter of the southwest quarter of section 12, in township 15 north, of range 1 east, of the Black Hills meridian, in the county of Butte and State of South Dakota, containing an area of 10 acres of land, the patent to contain the provision that the land shall be used for cemetery purposes only; but the association shall pay $1.25 per acre therefor.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOHN T. IRION.

Mr. FRAZIER. I ask unanimous consent for the present consideration of the bill (H. R. 13154) for the relief of John T. Irion.

Mr. CLAPP. Mr. President, I do not wish now to interpose any objection to the passage of these bills, as it seems there is no reason why they should not be passed; but I must have the conference report in regard to the bill relative to the affairs of the Five Civilized Tribes in the Indian Territory considered this morning.

The VICE-PRESIDENT. The report to which the Senator from Minnesota refers is a privileged report.

Mr. CLAPP. I so understand, and I trust that we shall get through with the consideration of the bills which Senators are calling up from the Calendar in a very few moments.

Mr. FRAZIER. I will say to the Senator from Minnesota that the bill for which I ask consideration will occupy but a few moments.

Mr. CLAPP. Very well; I am not objecting to that bill.

The VICE-PRESIDENT. Is there objection to the present consideration of the bill named by the Senator from Tennessee [Mr. FRAZIER]?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to appropriate $180 to enable the Postmaster-General to reimburse John T. Irion, late postmaster at Paris, Tenn., the amount paid by him under authority of the Post-Office Department for rent of post-office accommodations in the town of Paris, Tenn., during the year 1888.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOHN H. HAMITER.

Mr. CLARKE of Arkansas. I ask unanimous consent for the present consideration of the bill (S. 3283) for the relief of John H. Hamiter.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the Secretary of the Treasury to pay to John H. Hamiter, of Lafayette County, Ark., $3,590.47, the proceeds of the sale of fifty-three bales of cotton sold by the Government in 1865 and placed in the Treasury of the United States.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MOORES CREEK BATTLEFIELD MONUMENT, NORTH CAROLINA.

Mr. OVERMAN. I ask unanimous consent for the present consideration of the bill (S. 5288) appropriating $5,000 to inclose and beautify the monument on the Moores Creek battlefield, North Carolina.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PAVING FLORIDA AVENUE, IN THE DISTRICT OF COLUMBIA.

Mr. McCUMBER. I ask unanimous consent for the present consideration of the bill (S. 3482) to provide for the paving of a portion of Florida avenue between P and Q streets NW., city of Washington, D. C.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on the District of Columbia with amendments, in line 7, before the word "dollars," to strike out "two hundred and fifty;" in line 9, after the word "appropriated," to insert "one half;" and in line 10, after the words "District of Columbia," to insert "and the other half out of any money in the United States Treasury not otherwise appropriated;" so as to make the bill read:

Be it enacted, etc., That that portion of Florida avenue between P and Q streets NW., city of Washington, contiguous to Twenty-second street and north of the south line of lot 24, block 3, of Kalorama Heights addition to the city of Washington, be paved; and the sum of $1,000, or so much thereof as may be necessary, is hereby appropriated, one half out of the revenues of the District of Columbia and the other half out of any money in the United States Treasury not otherwise appropriated, to provide the necessary funds for the costs and expenses of such paving.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

TUGALOO RIVER TOLL BRIDGE.

Mr. CLAY. I ask unanimous consent for the present consideration of the bill (H. R. 16140) to authorize the maintaining and operating for toll an existing structure across Tugaloo River, known as "Knox's Bridge," at a point where said river is the boundary between the States of South Carolina and Georgia.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

GRANT OF LANDS TO OREGON FOR FISH HATCHERY.

Mr. FULTON. I ask unanimous consent for the present consideration of the bill (S. 4487) granting to the State of Oregon certain lands to be used by it for the purpose of maintaining and operating thereon a fish hatchery.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to grant to the State of Oregon all that portion of that certain island situated in Snake River and commonly known as "Morton Island," which, when the public surveys shall have been extended so as to include the same, shall be within the boundaries of the southwest quarter of the southwest quarter of section 14 and the south half of the south half of section 15, in township 18 south, of range 47 east of the Willamette meridian, in the State of Oregon, for the use of said State in maintaining and operating thereon a fish hatchery, etc.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BUILDING LINES IN THE DISTRICT OF COLUMBIA.

Mr. HANSBROUGH. I ask unanimous consent for the present consideration of the bill (S. 59) authorizing the Commissioners of the District of Columbia to establish building lines.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It authorizes the Commissioners of the District of Columbia to establish building lines on streets or parts of streets less than 90 feet wide, in the District of Columbia, upon the presentation to them of a plat of the street or part of street upon which such action is desired showing the lots and the names of the record owners thereof and accompanied by a petition of the owners of more than one-half of the real estate shown on the plat requesting that building lines be established, or when the Commissioners deem that the public interests require that such building lines be established; but no such building line shall be established on any part of street less than one block in length.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill providing for the establishment of a uniform building line on streets in the District of Columbia less than 90 feet in width."

ENTRY OF AGRICULTURAL LANDS WITHIN FOREST RESERVES.

Mr. CARTER. I ask unanimous consent for the present consideration of the bill (S. 5222) to provide for the entry of agricultural lands within forest reserves.

Mr. LODGE. That is a pretty important bill, which will lead to a good deal of discussion. I think it had better not be taken up at this time. There is a conference report awaiting the consideration of the Senate.

The VICE-PRESIDENT. Under objection, the bill will lie over without prejudice.

CAPT. SYDNEY LAYLAND.

Mr. KEAN. I ask unanimous consent for the present consideration of the bill (H. R. 2996) to reimburse Capt. Sydney Layland for sums paid by him while master of the United States transport *Mobile* in July and August, 1898.

Mr. CLAPP. I shall not object to the consideration of the bill of the Senator from New Jersey; but, after that is disposed of, I shall have to object to the consideration of other bills. It is now past 1 o'clock.

Mr. KEAN. This is a very short bill, I will say to the Senator from Minnesota, and will take but a moment.

The VICE-PRESIDENT. Is there objection to the request of the Senator from New Jersey for the present consideration of the bill named by him?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to appropriate $119.11 to reimburse Capt. Sydney Layland for amounts paid by him as master of the Army transport *Mobile* to soldiers of the Sixteenth Pennsylvania Volunteers for services as firemen on the United States transport *Mobile* in July and August, 1898.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

J. DE L. LAFITTE.

Mr. FOSTER and Mr. McCREARY addressed the Chair.

Mr. CLAPP. I understand there are two Senators who are anxious to ask for the present consideration of bills in which they are interested. I will yield to those Senators, but if it can stop with that, I shall be very glad.

The VICE-PRESIDENT. Does the Senator from Minnesota yield to the Senator from Louisiana?

Mr. CLAPP. I yield.

Mr. FOSTER. I ask unanimous consent for the present consideration of the bill (S. 1221) for the relief of J. de L. Lafitte.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the Secretary of War to cause to be investigated and examined the circumstances of an embezzlement of quartermaster funds on board the United States Army transport *Logan*, discovered while Jacques de L. Lafitte, captain, quartermaster, Unietd States Army, was serving as transport quartermaster, amounting to $2,923.44; and if upon such examination and investigation he shall be satisfied that said Lafitte exercised due diligence and care, under the circumstances existing there at the time, in view of his physical disability, and had no personal knowledge that such embezzlement or embezzlements were occurring, and exercised due diligence in ferreting out and disclosing same, then he is authorized and directed to release and discharge Lafitte from any further liability for the sum of $2,923.44, and to refund and pay back to him whatever sums may have been withheld and deducted from his pay.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MARY A. BRONAUGH.

Mr. McCREARY. I ask unanimous consent for the immediate consideration of the bill (S. 1223) granting an increase of pension to Mary E. Bronaugh.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Pensions with an amendment, to strike out all after the enacting clause and insert:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Mary E. Bronaugh, widow of William V. Bronaugh, late lieutenant-commander, United States Navy, and pay her a pension at the rate of $30 per month.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

FIVE CIVILIZED TRIBES.

Mr. CLAPP. I now call up the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 5976) to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory, and for other purposes.

The VICE-PRESIDENT. The report is before the Senate; and the question is on agreeing to it.

Mr. TILLMAN. Mr. President, I reluctantly ask the Senate to reject this report, and I will briefly give the reasons for my action.

The last time this matter was before the Senate there was a disagreement on the amendment to which I object, and it was, therefore, a matter of difference between the Senate and the House. It was alluded to in the debate, and objection was made to the Senate amendment to which the House had not agreed, but which was modified and a substitute presented. In that discussion facts were brought out that I will read presently, but the point that concerns me most is that the Senator from Minnesota [Mr. CLAPP] in charge of the bill having been notified that Senators objected to the amendment, said: "Of course that will go out." I spoke to him privately on the matter, and he said, "That will go out. I will attend to that."

So I left the Chamber. I had intended to ask the Senate to recede from its amendment and to leave the House provision, and I have no doubt the Senate would have agreed to it, because the Senator from Wisconsin [Mr. SPOONER] was also interested in this matter and had indicated his desire to speak on it, and when the report was withdrawn the last thing said about it was that the Senator from Wisconsin had indicated his purpose to talk about it.

The facts are simply these, Mr. President: In the original bill as it came from the House there was a provision which I will read. It is in section 9:

SEC. 9. That upon dissolution of the several tribal governments of the Choctaw, Chickasaw, Cherokee, Creek, and Seminole tribes all records and files of said tribes shall, under direction of the Secretary of the Interior, be removed and deposited with such Government officer or officers as he may designate, and the Secretary of the Interior is authorized to make such rules and regulations as he may deem necessary respecting the removal, deposit, preservation, and inspection of such records. If any officer or member of any of said tribes, or other person having any of such records or files in his possession, fail or refuse to deliver in the manner directed by the Secretary of the Interior, or shall willfully mutilate or destroy any part thereof, such person shall be deemed guilty of a misdemeanor.

Upon dissolution of said tribal governments, all causes then pending in any tribal court shall be transferred to the United States courts in Indian Territory by filing the papers therein with the clerk of the proper district, after which such causes shall proceed to final determination as if originally instituted in said United States court.

The Senate struck out this provision as it came from the House, and inserted the following:

The disbursements, in the sum of $186,000, to and on account of the loyal Seminole Indians, by James E. Jenkins, special agent appointed by the Secretary of the Interior, and by A. J. Brown as administrator de bonis non, under an act of Congress approved May 31, 1900, appropriating said sum, be, and the same are hereby, ratified and confirmed: *Provided*, That this shall not prevent any individual from bringing suit in his own behalf to recover any sum really due him.

You will see that the Senate amendment really makes no allusion whatever, or if at all only in the most meager way, to the part of the bill stricken out. It is entirely new matter.

The explanation of it is that this sum of $186,000 appropriated by Congress to be paid to the Seminole Indians by Jenkins, as agent, and Brown, as administrator, was so badly managed that this money was—well, the truth of the charge is that the Indians were defrauded, or some of them at least; that Brown, the administrator, did not settle honestly with the Indians; that lots of the money stuck to his fingers—was misappropriated or stolen.

The Secretary of the Interior, having had these charges brought to his attention by his officials—his inspectors—employed a lawyer to prosecute Brown in the courts for malfeasance in office or to sue him for the sums which he had misapplied.

The Department of the Government charged with superintending and protecting the Indians, under our guardianship, as they are, has thought that there was sufficient justice in these contentions to employ a lawyer to institute suits. Those suits are now pending in the Federal court, and the Senate comes to the rescue of this man, who has been charged with dishonesty or maladministration or something—the Senate steps to the front, kicks the cases out of court, ratifies or validates the acts of this man who was administrator, and relieves him of all responsibility, and leaves him in possession of the money he has stolen; and the only consolation anyone has is the proviso:

Provided, That this shall not prevent any individual from bringing suit in his own behalf to recover any sum really due him.

This great Government has settled with these Indians by appropriating the money, and when the agent selected by it to make the settlement is sued by the Government Congress steps forward and enacts into law a provision that all the acts of this man shall be ratified and validated. I know nothing about this. I would not have taken two minutes' time or feel any interest in it but for the fact that I received a letter from a gentleman, who is reliable, informing me of these suits, saying that Brown was being sued by the Government itself, and that the Government had employed a lawyer to prosecute those suits to try to recover the money for these Indian children. This man writes to me about this matter, and it seems to be an outrage that the Government agent shall be permitted to steal the property of these Indian orphans and then the Government shall turn in and say, "Go scot-free; it is all right; we will not prosecute you or allow anybody else to, but we will allow these poor children to hire a lawyer, if they can get one, to take up the cases individually and sue Mr. Brown if the Indian chil-

dren see fit." That is the whole sum and substance of the situation.

If the Senator from Minnesota had not promised me that the provision would go out, if he had not promised the Senator from Wisconsin and the Senate itself that it would go out, I would not have called attention to it. But the conference report comes back, and, strange to say, the House, which knew nothing about this originally, took no cognizance of it in the original bill, has now become enlightened by some new influence, and insists that the Senate amendment, as originally agreed to here, shall stay in the bill, against the protest of the Senate conferees, I understand.

I do not know what the parliamentary status is. It was originally a Senate amendment. It was not agreed to the last time, without itself being amended by the House, but now the House accepts the Senate amendment, and it is no longer a matter of dispute between the two bodies. I would have moved—and the Senator from Iowa [Mr. ALLISON], whose parliamentary knowledge no one will dispute, told me it could be done—that the Senate recede from its amendment when the report was here last. It is simply a matter of a few Indian orphans whose property has been stolen by an agent of the Government. At least that is the charge. He may be entirely innocent; I do not know, and he may be able to prove himself innocent.

But as the courts have the matter in hand and the cases are being prosecuted by the Government to protect the Indians, it seems to me a very queer and extraordinary proceeding that Congress should step in to protect this rich fellow against these Indian orphans. That is the reason why I ask the Senate to reject the report and let the conferees understand that the Senate no longer wants this amendment to stay in. What may be the parliamentary status I can not tell. It is a little more knotty than I am able now to unravel. It would be easy enough if the House had not at the second conference—the last conference—agreed to the Senate amendment, because it would still be in dispute. But as the House has agreed to the Senate amendment, and the Senator who promised to take it out has not done it, the Senate must determine what it will do about it.

Mr. DUBOIS. Mr. President, the Senator from South Carolina [Mr. TILLMAN] says he does not know anything about this item, and he has made that perfectly plain. So I will not dispute that portion of his argument.

I am not going into a detailed explanation. I leave that to the Senator from Colorado [Mr. TELLER]. But I wish to say a word in behalf of the chairman of the conference committee. I was sitting here, and so was the other conferee, when the chairman said he would withdraw this item from the bill. I looked around the Chamber for the Senator from Kansas [Mr. LONG], who is fairly familiar with the subject, and not seeing him I supposed the chairman had some arrangement with him by which it should go out. At any rate, when we came into conference the chairman insisted on complying with the promise made in the Senate, and the conferees of the Senate were willing to and did stand by the chairman in asking that it be withdrawn. However, the House conferees would not consent to its being withdrawn. They were very insistent, and said we had no right to withdraw it. They insisted that it was a Senate amendment which they had agreed to.

Mr. TILLMAN. With an amendment.

Mr. DUBOIS. No.

Mr. TILLMAN. Yes; in that conference they had agreed to an amendment to the Senate amendment. I have got it right here. I can read it to you.

Mr. CLAPP. That is probably true, but where the House conferees held the situation was that it was in their power to recede from the disagreement of the House to the Senate amendment, while it was not in our power as a matter of parliamentary practice or law to withdraw a Senate amendment against their protest. When the House conferees acquiesced in the amendment of the Senate striking out the House provision, and they had a right to do that, it left only the Senate provision, which they could accept, and that ended it. That is the difficulty with the situation, and it would be the difficulty again if we went back.

Mr. DUBOIS. Mr. President, I want to make it perfectly plain that the chairman did all he could to carry out his promise; and in his contention the other conferees stood with him. The chairman—and I violate no confidence in saying it—went so far as to say to the House conferees, "We will put this item on the Indian appropriation bill, so that it can be fought out in the Senate and discussed there." He made every effort to comply with the promise that he made to the Senator from South Carolina on the floor. I think the item ought to stay in the bill. I think the Senate will understand that it should stay in the bill when they are made familiar with the facts as the conferees and the Committee on Indian Affairs are familiar with them.

Mr. TILLMAN. I wish the Senator would give us the facts.

Mr. DUBOIS. The Senator from Colorado will give you the facts. As I stated, I simply wanted to——

Mr. TILLMAN. Is there anything the Senator has in the way of evidence, or is it simply the statement of some man?

Mr. DUBOIS. The Senator from Colorado will make a statement, and he is usually correct.

Mr. TELLER. I ask the Senator from South Carolina if he has any evidence?

Mr. TILLMAN. I have a letter from a gentleman.

Mr. TELLER. That is all he has.

Mr. TILLMAN. I have this fact, if the Senator will permit me: The Secretary of the Interior has hired a lawyer to prosecute this administrator who was empowered by act of Congress to pay this money; and it is a blow in the face of the Secretary to take from his hands an administration of this trust fund and say to him, "You had no right to employ this lawyer. We are going to settle this thing by act of Congress and take it out of your power to compel restitution in the courts." That is all I say. That is all the evidence I have.

Mr. TELLER. The Senator has not any evidence of that kind, because the facts are not as he states them.

Mr. TILLMAN. Well——

Mr. TELLER. He supposes so; but they are not facts.

Mr. TILLMAN. Very well; that is all I stated.

Mr. TELLER. There has been a lawyer employed.

Mr. TILLMAN. Who employed him?

Mr. TELLER. I suppose the Secretary of the Interior.

Mr. TILLMAN. Has a lawyer been employed or not?

Mr. TELLER. I do not know anything about that. I know that no suit is being brought in the name of the United States.

Mr. TILLMAN. No. It is in the name of these children.

Mr. TELLER. These are the facts in this case. The Committee on Indian Affairs had the matter before it and considered it. I will go back to the beginning.

When the civil war broke out a part of the Seminole Indians, who were then under treaty with the United States, went into the rebellion—joined the Confederacy. Another part of them joined the Union forces, and were organized into a regiment. I will not say there were quite enough for a full regiment on our side. They were in service in Kansas and in other sections of the country. During the war their stock was taken, their fences were burned up or torn down, their buildings were destroyed. When the war was over they made a claim against the Government, not as a tribe, but as individual sufferers at the hands of the Confederate forces, both Indian and white, and insisted that they were entitled to compensation from the Government for the losses they had sustained. They came here year after year presenting that claim. I believe several committees reported it favorably. At least I know there was a strong feeling that they ought to be paid, but Congress never enacted a law for the payment of the claim.

Later, a few years ago, they went to a gentleman who had held a commission in a Kansas regiment, and under whom these people had served during the war, and asked him to take up this case, which he did, with another party. They came here day after day until they finally got a bill through and got an appropriation for something a little less than a hundred and eighty-odd thousand dollars. In the meantime these Indians, wards of ours, had ceased to be wards of the Government. They had become citizens of the United States, and as such they were prosecuting their claim against the Government. There were something like 230 or 240 or 250 of them who had suffered, and they organized a committee to make a contract with these parties to prosecute the case. Those parties came here and prosecuted it, as I say, and got an appropriation. The Indians were citizens when they made the contract. They are citizens now—not wards of this Government.

I undertake to say there is not any proof that Mr. Brown or the officer of the Government, Mr. Jenkins, who went down there, ever stole or misappropriated any of that money.

Mr. TILLMAN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Colorado yield to the Senator from South Carolina?

Mr. TELLER. I do.

Mr. TILLMAN. Does the Senator from Colorado think it is better, more fitting, more appropriate, that on ex parte statements the Senate shall settle this question by enacting a provision that the transactions of Brown with the Indians shall be validated, or that the court, right on the ground, where the witnesses are accessible, shall determine it after a hearing? The Secretary of the Interior has thought it of sufficient importance

